

**1997**

**SESSION LAWS**

OF THE

**STATE OF WASHINGTON**

REGULAR SESSION  
FIFTY-FIFTH LEGISLATURE  
Convened January 13, 1997. Adjourned April 27, 1997.



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

DENNIS W. COOPER  
Code Reviser

## WASHINGTON SESSION LAWS GENERAL INFORMATION

### I. EDITIONS AVAILABLE.

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

(i) a temporary pamphlet edition consisting of a series of one or more paper bound books, which are published as soon as possible following the session, at random dates as accumulated; followed by

(ii) a permanent hardbound edition containing the accumulation of all laws adopted in the legislative session. Both editions contain a subject index and tables indicating Revised Code of Washington sections affected.

(b) *Where and how obtained—price.* Both the temporary and permanent session laws may be ordered from the Statute Law Committee, Legislative Building, P.O. Box 40552, Olympia, Washington 98504-0552. The temporary pamphlet edition costs \$21.60 per set (\$20.00 plus \$1.60 for state and local sales tax at 8.0%). The permanent edition costs \$27.00 per volume (\$25.00 plus \$2.00 for state and local sales tax at 8.0%). All orders must be accompanied by payment.

### 2. PRINTING STYLE — INDICATION OF NEW OR DELETED MATTER

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

(a) In amendatory sections

(i) underlined matter is new matter.

(ii) deleted matter is (~~lined out and bracketed between double parentheses~~).

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

### 3. PARTIAL VETOES

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

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

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

### 5. EFFECTIVE DATE OF LAWS

(a) The state Constitution provides that unless otherwise qualified, the laws of any session take effect ninety days after adjournment sine die. The Secretary of State has determined the pertinent date for the Laws of the 1997 regular session to be July 27, 1997 (midnight July 26th).

(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 1997 laws may be found at the back of the final pamphlet edition and the permanent hardbound edition.

# **VOLUME 2**

---

**REGULAR SESSION  
CHAPTERS 267-458**

---

**CROSS REFERENCE TABLES**

---

**INDEX**

---

**HISTORY OF STATE MEASURES**



## CHAPTER 267

[Substitute House Bill 1865]

## SCHOOL DISTRICTS—CONTRACTING WITH OUTSIDE ENTITIES

AN ACT Relating to school district contracting; amending RCW 28A.400.285; and adding a new section to chapter 28A.320 RCW.

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

**NEW SECTION. Sec. 1.** A new section is added to chapter 28A.320 RCW to read as follows:

(1) The board of directors of a school district may contract with other school districts, educational service districts, public or private organizations, agencies, schools, or individuals to implement the board's powers and duties. The board of directors of a school district may contract for goods and services, including but not limited to contracts for goods and services as specifically authorized in statute or rule, as well as other educational, instructional, and specialized services. When a school district board of directors contracts for educational, instructional, or specialized services, the purpose of the contract must be to improve student learning or achievement.

(2) A contract under subsection (1) of this section may not be made with a religious or sectarian organization or school where the contract would violate the state or federal Constitution.

**Sec. 2.** RCW 28A.400.285 and 1993 c 349 s 1 are each amended to read as follows:

(1) When a school district or educational service district enters into a contract for services that had been previously performed by classified school employees, the contract shall contain a specific clause requiring the contractor to provide for persons performing such services under the contract, health benefits that are similar to those provided for school employees who would otherwise perform the work, but in no case are such health benefits required to be greater than the benefits provided for basic health care services under chapter 70.47 RCW.

(2) Decisions to enter into contracts for services by a school district or educational service district may only be made: (a) After the affected district has conducted a feasibility study determining the potential costs and benefits, including the impact on district employees who would otherwise perform the work, that would result from contracting for the services; (b) after the decision to contract for the services has been reviewed and approved by the superintendent of public instruction; and (c) subject to any applicable requirements for collective bargaining. The factors to be considered in the feasibility study shall be developed in consultation with representatives of the affected employees and may include both long-term and short-term effects of the proposal to contract for services.

(3) This section applies only if ~~((the))~~ a contract ~~((would be))~~ is for services ~~((that are being))~~ performed by classified school employees ~~((as of))~~ on or after July 25, 1993.

(4) This section does not apply to:

(a) Temporary, nonongoing, or nonrecurring service contracts; or

(b) Contracts for services previously performed by employees in director/supervisor, professional, and technical positions.

(5) For the purposes of subsection (4) of this section:

(a) "Director/supervisor position" means a position in which an employee directs staff members and manages a function, a program, or a support service.

(b) "Professional position" means a position for which an employee is required to have a high degree of knowledge and skills acquired through a baccalaureate degree or its equivalent.

(c) "Technical position" means a position for which an employee is required to have a combination of knowledge and skills that can be obtained through approximately two years of posthigh school education, such as from a community or technical college, or by on-the-job training.

Passed the House April 21, 1997.

Passed the Senate April 11, 1997.

Approved by the Governor May 6, 1997.

Filed in Office of Secretary of State May 6, 1997.

**CHAPTER 268**

[Engrossed Senate Bill 6072]

**STUDENT ASSESSMENTS AND ACCOUNTABILITY—MODIFICATION OF TIMELINES AND IMPLEMENTATION**

AN ACT Relating to modifying the timelines for development and implementation of the student assessment system; reenacting and amending RCW 28A.630.885; repealing 1995 c 335 s 803 (uncodified); and declaring an emergency.

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

**Sec. 1.** RCW 28A.630.885 and 1995 c 335 s 505 and 1995 c 209 s 1 are each reenacted and amended to read as follows:

(1) The Washington commission on student learning is hereby established. The primary purposes of the commission are to identify the knowledge and skills all public school students need to know and be able to do based on the student learning goals in RCW 28A.150.210, to develop student assessment and school accountability systems, to review current school district data reporting requirements and make recommendations on what data is necessary for the purposes of accountability and meeting state information needs, and to take other steps necessary to develop a performance-based education system. The commission shall include three members of the state board of education, three members appointed by the governor before July 1, 1992, and five members appointed no later than June 1, 1993, by the governor elected in the November 1992 election. The governor shall appoint a chair from the commission members, and fill any vacancies in gubernatorial appointments that may occur. The state board of education shall fill any vacancies of state board of education appointments

that may occur. In making the appointments, educators, business leaders, and parents shall be represented, and nominations from state-wide education, business, and parent organizations shall be requested. Efforts shall be made to ensure that the commission reflects the racial and ethnic diversity of the state's K-12 student population and that the major geographic regions in the state are represented. Appointees shall be qualified individuals who are supportive of educational restructuring, who have a positive record of service, and who will devote sufficient time to the responsibilities of the commission to ensure that the objectives of the commission are achieved.

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

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

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

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

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

(iii) Assessments measuring the essential academic learning requirements developed for RCW 28A.150.210(1)~~((goal one;))~~ and the mathematics component of RCW 28A.150.210(2)~~((goal two;))~~ referred to in this section as reading, writing, communications, and mathematics shall be ~~((initially implemented by the state board of education and superintendent of public instruction no later than the 1996-97))~~ developed and initially implemented by the commission before transferring the assessment system to the superintendent of public instruction on June 30, 1999. The elementary assessments for reading, writing, communications, and mathematics shall be available for use by school districts no later than the 1996-97 school year, the middle school assessment no later than the 1997-98 school year, and the high school assessment no later than the 1998-99 school year, unless the legislature takes action to delay or prevent implementation of the assessment system and essential academic learning requirements. Assessments measuring the essential academic learning requirements developed for the science component of RCW 28A.150.210 (2)~~((3), and (4), goals two, three, and four, shall be initially implemented by the state board of education and superintendent of public instruction))~~ at the middle school and high school levels shall be available for use by districts no later than the 1998-99 school year~~((;))~~ unless the legislature takes action to delay or prevent implementation of the assessment system and essential academic learning requirements.

The completed assessments and assessments still in development shall be transferred to the superintendent of public instruction by June 30, 1999, unless the legislature takes action to delay implementation of the assessment system and essential academic learning requirements. The superintendent shall continue the development of assessments on the following schedule: The history, civics, and geography assessments at the middle and high school levels shall be available for use by districts no later than 2000-01 school year; the arts assessment for middle and high school levels shall be available for use by districts no later than 2000-01 school year; and the health and fitness assessments for middle and high school levels shall be available no later than the 2001-02 school year. The elementary science assessment shall be available for use by districts not later than the 2001-02 school year. The commission or the superintendent, as applicable, shall upon request, provide opportunities for the education committees of the house of representatives and the senate to review the assessments and proposed modifications to the essential academic learning requirements before the modifications are adopted. By December 15, 1998, the commission on student learning shall recommend to the appropriate committees of the legislature a revised timeline for implementing these assessments and when the school districts should be required to participate. All school districts shall be required to participate in the history, civics, geography, arts, health, fitness, and elementary science assessments in the third year after the assessments are available to school districts.

To the maximum extent possible, the commission shall integrate knowledge and skill areas in development of the assessments.

(iv) Assessments for goals three and four of RCW 28A.150.210 shall be integrated in the essential academic learning requirements and assessments for goals one and two. Before the 1997-98 school year, the elementary assessment system in reading, writing, communications, and mathematics shall be optional. School districts that desire to participate before the 1997-98 school year shall notify the commission on student learning in a manner determined by the commission. Beginning in the 1997-98 school year, school districts shall be required to participate in the elementary assessment system for reading, writing, communications, and mathematics. Before the 2000-((2001)) 01 school year, participation by school districts in the middle school and high school assessment system for reading, writing, communications, mathematics, and science shall be optional. School districts that desire to participate before the ((2000-2001)) 1998-99 school year shall notify the ((superintendent of public instruction)) commission on student learning in a manner determined by the ((superintendent)) commission on student learning. Schools that desire to participate after the 1998-99 school year, shall notify the superintendent of public instruction in a manner determined by the superintendent. Beginning in the 2000-((2001)) 01 school year, all school districts shall be required to participate in the assessment system for reading, writing, communications, mathematics, and science.

(v) The ((state board of education and superintendent of public instruction)) commission on student learning may modify the essential academic learning requirements and ((academic assessment system)) the assessments for reading, writing, communications, mathematics, and science, as needed, ((in subsequent school years)) before June 30, 1999. The commission shall, upon request, provide opportunities for the education committees of the house of representatives and the senate to review the assessments and proposed modifications to the essential academic learning requirements before the modifications are adopted.

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

(c) After a determination is made by the state board of education that the high school assessment system has been implemented and that it is sufficiently reliable and valid, successful completion of the high school assessment shall lead to a certificate of mastery. The certificate of mastery shall be obtained by most students at about the age of sixteen, and is evidence that the student has successfully mastered the essential academic learning requirements during his or her educational career. The certificate of mastery shall be required for graduation but shall not be the only requirement for graduation. The commission shall make recommendations to the state board of education regarding the relationship between the certificate of mastery and high school graduation requirements. Upon achieving the certificate of mastery, schools shall provide students with the opportunity ((to continue)) to pursue career and educational objectives through educational pathways that emphasize integration of academic and vocational

education. Educational pathways may include, but are not limited to, programs such as work-based learning, school-to-work transition, tech prep, vocational-technical education, running start, and preparation for technical college, community college, or university education;

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

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

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

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

(h) Review current school district data reporting requirements for the purposes of accountability and meeting state information needs. The commission on student learning shall report recommendations to the joint select committee on education restructuring by September 15, 1996, on:

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

(ii) What data is necessary pertaining to school district reports under the accountability systems developed by the commission on student learning under this section;

(i) ~~((By June 30, 1999,))~~ Recommend to the legislature, governor, state board of education, and superintendent of public instruction:

(i) A state-wide accountability system to monitor and evaluate accurately and fairly at elementary, middle, and high schools the level of learning occurring in individual schools and school districts with regard to the goals included in RCW 28A.150.210 (1) through (4). ~~((The accountability system shall be designed to recognize the characteristics of the student population of schools and school districts such as gender, race, ethnicity, socioeconomic status, and other factors.))~~ The accountability system must assess each school individually against its own baseline, schools with similar characteristics, and schools state-wide. The system shall include school-site, school district, and state-level accountability reports;

(ii) A school assistance program to help schools and school districts that are having difficulty helping students meet the essential academic learning requirements as measured by performance on the elementary, middle school, and high school assessments;

(iii) A system to intervene in schools and school districts in which significant numbers of students persistently fail to learn the essential academic learning requirements or meet the standards established for the elementary, middle school, and high school assessments; and

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

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

The commission shall make recommendations regarding a state-wide accountability system for reading in grades kindergarten through four by November 1, 1997. Recommendations for an accountability system in the other subject areas and grade levels shall be made no later than June 30, 1999;

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

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

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

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

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

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

(8)(a) By September 30, 1997, the commission on student learning, the state board of education, and the superintendent of public instruction shall jointly present recommendations to the education committees of the house of representatives and the senate regarding the high school assessments, the certificate of mastery, and high school graduation requirements.

In preparing recommendations, the commission on student learning shall convene an ad hoc working group to address questions, including:

(i) What type of document shall be used to identify student performance and achievement and how will the document be described?

(ii) Should the students be required to pass the high school assessments in all skill and content areas, or only in select skill and content areas, to graduate?

(iii) How will the criteria for establishing the standards for passing scores on the assessments be determined?

(iv) What timeline should be used in phasing-in the assessments as a graduation requirement?

(v) What options may be used in demonstrating how the results of the assessments will be displayed in a way that is meaningful to students, parents, institutions of higher education, and potential employers?

(vi) Are there other or additional methods by which the assessments could be used to identify achievement such as endorsements, standards of proficiency, merit badges, or levels of achievement?

(vii) Should the assessments and certificate of mastery be used to satisfy college or university entrance criteria for public school students? If yes, how should these methods be phased-in?

(b) The ad hoc working group shall report its recommendations to the commission on student learning, the state board of education, and the superintendent of public instruction by June 15, 1997. The commission shall report the ad hoc working group's recommendations to the education committees of the house of representatives and senate by July 15, 1997. Final recommendations of the commission on student learning, the state board of education, and the superintendent of public instruction shall be presented to the education committees of the house of representatives and the senate by September 30, 1997.

(9) The Washington commission on student learning shall expire on June 30, 1999.

NEW SECTION. Sec. 2. 1995 c 335 s 803 (uncodified) is repealed.

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 the Senate April 18, 1997.

Passed the House April 18, 1997.

Approved by the Governor May 6, 1997.

Filed in Office of Secretary of State May 6, 1997.

---

**CHAPTER 269**

[House Bill 1054]

**STATE EDUCATIONAL TRUST FUND—TIME LIMITS FOR DEPOSIT OF REFUNDS AND RECOVERIES**

AN ACT Relating to the state educational trust fund; and amending RCW 28B.10.821.

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

**Sec. 1.** RCW 28B.10.821 and 1996 c 107 s 1 are each amended to read as follows:

The state educational trust fund is hereby established in the state treasury. The primary purpose of the trust is to pledge state-wide available college student assistance to needy or disadvantaged students, especially middle and high school youth, considered at-risk of dropping out of secondary education who participate in board-approved early awareness and outreach programs and who enter any accredited Washington institution of postsecondary education within two years of high school graduation.

The board shall deposit refunds and recoveries of student financial aid funds expended in prior ((biennia)) fiscal periods in such account. The board may also deposit moneys that have been contributed from other state, federal, or private sources.

Expenditures from the fund shall be for financial aid to needy or disadvantaged students. The board may annually expend such sums from the fund as may be necessary to fulfill the purposes of this section, including not more than three percent for the costs to administer aid programs supported by the fund. All earnings of investments of balances in the state educational trust fund shall be credited to the trust fund. Expenditures from the fund shall not be subject to appropriation but are subject to allotment procedures under chapter 43.88 RCW.

Passed the House April 25, 1997.

Passed the Senate April 25, 1997.

Approved by the Governor May 6, 1997.

Filed in Office of Secretary of State May 6, 1997.

---

## CHAPTER 270

[Engrossed Substitute House Bill 1057]

### LIMITING DISCLOSURE OF COMPLAINTS FILED UNDER THE UNIFORM DISCIPLINARY ACT

AN ACT Relating to public disclosure of complaints filed under the uniform disciplinary act; amending RCW 18.130.095; adding a new section to chapter 42.17 RCW; and adding a new section to chapter 18.130 RCW.

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

**Sec. I.** RCW 18.130.095 and 1995 c 336 s 6 are each amended to read as follows:

(1)(a) The secretary, in consultation with the disciplining authorities, shall develop uniform procedural rules to respond to public inquiries concerning complaints and their disposition, active investigations, statement of charges, findings of fact, and final orders involving a licensee, applicant, or unlicensed person. The uniform procedural rules adopted under this subsection apply to all adjudicative proceedings conducted under this chapter and shall include provisions for ((the)) establishing time periods for initial assessment, investigation, charging, discovery, settlement, and adjudication of complaints, and shall include

enforcement provisions for violations of the specific time periods by the department, the disciplining authority, and the respondent. A licensee must be notified upon receipt of a complaint, except when the notification would impede an effective investigation. At the earliest point of time the licensee must be allowed to submit a written statement about that complaint, which statement must be included in the file. Complaints filed after the effective date of this act are exempt from public disclosure under chapter 42.17 RCW until the complaint has been initially assessed and determined to warrant an investigation by the disciplining authority. Complaints determined not to warrant an investigation by the disciplining authority are no longer considered complaints, but must remain in the records and tracking system of the department. Information about complaints that did not warrant an investigation, including the existence of the complaint, may be released only upon receipt of a written public disclosure request or pursuant to an interagency agreement as provided in (b) of this subsection. Complaints determined to warrant no cause for action after investigation are subject to public disclosure, must include an explanation of the determination to close the complaint, and must remain in the records and tracking system of the department.

(b) The secretary, on behalf of the disciplining authorities, shall enter into interagency agreements for the exchange of records, which may include complaints filed but not yet assessed, with other state agencies if access to the records will assist those agencies in meeting their federal or state statutory responsibilities. Records obtained by state agencies under the interagency agreements are subject to the limitations on disclosure contained in (a) of this subsection.

(2) The uniform procedures for conducting investigations shall provide that prior to taking a written statement:

(a) For violation of this chapter, the investigator shall inform such person, in writing of: (i) The nature of the complaint; (ii) that the person may consult with legal counsel at his or her expense prior to making a statement; and (iii) that any statement that the person makes may be used in an adjudicative proceeding conducted under this chapter; and

(b) From a witness or potential witness in an investigation under this chapter, the investigator shall inform the person, in writing, that the statement may be released to the licensee, applicant, or unlicensed person under investigation if a statement of charges is issued.

(3) Only upon the authorization of a disciplining authority identified in RCW 18.130.040(2)(b), the secretary, or his or her designee, may serve as the presiding officer for any disciplinary proceedings of the disciplining authority authorized under this chapter. Except as provided in RCW 18.130.050(8), the presiding officer shall not vote on or make any final decision. All functions performed by the presiding officer shall be subject to chapter 34.05 RCW. The secretary, in consultation with the disciplining authorities, shall adopt procedures for implementing this subsection.

(4) The uniform procedural rules shall be adopted by all disciplining authorities listed in RCW 18.130.040(2), and shall be used for all adjudicative proceedings conducted under this chapter, as defined by chapter 34.05 RCW. The uniform procedural rules shall address the use of a presiding officer authorized in subsection (3) of this section to determine and issue decisions on all legal issues and motions arising during adjudicative proceedings.

**NEW SECTION. Sec. 2.** A new section is added to chapter 42.17 RCW under the subchapter heading "public records" to read as follows:

Complaints filed under chapter 18.130 RCW after the effective date of this act are exempt from disclosure under this chapter to the extent provided in RCW 18.130.095(1).

**NEW SECTION. Sec. 3.** A new section is added to chapter 18.130 RCW to read as follows:

This chapter does not affect the use of records, obtained from the secretary or the disciplining authorities, in any existing investigation or action by any state agency. Nor does this chapter limit any existing exchange of information between the secretary or the disciplining authorities and other state agencies.

Passed the House April 19, 1997.

Passed the Senate April 8, 1997.

Approved by the Governor May 6, 1997.

Filed in Office of Secretary of State May 6, 1997.

## CHAPTER 271

[Substitute House Bill 1491]

### DOG GUIDES AND SERVICE ANIMALS—CHANGING TERMINOLOGY

AN ACT Relating to dog guides and service animals; amending RCW 49.60.010, 49.60.030, 49.60.040, 49.60.130, 49.60.174, 49.60.175, 49.60.176, 49.60.178, 49.60.180, 49.60.190, 49.60.200, 49.60.215, 49.60.222, 49.60.224, 49.60.225, 70.84.020, 70.84.021, 70.84.040, 70.84.050, 70.84.060, 70.84.100, and 70.84.120; reenacting and amending RCW 49.60.120 and 49.60.223; adding new sections to chapter 49.60 RCW; creating a new section; recodifying RCW 70.84.090, 70.84.100, and 70.84.120; and repealing RCW 70.84.030 and 70.84.110.

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

**Sec. 1.** RCW 49.60.010 and 1995 c 259 s 1 are each amended to read as follows:

This chapter shall be known as the "law against discrimination". It is an exercise of the police power of the state for the protection of the public welfare, health, and peace of the people of this state, and in fulfillment of the provisions of the Constitution of this state concerning civil rights. The legislature hereby finds and declares that practices of discrimination against any of its inhabitants because of race, creed, color, national origin, families with children, sex, marital status, age, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide ((dɒg)) or service ((dɒg)) animal by a disabled person are a matter of state concern, that such discrimination threatens not only the rights and proper

privileges of its inhabitants but menaces the institutions and foundation of a free democratic state. A state agency is herein created with powers with respect to elimination and prevention of discrimination in employment, in credit and insurance transactions, in places of public resort, accommodation, or amusement, and in real property transactions because of race, creed, color, national origin, families with children, sex, marital status, age, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide ((~~dog~~)) or service ((~~dog~~)) animal by a disabled person; and the commission established hereunder is hereby given general jurisdiction and power for such purposes.

**Sec. 2.** RCW 49.60.030 and 1995 c 135 s 3 are each amended to read as follows:

(1) The right to be free from discrimination because of race, creed, color, national origin, sex, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide ((~~dog~~)) or service ((~~dog~~)) animal by a disabled person is recognized as and declared to be a civil right. This right shall include, but not be limited to:

(a) The right to obtain and hold employment without discrimination;

(b) The right to the full enjoyment of any of the accommodations, advantages, facilities, or privileges of any place of public resort, accommodation, assemblage, or amusement;

(c) The right to engage in real estate transactions without discrimination, including discrimination against families with children;

(d) The right to engage in credit transactions without discrimination;

(e) The right to engage in insurance transactions or transactions with health maintenance organizations without discrimination: PROVIDED, That a practice which is not unlawful under RCW 48.30.300, 48.44.220, or 48.46.370 does not constitute an unfair practice for the purposes of this subparagraph; and

(f) The right to engage in commerce free from any discriminatory boycotts or blacklists. Discriminatory boycotts or blacklists for purposes of this section shall be defined as the formation or execution of any express or implied agreement, understanding, policy or contractual arrangement for economic benefit between any persons which is not specifically authorized by the laws of the United States and which is required or imposed, either directly or indirectly, overtly or covertly, by a foreign government or foreign person in order to restrict, condition, prohibit, or interfere with or in order to exclude any person or persons from any business relationship on the basis of race, color, creed, religion, sex, the presence of any sensory, mental, or physical disability, or the use of a trained dog guide ((~~dog~~)) or service ((~~dog~~)) animal by a disabled person, or national origin or lawful business relationship: PROVIDED HOWEVER, That nothing herein contained shall prohibit the use of boycotts as authorized by law pertaining to labor disputes and unfair labor practices.

(2) Any person deeming himself or herself injured by any act in violation of this chapter shall have a civil action in a court of competent jurisdiction to enjoin

further violations, or to recover the actual damages sustained by the person, or both, together with the cost of suit including reasonable attorneys' fees or any other appropriate remedy authorized by this chapter or the United States Civil Rights Act of 1964 as amended, or the Federal Fair Housing Amendments Act of 1988 (42 U.S.C. Sec. 3601 et seq.).

(3) Except for any unfair practice committed by an employer against an employee or a prospective employee, or any unfair practice in a real estate transaction which is the basis for relief specified in the amendments to RCW 49.60.225 contained in chapter 69, Laws of 1993, any unfair practice prohibited by this chapter which is committed in the course of trade or commerce as defined in the Consumer Protection Act, chapter 19.86 RCW, is, for the purpose of applying that chapter, a matter affecting the public interest, is not reasonable in relation to the development and preservation of business, and is an unfair or deceptive act in trade or commerce.

**Sec. 3.** RCW 49.60.040 and 1995 c 259 s 2 are each amended to read as follows:

As used in this chapter:

(1) "Person" includes one or more individuals, partnerships, associations, organizations, corporations, cooperatives, legal representatives, trustees and receivers, or any group of persons; it includes any owner, lessee, proprietor, manager, agent, or employee, whether one or more natural persons; and further includes any political or civil subdivisions of the state and any agency or instrumentality of the state or of any political or civil subdivision thereof;

(2) "Commission" means the Washington state human rights commission;

(3) "Employer" includes any person acting in the interest of an employer, directly or indirectly, who employs eight or more persons, and does not include any religious or sectarian organization not organized for private profit;

(4) "Employee" does not include any individual employed by his or her parents, spouse, or child, or in the domestic service of any person;

(5) "Labor organization" includes any organization which exists for the purpose, in whole or in part, of dealing with employers concerning grievances or terms or conditions of employment, or for other mutual aid or protection in connection with employment;

(6) "Employment agency" includes any person undertaking with or without compensation to recruit, procure, refer, or place employees for an employer;

(7) "Marital status" means the legal status of being married, single, separated, divorced, or widowed;

(8) "National origin" includes "ancestry";

(9) "Full enjoyment of" includes the right to purchase any service, commodity, or article of personal property offered or sold on, or by, any establishment to the public, and the admission of any person to accommodations, advantages, facilities, or privileges of any place of public resort, accommodation, assemblage, or amusement, without acts directly or indirectly causing persons of any particular

race, creed, color, sex, national origin, or with any sensory, mental, or physical disability, or the use of a trained dog guide ((døg)) or service ((døg)) animal by a disabled person, to be treated as not welcome, accepted, desired, or solicited;

(10) "Any place of public resort, accommodation, assemblage, or amusement" includes, but is not limited to, any place, licensed or unlicensed, kept for gain, hire, or reward, or where charges are made for admission, service, occupancy, or use of any property or facilities, whether conducted for the entertainment, housing, or lodging of transient guests, or for the benefit, use, or accommodation of those seeking health, recreation, or rest, or for the burial or other disposition of human remains, or for the sale of goods, merchandise, services, or personal property, or for the rendering of personal services, or for public conveyance or transportation on land, water, or in the air, including the stations and terminals thereof and the garaging of vehicles, or where food or beverages of any kind are sold for consumption on the premises, or where public amusement, entertainment, sports, or recreation of any kind is offered with or without charge, or where medical service or care is made available, or where the public gathers, congregates, or assembles for amusement, recreation, or public purposes, or public halls, public elevators, and public washrooms of buildings and structures occupied by two or more tenants, or by the owner and one or more tenants, or any public library or educational institution, or schools of special instruction, or nursery schools, or day care centers or children's camps: PROVIDED, That nothing contained in this definition shall be construed to include or apply to any institute, bona fide club, or place of accommodation, which is by its nature distinctly private, including fraternal organizations, though where public use is permitted that use shall be covered by this chapter; nor shall anything contained in this definition apply to any educational facility, columbarium, crematory, mausoleum, or cemetery operated or maintained by a bona fide religious or sectarian institution;

(11) "Real property" includes buildings, structures, dwellings, real estate, lands, tenements, leaseholds, interests in real estate cooperatives, condominiums, and hereditaments, corporeal and incorporeal, or any interest therein;

(12) "Real estate transaction" includes the sale, appraisal, brokering, exchange, purchase, rental, or lease of real property, transacting or applying for a real estate loan, or the provision of brokerage services;

(13) "Dwelling" means any building, structure, or portion thereof that is occupied as, or designed or intended for occupancy as, a residence by one or more families, and any vacant land that is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof;

(14) "Sex" means gender;

(15) "Aggrieved person" means any person who: (a) Claims to have been injured by an unfair practice in a real estate transaction; or (b) believes that he or she will be injured by an unfair practice in a real estate transaction that is about to occur;

(16) "Complainant" means the person who files a complaint in a real estate transaction;

(17) "Respondent" means any person accused in a complaint or amended complaint of an unfair practice in a real estate transaction;

(18) "Credit transaction" includes any open or closed end credit transaction, whether in the nature of a loan, retail installment transaction, credit card issue or charge, or otherwise, and whether for personal or for business purposes, in which a service, finance, or interest charge is imposed, or which provides for repayment in scheduled payments, when such credit is extended in the regular course of any trade or commerce, including but not limited to transactions by banks, savings and loan associations or other financial lending institutions of whatever nature, stock brokers, or by a merchant or mercantile establishment which as part of its ordinary business permits or provides that payment for purchases of property or service therefrom may be deferred;

(19) "Families with children status" means one or more individuals who have not attained the age of eighteen years being domiciled with a parent or another person having legal custody of such individual or individuals, or with the designee of such parent or other person having such legal custody, with the written permission of such parent or other person. Families with children status also applies to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of eighteen years;

(20) "Covered multifamily dwelling" means: (a) Buildings consisting of four or more dwelling units if such buildings have one or more elevators; and (b) ground floor dwelling units in other buildings consisting of four or more dwelling units;

(21) "Premises" means the interior or exterior spaces, parts, components, or elements of a building, including individual dwelling units and the public and common use areas of a building;

(22) "Dog guide" means a dog that is trained for the purpose of guiding blind persons or a dog that is trained for the purpose of assisting hearing impaired persons;

(23) "Service animal" means an animal that is trained for the purpose of assisting or accommodating a disabled person's sensory, mental, or physical disability.

Sec. 4. RCW 49.60.120 and 1993 c 510 s 6 and 1993 c 69 s 4 are each reenacted and amended to read as follows:

The commission shall have the functions, powers and duties:

(1) To appoint an executive director and chief examiner, and such investigators, examiners, clerks, and other employees and agents as it may deem necessary, fix their compensation within the limitations provided by law, and prescribe their duties.

(2) To obtain upon request and utilize the services of all governmental departments and agencies.

(3) To adopt, promulgate, amend, and rescind suitable rules and regulations to carry out the provisions of this chapter, and the policies and practices of the commission in connection therewith.

(4) To receive, impartially investigate, and pass upon complaints alleging unfair practices as defined in this chapter.

(5) To issue such publications and such results of investigations and research as in its judgment will tend to promote good will and minimize or eliminate discrimination because of sex, race, creed, color, national origin, marital status, age, or the presence of any sensory, mental, or physical disability, or the use of a trained dog guide ((~~dog~~)) or service ((~~dog~~)) animal by a disabled person.

(6) To make such technical studies as are appropriate to effectuate the purposes and policies of this chapter and to publish and distribute the reports of such studies.

(7) To cooperate and act jointly or by division of labor with the United States or other states, with other Washington state agencies, commissions, and other government entities, and with political subdivisions of the state of Washington and their respective human rights agencies to carry out the purposes of this chapter. However, the powers which may be exercised by the commission under this subsection permit investigations and complaint dispositions only if the investigations are designed to reveal, or the complaint deals only with, allegations which, if proven, would constitute unfair practices under this chapter. The commission may perform such services for these agencies and be reimbursed therefor.

(8) To foster good relations between minority and majority population groups of the state through seminars, conferences, educational programs, and other intergroup relations activities.

Sec. 5. RCW 49.60.130 and 1993 c 510 s 7 are each amended to read as follows:

The commission has power to create such advisory agencies and conciliation councils, local, regional, or state-wide, as in its judgment will aid in effectuating the purposes of this chapter. The commission may empower them to study the problems of discrimination in all or specific fields of human relationships or in specific instances of discrimination because of sex, race, creed, color, national origin, marital status, age, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide ((~~dog~~)) or service ((~~dog~~)) animal by a disabled person; to foster through community effort or otherwise good will, cooperation, and conciliation among the groups and elements of the population of the state, and to make recommendations to the commission for the development of policies and procedures in general and in specific instances, and for programs of formal and informal education which the commission may recommend to the appropriate state agency.

Such advisory agencies and conciliation councils shall be composed of representative citizens, serving without pay, but with reimbursement for travel

expenses in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended, and the commission may make provision for technical and clerical assistance to such agencies and councils and for the expenses of such assistance. The commission may use organizations specifically experienced in dealing with questions of discrimination.

**Sec. 6.** RCW 49.60.174 and 1993 c 510 s 8 are each amended to read as follows:

(1) For the purposes of determining whether an unfair practice under this chapter has occurred, claims of discrimination based on actual or perceived HIV infection shall be evaluated in the same manner as other claims of discrimination based on sensory, mental, or physical disability; or the use of a trained dog guide ((dog)) or service ((dog)) animal by a disabled person.

(2) Subsection (1) of this section shall not apply to transactions with insurance entities, health service contractors, or health maintenance organizations subject to RCW 49.60.030(1)(e) or 49.60.178 to prohibit fair discrimination on the basis of actual HIV infection status when bona fide statistical differences in risk or exposure have been substantiated.

(3) For the purposes of this chapter, "HIV" means the human immunodeficiency virus, and includes all HIV and HIV-related viruses which damage the cellular branch of the human immune system and leave the infected person immunodeficient.

**Sec. 7.** RCW 49.60.175 and 1993 c 510 s 9 are each amended to read as follows:

It shall be an unfair practice to use the sex, race, creed, color, national origin, marital status, or the presence of any sensory, mental, or physical disability of any person, or the use of a trained dog guide ((dog)) or service ((dog)) animal by a disabled person, concerning an application for credit in any credit transaction to determine the credit worthiness of an applicant.

**Sec. 8.** RCW 49.60.176 and 1993 c 510 s 10 are each amended to read as follows:

(1) It is an unfair practice for any person whether acting for himself, herself, or another in connection with any credit transaction because of race, creed, color, national origin, sex, marital status, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide ((dog)) or service ((dog)) animal by a disabled person:

(a) To deny credit to any person;

(b) To increase the charges or fees for or collateral required to secure any credit extended to any person;

(c) To restrict the amount or use of credit extended or to impose different terms or conditions with respect to the credit extended to any person or any item or service related thereto;

(d) To attempt to do any of the unfair practices defined in this section.

(2) Nothing in this section shall prohibit any party to a credit transaction from considering the credit history of any individual applicant.

(3) Further, nothing in this section shall prohibit any party to a credit transaction from considering the application of the community property law to the individual case or from taking reasonable action thereon.

**Sec. 9.** RCW 49.60.178 and 1993 c 510 s 11 are each amended to read as follows:

It is an unfair practice for any person whether acting for himself, herself, or another in connection with an insurance transaction or transaction with a health maintenance organization to cancel or fail or refuse to issue or renew insurance or a health maintenance agreement to any person because of sex, marital status, race, creed, color, national origin, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide ((~~dog~~)) or service ((~~dog~~)) animal by a disabled person: PROVIDED, That a practice which is not unlawful under RCW 48.30.300, 48.44.220, or 48.46.370 does not constitute an unfair practice for the purposes of this section. For the purposes of this section, "insurance transaction" is defined in RCW 48.01.060, health maintenance agreement is defined in RCW 48.46.020, and "health maintenance organization" is defined in RCW 48.46.020.

The fact that such unfair practice may also be a violation of chapter 48.30, 48.44, or 48.46 RCW does not constitute a defense to an action brought under this section.

The insurance commissioner, under RCW 48.30.300, and the human rights commission, under chapter 49.60 RCW, shall have concurrent jurisdiction under this section and shall enter into a working agreement as to procedure to be followed in complaints under this section.

**Sec. 10.** RCW 49.60.180 and 1993 c 510 s 12 are each amended to read as follows:

It is an unfair practice for any employer:

(1) To refuse to hire any person because of age, sex, marital status, race, creed, color, national origin, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide ((~~dog~~)) or service ((~~dog~~)) animal by a disabled person, unless based upon a bona fide occupational qualification: PROVIDED, That the prohibition against discrimination because of such disability shall not apply if the particular disability prevents the proper performance of the particular worker involved.

(2) To discharge or bar any person from employment because of age, sex, marital status, race, creed, color, national origin, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide ((~~dog~~)) or service ((~~dog~~)) animal by a disabled person.

(3) To discriminate against any person in compensation or in other terms or conditions of employment because of age, sex, marital status, race, creed, color, national origin, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide ((~~dog~~)) or service ((~~dog~~)) animal by a disabled person:

PROVIDED, That it shall not be an unfair practice for an employer to segregate washrooms or locker facilities on the basis of sex, or to base other terms and conditions of employment on the sex of employees where the commission by regulation or ruling in a particular instance has found the employment practice to be appropriate for the practical realization of equality of opportunity between the sexes.

(4) To print, or circulate, or cause to be printed or circulated any statement, advertisement, or publication, or to use any form of application for employment, or to make any inquiry in connection with prospective employment, which expresses any limitation, specification, or discrimination as to age, sex, marital status, race, creed, color, national origin, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide ((dog)) or service ((dog)) animal by a disabled person, or any intent to make any such limitation, specification, or discrimination, unless based upon a bona fide occupational qualification: PROVIDED, Nothing contained herein shall prohibit advertising in a foreign language.

**Sec. 11.** RCW 49.60.190 and 1993 c 510 s 13 are each amended to read as follows:

It is an unfair practice for any labor union or labor organization:

(1) To deny membership and full membership rights and privileges to any person because of age, sex, marital status, race, creed, color, national origin, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide ((dog)) or service ((dog)) animal by a disabled person.

(2) To expel from membership any person because of age, sex, marital status, race, creed, color, national origin, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide ((dog)) or service ((dog)) animal by a disabled person.

(3) To discriminate against any member, employer, employee, or other person to whom a duty of representation is owed because of age, sex, marital status, race, creed, color, national origin, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide ((dog)) or service ((dog)) animal by a disabled person.

**Sec. 12.** RCW 49.60.200 and 1993 c 510 s 14 are each amended to read as follows:

It is an unfair practice for any employment agency to fail or refuse to classify properly or refer for employment, or otherwise to discriminate against, an individual because of age, sex, marital status, race, creed, color, national origin, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide ((dog)) or service ((dog)) animal by a disabled person, or to print or circulate, or cause to be printed or circulated any statement, advertisement, or publication, or to use any form of application for employment, or to make any inquiry in connection with prospective employment, which expresses any limitation, specification or discrimination as to age, sex, race, creed, color, or

national origin, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide ((~~dog~~)) or service ((~~dog~~)) animal by a disabled person, or any intent to make any such limitation, specification, or discrimination, unless based upon a bona fide occupational qualification: PROVIDED, Nothing contained herein shall prohibit advertising in a foreign language.

**Sec. 13.** RCW 49.60.215 and 1993 c 510 s 16 are each amended to read as follows:

It shall be an unfair practice for any person or the person's agent or employee to commit an act which directly or indirectly results in any distinction, restriction, or discrimination, or the requiring of any person to pay a larger sum than the uniform rates charged other persons, or the refusing or withholding from any person the admission, patronage, custom, presence, frequenting, dwelling, staying, or lodging in any place of public resort, accommodation, assemblage, or amusement, except for conditions and limitations established by law and applicable to all persons, regardless of race, creed, color, national origin, sex, the presence of any sensory, mental, or physical disability, or the use of a trained dog guide ((~~dog~~)) or service ((~~dog~~)) animal by a disabled person: PROVIDED, That this section shall not be construed to require structural changes, modifications, or additions to make any place accessible to a disabled person except as otherwise required by law: PROVIDED, That behavior or actions constituting a risk to property or other persons can be grounds for refusal and shall not constitute an unfair practice.

**Sec. 14.** RCW 49.60.222 and 1995 c 259 s 3 are each amended to read as follows:

(1) It is an unfair practice for any person, whether acting for himself, herself, or another, because of sex, marital status, race, creed, color, national origin, families with children status, the presence of any sensory, mental, or physical disability, or the use of a trained dog guide ((~~dog~~)) or service ((~~dog~~)) animal by a disabled person:

- (a) To refuse to engage in a real estate transaction with a person;
- (b) To discriminate against a person in the terms, conditions, or privileges of a real estate transaction or in the furnishing of facilities or services in connection therewith;
- (c) To refuse to receive or to fail to transmit a bona fide offer to engage in a real estate transaction from a person;
- (d) To refuse to negotiate for a real estate transaction with a person;
- (e) To represent to a person that real property is not available for inspection, sale, rental, or lease when in fact it is so available, or to fail to bring a property listing to his or her attention, or to refuse to permit the person to inspect real property;
- (f) To discriminate in the sale or rental, or to otherwise make unavailable or deny a dwelling, to any person; or to a person residing in or intending to reside in that dwelling after it is sold, rented, or made available; or to any person associated with the person buying or renting;

(g) To make, print, circulate, post, or mail, or cause to be so made or published a statement, advertisement, or sign, or to use a form of application for a real estate transaction, or to make a record or inquiry in connection with a prospective real estate transaction, which indicates, directly or indirectly, an intent to make a limitation, specification, or discrimination with respect thereto;

(h) To offer, solicit, accept, use, or retain a listing of real property with the understanding that a person may be discriminated against in a real estate transaction or in the furnishing of facilities or services in connection therewith;

(i) To expel a person from occupancy of real property;

(j) To discriminate in the course of negotiating, executing, or financing a real estate transaction whether by mortgage, deed of trust, contract, or other instrument imposing a lien or other security in real property, or in negotiating or executing any item or service related thereto including issuance of title insurance, mortgage insurance, loan guarantee, or other aspect of the transaction. Nothing in this section shall limit the effect of RCW 49.60.176 relating to unfair practices in credit transactions; or

(k) To attempt to do any of the unfair practices defined in this section.

(2) For the purposes of this chapter discrimination based on the presence of any sensory, mental, or physical disability or the use of a trained dog guide (~~((dog))~~) or service (~~((dog))~~) animal by a blind, deaf, or physically disabled person includes:

(a) A refusal to permit, at the expense of the disabled person, reasonable modifications of existing premises occupied or to be occupied by such person if such modifications may be necessary to afford such person full enjoyment of the dwelling, except that, in the case of a rental, the landlord may, where it is reasonable to do so, condition permission for a modification on the renter agreeing to restore the interior of the dwelling to the condition that existed before the modification, reasonable wear and tear excepted;

(b) To refuse to make reasonable accommodation in rules, policies, practices, or services when such accommodations may be necessary to afford a person with the presence of any sensory, mental, or physical disability and/or the use of a trained dog guide (~~((dog))~~) or service (~~((dog))~~) animal by a blind, deaf, or physically disabled person equal opportunity to use and enjoy a dwelling; or

(c) To fail to design and construct covered multifamily dwellings and premises in conformance with the federal fair housing amendments act of 1988 (42 U.S.C. Sec. 3601 et seq.) and all other applicable laws or regulations pertaining to access by persons with any sensory, mental, or physical disability or use of a trained dog guide (~~((dog))~~) or service (~~((dog))~~) animal. Whenever the requirements of applicable laws or regulations differ, the requirements which require greater accessibility for persons with any sensory, mental, or physical disability shall govern.

Nothing in (a) or (b) of this subsection shall apply to: (i) A single-family house rented or leased by the owner if the owner does not own or have an interest in the proceeds of the rental or lease of more than three such single-family houses at one time, the rental or lease occurred without the use of a real estate broker or

salesperson, as defined in RCW 18.85.010, and the rental or lease occurred without the publication, posting, or mailing of any advertisement, sign, or statement in violation of subsection (1)(g) of this section; or (ii) rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four families living independently of each other if the owner maintains and occupies one of the rooms or units as his or her residence.

(3) Notwithstanding any other provision of this chapter, it shall not be an unfair practice or a denial of civil rights for any public or private educational institution to separate the sexes or give preference to or limit use of dormitories, residence halls, or other student housing to persons of one sex or to make distinctions on the basis of marital or families with children status.

(4) Except pursuant to subsection (2)(a) of this section, this section shall not be construed to require structural changes, modifications, or additions to make facilities accessible to a disabled person except as otherwise required by law. Nothing in this section affects the rights, responsibilities, and remedies of landlords and tenants pursuant to chapter 59.18 or 59.20 RCW, including the right to post and enforce reasonable rules of conduct and safety for all tenants and their guests, provided that chapters 59.18 and 59.20 RCW are only affected to the extent they are inconsistent with the nondiscrimination requirements of this chapter. Nothing in this section limits the applicability of any reasonable federal, state, or local restrictions regarding the maximum number of occupants permitted to occupy a dwelling.

(5) Notwithstanding any other provision of this chapter, it shall not be an unfair practice for any public establishment providing for accommodations offered for the full enjoyment of transient guests as defined by RCW 9.91.010(1)(c) to make distinctions on the basis of families with children status. Nothing in this section shall limit the effect of RCW 49.60.215 relating to unfair practices in places of public accommodation.

(6) Nothing in this chapter prohibiting discrimination based on families with children status applies to housing for older persons as defined by the federal fair housing amendments act of 1988, 42 U.S.C. Sec. 3607(b)(1) through (3). Nothing in this chapter authorizes requirements for housing for older persons different than the requirements in the federal fair housing amendments act of 1988, 42 U.S.C. Sec 3607(b)(1) through (3).

**Sec. 15.** RCW 49.60.223 and 1993 c 510 s 18 and 1993 c 69 s 6 are each reenacted and amended to read as follows:

It is an unfair practice for any person, for profit, to induce or attempt to induce any person to sell or rent any real property by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, creed, color, sex, national origin, families with children status, or with any sensory, mental, or physical disability and/or the use of a trained dog guide ((~~dog~~)) or service ((~~dog~~)) animal by a blind, deaf, or physically disabled person.

**Sec. 16.** RCW 49.60.224 and 1993 c 69 s 8 are each amended to read as follows:

(1) Every provision in a written instrument relating to real property which purports to forbid or restrict the conveyance, encumbrance, occupancy, or lease thereof to individuals of a specified race, creed, color, sex, national origin, families with children status, or with any sensory, mental, or physical disability or the use of a trained dog guide ((~~dog~~)) or service ((~~dog~~)) animal by a blind, deaf, or physically disabled person, and every condition, restriction, or prohibition, including a right of entry or possibility of reverter, which directly or indirectly limits the use or occupancy of real property on the basis of race, creed, color, sex, national origin, families with children status, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide ((~~dog~~)) or service ((~~dog~~)) animal by a blind, deaf, or physically disabled person is void.

(2) It is an unfair practice to insert in a written instrument relating to real property a provision that is void under this section or to honor or attempt to honor such a provision in the chain of title.

**Sec. 17.** RCW 49.60.225 and 1995 c 259 s 4 are each amended to read as follows:

(1) When a reasonable cause determination has been made under RCW 49.60.240 that an unfair practice in a real estate transaction has been committed and a finding has been made that the respondent has engaged in any unfair practice under RCW 49.60.250, the administrative law judge shall promptly issue an order for such relief suffered by the aggrieved person as may be appropriate, which may include actual damages as provided by the federal fair housing amendments act of 1988 (42 U.S.C. Sec. 3601 et seq.), and injunctive or other equitable relief. Such order may, to further the public interest, assess a civil penalty against the respondent:

(a) In an amount up to ten thousand dollars if the respondent has not been determined to have committed any prior unfair practice in a real estate transaction;

(b) In an amount up to twenty-five thousand dollars if the respondent has been determined to have committed one other unfair practice in a real estate transaction during the five-year period ending on the date of the filing of this charge; or

(c) In an amount up to fifty thousand dollars if the respondent has been determined to have committed two or more unfair practices in a real estate transaction during the seven-year period ending on the date of the filing of this charge, for loss of the right secured by RCW 49.60.010, 49.60.030, 49.60.040, and 49.60.222 through 49.60.224, as now or hereafter amended, to be free from discrimination in real property transactions because of sex, marital status, race, creed, color, national origin, families with children status, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide ((~~dog~~)) or service ((~~dog~~)) animal by a blind, deaf, or physically disabled person. Enforcement of the order and appeal therefrom by the complainant or respondent may be made as provided in RCW 49.60.260 and 49.60.270. If acts constituting the unfair

practice in a real estate transaction that is the object of the charge are determined to have been committed by the same natural person who has been previously determined to have committed acts constituting an unfair practice in a real estate transaction, then the civil penalty of up to fifty thousand dollars may be imposed without regard to the period of time within which any subsequent unfair practice in a real estate transaction occurred. All civil penalties assessed under this section shall be paid into the state treasury and credited to the general fund.

(2) Such order shall not affect any contract, sale, conveyance, encumbrance, or lease consummated before the issuance of an order that involves a bona fide purchaser, encumbrancer, or tenant who does not have actual notice of the charge filed under this chapter.

(3) Notwithstanding any other provision of this chapter, persons awarded damages under this section may not receive additional damages pursuant to RCW 49.60.250.

**Sec. 18.** RCW 70.84.020 and 1980 c 109 s 2 are each amended to read as follows:

For the purpose of this chapter, the term "dog guide ((dog))" ~~((shall mean a dog which is in working harness and))~~ means a dog that is trained ~~((or approved by an accredited school engaged in training dogs))~~ for the purpose of guiding blind persons or a dog ~~((which is))~~ trained ~~((or approved by an accredited school engaged in training dogs))~~ for the purpose of assisting hearing impaired persons.

**Sec. 19.** RCW 70.84.021 and 1985 c 90 s 1 are each amended to read as follows:

For the purpose of this chapter, "service ((dog)) animal" means ~~((a dog))~~ an animal that is trained ~~((or approved by an accredited school, or state institution of higher education, engaged in training dogs))~~ for the purposes of assisting or accommodating a ~~((physically))~~ disabled ~~((person related to the))~~ person's sensory, mental, or physical disability.

**Sec. 20.** RCW 70.84.040 and 1985 c 90 s 3 are each amended to read as follows:

The driver of a vehicle approaching a totally or partially blind pedestrian who is carrying a cane predominantly white in color (with or without a red tip), a totally or partially blind or hearing impaired pedestrian using a dog guide ((dog)), or an otherwise physically disabled person using a service ((dog)) animal shall take all necessary precautions to avoid injury to such pedestrian. Any driver who fails to take such precaution shall be liable in damages for any injury caused such pedestrian. It shall be unlawful for the operator of any vehicle to drive into or upon any crosswalk while there is on such crosswalk, such pedestrian, crossing or attempting to cross the roadway, if such pedestrian ~~((indicates his intention to cross or of continuing on, with a timely warning by holding up or waving))~~ is using a white cane, using a dog guide ((dog)), or using a service ((dog)) animal. The failure of any such pedestrian so to signal shall not deprive him of the right of way accorded him by other laws.

**Sec. 21.** RCW 70.84.050 and 1980 c 109 s 5 are each amended to read as follows:

A totally or partially blind pedestrian not carrying a white cane or a totally or partially blind or hearing impaired pedestrian not using a dog guide (~~((dog))~~) in any of the places, accommodations, or conveyances listed in RCW 70.84.010, shall have all of the rights and privileges conferred by law on other persons.

**Sec. 22.** RCW 70.84.060 and 1985 c 90 s 4 are each amended to read as follows:

It shall be unlawful for any pedestrian who is not totally or partially blind to use a white cane or any pedestrian who is not totally or partially blind or is not hearing impaired to use a dog guide (~~((dog))~~) or any pedestrian who is not otherwise physically disabled to use a service (~~((dog))~~) animal in any of the places, accommodations, or conveyances listed in RCW 70.84.010 for the purpose of securing the rights and privileges accorded by the chapter to totally or partially blind, hearing impaired, or otherwise physically disabled people.

**Sec. 23.** RCW 70.84.100 and 1988 c 89 s 1 are each amended to read as follows:

(1) A person who negligently or maliciously kills or injures a dog guide or service (~~((dog))~~) animal is liable for a penalty of one thousand dollars, to be paid to the user of the (~~((dog))~~) animal. The penalty shall be in addition to and not in lieu of any other remedies or penalties, civil or criminal, provided by law.

(2) A user or owner of a dog guide or service animal, whose animal is negligently or maliciously injured or killed, is entitled to recover reasonable attorneys' fees and costs incurred in pursuing any civil remedy.

(3) The commission has no duty to investigate any negligent or malicious acts referred to under this section.

**Sec. 24.** RCW 70.84.120 and 1989 c 41 s 1 are each amended to read as follows:

A county, city, or town shall honor a request by a blind person or hearing impaired person not to be charged a fee to license his or her dog guide (~~((dog))~~), or a request by a physically disabled person not to be charged a fee to license his or her service (~~((dog))~~) animal.

NEW SECTION. **Sec. 25.** The Washington state human rights commission shall adopt rules implementing this act no later than March 1, 1998.

NEW SECTION. **Sec. 26.** The following acts or parts of acts are each repealed:

- (1) RCW 70.84.030 and 1985 c 90 s 2, 1980 c 109 s 3, & 1969 c 141 s 3; and
- (2) RCW 70.84.110 and 1988 c 89 s 2.

NEW SECTION. **Sec. 27.** RCW 70.84.090, 70.84.100, and 70.84.120 are each recodified as new sections in chapter 49.60 RCW.

Passed the House April 19, 1997.  
Passed the Senate April 9, 1997.  
Approved by the Governor May 6, 1997.  
Filed in Office of Secretary of State May 6, 1997.

---

**CHAPTER 272**

[Engrossed Second Substitute House Bill 2046]

**FOSTER CARE—ENCOURAGEMENT, FOSTER CARE PARENT LIAISONS**

AN ACT Relating to foster care; amending RCW 74.13.031 and 74.13.280; adding new sections to chapter 74.13 RCW; adding a new section to chapter 43.20A RCW; providing an effective date; and declaring an emergency.

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

**Sec. 1.** RCW 74.13.031 and 1995 c 191 s 1 are each amended to read as follows:

The department shall have the duty to provide child welfare services (~~as defined in RCW 74.13.020;~~) and shall:

(1) Develop, administer, supervise, and monitor a coordinated and comprehensive plan that establishes, aids, and strengthens services for the protection and care of homeless, runaway, dependent, or neglected children.

(2) (~~Develop a recruiting plan for recruiting~~) Within available resources, recruit an adequate number of prospective adoptive and foster homes, both regular and specialized, i.e. homes for children of ethnic minority, including Indian homes for Indian children, sibling groups, handicapped and emotionally disturbed, teens, pregnant and parenting teens, and annually ((submit the plan for review to the house and senate committees on social and health services)) report to the governor and the legislature concerning the department's success in: (a) Meeting the need for adoptive and foster home placements; (b) reducing the foster parent turnover rate; (c) completing home studies for legally free children; and (d) implementing and operating the passport program required by section 5 of this act. The (~~plan~~) report shall include a section entitled "Foster Home Turn-Over, Causes and Recommendations."

(3) Investigate complaints of neglect, abuse, or abandonment of children, and on the basis of the findings of such investigation, offer child welfare services in relation to the problem to such parents, legal custodians, or persons serving in loco parentis, and/or bring the situation to the attention of an appropriate court, or another community agency: PROVIDED, That an investigation is not required of nonaccidental injuries which are clearly not the result of a lack of care or supervision by the child's parents, legal custodians, or persons serving in loco parentis. If the investigation reveals that a crime may have been committed, the department shall notify the appropriate law enforcement agency.

(4) Offer, on a voluntary basis, family reconciliation services to families who are in conflict.

(5) Monitor out-of-home placements, on a timely and routine basis, to assure the safety, well-being, and quality of care being provided is within the scope of the intent of the legislature as defined in RCW 74.13.010 and 74.15.010, and annually submit a report (~~(delineating the results)~~) measuring the extent to which the department achieved the specified goals to the ((house and senate committees on social and health services)) governor and the legislature.

(6) Have authority to accept custody of children from parents and to accept custody of children from juvenile courts, where authorized to do so under law, to provide child welfare services including placement for adoption, and to provide for the physical care of such children and make payment of maintenance costs if needed. Except where required by Public Law 95-608 (25 U.S.C. Sec. 1915), no private adoption agency which receives children for adoption from the department shall discriminate on the basis of race, creed, or color when considering applications in their placement for adoption.

(7) Have authority to provide temporary shelter to children who have run away from home and who are admitted to crisis residential centers.

(8) Have authority to purchase care for children; and shall follow in general the policy of using properly approved private agency services for the actual care and supervision of such children insofar as they are available, paying for care of such children as are accepted by the department as eligible for support at reasonable rates established by the department.

(9) Establish a children's services advisory committee which shall assist the secretary in the development of a partnership plan for utilizing resources of the public and private sectors, and advise on all matters pertaining to child welfare, licensing of child care agencies, adoption, and services related thereto. At least one member shall represent the adoption community.

(10) Have authority to provide continued foster care or group care for individuals from eighteen through twenty years of age to enable them to complete their high school or vocational school program.

(11) Have authority within funds appropriated for foster care services to purchase care for Indian children who are in the custody of a federally recognized Indian tribe or tribally licensed child-placing agency pursuant to parental consent, tribal court order, or state juvenile court order; and the purchase of such care shall be subject to the same eligibility standards and rates of support applicable to other children for whom the department purchases care.

Notwithstanding any other provision of RCW 13.32A.170 through 13.32A.200 and 74.13.032 through 74.13.036, or of this section all services to be provided by the department of social and health services under subsections (4), (6), and (7) of this section, subject to the limitations of these subsections, may be provided by any program offering such services funded pursuant to Titles II and III of the federal juvenile justice and delinquency prevention act of 1974.

NEW SECTION. Sec. 2. A new section is added to chapter 74.13 RCW to read as follows:

Within available resources, the department shall provide a foster parent liaison position in each department region. The department shall contract with a private nonprofit organization to provide the foster parent liaison function. The foster parent liaison shall enhance the working relationship between department case workers and foster parents. The foster parent liaison shall provide expedited assistance for the unique needs and requirements posed by special needs foster children in out-of-home care. Any contract entered into under this section for a foster parent liaison shall include a requirement that the contractor substantially reduce the turnover rate of foster parents in the region by an agreed upon percentage. The department shall evaluate whether an organization that has a contract under this section has reduced the turnover rate by the agreed upon amount or more when determining whether to extend or renew a contract under this section.

**NEW SECTION.** Sec. 3. A new section is added to chapter 74.13 RCW to read as follows:

Within available resources, the department shall increase the number of adoptive and foster families available to accept children through an intensive recruitment and retention program. The department shall contract with a private agency to coordinate foster care and adoptive home recruitment activities for the department and private agencies.

**NEW SECTION.** Sec. 4. A new section is added to chapter 43.20A RCW to read as follows:

The secretary or the secretary's designee may purchase services from nonprofit agencies for the purpose of conducting home studies for legally free children who have been awaiting adoption finalization for more than ninety days. The home studies selected to be done under this section shall be for the children who have been legally free and awaiting adoption finalization the longest period of time.

**NEW SECTION.** Sec. 5. A new section is added to chapter 74.13 RCW to read as follows:

(1) Within available resources, the department shall prepare a passport containing all known and available information concerning the mental, physical, health, and educational status of the child for any child who has been in a foster home for ninety consecutive days or more. The passport shall be provided to a foster parent at any placement of a child covered by this section. The department shall update the passport during the regularly scheduled court reviews required under chapter 13.34 RCW.

New placements after the effective date of this act shall have first priority in the preparation of passports. Within available resources, the department may prepare passports for any child in a foster home on the effective date of this act, provided that no time spent in a foster home before the effective date of this act shall be included in the computation of the ninety days.

(2) In addition to the requirements of subsection (1) of this section, the department shall, within available resources, notify a foster parent before

placement of a child of any known health conditions that pose a serious threat to the child and any known behavioral history that presents a serious risk of harm to the child or others.

**NEW SECTION. Sec. 6.** A new section is added to chapter 74.13 RCW to read as follows:

The department may provide child care for all foster parents who are required to attend department-sponsored meetings or training sessions. If the department does not provide such child care, the department, where feasible, shall conduct the activities covered by this section in the foster parent's home or other location acceptable to the foster parent.

**Sec. 7.** RCW 74.13.280 and 1995 c 311 s 21 are each amended to read as follows:

(1) Except as provided in RCW 70.24.105, whenever a child is placed in out-of-home care by the department or a child-placing agency, the department or agency (~~may~~) shall, within available resources, share information about the child and the child's family with the care provider and (~~may~~) shall, within available resources, consult with the care provider regarding the child's case plan. If the child is dependent pursuant to a proceeding under chapter 13.34 RCW, the department or agency shall keep the care provider informed regarding the dates and location of dependency review and permanency planning hearings pertaining to the child.

(2) Any person who receives information about a child or a child's family pursuant to this section shall keep the information confidential and shall not further disclose or disseminate the information except as authorized by law.

(3) Nothing in this section shall be construed to limit the authority of the department or child-placing agencies to disclose client information or to maintain client confidentiality as provided by law.

**NEW SECTION. Sec. 8.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 1997.

Passed the House April 22, 1997.

Passed the Senate April 17, 1997.

Approved by the Governor May 6, 1997.

Filed in Office of Secretary of State May 6, 1997.

## CHAPTER 273

[Engrossed Substitute House Bill 2193]

### JOINT CENTER FOR HIGHER EDUCATION PARKING AND TRANSPORTATION FEES

AN ACT Relating to the joint center for higher education transportation and parking fees and higher education parking fees; amending RCW 28B.130.020 and 43.01.236; and adding a new section to chapter 28B.25 RCW.

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

**NEW SECTION. Sec. 1.** A new section is added to chapter 28B.25 RCW to read as follows:

(1) The joint center board may:

(a) Adopt rules governing pedestrian traffic and vehicular traffic and parking upon lands and facilities of the center;

(b) Establish, collect, and retain parking fees for faculty, staff, students, and visitors using the Riverpoint higher education parking facility;

(c) Adjudicate matters involving parking infractions internally; and

(d) Collect and retain any penalties for parking infractions.

(2) If the rules adopted under subsection (1) of this section provide for internal adjudication of parking infractions, a person charged with a parking infraction who deems himself or herself aggrieved by the final decision in an internal adjudication may, within ten days after written notice of the final decision, appeal by filing a written notice thereof with the joint center board. Documents relating to the appeal shall immediately be forwarded to the district court in the county in which the offense was committed, which court shall have jurisdiction over such offense and such appeal shall be heard de novo.

(3) Any funds collected under this section shall be used for the joint center's parking program.

**Sec. 2.** RCW 28B.130.020 and 1993 c 447 s 3 are each amended to read as follows:

(1) The governing board of an institution of higher education as defined in RCW 28B.10.016 may impose either a voluntary or a mandatory transportation fee on employees and on students at the institution. The board of the joint center for higher education under chapter 28B.25 RCW may impose either a voluntary or a mandatory transportation fee on faculty and staff working at the Riverpoint higher education park and on students attending classes there. The transportation fee shall be used solely to fund transportation demand management programs that reduce the demand for campus and neighborhood parking, and promote alternatives to single-occupant vehicle driving. If the board charges a mandatory transportation fee to students, it shall charge a mandatory transportation fee to employees. The transportation fee for employees may exceed, but shall not be lower than the transportation fee charged to students. The transportation fee for employees may be deducted from the employees' paychecks. The transportation fee for students may be imposed annually, or each academic term. For students attending community colleges and technical colleges, the mandatory transportation fee shall not exceed sixty percent of the maximum rate permitted for services and activities fees at community colleges, unless, through a vote, a majority of students consent to increase the transportation fee. For students attending four-year institutions of higher education or classes at the Riverpoint higher education park, the mandatory transportation fee shall not exceed thirty-five percent of the maximum rate permitted for services and activities fees at the institution where the student is enrolled unless, through a vote, a majority of students consents to increase the

transportation fee. The board may make a limited number of exceptions to the fee based on a policy adopted by the board.

(2) The board of the joint center for higher education under chapter 28B.25 RCW shall not impose a transportation fee on any student who is already paying a transportation fee to the institution of higher education in which the student is enrolled.

**Sec. 3.** RCW 43.01.236 and 1995 c 215 s 5 are each amended to read as follows:

All institutions of higher education as defined under RCW 28B.10.016 and the joint center for higher education under chapter 28B.25 RCW are exempt from the requirements under RCW ~~((43.01.225))~~ 43.01.240.

Passed the House April 21, 1997.

Passed the Senate April 10, 1997.

Approved by the Governor May 6, 1997.

Filed in Office of Secretary of State May 6, 1997.

---

## CHAPTER 274

[Engrossed Substitute House Bill 2264]

### ABOLISHING THE STATE HEALTH CARE ADVISORY BOARD

AN ACT Relating to abolishing the state health care policy board; amending RCW 41.05.021, 43.70.054, 43.70.066, 43.70.068, 43.72.300, and 43.72.310; reenacting and amending RCW 42.17.310; adding a new section to chapter 43.72 RCW; repealing RCW 43.72.320, 43.73.010, 43.73.020, 43.73.030, and 43.73.040; repealing 1996 c 281 s 2 (uncodified); providing an effective date; and declaring an emergency.

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

**Sec. 1.** RCW 41.05.021 and 1995 1st sp.s. c 6 s 7 are each amended to read as follows:

(1) The Washington state health care authority is created within the executive branch. The authority shall have an administrator appointed by the governor, with the consent of the senate. The administrator shall serve at the pleasure of the governor. The administrator may employ up to seven staff members, who shall be exempt from chapter 41.06 RCW, and any additional staff members as are necessary to administer this chapter. The administrator may delegate any power or duty vested in him or her by this chapter, including authority to make final decisions and enter final orders in hearings conducted under chapter 34.05 RCW. The primary duties of the authority shall be to: Administer state employees' insurance benefits and retired or disabled school employees' insurance benefits; administer the basic health plan pursuant to chapter 70.47 RCW; study state-purchased health care programs in order to maximize cost containment in these programs while ensuring access to quality health care; and implement state initiatives, joint purchasing strategies, and techniques for efficient administration that have potential application to all state-purchased health services. The authority's duties include, but are not limited to, the following:

(a) To administer health care benefit programs for employees and retired or disabled school employees as specifically authorized in RCW 41.05.065 and in accordance with the methods described in RCW 41.05.075, 41.05.140, and other provisions of this chapter;

(b) To analyze state-purchased health care programs and to explore options for cost containment and delivery alternatives for those programs that are consistent with the purposes of those programs, including, but not limited to:

(i) Creation of economic incentives for the persons for whom the state purchases health care to appropriately utilize and purchase health care services, including the development of flexible benefit plans to offset increases in individual financial responsibility;

(ii) Utilization of provider arrangements that encourage cost containment, including but not limited to prepaid delivery systems, utilization review, and prospective payment methods, and that ensure access to quality care, including assuring reasonable access to local providers, especially for employees residing in rural areas;

(iii) Coordination of state agency efforts to purchase drugs effectively as provided in RCW 70.14.050;

(iv) Development of recommendations and methods for purchasing medical equipment and supporting services on a volume discount basis; and

(v) Development of data systems to obtain utilization data from state-purchased health care programs in order to identify cost centers, utilization patterns, provider and hospital practice patterns, and procedure costs, utilizing the information obtained pursuant to RCW 41.05.031;

(c) To analyze areas of public and private health care interaction;

(d) To provide information and technical and administrative assistance to the board;

(e) To review and approve or deny applications from counties, municipalities, and other political subdivisions of the state to provide state-sponsored insurance or self-insurance programs to their employees in accordance with the provisions of RCW 41.04.205, setting the premium contribution for approved groups as outlined in RCW 41.05.050;

(f) To appoint a health care policy technical advisory committee as required by RCW 41.05.150;

(g) To establish billing procedures and collect funds from school districts and educational service districts under RCW 28A.400.400 in a way that minimizes the administrative burden on districts; and

(h) To promulgate and adopt rules consistent with this chapter as described in RCW 41.05.160.

(2) On and after January 1, 1996, the public employees' benefits board may implement strategies to promote managed competition among employee health benefit plans. Strategies may include but are not limited to:

(a) Standardizing the benefit package;

(b) Soliciting competitive bids for the benefit package;

(c) Limiting the state's contribution to a percent of the lowest priced qualified plan within a geographical area;

(d) Monitoring the impact of the approach under this subsection with regards to: Efficiencies in health service delivery, cost shifts to subscribers, access to and choice of managed care plans state-wide, and quality of health services. The health care authority shall also advise on the value of administering a benchmark employer-managed plan to promote competition among managed care plans. The health care authority shall report its findings and recommendations to the legislature by January 1, 1997.

(3) The health care authority shall, no later than July 1, 1996, submit to the appropriate committees of the legislature, proposed methods whereby, through the use of a voucher-type process, state employees may enroll with any health carrier to receive employee benefits. Such methods shall include the employee option of participating in a health care savings account, as set forth in Title 48 RCW.

~~((4) The Washington health care policy board shall study the necessity and desirability of the health care authority continuing as a self-insuring entity and make recommendations to the appropriate committees of the legislature by December 1, 1996.))~~

Sec. 2. RCW 43.70.054 and 1995 c 267 s 2 are each amended to read as follows:

(1) To promote the public interest consistent with chapter 267, Laws of 1995, the department of health, in cooperation with the ~~((health care policy board and the))~~ information services board established under RCW 43.105.032, shall develop health care data standards to be used by, and developed in collaboration with, consumers, purchasers, health carriers, providers, and state government as consistent with the intent of chapter 492, Laws of 1993 as amended by chapter 267, Laws of 1995, to promote the delivery of quality health services that improve health outcomes for state residents. The data standards shall include content, coding, confidentiality, and transmission standards for all health care data elements necessary to support the intent of this section, and to improve administrative efficiency and reduce cost. Purchasers, as allowed by federal law, health carriers, health facilities and providers as defined in chapter 48.43 RCW, and state government shall utilize the data standards. The information and data elements shall be reported as the department of health directs by rule in accordance with data standards developed under this section.

(2) The health care data collected, maintained, and studied by the department under this section ~~((, the health care policy board,))~~ or any other entity: (a) Shall include a method of associating all information on health care costs and services with discrete cases; (b) shall not contain any means of determining the personal identity of any enrollee, provider, or facility; (c) shall only be available for retrieval in original or processed form to public and private requesters; (d) shall be available

within a reasonable period of time after the date of request; and (e) shall give strong consideration to data standards that achieve national uniformity.

(3) The cost of retrieving data for state officials and agencies shall be funded through state general appropriation. The cost of retrieving data for individuals and organizations engaged in research or private use of data or studies shall be funded by a fee schedule developed by the department that reflects the direct cost of retrieving the data or study in the requested form.

(4) All persons subject to this section shall comply with departmental requirements established by rule in the acquisition of data, however, the department shall adopt no rule or effect no policy implementing the provisions of this section without an act of law.

(5) The department shall submit developed health care data standards to the appropriate committees of the legislature by December 31, 1995.

Sec. 3. RCW 43.70.066 and 1995 c 267 s 4 are each amended to read as follows:

(1) The department of health (~~(in consultation with the health policy board)~~) shall study the feasibility of a uniform quality assurance and improvement program for use by all public and private health plans and health care providers and facilities. In this study, the department shall consult with:

- (a) Public and private purchasers of health care services;
- (b) Health carriers;
- (c) Health care providers and facilities; and
- (d) Consumers of health services.

(2) In conducting the study, the department shall propose standards that meet the needs of affected persons and organizations, whether public or private, without creation of differing levels of quality assurance. All consumers of health services should be afforded the same level of quality assurance.

(3) At a minimum, the study shall include but not be limited to the following program components and indicators appropriate for consumer disclosure:

- (a) Health care provider training, credentialing, and licensure standards;
- (b) Health care facility credentialing and recredentialing;
- (c) Staff ratios in health care facilities;
- (d) Annual mortality and morbidity rates of cases based on a defined set of procedures performed or diagnoses treated in health care facilities, adjusted to fairly consider variable factors such as patient demographics and case severity;
- (e) The average total cost and average length of hospital stay for a defined set of procedures and diagnoses;
- (f) The total number of the defined set of procedures, by specialty, performed by each physician at a health care facility within the previous twelve months;
- (g) Utilization performance profiles by provider, both primary care and specialty care, that have been adjusted to fairly consider variable factors such as patient demographics and severity of case;
- (h) Health plan fiscal performance standards;

- (i) Health care provider and facility recordkeeping and reporting standards;
- (j) Health care utilization management that monitors trends in health service underutilization, as well as overutilization of services;
- (k) Health monitoring that is responsive to consumer, purchaser, and public health assessment needs; and
- (l) Assessment of consumer satisfaction and disclosure of consumer survey results.

(4) In conducting the study, the department shall develop standards that permit each health care facility, provider group, or health carrier to assume responsibility for and determine the physical method of collection, storage, and assimilation of quality indicators for consumer disclosure. The study may define the forms, frequency, and posting requirements for disclosure of information.

In developing proposed standards under this subsection, the department shall identify options that would minimize provider burden and administrative cost resulting from duplicative private sector data submission requirements.

(5) The department shall submit a preliminary report to the legislature by December 31, 1995, including recommendations for initial legislation pursuant to subsection (6) of this section, and shall submit supplementary reports and recommendations as completed, consistent with appropriated funds and staffing.

(6) The department shall not adopt any rule implementing the uniform quality assurance program or consumer disclosure provisions unless expressly directed to do so by an act of law.

**Sec. 4.** RCW 43.70.068 and 1995 c 267 s 5 are each amended to read as follows:

~~((No later than July 1, 1995, the health care policy board together with))~~ The department of health, the health care authority, the department of social and health services, the office of the insurance commissioner, and the department of labor and industries shall form an interagency group for coordination and consultation on quality assurance activities and collaboration on final recommendations for the study required under RCW 43.70.066. ~~((By December 31, 1996, the group shall review all state agency programs governing health service quality assurance, in light of legislative actions pursuant to RCW 43.70.066(6), and shall recommend to the legislature, the consolidation, coordination, or elimination of rules and programs that would be made unnecessary pursuant to the development of a uniform quality assurance and improvement program.))~~

**NEW SECTION.** **Sec. 5.** A new section is added to chapter 43.72 RCW to read as follows:

As used in this chapter, "health carrier," "health care provider," "provider," "health plan," and "health care facility" have the same meaning as provided in RCW 48.43.005.

**Sec. 6.** RCW 43.72.300 and 1993 c 492 s 447 are each amended to read as follows:

(1) The legislature recognizes that competition among health care providers, facilities, payers, and purchasers will yield the best allocation of health care resources, the lowest prices for health care services, and the highest quality of health care when there exists a large number of buyers and sellers, easily comparable health ((care)) plans and services, minimal barriers to entry and exit into the health care market, and adequate information for buyers and sellers to base purchasing and production decisions. However, the legislature finds that purchasers of health care services and health care coverage do not have adequate information upon which to base purchasing decisions; that health care facilities and providers of health care services face legal and market disincentives to develop economies of scale or to provide the most cost-efficient and efficacious service; that health insurers, contractors, and health maintenance organizations face market disincentives in providing health care coverage to those Washington residents with the most need for health care coverage; and that potential competitors in the provision of health care coverage bear unequal burdens in entering the market for health care coverage.

(2) The legislature therefore intends to exempt from state anti-trust laws, and to provide immunity from federal anti-trust laws through the state action doctrine for activities approved under this chapter that might otherwise be constrained by such laws and intends to displace competition in the health care market: To contain the aggregate cost of health care services; to promote the development of comprehensive, integrated, and cost-effective health care delivery systems through cooperative activities among health care providers and facilities; to promote comparability of health care coverage; to improve the cost-effectiveness in providing health care coverage relative to health promotion, disease prevention, and the amelioration or cure of illness; to assure universal access to a publicly determined, uniform package of health care benefits; and to create reasonable equity in the distribution of funds, treatment, and medical risk among purchasers of health care coverage, payers of health care services, providers of health care services, health care facilities, and Washington residents. To these ends, any lawful action taken pursuant to chapter 492, Laws of 1993 by any person or entity created or regulated by chapter 492, Laws of 1993 are declared to be taken pursuant to state statute and in furtherance of the public purposes of the state of Washington.

(3) The legislature does not intend and unless explicitly permitted in accordance with RCW 43.72.310 or under rules adopted pursuant to chapter 492, Laws of 1993, does not authorize any person or entity to engage in activities or to conspire to engage in activities that would constitute per se violations of state and federal anti-trust laws including but not limited to conspiracies or agreements:

(a) Among competing health care providers not to grant discounts, not to provide services, or to fix the price of their services;

(b) Among ((certified)) health ((plans)) carriers as to the price or level of reimbursement for health care services;

(c) Among ~~((certified))~~ health ~~((plans))~~ carriers to boycott a group or class of health care service providers;

(d) Among purchasers of ~~((certified))~~ health plan coverage to boycott a particular plan or class of plans;

(e) Among ~~((certified))~~ health ~~((plans))~~ carriers to divide the market for health care coverage; or

(f) Among ~~((certified))~~ health ~~((plans))~~ carriers and purchasers to attract or discourage enrollment of any Washington resident or groups of residents in a ~~((certified))~~ health plan based upon the perceived or actual risk of loss in including such resident or group of residents in a ~~((certified))~~ health plan or purchasing group.

Sec. 7. RCW 43.72.310 and 1995 c 267 s 8 are each amended to read as follows:

(1) ~~((Until May 8, 1995, and after June 30, 1996, a certified))~~ A health ~~((plan))~~ carrier, health care facility, health care provider, or other person involved in the development, delivery, or marketing of health care or ~~((certified))~~ health plans may request, in writing, that the ~~((commission))~~ department of health obtain an informal opinion from the attorney general as to whether particular conduct is authorized by chapter 492, Laws of 1993. Trade secret or proprietary information contained in a request for informal opinion shall be identified as such and shall not be disclosed other than to an authorized employee of the ~~((commission))~~ department of health or attorney general without the consent of the party making the request, except that information in summary or aggregate form and market share data may be contained in the informal opinion issued by the attorney general. The attorney general shall issue such opinion within thirty days of receipt of a written request for an opinion or within thirty days of receipt of any additional information requested by the attorney general necessary for rendering an opinion unless extended by the attorney general for good cause shown. If the attorney general concludes that such conduct is not authorized by chapter 492, Laws of 1993, the person or organization making the request may petition the ~~((commission))~~ department of health for review and approval of such conduct in accordance with subsection (3) of this section.

(2) After obtaining the written opinion of the attorney general and consistent with such opinion, the ~~((health services commission))~~ department of health:

(a) May authorize conduct by a ~~((certified))~~ health ~~((plan))~~ carrier, health care facility, health care provider, or any other person that could tend to lessen competition in the relevant market upon a strong showing that the conduct is likely to achieve the policy goals of chapter 492, Laws of 1993 and a more competitive alternative is impractical;

(b) Shall adopt rules governing conduct among providers, health care facilities, and ~~((certified))~~ health ~~((plans))~~ carriers including rules governing provider and facility contracts with ~~((certified))~~ health ~~((plans))~~ carriers, rules governing the use of "most favored nation" clauses and exclusive dealing clauses in such contracts, and rules providing that ~~((certified))~~ health ~~((plans))~~ carriers in

rural areas contract with a sufficient number and type of health care providers and facilities to ensure consumer access to local health care services;

(c) Shall adopt rules permitting health care providers within the service area of a plan to collectively negotiate the terms and conditions of contracts with a ~~((certified))~~ health ~~((plan))~~ carrier including the ability of providers to meet and communicate for the purposes of these negotiations; ~~((and))~~

(d) Shall adopt rules governing cooperative activities among health care facilities and providers; and

(e) Effective July 1, 1997, in addition to the rule-making authority granted to the department under this section, the department shall have the authority to enforce and administer rules previously adopted by the health services commission and the health care policy board pursuant to RCW 43.72.310.

(3) ~~((Until May 8, 1995, and after June 30, 1996, a certified))~~ A health ~~((plan))~~ carrier, health care facility, health care provider, or any other person involved in the development, delivery, and marketing of health care services or ~~((certified))~~ health plans may file a written petition with the ~~((commission))~~ department of health requesting approval of conduct that could tend to lessen competition in the relevant market. Such petition shall be filed in a form and manner prescribed by rule of the ~~((commission))~~ department of health.

The ~~((commission))~~ department of health shall issue a written decision approving or denying a petition filed under this section within ninety days of receipt of a properly completed written petition unless extended by the ~~((commission))~~ department of health for good cause shown. The decision shall set forth findings as to benefits and disadvantages and conclusions as to whether the benefits outweigh the disadvantages.

(4) In authorizing conduct and adopting rules of conduct under this section, the ~~((commission))~~ department of health with the advice of the attorney general, shall consider the benefits of such conduct in furthering the goals of health care reform including but not limited to:

- (a) Enhancement of the quality of health services to consumers;
- (b) Gains in cost efficiency of health services;
- (c) Improvements in utilization of health services and equipment;
- (d) Avoidance of duplication of health services resources; or

(e) And as to (b) and (c) of this subsection: (i) Facilitates the exchange of information relating to performance expectations; (ii) simplifies the negotiation of delivery arrangements and relationships; and (iii) reduces the transactions costs on the part of ~~((certified))~~ health ~~((plans))~~ carriers and providers in negotiating more cost-effective delivery arrangements.

These benefits must outweigh disadvantages including and not limited to:

- (i) Reduced competition among ~~((certified))~~ health ~~((plans))~~ carriers, health care providers, or health care facilities;
- (ii) Adverse impact on quality, availability, or price of health care services to consumers; or

(iii) The availability of arrangements less restrictive to competition that achieve the same benefits.

(5) Conduct authorized by the ~~((commission))~~ department of health shall be deemed taken pursuant to state statute and in the furtherance of the public purposes of the state of Washington.

(6) With the assistance of the attorney general's office, the ~~((commission))~~ department of health shall actively supervise any conduct authorized under this section to determine whether such conduct or rules permitting certain conduct should be continued and whether a more competitive alternative is practical. The ~~((commission))~~ department of health shall periodically review petitioned conduct through, at least, annual progress reports from petitioners, annual or more frequent reviews by the ~~((commission))~~ department of health that evaluate whether the conduct is consistent with the petition, and whether the benefits continue to outweigh any disadvantages. If the ~~((commission))~~ department of health determines that the likely benefits of any conduct approved through rule, petition, or otherwise by the ~~((commission))~~ department of health no longer outweigh the disadvantages attributable to potential reduction in competition, the ~~((commission))~~ department of health shall order a modification or discontinuance of such conduct. Conduct ordered discontinued by the ~~((commission))~~ department of health shall no longer be deemed to be taken pursuant to state statute and in the furtherance of the public purposes of the state of Washington.

(7) Nothing contained in chapter 492, Laws of 1993 is intended to in any way limit the ability of rural hospital districts to enter into cooperative agreements and contracts pursuant to RCW 70.44.450 and chapter 39.34 RCW.

~~(8) ((Only requests for informal opinions under subsection (1) of this section and petitions under subsection (3) of this section that were received prior to May 8, 1995, or after June 30, 1996, shall be considered.))~~ The secretary of health shall from time to time establish fees to accompany the filing of a petition or a written request to the department to obtain an opinion from the attorney general under this section and for the active supervision of conduct approved under this section. Such fees may vary according to the size of the transaction proposed in the petition or under active supervision. In setting such fees, the secretary shall consider that consumers and the public benefit when activities meeting the standards of this section are permitted to proceed; the importance of assuring that persons sponsoring beneficial activities are not foreclosed from filing a petition under this section because of the fee; and the necessity to avoid a conflict, or the appearance of a conflict, between the interests of the department and the public. The total fee for a petition under this section, a written request to the department to obtain an opinion from the attorney general, or a combination of both regarding the same conduct shall not exceed the level that will defray the reasonable costs the department and attorney general incur in considering a petition and in no event shall be greater than twenty-five thousand dollars. The fee for review of approved conduct shall not exceed the level that will defray the reasonable costs the

department and attorney general incur in conducting such a review and in no event shall be greater than ten thousand dollars per annum. The fees shall be fixed by rule adopted in accordance with the provisions of the administrative procedure act, chapter 34.05 RCW, and shall be deposited in the health professions account established in accordance with RCW 43.70.320.

Sec. 8. RCW 42.17.310 and 1996 c 305 s 2, 1996 c 253 s 302, 1996 c 191 s 88, and 1996 c 80 s 1 are each reenacted and amended to read as follows:

(1) The following are exempt from public inspection and copying:

(a) Personal information in any files maintained for students in public schools, patients or clients of public institutions or public health agencies, or welfare recipients.

(b) Personal information in files maintained for employees, appointees, or elected officials of any public agency to the extent that disclosure would violate their right to privacy.

(c) Information required of any taxpayer in connection with the assessment or collection of any tax if the disclosure of the information to other persons would (i) be prohibited to such persons by RCW 82.32.330 or (ii) violate the taxpayer's right to privacy or result in unfair competitive disadvantage to the taxpayer.

(d) Specific intelligence information and specific investigative records compiled by investigative, law enforcement, and penology agencies, and state agencies vested with the responsibility to discipline members of any profession, the nondisclosure of which is essential to effective law enforcement or for the protection of any person's right to privacy.

(e) Information revealing the identity of persons who are witnesses to or victims of crime or who file complaints with investigative, law enforcement, or penology agencies, other than the public disclosure commission, if disclosure would endanger any person's life, physical safety, or property. If at the time a complaint is filed the complainant, victim or witness indicates a desire for disclosure or nondisclosure, such desire shall govern. However, all complaints filed with the public disclosure commission about any elected official or candidate for public office must be made in writing and signed by the complainant under oath.

(f) Test questions, scoring keys, and other examination data used to administer a license, employment, or academic examination.

(g) Except as provided by chapter 8.26 RCW, the contents of real estate appraisals, made for or by any agency relative to the acquisition or sale of property, until the project or prospective sale is abandoned or until such time as all of the property has been acquired or the property to which the sale appraisal relates is sold, but in no event shall disclosure be denied for more than three years after the appraisal.

(h) Valuable formulae, designs, drawings, and research data obtained by any agency within five years of the request for disclosure when disclosure would produce private gain and public loss.

(i) Preliminary drafts, notes, recommendations, and intra-agency memorandums in which opinions are expressed or policies formulated or recommended except that a specific record shall not be exempt when publicly cited by an agency in connection with any agency action.

(j) Records which are relevant to a controversy to which an agency is a party but which records would not be available to another party under the rules of pretrial discovery for causes pending in the superior courts.

(k) Records, maps, or other information identifying the location of archaeological sites in order to avoid the looting or depredation of such sites.

(l) Any library record, the primary purpose of which is to maintain control of library materials, or to gain access to information, which discloses or could be used to disclose the identity of a library user.

(m) Financial information supplied by or on behalf of a person, firm, or corporation for the purpose of qualifying to submit a bid or proposal for (i) a ferry system construction or repair contract as required by RCW 47.60.680 through 47.60.750 or (ii) highway construction or improvement as required by RCW 47.28.070.

(n) Railroad company contracts filed prior to July 28, 1991, with the utilities and transportation commission under RCW 81.34.070, except that the summaries of the contracts are open to public inspection and copying as otherwise provided by this chapter.

(o) Financial and commercial information and records supplied by private persons pertaining to export services provided pursuant to chapter 43.163 RCW and chapter 53.31 RCW, and by persons pertaining to export projects pursuant to RCW 43.23.035.

(p) Financial disclosures filed by private vocational schools under chapters 28B.85 and 28C.10 RCW.

(q) Records filed with the utilities and transportation commission or attorney general under RCW 80.04.095 that a court has determined are confidential under RCW 80.04.095.

(r) Financial and commercial information and records supplied by businesses or individuals during application for loans or program services provided by chapters 43.163, 43.160, 43.330, and 43.168 RCW, or during application for economic development loans or program services provided by any local agency.

(s) Membership lists or lists of members or owners of interests of units in timeshare projects, subdivisions, camping resorts, condominiums, land developments, or common-interest communities affiliated with such projects, regulated by the department of licensing, in the files or possession of the department.

(t) All applications for public employment, including the names of applicants, resumes, and other related materials submitted with respect to an applicant.

(u) The residential addresses and residential telephone numbers of employees or volunteers of a public agency which are held by the agency in personnel records, employment or volunteer rosters, or mailing lists of employees or volunteers.

(v) The residential addresses and residential telephone numbers of the customers of a public utility contained in the records or lists held by the public utility of which they are customers.

(w)(i) The federal social security number of individuals governed under chapter 18.130 RCW maintained in the files of the department of health, except this exemption does not apply to requests made directly to the department from federal, state, and local agencies of government, and national and state licensing, credentialing, investigatory, disciplinary, and examination organizations; (ii) the current residential address and current residential telephone number of a health care provider governed under chapter 18.130 RCW maintained in the files of the department, if the provider requests that this information be withheld from public inspection and copying, and provides to the department an accurate alternate or business address and business telephone number. On or after January 1, 1995, the current residential address and residential telephone number of a health care provider governed under RCW 18.130.140 maintained in the files of the department shall automatically be withheld from public inspection and copying unless the provider specifically requests the information be released, and except as provided for under RCW 42.17.260(9).

(x) Information obtained by the board of pharmacy as provided in RCW 69.45.090.

(y) Information obtained by the board of pharmacy or the department of health and its representatives as provided in RCW 69.41.044, 69.41.280, and 18.64.420.

(z) Financial information, business plans, examination reports, and any information produced or obtained in evaluating or examining a business and industrial development corporation organized or seeking certification under chapter 31.24 RCW.

(aa) Financial and commercial information supplied to the state investment board by any person when the information relates to the investment of public trust or retirement funds and when disclosure would result in loss to such funds or in private loss to the providers of this information.

(bb) Financial and valuable trade information under RCW 51.36.120.

(cc) Client records maintained by an agency that is a domestic violence program as defined in RCW 70.123.020 or 70.123.075 or a rape crisis center as defined in RCW 70.125.030.

(dd) Information that identifies a person who, while an agency employee: (i) Seeks advice, under an informal process established by the employing agency, in order to ascertain his or her rights in connection with a possible unfair practice under chapter 49.60 RCW against the person; and (ii) requests his or her identity or any identifying information not be disclosed.

(ee) Investigative records compiled by an employing agency conducting a current investigation of a possible unfair practice under chapter 49.60 RCW or of a possible violation of other federal, state, or local laws prohibiting discrimination in employment.

(ff) Business related information protected from public inspection and copying under RCW 15.86.110.

(gg) Financial, commercial, operations, and technical and research information and data submitted to or obtained by the clean Washington center in applications for, or delivery of, program services under chapter 70.95H RCW.

(hh) Information and documents created specifically for, and collected and maintained by a quality improvement committee pursuant to RCW 43.70.510, regardless of which agency is in possession of the information and documents.

(ii) Personal information in files maintained in a data base created under RCW 43.07.360.

(jj) Proprietary financial and commercial information that the submitting entity, with review by the department of health, specifically identifies at the time it is submitted and that is provided to or obtained by the department of health in connection with an application for, or the supervision of, an antitrust exemption sought by the submitting entity under RCW 43.72.310. If a request for such information is received, the submitting entity must be notified of the request. Within ten business days of receipt of the notice, the submitting entity shall provide a written statement of the continuing need for confidentiality, which shall be provided to the requester. Upon receipt of such notice, the department of health shall continue to treat information designated under this section as exempt from disclosure. If the requester initiates an action to compel disclosure under this chapter, the submitting entity must be joined as a party to demonstrate the continuing need for confidentiality.

(2) Except for information described in subsection (1)(c)(i) of this section and confidential income data exempted from public inspection pursuant to RCW 84.40.020, the exemptions of this section are inapplicable to the extent that information, the disclosure of which would violate personal privacy or vital governmental interests, can be deleted from the specific records sought. No exemption may be construed to permit the nondisclosure of statistical information not descriptive of any readily identifiable person or persons.

(3) Inspection or copying of any specific records exempt under the provisions of this section may be permitted if the superior court in the county in which the record is maintained finds, after a hearing with notice thereof to every person in interest and the agency, that the exemption of such records is clearly unnecessary to protect any individual's right of privacy or any vital governmental function.

(4) Agency responses refusing, in whole or in part, inspection of any public record shall include a statement of the specific exemption authorizing the withholding of the record (or part) and a brief explanation of how the exemption applies to the record withheld.

NEW SECTION. Sec. 9. The following acts or parts of acts are each repealed:

- (1) RCW 43.72.320 and 1995 c 267 s 10;
- (2) RCW 43.73.010 and 1995 c 265 s 9;
- (3) RCW 43.73.020 and 1995 c 265 s 10;
- (4) RCW 43.73.030 and 1995 c 265 s 11;
- (5) RCW 43.73.040 and 1995 c 265 s 12; and
- (6) 1996 c 281 s 2 (uncodified).

NEW SECTION. Sec. 10. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 1997.

Passed the House April 21, 1997.

Passed the Senate April 17, 1997.

Approved by the Governor May 6, 1997.

Filed in Office of Secretary of State May 6, 1997.

**CHAPTER 275**

[Substitute Senate Bill 5445]

**DEPARTMENT OF HEALTH—TECHNICAL CORRECTIONS**

AN ACT Relating to making technical corrections to statutes administered by the department of health; amending 1995 1st sp.s. c 18 553 (uncodified); reenacting and amending RCW 18.71.210, 18.130.040, 18.35.060, and 18.35.080; reenacting RCW 18.35.090; adding a new section to chapter 43.03 RCW; creating new sections; and providing an expiration date.

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

**Sec. 1.** RCW 18.71.210 and 1995 c 65 s 4 and 1995 c 103 s 1 are each reenacted and amended to read as follows:

No act or omission of any physician's trained emergency medical service intermediate life support technician and paramedic, as defined in RCW 18.71.200, or any emergency medical technician or first responder, as defined in RCW 18.73.030, done or omitted in good faith while rendering emergency medical service under the responsible supervision and control of a licensed physician or an approved medical program director or delegate(s) to a person who has suffered illness or bodily injury shall impose any liability upon:

- (1) The physician's trained emergency medical service intermediate life support technician and paramedic, emergency medical technician, or first responder;
- (2) The medical program director;
- (3) The supervising physician(s);
- (4) Any hospital, the officers, members of the staff, nurses, or other employees of a hospital;
- (5) Any training agency or training physician(s);
- (6) Any licensed ambulance service; or

(7) Any federal, state, county, city or other local governmental unit or employees of such a governmental unit.

This section shall apply to an act or omission committed or omitted in the performance of the actual emergency medical procedures and not in the commission or omission of an act which is not within the field of medical expertise of the physician's trained emergency medical service intermediate life support technician and paramedic, emergency medical technician, or first responder, as the case may be.

This section shall apply also, as to the entities and personnel described in subsections (1) through (7) of this section, to any act or omission committed or omitted in good faith by such entities or personnel in rendering services at the request of an approved medical program director in the training of emergency medical service (~~medical~~) personnel for certification or recertification pursuant to this chapter.

This section shall not apply to any act or omission which constitutes either gross negligence or willful or wanton misconduct.

**Sec. 2.** RCW 18.130.040 and 1996 c 200 s 32 and 1996 c 81 s 5 are each reenacted and amended to read as follows:

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

(2)(a) The secretary has authority under this chapter in relation to the following professions:

- (i) Dispensing opticians licensed under chapter 18.34 RCW;
- (ii) Naturopaths licensed under chapter 18.36A RCW;
- (iii) Midwives licensed under chapter 18.50 RCW;
- (iv) Ocularists licensed under chapter 18.55 RCW;
- (v) Massage operators and businesses licensed under chapter 18.108 RCW;
- (vi) Dental hygienists licensed under chapter 18.29 RCW;
- (vii) Acupuncturists licensed under chapter 18.06 RCW;
- (viii) Radiologic technologists certified and X-ray technicians registered under chapter 18.84 RCW;
- (ix) Respiratory care practitioners certified under chapter 18.89 RCW;
- (x) Persons registered or certified under chapter 18.19 RCW;
- (xi) Persons registered as nursing pool operators under chapter 18.52C RCW;
- (xii) Nursing assistants registered or certified under chapter (~~18.79~~) 18.88A RCW;
- (xiii) Health care assistants certified under chapter 18.135 RCW;
- (xiv) Dietitians and nutritionists certified under chapter 18.138 RCW;
- (xv) Sex offender treatment providers certified under chapter 18.155 RCW;
- (xvi) Persons licensed and certified under chapter 18.73 RCW or RCW 18.71.205;

(xvii) Persons registered as adult family home providers and resident managers under RCW 18.48.020; and

(xviii) Denturists licensed under chapter 18.30 RCW.

(b) The boards and commissions having authority under this chapter are as follows:

(i) The podiatric medical board as established in chapter 18.22 RCW;

(ii) The chiropractic quality assurance commission as established in chapter 18.25 RCW;

(iii) The dental quality assurance commission as established in chapter 18.32 RCW;

(iv) The board of hearing and speech as established in chapter 18.35 RCW;

(v) The board of examiners for nursing home administrators as established in chapter 18.52 RCW;

(vi) The optometry board as established in chapter 18.54 RCW governing licenses issued under chapter 18.53 RCW;

(vii) The board of osteopathic medicine and surgery as established in chapter 18.57 RCW governing licenses issued under chapters 18.57 and 18.57A RCW;

(viii) The board of pharmacy as established in chapter 18.64 RCW governing licenses issued under chapters 18.64 and 18.64A RCW;

(ix) The medical quality assurance commission as established in chapter 18.71 RCW governing licenses and registrations issued under chapters 18.71 and 18.71A RCW;

(x) The board of physical therapy as established in chapter 18.74 RCW;

(xi) The board of occupational therapy practice as established in chapter 18.59 RCW;

(xii) The nursing care quality assurance commission as established in chapter 18.79 RCW governing licenses issued under that chapter;

(xiii) The examining board of psychology and its disciplinary committee as established in chapter 18.83 RCW; and

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

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

(4) All disciplining authorities shall adopt procedures to ensure substantially consistent application of this chapter, the Uniform Disciplinary Act, among the disciplining authorities listed in subsection (2) of this section.

**Sec. 3.** RCW 18.35.060 and 1996 c 200 s 7 and 1996 c 191 s 19 are each reenacted and amended to read as follows:

(1) The department shall issue a hearing instrument fitting/dispensing permit to any applicant who has shown to the satisfaction of the department that the applicant:

(a) Is at least twenty-one years of age;

(b) If issued a hearing instrument fitter/dispenser permit, would be employed and directly supervised in the fitting and dispensing of hearing instruments by a person licensed or certified in good standing as a hearing instrument fitter/dispenser or audiologist for at least two years unless otherwise approved by the board;

(c) Has complied with administrative procedures, administrative requirements, and fees determined as provided in RCW 43.70.250 and 43.70.280;

(d) Has not committed unprofessional conduct as specified by the uniform disciplinary act; and

(e) Is a high school graduate or the equivalent.

The provisions of RCW 18.35.030, 18.35.110, and 18.35.120 shall apply to any person issued a hearing instrument fitter/dispenser permit. Pursuant to the provisions of this section, a person issued a hearing instrument fitter/dispenser permit may engage in the fitting and dispensing of hearing instruments without having first passed the hearing instrument fitter/dispenser examination provided under this chapter.

(2) The hearing instrument fitter/dispenser permit shall contain the names of the employer and the licensed or certified supervisor under this chapter who are employing and supervising the hearing instrument fitter/dispenser permit holder and those persons shall execute an acknowledgment of responsibility for all acts of the hearing instrument fitter/dispenser permit holder in connection with the fitting and dispensing of hearing instruments.

(3) A hearing instrument fitter/dispenser permit holder may fit and dispense hearing instruments, but only if the hearing instrument fitter/dispenser permit holder is under the direct supervision of a licensed hearing instrument fitter/dispenser or certified audiologist under this chapter in a capacity other than as a hearing instrument fitter/dispenser permit holder. Direct supervision by a licensed hearing instrument fitter/dispenser or certified audiologist shall be required whenever the hearing instrument fitter/dispenser permit holder is engaged in the fitting or dispensing of hearing instruments during the hearing instrument fitter/dispenser permit holder's employment. The board shall develop and adopt guidelines on any additional supervision or training it deems necessary.

(4) ~~((No individual may hold a hearing instrument fitter/dispenser permit for more than two years.))~~ The hearing instrument fitter/dispenser permit expires one year from the date of its issuance except that on recommendation of the board the permit may be reissued for one additional year only.

(5) No certified audiologist or licensed hearing instrument fitter/dispenser under this chapter may assume the responsibility for more than one hearing instrument fitter/dispenser permit holder at any one time.

(6) The department, upon approval by the board, shall issue an interim permit authorizing an applicant for speech-language pathologist certification or audiologist certification who, except for the postgraduate professional experience and the examination requirements, meets the academic and practicum requirements of RCW 18.35.040 to practice under interim permit supervision by a certified speech-language pathologist or certified audiologist. The interim permit is valid for a period of one year from date of issuance. The board shall determine conditions for the interim permit.

**Sec. 4.** RCW 18.35.080 and 1996 c 200 s 9 and 1996 c 191 s 20 are each reenacted and amended to read as follows:

(1) The department shall license or certify each qualified applicant who satisfactorily completes the required examinations for his or her profession and complies with administrative procedures and administrative requirements established pursuant to RCW 43.70.250 and 43.70.280.

(2) The board shall waive the examination and grant a speech-language pathology certificate to a person engaged in the profession of speech-language pathology in this state on June 6, 1996, if the board determines that the person meets commonly accepted standards for the profession, as defined by rules adopted by the board. Persons eligible for certification under this subsection must apply for a certificate before July 1, 1997.

(3) The board shall waive the examinations and grant an audiology certificate to a person engaged in the profession of audiology in this state on June 6, 1996, if the board determines that the person meets the commonly accepted standards for the profession and has passed the hearing instrument fitter/dispenser examination. Persons eligible for certification under this subsection must apply for a certificate before July 1, 1997.

(4) The board shall grant an audiology certificate to a person engaged in the profession of audiology, who has not been licensed as a hearing (~~aid-instrument~~) instrument fitter/dispenser, but who meets the commonly accepted standards for the profession of audiology and graduated from a board-approved program after January 1, 1993, and has passed sections of the examination pertaining to RCW 18.35.070 (3), (4), and (5). Persons eligible for certification under this subsection must apply for a certificate before July 1, 1997.

(5) Persons engaged in the profession of audiology who meet the commonly accepted standards for the profession of audiology and graduated from a board-approved program prior to January 1, 1993, and who have not passed the hearing instrument fitter/dispenser examination shall be granted a temporary audiology certificate (nondispensing) for a period of two years from June 6, 1996, during which time they must pass sections of the hearing instrument fitter/dispenser examination pertaining to RCW 18.35.070 (1)(c), (2)(e) and (f), (3), (4), and (5). The board may extend the term of the temporary certificate upon review. Persons eligible for certification under this subsection must apply for a certificate before July 1, 1997.

**Sec. 5.** RCW 18.35.090 and 1996 c 200 s 11 and 1996 c 191 s 21 are each reenacted to read as follows:

Each person who engages in practice under this chapter shall comply with administrative procedures and administrative requirements established under RCW 43.70.250 and 43.70.280 and shall keep the license, certificate, or permit conspicuously posted in the place of business at all times. The secretary may establish mandatory continuing education requirements and/or continued competency standards to be met by licensees or certificate or permit holders as a condition for license, certificate, or permit renewal.

**Sec. 6.** RCW 18.88A.230 and 1995 1st sp.s. c 18 s 48 are each amended to read as follows:

(1) The nurse and nursing assistant shall be accountable for their own individual actions in the delegation process. Nurses acting within the protocols of their delegation authority shall be immune from liability for any action performed in the course of their delegation duties. Nursing assistants following written delegation instructions from registered nurses performed in the course of their accurately written, delegated duties shall be immune from liability.

(2) No person may coerce a nurse into compromising patient safety by requiring the nurse to delegate if the nurse determines it is inappropriate to do so. Nurses shall not be subject to any employer reprisal or disciplinary action by the Washington nursing care quality assurance commission for refusing to delegate tasks or refusing to provide the required training for delegation if the nurse determines delegation may compromise patient safety. Nursing assistants shall not be subject to any employer reprisal or disciplinary action by the nursing care quality assurance commission for refusing to accept delegation of a nursing task based on patient safety issues. No community residential program, adult family home, or boarding home contracting to provide assisted-living services may discriminate or retaliate in any manner against a person because the person made a complaint or cooperated in the investigation of a complaint.

(3) The department of social and health services shall impose a civil fine of not less than two hundred fifty dollars nor more than one thousand dollars on a community residential program, adult family home, or boarding home under chapter 18, Laws of 1995 1st sp. sess. that knowingly permits an employee to perform a nursing task except as delegated by a nurse pursuant to chapter 18, Laws of 1995 1st sp. sess.

**Sec. 7.** 1995 1st sp.s. c 18 s 53 (uncodified) is amended to read as follows:

The secretary of health in consultation with the Washington nursing care quality assurance commission and the department of social and health services shall monitor the implementation of sections 45 through 54 of this act and shall make an interim report by December 31, 1996, and a final report by December 31, ((1997)) 1998, to the legislature with any recommendations for improvements. As part of the monitoring process, the secretary of health and the secretary of social and health services, in consultation with the University of Washington school of

nursing, shall conduct a study to be completed by September 30, ((1997)) 1998, which shall be a part of the final report to be submitted to the legislature by December 31, ((1997)) 1998. The study shall include consideration of the protection of health and safety of persons with developmental disabilities and residents of adult family homes and boarding homes providing assisted living services, including the appropriateness of the tasks allowed for delegation, level and type of training and regulation of nursing assistants. The report shall include direct observation, documentation, and interviews, and shall specifically include data on the following:

- (1) Patient, nurse, and nursing assistant satisfaction;
- (2) Medication errors, including those resulting in hospitalization;
- (3) Compliance with required training;
- (4) Compliance with nurse delegation protocols;
- (5) Incidence of harm to patients, including abuse and neglect;
- (6) Impact on access to care;
- (7) Impact on patient quality of life; and
- (8) Incidence of coercion in the nurse-delegation process.

**Sec. 8.** RCW 18.74.010 and 1991 c 12 s 1 are each amended to read as follows:

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

(1) "Board" means the board of physical therapy created by RCW 18.74.020.

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

(3) "Physical therapy" means the treatment of any bodily or mental condition of any person by the use of the physical, chemical, and other properties of heat, cold, air, light, water, electricity, sound, massage, and therapeutic exercise, which includes posture and rehabilitation procedures; the performance of tests and measurements of neuromuscular function as an aid to the diagnosis or treatment of any human condition; performance of treatments on the basis of test findings after consultation with and periodic review by an authorized health care practitioner except as provided in RCW 18.74.012; supervision of selective forms of treatment by trained supportive personnel; and provision of consultative services for health, education, and community agencies. The use of Roentgen rays and radium for diagnostic and therapeutic purposes, the use of electricity for surgical purposes, including cauterization, and the use of spinal manipulation or manipulative mobilization of the spine and its immediate articulations, are not included under the term "physical therapy" as used in this chapter.

(4) "Physical therapist" means a person who practices physical therapy as defined in this chapter but does not include massage operators as defined in RCW 18.108.010.

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

(6) Words importing the masculine gender may be applied to females.

(7) "Authorized health care practitioner" means and includes licensed physicians, osteopathic physicians, chiropractors, naturopaths, ~~((podiatrists, and))~~ podiatric physicians and surgeons, dentists, and advanced registered nurse practitioners; PROVIDED, HOWEVER, That nothing herein shall be construed as altering the scope of practice of such practitioners as defined in their respective licensure laws.

**\*NEW SECTION. Sec. 9.** *The department of social and health services shall not impose civil fines authorized in RCW 18.88A.230 on facilities licensed under chapter 70.128 RCW.*

*This section does not affect any other fines or disciplinary actions authorized to be imposed by the department for facilities licensed under chapter 70.128 RCW.*

*This section expires July 1, 1999.*

\*Sec. 9 was vetoed. See message at end of chapter.

**\*NEW SECTION. Sec. 10.** *A new section is added to chapter 43.03 RCW to read as follows:*

*(1) Any part-time commission that has rule-making authority, performs quasi-judicial functions, has responsibility for the policy direction of a health profession credentialing program, and performs regulatory and licensing functions with respect to a health care profession licensed under Title 18 RCW shall be identified as a class five group for purposes of compensation.*

*(2) Except as otherwise provided in this section, each member of a class five group is eligible to receive compensation in an amount not to exceed two hundred fifty dollars for each day during which the member attends an official meeting of the group or performs statutorily prescribed duties approved by the chairperson of the group. A person shall not receive compensation for a day of service under this section if the person (a) occupies a position, normally regarded as full-time in nature, in any agency of the federal government, Washington state government, or Washington state local government; and (b) receives any compensation from such government for working that day.*

*(3) Compensation may be paid a member under this section only if it is necessarily incurred in the course of authorized business consistent with the responsibilities of the commission established by law.*

\*Sec. 10 was vetoed. See message at end of chapter.

**NEW SECTION. Sec. 11.** *The department of health shall study the feasibility of updating, designing, and expanding the comprehensive hospital abstract reporting system to include ambulatory and outpatient data. The department shall submit a preliminary report to the legislature by December 31, 1997, and a final report July 1, 1998. The report shall be done in conjunction with potential and current data providers and shall include a cost/benefit analysis, data standards and reporting requirements, financing alternatives, data access and dissemination requirements, prioritization of data needs, and proposed implementation phases.*

Passed the Senate April 21, 1997.

Passed the House April 11, 1997.

Approved by the Governor May 6, 1997, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State May 6, 1997.

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

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

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

Section 9 of SSB 5445 would have stayed imposition of civil fines on adult family homes for the improper delegation of nursing tasks until July 1, 1999, while a study is being done. The Department of Social and Health Services should not be prevented from imposing fines when there have been egregious violations of the law. The department should use its discretion in cases where the law or the propriety of a task delegation may be unclear.

Section 10 of SSB 5445 would have established a new "class five" category of boards and commissions, that would include only certain health profession commissions. Class five commissions would be eligible to receive compensation up to \$250 per day.

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

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

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

## CHAPTER 276

[Second Substitute Senate Bill 5178]  
DIABETES COST REDUCTION ACT

AN ACT Relating to the enactment of the diabetes cost reduction act; adding a new section to chapter 41.05 RCW; adding a new section to chapter 48.20 RCW; adding a new section to chapter 48.21 RCW; adding a new section to chapter 48.44 RCW; adding a new section to chapter 48.46 RCW; adding new sections to chapter 43.131 RCW; and providing an effective date.

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

**NEW SECTION.** Sec. 1. A new section is added to chapter 41.05 RCW 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 state-purchased health care purchased or renewed after the effective date of this act, except the basic health plan described in chapter 70.47 RCW, shall provide benefits for at least the following services and supplies for persons with diabetes:

(a) For state-purchased health care that includes 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 state-purchased health care, 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 any state agency purchasing health care according to this section from restricting patients to seeing only health care providers who have signed participating provider agreements with that state agency or an insuring entity under contract with that state agency.

(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.

**NEW SECTION.** Sec. 2. A new section is added to chapter 48.20 RCW 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 disability insurance contracts providing health care services, delivered or issued for delivery in this state and issued or renewed after the effective date of this act, shall provide benefits for at least the following services and supplies for persons with diabetes:

(a) For disability insurance contracts that include 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 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 48.20.028.

**NEW SECTION.** Sec. 3. A new section is added to chapter 48.21 RCW 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 the effective date of this act, 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.

**NEW SECTION.** **Sec. 4.** A new section is added to chapter 48.44 RCW 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 the effective date of this act, 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.

NEW SECTION. Sec. 5. A new section is added to chapter 48.46 RCW 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 the effective date of this act, 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.

NEW SECTION. Sec. 6. This act takes effect January 1, 1998.

NEW SECTION. Sec. 7. A new section is added to chapter 43.131 RCW to read as follows:

The diabetes cost reduction act shall be terminated on June 30, 2001.

NEW SECTION. Sec. 8. A new section is added to chapter 43.131 RCW to read as follows:

The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective June 30, 2002:

- (1) RCW 41.05.— and 1997 c . . . s 1 (section 1 of this act);
- (2) RCW 48.20.— and 1997 c . . . s 2 (section 2 of this act);
- (3) RCW 48.21.— and 1997 c . . . s 3 (section 3 of this act);
- (4) RCW 48.44.— and 1997 c . . . s 4 (section 4 of this act); and
- (5) RCW 48.46.— and 1997 c . . . s 5 (section 5 of this act).

Passed the Senate April 19, 1997.

Passed the House April 11, 1997.

Approved by the Governor May 7, 1997.

Filed in Office of Secretary of State May 7, 1997.

## CHAPTER 277

[Second Substitute Senate Bill 5179]

### NURSING FACILITY REIMBURSEMENT—MODIFICATIONS

AN ACT Relating to nursing facility reimbursement; amending RCW 74.46.360, 74.46.370, 74.46.430, 74.46.465, 74.46.510, and 74.46.530; and adding new sections to chapter 74.46 RCW.

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

Sec. 1. RCW 74.46.360 and 1991 sp.s. c 8 s 18 are each amended to read as follows:

(1) For all partial or whole rate periods after December 31, 1984, the cost basis of land and depreciation base of depreciable assets shall be the historical cost of the contractor or lessor, when the assets are leased by the contractor, in acquiring the asset in an arm's-length transaction and preparing it for use, less goodwill, and less accumulated depreciation, if applicable, which has been incurred during periods that the assets have been used in or as a facility by any contractor, such accumulated depreciation to be measured in accordance with subsections ~~((2), (3), and~~) (4), (5), and (6) of this section and RCW 74.46.350 and 74.46.370. If the department challenges the historical cost of an asset, or if the contractor cannot or will not provide the historical costs, the department will have the department of general administration, through an appraisal procedure, determine the fair market value of the assets at the time of purchase. The cost basis of land and depreciation base of depreciable assets will not exceed such fair market value.

(2) For new or replacement building construction or for substantial building additions requiring the acquisition of land and which commenced to operate on or after July 1, 1997, the department shall determine allowable land costs of the additional land acquired for the replacement construction or building additions to be the lesser of:

(a) The contractor's or lessor's actual cost per square foot; or

(b) The square foot land value as established by an appraisal that meets the latest publication of the Uniform Standards of Professional Appraisal Practice (USPAP) and the financial institutions reform, recovery, and enhancement act (FIRREA).

(3) Subject to the provisions of subsection (2) of this section, if, in the course of financing a project, an arm's-length lender has ordered a Uniform Standards of Professional Appraisal Practice appraisal on the land that meets financial institutions reform, recovery, and enhancement act standards and the arm's-length lender has accepted the ordered appraisal, the department shall accept the appraisal value as allowable land costs for calculation of payment.

If the contractor or lessor is unable or unwilling to provide or cause to be provided to the department, or the department is unable to obtain from the arm's-length lender, a lender-approved appraisal that meets the standards of the Uniform Standards of Professional Appraisal Practice and financial institutions reform, recovery, and enhancement act, the department shall order such an appraisal and accept the appraisal as the allowable land costs. If the department orders the Uniform Standards of Professional Appraisal Practice and financial institutions reform, recovery, and enhancement act appraisal, the contractor shall immediately reimburse the department for the costs incurred.

(4) The historical cost of depreciable and nondepreciable donated assets, or of depreciable and nondepreciable assets received through testate or intestate distribution, shall be the lesser of:

- (a) Fair market value at the date of donation or death; or
- (b) The historical cost base of the owner last contracting with the department, if any.

~~((3))~~ (5) Estimated salvage value of acquired, donated, or inherited assets shall be deducted from historical cost where the straight-line or sum-of-the-years' digits method of depreciation is used.

~~((4))~~ (6)(a) For facilities, other than those described under subsection (2) of this section, operating prior to July 1, 1997, where land or depreciable assets are acquired that were used in the medical care program subsequent to January 1, 1980, the cost basis or depreciation base of the assets will not exceed the net book value which did exist or would have existed had the assets continued in use under the previous contract with the department; except that depreciation shall not be assumed to accumulate during periods when the assets were not in use in or as a facility.

(b) The provisions of (a) of this subsection shall not apply to the most recent arm's-length acquisition if it occurs at least ten years after the ownership of the assets has been previously transferred in an arm's-length transaction nor to the first arm's-length acquisition that occurs after January 1, 1980, for facilities participating in the medical care program prior to January 1, 1980. The new cost basis or depreciation base for such acquisitions shall not exceed the fair market value of the assets as determined by the department of general administration through an appraisal procedure. A determination by the department of general administration of fair market value shall be final unless the procedure used to make such determination is shown to be arbitrary and capricious. For all partial or whole rate periods after July 17, 1984, this subsection is inoperative for any transfer of ownership of any asset, depreciable or nondepreciable, occurring on or after July 18, 1984, leaving (a) of this subsection to apply alone to such transfers: PROVIDED, HOWEVER, That this subsection shall apply to transfers of ownership of assets occurring prior to January 1, 1985, if the costs of such assets have never been reimbursed under medicaid cost reimbursement on an owner-operated basis or as a related-party lease: PROVIDED FURTHER, That for any contractor that can document in writing an enforceable agreement for the purchase of a nursing home dated prior to July 18, 1984, and submitted to the department prior to January 1, 1988, the cost basis of allowable land and the depreciation base of the nursing home, for rates established after July 18, 1984, shall not exceed the fair market value of the assets at the date of purchase as determined by the department of general administration through an appraisal procedure. For medicaid cost reimbursement purposes, an agreement to purchase a nursing home dated prior to July 18, 1984, is enforceable, even though such agreement contains no legal description of the real property involved, notwithstanding the statute of frauds or any other provision of law.

(c) In the case of land or depreciable assets leased by the same contractor since January 1, 1980, in an arm's-length lease, and purchased by the lessee/contractor, the lessee/contractor shall have the option:

(i) To have the provisions of subsection (b) of this section apply to the purchase; or

(ii) To have the reimbursement for property and return on investment continue to be calculated pursuant to the provisions contained in RCW 74.46.530(1) (e) and (f) based upon the provisions of the lease in existence on the date of the purchase, but only if the purchase date meets one of the following criteria:

(A) The purchase date is after the lessor has declared bankruptcy or has defaulted in any loan or mortgage held against the leased property;

(B) The purchase date is within one year of the lease expiration or renewal date contained in the lease;

(C) The purchase date is after a rate setting for the facility in which the reimbursement rate set pursuant to this chapter no longer is equal to or greater than the actual cost of the lease; or

(D) The purchase date is within one year of any purchase option in existence on January 1, 1988.

(d) For all rate periods past or future where land or depreciable assets are acquired from a related organization, the contractor's cost basis and depreciation base shall not exceed the base the related organization had or would have had under a contract with the department.

(e) Where the land or depreciable asset is a donation or distribution between related organizations, the cost basis or depreciation base shall be the lesser of (i) fair market value, less salvage value, or (ii) the cost basis or depreciation base the related organization had or would have had for the asset under a contract with the department.

**Sec. 2.** RCW 74.46.370 and 1980 c 177 s 37 are each amended to read as follows:

(1) Except for new buildings, major remodels, and major repair projects, as defined in subsection (2) of this section, the contractor shall use lives which reflect the estimated actual useful life of the asset and which shall be no shorter than guideline lives as established by the department. ~~((The shortest life which may be used for new buildings is thirty years.))~~ Lives shall be measured from the date on which the assets were first used in the medical care program or from the date of the most recent arm's-length acquisition of the asset, whichever is more recent. In cases where RCW 74.46.360~~((4))~~ (6)(a) does apply, the shortest life that may be used for buildings is the remaining useful life under the prior contract. In all cases, lives shall be extended to reflect periods, if any, when assets were not used in or as a facility.

(2) Effective July 1, 1997, for asset acquisitions and new facilities, major remodels, and major repair projects that begin operations on or after July 1, 1997, the department shall use the most current edition of Estimated Useful Lives of

Depreciable Hospital Assets, or as it may be renamed, published by the American Hospital Publishing, Inc., an American hospital association company, for determining the useful life of new buildings, major remodels, and major repair projects, however, the shortest life that may be used for new buildings is thirty years. New buildings, major remodels, and major repair projects include those projects that meet or exceed the expenditure minimum established by the department of health pursuant to chapter 70.38 RCW.

(3) Building improvements, other than major remodels and major repairs, shall be depreciated over the remaining useful life of the building, as modified by the improvement.

~~((3))~~ (4) Improvements to leased property which are the responsibility of the contractor under the terms of the lease shall be depreciated over the useful life of the improvement.

~~((4))~~ (5) A contractor may change the estimate of an asset's useful life to a longer life for purposes of depreciation.

Sec. 3. RCW 74.46.430 and 1995 1st sp.s. c 18 s 100 are each amended to read as follows:

(1) The department, as provided by this chapter, will determine prospective payment rates for services provided to medical care recipients. Each rate so determined shall represent the contractor's maximum compensation within each cost center and for return on investment for each resident day for such medical care recipient.

(2) The department may modify such maximum per resident day rates, consistent with this chapter, pursuant to the administrative appeals or exception procedure authorized by RCW 74.46.780.

(3) For July 1, 1995, and all following rates, the maximum prospective component payment rates for the nursing services, food, administrative, operational, and property cost centers, and the return on investment (ROI) component rate for each nursing facility shall be established based upon a minimum licensed bed facility occupancy level of ninety percent, except for rate adjustments as provided for in RCW 74.46.460(6), and except for entirely new facilities that commenced operation between January 1, 1994, and June 30, 1994, and were impacted by the ninety percent minimum occupancy factor, shall have their nursing services, food, administrative, and operational component rates revised based upon a minimum licensed bed facility occupancy level of eighty-five percent, effective May 1, 1997.

(4) The minimum ninety percent facility occupancy shall be used to calculate individual rates, to calculate the median cost limits (MCLs) for the metropolitan statistical area (MSA) and nonmetropolitan statistical area (non-MSA) peer groups, and to array facilities by costs in calculating the variable return portion of the return on investment rate component (ROI).

(5) All contractors shall be required to adjust and maintain wages for all employees to a minimum hourly wage of four dollars and seventy-six cents per

hour beginning January 1, 1988, and five dollars and fifteen cents per hour beginning January 1, 1989.

**Sec. 4.** RCW 74.46.465 and 1987 c 476 s 8 are each amended to read as follows:

(1) The department, in consultation with interested parties, shall adopt rules to establish criteria the department will use in reviewing any request by a contractor for a prospective rate adjustment for a physical plant capital improvement. The rules shall also specify the time periods for submission and review of proposed physical plant capital improvements. In establishing the criteria, the department may consider, but is not limited to, the following:

(a) The remaining functional life of the facility and the length of time since the facility's last significant improvement;

(b) The amount and scope of renovation or remodel to the facility and whether the facility will be able to serve better the needs of its residents;

(c) Whether the proposed improvement improves the quality of the living conditions of the residents;

(d) Whether the proposed improvement might eliminate life safety, building code, or construction standard waivers;

(e) The percentage of public-pay residents in the facility.

(2) If a contractor experiences an increase in property taxes relating to construction qualifying under RCW 74.46.360(2), the department shall adjust rates to cover state and county increases in real estate taxes, effective the first day on which the increased tax payment is due, related to construction qualifying for reimbursement under RCW 74.46.360(2).

(3) Rate adjustments under this section may be provided only if funds are appropriated for this purpose.

**Sec. 5.** RCW 74.46.510 and 1995 1st sp.s. c 18 s 108 are each amended to read as follows:

(1) The property cost center rate for each facility shall be determined by dividing the sum of the reported allowable prior period actual depreciation, subject to RCW 74.46.310 through 74.46.380, adjusted for any capitalized additions or replacements approved by the department, and the retained savings from such cost center, as provided in RCW 74.46.180, by the greater of a facility's total resident days for the facility in the prior period or resident days as calculated on ninety or eighty-five percent facility occupancy as applicable. If a capitalized addition or retirement of an asset will result in a different licensed bed capacity during the ensuing period, the prior period total resident days used in computing the property cost center rate shall be adjusted to anticipated resident day level.

(2) A nursing facility's property rate shall be rebased annually, effective July 1, in accordance with this section and this chapter.

(3) When a certificate of need for a new facility is requested, the department, in reaching its decision, shall take into consideration per-bed land and building

construction costs for the facility which shall not exceed a maximum to be established by the secretary.

(4) For the purpose of calculating a nursing facility's property component rate, if a contractor elects to bank licensed beds or to convert banked beds to active service, pursuant to chapter 70.38 RCW, the department shall use the facility's anticipated resident occupancy level subsequent to the decrease or increase in licensed bed capacity; however, in no case shall the department use less than ninety percent occupancy of the facility's licensed bed capacity after banking or conversion.

Sec. 6. RCW 74.46.530 and 1995 1st sp.s. c 18 s 109 are each amended to read as follows:

(1) The department shall establish for each medicaid nursing facility a return on investment (ROI) rate composed of two parts: A financing allowance and a variable return allowance. The financing allowance part of a facility's return on investment component rate shall be rebased annually, effective July 1, in accordance with the provisions of this section and this chapter.

(a) The financing allowance shall be determined by multiplying the net invested funds of each facility by .10, and dividing by the greater of a nursing facility's total resident days from the most recent cost report period or resident days calculated on ninety percent or eighty-five percent facility occupancy as applicable. If a capitalized addition or retirement of an asset will result in a different licensed bed capacity during the ensuing period, the prior period total resident days used in computing the financing and variable return allowances shall be adjusted to the anticipated resident day level.

(b) In computing the portion of net invested funds representing the net book value of tangible fixed assets, the same assets, depreciation bases, lives, and methods referred to in RCW 74.46.330, 74.46.350, 74.46.360, 74.46.370, ~~((and))~~ 74.46.380, and section 8 of this act, including owned and leased assets, shall be utilized, except that the capitalized cost of land upon which the facility is located and such other contiguous land which is reasonable and necessary for use in the regular course of providing resident care shall also be included. Subject to provisions and limitations contained in this chapter, for land purchased by owners or lessors before July 18, 1984, capitalized cost of land shall be the buyer's capitalized cost. For all partial or whole rate periods after July 17, 1984, if the land is purchased after July 17, 1984, capitalized cost shall be that of the owner of record on July 17, 1984, or buyer's capitalized cost, whichever is lower, except that section 8 of this act shall be applied if the nursing facility meets all of the criteria specified therein. In the case of leased facilities where the net invested funds are unknown or the contractor is unable to provide necessary information to determine net invested funds, the secretary shall have the authority to determine an amount for net invested funds based on an appraisal conducted according to RCW 74.46.360(1).

(c) In determining the variable return allowance:

(i) For July 1, 1995, rate setting only, the department, without utilizing peer groups, shall first rank all facilities in numerical order from highest to lowest according to their per resident day adjusted or audited, or both, allowable costs for nursing services, food, administrative, and operational costs combined for the 1994 calendar year cost report period.

(ii) The department shall then compute the variable return allowance by multiplying the appropriate percentage amounts, which shall not be less than one percent and not greater than four percent, by the sum of the facility's nursing services, food, administrative, and operational rate components. The percentage amounts will be based on groupings of facilities according to the rankings prescribed in (i) of this subsection (1)(c). The percentages calculated and assigned will remain the same for the variable return allowance paid in all July 1, 1996, and July 1, 1997, rates as well. Those groups of facilities with lower per diem costs shall receive higher percentage amounts than those with higher per diem costs.

(d) The sum of the financing allowance and the variable return allowance shall be the return on investment rate for each facility, and shall be added to the prospective rates of each contractor as determined in RCW 74.46.450 through 74.46.510.

(e) In the case of a facility which was leased by the contractor as of January 1, 1980, in an arm's-length agreement, which continues to be leased under the same lease agreement, and for which the annualized lease payment, plus any interest and depreciation expenses associated with contractor-owned assets, for the period covered by the prospective rates, divided by the contractor's total resident days, minus the property cost center determined according to RCW 74.46.510, is more than the return on investment rate determined according to subsection (1)(d) of this section, the following shall apply:

(i) The financing allowance shall be recomputed substituting the fair market value of the assets as of January 1, 1982, as determined by the department of general administration through an appraisal procedure, less accumulated depreciation on the lessor's assets since January 1, 1982, for the net book value of the assets in determining net invested funds for the facility. A determination by the department of general administration of fair market value shall be final unless the procedure used to make such determination is shown to be arbitrary and capricious.

(ii) The sum of the financing allowance computed under subsection (1)(e)(i) of this section and the variable allowance shall be compared to the annualized lease payment, plus any interest and depreciation associated with contractor-owned assets, for the period covered by the prospective rates, divided by the contractor's total resident days, minus the property cost center rate determined according to RCW 74.46.510. The lesser of the two amounts shall be called the alternate return on investment rate.

(iii) The return on investment rate determined according to subsection (1)(d) of this section or the alternate return on investment rate, whichever is greater, shall be the return on investment rate for the facility and shall be added to the

prospective rates of the contractor as determined in RCW 74.46.450 through 74.46.510.

(f) In the case of a facility which was leased by the contractor as of January 1, 1980, in an arm's-length agreement, if the lease is renewed or extended pursuant to a provision of the lease, the treatment provided in subsection (1)(e) of this section shall be applied except that in the case of renewals or extensions made subsequent to April 1, 1985, reimbursement for the annualized lease payment shall be no greater than the reimbursement for the annualized lease payment for the last year prior to the renewal or extension of the lease.

(2) For the purpose of calculating a nursing facility's return on investment component rate, if a contractor elects to bank beds or to convert banked beds to active service, pursuant to chapter 70.38 RCW, the department shall use the facility's anticipated resident occupancy level subsequent to the decrease or increase in licensed bed capacity; however, in no case shall the department use less than ninety percent occupancy of the facility's licensed bed capacity after banking or conversion.

(3) Each biennium, beginning in 1985, the secretary shall review the adequacy of return on investment rates in relation to anticipated requirements for maintaining, reducing, or expanding nursing care capacity. The secretary shall report the results of such review to the legislature and make recommendations for adjustments in the return on investment rates utilized in this section, if appropriate.

**\*NEW SECTION.** *Sec. 7. A new section is added to chapter 74.46 RCW to read as follows:*

*(1) A prospective per resident day rate enhancement shall be provided annually, using state general funds, for nursing homes that meet the following conditions:*

*(a) The nursing home entered into an arm's-length agreement for a facility lease prior to January 1, 1980;*

*(b) The lessee purchased the leased nursing home after January 1, 1980; and*

*(c) The lessor defaulted on its loan or mortgage for the assets of the home after January 1, 1991, and prior to January 1, 1992.*

*(2) The rate enhancement provided under this section is effective on July 1, 1997, and shall be calculated by multiplying the nursing home's July 1, 1996, total per resident day rate by four and eight-tenths percent. The enhancement rate established on July 1, 1997, shall continue to be the rate enhancement amount paid for each subsequent July 1 rate period.*

*(3) Any rate enhancement granted pursuant to this section shall not be subject to the settlement, audit, or rate-setting requirements contained in this chapter.*

*\*Sec. 7 was vetoed. See message at end of chapter.*

**\*NEW SECTION.** *Sec. 8. A new section is added to chapter 74.46 RCW to read as follows:*

***(1)(a) Notwithstanding any provision to the contrary in this chapter, including RCW 74.46.360 and 74.46.410, for nursing facilities meeting the criteria in (b) of this subsection, the allowable cost of real and personal property assets shall be the lower of the actual cost to the purchaser or the amount allowed under the COBRA asset cost increase limitation for nursing facilities pursuant to 42 C.F.R. 447.253 (d)(2); however, if federally permitted, the department shall use the consumer price index for all urban consumers (CPI-U) (United States city average).***

***(b) Subsection (1)(a) of this section is applicable only to nursing facilities which satisfy all of the following criteria: (i) The original facility and any major renovations or remodeling, exceeding the expenditure minimum established by the department of health pursuant to chapter 70.38 RCW, is at least twenty years old on January 1, 1997; (ii) the facility has a licensed bed capacity of one hundred sixty beds or greater on January 1, 1997; (iii) the facility's licensee voluntarily banked licensed nursing facility beds during 1995 and 1996, pursuant to chapter 70.38 RCW; (iv) the contractor has been the lessee for a period of ten or more consecutive years by January 1, 1997; and (v) the contractor lessee enters into a duly executed purchase agreement with the arm's-length lessor after January 1, 1997, but prior to January 1, 1998.***

***(2) The rate adjustment provided in subsection (1) of this section shall be effective upon the completion of the nursing facility's renovation project and only if the costs exceed four million dollars.***

\*Sec. 8 was vetoed. See message at end of chapter.

Passed the Senate April 19, 1997.

Passed the House April 14, 1997.

Approved by the Governor May 7, 1997, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State May 7, 1997.

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

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

"AN ACT Relating to nursing facility reimbursement;"

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

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

Special treatment within the state's rate structure could invite legal challenges from homes that do not benefit from this bill. These provisions also invite increased federal scrutiny of the state Medicaid plan, and could possibly jeopardize approval of the plan. Federal law requires that the state reimbursement system must ensure that payments are reasonable and adequate to meet the costs incurred by efficiently and economically operated facilities. It would be difficult to argue that the state's payment system complies

with this requirement if the law has special provisions for selected nursing homes, without extenuating circumstances.

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

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

---

**CHAPTER 278**

[Senate Bill 5340]

**PROBATIONARY PERIODS FOR CERTIFICATED EDUCATIONAL EMPLOYEES—  
MODIFICATIONS**

AN ACT Relating to the probationary period for certificated educational employees; and amending RCW 28A.405.100.

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

**Sec. 1.** RCW 28A.405.100 and 1994 c 115 s 1 are each amended to read as follows:

(1) The superintendent of public instruction shall establish and may amend from time to time minimum criteria for the evaluation of the professional performance capabilities and development of certificated classroom teachers and certificated support personnel. For classroom teachers the criteria shall be developed in the following categories: Instructional skill; classroom management, professional preparation and scholarship; effort toward improvement when needed; the handling of student discipline and attendant problems; and interest in teaching pupils and knowledge of subject matter.

Every board of directors shall, in accordance with procedure provided in RCW 41.59.010 through 41.59.170, 41.59.910 and 41.59.920, establish evaluative criteria and procedures for all certificated classroom teachers and certificated support personnel. The evaluative criteria must contain as a minimum the criteria established by the superintendent of public instruction pursuant to this section and must be prepared within six months following adoption of the superintendent of public instruction's minimum criteria. The district must certify to the superintendent of public instruction that evaluative criteria have been so prepared by the district.

Except as provided in subsection (5) of this section, it shall be the responsibility of a principal or his or her designee to evaluate all certificated personnel in his or her school. During each school year all classroom teachers and certificated support personnel, hereinafter referred to as "employees" in this section, shall be observed for the purposes of evaluation at least twice in the performance of their assigned duties. Total observation time for each employee for each school year shall be not less than sixty minutes. Following each observation, or series of observations, the principal or other evaluator shall promptly document the results of the observation in writing, and shall provide the employee with a copy thereof within three days after such report is prepared. New employees shall

be observed at least once for a total observation time of thirty minutes during the first ninety calendar days of their employment period.

~~((Every))~~ At any time after October 15th, an employee whose work is judged unsatisfactory based on district evaluation criteria shall be notified in writing of ((stated)) the specific areas of deficiencies along with a ((suggested specific and)) reasonable program for improvement ((on or before February 1st of each year)). During the period of probation, the employee may not be transferred from the supervision of the original evaluator. Improvement of performance or probable cause for nonrenewal must occur and be documented by the original evaluator before any consideration of a request for transfer or reassignment as contemplated by either the individual or the school district. A probationary period of sixty school days shall be established ~~((beginning on or before February 1st and ending no later than May 1st))~~. The establishment of a probationary period does not adversely affect the contract status of an employee within the meaning of RCW 28A.405.300. The purpose of the probationary period is to give the employee opportunity to demonstrate improvements in his or her areas of deficiency. The establishment of the probationary period and the giving of the notice to the employee of deficiency shall be by the school district superintendent and need not be submitted to the board of directors for approval. During the probationary period the evaluator shall meet with the employee at least twice monthly to supervise and make a written evaluation of the progress, if any, made by the employee. The evaluator may authorize one additional certificated employee to evaluate the probationer and to aid the employee in improving his or her areas of deficiency; such additional certificated employee shall be immune from any civil liability that might otherwise be incurred or imposed with regard to the good faith performance of such evaluation. The probationer may be removed from probation if he or she has demonstrated improvement to the satisfaction of the principal in those areas specifically detailed in his or her initial notice of deficiency and subsequently detailed in his or her improvement program. Lack of necessary improvement ~~((shall be))~~ during the established probationary period, as specifically documented in writing with notification to the probationer and shall constitute grounds for a finding of probable cause under RCW 28A.405.300 or 28A.405.210.

~~((The establishment of a probationary period shall not be deemed to adversely affect the contract status of an employee within the meaning of RCW 28A.405.300.))~~

Immediately following the completion of a probationary period that does not produce performance changes detailed in the initial notice of deficiencies and improvement program, the employee may be removed from his or her assignment and placed into an alternative assignment for the remainder of the school year. This reassignment may not displace another employee nor may it adversely affect the probationary employee's compensation or benefits for the remainder of the employee's contract year. If such reassignment is not possible, the district may, at its option, place the employee on paid leave for the balance of the contract term.

(2) Every board of directors shall establish evaluative criteria and procedures for all superintendents, principals, and other administrators. It shall be the responsibility of the district superintendent or his or her designee to evaluate all administrators. Such evaluation shall be based on the administrative position job description. Such criteria, when applicable, shall include at least the following categories: Knowledge of, experience in, and training in recognizing good professional performance, capabilities and development; school administration and management; school finance; professional preparation and scholarship; effort toward improvement when needed; interest in pupils, employees, patrons and subjects taught in school; leadership; and ability and performance of evaluation of school personnel.

(3) Each certificated employee shall have the opportunity for confidential conferences with his or her immediate supervisor on no less than two occasions in each school year. Such confidential conference shall have as its sole purpose the aiding of the administrator in his or her assessment of the employee's professional performance.

(4) The failure of any evaluator to evaluate or supervise or cause the evaluation or supervision of certificated employees or administrators in accordance with this section, as now or hereafter amended, when it is his or her specific assigned or delegated responsibility to do so, shall be sufficient cause for the nonrenewal of any such evaluator's contract under RCW 28A.405.210, or the discharge of such evaluator under RCW 28A.405.300.

(5) After an employee has four years of satisfactory evaluations under subsection (1) of this section, a school district may use a short form of evaluation, a locally bargained evaluation emphasizing professional growth, an evaluation under subsection (1) of this section, or any combination thereof. The short form of evaluation shall include either a thirty minute observation during the school year with a written summary or a final annual written evaluation based on the criteria in subsection (1) of this section and based on at least two observation periods during the school year totaling at least sixty minutes without a written summary of such observations being prepared. However, the evaluation process set forth in subsection (1) of this section shall be followed at least once every three years unless this time is extended by a local school district under the bargaining process set forth in chapter 41.59 RCW. The employee or evaluator may require that the evaluation process set forth in subsection (1) of this section be conducted in any given school year. No evaluation other than the evaluation authorized under subsection (1) of this section may be used as a basis for determining that an employee's work is unsatisfactory under subsection (1) of this section or as probable cause for the nonrenewal of an employee's contract under RCW 28A.405.210 unless an evaluation process developed under chapter 41.59 RCW determines otherwise.

Passed the Senate April 19, 1997.  
 Passed the House April 8, 1997.  
 Approved by the Governor May 7, 1997.  
 Filed in Office of Secretary of State May 7, 1997.

## CHAPTER 279

[Engrossed Senate Bill 5354]

### STATE CAPITOL COMMITTEE—MEMBERSHIP

AN ACT Relating to the capitol committee; and amending RCW 43.34.010 and 43.34.015.

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

**Sec. 1.** RCW 43.34.010 and 1979 ex.s. c 57 s 10 are each amended to read as follows:

The governor or the governor's designee, the lieutenant governor, the secretary of state, and the commissioner of public lands, ex officio, shall constitute the state capitol committee.

**Sec. 2.** RCW 43.34.015 and 1965 c 8 s 43.34.015 are each amended to read as follows:

The commissioner of public lands shall be the secretary of the state capitol committee, but the committee may appoint a suitable person as acting secretary thereof, and fix his or her compensation(~~(- PROVIDED, That)~~). However, all records of the committee shall be filed in the office of the commissioner of public lands.

Passed the Senate March 18, 1997.  
 Passed the House April 25, 1997.  
 Approved by the Governor May 7, 1997.  
 Filed in Office of Secretary of State May 7, 1997.

## CHAPTER 280

[Engrossed Substitute Senate Bill 5491]

### TERMINATION OF THE PARENT AND CHILD RELATIONSHIP—STANDARDS

AN ACT Relating to termination of the parent and child relationship; and reenacting and amending RCW 13.34.130 and 13.34.180.

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

**Sec. 1.** RCW 13.34.130 and 1995 c 313 s 2, 1995 c 311 s 19, and 1995 c 53 s 1 are each reenacted and amended to read as follows:

If, after a fact-finding hearing pursuant to RCW 13.34.110, it has been proven by a preponderance of the evidence that the child is dependent within the meaning of RCW 13.34.030; after consideration of the predisposition report prepared pursuant to RCW 13.34.110 and after a disposition hearing has been held pursuant to RCW 13.34.110, the court shall enter an order of disposition pursuant to this section.

(1) The court shall order one of the following dispositions of the case:

(a) Order a disposition other than removal of the child from his or her home, which shall provide a program designed to alleviate the immediate danger to the child, to mitigate or cure any damage the child has already suffered, and to aid the parents so that the child will not be endangered in the future. In selecting a program, the court should choose those services that least interfere with family autonomy, provided that the services are adequate to protect the child.

(b) Order that the child be removed from his or her home and ordered into the custody, control, and care of a relative or the department of social and health services or a licensed child placing agency for placement in a foster family home or group care facility licensed pursuant to chapter 74.15 RCW or in a home not required to be licensed pursuant to chapter 74.15 RCW. Unless there is reasonable cause to believe that the safety or welfare of the child would be jeopardized or that efforts to reunite the parent and child will be hindered, such child shall be placed with a person who is related to the child as defined in RCW 74.15.020(4)(a) and with whom the child has a relationship and is comfortable, and who is willing and available to care for the child. Placement of the child with a relative under this subsection shall be given preference by the court. An order for out-of-home placement may be made only if the court finds that reasonable efforts have been made to prevent or eliminate the need for removal of the child from the child's home and to make it possible for the child to return home, specifying the services that have been provided to the child and the child's parent, guardian, or legal custodian, and that preventive services have been offered or provided and have failed to prevent the need for out-of-home placement, unless the health, safety, and welfare of the child cannot be protected adequately in the home, and that:

(i) There is no parent or guardian available to care for such child;

(ii) The parent, guardian, or legal custodian is not willing to take custody of the child;

(iii) The court finds, by clear, cogent, and convincing evidence, a manifest danger exists that the child will suffer serious abuse or neglect if the child is not removed from the home and an order under RCW 26.44.063 would not protect the child from danger; or

(iv) The extent of the child's disability is such that the parent, guardian, or legal custodian is unable to provide the necessary care for the child and the parent, guardian, or legal custodian has determined that the child would benefit from placement outside of the home.

(2) If the court has ordered a child removed from his or her home pursuant to subsection (1)(b) of this section, the court may order that a petition seeking termination of the parent and child relationship be filed if the court finds it is recommended by the supervising agency, that it is in the best interests of the child and that it is not reasonable to provide further services to reunify the family because the existence of aggravated circumstances make it unlikely that services will effectuate the return of the child to the child's parents in the near future. In

determining whether aggravated circumstances exist, the court shall consider one or more of the following:

(a) Conviction of the parent of rape of the child in the first, second, or third degree as defined in RCW 9A.44.073, 9A.44.076, and 9A.44.079;

(b) Conviction of the parent of criminal mistreatment of the child in the first or second degree as defined in RCW 9A.42.020 and 9A.42.030;

(c) Conviction of the parent of one of the following assault crimes, when the child is the victim: Assault in the first or second degree as defined in RCW 9A.36.011 and 9A.36.021 or assault of a child in the first or second degree as defined in RCW 9A.36.120 or 9A.36.130;

(d) Conviction of the parent of murder, manslaughter, or homicide by abuse of the child's other parent, sibling, or another child;

(e) A finding by a court that a parent is a sexually violent predator as defined in RCW 71.09.020;

(f) Failure of the parent to complete available treatment ordered under this chapter or the equivalent laws of another state, where such failure has resulted in a prior termination of parental rights to another child and the parent has failed to effect significant change in the interim.

(3) Whenever a child is ordered removed from the child's home, the agency charged with his or her care shall provide the court with:

(a) A permanency plan of care that shall identify one of the following outcomes as a primary goal and may identify additional outcomes as alternative goals: Return of the child to the home of the child's parent, guardian, or legal custodian; adoption; guardianship; or long-term relative or foster care, until the child is age eighteen, with a written agreement between the parties and the care provider; and independent living, if appropriate and if the child is age sixteen or older. Whenever a permanency plan identifies independent living as a goal, the plan shall also specifically identify the services that will be provided to assist the child to make a successful transition from foster care to independent living. Before the court approves independent living as a permanency plan of care, the court shall make a finding that the provision of services to assist the child in making a transition from foster care to independent living will allow the child to manage his or her financial affairs and to manage his or her personal, social, educational, and nonfinancial affairs. The department shall not discharge a child to an independent living situation before the child is eighteen years of age unless the child becomes emancipated pursuant to chapter 13.64 RCW.

(b) Unless the court has ordered, pursuant to subsection (2) of this section, that a termination petition be filed, a specific plan as to where the child will be placed, what steps will be taken to return the child home, and what actions the agency will take to maintain parent-child ties. All aspects of the plan shall include the goal of achieving permanence for the child.

(i) The agency plan shall specify what services the parents will be offered in order to enable them to resume custody, what requirements the parents must meet

in order to resume custody, and a time limit for each service plan and parental requirement.

(ii) The agency shall be required to encourage the maximum parent-child contact possible, including regular visitation and participation by the parents in the care of the child while the child is in placement. Visitation may be limited or denied only if the court determines that such limitation or denial is necessary to protect the child's health, safety, or welfare.

(iii) A child shall be placed as close to the child's home as possible, preferably in the child's own neighborhood, unless the court finds that placement at a greater distance is necessary to promote the child's or parents' well-being.

(iv) The agency charged with supervising a child in placement shall provide all reasonable services that are available within the agency, or within the community, or those services which the department of social and health services has existing contracts to purchase. It shall report to the court if it is unable to provide such services.

(c) If the court has ordered, pursuant to subsection (2) of this section, that a termination petition be filed, a specific plan as to where the child will be placed, what steps will be taken to achieve permanency for the child, services to be offered or provided to the child, and, if visitation would be in the best interests of the child, a recommendation to the court regarding visitation between parent and child pending a fact-finding hearing on the termination petition. The agency shall not be required to develop a plan of services for the parents or provide services to the parents.

(4) If there is insufficient information at the time of the disposition hearing upon which to base a determination regarding the suitability of a proposed placement with a relative, the child shall remain in foster care and the court shall direct the supervising agency to conduct necessary background investigations as provided in chapter 74.15 RCW and report the results of such investigation to the court within thirty days. However, if such relative appears otherwise suitable and competent to provide care and treatment, the criminal history background check need not be completed before placement, but as soon as possible after placement. Any placements with relatives, pursuant to this section, shall be contingent upon cooperation by the relative with the agency case plan and compliance with court orders related to the care and supervision of the child including, but not limited to, court orders regarding parent-child contacts and any other conditions imposed by the court. Noncompliance with the case plan or court order shall be grounds for removal of the child from the relative's home, subject to review by the court.

(5) Except for children whose cases are reviewed by a citizen review board under chapter 13.70 RCW, the status of all children found to be dependent shall be reviewed by the court at least every six months from the beginning date of the placement episode or the date dependency is established, whichever is first, at a hearing in which it shall be determined whether court supervision should continue.

The review shall include findings regarding the agency and parental completion of disposition plan requirements, and if necessary, revised permanency time limits.

(a) A child shall not be returned home at the review hearing unless the court finds that a reason for removal as set forth in this section no longer exists. The parents, guardian, or legal custodian shall report to the court the efforts they have made to correct the conditions which led to removal. If a child is returned, casework supervision shall continue for a period of six months, at which time there shall be a hearing on the need for continued intervention.

(b) If the child is not returned home, the court shall establish in writing:

(i) Whether reasonable services have been provided to or offered to the parties to facilitate reunion, specifying the services provided or offered;

(ii) Whether the child has been placed in the least-restrictive setting appropriate to the child's needs, including whether consideration and preference has been given to placement with the child's relatives;

(iii) Whether there is a continuing need for placement and whether the placement is appropriate;

(iv) Whether there has been compliance with the case plan by the child, the child's parents, and the agency supervising the placement;

(v) Whether progress has been made toward correcting the problems that necessitated the child's placement in out-of-home care;

(vi) Whether the parents have visited the child and any reasons why visitation has not occurred or has been infrequent;

(vii) Whether additional services are needed to facilitate the return of the child to the child's parents; if so, the court shall order that reasonable services be offered specifying such services; and

(viii) The projected date by which the child will be returned home or other permanent plan of care will be implemented.

(c) The court at the review hearing may order that a petition seeking termination of the parent and child relationship be filed.

**Sec. 2.** RCW 13.34.180 and 1993 c 412 s 2 and 1993 c 358 s 3 are each reenacted and amended to read as follows:

A petition seeking termination of a parent and child relationship may be filed in juvenile court by any party to the dependency proceedings concerning that child. Such petition shall conform to the requirements of RCW 13.34.040, shall be served upon the parties as provided in RCW 13.34.070(8), and shall allege:

(1) That the child has been found to be a dependent child under RCW 13.34.030(~~((2))~~) (4); and

(2) That the court has entered a dispositional order pursuant to RCW 13.34.130; and

(3) That the child has been removed or will, at the time of the hearing, have been removed from the custody of the parent for a period of at least six months pursuant to a finding of dependency under RCW 13.34.030(~~((2))~~) (4); and

(4) That the services ordered under RCW 13.34.130 have been offered or provided and all necessary services, reasonably available, capable of correcting the parental deficiencies within the foreseeable future have been offered or provided; and

(5) That there is little likelihood that conditions will be remedied so that the child can be returned to the parent in the near future. In determining whether the conditions will be remedied the court may consider, but is not limited to, the following factors:

(a) Use of intoxicating or controlled substances so as to render the parent incapable of providing proper care for the child for extended periods of time and documented unwillingness of the parent to receive and complete treatment or documented multiple failed treatment attempts; or

(b) Psychological incapacity or mental deficiency of the parent that is so severe and chronic as to render the parent incapable of providing proper care for the child for extended periods of time, and documented unwillingness of the parent to receive and complete treatment or documentation that there is no treatment that can render the parent capable of providing proper care for the child in the near future; and

(6) That continuation of the parent and child relationship clearly diminishes the child's prospects for early integration into a stable and permanent home; or

(7) In lieu of the allegations in subsections (1) through (6) of this section, the petition may allege that the child was found under such circumstances that the whereabouts of the child's parent are unknown and no person has acknowledged paternity or maternity and requested custody of the child within two months after the child was found.

A parent's failure to substantially improve parental deficiencies within twelve months following entry of the dispositional order shall give rise to a rebuttable presumption that there is little likelihood that conditions will be remedied so that the child can be returned to the parent in the near future. The presumption shall not arise unless the petitioner makes a showing that all necessary services reasonably capable of correcting the parental deficiencies within the foreseeable future have been offered or provided.

Notice of rights shall be served upon the parent, guardian, or legal custodian with the petition and shall be in substantially the following form:

**"NOTICE**

A petition for termination of parental rights has been filed against you. You have important legal rights and you must take steps to protect your interests. This petition could result in permanent loss of your parental rights.

1. You have the right to a fact-finding hearing before a judge.
2. You have the right to have a lawyer represent you at the hearing. A lawyer can look at the files in your case, talk to the department of social and health services and other agencies, tell you

about the law, help you understand your rights, and help you at hearings. If you cannot afford a lawyer, the court will appoint one to represent you. To get a court-appointed lawyer you must contact:  (explain local procedure) .

3. At the hearing, you have the right to speak on your own behalf, to introduce evidence, to examine witnesses, and to receive a decision based solely on the evidence presented to the judge.

You should be present at this hearing.

You may call  (insert agency)  for more information about your child. The agency's name and telephone number are  (insert name and telephone number) ."

Passed the Senate April 26, 1997.

Passed the House April 25, 1997.

Approved by the Governor May 7, 1997.

Filed in Office of Secretary of State May 7, 1997.

## CHAPTER 281

[Senate Bill 5503]

### MERGER OF TECHNICAL AND COMMUNITY COLLEGES—AUTHORITY OF TECHNICAL COLLEGES

AN ACT Relating to the merger of technical and community colleges; amending RCW 28B.50.215; and reenacting and amending RCW 28B.50.140.

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

**Sec. 1.** RCW 28B.50.140 and 1991 c 238 s 39 and 1991 c 58 s 1 are each reenacted and 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);

(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, certificates, or diplomas for occupational courses of study under rules of the college board. Technical colleges in districts twenty-eight and twenty-nine may offer nonbaccalaureate associate of technical or applied arts degrees only in conjunction with a community college the district of which overlaps with the district of the technical college, and these degrees may only be offered after a contract or agreement is executed between the technical college and the community college. The authority and responsibility to offer transfer level academic support and general education for students of districts twenty-one and twenty-five shall reside exclusively with Whatcom Community College.))~~ 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; and

(20) Shall perform any other duties and responsibilities imposed by law or rule and regulation of the state board.

**Sec. 2.** RCW 28B.50.215 and 1991 c 238 s 144 are each amended to read as follows:

The colleges in each overlapping service area shall jointly submit for approval to the state board for community and technical colleges (~~(not later than December 1, 1991,)~~) a regional planning agreement. The agreement shall provide for the ongoing interinstitutional coordination of community and technical college

programs and services operated in the overlapping service area. The agreement shall include the means for the adjudication of issues arising from overlapping service areas. The agreement shall include a definitive statement of mission, scope, and purpose for each college including the nature of courses, programs, and services to be offered by each college. ~~((The statement shall include a provision that the technical colleges shall not offer courses designed for transfer to baccalaureate granting institutions. This shall not preclude such offerings provided through contracts or agreements with a community college in the service area.))~~

Technical colleges may, under the rules of the state board for community and technical colleges, offer all specific academic support courses that may be at a transfer level that are required of all students to earn a particular certificate or degree. This shall not be interpreted to mean that their mission may be expanded to include transfer preparation, nor does it preclude technical colleges from voluntarily and cooperatively using available community college courses as components of technical college programs.

Any part of the agreement that is not approved by all the colleges in the service area, shall be determined by the state board for community and technical colleges. Approved regional planning agreements shall be enforced by the full authority of the state board for community and technical colleges. Changes to the agreement are subject to state board approval.

For the purpose of creating and adopting a regional planning agreement, the trustees of the colleges in Pierce county shall form a county coordinating committee. The county coordinating committee shall consist of eight members. Each college board of trustees in Pierce county shall select two of its members to serve on the county coordinating committee. The county coordinating committee shall not employ its own staff, but shall instead utilize staff of the colleges in the county. The regional planning agreement adopted by the county coordinating committee shall include, but shall not be limited to: The items listed in this section, the transfer of credits between technical and community colleges, program articulation, and the avoidance of unnecessary duplication in programs, activities, and services.

Passed the Senate April 21, 1997.

Passed the House April 8, 1997.

Approved by the Governor May 7, 1997.

Filed in Office of Secretary of State May 7, 1997.

---

## CHAPTER 282

[Substitute Senate Bill 5511]

### CHILD ABUSE AND NEGLECT—RETENTION OF INFORMATION—NOTICE TO ALLEGED PERPETRATORS

AN ACT Relating to child abuse and neglect information; amending RCW 26.44.100 and 26.44.020; and adding new sections to chapter 26.44 RCW.

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

NEW SECTION. **Sec. 1.** A new section is added to chapter 26.44 RCW to read as follows:

To protect the privacy in reporting and the maintenance of reports of nonaccidental injury, neglect, death, sexual abuse, and cruelty to children by their parents, and to safeguard against arbitrary, malicious, or erroneous information or actions, the department shall not maintain information related to unfounded referrals in files or reports of child abuse or neglect for longer than six years except as provided in this section.

At the end of six years from receipt of the unfounded report, the information shall be purged unless an additional report has been received in the intervening period.

**Sec. 2.** RCW 26.44.100 and 1993 c 412 s 17 are each amended to read as follows:

(1) The legislature finds parents and children often are not aware of their due process rights when agencies are investigating allegations of child abuse and neglect. The legislature reaffirms that all citizens, including parents, shall be afforded due process, that protection of children remains the priority of the legislature, and that this protection includes protecting the family unit from unnecessary disruption. To facilitate this goal, the legislature wishes to ensure that parents and children be advised in writing and orally, if feasible, of their basic rights and other specific information as set forth in this chapter, provided that nothing contained in this chapter shall cause any delay in protective custody action.

(2) The department shall notify the alleged perpetrator of the allegations of child abuse and neglect at the earliest possible point in the investigation that will not jeopardize the safety and protection of the child or the investigation process.

Whenever the department completes an investigation of a child abuse or neglect report under chapter 26.44 RCW, the department shall notify the alleged perpetrator of the report and the department's investigative findings. The notice shall also advise the alleged perpetrator that:

(a) A written response to the report may be provided to the department and that such response will be filed in the record following receipt by the department;

(b) Information in the department's record may be considered in subsequent investigations or proceedings related to child protection or child custody;

(c) There is currently information in the department's record that may be considered in determining that the person is disqualified from being licensed to provide child care, employed by a licensed child care agency, or authorized by the department to care for children; and

(d) A person who has demonstrated a good-faith desire to work in a licensed agency may request an informal meeting with the department to have an opportunity to discuss and contest the information currently in the record.

(3) The notification required by this section shall be made by regular mail to the person's last known address.

(4) The duty of notification created by this section is subject to the ability of the department to ascertain the location of the person to be notified. The department shall exercise reasonable, good-faith efforts to ascertain the location of persons entitled to notification under this section.

***\*NEW SECTION. Sec. 3. A new section is added to chapter 26.44 RCW to read as follows:***

***The department shall report annually to the legislature on the number of reports determined to be unfounded and the percentage of unfounded reports compared to the total number of reports received by the department. The department shall also report annually on the number of files or reports from which unfounded information was purged.***

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

Sec. 4. RCW 26.44.020 and 1996 c 178 s 10 are each amended to read as follows:

For the purpose of and as used in this chapter:

(1) "Court" means the superior court of the state of Washington, juvenile department.

(2) "Law enforcement agency" means the police department, the prosecuting attorney, the state patrol, the director of public safety, or the office of the sheriff.

(3) "Fractitioner of the healing arts" or "practitioner" means a person licensed by this state to practice podiatric medicine and surgery, optometry, chiropractic, nursing, dentistry, osteopathic medicine and surgery, or medicine and surgery or to provide other health services. The term "practitioner" shall include a duly accredited Christian Science practitioner: PROVIDED, HOWEVER, That a person who is being furnished Christian Science treatment by a duly accredited Christian Science practitioner shall not be considered, for that reason alone, a neglected person for the purposes of this chapter.

(4) "Institution" means a private or public hospital or any other facility providing medical diagnosis, treatment or care.

(5) "Department" means the state department of social and health services.

(6) "Child" or "children" means any person under the age of eighteen years of age.

(7) "Professional school personnel" shall include, but not be limited to, teachers, counselors, administrators, child care facility personnel, and school nurses.

(8) "Social service counselor" shall mean anyone engaged in a professional capacity during the regular course of employment in encouraging or promoting the health, welfare, support or education of children, or providing social services to adults or families, including mental health, drug and alcohol treatment, and domestic violence programs, whether in an individual capacity, or as an employee or agent of any public or private organization or institution.

(9) "Psychologist" shall mean any person licensed to practice psychology under chapter 18.83 RCW, whether acting in an individual capacity or as an employee or agent of any public or private organization or institution.

(10) "Pharmacist" shall mean any registered pharmacist under the provisions of chapter 18.64 RCW, whether acting in an individual capacity or as an employee or agent of any public or private organization or institution.

(11) "Clergy" shall mean any regularly licensed or ordained minister, priest or rabbi of any church or religious denomination, whether acting in an individual capacity or as an employee or agent of any public or private organization or institution.

(12) "Abuse or neglect" shall mean the injury, sexual abuse, sexual exploitation, negligent treatment, or maltreatment of a child, adult dependent, or developmentally disabled person by any person under circumstances which indicate that the child's or adult's health, welfare, and safety is harmed. An abused child is a child who has been subjected to child abuse or neglect as defined herein.

(13) "Child protective services section" shall mean the child protective services section of the department.

(14) "Adult dependent persons" shall be defined as those persons over the age of eighteen years who have been found to be legally incompetent or disabled pursuant to chapter 11.88 RCW.

(15) "Sexual exploitation" includes: (a) Allowing, permitting, or encouraging a child to engage in prostitution by any person; or (b) allowing, permitting, encouraging, or engaging in the obscene or pornographic photographing, filming, or depicting of a child by any person.

(16) "Negligent treatment or maltreatment" means an act or omission which evidences a serious disregard of consequences of such magnitude as to constitute a clear and present danger to the child's health, welfare, and safety.

(17) "Developmentally disabled person" means a person who has a disability defined in RCW 71A.10.020.

(18) "Child protective services" means those services provided by the department designed to protect children from child abuse and neglect and safeguard the general welfare of such children and shall include investigations of child abuse and neglect reports, including reports regarding child care centers and family child care homes, and the development, management, and provision of or referral to services to ameliorate conditions which endanger the welfare of children, the coordination of necessary programs and services relevant to the prevention, intervention, and treatment of child abuse and neglect, and services to children to ensure that each child has a permanent home. In determining whether protective services should be provided, the department shall not decline to provide such services solely because of the child's unwillingness or developmental inability to describe the nature and severity of the abuse or neglect.

(19) "Malice" or "maliciously" means an evil intent, wish, or design to vex, annoy, or injure another person. Such malice may be inferred from an act done in

wilful disregard of the rights of another, or an act wrongfully done without just cause or excuse, or an act or omission of duty betraying a wilful disregard of social duty.

(20) "Sexually aggressive youth" means a child who is defined in RCW 74.13.075(1)(b) as being a "sexually aggressive youth."

(21) "Unfounded" means available evidence indicates that, more likely than not, child abuse or neglect did not occur.

Passed the Senate April 24, 1997.

Passed the House April 22, 1997.

Approved by the Governor May 7, 1997, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State May 7, 1997.

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

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

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

Section 3 of SSB 5511 would have required the Department of Social and Health Services to report annually to the legislature on the number of reports of child abuse or neglect determined to be unfounded, and the percentage of unfounded reports compared to the total number of reports received by the Department, and the number of files or reports from which unfounded information was purged.

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

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

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

## CHAPTER 283

[Senate Bill 5538]

### CHILD VICTIMS AND WITNESSES—RIGHTS TO NONDISCLOSURE OF INFORMATION

AN ACT Relating to child victims and witnesses; amending RCW 7.69A.030; adding a new section to chapter 7.69A RCW; and prescribing penalties.

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

NEW SECTION. Sec. 1. A new section is added to chapter 7.69A RCW to read as follows:

At the time of reporting a crime to law enforcement officials and at the time of the initial witness interview, child victims or child witnesses of violent crimes, sex crimes, or child abuse and the child's parents shall be informed of their rights to not have their address disclosed by any law enforcement agency, prosecutor's office, defense counsel, or state agency without the permission of the child victim or the child's parents or legal guardian. The address may be disclosed to another law enforcement agency, prosecutor, defense counsel, or private or governmental agency that provides services to the child. Intentional disclosure of an address in violation of this section is a misdemeanor.

Sec. 2. RCW 7.69A.030 and 1993 c 350 s 8 are each amended to read as follows:

In addition to the rights of victims and witnesses provided for in RCW 7.69.030, there shall be every reasonable effort made by law enforcement agencies, prosecutors, and judges to assure that child victims and witnesses are afforded the rights enumerated in this section. Except as provided in section 1 of this act regarding child victims or child witnesses of violent crimes, sex crimes, or child abuse, the enumeration of rights shall not be construed to create substantive rights and duties, and the application of an enumerated right in an individual case is subject to the discretion of the law enforcement agency, prosecutor, or judge. Child victims and witnesses have the following rights:

(1) To have explained in language easily understood by the child, all legal proceedings and/or police investigations in which the child may be involved.

(2) With respect to child victims of sex or violent crimes or child abuse, to have a crime victim advocate from a crime victim/witness program present at any prosecutorial or defense interviews with the child victim. This subsection applies if practical and if the presence of the crime victim advocate does not cause any unnecessary delay in the investigation or prosecution of the case. The role of the crime victim advocate is to provide emotional support to the child victim and to promote the child's feelings of security and safety.

(3) To be provided, whenever possible, a secure waiting area during court proceedings and to have an advocate or support person remain with the child prior to and during any court proceedings.

(4) To not have the names, addresses, nor photographs of the living child victim or witness disclosed by any law enforcement agency, prosecutor's office, or state agency without the permission of the child victim, child witness, parents, or legal guardians to anyone except another law enforcement agency, prosecutor, defense counsel, or private or governmental agency that provides services to the child victim or witness.

(5) To allow an advocate to make recommendations to the prosecuting attorney about the ability of the child to cooperate with prosecution and the potential effect of the proceedings on the child.

(6) To allow an advocate to provide information to the court concerning the child's ability to understand the nature of the proceedings.

(7) To be provided information or appropriate referrals to social service agencies to assist the child and/or the child's family with the emotional impact of the crime, the subsequent investigation, and judicial proceedings in which the child is involved.

(8) To allow an advocate to be present in court while the child testifies in order to provide emotional support to the child.

(9) To provide information to the court as to the need for the presence of other supportive persons at the court proceedings while the child testifies in order to promote the child's feelings of security and safety.

(10) To allow law enforcement agencies the opportunity to enlist the assistance of other professional personnel such as child protection services, victim advocates or prosecutorial staff trained in the interviewing of the child victim.

(11) With respect to child victims of violent or sex crimes or child abuse, to receive either directly or through the child's parent or guardian if appropriate, at the time of reporting the crime to law enforcement officials, a written statement of the rights of child victims as provided in this chapter. The written statement shall include the name, address, and telephone number of a county or local crime victim/witness program, if such a crime victim/witness program exists in the county.

Passed the Senate March 12, 1997.

Passed the House April 26, 1997.

Approved by the Governor May 7, 1997.

Filed in Office of Secretary of State May 7, 1997.

## CHAPTER 284

[Engrossed Senate Bill 5565]

### TIMING OF REVIEW OF COUNTY ELECTION PROCEDURES

AN ACT Relating to review of county election procedures; and amending RCW 29.60.070.

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

**Sec. 1.** RCW 29.60.070 and 1992 c 163 s 9 are each amended to read as follows:

(1)(a) The election review staff of the office of the secretary of state shall conduct a review of election-related policies, procedures, and practices in an affected county or counties:

(i) If the unofficial returns of a primary or general election for a position in the state legislature indicate that a mandatory recount is likely for that position; or

(ii) If unofficial returns indicate a mandatory recount is likely in a state-wide election or an election for federal office.

Reviews conducted under (ii) of this subsection shall be performed in as many selected counties as time and staffing permit. Reviews conducted as a result of mandatory recounts shall be performed between the time the unofficial returns are complete and the time the recount is to take place, if possible.

(b) In addition to conducting reviews under (a) of this subsection, the election review staff shall also conduct such a review in a county periodically ~~((after))~~ in conjunction with a county primary or special or general election, at the direction of the secretary of state or at the request of the county auditor. If any resident of this state believes that an aspect of a primary or election has been conducted inappropriately in a county, the resident may file a complaint with the secretary of state. The secretary shall consider such complaints in scheduling periodic reviews under this section.

(c) ~~((Each county shall be reviewed under this section not less than once every four years.))~~ Before an election review is conducted in a county, the secretary of

state shall provide the county auditor of the affected county and the chair of the state central committee of each major political party with notice that the review is to be conducted. When a periodic review is to be conducted in a county at the direction of the secretary of state under (b) of this subsection, the secretary shall provide the affected county auditor not less than thirty days' notice.

(2) Reviews shall be conducted in conformance with rules adopted under RCW 29.60.020. In performing a review in a county under this chapter, the election review staff shall evaluate the policies and procedures established for conducting the primary or election in the county and the practices of those conducting it. As part of the review, the election review staff shall issue to the county auditor and the members of the county canvassing board a report of its findings and recommendations regarding such policies, procedures, and practices. A review conducted under this chapter shall not include any evaluation, finding, or recommendation regarding the validity of the outcome of a primary or election or the validity of any canvass of returns nor does the election review staff have any jurisdiction to make such an evaluation, finding, or recommendation under this title.

(3) The county auditor of the county in which a review is conducted under this section or a member of the canvassing board of the county may appeal the findings or recommendations of the election review staff regarding the review by filing an appeal with the board created under RCW 29.60.010.

Passed the Senate March 12, 1997.

Passed the House April 26, 1997.

Approved by the Governor May 7, 1997.

Filed in Office of Secretary of State May 7, 1997.

---

## CHAPTER 285

[Substitute Senate Bill 5715]

### ORTHOTIC AND PROSTHETIC SERVICES

AN ACT Relating to orthotic and prosthetic services; reenacting and amending RCW 18.130.040; adding a new chapter to Title 18 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.** It is the intent of the legislature that this act accomplish the following: Safeguard public health, safety, and welfare; protect the public from being misled by unethical, ill-prepared, unscrupulous, and unauthorized persons; assure the highest degree of professional conduct on the part of orthotists and prosthetists; and assure the availability of orthotic and prosthetic services of high quality to persons in need of the services. The purpose of this act is to provide for the regulation of persons offering orthotic and prosthetic services to the public.

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

(1) "Advisory committee" means the orthotics and prosthetics advisory committee.

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

(3) "Secretary" means the secretary of health or the secretary's designee.

(4) "Orthotics" means the science and practice of evaluating, measuring, designing, fabricating, assembling, fitting, adjusting, or servicing, as well as providing the initial training necessary to accomplish the fitting of, an orthosis for the support, correction, or alleviation of neuromuscular or musculoskeletal dysfunction, disease, injury, or deformity. The practice of orthotics encompasses evaluation, treatment, and consultation. With basic observational gait and postural analysis, orthotists assess and design orthoses to maximize function and provide not only the support but the alignment necessary to either prevent or correct deformity or to improve the safety and efficiency of mobility or locomotion, or both. Orthotic practice includes providing continuing patient care in order to assess its effect on the patient's tissues and to assure proper fit and function of the orthotic device by periodic evaluation.

(5) "Orthotist" means a person licensed to practice orthotics under this chapter.

(6) "Orthosis" means a custom-fabricated, definitive brace or support that is designed for long-term use. Except for the treatment of scoliosis, orthosis does not include prefabricated or direct-formed orthotic devices, as defined in this section, or any of the following assistive technology devices: Commercially available knee orthoses used following injury or surgery; spastic muscle tone-inhibiting orthoses; upper extremity adaptive equipment; finger splints; hand splints; custom-made, leather wrist gauntlets; face masks used following burns; wheelchair seating that is an integral part of the wheelchair and not worn by the patient independent of the wheelchair; fabric or elastic supports; corsets; arch supports, also known as foot orthotics; low-temperature formed plastic splints; trusses; elastic hose; canes; crutches; cervical collars; dental appliances; and other similar devices as determined by the secretary, such as those commonly carried in stock by a pharmacy, department store, corset shop, or surgical supply facility. Prefabricated orthoses, also known as custom-fitted, or off-the-shelf, are devices that are manufactured as commercially available stock items for no specific patient. Direct-formed orthoses are devices formed or shaped during the molding process directly on the patient's body or body segment. Custom-fabricated orthoses, also known as custom-made orthoses, are devices designed and fabricated, in turn, from raw materials for a specific patient and require the generation of an image, form, or mold that replicates the patient's body or body segment and, in turn, involves the rectification of dimensions, contours, and volumes to achieve proper fit, comfort, and function for that specific patient.

(7) "Prosthetics" means the science and practice of evaluating, measuring, designing, fabricating, assembling, fitting, aligning, adjusting, or servicing, as well

as providing the initial training necessary to accomplish the fitting of, a prosthesis through the replacement of external parts of a human body lost due to amputation or congenital deformities or absences. The practice of prosthetics also includes the generation of an image, form, or mold that replicates the patient's body or body segment and that requires rectification of dimensions, contours, and volumes for use in the design and fabrication of a socket to accept a residual anatomic limb to, in turn, create an artificial appendage that is designed either to support body weight or to improve or restore function or cosmesis, or both. Involved in the practice of prosthetics is observational gait analysis and clinical assessment of the requirements necessary to refine and mechanically fix the relative position of various parts of the prosthesis to maximize the function, stability, and safety of the patient. The practice of prosthetics includes providing continuing patient care in order to assess the prosthetic device's effect on the patient's tissues and to assure proper fit and function of the prosthetic device by periodic evaluation.

(8) "Prosthetist" means a person who is licensed to practice prosthetics under this chapter.

(9) "Prosthesis" means a definitive artificial limb that is alignable or articulated, or, in lower extremity applications, capable of weight bearing. Prosthesis means an artificial medical device that is not surgically implanted and that is used to replace a missing limb, appendage, or other external human body part including an artificial limb, hand, or foot. The term does not include artificial eyes, ears, fingers or toes, dental appliances, ostomy products, devices such as artificial breasts, eyelashes, wigs, or other devices as determined by the secretary that do not have a significant impact on the musculoskeletal functions of the body. In the lower extremity of the body, the term prosthesis does not include prostheses required for amputations distal to and including the transmetatarsal level. In the upper extremity of the body, the term prosthesis does not include prostheses that are provided to restore function for amputations distal to and including the carpal level.

(10) "Authorized health care practitioner" means licensed physicians, physician's assistants, osteopathic physicians, chiropractors, naturopaths, podiatric physicians and surgeons, dentists, and advanced registered nurse practitioners.

**NEW SECTION.** Sec. 3. An orthotist or prosthetist may only provide treatment utilizing new orthoses or prostheses for which the orthotist or prosthetist is licensed to do so, and only under an order from or referral by an authorized health care practitioner. A consultation and periodic review by an authorized health care practitioner is not required for evaluation, repair, adjusting, or servicing of orthoses by a licensed orthotist and servicing of prostheses by a licensed prosthetist. Nor is an authorized health care practitioner's order required for maintenance of an orthosis or prosthesis to the level of its original prescription for an indefinite period of time if the order remains appropriate for the patient's medical needs.

Orthotists and prosthetists must refer persons under their care to authorized health care practitioners if they have reasonable cause to believe symptoms or conditions are present that require services beyond the scope of their practice or for which the prescribed orthotic or prosthetic treatment is contraindicated.

**NEW SECTION. Sec. 4.** No person may represent himself or herself as a licensed orthotist or prosthetist, use a title or description of services, or engage in the practice of orthotics or prosthetics without applying for licensure, meeting the required qualifications, and being licensed by the department of health, unless otherwise exempted by this chapter.

A person not licensed with the secretary must not represent himself or herself as being so licensed and may not use in connection with his or her name the words or letters "L.O.," "L.P.," or "L.P.O.," or other letters, words, signs, numbers, or insignia indicating or implying that he or she is either a licensed orthotist or a licensed prosthetist, or both. No person may practice orthotics or prosthetics without first having a valid license. The license must be posted in a conspicuous location at the person's work site.

**NEW SECTION. Sec. 5.** Nothing in this chapter shall be construed to prohibit or restrict:

(1) The practice by individuals listed under RCW 18.130.040 and performing services within their authorized scopes of practice;

(2) The practice by an individual employed by the government of the United States while engaged in the performance of duties prescribed by the laws of the United States;

(3) The practice by a person who is a regular student in an orthotic or prosthetic educational program approved by the secretary, and whose performance of services is pursuant to a regular course of instruction or assignments from an instructor and under the general supervision of the instructor, if the person is designated by a title that clearly indicates the person's status as a student or trainee;

(4) A person fulfilling the supervised residency or internship experience requirements described in section 8 of this act, if the activities and services constitute a part of the experience necessary to meet the requirements of this chapter; or

(5) A person from performing orthotic or prosthetic services in this state if:  
(a) The services are performed for no more than ninety working days; and (b) the person is licensed in another state or has met commonly accepted standards for the practice of orthotics or prosthetics as determined by the secretary.

**NEW SECTION. Sec. 6.** In addition to other authority provided by law, the secretary has the authority to:

(1) Adopt rules under chapter 34.05 RCW necessary to implement this chapter;

(2) Establish administrative procedures, administrative requirements, and fees in accordance with RCW 43.70.250 and 43.70.280. All fees collected under this

section must be credited to the health professions account as required under RCW 43.70.320;

(3) Register applicants, issue licenses to applicants who have met the education, training, and examination requirements for licensure, and deny licenses to applicants who do not meet the minimum qualifications, except that proceedings concerning the denial of credentials based upon unprofessional conduct or impairment are governed by the uniform disciplinary act, chapter 18.130 RCW;

(4) Hire clerical, administrative, investigative, and other staff as needed to implement this chapter and hire individuals licensed under this chapter to serve as examiners for any practical examinations;

(5) Determine minimum education requirements and evaluate and designate those educational programs from which graduation will be accepted as proof of eligibility to take a qualifying examination for applicants for licensure;

(6) Establish the standards and procedures for revocation of approval of education programs;

(7) Utilize or contract with individuals or organizations having expertise in the profession or in education to assist in the evaluations;

(8) Prepare and administer, or approve the preparation and administration of, examinations for applicants for licensure;

(9) 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 any qualifying examination;

(10) Determine which jurisdictions have licensing requirements equivalent to those of this state and issue licenses without examinations to individuals licensed in those jurisdictions;

(11) Define and approve any experience requirement for licensing;

(12) Implement and administer a program for consumer education;

(13) Adopt rules implementing continuing competency requirements for renewal of the license and relicensing;

(14) Maintain the official department records of all applicants and licensees;

(15) Establish by rule the procedures for an appeal of an examination failure;

(16) Establish requirements and procedures for an inactive license; and

(17) With the advice of the advisory committee, the secretary may recommend collaboration with health professions, boards, and commissions to develop appropriate referral protocols.

**NEW SECTION.** Sec. 7. (1) The secretary has the authority to appoint an advisory committee to further the purposes of this chapter. The secretary may consider the persons who are recommended for appointment by the orthotic and prosthetic associations of the state. The committee is composed of five members, one member initially appointed for a term of one year, two for a term of two years, and two for a term of three years. Subsequent appointments are for terms of three years. No person may serve as a member of the committee for more than two

consecutive terms. Members of the advisory committee must be residents of this state and citizens of the United States. The committee is composed of three individuals licensed in the category designated and engaged in rendering services to the public. Two members must at all times be holders of licenses for the practice of either prosthetics or orthotics, or both, in this state, except for the initial members of the advisory committee, all of whom must fulfill the requirements for licensure under this chapter. One member must be a practicing orthotist. One member must be a practicing prosthetist. One member must be licensed by the state as a physician licensed under chapter 18.57 or 18.71 RCW, specializing in orthopedic medicine or surgery or physiatry. Two members must represent the public at large and be unaffiliated directly or indirectly with the profession being credentialed but, to the extent possible, be consumers of orthotic and prosthetic services. The two members appointed to the advisory committee representing the public at large must have an interest in the rights of consumers of health services and must not be or have been a licensee of a health occupation committee or an employee of a health facility, nor derive his or her primary livelihood from the provision of health services at any level of responsibility.

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

(3) The advisory committee may provide advice on matters specifically identified and requested by the secretary, such as applications for licenses.

(4) The advisory committee may be requested by the secretary to approve an examination required for licensure under this chapter.

(5) The advisory committee may be requested by the secretary to review and monitor the exemptions to requirements of certain orthoses and prostheses in this chapter and recommend to the secretary any statutory changes that may be needed to properly protect the public.

(6) The advisory committee, at the request of the secretary, may recommend rules in accordance with the administrative procedure act, chapter 34.05 RCW, relating to standards for appropriateness of orthotic and prosthetic care.

(7) The advisory committee shall meet at the times and places designated by the secretary and hold meetings during the year as necessary to provide advice to the secretary. The committee may elect a chair and a vice-chair. A majority of the members currently serving constitute a quorum.

(8) Each member of an advisory committee shall be reimbursed for travel expenses as authorized in RCW 43.03.050 and 43.03.060. In addition, members of the committees shall be compensated in accordance with RCW 43.03.240 when engaged in the authorized business of their committees.

(9) The secretary, members of advisory committees, or individuals acting on their behalf are immune from suit in any action, civil or criminal, based on any credentialing or disciplinary proceedings or other official acts performed in the course of their duties.

**NEW SECTION.** Sec. 8. (1) An applicant must file a written application on forms provided by the department showing to the satisfaction of the secretary, in consultation with the advisory committee, that the applicant meets the following requirements:

(a) The applicant possesses a baccalaureate degree with coursework appropriate for the profession approved by the secretary, or possesses equivalent training as determined by the secretary pursuant to subsections (3) and (5) of this section;

(b) The applicant has the amount of formal training, including the hours of classroom education and clinical practice, in areas of study as the secretary deems necessary and appropriate;

(c) The applicant has completed a clinical internship or residency in the professional area for which a license is sought in accordance with the standards, guidelines, or procedures for clinical internships or residencies inside or outside the state as established by the secretary, or that are otherwise substantially equivalent to the standards commonly accepted in the fields of orthotics and prosthetics as determined by the secretary pursuant to subsections (3) and (5) of this section. The secretary must set the internship as at least one year.

(2) An applicant for licensure as either an orthotist or prosthetist must pass all written and practical examinations that are required and approved by the secretary in consultation with the advisory committee.

(3) The standards and requirements for licensure established by the secretary must be substantially equal to the standards commonly accepted in the fields of orthotics and prosthetics.

(4) An applicant failing to make the required grade in the first examination may take up to three subsequent examinations as the applicant desires upon prepaying a fee, determined by the secretary under RCW 43.70.250, for each subsequent examination. Upon failing four examinations, the secretary may invalidate the original application and require remedial education before the person may take future examinations.

(5) The secretary may waive some of the education, examination, or experience requirements of this section if the secretary determines that the applicant meets alternative standards, established by the secretary through rule, that are substantially equivalent to the requirements in subsections (1) and (2) of this section.

**NEW SECTION.** Sec. 9. The secretary may grant a license without an examination for those applicants who have practiced full time for five of the six years prior to the effective date of this act and who have provided comprehensive orthotic or prosthetic, or orthotic and prosthetic, services in an established practice. This section applies only to those individuals who apply within one year of the effective date of this act.

**NEW SECTION.** Sec. 10. An applicant holding a license in another state or a territory of the United States may be licensed to practice in this state without

examination if the secretary determines that the other jurisdiction's credentialing standards are substantially equivalent to the standards in this jurisdiction.

**NEW SECTION.** **Sec. 11.** The uniform disciplinary act, chapter 18.130 RCW, governs the issuance and denial of licenses, unauthorized practice, and the discipline of persons licensed under this chapter. The secretary is the disciplining authority under this chapter.

**NEW SECTION.** **Sec. 12.** This chapter is known and may be cited as the orthotics and prosthetics practice act.

**Sec. 13.** RCW 18.130.040 and 1996 c 200 s 32 and 1996 c 81 s 5 are each reenacted and amended to read as follows:

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

(2)(a) The secretary has authority under this chapter in relation to the following professions:

- (i) Dispensing opticians licensed under chapter 18.34 RCW;
- (ii) Naturopaths licensed under chapter 18.36A RCW;
- (iii) Midwives licensed under chapter 18.50 RCW;
- (iv) Ocularists licensed under chapter 18.55 RCW;
- (v) Massage operators and businesses licensed under chapter 18.108 RCW;
- (vi) Dental hygienists licensed under chapter 18.29 RCW;
- (vii) Acupuncturists licensed under chapter 18.06 RCW;
- (viii) Radiologic technologists certified and X-ray technicians registered under chapter 18.84 RCW;
- (ix) Respiratory care practitioners certified under chapter 18.89 RCW;
- (x) Persons registered or certified under chapter 18.19 RCW;
- (xi) Persons registered as nursing pool operators under chapter 18.52C RCW;
- (xii) Nursing assistants registered or certified under chapter 18.79 RCW;
- (xiii) Health care assistants certified under chapter 18.135 RCW;
- (xiv) Dietitians and nutritionists certified under chapter 18.138 RCW;
- (xv) Sex offender treatment providers certified under chapter 18.155 RCW;
- (xvi) Persons licensed and certified under chapter 18.73 RCW or RCW 18.71.205;
- (xvii) Persons registered as adult family home providers and resident managers under RCW 18.48.020; ~~(and)~~
- (xviii) Denturists licensed under chapter 18.30 RCW; and
- (xix) Orthotists and prosthetists licensed under chapter 18.— RCW (sections 2 through 12 of this act).

(b) The boards and commissions having authority under this chapter are as follows:

- (i) The podiatric medical board as established in chapter 18.22 RCW;

(ii) The chiropractic quality assurance commission as established in chapter 18.25 RCW;

(iii) The dental quality assurance commission as established in chapter 18.32 RCW;

(iv) The board of hearing and speech as established in chapter 18.35 RCW;

(v) The board of examiners for nursing home administrators as established in chapter 18.52 RCW;

(vi) The optometry board as established in chapter 18.54 RCW governing licenses issued under chapter 18.53 RCW;

(vii) The board of osteopathic medicine and surgery as established in chapter 18.57 RCW governing licenses issued under chapters 18.57 and 18.57A RCW;

(viii) The board of pharmacy as established in chapter 18.64 RCW governing licenses issued under chapters 18.64 and 18.64A RCW;

(ix) The medical quality assurance commission as established in chapter 18.71 RCW governing licenses and registrations issued under chapters 18.71 and 18.71A RCW;

(x) The board of physical therapy as established in chapter 18.74 RCW;

(xi) The board of occupational therapy practice as established in chapter 18.59 RCW;

(xii) The nursing care quality assurance commission as established in chapter 18.79 RCW governing licenses issued under that chapter;

(xiii) The examining board of psychology and its disciplinary committee as established in chapter 18.83 RCW; and

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

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

(4) All disciplining authorities shall adopt procedures to ensure substantially consistent application of this chapter, the Uniform Disciplinary Act, among the disciplining authorities listed in subsection (2) of this section.

**NEW SECTION.** Sec. 14. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

**NEW SECTION.** Sec. 15. Sections 2 through 12 of this act constitute a new chapter in Title 18 RCW.

**NEW SECTION.** Sec. 16. Sections 1 through 5 and 8 through 12 of this act take effect December 1, 1998.

Passed the Senate April 21, 1997.  
 Passed the House April 10, 1997.  
 Approved by the Governor May 7, 1997.  
 Filed in Office of Secretary of State May 7, 1997.

## CHAPTER 286

[Senate Bill 5736]

### BURIAL OF INDIGENT DECEASED VETERANS—INCREASE IN COUNTY BURIAL COSTS

AN ACT Relating to county burial costs for indigent deceased veterans; and amending RCW 73.08.070.

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

**Sec. 1.** RCW 73.08.070 and 1983 c 295 s 5 are each amended to read as follows:

It shall be the duty of the legislative authority in each of the counties in this state to designate some proper authority other than the one designated by law for the care of paupers and the custody of criminals who shall cause to be interred at the expense of the county the body of any honorably discharged veterans as defined in RCW 41.04.005 and the wives, husbands, minor children, widows or widowers of such veterans, who shall hereafter die without leaving means sufficient to defray funeral expenses; and when requested so to do by the commanding officer of any post, camp or chapter of any national organization of veterans now, or which may hereafter be, chartered by an act of congress or the relief committee of any such posts, camps or chapters: **PROVIDED, HOWEVER, That such interment shall not cost more than the limit established by the county legislative authority nor less than three hundred dollars. If the deceased has relatives or friends who desire to conduct the burial of such deceased person, then upon request of said commander or relief committee a sum not to exceed the limit established by the county legislative authority nor less than three hundred dollars shall be paid to said relatives or friends by the county treasurer, upon due proof of the death and burial of any person provided for by this section and proof of expenses incurred.**

Passed the Senate April 23, 1997.  
 Passed the House April 15, 1997.  
 Approved by the Governor May 7, 1997.  
 Filed in Office of Secretary of State May 7, 1997.

## CHAPTER 287

[Substitute Senate Bill 5768]

### SUPPORTED EMPLOYMENT PROGRAMS FOR PERSONS WITH DEVELOPMENTAL DISABILITIES

AN ACT Relating to supported employment for persons with developmental disabilities; adding new sections to chapter 41.04 RCW; and creating a new section.

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

**NEW SECTION.** Sec. 1. The legislature finds that the rate of unemployment among persons with developmental disabilities is high due to the limited employment opportunities available to disabled persons. Given that persons with disabilities are capable of filling employment positions in the general work force population, supported employment is an effective way of integrating such individuals into the general work force population. The creation of supported employment programs can increase the types and availability of employment positions for persons with developmental disabilities.

**NEW SECTION.** Sec. 2. Unless the context clearly requires otherwise the definitions in this section apply throughout sections 3 through 5 of this act.

(1) "Developmental disability" means a disability as defined in RCW 71A.10.020.

(2) "Supported employment" means employment for individuals with developmental disabilities who may require on-the-job training and long-term support in order to fulfill their job duties successfully. Supported employment offers the same wages and benefits as similar nonsupported employment positions.

(3) "State agency" means any office, department, division, bureau, board, commission, community college or institution of higher education, or agency of the state of Washington.

**NEW SECTION.** Sec. 3. State agencies are encouraged to participate in supported employment activities. The department of social and health services, in conjunction with the department of personnel and the office of financial management, shall identify agencies that have positions and funding conducive to implementing supported employment. An agency may only participate in supported employment activities pursuant to this section if the agency is able to operate the program within its existing budget. These agencies shall:

(1) Designate a coordinator who will be responsible for information and resource referral regarding the agency's supported employment program. The coordinator shall serve as a liaison between the agency and the department of personnel regarding supported employment;

(2) Submit an annual update to the department of social and health services, the department of personnel, and the office of financial management. The annual update shall include: A description of the agency's supported employment efforts, the number of persons placed in supported employment positions, recommendations concerning expanding the supported employment program to include people with mental disabilities or other disabilities, and an overall evaluation of the effectiveness of supported employment for the agency.

**NEW SECTION.** Sec. 4. The department of social and health services and the department of personnel shall, after consultation with supported employment provider associations and other interested parties, encourage, educate, and assist state agencies in implementing supported employment programs. The department

of personnel shall provide human resources technical assistance to agencies implementing supported employment programs. The department of personnel shall make available, upon request of the legislature, an annual report that evaluates the overall progress of supported employment in state government.

**NEW SECTION. Sec. 5.** The creation of supported employment positions under sections 3 and 4 of this act shall not count against an agency's allotted full-time equivalent employee positions. Supported employment programs are not intended to displace employees or abrogate any reduction-in-force rights.

**NEW SECTION. Sec. 6.** Sections 2 through 5 of this act are each added to chapter 41.04 RCW.

Passed the Senate April 22, 1997.

Passed the House April 10, 1997.

Approved by the Governor May 7, 1997.

Filed in Office of Secretary of State May 7, 1997.

---

## CHAPTER 288

[Engrossed Senate Bill 5954]

### CLAIMS AGAINST THE UNIVERSITY OF WASHINGTON—SELF-INSURANCE REVOLVING FUND—MODIFICATIONS

AN ACT Relating to claims against the University of Washington; amending RCW 28B.20.253; providing an effective date; and declaring an emergency.

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

**Sec. I.** RCW 28B.20.253 and 1991 sp.s. c 13 s 117 are each amended to read as follows:

(1) A self-insurance revolving fund in the custody of the ~~((treasurer))~~ university is hereby created to be used solely and exclusively by the board of regents of the University of Washington for the following purposes:

(a) The payment of judgments against the university, its schools, colleges, departments, and hospitals and against its regents, officers, employees, agents, and students for whom the defense of an action, claim, or proceeding has been provided pursuant to RCW 28B.20.250.

(b) The payment of claims against the university, its schools, colleges, departments, and hospitals and against its regents, officers, employees, agents, and students for whom the defense of an action, claim, or proceeding has been provided pursuant to RCW 28B.20.250: **PROVIDED**, That payment of claims in excess of twenty-five ~~((hundred))~~ thousand dollars must be approved by the state attorney general.

(c) For the cost of investigation, administration, and defense of actions, claims, or proceedings, and other purposes essential to its liability program.

(2) Said self-insurance revolving fund shall consist of periodic payments by the University of Washington from any source available to it in such amounts as are deemed reasonably necessary to maintain the fund at levels adequate to provide

for the anticipated cost of payments of incurred claims and other costs to be charged against the fund.

(3) No money shall be paid from the self-insurance revolving fund unless first approved by the board of regents, and unless all proceeds available to the claimant from any valid and collectible liability insurance shall have been exhausted.

~~((4) The state investment board shall invest moneys in the self-insurance revolving fund. Moneys invested by the investment board shall be invested in accordance with RCW 43.84.150.))~~

***\*NEW SECTION. Sec. 2. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 1997.***

*\*Sec. 2 was vetoed. See message at end of chapter.*

Passed the Senate April 21, 1997.

Passed the House April 10, 1997.

Approved by the Governor May 7, 1997, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State May 7, 1997.

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

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

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

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

ESB 5954 includes an emergency clause in section 2. Although this bill is important, it is not a matter for the immediate preservation of the public peace, health or safety, or support of the state government and its existing public institutions.

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

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

## CHAPTER 289

[Engrossed Second Substitute House Bill 1372]

### WASHINGTON ADVANCED COLLEGE TUITION PAYMENT PROGRAM

AN ACT Relating to the Washington advanced college tuition payment program; amending RCW 43.79A.040; and adding a new chapter to Title 28B RCW.

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

**NEW SECTION.** **Sec. 1.** The Washington advanced college tuition payment program is established to help make higher education affordable and accessible to all citizens of the state of Washington by offering a savings incentive that will protect purchasers and beneficiaries against rising tuition costs. The program is designed to encourage savings and enhance the ability of Washington citizens to obtain financial access to institutions of higher education. In addition, the program encourages elementary and secondary school students to do well in school as a

means of preparing for and aspiring to higher education attendance. This program is intended to promote a well-educated and financially secure population to the ultimate benefit of all citizens of the state of Washington.

**NEW SECTION. Sec. 2.** 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.

(3) "Board" means the higher education coordinating board as defined in chapter 28B.80 RCW.

(4) "Committee on advanced tuition payment" or "committee" means a committee of the following members or their designees: The state treasurer, the director of the office of financial management, and the chair of the higher education coordinating board.

(5) "Governing body" means the entity 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 board. 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 board.

(8) "Eligible purchaser" means an individual or organization that has entered into a tuition unit contract with the board 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 accredited by a nationally recognized accrediting association or is licensed to do business in the state in which it is located.

(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 defined in RCW 28B.10.016.

(13) "Tuition and fees" means 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 board, 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 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.

(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 are calculated for graduate program enrollments and for attendance at nonstate institutions of higher education and is the basis for any refunds provided from the program.

**NEW SECTION.** Sec. 3. (1) The Washington advanced college tuition payment program shall be administered by the committee on advanced tuition payment which shall be chaired by the representative from the higher education coordinating board. The committee shall be supported by staff of the board.

(2) The committee shall assess the administration and projected financial solvency of the program and make a recommendation to the legislature by the end of the second year after the effective date of this section as to disposition of the further administration of the program.

(3)(a) The Washington advanced college tuition payment program shall consist of the sale of tuition units, which may be redeemed by the beneficiary at a future date for an equal number of tuition units regardless of any increase in the price of tuition, that may have occurred in the interval.

(b) Each purchase shall be worth a specific number of or fraction of tuition units at each state institution of higher education as determined by the board.

(c) The number of tuition units necessary to pay for a full year's, full-time tuition and fee charges at a state institution of higher education shall be set by the board at the time a purchaser enters into a tuition unit contract.

(d) The governing body may limit the number of tuition units purchased by any one purchaser or on behalf of any one beneficiary, however, no limit may be imposed that is less than that necessary to achieve four years of full-time, undergraduate tuition charges at a state institution of higher education. The governing body also may, at its discretion, limit the number of participants, if needed, to ensure the actuarial soundness and integrity of the program.

(4)(a) No tuition unit may be redeemed until two years after the purchase of the unit. Units may be redeemed for enrollment at any institution of higher education.

(b) Units redeemed at a nonstate institution of higher education or for graduate enrollment shall be redeemed at the current weighted average tuition unit in effect at the time of redemption.

(5) The governing body shall determine the conditions under which the tuition benefit may be transferred to another family member. In permitting such transfers, the governing body may not allow the tuition benefit to be bought, sold, bartered, or otherwise exchanged for goods and services by either the beneficiary or the purchaser.

(6) The governing body shall administer the Washington advanced college tuition payment program in a manner reasonably designed to be actuarially sound, such that the assets of the trust will be sufficient to defray the obligations of the trust including the costs of administration. The governing body may, at its discretion, discount the minimum purchase price for certain kinds of purchases such as those from families with young children, as long as the actuarial soundness of the account is not jeopardized.

(7) The governing body shall annually determine current value of a tuition unit and the value of the weighted average tuition unit.

(8) The governing body shall promote, advertise, and publicize the Washington advanced college tuition payment program.

(9) In addition to any other powers conferred by this chapter, the governing body may:

(a) Impose reasonable limits on the number of tuition units or units that may be used in any one year;

(b) Determine and set any time limits, if necessary, for the use of benefits under this chapter;

(c) Impose and collect administrative fees and charges in connection with any transaction under this chapter;

(d) Appoint and use advisory committees as needed to provide program direction and guidance;

(e) Formulate and adopt all other policies and rules necessary for the efficient administration of the program;

(f) Consider the addition of an advanced payment program for room and board contracts and also consider a college savings program;

(g) Purchase insurance from insurers licensed to do business in the state, to provide for coverage against any loss in connection with the account's property, assets, or activities or to further insure the value of the tuition units;

(h) Make, execute, and deliver contracts, conveyances, and other instruments necessary to the exercise and discharge of its powers and duties under this chapter;

(i) Contract for the provision for all or part of the services necessary for the management and operation of the program with other state or nonstate entities authorized to do business in the state;

(j) Contract for other services or for goods needed by the board in the conduct of its business under this chapter;

(k) Employ all personnel as necessary to carry out its responsibilities under this chapter and to fix the compensation of these persons;

(l) Contract with financial consultants, actuaries, auditors, and other consultants as necessary to carry out its responsibilities under this chapter;

(m) Solicit and accept cash donations and grants from any person, governmental agency, private business, or organization; and

(n) Perform all acts necessary and proper to carry out the duties and responsibilities of this program under this chapter.

**NEW SECTION. Sec. 4.** The governing body may, at its discretion, allow an organization to purchase tuition units for future use as scholarships. Such organizations electing to purchase tuition units for this purpose must enter into a contract with the governing body which, at a minimum, ensures that the scholarship shall be freely given by the purchaser to a scholarship recipient. For such purchases, the purchaser need not name a beneficiary until four months before the date when the tuition units are first expected to be used.

The governing body shall formulate and adopt such rules as are necessary to determine which organizations may qualify to purchase tuition units for scholarships under this section. The governing body also may consider additional rules for the use of tuition units if purchased as scholarships.

The governing body may establish a scholarship fund with moneys from the Washington advanced college tuition payment program account. A scholarship fund established under this authority shall be administered by the higher education coordinating board and shall be provided to students who demonstrate financial need. Financial need is not a criterion that any other organization need consider when using tuition units as scholarships. The board also may establish its own corporate-sponsored scholarship fund under this chapter.

**NEW SECTION. Sec. 5.** The Washington advanced college tuition payment program is an essential state governmental function. Contracts with eligible participants shall be contractual obligations legally binding on the state as set forth in this chapter. If, and only if, the moneys in the account are projected to be insufficient to cover the state's contracted expenses for a given biennium, then the

legislature shall appropriate to the account the amount necessary to cover such expenses.

The tuition and fees charged by a state institution of higher education to an eligible beneficiary for a current enrollment shall be paid by the account to the extent the beneficiary has remaining unused tuition units for the appropriate school. The tuition and fees charged to a beneficiary for graduate level enrollments or by a nonstate institution of higher education shall be paid by the account to the extent that the beneficiary has remaining weighted average tuition units.

**NEW SECTION.** Sec. 6. (1) The Washington advanced college tuition payment program account is created in the custody of the state treasurer. The account shall be a discrete nontreasury account retaining its interest earnings in accordance with RCW 43.79A.040.

(2) The governing body shall deposit in the account all money received for the program. The account shall be self-sustaining and consist of payments received from purchasers of tuition units and funds received from other sources, public or private. With the exception of investment and operating costs associated with the investment of money by the investment board paid under RCW 43.33A.160 and 43.84.160, the account shall be credited with all investment income earned by the account. Disbursements from the account are exempt from appropriations and the allotment provisions of chapter 43.88 RCW. Money used for program administration is subject to the allotment and budgetary controls of chapter 43.88 RCW, but no appropriation is required for expenditures.

(3) The assets of the account may be spent for the purpose of making payments to institutions of higher education on behalf of the qualified beneficiaries, making refunds, transfers, or direct payments upon the termination of the Washington advanced college tuition payment program, and paying the costs of administration of the program. Disbursements from the account shall be made only on the authorization of the board.

**NEW SECTION.** Sec. 7. (1) The investment board has the full power to invest, reinvest, manage, contract, sell, or exchange investment money in the account. All investment and operating costs associated with the investment of money shall be paid pursuant to RCW 43.33A.160 and 43.84.160. With the exception of these expenses, the earnings from the investment of the money shall be retained by the account.

(2) All investments made by the investment board shall be made with the exercise of that degree of judgment and care pursuant to RCW 43.33A.140 and the investment policy established by the state investment board.

(3) As deemed appropriate by the investment board, money in the account may be commingled for investment with other funds subject to investment by the board.

(4) The authority to establish all policies relating to the account, other than the investment policies as set forth in subsections (1) through (3) of this section, resides with the board. With the exception of expenses of the investment board set

forth in subsection (1) of this section, disbursements from the account shall be made only on the authorization of the governing body, and money in the account may be spent only for the purposes of the program as specified in this chapter.

(5) The investment board shall routinely consult and communicate with the governing body on the investment policy, earnings of the trust, and related needs of the program.

**NEW SECTION. Sec. 8.** The governing body shall annually evaluate, and cause to be evaluated by a nationally recognized actuary, the soundness of the account and determine the additional assets needed, if any, to defray the obligations of the account.

If funds are not sufficient to ensure the actuarial soundness of the account, the governing body shall adjust the price of subsequent tuition credit purchases to ensure its soundness.

If there are insufficient numbers of new purchases to ensure the actuarial soundness of the account, the governing body shall request such funds from the legislature as are required to ensure the integrity of the program. Funds may be appropriated directly to the account or appropriated under the condition that they be repaid at a later date. The repayment shall be made at such time that the account is again determined to be actuarially sound.

**NEW SECTION. Sec. 9.** (1) In the event that the state determines that the program is not financially feasible, or for any other reason, the state may declare the discontinuance of the program. At the time of such declaration, the governing body will cease to accept any further tuition unit contracts or purchases.

(2) The remaining tuition units for all beneficiaries who have either enrolled in higher education or who are within four years of graduation from a secondary school shall be honored until such tuition units have been exhausted, or for ten fiscal years from the date that the program has been discontinued, whichever comes first. All other contract holders shall receive a refund equal to the value of the current weighted average tuition units in effect at the time that the program was declared discontinued.

(3) At the end of the ten-year period, any tuition units remaining unused by currently active beneficiaries enrolled in higher education shall be refunded at the value of the current weighted average tuition unit in effect at the end of that ten-year period.

(4) At the end of the ten-year period, all other funds remaining in the account not needed to make refunds or to pay for administrative costs shall be deposited to the state general fund.

(5) The governing body may make refunds under other exceptional circumstances as it deems fit, however, no tuition units may be honored after the end of the tenth fiscal year following the declaration of discontinuance of the program.

**NEW SECTION. Sec. 10.** (1) The committee, in planning and devising the program, shall consult with the investment board, the state treasurer, the state

actuary, the office of financial management, and the institutions of higher education.

(2) The governing body may seek the assistance of the state agencies named in subsection (1) of this section, private financial institutions, and any other qualified party with experience in the areas of accounting, actuary, risk management, or investment management to assist with preparing an accounting of the program and ensuring the fiscal soundness of the account.

(3) State agencies and public institutions of higher education shall fully cooperate with the governing body in matters relating to the program in order to ensure the solvency of the account and ability of the governing body to meet outstanding commitments.

**NEW SECTION. Sec. 11.** This chapter shall not be construed as a promise that any beneficiary shall be granted admission to any institution of higher education, will earn any specific or minimum number of academic credits, or will graduate from any such institution. In addition, this chapter shall not be construed as a promise of either course or program availability.

Participation in this program does not guarantee an eligible beneficiary the right to resident tuition and fees. To qualify for resident and respective tuition subsidies, the eligible beneficiary must meet the applicable provisions of RCW 28B.15.011 through 28B.15.015.

This chapter shall not be construed to imply that the redemption of tuition units shall be equal to any value greater than the undergraduate tuition and services and activities fees at a state institution of higher education as computed under this chapter. Eligible beneficiaries will be responsible for payment of any other fee that does not qualify as a services and activities fee including, but not limited to, any expenses for tuition surcharges, tuition overload fees, laboratory fees, equipment fees, book fees, rental fees, room and board charges, or fines.

**NEW SECTION. Sec. 12.** (1) The intent of the Washington advanced college tuition payment program is to redeem tuition units for attendance at an institution of higher education. Refunds shall be issued under specific conditions that may include the following:

(a) Certification that the beneficiary, who is eighteen years of age or older, will not attend an institution of higher education, will result in a refund not to exceed ninety-five percent of the current weighted average tuition and fees in effect at the time of such certification. No more than one hundred tuition units may be refunded per year to any individual making this certification. The refund shall be made no sooner than ninety days after such certification, less any administrative processing fees assessed by the governing body. The governing body may, at its discretion, impose a greater penalty;

(b) If there is certification of the death or disability of the beneficiary, the refund shall be equal to one hundred percent of any remaining unused tuition units valued at the current weighted average tuition units at the time that such

certification is submitted to the board, less any administrative processing fees assessed by the board;

(c) If there is certification by the student of graduation or program completion, the refund may be as great as one hundred percent of any remaining unused weighted average tuition units at the time that such certification is submitted to the governing body, less any administrative processing fees assessed by the governing body. The governing body may, at its discretion, impose a penalty if needed to comply with federal tax rules;

(d) Certification of other tuition and fee scholarships, which will cover the cost of tuition for the eligible beneficiary. The refund shall be equal to one hundred percent of the current weighted average tuition units in effect at the time of the refund request, plus any administrative processing fees assessed by the governing body. The refund under this subsection may not exceed the value of the scholarship;

(e) Incorrect or misleading information provided by the purchaser or beneficiaries may result in a refund of the purchaser's investment, less any administrative processing fees assessed by the governing body. The value of the refund will not exceed the actual dollar value of the purchaser's contributions; and

(f) The governing body may determine other circumstances qualifying for refunds of remaining unused tuition units and may determine the value of that refund.

(2) With the exception of subsection (1)(b) and (e) of this section no refunds may be made before the beneficiary is at least eighteen years of age.

**Sec. 13.** RCW 43.79A.040 and 1996 c 253 s 409 are each 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 advanced college tuition payment program account, the agricultural local fund, the American Indian scholarship endowment fund, the Washington international exchange scholarship endowment fund, the energy account, the fair fund, the game farm alternative account, the grain inspection revolving fund, the rural rehabilitation account, and the self-insurance revolving fund. However, the earnings to be distributed shall first be reduced by the allocation to the state treasurer's service fund pursuant to RCW 43.08.190.

(c) The following accounts and funds shall receive eighty percent of their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The advanced right of way revolving fund, the federal narcotics asset forfeitures account, the high occupancy vehicle account, and the local rail service assistance 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. 14. Sections 1 through 12 of this act constitute a new chapter in Title 28B RCW.

Passed the House April 19, 1997.

Passed the Senate April 15, 1997.

Approved by the Governor May 7, 1997.

Filed in Office of Secretary of State May 7, 1997.

## CHAPTER 290

[Substitute House Bill 1985]

### FOREST PRACTICES LANDSCAPE MANAGEMENT PLAN PILOT PROJECTS

AN ACT Relating to forest practices landscape management plan pilot projects; amending RCW 76.09.060, 75.20.100, and 76.09.220; adding new sections to chapter 76.09 RCW; and creating a new section.

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

NEW SECTION. Sec. 1. A new section is added to chapter 76.09 RCW to read as follows:

The legislature recognizes the importance of providing the greatest diversity of habitats, particularly riparian, wetland, and old growth habitats, and of assuring the greatest diversity of species within those habitats for the survival and reproduction of enough individuals to maintain the native wildlife of Washington forest lands. The legislature also recognizes the importance of long-term habitat productivity for natural and wild fish, for the protection of hatchery water supplies, and for the protection of water quality and quantity to meet the needs of people, fish, and wildlife. The legislature recognizes the importance of maintaining and enhancing fish and wildlife habitats capable of sustaining the commercial and noncommercial uses of fish and wildlife. The legislature further recognizes the importance of the continued growth and development of the state's forest products

industry which has a vital stake in the long-term productivity of both the public and private forest land base.

The development of a landscape planning system would help achieve these goals. Landowners and resource managers should be provided incentives to voluntarily develop long-term multispecies landscape management plans that will provide protection to public resources. Because landscape planning represents a departure from the use of standard baseline rules and may result in unintended consequences to both the affected habitats and to a landowner's economic interests, the legislature desires to establish up to seven experimental pilot programs to gain experience with landscape planning that may prove useful in fashioning legislation of a more general application.

(1) Until December 31, 2000, the department in cooperation with the department of fish and wildlife, and the department of ecology when relating to water quality protection, is granted authority to select not more than seven pilot projects for the purpose of developing individual landowner multispecies landscape management plans.

(a) Pilot project participants must be selected by the department in cooperation with the department of fish and wildlife, and the department of ecology when relating to water quality protection, no later than October 1, 1997.

(b) The number and the location of the pilot projects are to be determined by the department in cooperation with the department of fish and wildlife, and the department of ecology when relating to water quality protection, and should be selected on the basis of risk to the habitat and species, variety and importance of species and habitats in the planning area, geographic distribution, surrounding ownership, other ongoing landscape and watershed planning activities in the area, potential benefits to water quantity and quality, financial and staffing capabilities of participants, and other factors that will contribute to the creation of landowner multispecies landscape planning efforts.

(c) Each pilot project shall have a landscape management plan with the following elements:

(i) An identification of public resources selected for coverage under the plan and measurable objectives for the protection of the selected public resources;

(ii) A termination date of not later than 2050;

(iii) A general description of the planning area including its geographic location, physical and biological features, habitats, and species known to be present;

(iv) An identification of the existing forest practices rules that will not apply during the term of the plan;

(v) Proposed habitat management strategies or prescriptions;

(vi) A projection of the habitat conditions likely to result from the implementation of the specified management strategies or prescriptions;

(vii) An assessment of habitat requirements and the current habitat conditions of representative species included in the plan;

(viii) An assessment of potential or likely impacts to representative species resulting from the prescribed forest practices;

(ix) A description of the anticipated benefits to those species or other species as a result of plan implementation;

(x) A monitoring plan;

(xi) Reporting requirements including a schedule for review of the plan's performance in meeting its objectives;

(xii) Conditions under which a plan may be modified, including a procedure for adaptive management;

(xiii) Conditions under which a plan may be terminated;

(xiv) A procedure for adaptive management that evaluates the effectiveness of the plan to meet its measurable public resources objectives, reflects changes in the best available science, and provides changes to its habitat management strategies, prescriptions, and hydraulic project standards to the extent agreed to in the plan and in a timely manner and schedule;

(xv) A description of how the plan relates to publicly available plans of adjacent federal, state, tribal, and private timberland owners; and

(xvi) A statement of whether the landowner intends to apply for approval of the plan under applicable federal law.

(2) Until December 31, 2000, the department, in agreement with the department of fish and wildlife, and the department of ecology when the landowner elects to cover water quality in the plan, shall approve a landscape management plan and enter into a binding implementation agreement with the landowner when such departments find, based upon the best scientific data available, that:

(a) The plan contains all of the elements required under this section including measurable public resource objectives;

(b) The plan is expected to be effective in meeting those objectives;

(c) The landowner has sufficient financial resources to implement the management strategies or prescriptions to be implemented by the landowner under the plan;

(d) The plan will:

(i) Provide better protection than current state law for the public resources selected for coverage under the plan considered in the aggregate; and

(ii) Compared to conditions that could result from compliance with current state law:

(A) Not result in poorer habitat conditions over the life of the plan for any species selected for coverage that is listed as threatened or endangered under federal or state law, or that has been identified as a candidate for such listing, at the time the plan is approved; and

(B) Measurably improve habitat conditions for species selected for special consideration under the plan;

(e) The plan shall include watershed analysis or provide for a level of protection that meets or exceeds the protection that would be provided by

watershed analysis, if the landowner selects fish or water quality as a public resource to be covered under the plan. Any alternative process to watershed analysis would be subject to timely peer review;

(f) The planning process provides for a public participation process during the development of the plan, which shall be developed by the department in cooperation with the landowner.

The management plans must be submitted to the department and the department of fish and wildlife, and the department of ecology when the landowner elects to cover water quality in the plan, no later than March 1, 2000. The department shall provide an opportunity for public comment on the proposed plan. The comment period shall not be less than forty-five days. The department shall approve or reject plans within one hundred twenty days of submittal by the landowner of a final plan. The decision by the department, in agreement with the department of fish and wildlife, and the department of ecology when the landowner has elected to cover water quality in the plan, to approve or disapprove the management plan is subject to the environmental review process of chapter 43.21C RCW, provided that any public comment period provided for under chapter 43.21C RCW shall run concurrently with the public comment period provided in this subsection (2).

(3) After a landscape management plan is adopted:

(a) Forest practices consistent with the plan need not comply with:

(i) The specific forest practices rules identified in the plan; and

(ii) Any forest practice rules and policies adopted after the approval of the plan to the extent that the rules:

(A) Have been adopted primarily for the protection of a public resource selected for coverage under the plan; or

(B) Provide for procedural or administrative obligations inconsistent with or in addition to those provided for in the plan with respect to those public resources; and

(b) If the landowner has selected fish as one of the public resources to be covered under the plan, the plan shall serve as the hydraulic project approval for the life of the plan, in compliance with RCW 75.20.100.

(4) The department is authorized to issue a single landscape level permit valid for the life of the plan to a landowner who has an approved landscape management plan and who has requested a landscape permit from the department. Landowners receiving a landscape level permit shall meet annually with the department and the department of fish and wildlife, and the department of ecology where water quality has been selected as a public resource to be covered under the plan, to review the specific forest practices activities planned for the next twelve months and to determine whether such activities are in compliance with the plan. The departments will consult with the affected Indian tribes and other interested parties who have expressed an interest in connection with the review. The landowner is to provide ten calendar days' notice to the department prior to the commencement

of any forest practices authorized under a landscape level permit. The landscape level permit will not impose additional conditions relating to the public resources selected for coverage under the plan beyond those agreed to in the plan. For the purposes of chapter 43.21C RCW, forest practices conducted in compliance with an approved plan are deemed not to have the potential for a substantial impact on the environment as to any public resource selected for coverage under the plan.

(5) Except as otherwise provided in a plan, the agreement implementing the landscape management plan is an agreement that runs with the property covered by the approved landscape management plan and the department shall record notice of the plan in the real property records of the counties in which the affected properties are located. Prior to its termination, no plan shall permit forest land covered by its terms to be withdrawn from such coverage, whether by sale, exchange, or other means, nor to be converted to nonforestry uses except to the extent that such withdrawal or conversion would not measurably impair the achievement of the plan's stated public resource objectives. If a participant transfers all or part of its interest in the property, the terms of the plan still apply to the new landowner for the plan's stated duration unless the plan is terminated under its terms or unless the plan specifies the conditions under which the terms of the plan do not apply to the new landowner.

(6) The departments of natural resources, fish and wildlife, and ecology shall seek to develop memorandums of agreements with federal agencies and affected Indian tribes relating to tribal issues in the landscape management plans. The departments shall solicit input from affected Indian tribes in connection with the selection, review, and approval of any landscape management plan. If any recommendation is received from an affected Indian tribe and is not adopted by the departments, the departments shall provide a written explanation of their reasons for not adopting the recommendation.

(7) The department is directed to report to the forest practices board annually through the year 2000, but no later than December 31st of each year, on the status of each pilot project. The department is directed to provide to the forest practices board, no later than December 31, 2000, an evaluation of the pilot projects including a determination if a permanent landscape planning process should be established along with a discussion of what legislative and rule modifications are necessary.

**NEW SECTION. Sec. 2.** A new section is added to chapter 76.09 RCW to read as follows:

The department together with the department of fish and wildlife, and the department of ecology relating to water quality protection, shall develop a suitable process to permit landowners to secure all permits required for the conduct of forest practices in a single multiyear permit to be jointly issued by the departments and the departments shall report their findings to the legislature not later than December 31, 2000.

**Sec. 3.** RCW 76.09.060 and 1993 c 443 s 4 are each amended to read as follows:

(1) The department shall prescribe the form and contents of the notification and application. The forest practices rules shall specify by whom and under what conditions the notification and application shall be signed or otherwise certified as acceptable. The application or notification shall be delivered in person to the department, sent by first class mail to the department or electronically filed in a form defined by the department. The form for electronic filing shall be readily convertible to a paper copy, which shall be available to the public pursuant to chapter 42.17 RCW. The information required may include, but is not limited to:

- (a) Name and address of the forest landowner, timber owner, and operator;
- (b) Description of the proposed forest practice or practices to be conducted;
- (c) Legal description of the land on which the forest practices are to be conducted;
- (d) Planimetric and topographic maps showing location and size of all lakes and streams and other public waters in and immediately adjacent to the operating area and showing all existing and proposed roads and major tractor roads;
- (e) Description of the silvicultural, harvesting, or other forest practice methods to be used, including the type of equipment to be used and materials to be applied;
- (f) Proposed plan for reforestation and for any revegetation necessary to reduce erosion potential from roadsides and yarding roads, as required by the forest practices rules;
- (g) Soil, geological, and hydrological data with respect to forest practices;
- (h) The expected dates of commencement and completion of all forest practices specified in the application;
- (i) Provisions for continuing maintenance of roads and other construction or other measures necessary to afford protection to public resources;
- (j) An affirmation that the statements contained in the notification or application are true; and
- (k) All necessary application or notification fees.

(2) Long range plans may be submitted to the department for review and consultation.

(3) The application for a forest practice or the notification of a class II forest practice shall indicate whether any land covered by the application or notification will be converted or is intended to be converted to a use other than commercial timber production within three years after completion of the forest practices described in it.

(a) If the application states that any such land will be or is intended to be so converted:

(i) The reforestation requirements of this chapter and of the forest practices rules shall not apply if the land is in fact so converted unless applicable alternatives or limitations are provided in forest practices rules issued under RCW 76.09.070 as now or hereafter amended;

(ii) Completion of such forest practice operations shall be deemed conversion of the lands to another use for purposes of chapters 84.33 and 84.34 RCW unless the conversion is to a use permitted under a current use tax agreement permitted under chapter 84.34 RCW;

(iii) The forest practices described in the application are subject to applicable county, city, town, and regional governmental authority permitted under RCW 76.09.240 as now or hereafter amended as well as the forest practices rules.

(b) If the application or notification does not state that any land covered by the application or notification will be or is intended to be so converted:

(i) For six years after the date of the application the county, city, town, and regional governmental entities may deny any or all applications for permits or approvals, including building permits and subdivision approvals, relating to nonforestry uses of land subject to the application;

(ii) Failure to comply with the reforestation requirements contained in any final order or decision shall constitute a removal of designation under the provisions of RCW 84.33.140, and a change of use under the provisions of RCW 84.34.080, and, if applicable, shall subject such lands to the payments and/or penalties resulting from such removals or changes; and

(iii) Conversion to a use other than commercial timber operations within three years after completion of the forest practices without the consent of the county, city, or town shall constitute a violation of each of the county, municipal city, town, and regional authorities to which the forest practice operations would have been subject if the application had so stated.

(c) The application or notification shall be either signed by the landowner or accompanied by a statement signed by the landowner indicating his or her intent with respect to conversion and acknowledging that he or she is familiar with the effects of this subsection.

(4) Whenever an approved application authorizes a forest practice which, because of soil condition, proximity to a water course or other unusual factor, has a potential for causing material damage to a public resource, as determined by the department, the applicant shall, when requested on the approved application, notify the department two days before the commencement of actual operations.

(5) Before the operator commences any forest practice in a manner or to an extent significantly different from that described in a previously approved application or notification, there shall be submitted to the department a new application or notification form in the manner set forth in this section.

(6) Except as provided in section 1(4) of this act, the notification to or the approval given by the department to an application to conduct a forest practice shall be effective for a term of two years from the date of approval or notification and shall not be renewed unless a new application is filed and approved or a new notification has been filed. At the option of the applicant, an application or notification may be submitted to cover a single forest practice or a number of forest practices within reasonable geographic or political boundaries as specified by the

department. An application or notification that covers more than one forest practice may have an effective term of more than two years. The board shall adopt rules that establish standards and procedures for approving an application or notification that has an effective term of more than two years. Such rules shall include extended time periods for application or notification approval or disapproval. On an approved application with a term of more than two years, the applicant shall inform the department before commencing operations.

(7) Notwithstanding any other provision of this section, no prior application or notification shall be required for any emergency forest practice necessitated by fire, flood, windstorm, earthquake, or other emergency as defined by the board, but the operator shall submit an application or notification, whichever is applicable, to the department within forty-eight hours after commencement of such practice.

**Sec. 4.** RCW 75.20.100 and 1993 sp.s. c 2 s 30 are each amended to read as follows:

In the event that any person or government agency desires to construct any form of hydraulic project or perform other work that will use, divert, obstruct, or change the natural flow or bed of any of the salt or fresh waters of the state, such person or government agency shall, before commencing construction or work thereon and to ensure the proper protection of fish life, secure the written approval of the department as to the adequacy of the means proposed for the protection of fish life. This approval shall not be unreasonably withheld. Except as provided in RCW 75.20.1001 (~~and 75.20.1002~~), the department shall grant or deny approval within forty-five calendar days of the receipt of a complete application and notice of compliance with any applicable requirements of the state environmental policy act, made in the manner prescribed in this section. The applicant may document receipt of application by filing in person or by registered mail. A complete application for approval shall contain general plans for the overall project, complete plans and specifications of the proposed construction or work within the mean higher high water line in salt water or within the ordinary high water line in fresh water, and complete plans and specifications for the proper protection of fish life. The forty-five day requirement shall be suspended if (1) after ten working days of receipt of the application, the applicant remains unavailable or unable to arrange for a timely field evaluation of the proposed project; (2) the site is physically inaccessible for inspection; or (3) the applicant requests delay. Immediately upon determination that the forty-five day period is suspended, the department shall notify the applicant in writing of the reasons for the delay. Approval is valid for a period of up to five years from date of issuance. The permittee must demonstrate substantial progress on construction of that portion of the project relating to the approval within two years of the date of issuance. If the department denies approval, the department shall provide the applicant, in writing, a statement of the specific reasons why and how the proposed project would adversely affect fish life. Protection of fish life shall be the only ground upon which approval may be denied or conditioned. Chapter 34.05 RCW applies to any

denial of project approval, conditional approval, or requirements for project modification upon which approval may be contingent. If any person or government agency commences construction on any hydraulic works or projects subject to this section without first having obtained written approval of the department as to the adequacy of the means proposed for the protection of fish life, or if any person or government agency fails to follow or carry out any of the requirements or conditions as are made a part of such approval, the person or director of the agency is guilty of a gross misdemeanor. If any such person or government agency is convicted of violating any of the provisions of this section and continues construction on any such works or projects without fully complying with the provisions hereof, such works or projects are hereby declared a public nuisance and shall be subject to abatement as such.

For the purposes of this section and RCW 75.20.103, "bed" shall mean the land below the ordinary high water lines of state waters. This definition shall not include irrigation ditches, canals, storm water run-off devices, or other artificial watercourses except where they exist in a natural watercourse that has been altered by man.

The phrase "to construct any form of hydraulic project or perform other work" shall not include the act of driving across an established ford. Driving across streams or on wetted stream beds at areas other than established fords requires approval. Work within the ordinary high water line of state waters to construct or repair a ford or crossing requires approval.

In case of an emergency arising from weather or stream flow conditions or other natural conditions, the department, through its authorized representatives, shall issue immediately upon request oral approval for removing any obstructions, repairing existing structures, restoring stream banks, or to protect property threatened by the stream or a change in the stream flow without the necessity of obtaining a written approval prior to commencing work. Conditions of an oral approval shall be reduced to writing within thirty days and complied with as provided for in this section. Oral approval shall be granted immediately upon request, for a stream crossing during an emergency situation.

This section shall not apply to the construction of any form of hydraulic project or other work which diverts water for agricultural irrigation or stock watering purposes authorized under or recognized as being valid by the state's water codes, or when such hydraulic project or other work is associated with streambank stabilization to protect farm and agricultural land as defined in RCW 84.34.020. These irrigation or stock watering diversion and streambank stabilization projects shall be governed by RCW 75.20.103.

A landscape management plan approved by the department and the department of natural resources under section 1(2) of this act, shall serve as a hydraulic project approval for the life of the plan if fish are selected as one of the public resources for coverage under such a plan.

Sec. 5. RCW 76.09.220 and 1989 c 175 s 164 are each amended to read as follows:

(1) The appeals board shall operate on either a part-time or a full-time basis, as determined by the governor. If it is determined that the appeals board shall operate on a full-time basis, each member shall receive an annual salary to be determined by the governor. If it is determined that the appeals board shall operate on a part-time basis, each member shall be compensated in accordance with RCW 43.03.240(~~(+ PROVIDED, That)~~). However, such compensation shall not exceed ten thousand dollars in a fiscal year. Each member shall receive reimbursement for travel expenses incurred in the discharge of his duties in accordance with the provisions of RCW 43.03.050 and 43.03.060.

(2) The appeals board shall as soon as practicable after the initial appointment of the members thereof, meet and elect from among its members a (~~chairman~~) chair, and shall at least biennially thereafter meet and elect or reelect a (~~chairman~~) chair.

(3) The principal office of the appeals board shall be at the state capital, but it may sit or hold hearings at any other place in the state. A majority of the appeals board shall constitute a quorum for making orders or decisions, promulgating rules and regulations necessary for the conduct of its powers and duties, or transacting other official business, and may act though one position on the board be vacant. One or more members may hold hearings and take testimony to be reported for action by the board when authorized by rule or order of the board. The appeals board shall perform all the powers and duties granted to it in this chapter or as otherwise provided by law.

(4) The appeals board shall make findings of fact and prepare a written decision in each case decided by it, and such findings and decision shall be effective upon being signed by two or more members and upon being filed at the appeals board's principal office, and shall be open to public inspection at all reasonable times.

(5) The appeals board shall either publish at its expense or make arrangements with a publishing firm for the publication of those of its findings and decisions which are of general public interest, in such form as to assure reasonable distribution thereof.

(6) The appeals board shall maintain at its principal office a journal which shall contain all official actions of the appeals board, with the exception of findings and decisions, together with the vote of each member on such actions. The journal shall be available for public inspection at the principal office of the appeals board at all reasonable times.

(7) The forest practices appeals board shall have exclusive jurisdiction to hear appeals arising from an action or determination by the department, and the department of fish and wildlife, and the department of ecology with respect to management plans provided for under section 1 of this act.

(8)(a) Any person aggrieved by the approval or disapproval of an application to conduct a forest practice or the approval or disapproval of any landscape plan or permit may seek review from the appeals board by filing a request for the same within thirty days of the approval or disapproval. Concurrently with the filing of any request for review with the board as provided in this section, the requestor shall file a copy of his or her request with the department and the attorney general. The attorney general may intervene to protect the public interest and ~~((insure))~~ ensure that the provisions of this chapter are complied with.

(b) The review proceedings authorized in ~~((subparagraph))~~ (a) of this subsection are subject to the provisions of chapter 34.05 RCW pertaining to procedures in adjudicative proceedings.

***\*NEW SECTION. Sec. 6. If specific funding for purposes of this act, referencing this act by bill or chapter number, is not provided by Junc 30, 1997, in the omnibus appropriations act, this act is null and void.***

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

Passed the House March 15, 1997.

Passed the Senate April 14, 1997.

Approved by the Governor May 9, 1997, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State May 9, 1997.

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

"I am returning herewith, without my approval as to section 6, Substitute House Bill No. 1985 entitled:

"AN ACT Relating to forest practices landscape management plan pilot projects;"

Section 6 of SHB 1985 contains a "null and void" clause, making this bill contingent upon funding being provided in the budget. The budget does contain full funding for implementation of this bill. However, approximately 65% of the funding requested by the agencies is provided in the budget. I believe that with good, efficient work, the majority of the important pilot projects authorized by this legislation can be completed with the limited funding.

For this reason, I have vetoed section 6 of Substitute House Bill No. 1985.

With the exception of section 6, I am approving Substitute House Bill No. 1985."

---

## CHAPTER 291

[Substitute House Bill 1008]

### LICENSE PLATES

AN ACT Relating to license plates; amending RCW 46.16.270, 46.16.290, 46.16.301, 46.16.305, 46.16.309, 46.16.313, 46.16.316, 46.16.350, and 46.16.650; adding new sections to chapter 46.16 RCW; and creating a new section.

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

**NEW SECTION. Sec. 1.** The legislature finds that the proliferation of special license plate series has decreased the ready identification of vehicles by law enforcement, and increased the amount of computer programming conducted by the department of licensing, thereby increasing costs. Furthermore, rarely has the actual demand for special license plates met the requesters' projections. Most

importantly, special plates detract from the primary purpose of license plates, that of vehicle identification.

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

Except for those license plates issued under RCW 46.16.305(1) before January 1, 1987, under RCW 46.16.305(3), and to commercial vehicles with a gross weight in excess of twenty-six thousand pounds, effective with vehicle registrations due or to become due on January 1, 2001, all vehicle license plates must be issued on a standard background, as designated by the department. Additionally, to ensure maximum legibility and reflectivity, the department shall periodically provide for the replacement of license plates. Frequency of replacement shall be established in accordance with empirical studies documenting the longevity of the reflective materials used to make license plates.

**Sec. 3.** RCW 46.16.270 and 1990 c 250 s 32 are each amended to read as follows:

~~((Replacement plates issued after January 1, 1987, will be centennial plates as described in RCW 46.16.650.))~~ The total replacement plate fee ~~((including the one dollar per plate centennial plate fee))~~ shall be deposited in the motor vehicle fund.

Upon the loss, defacement, or destruction of one or both of the vehicle license number plates issued for any vehicle where more than one plate was originally issued or where one or both have become so illegible or in such a condition as to be difficult to distinguish, or upon the owner's option, the owner of the vehicle shall make application for new vehicle license number plates upon a form furnished by the director. The application shall be filed with the director or the director's authorized agent, accompanied by the certificate of license registration of the vehicle and a fee in the amount of three dollars per plate, whereupon the director, or the director's authorized agent, shall issue new vehicle license number plates to the applicant. It shall be accompanied by a fee of two dollars for a new motorcycle license number plate. In the event the director has issued license period tabs or a windshield emblem instead of vehicle license number plates, and upon the loss, defacement, or destruction of the tabs or windshield emblem, application shall be made on a form provided by the director and in the same manner as above described, and shall be accompanied by a fee of one dollar for each pair of tabs or for each windshield emblem, whereupon the director shall issue to the applicant a duplicate pair of tabs, year tabs, and when necessary month tabs or a windshield emblem to replace those lost, defaced, or destroyed. For vehicles owned, rented, or leased by the state of Washington or by any county, city, town, school district, or other political subdivision of the state of Washington or United States government, or owned or leased by the governing body of an Indian tribe as defined in RCW 46.16.020, a fee shall be charged for replacement of a vehicle license number plate only to the extent required by the provisions of RCW 46.16.020, 46.16.061, 46.16.237, and 46.01.140. For vehicles owned, rented, or leased by foreign countries or international bodies to which the United States

government is a signatory by treaty, the payment of any fee for the replacement of a vehicle license number plate shall not be required.

**Sec. 4.** RCW 46.16.290 and 1986 c 18 s 18 are each amended to read as follows:

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. 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, ~~((or))~~ prisoner of war plates, or other special license plates issued under RCW 46.16.301 as it existed before amendment by section 5 of this act, 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. 5.** RCW 46.16.301 and 1995 3rd sp.s. c 1 s 102 are each amended to read as follows:

~~((1) The department may create, design, and issue special license plates that may be used in lieu of regular or personalized license plates for motor vehicles required to display two motor vehicle license plates, excluding vehicles registered under chapter 46.87 RCW, upon terms and conditions established by the department. The special plates may:~~

- ~~— (a) Denote the age or type of vehicle; or~~
- ~~— (b) Denote special activities or interests; or~~
- ~~— (c) Denote the status, or contribution or sacrifice for the United States, the state of Washington, or the citizens of the state of Washington, of a registered owner of that vehicle; or~~
- ~~— (d) Display a depiction of the name and mascot or symbol of a state university, regional university, or state college as defined in RCW 28B.10.016.~~

~~((2)) The department shall create, design, and issue a special baseball stadium license plate that may be used in lieu of regular or personalized license plates for motor vehicles required to display two motor vehicle license plates, excluding vehicles registered under chapter 46.87 RCW, upon terms and conditions established by the department. The special plates shall commemorate the construction of a baseball stadium, as defined in RCW 82.14.0485. The department shall also issue to each recipient of a special baseball stadium license plate a certificate of participation in the construction of the baseball stadium.~~

~~((3) The department has the sole discretion to determine whether or not to create, design, or issue any series of special license plates, other than the special baseball stadium license plate under subsection (2) of this section, and whether any~~

~~interest or status merits the issuance of a series of special license plates. In making this determination, the department shall consider whether or not an interest or status contributes or has contributed significantly to the public health, safety, or welfare of the citizens of the United States or of this state or to their significant benefit, or whether the interest or status is recognized by the United States, this state, or other states, in other settings or contexts. The department may also consider the potential number of persons who may be eligible for the plates and the cost and efficiency of producing limited numbers of the plates. The design of a special license plate shall conform to all requirements for plates for the type of vehicle for which it is issued, as provided elsewhere in this chapter.)~~

Sec. 6. RCW 46.16.305 and 1990 c 250 s 2 are each amended to read as follows:

The department shall continue to issue ~~((, under RCW 46.16.301 and the department's rules implementing RCW 46.16.301 through 46.16.332,))~~ the categories of special plates issued by the department under the sections repealed under section ~~((13))~~ 12 (1) through (7), chapter 250, Laws of 1990. Special license plates issued under those repealed sections before January 1, 1991, are valid to the extent and under the conditions provided in those repealed sections. The following conditions, limitations, or requirements apply to certain special license plates issued after January 1, 1991:

(1) A horseless carriage plate and a plate or plates issued for collectors' vehicles more than thirty years old, upon payment of the initial fees required by law and the additional special license plate fee established by the department, are valid for the life of the vehicle for which application is approved by the department. When a single plate is issued, it shall be displayed on the rear of the vehicle.

(2) The department may issue special license plates denoting amateur radio operator status only to persons having a valid official radio operator license issued ~~((for a term of five years))~~ by the federal communications commission.

(3) The department shall issue one set of special license plates to each resident of this state who has been awarded the Congressional Medal of Honor for use on a passenger vehicle registered to that person. The department shall issue the plate without the payment of ~~((any))~~ licensing fees and motor vehicle excise tax.

(4) The department may issue for use on only one motor vehicle owned by the qualified applicant special license plates denoting that the recipient of the plate is a survivor of the attack on Pearl Harbor on December 7, 1941, to persons meeting all of the following criteria:

- (a) Is a resident of this state;
- (b) Was a member of the United States Armed Forces on December 7, 1941;
- (c) Was on station on December 7, 1941, during the hours of 7:55 a.m. to 9:45 a.m. Hawaii time at Pearl Harbor, the island of Oahu, or offshore at a distance not to exceed three miles;

(d) Received an honorable discharge from the United States Armed Forces; and

(e) Is certified by a Washington state chapter of the Pearl Harbor survivors association as satisfying the qualifications in (c) of this subsection.

The department may issue such plates to the surviving spouse of any deceased Pearl Harbor survivor who met the requirements of this subsection. If the surviving spouse remarries, he or she shall return the special plates to the department within fifteen days and apply for regular plates. The surviving spouse must be a resident of this state.

The department shall issue these plates upon payment by the applicant of all other license fees, but the department may not set or charge an additional fee for these special license plates (~~under RCW 46.16.313~~).

(5) The department shall replace, free of charge, special license plates issued under subsections (3) and (4) of this section if they are lost, stolen, damaged, defaced, or destroyed. Such plates shall remain with the persons upon transfer or other disposition of the vehicle for which they were initially issued, and may be used on another vehicle registered to the recipient in accordance with the provisions of RCW 46.16.316(1).

**Sec. 7.** RCW 46.16.309 and 1990 c 250 s 3 are each amended to read as follows:

Persons applying to the department for special license plates shall apply on forms obtained from the department and in accordance with RCW 46.16.040. The applicant shall provide all information as is required by the department in order to determine the applicant's eligibility for ~~((such))~~ the special license plates ~~((and for administration of RCW 46.16.301 through 46.16.332))~~.

**Sec. 8.** RCW 46.16.313 and 1996 c 165 s 506 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 of this act, 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 ((and)), 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) ~~((Except as set forth under subsection (4) of this section,))~~ 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((-and renewal registration)) of a motor vehicle, the holder of a special baseball stadium license plate shall pay ((a)) an initial fee of ((thirty)) forty dollars. The department shall deduct an amount not to exceed ((two)) 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.

~~((4) Until June 30, 1997)) (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 ((application, registration, and)) renewal ((registration)) of a motor vehicle registration, the holder of a special baseball stadium license plate shall pay a fee of ((forty)) thirty dollars. The department shall deduct an amount not to exceed ((twelve)) two dollars of each fee collected under this subsection for ((license plate)) 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.

**NEW SECTION. Sec. 9.** A new section is added to chapter 46.16 RCW to read as follows:

After a period of three years from the initial issuance of a special license plate series, the department has the sole discretion, based upon the number of sales to date, to determine whether or not to continue issuing the special series.

**Sec. 10.** RCW 46.16.316 and 1990 c 250 s 5 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 RCW 46.16.301 as it existed before amendment by section 5 of this act, 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.

**Sec. 11.** RCW 46.16.350 and 1990 c 250 s 11 are each amended to read as follows:

Any radio amateur operator who holds a special call letter license plate as issued under RCW ~~((46.16.301 through 46.16.316))~~ 46.16.305, and who has allowed his or her federal communications commission license to expire, or has had it revoked, must notify the director in writing within thirty days and surrender his or her call letter license plate. Failure to do so is a traffic infraction.

**Sec. 12.** RCW 46.16.650 and 1987 c 178 s I are each amended to read as follows:

~~((In order to help publicize and commemorate the state's 1989 anniversary celebration of its admission to the Union, a new centennial design shall be developed by the department for vehicle license plates that uses reflectorized materials necessary to provide adequate visibility and legibility at night.~~

~~—The centennial plates shall be developed in cooperation with the design selection committee appointed by the director. The committee shall include representation from the Washington centennial commission.~~

~~Registration numbers and letters for the centennial plate shall be assigned by the department in accordance with established procedures. Distribution of the centennial license plates shall commence January 1, 1987, to all new vehicle registrations and license plate replacements. In addition, the centennial plate shall be available for purchase by all other vehicle owners at the owner's option.~~

~~Revenues generated from the centennial plate shall go in part to support local and state centennial activities as provided in RCW 27.60.080.) In addition to the basic fees for new vehicle registrations provided in RCW 46.16.060, 46.16.065, 46.16.505, and 46.16.630 and the license fees for new vehicle registrations provided in RCW 46.16.070 and 46.16.085, persons purchasing ((centennial)) license plates shall pay an additional fee of one dollar per plate, to be ((distributed as follows: From January 1, 1987, through June 30, 1989, one-half of the fee shall be deposited in the centennial commission account, and the remainder shall be deposited in the motor vehicle fund. Commencing July 1, 1989, the total one dollar per plate fee shall be)) deposited in the motor vehicle fund.~~

Passed the House April 19, 1997.

Passed the Senate April 17, 1997.

Approved by the Governor May 9, 1997.

Filed in Office of Secretary of State May 9, 1997.

---

**CHAPTER 292**

[House Bill 1019]

**PUBLIC WORKS PROJECT LOANS**

AN ACT Relating to appropriations for projects recommended by the public works board; amending RCW 43.155.060; creating new sections; making an appropriation; and declaring an emergency.

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

**NEW SECTION. Sec. 1.** Pursuant to chapter 43.155 RCW, the following project loans recommended by the public works board are authorized to be made with funds previously appropriated from the public works assistance account:

- (1) City of Blaine—sanitary sewer project—construct new grit channel, chlorine contact chambers, and chlorination/dechlorination facility and sludge dewatering equipment. Replacement of rotating biological contactors and secondary clarifiers with sequencing batch reactors ..... \$2,318,037
- (2) City of Blaine—sanitary sewer project—replace sewer lines between peace portal drive and pump station no. 1 on Marine Drive, including nine manholes, curb and gutter removal, and roadway repair ..... \$593,365
- (3) City of Bremerton—sanitary sewer project—separating the combined sewer and storm water drainage systems, separating roof drains, and other measures to reduce overflows ..... \$662,000
- (4) City of Buckley—sanitary sewer project—reduce I/I problem by installing a sanitary sewer and storm pipe, conversion of existing sewer mains to storm water, and construction of an aerobic digester ..... \$1,200,000

(5) Covington Water District—domestic water project—provide facilities for dosing chemicals for disinfection and PH adjustment . . . . .	\$1,596,000
(6) Grays Harbor County—sanitary sewer project—transitioning from failing individual on-site systems to and upgraded and expanding treatment facility with twenty-five mgd advanced secondary wastewater treatment facility . . . . .	\$4,000,000
(7) City of Ilwaco—sanitary sewer project—replacement of side sewer lines in two city sewer basins in order to meet department of health compliance order . . . . .	\$193,500
(8) City of Ilwaco—domestic water project—install a steel forty-two thousand gallon aeration basin and a one hundred pound per day ozone generating and injection unit upstream from the existing water filter to improve water quality . . . . .	\$477,000
(9) Mason County PUD No. 1—domestic water project—rehabilitation/improvements through the replacement of existing water system facilities, thereby supplying a reliable and safe source of potable water . . . . .	\$1,551,870
(10) City of Medical Lake—sanitary sewer project—installation of an advanced wastewater treatment facility, consisting of a sequential batch reactor with rotary fine screens; grit chamber; equalization basin; effluent filters; batch aeration basins; ultraviolet radiation disinfection; ten thousand lineal feet of force main; one lift station and a composting facility . . . . .	\$4,620,000
(11) City of Puyallup—sanitary sewer project—provide enhanced removal of pollutants from the community's wastewater to comply with a department of ecology order . . . . .	\$7,000,000
(12) City of Quincy—road project—repair/replacement of damaged portions of curb, gutter, and sidewalk; consisting of grading, drainage improvements, crushed rock base, asphalt concrete pavement, curb and gutter, sidewalk, and illumination. Replacement of malfunctioning railroad crossing signal system . . . . .	\$449,995
(13) Town of Rosalia—domestic water project—construct a new three hundred thousand gallon water reservoir, replacement of an antiquated booster pump station . . . . .	\$216,900
(14) City of Seattle—bridge project—replace steel deck grating on the University and Fremont bridges, install truss protection railing, and rehabilitate the centerlock . . . . .	\$3,284,640
(15) City of Woodland—domestic water project—provide water collection laterals, transmission main, a new filtration plant with one hundred thousand gallon wet well storage, and filters that will enhance the existing well water source . . . . .	\$1,797,000
(16) Emergency Public Works Loans—as authorized by RCW 43.155.065 . . . . .	\$1,898,649
Section 1 total . . . . .	\$31,858,956

**NEW SECTION. Sec. 2.** An appropriation of \$25,000,000 for the biennium ending June 30, 1997, is hereby made from the public works assistance account to the department of community, trade, and economic development for the purposes of providing funds for the following project loans recommended by the public works board:

- (1) City of Blaine—sanitary sewer project—replace seventy-year-old sewer system with new sanitary sewers . . . . . \$332,700
- (2) City of Bonney Lake—domestic water project—installation of a new two million gallon reservoir to meet department of health requirements . . . . . \$953,595
- (3) Public Utility District No. 1 of Chelan County—domestic water—construction of a five hundred thousand gallon concrete reservoir and appurtenances, approximately two hundred lineal feet of eight-inch water main for connection to existing distribution system, and site restoration to comply with department of health requirements . . . . . \$390,950
- (4) Coal Creek Utility District—domestic water project—replace approximately ten thousand six hundred lineal feet of water main and construct two water chlorination facilities . . . . . \$747,425
- (5) Covington Water District—domestic water project—replace approximately twenty-three thousand five hundred lineal feet of leaky distribution service lines and connections at Timberlane Estates . . . . . \$1,389,500
- (6) Cross Valley Water District—domestic water project—construct a water treatment facility including appurtenances, buildings, and equipment for production wells no. 5, 6, and 10 . . . . . \$945,770
- (7) City of Duvall—domestic water project—replace two thousand three hundred lineal feet of ten-inch ac water main, install a backup generator, demolish and remove two fifty-five thousand gallon reservoirs and install a one thousand gpm pump station . . . . . \$298,491
- (8) Fall City Water District—domestic water project—replace water lines on SE 48th, 328th Way SE, Preston-Fall City Road, also replace Heathercrest water tank, and service the Riverview Park . . . . . \$211,750
- (9) Highline Water District—domestic water project—replacement of approximately twenty-three thousand seven hundred fifty lineal feet of water main to improve water quality . . . . . \$1,261,176
- (10) City of Leavenworth—sanitary sewer—design and construct improvements to wastewater treatment plant and wastewater collection system; including seven hundred fifty thousand gallon oxidation ditch, a third clarifier, modification/improvements to return to activated sludge pumping, and an ultraviolet disinfection system . . . . . \$2,915,000
- (11) City of Monroe—domestic water project—replace Ingraham Hill reservoir with a two million gallon water tank and a two million gallon water standpipe and booster pump station on the North Hill site to reduce environmental and health impact . . . . . \$3,420,000

(12) Olympic View Water and Sewer District—domestic water project—construct a new water filtration facility at Deer Creek for compliance with filtration and disinfection standards . . . . .	\$919,345
(13) City of Renton—domestic water project—construction of corrosion control treatment facilities to treat water from wells WW 1, 2, 3, 8, and 9 and Springbrook Springs . . . . .	\$932,600
(14) City of Seattle—bridge project—bridge columns and substructure of the South Spokane Street Viaduct will be strengthened by adding seismic jacketing to all existing columns, in addition to increasing the size of the viaduct's bridge girder seats . . . . .	\$456,885
(15) Southwest Suburban Sewer District—sanitary sewer project—replace and rehabilitate approximately eighteen thousand lineal feet of existing sanitary sewer lines, associated manholes, and side sewer connections in the Salmon Creek Drainage Basin . . . . .	\$2,100,000
(16) City of Spokane—bridge project—remove and replace two bridges in downtown Spokane including new water and sewer mains and a pedestrian/bicycle pathway . . . . .	\$4,000,000
(17) City of Spokane—domestic water project—replaces eighty-five-year-old water transmission and ductile mains, including valves and casing under a rail line, also pavement removal, restoration, and traffic control measures . . . . .	\$4,428,000
(18) City of University Place—road project—construct six-foot sidewalks, including handicap accessible curbs and gutters, and bicycle lanes on both sides of Grandview Drive. Also construct enclosed storm drainage system . . . . .	\$1,882,000
(19) Val Vue Sewer District—sanitary sewer project—rehabilitation of approximately two thousand four hundred sixty-five lineal feet of failing sewer mains in the Rainier Vista area . . . . .	\$175,000
Section 2 total . . . . .	\$27,760,187
Total of sections 1 and 2 . . . . .	\$59,619,143

*\*Sec. 3. RCW 43.155.060 and 1988 c 93 s 2 are each amended to read as follows:*

*In order to aid the financing of public works projects, the board may:*

*(1) Make low-interest or interest-free loans to local governments from the public works assistance account or other funds and accounts for the purpose of assisting local governments in financing public works projects. The board may require such terms and conditions and may charge such rates of interest on its loans as it deems necessary or convenient to carry out the purposes of this chapter. Money received from local governments in repayment of loans made under this section shall be paid into the public works assistance account for uses consistent with this chapter.*

*(2) Pledge money in the public works assistance account, or money to be received by the public works assistance account, to the repayment of all or a portion of the principal of or interest on obligations issued by local governments*

*to finance public works projects. The board shall not pledge any amount greater than the sum of money in the public works assistance account plus money to be received from the payment of the debt service on loans made from that account, nor shall the board pledge the faith and credit or the taxing power of the state or any agency or subdivision thereof to the repayment of obligations issued by any local government.*

*(3) Create such subaccounts in the public works assistance account as the board deems necessary to carry out the purposes of this chapter.*

*(4) Provide a method for the allocation of loans and financing guarantees and the provision of technical assistance under this chapter.*

**The board shall ensure that at the beginning of each fiscal quarter there is a sufficient cash balance in the public works assistance account to cover the disbursements anticipated during the quarter.**

*All local public works projects aided in whole or in part under the provisions of this chapter shall be put out for competitive bids, except for emergency public works under RCW 43.155.065 for which the recipient jurisdiction shall comply with this requirement to the extent feasible and practicable. The competitive bids called for shall be administered in the same manner as all other public works projects put out for competitive bidding by the local governmental entity aided under this chapter.*

\*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 the House April 19, 1997.

Passed the Senate April 7, 1997.

Approved by the Governor May 9, 1997, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State May 9, 1997.

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

"I am returning herewith, without my approval as to section 3, House Bill No. 1019 entitled:

"AN ACT Relating to appropriations for projects recommended by the public works board;"

House Bill No. 1019 provides a list of 34 public works projects for funding from the Public Works Assistance Account. It also provides a supplemental appropriation to cover 19 of the projects, listed in section 2 of the bill.

Section 3 of the bill would require the Public Works Board to ensure that at the beginning of each fiscal quarter there is a sufficient cash balance in the public works assistance account to cover the disbursements anticipated during the quarter. I completely agree with the need to maintain sufficient cash reserves. However, the language in the bill would require maintenance of approximately \$35,000,000 in reserves. I believe that amount is far too large. In my proposed capital budget, I recommended a reserve of \$15,000,000. The \$20,000,000 difference can be used to complete projects that are badly needed now.

For these reasons, I have vetoed section 3 of House Bill No. 1019.

With the exception of section 3, I am approving House Bill No. 1019."

---

## CHAPTER 293

[House Bill 1267]

### VESSEL MANUFACTURERS AND DEALERS USE TAX EXEMPTIONS

AN ACT Relating to a use tax exemption for vessel manufacturers and dealers; and adding new sections to chapter 82.12 RCW.

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

**NEW SECTION.** Sec. 1. A new section is added to chapter 82.12 RCW to read as follows:

(1) The tax imposed under RCW 82.12.020 shall not apply to the following uses of a vessel, as defined in RCW 88.02.010, by the manufacturer of the vessel:

(a) Activities to test, set-up, repair, remodel, evaluate, or otherwise make a vessel seaworthy, to include performance, endurance, and sink testing, if the vessel is to be held for sale;

(b) Training activities of a manufacturer's employees, agents, or subcontractors involved in the development and manufacturing of the manufacturer's vessels, if the vessel is to be held for sale;

(c) Activities to promote the sale of the manufacturer's vessels, to include photography and video sessions to be used in promotional materials; traveling directly to and from vessel promotional events for the express purpose of displaying a manufacturer's vessels;

(d) Any vessels loaned or donated to a civic, religious, nonprofit, or educational organization for continuous periods of use not exceeding seventy-two hours, or longer if approved by the department; or to vessels loaned or donated to governmental entities;

(e) Direct transporting, displaying, or demonstrating any vessel at a wholesale or retail vessel show;

(f) Delivery of a vessel to a buyer, vessel manufacturer, registered vessel dealer as defined in RCW 88.02.010, or to any other person involved in the manufacturing or sale of that vessel for the purpose of the manufacturing or sale of that vessel; and

(g) Displaying, showing, and operating a vessel for sale to a prospective buyer to include the short-term testing, operating, and examining by a prospective buyer.

(2) Subsection (1) of this section shall apply to any trailer or other similar apparatus used to transport, display, show, or operate a vessel, if the trailer or other similar apparatus is held for sale.

**NEW SECTION.** Sec. 2. A new section is added to chapter 82.12 RCW to read as follows:

(1) The tax imposed under RCW 82.12.020 shall not apply to the following uses of a vessel, as defined in RCW 88.02.010, by a vessel dealer registered under chapter 88.02 RCW:

(a) Activities to test, set-up, repair, remodel, evaluate, or otherwise make a vessel seaworthy, if the vessel is held for sale;

(b) Training activity of a dealer's employees, agents, or subcontractors involved in the sale of the dealer's vessels, if the vessel is held for sale;

(c) Activities to promote the sale of the dealer's vessels, to include photography and video sessions to be used in promotional materials; traveling directly to and from promotional vessel events for the express purpose of displaying a dealer's vessels for sale, provided it is displayed on the vessel that it is, in fact, for sale and the identification of the registered vessel dealer offering the vessel for sale is also displayed on the vessel;

(d) Any vessel loaned or donated to a civic, religious, nonprofit, or educational organization for continuous periods of use not exceeding seventy-two hours, or longer if approved by the department; or to vessels loaned or donated to governmental entities;

(e) Direct transporting, displaying, or demonstrating any vessel at a wholesale or retail vessel show;

(f) Delivery of a vessel to a buyer, vessel manufacturer, registered vessel dealer as defined in RCW 88.02.010, or to any other person involved in the manufacturing or sale of that vessel for the purpose of the manufacturing or sale of that vessel; and

(g) Displaying, showing, and operating a vessel for sale to a prospective buyer to include the short-term testing, operating, and examining by a prospective buyer.

(2) Subsection (1) of this section shall apply to any trailer or other similar apparatus used to transport, display, show, or operate a vessel, if the trailer or other similar apparatus is held for sale.

NEW SECTION. Sec. 3. A new section is added to chapter 82.12 RCW to read as follows:

If a vessel held in inventory is used by a vessel dealer or vessel manufacturer for personal use, use tax shall be due based only on the reasonable rental value of the vessel used, but only if the vessel dealer or manufacturer can show that the vessel is truly held for sale and that the dealer or manufacturer is and has been making good faith efforts to sell the vessel. The department may by rule require dealers and manufacturers to provide vessel logs or other documentation showing that vessels are truly held for sale.

Passed the House March 19, 1997.

Passed the Senate April 18, 1997.

Approved by the Governor May 9, 1997.

Filed in Office of Secretary of State May 9, 1997.

## CHAPTER 294

[House Bill 1439]

## COUNTY DEADLINES FOR PETITIONING FOR CHANGES IN ASSESSED VALUATION

AN ACT Relating to authorizing counties to set deadlines for petitioning county boards of equalization for changes in assessed valuation; and amending RCW 84.40.038.

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

**Sec. I.** RCW 84.40.038 and 1994 c 123 s 4 are each amended to read as follows:

(1) The owner or person responsible for payment of taxes on any property may petition the county board of equalization for a change in the assessed valuation placed upon such property by the county assessor. Such petition must be made on forms prescribed or approved by the department of revenue and any petition not conforming to those requirements or not properly completed shall not be considered by the board. The petition must be filed with the board on or before July 1st of the year of the assessment (~~(or)~~), within thirty days after the date an assessment or value change notice has been mailed, or within a time limit of up to sixty days adopted by the county legislative authority, whichever is later. If a county legislative authority sets a time limit, the authority may not change the limit for three years from the adoption of the limit.

(2) The board of equalization may waive the filing deadline if the petition is filed within a reasonable time after the filing deadline and the petitioner shows good cause for the late filing. The decision of the board of equalization regarding a waiver of the filing deadline is final and not appealable under RCW 84.08.130. Good cause may be shown by one or more of the following events or circumstances:

- (a) Death or serious illness of the taxpayer or his or her immediate family;
- (b) The taxpayer was absent from the address where the taxpayer normally receives the assessment or value change notice, was absent for more than fifteen days of the (~~(thirty)~~) days (~~(prior to)~~) allowed in subsection (1) of this section before the filing deadline, and the filing deadline is after July 1;
- (c) Incorrect written advice regarding filing requirements received from board of equalization staff, county assessor's staff, or staff of the property tax advisor designated under RCW 84.48.140;
- (d) Natural disaster such as flood or earthquake;
- (e) Delay or loss related to the delivery of the petition by the postal service, and documented by the postal service; or
- (f) Other circumstances as the department may provide by rule.

(3) The owner or person responsible for payment of taxes on any property may request that the appeal be heard by the state board of tax appeals without a hearing by the county board of equalization when the assessor, the owner or person responsible for payment of taxes on the property, and a majority of the county board of equalization agree that a direct appeal to the state board of tax appeals is appropriate. The state board of tax appeals may reject the appeal, in which case the

county board of equalization shall consider the appeal under RCW 84.48.010. Notice of such a rejection, together with the reason therefor, shall be provided to the affected parties and the county board of equalization within thirty days of receipt of the direct appeal by the state board.

Passed the House April 22, 1997.

Passed the Senate April 18, 1997.

Approved by the Governor May 9, 1997.

Filed in Office of Secretary of State May 9, 1997.

## CHAPTER 295

[Second Substitute House Bill 1557]

### TAX EXEMPTIONS FOR PROPERTY IMPROVEMENTS USED FOR HABITAT RESTORATION AND PROTECTION AND WATER QUANTITY AND QUALITY IMPROVEMENT

AN ACT Relating to taxation of property improvements used for fish and wildlife habitat restoration and protection and water quantity and quality improvement programs; adding a new section to chapter 84.36 RCW; adding a new section to chapter 89.08 RCW; and creating new sections.

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

**NEW SECTION. Sec. 1.** The purpose of this act is to improve fish and wildlife habitat, water quality, and water quantity for the benefit of the public at large. Private property owners should be encouraged to make voluntary improvements to their property as recommended by governmental agencies without the penalty of paying higher property taxes as a result of those improvements.

**NEW SECTION. Sec. 2.** A new section is added to chapter 84.36 RCW to read as follows:

(1) All improvements to real and personal property that benefit fish and wildlife habitat, water quality, or water quantity are exempt from taxation if the improvements are included under a written conservation plan approved by a conservation district. The conservation districts shall cooperate with the federal natural resource conservation service, other conservation districts, the department of ecology, the department of fish and wildlife, and nonprofit organizations to assist landowners by working with them to obtain approved conservation plans so as to qualify for the exemption provided for in this section. As provided in subsection (3) of this section and section 3(2) of this act, a conservation district shall certify that the best management practice benefits fish and wildlife habitat, water quality, or water quantity. A habitat conservation plan under the terms of the federal endangered species act shall not be considered a conservation plan for purposes of this exemption.

(2) The exemption shall remain in effect only if improvements identified in the written best management practices agreement are maintained as originally approved or amended. Improvements made as a requirement to mitigate for impacts to fish and wildlife habitat, water quality, or water quantity are not eligible for exemption under this section.

(3) A claim for exemption under this section may be filed annually with the county assessor at any time during the year for exemption from taxes levied for collection in the following year when submitted on forms prescribed by the department of revenue developed in consultation with the conservation district. The landowner shall certify each year that the improvements for which exemption is sought are maintained as originally approved or amended in the written conservation plan. The claim must contain the certification by the conservation district that the improvements for which exemption is sought were included under a written conservation plan approved by the conservation district including best management practices that benefit fish and wildlife habitat, water quality, or water quantity.

**NEW SECTION.** Sec. 3. A new section is added to chapter 89.08 RCW to read as follows:

(1) For the purpose of identifying property that may qualify for the exemption provided under section 2 of this act, each conservation district shall develop and maintain a list of best management practices that qualify for the exemption.

(2) Each conservation district shall ensure that the appropriate forms approved by the department of revenue are made available to property owners who may qualify for the exemption under section 2 of this act and shall certify claims for exemption as provided in section 2(3) of this act.

**NEW SECTION.** Sec. 4. Section 2 of this act applies to taxes levied for collection in 1998 and thereafter.

Passed the House April 21, 1997.

Passed the Senate April 11, 1997.

Approved by the Governor May 9, 1997.

Filed in Office of Secretary of State May 9, 1997.

---

## CHAPTER 296

[Engrossed Second Substitute House Bill 1687]

### WAGE GARNISHMENT

AN ACT Relating to wage garnishment; amending RCW 6.27.100, 6.27.110, 6.27.190, 6.27.200, 6.27.350, 6.27.360, 26.18.100, 26.18.110, 26.23.060, 26.23.090, 74.20A.080, 74.20A.100, and 74.20A.240; adding new sections to chapter 6.27 RCW; and creating a new section.

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

**NEW SECTION.** Sec. 1. The legislature recognizes that the employer has no responsibility in the situation leading to wage garnishment of the employee and that the employer is in fact helping the state and other businesses when the wages of employees are garnished. It is not the intent of the legislature to interfere in the employer/employee relationship. The legislature also recognizes that wage garnishment orders create an administrative burden for employers and that the state should do everything in its power to reduce or offset this burden.

Sec. 2. RCW 6.27.100 and 1988 c 231 s 25 are each amended to read as follows:

The writ shall be substantially in the following form: PROVIDED, That if the writ is issued under a court order or judgment for child support, the following statement shall appear conspicuously in the caption: "This garnishment is based on a judgment or court order for child support": AND PROVIDED FURTHER, That if the garnishment is for a continuing lien, the form shall be modified as provided in RCW 6.27.340: AND PROVIDED FURTHER, That if the writ is not directed to an employer for the purpose of garnishing a defendant's earnings, the paragraph relating to the earnings exemption may be omitted:

"IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON IN AND FOR THE COUNTY OF . . . . .

Plaintiff, No. . . . . vs. WRIT OF GARNISHMENT Defendant THE STATE OF WASHINGTON TO: Garnishee ((Defendant)) AND TO: Defendant

The above-named plaintiff has applied for a writ of garnishment against you, claiming that the above-named defendant is indebted to plaintiff and that the amount to be held to satisfy that indebtedness is \$ . . . . ., consisting of:

Table with 2 columns: Description and Amount. Rows include: Balance on Judgment or Amount of Claim, Interest under Judgment from . . . to . . ., Taxable Costs and Attorneys' Fees, Estimated Garnishment Costs: Filing Fee, Service and Affidavit Fees, Postage and Costs of Certified Mail, ((Answer Fee or Fees)), Garnishment Attorney Fee.

YOU MAY DEDUCT A PROCESSING FEE FROM THE REMAINDER OF THE EMPLOYEE'S EARNINGS AFTER WITHHOLDING UNDER THE GARNISHMENT ORDER. THE PROCESSING FEE MAY NOT EXCEED TWENTY DOLLARS FOR THE FIRST DISBURSEMENT MADE. IF THIS IS

**A WRIT FOR A CONTINUING LIEN ON EARNINGS. YOU MAY DEDUCT A PROCESSING FEE OF TWENTY DOLLARS AT THE TIME YOU REMIT THE FIRST DISBURSEMENT AND TEN DOLLARS AT THE TIME YOU SUBMIT THE SECOND ANSWER.**

**YOU ARE HEREBY COMMANDED**, unless otherwise directed by the court or by this writ, not to pay any debt, whether earnings subject to this garnishment or any other debt, owed to the defendant at the time this writ was served and not to deliver, sell, or transfer, or recognize any sale or transfer of, any personal property or effects of the defendant in your possession or control at the time when this writ was served. Any such payment, delivery, sale, or transfer is void to the extent necessary to satisfy the plaintiff's claim and costs for this writ with interest.

**YOU ARE FURTHER COMMANDED** to answer this writ by filling in the attached form according to the instructions in this writ and in the answer forms and, within twenty days after the service of the writ upon you, to mail or deliver the original of such answer to the court, one copy to the plaintiff or the plaintiff's attorney, and one copy to the defendant, in the envelopes provided.

If, at the time this writ was served, you owed the defendant any earnings (that is, wages, salary, commission, bonus, or other compensation for personal services or any periodic payments pursuant to a pension or retirement program), the defendant is entitled to receive amounts that are exempt from garnishment under federal and state law. You must pay the exempt amounts to the defendant on the day you would customarily pay the compensation or other periodic payment. As more fully explained in the answer, the basic exempt amount is the greater of seventy-five percent of disposable earnings or a minimum amount determined by reference to the employee's pay period, to be calculated as provided in the answer. However, if this writ carries a statement in the heading that "This garnishment is based on a judgment or court order for child support," the basic exempt amount is forty percent of disposable earnings.

If you owe the defendant a debt payable in money in excess of the amount set forth in the first paragraph of this writ, hold only the amount set forth in the first paragraph and any processing fee if one is charged and release all additional funds or property to defendant.

**YOUR FAILURE TO ANSWER THIS WRIT AS COMMANDED WILL RESULT IN A JUDGMENT BEING ENTERED AGAINST YOU FOR THE FULL AMOUNT OF THE PLAINTIFF'S CLAIM AGAINST THE DEFENDANT WITH ACCRUING INTERESTS AND COSTS WHETHER OR NOT YOU OWE ANYTHING TO THE DEFENDANT.**

Witness, the Honorable . . . . ., Judge of the Superior Court, and the seal thereof, this . . . day of . . . . ., 19. . .

[Seal]

.....	.....
Attorney for	Clerk of
Plaintiff (or	Superior
Plaintiff,	Court
if no attorney)	
.....	.....
Address	By
	.....
	Address"

**NEW SECTION. Sec. 3.** The garnishee may deduct a processing fee from the remainder of the obligor's earnings after withholding the required amount under the garnishment order. The processing fee may not exceed twenty dollars for the first disbursement. If the garnishment is a continuing lien on earnings, the garnishee may deduct a processing fee of twenty dollars for the first disbursement and ten dollars at the time the garnishee submits the second answer.

**Sec. 4.** RCW 6.27.110 and 1988 c 231 s 26 are each amended to read as follows:

(1) Service of the writ of garnishment on the garnishee is invalid unless the writ is served together with: (a) Four answer forms as prescribed in RCW 6.27.190; (b) three stamped envelopes addressed respectively to the clerk of the court issuing the writ, the attorney for the plaintiff (or to the plaintiff if the plaintiff has no attorney), and the defendant(~~(, and (c) cash or a check made payable to the garnishee in the amount of ten dollars~~)).

(2) Except as provided in RCW 6.27.080 for service on a bank, savings and loan association, or credit union, the writ of garnishment shall be mailed to the garnishee by certified mail, return receipt requested, addressed in the same manner as a summons in a civil action, and will be binding upon the garnishee on the day set forth on the return receipt. In the alternative, the writ shall be served by the sheriff of the county in which the garnishee lives or has its place of business or by any person qualified to serve process in the same manner as a summons in a civil action is served.

(3) If a writ of garnishment is served by a sheriff, the sheriff shall file with the clerk of the court that issued the writ a signed return showing the time, place, and manner of service and that the writ was accompanied by answer forms, addressed envelopes, and (~~cash or a check as required by this section, and~~) noting thereon fees for making the service. If service is made by any person other than a sheriff, such person shall file an affidavit including the same information and showing qualifications to make such service. If a writ of garnishment is served by mail, the person making the mailing shall file an affidavit showing the time, place, and manner of mailing and that the writ was accompanied by answer forms(~~(;) and~~ and addressed envelopes, (~~and cash or a check as required by this section~~)) and shall attach the return receipt to the affidavit.

Sec. 5. RCW 6.27.190 and 1988 c 231 s 30 are each amended to read as follows:

The answer of the garnishee shall be signed by the garnishee or attorney or if the garnishee is a corporation, by an officer, attorney or duly authorized agent of the garnishee, under penalty of perjury, and the original delivered, either personally or by mail, to the clerk of the court that issued the writ, one copy to the plaintiff or the plaintiff's attorney, and one copy to the defendant. The answer shall be made on a form substantially as appears in this section, served on the garnishee with the writ, with minimum exemption amounts for the different pay periods filled in by the plaintiff before service of the answer forms: PROVIDED, That, if the garnishment is for a continuing lien, the answer forms shall be as prescribed in RCW 6.27.340 and 6.27.350: AND PROVIDED FURTHER, That if the writ is not directed to an employer for the purpose of garnishing the defendant's wages, paragraphs relating to the earnings exemptions may be omitted.

IN THE SUPERIOR COURT  
OF THE STATE OF WASHINGTON IN AND FOR  
THE COUNTY OF . . . . .

..... NO. ....  
Plaintiff  
vs.  
..... ANSWER  
Defendant TO WRIT OF  
..... GARNISHMENT  
.....  
Garnishee Defendant

At the time of service of the writ of garnishment on the garnishee there was due and owing from the garnishee to the above-named defendant \$ . . . . . (On the reverse side of this answer form, or on an attached page, give an explanation of the dollar amount stated, or give reasons why there is uncertainty about your answer.)

If the above amount or any part of it is for personal earnings (that is, compensation payable for personal services, whether called wages, salary, commission, bonus, or otherwise, and including periodic payments pursuant to a pension or retirement program): Garnishee has deducted from this amount \$ . . . . . which is the exemption to which the defendant is entitled, leaving \$ . . . . . that garnishee holds under the writ. The exempt amount is calculated as follows:

Total compensation due defendant \$ . . . . .  
LESS deductions for social security and with-  
holding taxes and any other deduction  
required by law (list separately and  
identify) \$ . . . . .  
Disposable earnings \$ . . . . .

If the title of this writ indicates that this is a garnishment under a child support judgment, enter forty percent of disposable earnings: \$ . . . . . This amount is

exempt and must be paid to the defendant at the regular pay time after deducting any processing fee you may charge.

If this is not a garnishment for child support, enter seventy-five percent of disposable earnings: \$ . . . . . From the listing in the following paragraph, choose the amount for the relevant pay period and enter that amount: \$ . . . . . (If amounts for more than one pay period are due, multiply the preceding amount by the number of pay periods and/or fraction of pay period for which amounts are due and enter that amount: \$ . . . . .) The greater of the amounts entered in this paragraph is the exempt amount and must be paid to the defendant at the regular pay time after deducting any processing fee you may charge.

Minimum exempt amounts for different pay periods: Weekly \$ . . . . . ; Biweekly \$ . . . . . ; Semimonthly \$ . . . . . ; Monthly \$ . . . . .

List all of the personal property or effects of defendant in the garnishee's possession or control when the writ was served. (Use the reverse side of this answer form or attach a schedule if necessary.)

An attorney may answer for the garnishee.

Under penalty of perjury, I affirm that I have examined this answer, including accompanying schedules, and to the best of my knowledge and belief it is true, correct, and complete.

.....  
Signature of ..... Date  
Garnishee Defendant

.....  
Signature of person ..... Connection with  
answering for ..... garnishee  
garnishee

.....  
.....  
Address of Garnishee

**Sec. 6.** RCW 6.27.200 and 1988 c 231 s 31 are each amended to read as follows:

If the garnishee fails to answer the writ within the time prescribed in the writ, after the time to answer the writ has expired and after required returns or affidavits have been filed, showing service on the garnishee and service on or mailing to the defendant, it shall be lawful for the court to render judgment by default against such garnishee, ~~((in accordance with rules relating to entry of default judgments))~~ after providing a notice to the garnishee by personal service or first class mail deposited in the mail at least ten calendar days prior to entry of the judgment, for the full amount claimed by the plaintiff against the defendant, or in case the plaintiff has a judgment against the defendant, for the full amount of the plaintiff's unpaid judgment against the defendant with all accruing interest and costs as

prescribed in RCW 6.27.090: PROVIDED, That upon motion by the garnishee at any time within seven days following service on, or mailing to, the garnishee ((defendant)) of a copy of a writ of execution or a writ of garnishment under such judgment, the judgment against the garnishee shall be reduced to the amount of any nonexempt funds or property which was actually in the possession of the garnishee at the time the writ was served, plus the cumulative amount of the nonexempt earnings subject to the lien provided for in RCW 6.27.350, or the sum of one hundred dollars, whichever is more, but in no event to exceed the full amount claimed by the plaintiff or the amount of the unpaid judgment against the principal defendant plus all accruing interest and costs and attorney's fees as prescribed in RCW 6.27.090, and in addition the plaintiff shall be entitled to a reasonable attorney's fee for the plaintiff's response to the garnishee's motion to reduce said judgment against the garnishee under this proviso and the court may allow additional attorney's fees for other actions taken because of the garnishee's failure to answer.

Sec. 7. RCW 6.27.350 and 1988 c 231 s 35 are each amended to read as follows:

(1) Where the garnishee's answer to a garnishment for a continuing lien reflects that the defendant is employed by the garnishee, the judgment or balance due thereon as reflected on the writ of garnishment shall become a lien on earnings due at the time of the effective date of the writ, as defined in this subsection, to the extent that they are not exempt from garnishment, and such lien shall continue as to subsequent nonexempt earnings until the total subject to the lien equals the amount stated on the writ of garnishment or until the expiration of the employer's payroll period ending on or before sixty days after the effective date of the writ, whichever occurs first, except that such lien on subsequent earnings shall terminate sooner if the employment relationship is terminated or if the underlying judgment is vacated, modified, or satisfied in full or if the writ is dismissed. The "effective date" of a writ is the date of service of the writ if there is no previously served writ; otherwise, it is the date of termination of a previously served writ or writs.

(2) At the time of the expected termination of the lien, the plaintiff shall mail to the garnishee (~~cash or a check made payable to the garnishee in the amount of ten dollars;~~) three additional stamped envelopes addressed as provided in RCW 6.27.110, and four additional copies of the answer form prescribed in RCW 6.27.190, (a) with a statement in substantially the following form added as the first paragraph: "ANSWER THE SECOND PART OF THIS FORM WITH RESPECT TO THE TOTAL AMOUNT OF EARNINGS WITHHELD UNDER THIS GARNISHMENT, INCLUDING THE AMOUNT, IF ANY, STATED IN YOUR FIRST ANSWER, AND WITHIN TWENTY DAYS AFTER YOU RECEIVE THESE FORMS, MAIL OR DELIVER THEM AS DIRECTED IN THE WRIT" and (b) with the following lines substituted for the first sentence of the form prescribed in RCW 6.27.190:

Amount due and owing stated in first answer

\$. . . .

Amount accrued since first answer \$ . . . .

(3) Within twenty days of receipt of the second answer form the garnishee shall file a second answer, in the form as provided in subsection (2) of this section, stating the total amount held subject to the garnishment.

Sec. 8. RCW 6.27.360 and 1989 c 360 s 20 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, a lien obtained under RCW 6.27.350 shall have priority over any subsequent garnishment lien or wage assignment except that service of a writ shall not be effective to create a continuing lien with such priority if a writ in the same case is pending at the time of the service of the new writ.

(2) A lien obtained under RCW 6.27.350 shall not have priority over a notice of payroll deduction issued under RCW 26.23.060 or a wage assignment or other garnishment for child support issued under chapters 26.18 and 74.20A RCW. Should nonexempt wages remain after deduction of all amounts owing under a notice of payroll deduction, wage assignment, or garnishment for child support, the garnishee shall withhold the remaining nonexempt wages under the lien obtained under RCW 6.27.350.

NEW SECTION. Sec. 9. (1) Whenever the federal government is named as a garnishee defendant, the clerk of the court shall, upon submitting a notice in the appropriate form by the plaintiff, issue a notice which directs the garnishee defendant to disburse any nonexempt earnings to the court in accordance with the garnishee defendant's normal pay and disbursement cycle.

(2) Funds received by the clerk from a garnishee defendant may be deposited into the registry of the court or, in the case of negotiable instruments, may be retained in the court file. Upon presentation of an order directing the clerk to disburse the funds received, the clerk shall pay or endorse the funds over to the party entitled to receive the funds. Except for good cause shown, the funds shall not be paid or endorsed to the plaintiff prior to the expiration of any minimum statutory period allowed to the defendant for filing an exemption claim.

(3) The plaintiff shall, in the same manner permitted for service of the writ of garnishment, provide to the garnishee defendant a copy of the notice issued by the clerk and an envelope addressed to the court, and shall supply to the garnished party a copy of the notice.

(4) Any answer or processing fees charged by the garnishee defendant to the plaintiff under federal law shall be a recoverable cost under RCW 6.27.090.

(5) The notice to the federal government garnishee shall be in substantially the following form:

IN THE . . . . . COURT OF THE STATE OF WASHINGTON  
IN AND FOR . . . . . COUNTY

..... ,  
Plaintiff,  
vs.

NO. . . . .  
NOTICE TO FEDERAL  
GOVERNMENT GARNISHEE  
DEFENDANT

..... ,  
Defendant,  
..... ,  
Garnishee Defendant.

**TO: THE GOVERNMENT OF THE UNITED STATES AND ANY  
DEPARTMENT, AGENCY, OR DIVISION THEREOF**

You have been named as the garnishee defendant in the above-entitled cause. A Writ of Garnishment accompanies this Notice. The Writ of Garnishment directs you to hold the nonexempt earnings of the named defendant, but does not instruct you to disburse the funds you hold.

**BY THIS NOTICE THE COURT DIRECTS YOU TO WITHHOLD ALL  
NONEXEMPT EARNINGS AND DISBURSE THEM IN ACCORDANCE  
WITH YOUR NORMAL PAY AND DISBURSEMENT CYCLE, TO THE  
FOLLOWING:**

. . . . . County . . . . . Court Clerk  
Cause No. . . . .  
.....  
(Address)

**PLEASE REFERENCE THE DEFENDANT EMPLOYEE'S NAME AND THE  
ABOVE CAUSE NUMBER ON ALL DISBURSEMENTS.**

The enclosed Writ also directs you to respond to the Writ within twenty (20) days, but you are allowed thirty (30) days to respond under federal law.

DATED this . . . day of . . . . ., 19. . .

.....  
Clerk of the Court

**Sec. 10. RCW 26.18.100 and 1994 c 230 s 4 are each amended to read as follows:**

The wage assignment order shall be substantially in the following form:

IN THE SUPERIOR COURT OF THE  
STATE OF WASHINGTON IN AND FOR THE  
COUNTY OF .....

..... ,  
Obligee  
vs.  
..... ,  
Obligor  
..... ,  
Employer

No. ....

WAGE ASSIGNMENT  
ORDER

THE STATE OF WASHINGTON TO: .....

Employer

AND TO: .....

Obligor

The above-named obligee claims that the above-named obligor is subject to a support order requiring immediate income withholding or is more than fifteen days past due in either child support or spousal maintenance payments, or both, in an amount equal to or greater than the child support or spousal maintenance payable for one month. The amount of the accrued child support or spousal maintenance debt as of this date is . . . . . dollars, the amount of arrearage payments specified in the support or spousal maintenance order (if applicable) is . . . . . dollars per . . . . ., and the amount of the current and continuing support or spousal maintenance obligation under the order is . . . . . dollars per . . . . .

You are hereby commanded to answer this order by filling in the attached form according to the instructions, and you must mail or deliver the original of the answer to the court, one copy to the Washington state support registry, one copy to the obligee or obligee's attorney, and one copy to the obligor within twenty days after service of this wage assignment order upon you.

If you possess any earnings or other remuneration for employment due and owing to the obligor, then you shall do as follows:

(1) Withhold from the obligor's earnings or remuneration each month, or from each regular earnings disbursement, the lesser of:

(a) The sum of the accrued support or spousal maintenance debt and the current support or spousal maintenance obligation;

(b) The sum of the specified arrearage payment amount and the current support or spousal maintenance obligation; or

(c) Fifty percent of the disposable earnings or remuneration of the obligor.

(2) The total amount withheld above is subject to the wage assignment order, and all other sums may be disbursed to the obligor.

(3) Upon receipt of this wage assignment order you shall make immediate deductions from the obligor's earnings or remuneration and remit to the

Washington state support registry or other address specified below the proper amounts at each regular pay interval.

You shall continue to withhold the ordered amounts from nonexempt earnings or remuneration of the obligor until notified by:

- (a) The court that the wage assignment has been modified or terminated; or
- (b) The addressee specified in the wage assignment order under this section that the accrued child support or spousal maintenance debt has been paid.

You shall promptly notify the court and the addressee specified in the wage assignment order under this section if and when the employee is no longer employed by you, or if the obligor no longer receives earnings or remuneration from you. If you no longer employ the employee, the wage assignment order shall remain in effect ~~((for one year after the employee has left your employment or))~~ until you are no longer in possession of any earnings or remuneration owed to the employee ~~((, whichever is later. You shall continue to hold the wage assignment order during that period. If the employee returns to your employment during the one-year period you shall immediately begin to withhold the employee's earnings according to the terms of the wage assignment order. If the employee has not returned to your employment within one year, the wage assignment will cease to have effect at the expiration of the one-year period, unless you still owe the employee earnings or other remuneration))~~.

You shall deliver the withheld earnings or remuneration to the Washington state support registry or other address stated below at each regular pay interval.

You shall deliver a copy of this order to the obligor as soon as is reasonably possible. This wage assignment order has priority over any other wage assignment or garnishment, except for another wage assignment or garnishment for child support or spousal maintenance, or order to withhold or deliver under chapter 74.20A RCW.

**WHETHER OR NOT YOU OWE ANYTHING TO THE OBLIGOR, YOUR FAILURE TO ANSWER AS REQUIRED MAY MAKE YOU LIABLE FOR ~~((OBLIGOR'S CLAIMED SUPPORT OR SPOUSAL MAINTENANCE DEBT TO THE OBLIGEE))~~ THE AMOUNT OF SUPPORT MONEYS THAT SHOULD HAVE BEEN WITHHELD FROM THE OBLIGOR'S EARNINGS OR SUBJECT TO CONTEMPT OF COURT.**

**NOTICE TO OBLIGOR: YOU HAVE A RIGHT TO REQUEST A HEARING IN THE SUPERIOR COURT THAT ISSUED THIS WAGE ASSIGNMENT ORDER, TO REQUEST THAT THE COURT QUASH, MODIFY, OR TERMINATE THE WAGE ASSIGNMENT ORDER.**

DATED THIS . . . . day of . . . ., 19. . .

..... Judge/Court Commissioner  
 Oblige, or obligee's attorney  
 Send withheld payments to: .....

**\*Sec. 11. RCW 26.18.110 and 1994 c 230 s 5 are each amended to read as follows:**

**(1) An employer upon whom service of a wage assignment order has been made shall answer the order by sworn affidavit within twenty days after the date of service. The answer shall state whether the obligor is employed by or receives earnings or other remuneration from the employer, whether the employer will honor the wage assignment order, and whether there are either multiple child support or spousal maintenance attachments, or both, against the obligor.**

**(2) If the employer possesses any earnings or remuneration due and owing to the obligor, the earnings subject to the wage assignment order shall be withheld immediately upon receipt of the wage assignment order. The withheld earnings shall be delivered to the Washington state support registry or, if the wage assignment order is to satisfy a duty of spousal maintenance, to the addressee specified in the assignment at each regular pay interval.**

**(3) The employer shall continue to withhold the ordered amounts from nonexempt earnings or remuneration of the obligor until notified by:**

**(a) The court that the wage assignment has been modified or terminated; or**

**(b) The Washington state support registry or obligee that the accrued child support or spousal maintenance debt has been paid, provided the wage assignment order contains the language set forth under RCW 26.18.100(3)(b). The employer shall promptly notify the addressee specified in the assignment when the employee is no longer employed. If the employer no longer employs the employee, the wage assignment order shall remain in effect ~~((for one year after the employee has left the employment or))~~ until the employer ((has been in possession of)) no longer possesses any earnings or remuneration owed to the employee~~((, whichever is later. The employer shall continue to hold the wage assignment order during that period. If the employee returns to the employer's employment during the one-year period the employer shall immediately begin to withhold the employee's earnings or remuneration according to the terms of the wage assignment order. If the employee has not returned within one year, the wage assignment shall cease to have effect at the expiration of the one-year period, unless the employer continues to owe remuneration for employment to the obligor)).~~**

**(4) The employer may deduct a processing fee from the remainder of the employee's earnings after withholding under the wage assignment order, even if the remainder is exempt under RCW 26.18.090. The processing fee may not**

*exceed (a) ~~((ten))~~ fifteen dollars for the first disbursement made by the employer to the Washington state support registry; and (b) one dollar for each subsequent disbursement to the clerk.*

*(5) An order for wage assignment for support for a dependent child entered under this chapter shall have priority over any other wage assignment or garnishment, except for another wage assignment or garnishment for child support, or order to withhold and deliver under chapter 74.20A RCW. An order for wage assignment for spousal maintenance entered under this chapter shall have priority over any other wage assignment or garnishment, except for a wage assignment, garnishment, or order to withhold and deliver under chapter 74.20A RCW for support of a dependent child, and except for another wage assignment or garnishment for spousal maintenance.*

*(6) An employer who fails to withhold earnings as required by a wage assignment issued under this chapter may be held liable to the obligee for ~~((one hundred percent of the support or spousal maintenance debt, or))~~ the amount of support or spousal maintenance moneys that should have been withheld from the employee's earnings ~~((whichever is the lesser amount))~~, if the employer:*

*(a) Fails or refuses, after being served with a wage assignment order, to deduct and promptly remit from the unpaid earnings the amounts of money required in the order;*

*(b) Fails or refuses to submit an answer to the notice of wage assignment after being served; or*

*(c) Is unwilling to comply with the other requirements of this section.*

*Liability may be established in superior court. Awards in superior court shall include costs, interest under RCW 19.52.020 and 4.56.110, and reasonable attorneys' fees.*

*(7) No employer who complies with a wage assignment issued under this chapter may be liable to the employee for wrongful withholding.*

*(8) No employer may discharge, discipline, or refuse to hire an employee because of the entry or service of a wage assignment issued and executed under this chapter. If an employer discharges, disciplines, or refuses to hire an employee in violation of this section, the employee or person shall have a cause of action against the employer. The employer shall be liable for double the amount of damages suffered as a result of the violation and for costs and reasonable attorneys' fees, and shall be subject to a civil penalty of not more than two thousand five hundred dollars for each violation. The employer may also be ordered to hire, rehire, or reinstate the aggrieved individual.*

*(9) For wage assignments payable to the Washington state support registry, an employer may combine amounts withheld from various employees into a single payment to the Washington state support registry, if the payment includes a listing of the amounts attributable to each employee and other information as required by the registry.*

*(10) An employer shall deliver a copy of the wage assignment order to the obligor as soon as is reasonably possible.*

*\*Sec. 11 was vetoed. See message at end of chapter.*

*\*Sec. 12. RCW 26.23.060 and 1994 c 230 s 10 are each amended to read as follows:*

*(1) The office of support enforcement may issue a notice of payroll deduction:*

*(a) As authorized by a support order that contains the income withholding notice provisions in RCW 26.23.050 or a substantially similar notice; or*

*(b) After service of a notice containing an income withholding provision under this chapter or chapter 74.20A RCW.*

*(2) The office of support enforcement shall serve a notice of payroll deduction upon a responsible parent's employer or upon the employment security department for the state in possession of or owing any benefits from the unemployment compensation fund to the responsible parent pursuant to Title 50 RCW by personal service or by any form of mail requiring a return receipt.*

*(3) Service of a notice of payroll deduction upon an employer or employment security department requires the employer or employment security department to immediately make a mandatory payroll deduction from the responsible parent's unpaid disposable earnings or unemployment compensation benefits. The employer or employment security department shall thereafter deduct each pay period the amount stated in the notice divided by the number of pay periods per month. The payroll deduction each pay period shall not exceed fifty percent of the responsible parent's disposable earnings.*

*(4) A notice of payroll deduction for support shall have priority over any wage assignment, garnishment, attachment, or other legal process.*

*(5) The notice of payroll deduction shall be in writing and include:*

*(a) The name and social security number of the responsible parent;*

*(b) The amount to be deducted from the responsible parent's disposable earnings each month, or alternate amounts and frequencies as may be necessary to facilitate processing of the payroll deduction;*

*(c) A statement that the total amount withheld shall not exceed fifty percent of the responsible parent's disposable earnings; and*

*(d) The address to which the payments are to be mailed or delivered.*

*(6) An informational copy of the notice of payroll deduction shall be mailed to the last known address of the responsible parent by regular mail.*

*(7) An employer or employment security department that receives a notice of payroll deduction shall make immediate deductions from the responsible parent's unpaid disposable earnings and remit proper amounts to the Washington state support registry on each date the responsible parent is due to be paid.*

*(8) An employer, or the employment security department, upon whom a notice of payroll deduction is served, shall make an answer to the office of*

*support enforcement within twenty days after the date of service. The answer shall confirm compliance and institution of the payroll deduction or explain the circumstances if no payroll deduction is in effect. The answer shall also state whether the responsible parent is employed by or receives earnings from the employer or receives unemployment compensation benefits from the employment security department, whether the employer or employment security department anticipates paying earnings or unemployment compensation benefits and the amount of earnings. If the responsible parent is no longer employed, or receiving earnings from the employer, the answer shall state the present employer's name and address, if known. If the responsible parent is no longer receiving unemployment compensation benefits from the employment security department, the answer shall state the present employer's name and address, if known.*

*(9) The employer or employment security department may deduct a processing fee from the remainder of the responsible parent's earnings after withholding under the notice of payroll deduction, even if the remainder is exempt under RCW 26.18.090. The processing fee may not exceed: (a) ~~(Ten)~~ Fifteen dollars for the first disbursement made to the Washington state support registry; and (b) one dollar for each subsequent disbursement to the registry.*

*(10) The notice of payroll deduction shall remain in effect until released by the office of support enforcement, the court enters an order terminating the notice and approving an alternate arrangement under RCW 26.23.050(2), or ~~((one year has expired since the employer has employed the responsible parent or has been in possession of or owing any earnings to the responsible parent or the employment security department has been in possession of or owing any unemployment compensation benefits to the responsible parent.))~~ until the employer no longer employs the responsible parent and is no longer in possession of or owing any earnings to the responsible parent. The employer shall promptly notify the office of support enforcement when the employer no longer employs the parent subject to the notice. For the employment security department, the notice of payroll deduction shall remain in effect until released by the office of support enforcement or until the court enters an order terminating the notice.*

\*Sec. 12 was vetoed. See message at end of chapter.

Sec. 13. RCW 26.23.090 and 1990 c 165 s 2 are each amended to read as follows:

(1) The employer shall be liable to the Washington state support registry for ~~((one hundred percent of the amount of the support debt, or))~~ the amount of support moneys which should have been withheld from the employee's earnings, ~~((whichever is the lesser amount,))~~ if the employer:

(a) Fails or refuses, after being served with a notice of payroll deduction, to deduct and promptly remit from unpaid earnings the amounts of money required in the notice;

(b) Fails or refuses to submit an answer to the notice of payroll deduction after being served; or

(c) Is unwilling to comply with the other requirements of RCW 26.23.060.

(2) Liability may be established in superior court or may be established pursuant to RCW 74.20A.270. Awards in superior court and in actions pursuant to RCW 74.20A.270 shall include costs, interest under RCW 19.52.020 and 4.56.110, and reasonable attorney fees and staff costs as a part of the award. Debts established pursuant to this section may be collected pursuant to chapter 74.20A RCW utilizing any of the remedies contained in that chapter.

*\*Sec. 14. RCW 74.20A.080 and 1994 c 230 s 20 are each amended to read as follows:*

*(1) The secretary may issue to any person, firm, corporation, association, political subdivision, department of the state, or agency, subdivision, or instrumentality of the United States, an order to withhold and deliver property of any kind, including but not restricted to earnings which are or might become due, owing, or belonging to the debtor, when the secretary has reason to believe that there is in the possession of such person, firm, corporation, association, political subdivision, department of the state, or agency, subdivision, or instrumentality of the United States property which is or might become due, owing, or belonging to said debtor. Such order to withhold and deliver may be issued:*

*(a) When a support payment is past due, if a responsible parent's support order:*

*(i) Contains language directing the parent to make support payments to the Washington state support registry; and*

*(ii) Includes a statement that other income-withholding action under this chapter may be taken without further notice to the responsible parent, as provided for in RCW 26.23.050(1);*

*(b) Twenty-one days after service of a notice of support debt under RCW 74.20A.040;*

*(c) Twenty-one days after service of a notice and finding of parental responsibility under RCW 74.20A.056;*

*(d) Twenty-one days after service of a notice of support owed under RCW 26.23.110;*

*(e) Twenty-one days after service of a notice and finding of financial responsibility under RCW 74.20A.055; or*

*(f) When appropriate under RCW 74.20A.270.*

*(2) The order to withhold and deliver shall:*

*(a) State the amount of the support debt accrued;*

*(b) State in summary the terms of RCW 74.20A.090 and 74.20A.100;*

*(c) Be served in the manner prescribed for the service of a summons in a civil action or by certified mail, return receipt requested.*

**(3) Any person, firm, corporation, association, political subdivision, department of the state, or agency, subdivision, or instrumentality of the United States upon whom service has been made is hereby required to:**

**(a) Answer said order to withhold and deliver within twenty days, exclusive of the day of service, under oath and in writing, and shall make true answers to the matters inquired of therein; and**

**(b) Provide further and additional answers when requested by the secretary.**

**(4) Any such person, firm, corporation, association, political subdivision, department of the state, or agency, subdivision, or instrumentality of the United States in possession of any property which may be subject to the claim of the department of social and health services shall:**

**(a)(i) Immediately withhold such property upon receipt of the order to withhold and deliver; and**

**(ii) Deliver the property to the secretary as soon as the twenty-day answer period expires;**

**(iii) Continue to withhold earnings payable to the debtor at each succeeding disbursement interval as provided for in RCW 74.20A.090, and deliver amounts withheld from earnings to the secretary on the date earnings are payable to the debtor;**

**(iv) Inform the secretary of the date the amounts were withheld as requested under this section; or**

**(b) Furnish to the secretary a good and sufficient bond, satisfactory to the secretary, conditioned upon final determination of liability.**

**(5) An order to withhold and deliver served under this section shall not expire until:**

**(a) Released in writing by the office of support enforcement;**

**(b) Terminated by court order; or**

**(c) The person or entity receiving the order to withhold and deliver does not possess property of or owe money to the debtor (~~for any period of twelve consecutive months following the date of service of the order to withhold and deliver~~).**

**(6) Where money is due and owing under any contract of employment, express or implied, or is held by any person, firm, corporation, or association, political subdivision, or department of the state, or agency, subdivision, or instrumentality of the United States subject to withdrawal by the debtor, such money shall be delivered by remittance payable to the order of the secretary.**

**(7) Delivery to the secretary of the money or other property held or claimed shall satisfy the requirement and serve as full acquittance of the order to withhold and deliver.**

**(8) A person, firm, corporation, or association, political subdivision, department of the state, or agency, subdivision, or instrumentality of the United States that complies with the order to withhold and deliver under this chapter is**

*not civilly liable to the debtor for complying with the order to withhold and deliver under this chapter.*

*(9) The secretary may hold the money or property delivered under this section in trust for application on the indebtedness involved or for return, without interest, in accordance with final determination of liability or nonliability.*

*(10) Exemptions contained in RCW 74.20A.090 apply to orders to withhold and deliver issued under this section.*

*(11) The secretary shall also, on or before the date of service of the order to withhold and deliver, mail or cause to be mailed a copy of the order to withhold and deliver to the debtor at the debtor's last known post office address, or, in the alternative, a copy of the order to withhold and deliver shall be served on the debtor in the same manner as a summons in a civil action on or before the date of service of the order or within two days thereafter. The copy of the order shall be mailed or served together with a concise explanation of the right to petition for judicial review. This requirement is not jurisdictional, but, if the copy is not mailed or served as in this section provided, or if any irregularity appears with respect to the mailing or service, the superior court, in its discretion on motion of the debtor promptly made and supported by affidavit showing that the debtor has suffered substantial injury due to the failure to mail the copy, may set aside the order to withhold and deliver and award to the debtor an amount equal to the damages resulting from the secretary's failure to serve on or mail to the debtor the copy.*

*(12) An order to withhold and deliver issued in accordance with this section has priority over any other wage assignment, garnishment, attachment, or other legal process, except for another wage assignment, garnishment, attachment, or other legal process for child support.*

*(13) The office of support enforcement shall notify any person, firm, corporation, association, or political subdivision, department of the state, or agency, subdivision, or instrumentality of the United States required to withhold and deliver the earnings of a debtor under this action that they may deduct a processing fee from the remainder of the debtor's earnings, even if the remainder would otherwise be exempt under RCW 74.20A.090. The processing fee shall not exceed ~~((ten))~~ fifteen dollars for the first disbursement to the department and one dollar for each subsequent disbursement under the order to withhold and deliver.*

\*Sec. 14 was vetoed. See message at end of chapter.

Sec. 15. RCW 74.20A.100 and 1989 c 360 s 5 are each amended to read as follows:

*(1) Any person, firm, corporation, association, political subdivision, or department of the state shall be liable to the department in ~~((an amount equal to one hundred percent of the value of the debt which is the basis of the lien, order to withhold and deliver, distraint, or assignment of earnings, or))~~ the amount that*

should have been withheld(~~(, whichever amount is less)~~), together with costs, interest, and reasonable attorney fees if that person or entity:

(a) Fails to answer an order to withhold and deliver within the time prescribed herein;

(b) Fails or refuses to deliver property pursuant to said order;

(c) After actual notice of filing of a support lien, pays over, releases, sells, transfers, or conveys real or personal property subject to a support lien to or for the benefit of the debtor or any other person;

(d) Fails or refuses to surrender property distrained under RCW 74.20A.130 upon demand; or

(e) Fails or refuses to honor an assignment of earnings presented by the secretary.

(2) The secretary is authorized to issue a notice of debt pursuant to RCW 74.20A.040 and to take appropriate action to collect the debt under this chapter if:

(a) A judgment has been entered as the result of an action in superior court against a person, firm, corporation, association, political subdivision, or department of the state based on a violation of this section; or

(b) Liability has been established under RCW 74.20A.270.

**Sec. 16.** RCW 74.20A.240 and 1994 c 230 s 21 are each amended to read as follows:

Any person, firm, corporation, association, political subdivision, department of the state, or agency, subdivision, or instrumentality of the United States employing a person owing a support debt or obligation, shall honor, according to its terms, a duly executed assignment of earnings presented by the secretary as a plan to satisfy or retire a support debt or obligation. This requirement to honor the assignment of earnings and the assignment of earnings itself shall be applicable whether said earnings are to be paid presently or in the future and shall continue in force and effect until released in writing by the secretary. Payment of moneys pursuant to an assignment of earnings presented by the secretary shall serve as full acquittance under any contract of employment. A person, firm, corporation, association, political subdivision, department of the state, or agency, subdivision, or instrumentality of the United States that complies with the assignment of earnings under this chapter is not civilly liable to the debtor for complying with the assignment of earnings under this chapter. The secretary shall be released from liability for improper receipt of moneys under an assignment of earnings upon return of any moneys so received.

An assignment of earnings presented by the secretary in accordance with this section has priority over any other wage assignment, garnishment, attachment, or other legal process except for another wage assignment, garnishment, attachment, or other legal process for support moneys.

The employer may deduct a processing fee from the remainder of the debtor's earnings, even if the remainder would be exempt under RCW 74.20A.090. The processing fee shall not exceed (~~(ten)~~) fifteen dollars from the first disbursement

to the department and one dollar for each subsequent disbursement under the assignment of earnings.

***\*NEW SECTION. Sec. 17. The attorney general's office shall work with an association representing collection agencies state-wide and representatives from state-wide organizations of businesses with an average employee size of less than ten to establish a standard form and procedures to be used for wage garnishment orders to reduce paperwork and confusion for small businesses. The group shall report to relevant committees of the legislature by February 1, 1998.***

\*Sec. 17 was vetoed. See message at end of chapter.

***\*NEW SECTION. Sec. 18. (1) A joint task force is created to study the reorganization of employment reporting requirements so that the office of support enforcement receives employment information from state agencies such as the employment security department rather than from employers, who have already filed the information with state agencies. In addition, the joint task force will study the ability of the office of support enforcement to pay for the processing fees that employers may charge. The task force shall develop a form for employers that collects all information required by the state for all employee reporting. The task force will develop procedures and recommendations for reducing paperwork in the enforcement of child support orders using wage withholding.***

***(2) The task force shall consist of the following members: One representative from the office of support enforcement; one representative from the employment security department; one representative from the department of labor and industries; one representative from the department of revenue; and three members appointed by business organizations representing a variety of industries state-wide.***

***(3) The task force shall report to the relevant committees of the legislature by February 1, 1998.***

\*Sec. 18 was vetoed. See message at end of chapter.

***NEW SECTION. Sec. 19. Sections 1, 3, 9, and 18 of this act are each added to chapter 6.27 RCW.***

Passed the House April 23, 1997.

Passed the Senate April 15, 1997.

Approved by the Governor May 9, 1997, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State May 9, 1997.

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

"I am returning herewith, without my approval as to sections 11, 12, 14, 17 and 18, Engrossed Second Substitute House Bill No. 1687 entitled:

"AN ACT Relating to wage garnishment;"

This legislation makes several positive changes to the law governing garnishment of wages. Among other improvements, it increases the handling fee that employers may

deduct from wages, and provides employers with a second notice before they are subject to penalties for errors they may have made in compliance with garnishment orders.

I agree with recognizing the important role employers play as partners in the collection of support owed to custodial parents. Where it can be made easier for employers to collect money owed to custodial parents, without harming the interests of families, we should do so. It is for this reason that I am in support of much of this bill.

Sections 11 and 12 would eliminate the requirement that an employer keep a record of the child support order for one year after the obligor leaves employment. They would allow the employer to dispose of the garnishment record as soon as the obligee leaves employment and final wages are paid. Where there is seasonal employment or other interruptions in employment, the obligor would be required to continually repeat the garnishment procedure, and that could needlessly deprive the custodial parent of support or even to bring about the need for public assistance. I have vetoed these sections, as well as Section 14 which describes the order to withhold, because of the risk to the well-being of families that this change would create.

Section 11 also contains clause that appears to have been designed to limit the liability of employers who fails to withhold earnings as required by a wage assignment order. As drafted that clause may be ineffective, and could have the unintended consequence of causing overpayment by employers.

Section 17 would create a work group to establish a standardized form for garnishment orders. There is already such a requirement imposed upon the state in federal law and it would be pointless to have a group produce a document that the state would be unable to use.

Section 18 would create a joint task force to study the reorganization of employment reporting requirements so that the office of support enforcement would receive employment information from the employment security department, rather than from private employers. With the new federal welfare reform, it is essential that the state receive the appropriate employment data at a particular time. Data from the employment security data would not satisfy the need. There is no need for this study.

I do agree that a number of the problems highlighted by this bill would benefit from the task force approach that Section 18 calls for. I will encourage the secretary of the Department of Social and Health Services to call together a group from within and outside of that agency to examine possible improvements in the partnership between employers, DSHS and relevant state agencies.

For these reasons I have vetoed sections 11, 12, 14, 17 and 18 of Engrossed Second Substitute House Bill 1687.

With the exception of sections 11, 12, 14, 17 and 18, Engrossed Second Substitute House Bill 1687 is approved."

---

## CHAPTER 297

[Substitute House Bill 1875]

### UPDATING TERMINOLOGY RELATING TO MASSAGE PRACTITIONERS

AN ACT Relating to updating terminology in chapter 18.108 RCW; amending RCW 18.108.005, 18.108.010, and 18.108.050; and creating a new section.

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

**Sec. 1.** RCW 18.108.005 and 1987 c 443 s 1 are each amended to read as follows:

The legislature finds it necessary to license the practice of massage and massage therapy in order to protect the public health and safety. It is the legislature's intent that only individuals who meet and maintain minimum standards of competence and conduct may provide services to the public. This chapter shall

not be construed to require or prohibit individual or group policies or contracts of an insurance carrier, health care service contractor, or health maintenance organization from providing benefits or coverage for services and supplies provided by a person (~~registered or certified~~) licensed under this chapter.

Sec. 2. RCW 18.108.010 and 1991 c 3 s 252 are each amended to read as follows:

In this chapter, unless the context otherwise requires, the following meanings shall apply:

- (1) "Board" means the Washington state board of massage.
- (2) "Massage" and "massage therapy" mean a health care service involving the external manipulation or pressure of soft tissue for therapeutic purposes. Massage therapy includes (~~massage~~) techniques such as (~~methods of effleurage, petrissage, tapotement,~~) tapping, compressions, (~~vibration,~~) friction, (~~nerve stokes, and~~) Swedish gymnastics or movements (~~either by manual means, as they relate to massage~~), gliding, kneading, shaking, and facial or connective tissue stretching, with or without the aids of superficial heat, cold, water, lubricants, or salts. Massage therapy does not include diagnosis or attempts to adjust or manipulate any articulations of the body or spine or mobilization of these articulations by the use of a thrusting force, nor does it include genital manipulation.
- (3) "Massage practitioner" means an individual licensed under this chapter.
- (4) "Secretary" means the secretary of health or the secretary's designee.
- (5) Massage business means the operation of a business where massages are given.

Sec. 3. RCW 18.108.050 and 1995 c 198 s 16 are each amended to read as follows:

This chapter does not apply to:

- (1) An individual giving massage to members of his or her immediate family;
- (2) The practice of a profession by individuals who are licensed, certified, or registered under other laws of this state and who are performing services within their authorized scope of practice;
- (3) Massage practiced at the athletic department of any institution maintained by the public funds of the state, or any of its political subdivisions;
- (4) Massage practiced at the athletic department of any school or college approved by the department by rule using recognized national professional standards;
- (5) Students enrolled in an approved massage school, approved program, or approved apprenticeship program, practicing massage techniques, incidental to the massage school or program and supervised by the approved school or program. Students must identify themselves as a student when performing massage services on members of the public. Students may not be compensated for the massage services they provide;

(6) Individuals who have completed a somatic education training program approved by the secretary.

**NEW SECTION. Sec. 4.** The department of health shall monitor the effects, if any, on the public health and safety of the exemption provided in RCW 18.108.050(6). The department shall report to the appropriate committees of the legislature by December 1, 1999, any instances of somatic educators violating RCW 18.108.085(3) with recommendations, if any, for regulatory or statutory changes.

Passed the House April 21, 1997.

Passed the Senate April 11, 1997.

Approved by the Governor May 9, 1997.

Filed in Office of Secretary of State May 9, 1997.

## CHAPTER 298

[Senate Bill 5229]

### ASSEMBLY HALLS AND MEETING PLACES—MAINTENANCE OF TAX EXEMPTIONS WITH PERMITTED USES

AN ACT Relating to the property taxation of assembly halls or meeting places; and amending RCW 84.36.037.

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

**Sec. 1.** RCW 84.36.037 and 1993 c 327 s 1 are each amended to read as follows:

(1) Real or personal property owned by a nonprofit organization, association, or corporation in connection with the operation of a public assembly hall or meeting place is exempt from taxation. The area exempt under this section includes the building or buildings, the land under the buildings, and an additional area necessary for parking, not exceeding a total of one acre: **PROVIDED**, That for property essentially unimproved except for restroom facilities and structures on such property which has been used primarily for annual community celebration events for at least ten years, such exempt property shall not exceed twenty-nine acres.

(2) To qualify for this exemption the property must be used exclusively for public gatherings and be available to all organizations or persons desiring to use the property, but the owner may impose conditions and restrictions which are necessary for the safekeeping of the property and promote the purposes of this exemption. Membership shall not be a prerequisite for the use of the property.

(3) The use of the property for pecuniary gain or to promote business activities, except as provided in this section, nullifies the exemption otherwise available for the property for the assessment year. The exemption is not nullified by:

(a) The collection of rent or donations if the amount is reasonable and does not exceed maintenance and operation expenses created by the user.

(b) Fund-raising activities conducted by a nonprofit organization.

(c) The use of the property for pecuniary gain or to promote business activities for periods of not more than (~~three~~) seven days in a year.

(d) An inadvertent use of the property in a manner inconsistent with the purpose for which exemption is granted, if the inadvertent use is not part of a pattern of use. A pattern of use is presumed when an inadvertent use is repeated in the same assessment year or in two or more successive assessment years.

(4) The department of revenue shall narrowly construe this exemption.

Passed the Senate March 6, 1997.

Passed the House April 23, 1997.

Approved by the Governor May 9, 1997.

Filed in Office of Secretary of State May 9, 1997.

**CHAPTER 299**

[Substitute Senate Bill 5230]

**TAXATION OF PROPERTY BASED ON CURRENT USE**

AN ACT Relating to current use taxation provisions; amending RCW 84.33.120, 84.33.140, and 84.33.145; and declaring an emergency.

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

**Sec. I.** RCW 84.33.120 and 1995 c 330 s 1 are each amended to read as follows:

(1) In preparing the assessment rolls as of January 1, 1982, for taxes payable in 1983 and each January 1st thereafter, the assessor shall list each parcel of forest land at a value with respect to the grade and class provided in this subsection and adjusted as provided in subsection (2) of this section and shall compute the assessed value of the land by using the same assessment ratio he or she applies generally in computing the assessed value of other property in his or her county. Values for the several grades of bare forest land shall be as follows.

LAND GRADE	OPERABILITY CLASS	VALUES PER ACRE
1	1	\$141
	2	136
	3	131
	4	95
2	1	118
	2	114
	3	110
	4	80

3	1	93
	2	90
	3	87
	4	66
4	1	70
	2	68
	3	66
	4	52
5	1	51
	2	48
	3	46
	4	31
6	1	26
	2	25
	3	25
	4	23
7	1	12
	2	12
	3	11
	4	11
8		1

(2) On or before December 31, 1981, the department shall adjust, by rule under chapter 34.05 RCW, the forest land values contained in subsection (1) of this section in accordance with this subsection, and shall certify these adjusted values to the county assessor for his or her use in preparing the assessment rolls as of January 1, 1982. For the adjustment to be made on or before December 31, 1981, for use in the 1982 assessment year, the department shall:

(a) Divide the aggregate value of all timber harvested within the state between July 1, 1976, and June 30, 1981, by the aggregate harvest volume for the same period, as determined from the harvester excise tax returns filed with the department under RCW 82.04.291 and 84.33.071; and

(b) Divide the aggregate value of all timber harvested within the state between July 1, 1975, and June 30, 1980, by the aggregate harvest volume for the same period, as determined from the harvester excise tax returns filed with the department under RCW 82.04.291 and 84.33.071; and

(c) Adjust the forest land values contained in subsection (1) of this section by a percentage equal to one-half of the percentage change in the average values of

harvested timber reflected by comparing the resultant values calculated under (a) and (b) of this subsection.

For the adjustments to be made on or before December 31, 1982, and each succeeding year thereafter, the same procedure shall be followed as described in this subsection utilizing harvester excise tax returns filed under RCW 82.04.291 and this chapter except that this adjustment shall be made to the prior year's adjusted value, and the five-year periods for calculating average harvested timber values shall be successively one year more recent.

(3) In preparing the assessment roll for 1972 and each year thereafter, the assessor shall enter as the true and fair value of each parcel of forest land the appropriate grade value certified to him or her by the department of revenue, and he or she shall compute the assessed value of such land by using the same assessment ratio he or she applies generally in computing the assessed value of other property in his or her county. In preparing the assessment roll for 1975 and each year thereafter, the assessor shall assess and value as classified forest land all forest land that is not then designated pursuant to RCW 84.33.120(4) or 84.33.130 and shall make a notation of such classification upon the assessment and tax rolls. On or before January 15 of the first year in which such notation is made, the assessor shall mail notice by certified mail to the owner that such land has been classified as forest land and is subject to the compensating tax imposed by this section. If the owner desires not to have such land assessed and valued as classified forest land, he or she shall give the assessor written notice thereof on or before March 31 of such year and the assessor shall remove from the assessment and tax rolls the classification notation entered pursuant to this subsection, and shall thereafter assess and value such land in the manner provided by law other than this chapter 84.33 RCW.

(4) In any year commencing with 1972, an owner of land which is assessed and valued by the assessor other than pursuant to the procedures set forth in RCW 84.33.110 and this section, and which has, in the immediately preceding year, been assessed and valued by the assessor as forest land, may appeal to the county board of equalization by filing an application with the board in the manner prescribed in subsection (2) of RCW 84.33.130. The county board shall afford the applicant an opportunity to be heard if the application so requests and shall act upon the application in the manner prescribed in subsection (3) of RCW 84.33.130.

(5) Land that has been assessed and valued as classified forest land as of any year commencing with 1975 assessment year or earlier shall continue to be so assessed and valued until removal of classification by the assessor only upon the occurrence of one of the following events:

(a) Receipt of notice from the owner to remove such land from classification as forest land;

(b) Sale or transfer to an ownership making such land exempt from ad valorem taxation;

(c) Determination by the assessor, after giving the owner written notice and an opportunity to be heard, that, because of actions taken by the owner, such land is no longer primarily devoted to and used for growing and harvesting timber. However, land shall not be removed from classification if a governmental agency, organization, or other recipient identified in subsection (9) or (10) of this section as exempt from the payment of compensating tax has manifested its intent in writing or by other official action to acquire a property interest in classified forest land by means of a transaction that qualifies for an exemption under subsection (9) or (10) of this section. The governmental agency, organization, or recipient shall annually provide the assessor of the county in which the land is located reasonable evidence in writing of the intent to acquire the classified land as long as the intent continues or within sixty days of a request by the assessor. The assessor may not request this evidence more than once in a calendar year;

(d) Determination that a higher and better use exists for such land than growing and harvesting timber after giving the owner written notice and an opportunity to be heard;

(e) Sale or transfer of all or a portion of such land to a new owner, unless the new owner has signed a notice of forest land classification continuance, except transfer to an owner who is an heir or devisee of a deceased owner, shall not, by itself, result in removal of classification. The signed notice of continuance shall be attached to the real estate excise tax affidavit provided for in RCW 82.45.150. The notice of continuance shall be on a form prepared by the department of revenue. If the notice of continuance is not signed by the new owner and attached to the real estate excise tax affidavit, all compensating taxes calculated pursuant to subsection (7) of this section shall become due and payable by the seller or transferor at time of sale. The county auditor shall not accept an instrument of conveyance of classified forest land for filing or recording unless the new owner has signed the notice of continuance or the compensating tax has been paid. The seller, transferor, or new owner may appeal the new assessed valuation calculated under subsection (7) of this section to the county board of equalization. Jurisdiction is hereby conferred on the county board of equalization to hear these appeals.

The assessor shall remove classification pursuant to (c) or (d) of this subsection prior to September 30 of the year prior to the assessment year for which termination of classification is to be effective. Removal of classification as forest land upon occurrence of (a), (b), (d), or (e) of this subsection shall apply only to the land affected, and upon occurrence of (c) of this subsection shall apply only to the actual area of land no longer primarily devoted to and used for growing and harvesting timber: PROVIDED, That any remaining classified forest land meets necessary definitions of forest land pursuant to RCW 84.33.100 (~~as now or hereafter amended~~)).

(6) Within thirty days after such removal of classification as forest land, the assessor shall notify the owner in writing setting forth the reasons for such

removal. The owner of such land shall thereupon have the right to apply for designation of such land as forest land pursuant to subsection (4) of this section or RCW 84.33.130. The seller, transferor, or owner may appeal such removal to the county board of equalization.

(7) Unless the owner successfully applies for designation of such land or unless the removal is reversed on appeal, notation of removal from classification shall immediately be made upon the assessment and tax rolls, and commencing on January 1 of the year following the year in which the assessor made such notation, such land shall be assessed on the same basis as real property is assessed generally in that county. Except as provided in subsection((s)) (5)(e) (~~and~~), (9), or (10) of this section and unless the assessor shall not have mailed notice of classification pursuant to subsection (3) of this section, a compensating tax shall be imposed which shall be due and payable to the county treasurer thirty days after the owner is notified of the amount of the compensating tax. As soon as possible, the assessor shall compute the amount of such compensating tax and mail notice to the owner of the amount thereof and the date on which payment is due. The amount of such compensating tax shall be equal to the difference, if any, between the amount of tax last levied on such land as forest land and an amount equal to the new assessed valuation of such land multiplied by the dollar rate of the last levy extended against such land, multiplied by a number, in no event greater than ten, equal to the number of years, commencing with assessment year 1975, for which such land was assessed and valued as forest land.

(8) Compensating tax, together with applicable interest thereon, shall become a lien on such land which shall attach at the time such land is removed from classification as forest land and shall have priority to and shall be fully paid and satisfied before any recognizance, mortgage, judgment, debt, obligation or responsibility to or with which such land may become charged or liable. Such lien may be foreclosed upon expiration of the same period after delinquency and in the same manner provided by law for foreclosure of liens for delinquent real property taxes as provided in RCW 84.64.050. Any compensating tax unpaid on its due date shall thereupon become delinquent. From the date of delinquency until paid, interest shall be charged at the same rate applied by law to delinquent ad valorem property taxes.

(9) The compensating tax specified in subsection (7) of this section shall not be imposed if the removal of classification as forest land pursuant to subsection (5) of this section resulted solely from:

(a) Transfer to a government entity in exchange for other forest land located within the state of Washington;

(b) A taking through the exercise of the power of eminent domain, or sale or transfer to an entity having the power of eminent domain in anticipation of the exercise of such power;

(c) A donation of fee title, development rights, or the right to harvest timber, to a government agency or organization qualified under RCW 84.34.210 and

64.04.130 for the purposes enumerated in those sections, or the sale or transfer of fee title to a governmental entity or a nonprofit nature conservancy corporation, as defined in RCW 64.04.130, exclusively for the protection and conservation of lands recommended for state natural area preserve purposes by the natural heritage council and natural heritage plan as defined in chapter 79.70 RCW: PROVIDED, That at such time as the land is not used for the purposes enumerated, the compensating tax specified in subsection (7) of this section shall be imposed upon the current owner;

(d) The sale or transfer of fee title to the parks and recreation commission for park and recreation purposes; or

(e) Official action by an agency of the state of Washington or by the county or city within which the land is located that disallows the present use of such land.

(10) In a county with a population of more than one million inhabitants, the compensating tax specified in subsection (7) of this section shall not be imposed if the removal of classification as forest land pursuant to subsection (5) of this section resulted solely from:

(a) An action described in subsection (9) of this section; or

(b) A transfer of a property interest to a government entity, or to a nonprofit historic preservation corporation or nonprofit nature conservancy corporation, as defined in RCW 64.04.130, to protect or enhance public resources, or to preserve, maintain, improve, restore, limit the future use of, or otherwise to conserve for public use or enjoyment, the property interest being transferred. At such time as the property interest is not used for the purposes enumerated, the compensating tax shall be imposed upon the current owner.

(11) With respect to any land that has been designated prior to May 6, 1974, pursuant to RCW 84.33.120(4) or 84.33.130, the assessor may, prior to January 1, 1975, on his or her own motion or pursuant to petition by the owner, change, without imposition of the compensating tax provided under RCW 84.33.140, the status of such designated land to classified forest land.

Sec. 2. RCW 84.33.140 and 1995 c 330 s 2 are each amended to read as follows:

(1) When land has been designated as forest land pursuant to RCW 84.33.120(4) or 84.33.130, a notation of such designation shall be made each year upon the assessment and tax rolls, a copy of the notice of approval together with the legal description or assessor's tax lot numbers for such land shall, at the expense of the applicant, be filed by the assessor in the same manner as deeds are recorded, and such land shall be graded and valued pursuant to RCW 84.33.110 and 84.33.120 until removal of such designation by the assessor upon occurrence of any of the following:

(a) Receipt of notice from the owner to remove such designation;

(b) Sale or transfer to an ownership making such land exempt from ad valorem taxation;

(c) Sale or transfer of all or a portion of such land to a new owner, unless the new owner has signed a notice of forest land designation continuance, except transfer to an owner who is an heir or devisee of a deceased owner, shall not, by itself, result in removal of classification. The signed notice of continuance shall be attached to the real estate excise tax affidavit provided for in RCW 82.45.150. The notice of continuance shall be on a form prepared by the department of revenue. If the notice of continuance is not signed by the new owner and attached to the real estate excise tax affidavit, all compensating taxes calculated pursuant to subsection (3) of this section shall become due and payable by the seller or transferor at time of sale. The county auditor shall not accept an instrument of conveyance of designated forest land for filing or recording unless the new owner has signed the notice of continuance or the compensating tax has been paid. The seller, transferor, or new owner may appeal the new assessed valuation calculated under subsection (3) of this section to the county board of equalization. Jurisdiction is hereby conferred on the county board of equalization to hear these appeals;

(d) Determination by the assessor, after giving the owner written notice and an opportunity to be heard, that:

(i) Such land is no longer primarily devoted to and used for growing and harvesting timber. However, land shall not be removed from designation if a governmental agency, organization, or other recipient identified in subsection (5) or (6) of this section as exempt from the payment of compensating tax has manifested its intent in writing or by other official action to acquire a property interest in designated forest land by means of a transaction that qualifies for an exemption under subsection (5) or (6) of this section. The governmental agency, organization, or recipient shall annually provide the assessor of the county in which the land is located reasonable evidence in writing of the intent to acquire the designated land as long as the intent continues or within sixty days of a request by the assessor. The assessor may not request this evidence more than once in a calendar year;

(ii) The owner has failed to comply with a final administrative or judicial order with respect to a violation of the restocking, forest management, fire protection, insect and disease control and forest debris provisions of Title 76 RCW or any applicable regulations thereunder; or

(iii) Restocking has not occurred to the extent or within the time specified in the application for designation of such land.

Removal of designation upon occurrence of any of (a) through (c) of this subsection shall apply only to the land affected, and upon occurrence of (d) of this subsection shall apply only to the actual area of land no longer primarily devoted to and used for growing and harvesting timber, without regard to other land that may have been included in the same application and approval for designation: PROVIDED, That any remaining designated forest land meets necessary

definitions of forest land pursuant to RCW 84.33.100 (~~as now or hereafter amended~~)).

(2) Within thirty days after such removal of designation of forest land, the assessor shall notify the owner in writing, setting forth the reasons for such removal. The seller, transferor, or owner may appeal such removal to the county board of equalization.

(3) Unless the removal is reversed on appeal a copy of the notice of removal with notation of the action, if any, upon appeal, together with the legal description or assessor's tax lot numbers for the land removed from designation shall, at the expense of the applicant, be filed by the assessor in the same manner as deeds are recorded, and commencing on January 1 of the year following the year in which the assessor mailed such notice, such land shall be assessed on the same basis as real property is assessed generally in that county. Except as provided in subsection (1)(c), (5), or (6) of this section, a compensating tax shall be imposed which shall be due and payable to the county treasurer thirty days after the owner is notified of the amount of the compensating tax. As soon as possible, the assessor shall compute the amount of such compensating tax and mail notice to the owner of the amount thereof and the date on which payment is due. The amount of such compensating tax shall be equal to the difference between the amount of tax last levied on such land as forest land and an amount equal to the new assessed valuation of such land multiplied by the dollar rate of the last levy extended against such land, multiplied by a number, in no event greater than ten, equal to the number of years for which such land was designated as forest land.

(4) Compensating tax, together with applicable interest thereon, shall become a lien on such land which shall attach at the time such land is removed from designation as forest land and shall have priority to and shall be fully paid and satisfied before any recognizance, mortgage, judgment, debt, obligation or responsibility to or with which such land may become charged or liable. Such lien may be foreclosed upon expiration of the same period after delinquency and in the same manner provided by law for foreclosure of liens for delinquent real property taxes as provided in RCW 84.64.050. Any compensating tax unpaid on its due date shall thereupon become delinquent. From the date of delinquency until paid, interest shall be charged at the same rate applied by law to delinquent ad valorem property taxes.

(5) The compensating tax specified in subsection (3) of this section shall not be imposed if the removal of designation pursuant to subsection (1) of this section resulted solely from:

(a) Transfer to a government entity in exchange for other forest land located within the state of Washington;

(b) A taking through the exercise of the power of eminent domain, or sale or transfer to an entity having the power of eminent domain in anticipation of the exercise of such power;

(c) A donation of fee title, development rights, or the right to harvest timber, to a government agency or organization qualified under RCW 84.34.210 and 64.04.130 for the purposes enumerated in those sections, or the sale or transfer of fee title to a governmental entity or a nonprofit nature conservancy corporation, as defined in RCW 64.04.130, exclusively for the protection and conservation of lands recommended for state natural area preserve purposes by the natural heritage council and natural heritage plan as defined in chapter 79.70 RCW: PROVIDED, That at such time as the land is not used for the purposes enumerated, the compensating tax specified in subsection (3) of this section shall be imposed upon the current owner;

(d) The sale or transfer of fee title to the parks and recreation commission for park and recreation purposes; or

(e) Official action by an agency of the state of Washington or by the county or city within which the land is located that disallows the present use of such land.

(6) In a county with a population of more than one million inhabitants, the compensating tax specified in subsection (3) of this section shall not be imposed if the removal of classification as forest land pursuant to subsection (1) of this section resulted solely from:

(a) An action described in subsection (5) of this section; or

(b) A transfer of a property interest to a government entity, or to a nonprofit historic preservation corporation or nonprofit nature conservancy corporation, as defined in RCW 64.04.130, to protect or enhance public resources, or to preserve, maintain, improve, restore, limit the future use of, or otherwise to conserve for public use or enjoyment, the property interest being transferred. At such time as the property interest is not used for the purposes enumerated, the compensating tax shall be imposed upon the current owner.

Sec. 3. RCW 84.33.145 and 1992 c 69 s 3 are each amended to read as follows:

(1) If no later than thirty days after removal of classification or designation the owner applies for classification under RCW 84.34.020 (1), (2), or (3), then the classified or designated forest land shall not be considered removed from classification or designation for purposes of the compensating tax under RCW 84.33.120 or 84.33.140 until the application for current use classification under RCW 84.34.030 is denied or the property is removed from designation under RCW 84.34.108. Upon removal from designation under RCW 84.34.108, the amount of compensating tax due under this chapter shall be equal to:

(a) The difference, if any, between the amount of tax last levied on such land as forest land and an amount equal to the new assessed valuation of such land when removed from designation under RCW 84.34.108 multiplied by the dollar rate of the last levy extended against such land, multiplied by

(b) A number equal to:

(i) The number of years the land was classified or designated under this chapter, if the total number of years the land was classified or designated under this chapter and classified under chapter 84.34 RCW is less than ten; or

(ii) Ten minus the number of years the land was classified under chapter 84.34 RCW, if the total number of years the land was classified or designated under this chapter and classified under chapter 84.34 RCW is at least ten.

(2) Nothing in this section authorizes the continued classification or designation under this chapter or defers or reduces the compensating tax imposed upon forest land not transferred to classification under subsection (1) of this section which does not meet the necessary definitions of forest land under RCW 84.33.100. Nothing in this section affects the additional tax imposed under RCW 84.34.108.

(3) In a county with a population of more than one million inhabitants, no amount of compensating tax is due under this section if the removal from classification under RCW 84.34.108 results from a transfer of property described in RCW 84.34.108(5).

**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 the Senate April 19, 1997.

Passed the House April 10, 1997.

Approved by the Governor May 9, 1997.

Filed in Office of Secretary of State May 9, 1997.

## CHAPTER 300

[Substitute Senate Bill 5334]

### TAX CREDITS FOR GUARANTY ASSOCIATION ASSESSMENTS PAID BY INSURERS

AN ACT Relating to credit against the premium tax for guaranty association assessments paid by insurers; and amending RCW 48.32.145 and 48.32A.090.

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

**Sec. 1.** RCW 48.32.145 and 1993 sp.s. c 25 s 901 are each amended to read as follows:

Every member insurer that prior to April 1, 1993, or after the effective date of this section, shall have paid one or more assessments levied pursuant to RCW 48.32.060(1)(c) shall be entitled to take(~~(-as)~~) a credit against any premium tax falling due under RCW 48.14.020(~~(:)~~). The amount of the credit shall be one-fifth of the aggregate amount of such aggregate assessments paid during such calendar year for each of the five consecutive calendar years beginning with the calendar year following the calendar year in which such assessments are paid. Whenever ~~((an assessment or uncredited portion of an assessment))~~ the allowable credit is or becomes less than one thousand dollars, the entire amount ~~((may be credited))~~ of

the credit may be offset against the premium tax at the next time the premium tax is paid.

~~((This section shall expire January 1, 1999.))~~

**Sec. 2.** RCW 48.32A.090 and 1993 sp.s. c 25 s 902 are each amended to read as follows:

(1) The association shall issue to each insurer paying an assessment under this chapter certificates of contribution, in appropriate form and terms as prescribed or approved by the commissioner, for the amounts so paid into the respective funds. All outstanding certificates against a particular fund shall be of equal dignity and priority without reference to amounts or dates of issue.

(2) An outstanding certificate of contribution issued for an assessment paid prior to April 1, 1993, or issued for an assessment paid for an insolvent insurer for which the order of liquidation was entered after the effective date of this section, shall be shown by the insurer in its financial statements as an admitted asset for such amount and period of time as the commissioner may approve. Unless a longer period has been allowed by the commissioner the insurer shall in any event at its option have the right to so show a certificate of contribution as an admitted asset at percentages of original face amount for calendar years as follows:

- 100% for the calendar year of issuance;
- 80% for the first calendar year after the year of issuance;
- 60% for the second calendar year after the year of issuance;
- 40% for the third calendar year after the year of issuance;
- 20% for the fourth calendar year after the year of issuance; and
- 0% for the fifth and subsequent calendar years after the year of issuance.

Notwithstanding the foregoing, if the value of a certificate of contribution is or becomes less than one thousand dollars, the entire amount may be written off by the insurer in that year.

(3) The insurer shall offset the amount written off by it in a calendar year under subsection (2) of this section against its premium tax liability to this state accrued with respect to business transacted in such year.

(4) Any sums recovered by the association representing sums which have theretofore been written off by contributing insurers and offset against premium taxes as provided in subsection (3) of this section, shall be paid by the association to the commissioner and then deposited with the state treasurer for credit to the general fund of the state of Washington.

(5) No distribution to stockholders, if any, of a liquidating insurer shall be made unless and until the total amount of assessments levied by the association with respect to such insurer have been fully recovered by the association.

Passed the Senate April 19, 1997.

Passed the House April 11, 1997.

Approved by the Governor May 9, 1997.

Filed in Office of Secretary of State May 9, 1997.

**CHAPTER 301**

[Senate Bill 5353]

**USE TAX EXEMPTIONS FOR MOTOR VEHICLES USED BY RESIDENTS IF ACQUIRED WHILE RESIDENT ELSEWHERE**

AN ACT Relating to limiting a tax exemption for motor vehicles; and amending RCW 82.12.0251.

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

**Sec. 1.** RCW 82.12.0251 and 1987 c 27 s 1 are each amended to read as follows:

The provisions of this chapter shall not apply in respect to the use of any article of tangible personal property brought into the state of Washington by a nonresident thereof for his or her use or enjoyment while temporarily within the state of Washington unless such property is used in conducting a nontransitory business activity within the state of Washington; or in respect to the use by a nonresident of Washington of a motor vehicle or trailer which is registered or licensed under the laws of the state of his or her residence, and which is not required to be registered or licensed under the laws of Washington, including motor vehicles or trailers exempt pursuant to a declaration issued by the department of licensing under RCW 46.85.060; or in respect to the use of household goods, personal effects, and private ~~((automobiles))~~ motor vehicles, not including motor homes, by a bona fide resident of Washington, or nonresident members of the armed forces who are stationed in Washington pursuant to military orders, if such articles were acquired and used by such person in another state while a bona fide resident thereof and such acquisition and use occurred more than ninety days prior to the time he or she entered Washington.

For purposes of this section, "state" means a state of the United States, any political subdivision thereof, the District of Columbia, and any foreign country or political subdivision thereof.

Passed the Senate April 8, 1997.

Passed the House April 17, 1997.

Approved by the Governor May 9, 1997.

Filed in Office of Secretary of State May 9, 1997.

**CHAPTER 302**

[Substitute Senate Bill 5359]

**MATERIALS USED BY SMALL COMPANIES FOR AIRCRAFT PART, EQUIPMENT, AND MODIFICATION DESIGN AND DEVELOPMENT—SALES AND USE TAXATION CLARIFICATION**

AN ACT Relating to clarifying the exemption from sales and use taxation of the materials used by small companies in the design and development of aircraft parts, auxiliary equipment, and aircraft modification; amending RCW 82.08.02566 and 82.12.02566; providing an effective date; and declaring an emergency.

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

Sec. I. RCW 82.08.02566 and 1996 c 247 s 4 are each amended to read as follows:

(1) ~~The tax levied by RCW 82.08.020 shall not apply to sales of ((materials used in designing and developing aircraft parts, auxiliary equipment, and aircraft modification whether from enterprise funds or on a contract or fee basis for a taxpayer with gross sales of less than twenty million dollars per year. This exemption may not exceed one hundred thousand dollars for a taxpayer in a year))~~ tangible personal property incorporated into a prototype for aircraft parts, auxiliary equipment, or modifications; or to sales of tangible personal property that at one time is incorporated into the prototype but is later destroyed in the testing or development of the prototype.

(2) This exemption does not apply to sales to any person whose total taxable amount during the immediately preceding calendar year exceeds twenty million dollars. For purposes of this section, "total taxable amount" means gross income of the business and value of products manufactured, less any amounts for which a credit is allowed under RCW 82.04.440.

(3) State and local taxes for which an exemption is received under this section and RCW 82.12.02566 shall not exceed one hundred thousand dollars for any person during any calendar year.

Sec. 2. RCW 82.12.02566 and 1996 c 247 s 5 are each amended to read as follows:

(1) ~~The provisions of this chapter shall not apply with respect to the use of ((materials used in designing and developing aircraft parts, auxiliary equipment, and aircraft modification whether from enterprise funds or on a contract or fee basis for a taxpayer with gross sales of less than twenty million dollars per year. This exemption may not exceed one hundred thousand dollars for a taxpayer in a year))~~ tangible personal property incorporated into a prototype for aircraft parts, auxiliary equipment, or modifications; or in respect to the use of tangible personal property that at one time is incorporated into the prototype but is later destroyed in the testing or development of the prototype.

(2) This exemption does not apply in respect to the use of tangible personal property by any person whose total taxable amount during the immediately preceding calendar year exceeds twenty million dollars. For purposes of this section, "total taxable amount" means gross income of the business and value of products manufactured, less any amounts for which a credit is allowed under RCW 82.04.440.

(3) State and local taxes for which an exemption is received under this section and RCW 82.08.02566 shall not exceed one hundred thousand dollars for any person during any calendar year.

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 July 1, 1997.

Passed the Senate April 21, 1997.  
Passed the House April 15, 1997.  
Approved by the Governor May 9, 1997.  
Filed in Office of Secretary of State May 9, 1997.

---

### CHAPTER 303

[Engrossed Senate Bill 5514]

#### FEES FOR COMMODITY COMMISSIONS AND THE DEPARTMENT OF AGRICULTURE

AN ACT Relating to authorizing fees for commodity commissions and the department of agriculture; amending RCW 43.135.055, 15.28.180, 15.86.070, 22.09.050, and 22.09.055; adding a new section to chapter 43.23 RCW; creating a new section; providing an effective date; and declaring an emergency.

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

**NEW SECTION.** **Sec. 1.** The legislature finds that Initiative Measure No. 601, adopted by the people of the state of Washington, limits fee increases by requiring that any increases in fees beyond the levels expressly allowed under the initiative receive the prior approval of the legislature. The legislature finds that a more direct system of allowing the people to control fee increases predates Initiative Measure No. 601. This system developed in agricultural communities and provides these communities with direct control of the fees of the agricultural commodity commissions they created to serve them. The system requires those who pay the assessments levied by commodity commissions and boards to approve of assessment increases by referendum. It is at the heart of the statutes and marketing orders and agreements under which agricultural commodity commissions and boards are created. The legislature does not believe that the adoption of Initiative Measure No. 601 was intended to dilute in any manner this more direct control held by the people governed by commodity commissions or boards over the fees they pay in the form of such assessments. Therefore, the legislature defers to this more direct control of these assessments so long as the authority to approve or disapprove of increases in these assessments is by referendum held directly by those who pay them.

**Sec. 2.** RCW 43.135.055 and 1994 c 2 s 8 are each amended to read as follows:

(1) No fee may increase in any fiscal year by a percentage in excess of the fiscal growth factor for that fiscal year without prior legislative approval.

(2) This section does not apply to an assessment made by an agricultural commodity commission or board created by state statute or created under a marketing agreement or order under chapter 15.65 or 15.66 RCW if the assessment is approved by referendum in accordance with the provisions of the statutes creating the commission or board or chapter 15.65 or 15.66 RCW for approving such assessments.

**Sec. 3.** RCW 15.28.180 and 1992 c 87 s 1 are each amended to read as follows:

(1) The same assessment shall be made for each soft tree fruit, except that if a two-thirds majority of the state commodity committee of any fruit recommends in writing the levy of an additional assessment on that fruit, or any classification thereof, for any year or years, the commission may levy such assessment for that year or years up to the maximum of eighteen dollars for each two thousand pounds of any fruit except cherries or any classification thereof, as to which the assessment may be increased to a maximum of thirty dollars for each two thousand pounds, and except pears covered by this chapter, as to which the assessment may be increased to a maximum of eighteen dollars for each two thousand pounds: PROVIDED, That no increase in the assessment on pears becomes effective unless the increase is first referred by the commission to a referendum by the Bartlett pear growers of the state and is approved by a majority of the growers voting on the referendum. The method and procedure of conducting the referendum shall be determined by the commission. Any funds so raised shall be expended solely for the purposes provided in this chapter and solely for such fruit, or classification thereof.

The commission has the authority in its discretion to exempt in whole or in part from future assessments under this chapter, during such period as the commission may prescribe, any of the soft tree fruits or any particular strain or classification of them.

(2) An assessment levied under this chapter may be increased in excess of the fiscal growth factor as determined under chapter 43.135 RCW if the assessment is submitted by referendum to the growers who are subject to the assessment and the increase is approved by a majority of those voting on the referendum. The method and procedure of conducting the referendum shall be determined by the commission.

Sec. 4. RCW 15.86.070 and 1992 c 71 s 10 are each amended to read as follows:

(1) The director may adopt rules establishing a certification program for producers, processors, and vendors of organic or transition to organic food. The rules may govern, but are not limited to governing: The number and scheduling of on-site visits, both announced and unannounced, by certification personnel; recordkeeping requirements; and the submission of product samples for chemical analysis. The rules shall include a fee schedule that will provide for the recovery of the full cost of the organic food program. Fees collected under this section shall be deposited in an account within the agricultural local fund and the revenue from such fees shall be used solely for carrying out the provisions of this section, and no appropriation is required for disbursement from the fund. The director may employ such personnel as are necessary to carry out the provisions of this section.

(2) The fees established under this section may be increased in excess of the fiscal growth factor as provided in RCW 43.135.055 for the fiscal year ending June 30, 1998.

**NEW SECTION.** Sec. 5. A new section is added to chapter 43.23 RCW to read as follows:

The director may collect moneys to recover the reasonable costs of publishing and disseminating informational materials by the department. Materials may be disseminated in printed or electronic format. All moneys collected shall be deposited in the agricultural local fund or other appropriate fund administered by the director.

Sec. 6. RCW 22.09.050 and 1994 c 46 s 4 are each amended to read as follows:

Any application for a license to operate a warehouse shall be accompanied by a license fee of ~~((twelve hundred))~~ one thousand three hundred fifty dollars for a terminal warehouse, ~~((nine hundred))~~ one thousand fifty dollars for a subterminal warehouse, and ~~((three hundred and fifty))~~ five hundred dollars for a country warehouse. If a licensee operates more than one warehouse under one state license as provided for in RCW 22.09.030, the license fee shall be computed by multiplying the number of physically separated warehouses within the station by the applicable terminal, subterminal, or country warehouse license fee.

If an application for renewal of a warehouse license or licenses is not received by the department prior to the renewal date or dates established by the director by rule, a penalty of fifty dollars for the first week and one hundred dollars for each week thereafter shall be assessed and added to the original fee and shall be paid by the applicant before the renewal license may be issued. This penalty does not apply if the applicant furnishes an affidavit certifying that he has not acted as a warehouseman subsequent to the expiration of his or her prior license.

Sec. 7. RCW 22.09.055 and 1994 c 46 s 5 are each amended to read as follows:

An application for a license to operate as a grain dealer shall be accompanied by a license fee of ~~((six hundred))~~ seven hundred fifty dollars. The license fee for exempt grain dealers shall be ~~((one hundred fifty))~~ three hundred dollars.

If an application for renewal of a grain dealer or exempt grain dealer license is not received by the department before the renewal date or dates established by the director by rule, a penalty of fifty dollars for the first week and one hundred dollars for each week thereafter shall be assessed and added to the original fee and shall be paid by the applicant before the renewal license may be issued. This penalty does not apply if the applicant furnishes an affidavit certifying that he has not acted as a grain dealer or exempt grain dealer after the expiration of his or her prior license.

**NEW SECTION.** Sec. 8. Sections 6 and 7 of this act take effect July 1, 1998.

**NEW SECTION.** Sec. 9. Sections 1 through 3 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 the Senate April 21, 1997.

Passed the House April 14, 1997.

Approved by the Governor May 9, 1997.

Filed in Office of Secretary of State May 9, 1997.

---

## CHAPTER 304

[Substitute Senate Bill 5763]

### PROHIBITING TAXATION OF INTERNET SERVICE PROVIDERS AS TELEPHONE SERVICES PROVIDERS

AN ACT Relating to prohibiting the taxation of internet service providers as network telephone services providers; amending RCW 82.04.055 and 82.04.065; adding a new section to chapter 35.21 RCW; 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 newly emerging business of providing internet service is providing widespread benefits to all levels of society. The legislature further finds that this business is important to our state's continued growth in the high-technology sector of the economy and that, as this industry emerges, it should not be burdened by new taxes that might not be appropriate for the type of service being provided. The legislature further finds that there is no clear statutory guidance as to how internet services should be classified for tax purposes and intends to ratify the state's current treatment of such services.

**NEW SECTION.** Sec. 2. A new section is added to chapter 35.21 RCW to read as follows:

Until July 1, 1999, a city or town may not impose any new taxes or fees specific to internet service providers. A city or town may tax internet service providers under generally applicable business taxes or fees, at a rate not to exceed the rate applied to a general service classification. For the purposes of this section, "internet service" has the same meaning as in section 4 of this act.

**Sec. 3.** RCW 82.04.055 and 1993 sp.s. c 25 s 201 are each amended to read as follows:

(1) "Selected business services" means:

(a) Stenographic, secretarial, and clerical services.

(b) Computer services, including but not limited to computer programming, custom software modification, custom software installation, custom software maintenance, custom software repair, training in the use of custom software, computer systems design, and custom software update services.

(c) Data processing services, including but not limited to word processing, data entry, data retrieval, data search, information compilation, payroll processing, business accounts processing, data production, and other computerized data and information storage or manipulation. Data processing services also includes the use of a computer or computer time for data processing whether the processing is

performed by the provider of the computer or by the purchaser or other beneficiary of the service.

(d) Information services, including but not limited to electronic data retrieval or research that entails furnishing financial or legal information, data or research, internet service as defined in section 4 of this act, general or specialized news, or current information unless such news or current information is furnished to a newspaper publisher or to a radio or television station licensed by the federal communications commission.

(e) Legal, arbitration, and mediation services, including but not limited to paralegal services, legal research services, and court reporting services.

(f) Accounting, auditing, actuarial, bookkeeping, tax preparation, and similar services.

(g) Design services whether or not performed by persons licensed or certified, including but not limited to the following:

(i) Engineering services, including civil, electrical, mechanical, petroleum, marine, nuclear, and design engineering, machine designing, machine tool designing, and sewage disposal system designing;

(ii) Architectural services, including but not limited to: Structural or landscape design or architecture, interior design, building design, building program management, and space planning.

(h) Business consulting services. Business consulting services are those primarily providing operating counsel, advice, or assistance to the management or owner of any business, private, nonprofit, or public organization, including but not limited to those in the following areas: Administrative management consulting, general management consulting, human resource consulting or training, management engineering consulting, management information systems consulting, manufacturing management consulting, marketing consulting, operations research consulting, personnel management consulting, physical distribution consulting, site location consulting, economic consulting, motel, hotel, and resort consulting, restaurant consulting, government affairs consulting, and lobbying.

(i) Business management services, including but not limited to administrative management, business management, and office management, but not including property management or property leasing, motel, hotel, and resort management, or automobile parking management.

(j) Protective services, including but not limited to detective agency services and private investigating services, armored car services, guard or protective services, lie detection or polygraph services, and security system, burglar, or fire alarm monitoring and maintenance services.

(k) Public relations or advertising services, including but not limited to layout, art direction, graphic design, copy writing, mechanical preparation, opinion research, marketing research, marketing, or production supervision, but excluding services provided as part of broadcast or print advertising.

(l) Aerial and land surveying, geological consulting, and real estate appraising.

(2) Subsection (1) of this section notwithstanding, the term "selected business services" does not include:

(a) The provision of either permanent or temporary employees.

(b) Services provided by a public benefit nonprofit organization, as defined in RCW 82.04.366, to the state of Washington, its political subdivisions, municipal corporations, or quasi-municipal corporations.

(c) Services related to the identification, investigation, or cleanup arising out of the release or threatened release of hazardous substances when the services are remedial or response actions performed under federal or state law, or when the services are performed to determine if a release of hazardous substances has occurred or is likely to occur.

(d) Services provided to or performed for, on behalf of, or for the benefit of a collective investment fund such as: (i) A mutual fund or other regulated investment company as defined in section 851(a) of the Internal Revenue Code of 1986, as amended; (ii) an "investment company" as that term is used in section 3(a) of the Investment Company Act of 1940 as well as an entity that would be an investment company under section 3(a) of the Investment Company Act of 1940 except for the section 3(c)(1) or (11) exemptions, or except that it is a foreign investment company organized under laws of a foreign country; (iii) an "employee benefit plan," which includes any plan, trust, commingled employee benefit trusts, or custodial arrangement that is subject to the Employee Retirement Income Security Act of 1974, as amended, 29 U.S.C. Sec. 1001 et seq., or that is described in sections 125, 401, 403, 408, 457, and 501(c)(9) and (17) through (23) of the Internal Revenue Code of 1986, as amended, or similar plan maintained by state or local governments, or plans, trusts, or custodial arrangements established to self-insure benefits required by federal, state, or local law; (iv) a fund maintained by a tax exempt organization as defined in section 501(c)(3) or 509(a) of the Internal Revenue Code of 1986, as amended, for operating, quasi-endowment, or endowment purposes; or (v) funds that are established for the benefit of such tax exempt organization such as charitable remainder trusts, charitable lead trusts, charitable annuity trusts, or other similar trusts.

(e) Research or experimental services eligible for expense treatment under section 174 of the Internal Revenue Code of 1986, as amended.

(f) Financial services provided by a financial institution. The term "financial institution" means a corporation, partnership, or other business organization chartered under Title 30, 31, 32, or 33 RCW, or under the National Bank Act, as amended, the Homeowners Loan Act, as amended, or the Federal Credit Union Act, as amended, or a holding company of any such business organization that is subject to the Bank Holding Company Act, as amended, or the Homeowners Loan Act, as amended, or a subsidiary or affiliate wholly owned or controlled by one or more financial institutions, as well as a lender approved by the United States secretary of housing and urban development for participation in any mortgage insurance program under the National Housing Act, as amended. The term

"financial services" means those activities authorized by the laws cited in this subsection (2)(f) and includes services such as mortgage servicing, contract collection servicing, finance leasing, and services provided in a fiduciary capacity to a trust or estate.

**NEW SECTION.** Sec. 4. A new section is added to chapter 82.04 RCW to read as follows:

(1) The provision of internet services is a selected business service activity and subject to tax under RCW 82.04.290(1), but if RCW 82.04.055 is repealed then the provision of internet services is taxable under the general service business and occupation tax classification of RCW 82.04.290.

(2) "Internet" means the international computer network of both federal and nonfederal interoperable packet switched data networks, including the graphical subnetwork called the world wide web.

(3) "Internet service" means a service that includes computer processing applications, provides the user with additional or restructured information, or permits the user to interact with stored information through the internet or a proprietary subscriber network. "Internet service" includes provision of internet electronic mail, access to the internet for information retrieval, and hosting of information for retrieval over the internet or the graphical subnetwork called the world wide web.

Sec. 5. RCW 82.04.065 and 1983 2nd ex.s. c 3 s 24 are each amended to read as follows:

(1) "Competitive telephone service" means the providing by any person of telecommunications equipment or apparatus, or service related to that equipment or apparatus such as repair or maintenance service, if the equipment or apparatus is of a type which can be provided by persons that are not subject to regulation as telephone companies under Title 80 RCW and for which a separate charge is made.

(2) "Network telephone service" means the providing by any person of access to a local telephone network, local telephone network switching service, toll service, or coin telephone services, or the providing of telephonic, video, data, or similar communication or transmission for hire, via a local telephone network, toll line or channel, cable, microwave, or similar communication or transmission system. "Network telephone service" includes interstate service, including toll service, originating from or received on telecommunications equipment or apparatus in this state if the charge for the service is billed to a person in this state. "Network telephone service" includes the provision of transmission to and from the site of an internet provider via a local telephone network, toll line or channel, cable, microwave, or similar communication or transmission system. "Network telephone service" does not include the providing of competitive telephone service, the providing of cable television service, ~~((nor))~~ the providing of broadcast services by radio or television stations, nor the provision of internet service as defined in section 4 of this act, including the reception of dial-in connection, provided at the site of the internet service provider.

(3) "Telephone service" means competitive telephone service or network telephone service, or both, as defined in subsections (1) and (2) of this section.

(4) "Telephone business" means the business of providing network telephone service, as defined in subsection (2) of this section. It includes cooperative or farmer line telephone companies or associations operating an exchange.

**NEW SECTION. Sec. 6.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

**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 the Senate April 19, 1997.

Passed the House April 10, 1997.

Approved by the Governor May 9, 1997.

Filed in Office of Secretary of State May 9, 1997.

## CHAPTER 305

[Substitute Senate Bill 5770]

### CONFIDENTIALITY OF CHILD WELFARE RECORDS—DISCLOSURE OF INFORMATION

AN ACT Relating to the confidentiality of child welfare records; adding new sections to chapter 74.13 RCW; and creating a new section.

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

**\*NEW SECTION. Sec. 1.** *The legislature finds unacceptable laws that bar legitimate and appropriate inquiries about the activities of public agencies in abuse and neglect cases, for they frustrate the ability of the legislature to set informed policy and act in appropriate oversight capacity; impair the ability of independent government agencies to determine the effectiveness of services, staff, and funding; corrode public trust; and undermine the right of the public to determine whether abused and neglected children are being adequately protected.*

*The legislature therefore finds a compelling need to reform the confidentiality laws and declares its intent, by enactment of this act, to increase the capacity for oversight and monitoring of the child welfare system, to increase information available to the public, and to increase accountability among the agencies involved in the system.*

*The legislature finds that the privacy of children and their families in child abuse and neglect cases must be safeguarded, but that the interests of children, their families, and the public are best protected by increased knowledge and oversight concerning the system, and by greater accountability; and therefore declares that this privacy must be balanced with the appropriate release of information concerning these cases. When the child has died, the legislature finds that disclosure is strongly in the public interest.*

\*Sec. 1 was vetoed. See message at end of chapter.

**NEW SECTION. Sec. 2.** (1) Consistent with the provisions of chapter 42.17 RCW and applicable federal law, the secretary, or the secretary's designee, shall disclose information regarding the abuse or neglect of a child, the investigation of the abuse or neglect, and any services related to the abuse or neglect of a child if any one of the following factors is present:

(a) The subject of the report has been charged in an accusatory instrument with committing a crime related to a report maintained by the department in its case and management information system;

(b) The investigation of the abuse or neglect of the child by the department or the provision of services by the department has been publicly disclosed in a report required to be disclosed in the course of their official duties, by a law enforcement agency or official, a prosecuting attorney, any other state or local investigative agency or official, or by a judge of the superior court;

(c) There has been a prior knowing, voluntary public disclosure by an individual concerning a report of child abuse or neglect in which such individual is named as the subject of the report; or

(d) The child named in the report has died and the child's death resulted from abuse or neglect or the child was in the care of, or receiving services from the department at the time of death or within twelve months before death.

(2) The secretary is not required to disclose information if the factors in subsection (1) of this section are present if he or she specifically determines the disclosure is contrary to the best interests of the child, the child's siblings, or other children in the household.

(3) Except for cases in subsection (1)(d) of this section, requests for information under this section shall specifically identify the case about which information is sought and the facts that support a determination that one of the factors specified in subsection (1) of this section is present.

**NEW SECTION. Sec. 3.** For purposes of section 2 of this act, the following information shall be disclosable:

(1) The name of the abused or neglected child;

(2) The determination made by the department of the referrals, if any, for abuse or neglect;

(3) Identification of child protective or other services provided or actions, if any, taken regarding the child named in the report and his or her family as a result of any such report or reports. These records include but are not limited to administrative reports of fatality, fatality review reports, case files, inspection reports, and reports relating to social work practice issues; and

(4) Any actions taken by the department in response to reports of abuse or neglect of the child.

**NEW SECTION. Sec. 4.** In determining under section 2 of this act whether disclosure will be contrary to the best interests of the child, the secretary, or the

secretary's designee, must consider the effects which disclosure may have on efforts to reunite and provide services to the family.

**NEW SECTION.** Sec. 5. For purposes of section 2(1)(d) of this act, the secretary must make the fullest possible disclosure consistent with chapter 42.17 RCW and applicable federal law in cases of all fatalities of children who were in the care of, or receiving services from, the department at the time of their death or within the twelve months previous to their death.

If the secretary specifically determines that disclosure of the name of the deceased child is contrary to the best interests of the child's siblings or other children in the household, the secretary may remove personally identifying information.

For the purposes of this section, "personally identifying information" means the name, street address, social security number, and day of birth of the child who died and of private persons who are relatives of the child named in child welfare records. "Personally identifying information" shall not include the month or year of birth of the child who has died. Once this personally identifying information is removed, the remainder of the records pertaining to a child who has died must be released regardless of whether the remaining facts in the records are embarrassing to the unidentifiable other private parties or to identifiable public workers who handled the case.

**NEW SECTION.** Sec. 6. Except as it applies directly to the cause of the abuse or neglect of the child and any actions taken by the department in response to reports of abuse or neglect of the child, nothing in sections 2 through 5 of this act is deemed to authorize the release or disclosure of the substance or content of any psychological, psychiatric, therapeutic, clinical, or medical reports, evaluations, or like materials, or information pertaining to the child or the child's family.

**NEW SECTION.** Sec. 7. The department, when acting in good faith, is immune from any criminal or civil liability, except as provided under RCW 42.17.340, for any action taken under sections 1 through 6 of this act.

**NEW SECTION.** Sec. 8. If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state, the conflicting part of this act is inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and this finding does not affect the operation of the remainder of this act in its application to the agencies concerned. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state.

**NEW SECTION.** Sec. 9. Sections 1 through 7 of this act are each added to chapter 74.13 RCW.

Passed the Senate April 22, 1997.

Passed the House April 10, 1997.

Approved by the Governor May 9, 1997, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State May 9, 1997.

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

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

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

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

Section 1 of SSB 5770, the intent section, makes strong statements beyond the scope of the bill, and beyond my original intent. I am concerned that it may lead to unintended invasions of privacy in deeply personal and sensitive matters.

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

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

## CHAPTER 306

[Substitute Senate Bill 5737]

### VIOLENCE REDUCTION AND DRUG ENFORCEMENT ACCOUNT FUNDING

AN ACT Relating to reducing the carbonated beverage tax; amending RCW 82.64.020; creating a new section; making appropriations; providing an effective date; and declaring an emergency.

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

*\*Sec. 1. RCW 82.64.020 and 1994 sp.s. c 7 s 906 are each amended to read as follows:*

*(1) A tax is imposed on each sale at wholesale of syrup in this state. The rate of the tax shall be equal to ((~~one-dollar~~)) fifty cents per gallon. Fractional amounts shall be taxed proportionally.*

*(2) A tax is imposed on each sale at retail of syrup in this state. The rate of the tax shall be equal to the rate imposed under subsection (1) of this section.*

*(3) Moneys collected under this chapter shall be deposited in the violence reduction and drug enforcement account under RCW 69.50.520.*

*(4) Chapter 82.32 RCW applies to the taxes imposed in this chapter. The tax due dates, reporting periods, and return requirements applicable to chapter 82.04 RCW apply equally to the taxes imposed in this chapter.*

\*Sec. 1 was vetoed. See message at end of chapter.

**NEW SECTION.** Sec. 2. (1) The sum of three million five hundred seventy thousand dollars, or as much thereof as may be necessary, is appropriated for the fiscal year ending June 30, 1998, from the general fund to the violence reduction and drug enforcement account for the purposes of RCW 69.50.520.

(2) The sum of four million one hundred sixty thousand dollars, or as much thereof as may be necessary, is appropriated for the fiscal year ending June 30,

1999, from the general fund to the violence reduction and drug enforcement account for the purposes of RCW 69.50.520.

***\*NEW SECTION. Sec. 3. This act does not affect any existing right acquired or liability or obligation incurred under the section amended in this act or under any rule or order adopted under that section, nor does it affect any proceeding instituted under that section.***

\*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 July 1, 1997.

Passed the Senate April 15, 1997.

Passed the House April 18, 1997.

Approved by the Governor May 9, 1997, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State May 9, 1997.

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

"I am returning herewith, without my approval as to sections 1 and 3, Substitute Senate Bill No. 5737 entitled:

"AN ACT Relating to reducing the carbonated beverage tax;"

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

Section 1 would reduce the state's revenues by \$7.7 million in the 1997-99 biennium. In light of the other very substantial tax cuts that I have already signed into law, it is clear that the state cannot afford section 1 of SSB 5737.

Section 3 of SSB 5737 applies only to section 1, and is therefore rendered unnecessary by the veto of section 1.

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

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

---

## CHAPTER 307

[Substitute House Bill 1234]

### BOARD OF PLUMBERS—MEMBERSHIP

AN ACT Relating to the board of plumbers; and amending RCW 18.106.110.

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

**Sec. 1.** RCW 18.106.110 and 1995 c 95 s 1 are each amended to read as follows:

(1) There is created a state advisory board of plumbers, to be composed of ~~((three))~~ five members appointed by the governor. ~~((One))~~ Two members shall be ~~((a))~~ journeyman plumbers, ~~((one))~~ two members shall be ~~((a))~~ persons conducting a plumbing business, and one member from the general public who is familiar with the business and trade of plumbing.

(2) The term of ~~((the))~~ one journeyman plumber ~~((shall))~~ expires July 1, 1995; the term of the second journeyman plumber expires July 1, 2000; the term of ~~((the))~~ one person conducting a plumbing business ~~((shall))~~ expires July 1, 1996; the term of the second person conducting a plumbing business expires July 1, 2000; and the term of the public member ~~((shall))~~ expires July 1, 1997. Thereafter, upon the expiration of said terms, the governor shall appoint a new member to serve for a period of three years. However, to ensure that the board can continue to act, a member whose term expires shall continue to serve until his or her replacement is appointed. In the case of any vacancy on the board for any reason, the governor shall appoint a new member to serve out the term of the person whose position has become vacant.

(3) The advisory board shall carry out all the functions and duties enumerated in this chapter, as well as generally advise the department on all matters relative to this chapter.

(4) Each member of the advisory board shall receive travel expenses in accordance with the provisions of RCW 43.03.050 and 43.03.060 as now existing or hereafter amended for each day in which such member is actually engaged in attendance upon the meetings of the advisory board.

Passed the House March 11, 1997.

Passed the Senate April 9, 1997.

Approved by the Governor May 12, 1997.

Filed in Office of Secretary of State May 12, 1997.

---

## CHAPTER 308

{House Bill 1316}

STATE ROUTE 35

AN ACT Relating to designation of state route number 35; and adding a new section to chapter 47.17 RCW.

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

NEW SECTION. **Sec. 1.** A new section is added to chapter 47.17 RCW to read as follows:

A state highway to be known as state route number 35 is established as follows:

Beginning at the Washington-Oregon boundary line thence northerly to a junction with state route number 14 in the vicinity of White Salmon; however, until such time as a bridge across the Columbia River is constructed at a location adopted by the transportation commission no existing route may be maintained or

improved by the transportation commission as a temporary route for state route number 35.

Passed the House February 21, 1997.

Passed the Senate April 18, 1997.

Approved by the Governor May 12, 1997.

Filed in Office of Secretary of State May 12, 1997.

---

**CHAPTER 309**

[Engrossed Substitute House Bill 1361]

**ELECTRICIANS AND ELECTRICAL INSTALLATIONS—MODIFICATION OF REGULATIONS**

AN ACT Relating to regulation of electricians and electrical installations; and amending RCW 19.28.510, 19.28.520, 19.28.530, and 19.28.070.

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

**Sec. 1.** RCW 19.28.510 and 1996 c 241 s 6 are each amended to read as follows:

(1) No person may engage in the electrical construction trade without having a current journeyman electrician certificate of competency or a current specialty electrician certificate of competency issued by the department in accordance with this chapter. Electrician certificate of competency specialties include, but are not limited to: Residential, domestic appliances, pump and irrigation, limited energy system, signs, and nonresidential maintenance.

(2) A person who is indentured in an apprenticeship program approved under chapter 49.04 RCW for the electrical construction trade or who is learning the electrical construction trade may work in the electrical construction trade if supervised by a certified journeyman electrician or a certified specialty electrician in that electrician's specialty. All apprentices and individuals learning the electrical construction trade shall obtain an electrical training certificate from the department. The certificate shall authorize the holder to learn the electrical construction trade while under the direct supervision of a journeyman electrician or a specialty electrician working in his or her specialty. The holder of the electrical training certificate shall renew the certificate annually. At the time of renewal, the holder shall provide the department with an accurate list of the holder's employers in the electrical construction industry for the previous year and the number of hours worked for each employer. An annual fee shall be charged for the issuance or renewal of the certificate. The department shall set the fee by rule. The fee shall cover but not exceed the cost of administering and enforcing the trainee certification and supervision requirements of this chapter. Apprentices and individuals learning the electrical construction trade shall have their electrical training certificates in their possession at all times that they are performing electrical work. They shall show their certificates to an authorized representative of the department at the representative's request.

(3) Any person who has been issued an electrical training certificate under this chapter may work if that person is under supervision. Supervision shall consist of a person being on the same job site and under the control of either a journeyman electrician or an appropriate specialty electrician who has an applicable certificate of competency issued under this chapter. Either a journeyman electrician or an appropriate specialty electrician shall be on the same job site as the noncertified individual for a minimum of seventy-five percent of each working day unless otherwise provided in this chapter. ~~((The ratio of noncertified individuals to certified journeymen or specialty electricians working on a job site shall be:~~

~~— (a) From September 1, 1979, through December 31, 1982, not more than three noncertified electricians working on any one job site for every certified journeyman or specialty electrician;~~

~~— (b) Effective January 1, 1983;)) (4) The ratio of noncertified individuals to certified journeymen or specialty electricians working on a job site shall be:~~

(a) Not more than two noncertified individuals working on any one job site for every specialty electrician or journeyman electrician working as a specialty electrician(;

~~— (c) Effective January 1, 1983;); and~~

(b) Not more than one noncertified individual working on any one job site for every certified journeyman electrician(;-), except that the ratio requirements ((do not apply to a trade school program in the electrical construction trade established during 1946)) shall be one certified journeyman electrician to no more than four students enrolled in and working as part of an electrical construction program at public community or technical colleges, or not-for-profit nationally accredited trade or technical schools licensed by the work force training and education coordinating board under chapter 28C.10 RCW. In meeting the ratio requirements for students enrolled in an electrical construction program at a trade school, a trade school may receive input and advice from the electrical board.

An individual who has a current training certificate and who has successfully completed or is currently enrolled in an approved apprenticeship program or in ~~((a technical school))~~ an electrical construction program ((in the electrical construction trade in a school approved)) at public community or technical colleges, or not-for-profit nationally accredited technical or trade schools licensed by the ((commission for vocational education)) work force training and education coordinating board under chapter 28C.10 RCW, may work without direct on-site supervision during the last six months of meeting the practical experience requirements of this chapter.

~~((4)) (5) The electrical contractor shall accurately verify and attest to the electrical trainee hours worked by electrical trainees on behalf of the electrical contractor.~~

**Sec. 2.** RCW 19.28.520 and 1980 c 30 s 3 are each amended to read as follows:

Any person desiring to be issued a certificate of competency as provided in this chapter shall deliver evidence in a form prescribed by the department affirming

that said person has met the qualifications required under RCW 19.28.530(~~as now or hereafter amended~~). An electrician from another jurisdiction applying for a certificate of competency must provide evidence in a form prescribed by the department affirming that the person has the equivalent qualifications to those required under RCW 19.28.530.

Sec. 3. RCW 19.28.530 and 1988 c 81 s 13 are each amended to read as follows:

(1) Upon receipt of the application, the department shall review the application and determine whether the applicant is eligible to take an examination for the journeyman or specialty certificate of competency.

(a) To be eligible to take the examination for a journeyman certificate the applicant must have;

(i) Worked in the electrical construction trade for a minimum of four years employed full time, of which two years shall be in industrial or commercial electrical installation under the supervision of a journeyman electrician (~~certified under this chapter~~) and not more than a total of two years in all specialties under the supervision of a journeyman electrician (~~certified under this chapter~~) or an appropriate specialty electrician (~~certified under this chapter or have~~); or

(ii) Successfully completed an apprenticeship program approved under chapter 49.04 RCW for the electrical construction trade.

(b) To be eligible to take the examination to become a specialty electrician the applicant shall have;

(i) Worked in that specialty of the electrical construction trade, under the supervision of a journeyman electrician (~~certified under this chapter~~) or an appropriate specialty electrician (~~certified under this chapter~~), for a minimum of two years employed full time(~~;~~); or (~~have~~)

(ii) Successfully completed an approved apprenticeship program under chapter 49.04 RCW for the applicant's specialty in the electrical construction trade.

~~((Before January 1, 1984, applicants for nonresidential maintenance specialty licenses are eligible to become nonresidential maintenance specialists upon certification to the department that they have the equivalent of two years full-time experience in that specialty field. Persons applying before January 1, 1984, for a journeyman certificate are eligible to take the examination to become journeymen until July 1, 1984, upon certification to the department that they have the equivalent of five years full-time experience in nonresidential maintenance, of which two years shall be in industrial electrical installation.))~~

(c) Any applicant who has successfully completed a two-year (~~technical school~~) program in the electrical construction trade (~~in a school that is approved~~) at public community or technical colleges, or not-for-profit nationally accredited technical or trade schools licensed by the (~~commission for vocational education~~) work force training and education coordinating board under chapter 28C.10 RCW may substitute up to two years of the technical or trade school program for two years of work experience under a journeyman electrician. The applicant shall

obtain the additional two years of work experience required in industrial or commercial electrical installation prior to the beginning, or after the completion, of the technical school program. Any applicant who has received training in the electrical construction trade in the armed service of the United States may be eligible to take the examination for the certificate of competency. ~~((Any applicant who is a graduate of a trade school program in the electrical construction trade that was established during 1946 is eligible to take the examination for the certificate of competency.))~~

(d) No other requirement for eligibility may be imposed.

(2) The department shall establish reasonable rules for the examinations to be given applicants for certificates of competency. In establishing the rules, the department shall consult with the board. Upon determination that the applicant is eligible to take the examination, the department shall so notify the applicant, indicating the time and place for taking the examination.

Sec. 4. RCW 19.28.070 and 1986 c 156 s 4 are each amended to read as follows:

The director of labor and industries of the state of Washington and the officials of all incorporated cities and towns where electrical inspections are required by local ordinances shall have power and it shall be their duty to enforce the provisions of this chapter in their respective jurisdictions. The director of labor and industries shall ~~((have power to))~~ appoint ~~((an))~~ a chief electrical inspector~~(; and such assistant inspectors as he shall deem necessary to assist him in the performance of his duties))~~ and may appoint other electrical inspectors as the director deems necessary to assist the director in the performance of the director's duties. The chief electrical inspector, subject to the review of the director, shall be responsible for providing the final interpretation of adopted state electrical standards, rules, and policies for the department and its inspectors, assistant inspectors, electrical plan examiners, and other individuals supervising electrical program personnel. If a dispute arises within the department regarding the interpretation of adopted state electrical standards, rules, or policies, the chief electrical inspector, subject to the review of the director, shall provide the final interpretation of the disputed standard, rule, or policy. All electrical inspectors appointed by the director of labor and industries shall have not less than; Four years experience as journeyman electricians in the electrical construction trade installing and maintaining electrical wiring and equipment, or two years electrical training in a college of electrical engineering of recognized standing and four years continuous practical electrical experience in installation work, or four years of electrical training in a college of electrical engineering of recognized standing and two years continuous practical electrical experience in electrical installation work; or four years experience as a journeyman electrician performing the duties of an electrical inspector employed by the department or a city or town with an approved inspection program under RCW 19.28.360, except that for work performed in accordance with the national electrical safety code and covered by this chapter,

such inspections may be performed by a person certified as an outside journeyman lineman, under RCW 19.28.610(2), with four years experience or a person with four years experience as a certified outside journeyman lineman performing the duties of an electrical inspector employed by an electrical utility. Such state inspectors shall be paid such salary as the director of labor and industries shall determine, together with their travel expenses in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended. As a condition of employment, inspectors hired exclusively to perform inspections in accordance with the national electrical safety code must possess and maintain certification as an outside journeyman lineman. The expenses of the director of labor and industries and the salaries and expenses of state inspectors incurred in carrying out the provisions of this chapter shall be paid entirely out of the electrical license fund, upon vouchers approved by the director of labor and industries.

Passed the House April 19, 1997.

Passed the Senate April 10, 1997.

Approved by the Governor May 12, 1997.

Filed in Office of Secretary of State May 12, 1997.

## CHAPTER 310

[Second Substitute House Bill 1392]

### CRIME VICTIMS' COMPENSATION PROGRAM—CONFIDENTIALITY AND ACCESS TO RECORDS

AN ACT Relating to the crime victims' compensation program; amending RCW 7.68.140; and reenacting and amending RCW 42.17.310.

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

**Sec. 1.** RCW 7.68.140 and 1975 1st ex.s. c 176 s 6 are each amended to read as follows:

Information contained in the claim files and records of victims, under the provisions of this chapter, shall be deemed confidential and shall not be open to public inspection: **PROVIDED**, That, except as limited by state or federal statutes or regulations, such information may be provided to public employees in the performance of their official duties: **PROVIDED FURTHER**, That except as otherwise limited by state or federal statutes or regulations a claimant or a representative of a claimant, be it an individual or an organization, may review a claim file or receive specific information therefrom upon the presentation of the signed authorization of the claimant: **PROVIDED FURTHER**, That physicians treating or examining victims claiming benefits under this chapter or physicians giving medical advice to the department regarding any claim may, at the discretion of the department and as not otherwise limited by state or federal statutes or regulations, inspect the claim files and records of such victims, and other persons may, when rendering assistance to the department at any stage of the proceedings on any matter pertaining to the administration of this chapter, inspect the claim

files and records of such victims at the discretion of the department and as not otherwise limited by state or federal statutes or regulations.

**Sec. 2.** RCW 42.17.310 and 1996 c 305 s 2, 1996 c 253 s 302, 1996 c 191 s 88, and 1996 c 80 s 1 are each reenacted and amended to read as follows:

(1) The following are exempt from public inspection and copying:

(a) Personal information in any files maintained for students in public schools, patients or clients of public institutions or public health agencies, or welfare recipients.

(b) Personal information in files maintained for employees, appointees, or elected officials of any public agency to the extent that disclosure would violate their right to privacy.

(c) Information required of any taxpayer in connection with the assessment or collection of any tax if the disclosure of the information to other persons would (i) be prohibited to such persons by RCW 82.32.330 or (ii) violate the taxpayer's right to privacy or result in unfair competitive disadvantage to the taxpayer.

(d) Specific intelligence information and specific investigative records compiled by investigative, law enforcement, and penology agencies, and state agencies vested with the responsibility to discipline members of any profession, the nondisclosure of which is essential to effective law enforcement or for the protection of any person's right to privacy.

(e) Information revealing the identity of persons who are witnesses to or victims of crime or who file complaints with investigative, law enforcement, or penology agencies, other than the public disclosure commission, if disclosure would endanger any person's life, physical safety, or property. If at the time a complaint is filed the complainant, victim or witness indicates a desire for disclosure or nondisclosure, such desire shall govern. However, all complaints filed with the public disclosure commission about any elected official or candidate for public office must be made in writing and signed by the complainant under oath.

(f) Test questions, scoring keys, and other examination data used to administer a license, employment, or academic examination.

(g) Except as provided by chapter 8.26 RCW, the contents of real estate appraisals, made for or by any agency relative to the acquisition or sale of property, until the project or prospective sale is abandoned or until such time as all of the property has been acquired or the property to which the sale appraisal relates is sold, but in no event shall disclosure be denied for more than three years after the appraisal.

(h) Valuable formulae, designs, drawings, and research data obtained by any agency within five years of the request for disclosure when disclosure would produce private gain and public loss.

(i) Preliminary drafts, notes, recommendations, and intra-agency memorandums in which opinions are expressed or policies formulated or recommended

except that a specific record shall not be exempt when publicly cited by an agency in connection with any agency action.

(j) Records which are relevant to a controversy to which an agency is a party but which records would not be available to another party under the rules of pretrial discovery for causes pending in the superior courts.

(k) Records, maps, or other information identifying the location of archaeological sites in order to avoid the looting or depredation of such sites.

(l) Any library record, the primary purpose of which is to maintain control of library materials, or to gain access to information, which discloses or could be used to disclose the identity of a library user.

(m) Financial information supplied by or on behalf of a person, firm, or corporation for the purpose of qualifying to submit a bid or proposal for (i) a ferry system construction or repair contract as required by RCW 47.60.680 through 47.60.750 or (ii) highway construction or improvement as required by RCW 47.28.070.

(n) Railroad company contracts filed prior to July 28, 1991, with the utilities and transportation commission under RCW 81.34.070, except that the summaries of the contracts are open to public inspection and copying as otherwise provided by this chapter.

(o) Financial and commercial information and records supplied by private persons pertaining to export services provided pursuant to chapter 43.163 RCW and chapter 53.31 RCW, and by persons pertaining to export projects pursuant to RCW 43.23.035.

(p) Financial disclosures filed by private vocational schools under chapters 28B.85 and 28C.10 RCW.

(q) Records filed with the utilities and transportation commission or attorney general under RCW 80.04.095 that a court has determined are confidential under RCW 80.04.095.

(r) Financial and commercial information and records supplied by businesses or individuals during application for loans or program services provided by chapters 43.163, 43.160, 43.330, and 43.168 RCW, or during application for economic development loans or program services provided by any local agency.

(s) Membership lists or lists of members or owners of interests of units in timeshare projects, subdivisions, camping resorts, condominiums, land developments, or common-interest communities affiliated with such projects, regulated by the department of licensing, in the files or possession of the department.

(t) All applications for public employment, including the names of applicants, resumes, and other related materials submitted with respect to an applicant.

(u) The residential addresses and residential telephone numbers of employees or volunteers of a public agency which are held by the agency in personnel records, employment or volunteer rosters, or mailing lists of employees or volunteers.

(v) The residential addresses and residential telephone numbers of the customers of a public utility contained in the records or lists held by the public utility of which they are customers.

(w)(i) The federal social security number of individuals governed under chapter 18.130 RCW maintained in the files of the department of health, except this exemption does not apply to requests made directly to the department from federal, state, and local agencies of government, and national and state licensing, credentialing, investigatory, disciplinary, and examination organizations; (ii) the current residential address and current residential telephone number of a health care provider governed under chapter 18.130 RCW maintained in the files of the department, if the provider requests that this information be withheld from public inspection and copying, and provides to the department an accurate alternate or business address and business telephone number. On or after January 1, 1995, the current residential address and residential telephone number of a health care provider governed under RCW 18.130.140 maintained in the files of the department shall automatically be withheld from public inspection and copying unless the provider specifically requests the information be released, and except as provided for under RCW 42.17.260(9).

(x) Information obtained by the board of pharmacy as provided in RCW 69.45.090.

(y) Information obtained by the board of pharmacy or the department of health and its representatives as provided in RCW 69.41.044, 69.41.280, and 18.64.420.

(z) Financial information, business plans, examination reports, and any information produced or obtained in evaluating or examining a business and industrial development corporation organized or seeking certification under chapter 31.24 RCW.

(aa) Financial and commercial information supplied to the state investment board by any person when the information relates to the investment of public trust or retirement funds and when disclosure would result in loss to such funds or in private loss to the providers of this information.

(bb) Financial and valuable trade information under RCW 51.36.120.

(cc) Client records maintained by an agency that is a domestic violence program as defined in RCW 70.123.020 or 70.123.075 or a rape crisis center as defined in RCW 70.125.030.

(dd) Information that identifies a person who, while an agency employee: (i) Seeks advice, under an informal process established by the employing agency, in order to ascertain his or her rights in connection with a possible unfair practice under chapter 49.60 RCW against the person; and (ii) requests his or her identity or any identifying information not be disclosed.

(ee) Investigative records compiled by an employing agency conducting a current investigation of a possible unfair practice under chapter 49.60 RCW or of a possible violation of other federal, state, or local laws prohibiting discrimination in employment.

(ff) Business related information protected from public inspection and copying under RCW 15.86.110.

(gg) Financial, commercial, operations, and technical and research information and data submitted to or obtained by the clean Washington center in applications for, or delivery of, program services under chapter 70.95H RCW.

(hh) Information and documents created specifically for, and collected and maintained by a quality improvement committee pursuant to RCW 43.70.510, regardless of which agency is in possession of the information and documents.

(ii) Personal information in files maintained in a data base created under RCW 43.07.360.

(jj) Records maintained by the board of industrial insurance appeals that are related to appeals of crime victims' compensation claims filed with the board under RCW 7.68.110.

(2) Except for information described in subsection (1)(c)(i) of this section and confidential income data exempted from public inspection pursuant to RCW 84.40.020, the exemptions of this section are inapplicable to the extent that information, the disclosure of which would violate personal privacy or vital governmental interests, can be deleted from the specific records sought. No exemption may be construed to permit the nondisclosure of statistical information not descriptive of any readily identifiable person or persons.

(3) Inspection or copying of any specific records exempt under the provisions of this section may be permitted if the superior court in the county in which the record is maintained finds, after a hearing with notice thereof to every person in interest and the agency, that the exemption of such records is clearly unnecessary to protect any individual's right of privacy or any vital governmental function.

(4) Agency responses refusing, in whole or in part, inspection of any public record shall include a statement of the specific exemption authorizing the withholding of the record (or part) and a brief explanation of how the exemption applies to the record withheld.

Passed the House April 19, 1997.

Passed the Senate April 10, 1997.

Approved by the Governor May 12, 1997.

Filed in Office of Secretary of State May 12, 1997.

## CHAPTER 311

[House Bill 1708]

### COMPENSATION OF COMMISSIONED SALESPeOPLE OF FARM IMPLEMENTS

AN ACT Relating to the minimum rate of compensation for employment in excess of a forty-hour work week; and amending RCW 49.46.130.

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

**Sec. 1.** RCW 49.46.130 and 1995 c 5 s 1 are each amended to read as follows:

(1) Except as otherwise provided in this section, no employer shall employ any of his employees for a work week longer than forty hours unless such employee receives compensation for his employment in excess of the hours above specified at a rate not less than one and one-half times the regular rate at which he is employed.

(2) This section does not apply to:

(a) Any person exempted pursuant to RCW 49.46.010(5). The payment of compensation or provision of compensatory time off in addition to a salary shall not be a factor in determining whether a person is exempted under RCW 49.46.010(5)(c);

(b) Employees who request compensating time off in lieu of overtime pay;

(c) Any individual employed as a seaman whether or not the seaman is employed on a vessel other than an American vessel;

(d) Seasonal employees who are employed at concessions and recreational establishments at agricultural fairs, including those seasonal employees employed by agricultural fairs, within the state provided that the period of employment for any seasonal employee at any or all agricultural fairs does not exceed fourteen working days a year;

(e) Any individual employed as a motion picture projectionist if that employee is covered by a contract or collective bargaining agreement which regulates hours of work and overtime pay;

(f) An individual employed as a truck or bus driver who is subject to the provisions of the Federal Motor Carrier Act (49 U.S.C. Sec. 3101 et seq. and 49 U.S.C. Sec. 10101 et seq.), if the compensation system under which the truck or bus driver is paid includes overtime pay, reasonably equivalent to that required by this subsection, for working longer than forty hours per week;

(g) Any individual employed (i) on a farm, in the employ of any person, in connection with the cultivation of the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and furbearing animals and wildlife, or in the employ of the owner or tenant or other operator of a farm in connection with the operation, management, conservation, improvement, or maintenance of such farm and its tools and equipment; or (ii) in packing, packaging, grading, storing or delivering to storage, or to market or to a carrier for transportation to market, any agricultural or horticultural commodity; or (iii) commercial canning, commercial freezing, or any other commercial processing, or with respect to services performed in connection with the cultivation, raising, harvesting, and processing of oysters or in connection with any agricultural or horticultural commodity after its delivery to a terminal market for distribution for consumption;

(h) Any industry in which federal law provides for an overtime payment based on a work week other than forty hours. However, the provisions of the federal law regarding overtime payment based on a work week other than forty hours shall

nevertheless apply to employees covered by this section without regard to the existence of actual federal jurisdiction over the industrial activity of the particular employer within this state. For the purposes of this subsection, "industry" means a trade, business, industry, or other activity, or branch, or group thereof, in which individuals are gainfully employed (section 3(h) of the Fair Labor Standards Act of 1938, as amended (Public Law 93-259).

(3) No employer of commissioned salespeople primarily engaged in the business of selling automobiles, trucks, recreational vessels, recreational vessel trailers, recreational vehicle trailers, recreational campers, ~~((or))~~ manufactured housing, or farm implements to ultimate purchasers shall violate subsection (1) of this section with respect to such commissioned salespeople if the commissioned salespeople are paid the greater of:

(a) Compensation at the hourly rate, which may not be less than the rate required under RCW 49.46.020, for each hour worked up to forty hours per week, and compensation of one and one-half times that hourly rate for all hours worked over forty hours in one week; or

(b) A straight commission, a salary plus commission, or a salary plus bonus applied to gross salary.

(4) No public agency shall be deemed to have violated subsection (1) of this section with respect to the employment of any employee in fire protection activities or any employee in law enforcement activities (including security personnel in correctional institutions) if: (a) In a work period of twenty-eight consecutive days the employee receives for tours of duty which in the aggregate exceed two hundred forty hours; or (b) in the case of such an employee to whom a work period of at least seven but less than twenty-eight days applies, in his or her work period the employee receives for tours of duty which in the aggregate exceed a number of hours which bears the same ratio to the number of consecutive days in his or her work period as two hundred forty hours bears to twenty-eight days; compensation at a rate not less than one and one-half times the regular rate at which he or she is employed.

Passed the House March 12, 1997.

Passed the Senate April 25, 1997.

Approved by the Governor May 12, 1997.

Filed in Office of Secretary of State May 12, 1997.

## CHAPTER 312

[Engrossed Substitute House Bill 1771]

### COURT APPOINTED GUARDIANS

AN ACT Relating to court appointed guardians; amending RCW 11.88.020; adding a new section to chapter 11.88 RCW; creating a new section; and providing an effective date.

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

Sec. 1. RCW 11.88.020 and 1990 c 122 s 3 are each amended to read as follows:

(1) Any suitable person over the age of eighteen years, or any parent under the age of eighteen years or, if the petition is for appointment of a professional guardian, any individual or guardianship service that meets any certification requirements established by the administrator for the courts, may, if not otherwise disqualified, be appointed guardian or limited guardian of the person and/or the estate of an incapacitated person(; ~~any trust company regularly organized under the laws of this state and national banks when authorized so to do may act as guardian or limited guardian of the estate of an incapacitated person; and any nonprofit corporation may act as guardian or limited guardian of the person and/or estate of an incapacitated person if the articles of incorporation or bylaws of such corporation permit such action and such corporation is in compliance with all applicable provisions of Title 24 RCW).~~ A financial institution subject to the jurisdiction of the department of financial institutions and authorized to exercise trust powers, and a federally chartered financial institution when authorized to do so, may act as a guardian of the estate of an incapacitated person without having to meet the certification requirements established by the administrator for the courts. No person is qualified to serve as a guardian who is

~~((1))~~ (a) under eighteen years of age except as otherwise provided herein;

~~((2))~~ (b) of unsound mind;

~~((3))~~ (c) convicted of a felony or of a misdemeanor involving moral turpitude;

~~((4))~~ (d) a nonresident of this state who has not appointed a resident agent to accept service of process in all actions or proceedings with respect to the estate and caused such appointment to be filed with the court;

~~((5))~~ (e) a corporation not authorized to act as a fiduciary, guardian, or limited guardian in the state;

~~((6))~~ (f) a person whom the court finds unsuitable.

(2) The professional guardian certification requirements required under this section shall not apply to a testamentary guardian appointed under RCW 11.88.080.

NEW SECTION. Sec. 2. A new section is added to chapter 11.88 RCW to read as follows:

As used in this chapter, "professional guardian" means a guardian appointed under this chapter who is not a member of the incapacitated person's family and who charges fees for carrying out the duties of court-appointed guardian of three or more incapacitated persons.

NEW SECTION. Sec. 3. (1) The administrator for the courts shall study, and make recommendations on, standards and criteria for implementing a system of certification of professional guardians as defined in section 2 of this act and improved coordination between guardians and guardians ad litem.

(2) In conducting the study and preparing the recommendations, the administrator may include examination of:

- (a) Criteria for certification as a professional guardian;
- (b) A fee structure that will make the certification process self-supporting;
- (c) Whether persons other than an alleged incapacitated person should be given standing to request a jury trial to determine incapacity;
- (d) Whether, following the appointment of a guardian, a guardian ad litem may continue to serve at public expense;
- (e) Whether the superior court should have authority to limit fees for attorneys, guardians, and guardians ad litem;
- (f) The appropriate entity to certify professional guardians; and
- (g) Grounds for discipline of professional guardians.

(3) In conducting the study, the administrator shall consult with the appropriate groups and interested parties including, but not limited to, representatives of senior citizens, members of both chambers of the legislature, the bar association, superior court judges, associations affiliated with persons with developmental and chronic functional disabilities, health care organizations, persons who act as guardians for compensation and on a voluntary basis, and guardians ad litem.

(4) The administrator shall submit the results of the study and recommendations to the governor and legislature not later than January 1, 1998.

**NEW SECTION. Sec. 4.** Sections 1 and 2 of this act take effect January 1, 1999.

Passed the House April 22, 1997.

Passed the Senate April 18, 1997.

Approved by the Governor May 12, 1997.

Filed in Office of Secretary of State May 12, 1997.

---

**CHAPTER 313**

[Engrossed Substitute House Bill 1899]

**LIFE INSURANCE POLICY ILLUSTRATIONS**

AN ACT Relating to life insurance illustrations; adding a new chapter to Title 48 RCW; prescribing penalties; and providing an effective date.

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

**NEW SECTION. Sec. 1.** The purpose of this chapter is to provide standards for life insurance policy illustrations that will protect consumers and foster consumer education by providing illustration formats, prescribing standards to be followed when illustrations are used, and specifying the disclosures that are required in connection with illustrations. The goals of these standards are to ensure that illustrations do not mislead purchasers of life insurance and to make illustrations more understandable. Insurers will, as far as possible, eliminate the use of footnotes and caveates and define terms used in the illustration in language

that would be understood by a typical person within the segment of the public to which the illustration is directed.

**NEW SECTION.** **Sec. 2.** This chapter applies to all group and individual life insurance policies and certificates except:

- (1) Variable life insurance;
- (2) Individual and group annuity contracts;
- (3) Credit life insurance; or
- (4) Life insurance policies with no illustrated death benefits on any individual exceeding ten thousand dollars.

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

(1) "Actuarial standards board" means the board established by the American academy of actuaries to develop and adopt standards of actuarial practice.

(2) "Contract premium" means the gross premium that is required to be paid under a fixed premium policy, including the premium for a rider for which benefits are shown in the illustration.

(3) "Currently payable scale" means a scale of nonguaranteed elements in effect for a policy form as of the preparation date of the illustration or declared to become effective within the next ninety-five days.

(4) "Disciplined current scale" means a scale of nonguaranteed elements constituting a limit on illustrations currently being illustrated by an insurer that is reasonably based on actual recent historical experience, as certified annually by an illustration actuary designated by the insurer. Further guidance in determining the disciplined current scale as contained in standards established by the actuarial standards board may be relied upon if the standards:

- (a) Are consistent with all provisions of this chapter;
- (b) Limit a disciplined current scale to reflect only actions that have already been taken or events that have already occurred;
- (c) Do not permit a disciplined current scale to include any projected trends of improvements in experience or any assumed improvements in experience beyond the illustration date; and
- (d) Do not permit assumed expenses to be less than minimum assumed expenses.

(5) "Generic name" means a short title descriptive of the policy being illustrated, such as whole life, term life, or flexible premium adjustable life.

(6) "Guaranteed elements" means the premiums, benefits, values, credits, or charges under a policy of life insurance that are guaranteed and determined at issue.

(7) "Nonguaranteed elements" means the premiums, benefits, values, credits, or charges under a policy of life insurance that are not guaranteed or not determined at issue.

(8) "Illustrated scale" means a scale of nonguaranteed elements currently being illustrated that is not more favorable to the policy owner than the lesser of:

(a) The disciplined current scale; or

(b) The currently payable scale.

(9) "Illustration" means a presentation or depiction that includes nonguaranteed elements of a policy of life insurance over a period of years and that is one of the three types defined below:

(a) "Basic illustration" means a ledger or proposal used in the sale of a life insurance policy that shows both guaranteed and nonguaranteed elements.

(b) "Supplemental illustration" means an illustration furnished in addition to a basic illustration that meets the applicable requirements of this chapter, and that may be presented in a format differing from the basic illustration, but may only depict a scale of nonguaranteed elements that is permitted in a basic illustration.

(c) "In-force illustration" means an illustration furnished at any time after the policy that it depicts has been in force for one year or more.

(10) "Illustration actuary" means an actuary meeting the requirements of section 10 of this act who certifies to illustrations based on the standard of practice adopted by the actuarial standards board.

(11) "Lapse-supported illustration" means an illustration of a policy form failing the test of self-supporting, as defined in this section, under a modified persistency rate assumption using persistency rates underlying the disciplined current scale for the first five years and one hundred percent policy persistency thereafter.

(a) "Minimum assumed expenses" means the minimum expenses that may be used in the calculation of the disciplined current scale for a policy form. The insurer may choose to designate each year the method of determining assumed expenses for all policy forms from the following:

(i) Fully allocated expenses;

(ii) Marginal expenses; and

(iii) A generally recognized expense table based on fully allocated expenses representing a significant portion of insurance companies and approved by the national association of insurance commissioners.

(b) Marginal expenses may be used only if greater than a generally recognized expense table. If no generally recognized expense table is approved, fully allocated expenses must be used.

(12) "Nonterm group life" means a group policy or individual policies of life insurance issued to members of an employer group or other permitted group where:

(a) Every plan of coverage was selected by the employer or other group representative;

(b) Some portion of the premium is paid by the group or through payroll deduction; and

(c) Group underwriting or simplified underwriting is used.

(13) "Policy owner" means the owner named in the policy or the certificate holder in the case of a group policy.

(14) "Premium outlay" means the amount of premium assumed to be paid by the policy owner or other premium payer out-of-pocket.

(15) "Self-supporting illustration" means an illustration of a policy form for which it can be demonstrated that, when using experience assumptions underlying the disciplined current scale, for all illustrated points in time on or after the fifteenth policy anniversary or the twentieth policy anniversary for second-or-later-to-die policies, or upon policy expiration if sooner, the accumulated value of all policy cash flows equals or exceeds the total policy owner value available. For this purpose, policy owner value will include cash surrender values and any other illustrated benefit amounts available at the policy owner's election.

**NEW SECTION. Sec. 4.** (1) Each insurer marketing policies to which this chapter is applicable shall notify the commissioner whether a policy form is to be marketed with or without an illustration. For all policy forms being actively marketed on the effective date of this act, the insurer shall identify in writing those forms and whether or not an illustration will be used with them. For policy forms filed after the effective date of this act, the identification shall be made at the time of filing. Any previous identification may be changed by notice to the commissioner.

(2) If the insurer identifies a policy form as one to be marketed without an illustration, any use of an illustration for any policy using that form prior to the first policy anniversary is prohibited.

(3) If a policy form is identified by the insurer as one to be marketed with an illustration, a basic illustration prepared and delivered in accordance with this chapter is required, except that a basic illustration need not be provided to individual members of a group or to individuals insured under multiple lives coverage issued to a single applicant unless the coverage is marketed to these individuals. The illustration furnished an applicant for a group life insurance policy or policies issued to a single applicant on multiple lives may be either an individual or composite illustration representative of the coverage on the lives of members of the group or the multiple lives covered.

(4) Potential enrollees of nonterm group life subject to this chapter shall be furnished a quotation with the enrollment materials. The quotation shall show potential policy values for sample ages and policy years on a guaranteed and nonguaranteed basis appropriate to the group and the coverage. This quotation is not considered an illustration for purposes of this chapter, but all information provided shall be consistent with the illustrated scale. A basic illustration shall be provided at delivery of the certificate to enrollees for nonterm group life who enroll for more than the minimum premium necessary to provide pure death benefit protection. In addition, the insurer shall make a basic illustration available to any nonterm group life enrollee who requests it.

**NEW SECTION. Sec. 5.** (1) An illustration used in the sale of a life insurance policy shall satisfy the applicable requirements of this chapter, be clearly labeled "life insurance illustration," and contain the following basic information:

- (a) Name of insurer;
  - (b) Name and business address of producer or insurer's authorized representative, if any;
  - (c) Name, age, and sex of proposed insured, except where a composite illustration is permitted under this chapter;
  - (d) Underwriting or rating classification upon which the illustration is based;
  - (e) Generic name of policy, the company product name, if different, and form number;
  - (f) Initial death benefit; and
  - (g) Dividend option election or application of nonguaranteed elements, if applicable.
- (2) When using an illustration in the sale of a life insurance policy, an insurer or its producers or other authorized representatives shall not:
- (a) Represent the policy as anything other than life insurance policy;
  - (b) Use or describe nonguaranteed elements in a manner that is misleading or has the capacity or tendency to mislead;
  - (c) State or imply that the payment or amount of nonguaranteed elements is guaranteed;
  - (d) Use an illustration that does not comply with the requirements of this chapter;
  - (e) Use an illustration that at any policy duration depicts policy performance more favorable to the policy owner than that produced by the illustrated scale of the insurer whose policy is being illustrated;
  - (f) Provide an applicant with an incomplete illustration;
  - (g) Represent in any way that premium payments will not be required for each year of the policy in order to maintain the illustrated death benefits, unless that is the fact;
  - (h) Use the term "vanish" or "vanishing premium," or a similar term that implies the policy becomes paid up, to describe a plan for using nonguaranteed elements to pay a portion of future premiums;
  - (i) Except for policies that can never develop nonforfeiture values, use an illustration that is "lapse-supported"; or
  - (j) Use an illustration that is not "self-supporting."
- (3) If an interest rate used to determine the illustrated nonguaranteed elements is shown, it shall not be greater than the earned interest rate underlying the disciplined current scale.

**NEW SECTION.** Sec. 6. (1) A basic illustration shall conform with the following requirements:

- (a) The illustration shall be labeled with the date on which it was prepared.
- (b) Each page, including any explanatory notes or pages, shall be numbered and show its relationship to the total number of pages in the illustration (for example, the fourth page of a seven-page illustration shall be labeled "page 4 of 7 pages").

(c) The assumed dates of payment receipt and benefit payout within a policy year shall be clearly identified.

(d) If the age of the proposed insured is shown as a component of the tabular detail, it shall be issue age plus the numbers of years the policy is assumed to have been in force.

(e) The assumed payments on which the illustrated benefits and values are based shall be identified as premium outlay or contract premium, as applicable. For policies that do not require a specific contract premium, the illustrated payments shall be identified as premium outlay.

(f) Guaranteed death benefits and values available upon surrender, if any, for the illustrated premium outlay or contract premium shall be shown and clearly labeled guaranteed.

(g) If the illustration shows any nonguaranteed elements, they cannot be based on a scale more favorable to the policy owner than the insurer's illustrated scale at any duration. These elements shall be clearly labeled nonguaranteed.

(h) The guaranteed elements, if any, shall be shown before corresponding nonguaranteed elements and shall be specifically referred to on any page of an illustration that shows or describes only the nonguaranteed elements (for example, "see page one for guaranteed elements").

(i) The account or accumulation value of a policy, if shown, shall be identified by the name this value is given in the policy being illustrated and shown in close proximity to the corresponding value available upon surrender.

(j) The value available upon surrender shall be identified by the name this value is given in the policy being illustrated and shall be the amount available to the policy owner in a lump sum after deduction of surrender charges, policy loans, and policy loan interest, as applicable.

(k) Illustrations may show policy benefits and values in graphic or chart form in addition to the tabular form.

(l) Any illustration of nonguaranteed elements shall be accompanied by a statement indicating that:

(i) The benefits and values are not guaranteed;

(ii) The assumptions on which they are based are subject to change by the insurer; and

(iii) Actual results may be more or less favorable.

(m) If the illustration shows that the premium payer may have the option to allow policy charges to be paid using nonguaranteed values, the illustration must clearly disclose that a charge continues to be required and that, depending on actual results, the premium payer may need to continue or resume premium outlays. Similar disclosure shall be made for premium outlay of lesser amounts or shorter durations than the contract premium. If a contract premium is due, the premium outlay display shall not be left blank or show zero unless accompanied by an asterisk or similar mark to draw attention to the fact that the policy is not paid up.

(n) If the applicant plans to use dividends or policy values, guaranteed or nonguaranteed, to pay all or a portion of the contract premium or policy charges, or for any other purpose, the illustration may reflect those plans and the impact on future policy benefits and values.

(2) A basic illustration shall include the following:

(a) A brief description of the policy being illustrated, including a statement that it is a life insurance policy;

(b) A brief description of the premium outlay or contract premium, as applicable, for the policy. For a policy that does not require payment of a specific contract premium, the illustration shall show the premium outlay that must be paid to guarantee coverage for the term of the contract, subject to maximum premiums allowable to qualify as a life insurance policy under the applicable provisions of the internal revenue code;

(c) A brief description of any policy features, riders, or options, guaranteed or nonguaranteed, shown in the basic illustration and the impact they may have on the benefits and values of the policy;

(d) Identification and a brief definition of column headings and key terms used in the illustration; and

(e) A statement containing in substance the following: "This illustration assumes that the currently illustrated, nonguaranteed elements will continue unchanged for all years shown. This is not likely to occur, and actual results may be more or less favorable than those shown."

(3)(a) Following the narrative summary, a basic illustration shall include a numeric summary of the death benefits and values and the premium outlay and contract premium, as applicable. For a policy that provides for a contract premium, the guaranteed death benefits and values shall be based on the contract premium. This summary shall be shown for at least policy years five, ten, and twenty and at age seventy, if applicable, on the three bases shown below. For multiple life policies the summary shall show policy years five, ten, twenty, and thirty.

(i) Policy guarantees;

(ii) Insurer's illustrated scale;

(iii) Insurer's illustrated scale used but with the nonguaranteed elements reduced as follows:

(A) Dividends at fifty percent of the dividends contained in the illustrated scale used;

(B) Nonguaranteed credited interest at rates that are the average of the guaranteed rates and the rates contained in the illustrated scale used; and

(C) All nonguaranteed charges, including but not limited to, term insurance charges and mortality and expense charges, at rates that are the average of the guaranteed rates and the rates contained in the illustrated scale used.

(h) In addition, if coverage would cease prior to policy maturity or age one hundred, the year in which coverage ceases shall be identified for each of the three bases.

(4) Statements substantially similar to the following shall be included on the same page as the numeric summary and signed by the applicant, or the policy owner in the case of an illustration provided at time of delivery, as required in this chapter.

(a) A statement to be signed and dated by the applicant or policy owner reading as follows: "I have received a copy of this illustration and understand that any nonguaranteed elements illustrated are subject to change and could be either higher or lower. The agent has told me they are not guaranteed."

(b) A statement to be signed and dated by the insurance producer or other authorized representative of the insurer reading as follows: "I certify that this illustration has been presented to the applicant and that I have explained that any nonguaranteed elements illustrated are subject to change. I have made no statements that are inconsistent with the illustration."

(5)(a) A basic illustration shall include the following for at least each policy year from one to ten and for every fifth policy year thereafter ending at age one hundred, policy maturity, or final expiration; and except for term insurance beyond the twentieth year, for any year in which the premium outlay and contract premium, if applicable, is to change:

(i) The premium outlay and mode the applicant plans to pay and the contract premium, as applicable;

(ii) The corresponding guaranteed death benefit, as provided in the policy; and

(iii) The corresponding guaranteed value available upon surrender, as provided in the policy.

(b) For a policy that provides for a contract premium, the guaranteed death benefit and value available upon surrender shall correspond to the contract premium.

(c) Nonguaranteed elements may be shown if described in the contract. In the case of an illustration for a policy on which the insurer intends to credit terminal dividends, they may be shown if the insurer's current practice is to pay terminal dividends. If any nonguaranteed elements are shown, they must be shown at the same durations as the corresponding guaranteed elements, if any. If no guaranteed benefit or value is available at any duration for which a nonguaranteed benefit or value is shown, a zero shall be displayed in the guaranteed column.

**NEW SECTION.** Sec. 7. (1) A supplemental illustration may be provided so long as:

(a) It is appended to, accompanied by, or preceded by a basic illustration that complies with this chapter;

(b) The nonguaranteed elements shown are not more favorable to the policy owner than the corresponding elements based on the scale used in the basic illustration;

(c) It contains the same statement required of a basic illustration that nonguaranteed elements are not guaranteed; and

(d) For a policy that has a contract premium, the contract premium underlying the supplemental illustration is equal to the contract premium shown in the basic illustration. For policies that do not require a contract premium, the premium outlay underlying the supplemental illustration shall be equal to the premium outlay shown in the basic illustration.

(2) The supplemental illustration shall include a notice referring to the basic illustration for guaranteed elements and other important information.

**NEW SECTION. Sec. 8.** (1)(a) If a basic illustration is used by an insurance producer or other authorized representative of the insurer in the sale of a life insurance policy and the policy is applied for as illustrated, a copy of that illustration, signed in accordance with this chapter, shall be submitted to the insurer at the time of policy application. A copy shall also be provided to the applicant.

(b) If the policy is issued other than as applied for, a revised basic illustration conforming to the policy as issued shall be sent with the policy. The revised illustration shall conform to the requirements of this chapter, be labeled "revised illustration," and be signed and dated by the applicant or policy owner and producer or other authorized representative of the insurer no later than the time the policy is delivered. A copy shall be provided to the insurer and the policy owner.

(2)(a) If no illustration is used by an insurance producer or other authorized representative in the sale of a life insurance policy, or if the policy is applied for other than as illustrated, the producer or representative shall certify to that effect in writing on a form provided by the insurer. On the same form the applicant shall acknowledge that no illustration conforming to the policy applied for was provided and shall further acknowledge an understanding that an illustration conforming to the policy as issued will be provided no later than at the time of policy delivery. This form shall be submitted to the insurer at the time of policy application.

(b) If the policy is issued, a basic illustration conforming to the policy as issued shall be sent with the policy and signed no later than the time the policy is delivered. A copy shall be provided to the insurer and the policy owner.

(3)(a) Where a computer screen illustration is used that cannot be printed out during use, the producer shall certify in writing on a form provided by the insurer that a computer screen illustration was displayed. Such form shall require the producer to provide, as applicable, the generic name of the policy and any riders illustrated, the guaranteed and nonguaranteed interest rates illustrated, the number of policy years illustrated, the initial death benefit, the premium amount illustrated, and the assumed number of years of premiums. On the same form the applicant shall acknowledge that an illustration matching that which was displayed on the computer screen will be provided no later than the time of policy delivery. A copy of this signed form shall be provided to the applicant at the time it is signed.

(b) If the policy is issued, a basic illustration conforming to the policy as issued shall be sent with the policy and signed by the policy owner no later than the time the policy is delivered. A copy shall be provided to the policy owner and retained by the insurer.

(c) If a computer screen illustration is used that can be printed during use, a copy of that illustration, signed in accordance with this chapter, shall be submitted to the insurer at the time of policy application. A copy shall also be provided to the applicant.

(d) If the basic illustration or revised illustration is sent to the applicant or policy owner by mail from the insurer, it shall include instructions for the applicant or policy owner to sign the duplicate copy of the numeric summary page of the illustration for the policy issued and return the signed copy to the insurer. The insurer's obligation under this subsection is satisfied if it can demonstrate that it has made a diligent effort to secure a signed copy of the numeric summary page. The requirement to make a diligent effort shall be deemed satisfied if the insurer includes in the mailing a self-addressed, postage prepaid envelope with instructions for the return of the signed numeric summary page.

(4) A copy of the basic illustration and a revised basic illustration, if any, signed as applicable, along with any certification that either no illustration was used or that the policy was applied for other than as illustrated, shall be retained by the insurer until three years after the policy is no longer in force. A copy need not be retained if no policy is issued.

**NEW SECTION.** Sec. 9. (1) In the case of a policy designated as one for which illustrations will be used, the insurer shall provide each policy owner with an annual report on the status of the policy that shall contain at least the following information:

(a) For universal life policies, the report shall include the following:

(i) The beginning and end date of the current report period;

(ii) The policy value at the end of the previous report period and at the end of the current report period;

(iii) The total amounts that have been credited or debited to the policy value during the current report period, identifying each type, such as interest, mortality, expense, and riders;

(iv) The current death benefit at the end of the current report period on each life covered by the policy;

(v) The net cash surrender value of the policy as of the end of the current report period;

(vi) The amount of outstanding loans, if any, as of the end of the current report period; and

(vii) For fixed premium policies: If, assuming guaranteed interest, mortality, and expense loads and continued scheduled premium payments, the policy's net cash surrender value is such that it would not maintain insurance in force until the end of the next reporting period, a notice to this effect shall be included in the report; or

(viii) For flexible premium policies: If, assuming guaranteed interest, mortality, and expense loads, the policy's net cash surrender value will not maintain

insurance in force until the end of the next reporting period unless further premium payments are made, a notice to this effect shall be included in the report.

(b) For all other policies, where applicable:

- (i) Current death benefit;
- (ii) Annual contract premium;
- (iii) Current cash surrender value;
- (iv) Current dividend;
- (v) Application of current dividend; and
- (vi) Amount of outstanding loan.

(c) Insurers writing life insurance policies that do not build nonforfeiture values shall only be required to provide an annual report with respect to these policies for those years when a change has been made to nonguaranteed policy elements by the insurer.

(2) If the annual report does not include an in-force illustration, it shall contain the following notice displayed prominently: "IMPORTANT POLICY OWNER NOTICE: You should consider requesting more detailed information about your policy to understand how it may perform in the future. You should not consider replacement of your policy or make changes in your coverage without requesting a current illustration. You may annually request, without charge, such an illustration by calling (insurer's phone number), writing to (insurer's name) at (insurer's address) or contacting your agent. If you do not receive a current illustration of your policy within 30 days from your request, you should contact your state insurance department." The insurer may vary the sequential order of the methods for obtaining an in-force illustration.

(3) Upon the request of the policy owner, the insurer shall furnish an in-force illustration of current and future benefits and values based on the insurer's present illustrated scale. This illustration shall comply with the requirements of sections 5 (1) and (2) and 6 (1) and (5) of this act. No signature or other acknowledgment of receipt of this illustration shall be required.

(4) If an adverse change in nonguaranteed elements that could affect the policy has been made by the insurer since the last annual report, the annual report shall contain a notice of that fact and the nature of the change prominently displayed.

**NEW SECTION.** Sec. 10. (1) The board of directors of each insurer shall appoint one or more illustration actuaries.

(2) The illustration actuary shall certify that the disciplined current scale used in illustrations is in conformity with the actuarial standard of practice for compliance with the national association of insurance commissioners model regulation on life insurance illustrations adopted by the actuarial standards board, and that the illustrated scales used in insurer-authorized illustrations meet the requirements of this chapter.

(3) The illustration actuary shall:

- (a) Be a member in good standing of the American academy of actuaries;

(b) Be familiar with the standard of practice regarding life insurance policy illustrations;

(c) Not have been found by the commissioner, following appropriate notice and hearing to have:

(i) Violated any provision of, or any obligation imposed by, the insurance law or other law in the course of his or her dealings as an illustration actuary;

(ii) Been found guilty of fraudulent or dishonest practices;

(iii) Demonstrated his or her incompetence, lack of cooperation, or untrustworthiness to act as an illustration actuary; or

(iv) Resigned or been removed as an illustration actuary within the past five years as a result of acts or omissions indicated in any adverse report on examination or as a result of a failure to adhere to generally acceptable actuarial standards;

(d) Not fail to notify the commissioner of any action taken by a commissioner of another state similar to that under (c) of this subsection;

(e) Disclose in the annual certification whether, since the last certification, a currently payable scale applicable for business issued within the previous five years and within the scope of the certification has been reduced for reasons other than changes in the experience factors underlying the disciplined current scale. If nonguaranteed elements illustrated for new policies are not consistent with those illustrated for similar in-force policies, this must be disclosed in the annual certification. If nonguaranteed elements illustrated for both new and in-force policies are not consistent with the nonguaranteed elements actually being paid, charged, or credited to the same or similar forms, this must be disclosed in the annual certification; and

(f) Disclose in the annual certification the method used to allocate overhead expenses for all illustrations:

(i) Fully allocated expenses;

(ii) Marginal expenses; or

(iii) A generally recognized expense table based on fully allocated expenses representing a significant portion of insurance companies and approved by the national association of insurance commissioners.

(4)(a) The illustration actuary shall file a certification with the board of directors and with the commissioner:

(i) Annually for all policy forms for which illustrations are used; and

(ii) Before a new policy form is illustrated.

(b) If an error in a previous certification is discovered, the illustration actuary shall notify the board of directors of the insurer and the commissioner promptly.

(5) If an illustration actuary is unable to certify the scale for any policy form illustration the insurer intends to use, the actuary shall notify the board of directors of the insurer and the commissioner promptly of his or her inability to certify.

(6) A responsible officer of the insurer, other than the illustration actuary, shall certify annually:

(a) That the illustration formats meet the requirements of this chapter and that the scales used in insurer-authorized illustrations are those scales certified by the illustration actuary; and

(b) That the company has provided its agents with information about the expense allocation method used by the company in its illustrations and disclosed as required in subsection (3)(f) of this section.

(7) The annual certifications shall be provided to the commissioner each year by a date determined by the insurer.

(8) If an insurer changes the illustration actuary responsible for all or a portion of the company's policy forms, the insurer shall notify the commissioner of that fact promptly and disclose the reason for the change.

NEW SECTION. **Sec. 11.** In addition to any other penalties provided by law, an insurer or producer that violates a requirement of this chapter is guilty of a violation of RCW 48.30.010(1).

NEW SECTION. **Sec. 12.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. **Sec. 13.** This act takes effect January 1, 1998, and applies to policies sold on or after January 1, 1998.

NEW SECTION. **Sec. 14.** Sections 1 through 11 of this act constitute a new chapter in Title 48 RCW.

Passed the House April 21, 1997.

Passed the Senate April 11, 1997.

Approved by the Governor May 12, 1997.

Filed in Office of Secretary of State May 12, 1997.

---

**CHAPTER 314**

[Substitute House Bill 1903]

**CONTRACTOR REGISTRATION—MODIFICATIONS**

AN ACT Relating to registration of contractors; amending RCW 18.27.010, 18.27.020, 18.27.030, 18.27.040, 18.27.060, 18.27.070, 18.27.090, 18.27.100, 18.27.104, 18.27.110, 18.27.114, 18.27.117, 18.27.200, 18.27.230, 18.27.270, and 18.27.340; reenacting and amending RCW 51.12.020; adding new sections to chapter 18.27 RCW; and prescribing penalties.

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

NEW SECTION. **Sec. 1.** A new section is added to chapter 18.27 RCW to read as follows:

This chapter shall be strictly enforced. Therefore, the doctrine of substantial compliance shall not be used by the department in the application and construction of this chapter. Anyone engaged in the activities of a contractor is presumed to know the requirements of this chapter.

Sec. 2. RCW 18.27.010 and 1993 c 454 s 2 are each amended to read as follows:

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

(1) "Contractor" means any person, firm, or corporation who or which, in the pursuit of an independent business undertakes to, or offers to undertake, or submits a bid to, construct, alter, repair, add to, subtract from, improve, move, wreck or demolish, for another, any building, highway, road, railroad, excavation or other structure, project, development, or improvement attached to real estate or to do any part thereof including the installation of carpeting or other floor covering, the erection of scaffolding or other structures or works in connection therewith or who installs or repairs roofing or siding; or, who, to do similar work upon his or her own property, employs members of more than one trade upon a single job or project or under a single building permit except as otherwise provided herein. "Contractor" includes any person, firm, or corporation covered by this subsection, whether or not registered as required under this chapter.

(2) "General contractor" means a contractor whose business operations require the use of more than two unrelated building trades or crafts whose work the contractor shall superintend or do in whole or in part. "General contractor" shall not include an individual who does all work personally without employees or other "specialty contractors" as defined (~~herein~~) in this section. The terms "general contractor" and "builder" are synonymous.

(3) "Specialty contractor" means a contractor whose operations (~~as such~~) do not fall within the foregoing definition of "general contractor".

(4) "Unregistered contractor" means a person, firm, or corporation doing work as a contractor without being registered in compliance with this chapter. "Unregistered contractor" includes contractors whose registration is expired for more than thirty days beyond the renewal date or has been suspended.

(5) "Department" means the department of labor and industries.

~~((5))~~ (6) "Director" means the director of the department of labor and industries.

~~((6))~~ (7) "Verification" means the receipt and duplication by the city, town, or county of a contractor registration card that is current on its face, checking the department's contractor registration data base, or calling the department to confirm that the contractor is registered.

Sec. 3. RCW 18.27.020 and 1993 c 454 s 6 are each amended to read as follows:

(1) Every contractor shall register with the department.

(2) It is a misdemeanor for any contractor to:

(a) Advertise, offer to do work, submit a bid, or perform any work as a contractor without being registered as required by this chapter;

(b) Advertise, offer to do work, submit a bid, or perform any work as a contractor when the contractor's registration is suspended or revoked;

(c) Use a false or expired registration number in purchasing or offering to purchase an advertisement for which a contractor registration number is required; or

(d) Transfer a valid registration to an unregistered contractor or allow an unregistered contractor to work under a registration issued to another contractor.

(3) It is not unlawful for a general contractor to employ an unregistered contractor who was registered at the time he or she entered into a contract with the general contractor, unless the general contractor or his or her representative has been notified in writing by the department of labor and industries that the contractor has become unregistered.

(4) All misdemeanor actions under this chapter shall be prosecuted in the county where the infraction occurs.

(5) A person is guilty of a separate misdemeanor for each day worked if, after the person receives a citation from the department, the person works while unregistered, or while his or her registration is suspended or revoked, or works under a registration issued to another contractor. A person is guilty of a separate misdemeanor for each worksite on which he or she violates subsection (2) of this section. Nothing in this subsection applies to a registered contractor.

(6) The director by rule shall establish a two-year audit and monitoring program for a contractor not registered under this chapter who becomes registered after receiving an infraction or conviction under this chapter as an unregistered contractor. The director shall notify the departments of revenue and employment security of the infractions or convictions and shall cooperate with these departments to determine whether any taxes or registration, license, or other fees or penalties are owed the state.

Sec. 4. RCW 18.27.030 and 1996 c 147 s 1 are each amended to read as follows:

(1) An applicant for registration as a contractor shall submit an application under oath upon a form to be prescribed by the director and which shall include the following information pertaining to the applicant:

(a) Employer social security number.

(b) As applicable: (i) The industrial insurance account number covering employees domiciled in Washington; and (ii) evidence of workers' compensation coverage in the applicant's state of domicile for the applicant's employees working in Washington who are not domiciled in Washington.

(c) Employment security department number.

(d) State excise tax registration number.

(e) Unified business identifier (UBI) account number may be substituted for the information required by (b), (c), and (d) of this subsection.

(f) Type of contracting activity, whether a general or a specialty contractor and if the latter, the type of specialty.

(g) The name and address of each partner if the applicant be a firm or partnership, or the name and address of the owner if the applicant be an individual

proprietorship, or the name and address of the corporate officers and statutory agent, if any, if the applicant be a corporation. The information contained in such application shall be a matter of public record and open to public inspection.

(2) The department may verify the workers' compensation coverage information provided by the applicant under subsection (1)(b) of this section, including but not limited to information regarding the coverage of an individual employee of the applicant. If coverage is provided under the laws of another state, the department may notify the other state that the applicant is employing employees in Washington.

(3) The department shall deny an application for registration (~~(shall be denied)~~) if the applicant has been previously registered as a sole proprietor, partnership, or corporation (~~(; and was a principal or officer of the corporation,)~~) and (~~(if)~~) the applicant has an unsatisfied final judgment against him or her in an action based on this chapter that was incurred during a previous registration under this chapter.

Sec. 5. RCW 18.27.040 and 1988 c 139 s 1 are each amended to read as follows:

(1) Each applicant shall (~~(; at the time of applying for or renewing a certificate of registration,)~~) file with the department a surety bond issued by a surety insurer who meets the requirements of chapter 48.28 RCW in (~~(a form acceptable to the department running to the state of Washington if a general contractor, in the sum of six thousand dollars; if a specialty contractor, in the sum of four thousand dollars,)~~) the sum of six thousand dollars if the applicant is a general contractor and four thousand dollars if the applicant is a specialty contractor. If no valid bond is already on file with the department at the time the application is filed, a bond must accompany the registration application. The bond shall have the state of Washington named as obligee with good and sufficient surety in a form to be approved by the department. The bond shall be continuous and may be canceled by the surety upon the surety giving written notice to the director of its intent to cancel the bond. A cancellation or revocation of the bond or withdrawal of the surety from the bond suspends the registration issued to the registrant until a new bond or reinstatement notice has been filed and approved as provided in this section. The bond shall be conditioned that the applicant will pay all persons performing labor, including employee benefits, for the contractor, will pay all taxes and contributions due to the state of Washington, and will pay all persons furnishing labor or material or renting or supplying equipment to the contractor and will pay all amounts that may be adjudged against the contractor by reason of (~~((negligent or improper work or))~~) breach of contract including negligent or improper work in the conduct of the contracting business. A change in the name of a business or a change in the type of business entity shall not impair a bond for the purposes of this section so long as one of the original applicants for such bond maintains partial ownership in the business covered by the bond.

(2) Any contractor registered as of ~~((the effective date of this 1983 act))~~ July 1, 1997, who maintains such registration in accordance with this chapter shall be in compliance with this chapter until the next annual renewal of the contractor's certificate of registration. At that time, the contractor shall provide a bond, cash deposit, or other security deposit as required by this chapter and comply with all of the other provisions of this chapter before the department shall renew the contractor's certificate of registration.

(3) Any person, firm, or corporation having a claim against the contractor for any of the items referred to in this section may bring suit upon ~~((such))~~ the bond or deposit in the superior court of the county in which the work was done or of any county in which jurisdiction of the contractor may be had. The surety issuing the bond shall be named as a party to any suit upon the bond. Action upon ~~((such))~~ the bond or deposit shall be commenced by filing the summons and complaint with the clerk of the appropriate superior court within one year from the date of expiration of the certificate of registration in force at the time the claimed labor was performed and benefits accrued, taxes and contributions owing the state of Washington became due, materials and equipment were furnished, or the claimed contract work was completed or abandoned. Service of process in an action against the contractor, the contractor's bond, or the deposit shall be exclusively by service upon the department. Three copies of the summons and complaint and a fee of ten dollars to cover the handling costs shall be served by registered or certified mail upon the department at the time suit is started and the department shall maintain a record, available for public inspection, of all suits so commenced. Service is not complete until the department receives the ten-dollar fee and three copies of the summons and complaint. ~~((Such))~~ The service shall constitute service on the registrant and the surety for suit upon the bond or deposit and the department shall transmit the summons and complaint or a copy thereof to the registrant at the address listed in ~~((his))~~ the registrant's application and to the surety within forty-eight hours after it shall have been received.

(4) The surety upon the bond shall not be liable in an aggregate amount in excess of the amount named in the bond nor for any monetary penalty assessed pursuant to this chapter for an infraction. The liability of the surety shall not cumulate where the bond has been renewed, continued, reinstated, reissued or otherwise extended. The surety upon the bond may, upon notice to the department and the parties, tender to the clerk of the court having jurisdiction of the action an amount equal to the claims thereunder or the amount of the bond less the amount of judgments, if any, previously satisfied therefrom and to the extent of such tender the surety upon the bond shall be exonerated but if the actions commenced and pending at any one time exceed the amount of the bond then unimpaired, claims shall be satisfied from the bond in the following order:

- (a) Employee labor and claims of laborers, including employee benefits;
- (b) Claims for breach of contract by a party to the construction contract;
- (c) Subcontractors, material, and equipment;

(d) Taxes and contributions due the state of Washington;

(e) Any court costs, interest, and attorney's fees plaintiff may be entitled to recover. The surety is not liable for any amount in excess of the penal limit of its bond.

A payment made by the surety in good faith exonerates the bond to the extent of any payment made by the surety.

(5) ~~((In the event that any))~~ If a final judgment ~~((shall))~~ impairs the liability of the surety upon the bond so furnished that there shall not be in effect a bond undertaking in the full amount prescribed in this section, the department shall suspend the registration of ~~((such))~~ the contractor until the bond liability in the required amount unimpaired by unsatisfied judgment claims ~~((shall have been))~~ is furnished. If ~~((such))~~ the bond becomes fully impaired, a new bond must be furnished at the ~~((increased))~~ rates prescribed by this section ~~((as now or hereafter amended))~~.

(6) In lieu of the surety bond required by this section the contractor may file with the department a deposit consisting of cash or other security acceptable to the department.

(7) Any person having filed and served a summons and complaint as required by this section having an unsatisfied final judgment against the registrant for any items referred to in this section may execute upon the security held by the department by serving a certified copy of the unsatisfied final judgment by registered or certified mail upon the department within one year of the date of entry of such judgment. Upon the receipt of service of such certified copy the department shall pay or order paid from the deposit, through the registry of the superior court which rendered judgment, towards the amount of the unsatisfied judgment. The priority of payment by the department shall be the order of receipt by the department, but the department shall have no liability for payment in excess of the amount of the deposit.

(8) The director may ~~((promulgate))~~ adopt rules necessary for the proper administration of the security.

**Sec. 6.** RCW 18.27.060 and 1983 1st ex.s. c 2 s 19 are each amended to read as follows:

(1) A certificate of registration shall be valid for one year and shall be renewed on or before the expiration date. The department shall issue to the applicant a certificate of registration upon compliance with the registration requirements of this chapter.

(2) If the department approves an application, it shall issue a certificate of registration to the applicant. The certificate shall be valid for:

(a) One year;

(b) Until the bond expires; or

(c) Until the insurance expires, whichever comes first. The department shall place the expiration date on the certificate.

(3) A contractor may supply a short-term bond or insurance policy to bring its registration period to the full one year.

(4) If a contractor's surety bond or other security has an unsatisfied judgment against it or is canceled, or if the contractor's insurance policy is canceled, the contractor's registration shall be automatically suspended on the effective date of the impairment or cancellation. The department shall ~~((give))~~ mail notice of the suspension to the ~~((contractor))~~ contractor's address on the certificate of registration by certified and by first class mail within forty-eight hours after suspension.

(5) Renewal of registration is valid on the date the department receives the required fee and proof of bond and liability insurance, if sent by certified mail or other means requiring proof of delivery. The receipt or proof of delivery shall serve as the contractor's proof of renewed registration until he or she receives verification from the department.

**Sec. 7.** RCW 18.27.070 and 1983 c 74 s 1 are each amended to read as follows:

The department shall charge fees for issuance, renewal, and reinstatement of certificates of registration; and changes of name, address, or business structure. The department shall set the fees by rule.

The ~~((fees shall))~~ entire amount of the fees are to be used solely to cover the full cost of issuing certificates, filing papers and notices, and administering and enforcing this chapter. The costs shall include reproduction, travel, per diem, and administrative and legal support costs.

**Sec. 8.** RCW 18.27.090 and 1987 c 313 s 1 are each amended to read as follows:

This chapter ~~((shall))~~ does not apply to:

(1) An authorized representative of the United States government, the state of Washington, or any incorporated city, town, county, township, irrigation district, reclamation district, or other municipal or political corporation or subdivision of this state;

(2) Officers of a court when they are acting within the scope of their office;

(3) Public utilities operating under the regulations of the utilities and transportation commission in construction, maintenance, or development work incidental to their own business;

(4) Any construction, repair, or operation incidental to the discovering or producing of petroleum or gas, or the drilling, testing, abandoning, or other operation of any petroleum or gas well or any surface or underground mine or mineral deposit when performed by an owner or lessee;

(5) The sale or installation of any finished products, materials, or articles of merchandise which are not actually fabricated into and do not become a permanent fixed part of a structure;

(6) Any construction, alteration, improvement, or repair of personal property, except this chapter shall apply to all mobile/manufactured housing. A mobile/

manufactured home may be installed, set up, or repaired by the registered or legal owner, by a contractor (~~(licensed)~~) registered under this chapter, or by a mobile/manufactured home retail dealer or manufacturer licensed under chapter 46.70 RCW who shall warranty service and repairs under chapter 46.70 RCW;

(7) Any construction, alteration, improvement, or repair carried on within the limits and boundaries of any site or reservation under the legal jurisdiction of the federal government;

(8) Any person who only furnished materials, supplies, or equipment without fabricating them into, or consuming them in the performance of, the work of the contractor;

(9) Any work or operation on one undertaking or project by one or more contracts, the aggregate contract price of which for labor and materials and all other items is less than five hundred dollars, such work or operations being considered as of a casual, minor, or inconsequential nature. The exemption prescribed in this subsection does not apply in any instance wherein the work or construction is only a part of a larger or major operation, whether undertaken by the same or a different contractor, or in which a division of the operation is made into contracts of amounts less than five hundred dollars for the purpose of evasion of this chapter or otherwise. The exemption prescribed in this subsection does not apply to a person who advertises or puts out any sign or card or other device which might indicate to the public that he or she is a contractor, or that he or she is qualified to engage in the business of contractor;

(10) Any construction or operation incidental to the construction and repair of irrigation and drainage ditches of regularly constituted irrigation districts or reclamation districts; or to farming, dairying, agriculture, viticulture, horticulture, or stock or poultry raising; or to clearing or other work upon land in rural districts for fire prevention purposes; except when any of the above work is performed by a registered contractor;

(11) An owner who contracts for a project with a registered contractor;

(12) Any person working on his or her own property, whether occupied by him or her or not, and any person working on his or her personal residence, whether owned by him or her or not but this exemption shall not apply to any person otherwise covered by this chapter who constructs an improvement on his or her own property with the intention and for the purpose of selling the improved property;

(13) Owners of commercial properties who use their own employees to do maintenance, repair, and alteration work in or upon their own properties;

(14) A licensed architect or civil or professional engineer acting solely in his or her professional capacity, an electrician licensed under the laws of the state of Washington, or a plumber licensed under the laws of the state of Washington or licensed by a political subdivision of the state of Washington while operating within the boundaries of such political subdivision. The exemption provided in

this subsection is applicable only when the licensee is operating within the scope of his or her license;

(15) Any person who engages in the activities herein regulated as an employee of a registered contractor with wages as his or her sole compensation or as an employee with wages as his or her sole compensation;

(16) Contractors on highway projects who have been prequalified as required by (~~chapter 13 of the Laws of 1961~~,) RCW 47.28.070, with the department of transportation to perform highway construction, reconstruction, or maintenance work.

**Sec. 9.** RCW 18.27.100 and 1996 c 147 s 2 are each amended to read as follows:

(1) Except as provided in RCW 18.27.065 for partnerships and joint ventures, no person who has registered under one name as provided in this chapter shall engage in the business, or act in the capacity, of a contractor under any other name unless such name also is registered under this chapter.

(2) All advertising and all contracts, correspondence, cards, signs, posters, papers, and documents which show a contractor's name or address shall show the contractor's name or address as registered under this chapter.

(3)~~(a)~~ All advertising that shows the contractor's name or address shall show the contractor's current registration number. The registration number may be omitted in an alphabetized listing of registered contractors stating only the name, address, and telephone number: PROVIDED, That signs on motor vehicles subject to RCW 46.16.010 and on-premise signs shall not constitute advertising as provided in this section. All materials used to directly solicit business from retail customers who are not businesses shall show the contractor's current registration number. A contractor shall not use a false or expired registration number in purchasing or offering to purchase an advertisement for which a contractor registration number is required. Advertising by airwave transmission shall not be subject to this subsection (~~if the person selling the advertisement obtains the contractor's current registration number from the contractor~~) ~~(3)(a)~~.

(b) The director may issue a subpoena to any person or entity selling any advertising subject to this section for the name, address, and telephone number provided to the seller of the advertising by the purchaser of the advertising. The subpoena must have enclosed a stamped, self-addressed envelope and blank form to be filled out by the seller of the advertising. If the seller of the advertising has the information on file, the seller shall, within a reasonable time, return the completed form to the department. The subpoena must be issued before forty-eight hours after the expiration of the issue or publication containing the advertising or after the broadcast of the advertising. The good-faith compliance by a seller of advertising with a written request of the department for information concerning the purchaser of advertising shall constitute a complete defense to any civil or criminal action brought against the seller of advertising arising from such compliance.

Advertising by airwave or electronic transmission is subject to this subsection (3)(b).

(4) No contractor shall advertise that he or she is bonded and insured because of the bond required to be filed and sufficiency of insurance as provided in this chapter.

(5) A contractor shall not falsify a registration number and use it, or use an expired registration number, in connection with any solicitation or identification as a contractor. All individual contractors and all partners, associates, agents, salesmen, solicitors, officers, and employees of contractors shall use their true names and addresses at all times while engaged in the business or capacity of a contractor or activities related thereto.

(6) Any advertising by a person, firm, or corporation soliciting work as a contractor when that person, firm, or corporation is not registered pursuant to this chapter is a violation of this chapter.

(7)(a) The finding of a violation of this section by the director at a hearing held in accordance with the Administrative Procedure Act, chapter 34.05 RCW, shall subject the person committing the violation to a penalty of not more than five thousand dollars as determined by the director.

(b) Penalties under this section shall not apply to a violation determined to be an inadvertent error.

**Sec. 10.** RCW 18.27.104 and 1989 c 175 s 61 are each amended to read as follows:

(1) If, upon investigation, the director or the director's designee has probable cause to believe that a person holding a registration, an applicant for registration, or ~~((an unregistered))~~ a person acting in the capacity of a contractor who is not otherwise exempted from this chapter, has violated RCW 18.27.100 by unlawfully advertising for work covered by this chapter ~~((in an alphabetical or classified directory))~~, the department may issue a citation containing an order of correction. Such order shall require the violator to cease the unlawful advertising.

(2) If the person to whom a citation is issued under subsection (1) of this section notifies the department in writing that he or she contests the citation, the department shall afford an opportunity for an adjudicative proceeding under chapter 34.05 RCW ~~((, the Administrative Procedure Act,))~~ within thirty days after receiving the notification.

**Sec. 11.** RCW 18.27.110 and 1993 c 454 s 5 are each amended to read as follows:

(1) No city, town or county shall issue a construction building permit for work which is to be done by any contractor required to be registered under this chapter without verification that such contractor is currently registered as required by law. When such verification is made, nothing contained in this section is intended to be, nor shall be construed to create, or form the basis for any liability under this chapter on the part of any city, town or county, or its officers, employees or agents. However, failure to verify the contractor registration number results in liability to

the city, town, or county to a penalty to be imposed according to RCW 18.27.100((6)) (7)(a).

(2) At the time of issuing the building permit, all cities, towns, or counties are responsible for:

- (a) Printing the contractor registration number on the building permit; and
- (b) Providing a written notice to the building permit applicant informing them of contractor registration laws and the potential risk and monetary liability to the homeowner for using an unregistered contractor.

(3) If a building permit is obtained by an applicant or contractor who falsifies information to obtain an exemption provided under RCW 18.27.090, the building permit shall be forfeited.

**Sec. 12.** RCW 18.27.114 and 1988 c 182 s 1 are each amended to read as follows:

(1) ~~((Until July 1, 1989, any contractor agreeing to perform any contracting project: (a) For the repair, alteration, or construction of four or fewer residential units or accessory structures on such residential property when the bid or contract price totals one thousand dollars or more; or (b) for the repair, alteration, or construction of a commercial building when the bid or contract price totals one thousand dollars or more but less than sixty thousand dollars, must provide the customer with the following disclosure statement prior to starting work on the project:~~

~~—————"NOTICE TO CUSTOMER~~

~~————This contractor is registered with the state of Washington, registration no. . . ., as a general/specialty contractor and has posted with the state a bond or cash deposit of \$6,000/\$4,000 for the purpose of satisfying claims against the contractor for negligent or improper work or breach of contract in the conduct of the contractor's business. This bond or cash deposit may not be sufficient to cover a claim which might arise from the work done under your contract. If any supplier of materials used in your construction project or any employee of the contractor or subcontractor is not paid by the contractor or subcontractor on your job, your property may be liened to forec payment. If you wish additional protection, you may request the contractor to provide you with original "lien release" documents from each supplier or subcontractor on your project. The contractor is required to provide you with further information about lien release documents if you request it. General information is also available from the department of labor and industries."~~

~~————(2) On and after July 1, 1989,))~~ Any contractor agreeing to perform any contracting project: (a) For the repair, alteration, or construction of four or fewer residential units or accessory structures on such residential property when the bid or contract price totals one thousand dollars or more; or (b) for the repair, alteration, or construction of a commercial building when the bid or contract price

totals one thousand dollars or more but less than sixty thousand dollars, must provide the customer with the following disclosure statement prior to starting work on the project:

**"NOTICE TO CUSTOMER**

This contractor is registered with the state of Washington, registration no. . . . , as a general/specialty contractor and has posted with the state a bond or cash deposit of \$6,000/\$4,000 for the purpose of satisfying claims against the contractor for negligent or improper work or breach of contract in the conduct of the contractor's business. The expiration date of this contractor's registration is . . . . . This bond or cash deposit may not be sufficient to cover a claim which might arise from the work done under your contract. If any supplier of materials used in your construction project or any employee of the contractor or subcontractor is not paid by the contractor or subcontractor on your job, your property may be liened to force payment. If you wish additional protection, you may request the contractor to provide you with original "lien release" documents from each supplier or subcontractor on your project. The contractor is required to provide you with further information about lien release documents if you request it. General information is also available from the department of labor and industries."

~~((3))~~ ~~On and after July 1, 1989,~~) (2) A contractor subject to this section shall notify any consumer to whom notice is required under subsection ~~((2))~~ (1) of this section if the contractor's registration has expired or is revoked or suspended by the department prior to completion or other termination of the contract with the consumer.

~~((4))~~ (3) No contractor subject to this section may bring or maintain any lien claim under chapter 60.04 RCW based on any contract to which this section applies without alleging and proving that the contractor has provided the customer with a copy of the disclosure statement as required in subsection (1) ~~(or (2))~~ of this section.

~~((5))~~ (4) This section does not apply to contracts authorized under chapter 39.04 RCW or to contractors contracting with other contractors.

~~((6))~~ (5) Failure to comply with this section shall constitute an infraction under the provisions of this chapter.

~~((7))~~ (6) The department shall produce model disclosure statements, and public service announcements detailing the information needed to assist contractors and contractors' customers to comply under this section. As necessary, the department shall periodically update these education materials.

**Sec. 13.** RCW 18.27.117 and 1987 c 313 s 2 are each amended to read as follows:

The legislature finds that setting up and siting mobile/manufactured homes must be done properly for the health, safety, and enjoyment of the occupants.

Therefore, when any of the following cause a health and safety risk to the occupants of a mobile/manufactured home, or severely hinder the use and enjoyment of the mobile/manufactured home, a violation of RCW 19.86.020 shall have occurred:

(1) The mobile/manufactured home has been improperly installed by a contractor (~~(licensed)~~) registered under chapter 18.27 RCW, or a mobile/manufactured dealer or manufacturer licensed under chapter 46.70 RCW;

(2) A warranty given under chapter 18.27 RCW or chapter 46.70 RCW has not been fulfilled by the person or business giving the warranty; and

(3) A bonding company that issues a bond under chapter 18.27 RCW or chapter 46.70 RCW does not reasonably and professionally investigate and resolve claims made by injured parties.

**Sec. 14.** RCW 18.27.200 and 1993 c 454 s 7 are each amended to read as follows:

(1) It is a violation of this chapter and an infraction for any contractor to:

(a) Advertise, offer to do work, submit a bid, or perform any work as a contractor without being registered as required by this chapter;

(b) Advertise, offer to do work, submit a bid, or perform any work as a contractor when the contractor's registration is suspended or revoked; or

(c) Transfer a valid registration to an unregistered contractor or allow an unregistered contractor to work under a registration issued to another contractor.

(2) Each day that a contractor works without being registered as required by this chapter, works while the contractor's registration is suspended or revoked, or works under a registration issued to another contractor is a separate infraction. Each worksite at which a contractor works without being registered as required by this chapter, works while the contractor's registration is suspended or revoked, or works under a registration issued to another contractor is a separate infraction.

**Sec. 15.** RCW 18.27.230 and 1993 c 454 s 9 are each amended to read as follows:

The department may issue a notice of infraction if the department reasonably believes that the contractor (~~(required to be registered by this chapter has failed to do so or)~~) has (~~(otherwise)~~) committed (~~(a violation under RCW 18.27.200)~~) an infraction under this chapter. A notice of infraction issued under this section shall be personally served on the contractor named in the notice by the department's compliance inspectors or service can be made by certified mail directed to the contractor named in the notice of infraction. If the contractor named in the notice of infraction is a firm or corporation, the notice may be personally served on any employee of the firm or corporation. If a notice of infraction is personally served upon an employee of a firm or corporation, the department shall within four days of service send a copy of the notice by certified mail to the contractor if the department is able to obtain the contractor's address.

**Sec. 16.** RCW 18.27.270 and 1986 c 197 s 6 are each amended to read as follows:

(1) A contractor who is issued a notice of infraction shall respond within twenty days of the date of issuance of the notice of infraction.

(2) If the contractor named in the notice of infraction does not elect to contest the notice of infraction, then the contractor shall pay to the department, by check or money order, the amount of the penalty prescribed for the infraction. When a response which does not contest the notice of infraction is received by the department with the appropriate penalty, the department shall make the appropriate entry in its records.

(3) If the contractor named in the notice of infraction elects to contest the notice of infraction, the contractor shall respond by filing an answer of protest with the department specifying the grounds of protest.

(4) If any contractor issued a notice of infraction fails to respond within the prescribed response period, the contractor shall be guilty of a misdemeanor and prosecuted in the county where the infraction occurred.

(5) After final determination by an administrative law judge that an infraction has been committed, a contractor who fails to pay a monetary penalty within thirty days, that is not waived, reduced, or suspended pursuant to RCW 18.27.340(2), and who fails to file an appeal pursuant to RCW 18.27.310(4), shall be guilty of a misdemeanor and be prosecuted in the county where the infraction occurred.

(6) A contractor who fails to pay a monetary penalty within thirty days after exhausting appellate remedies pursuant to RCW 18.27.310(4), shall be guilty of a misdemeanor and be prosecuted in the county where the infraction occurred.

(7) If a contractor who is issued a notice of infraction is a contractor who has failed to register as a contractor under this chapter, the contractor is subject to a monetary penalty per infraction as provided in the schedule of penalties established by the department, and each day the person works without becoming registered is a separate infraction.

**Sec. 17.** RCW 18.27.340 and 1986 c 197 s 10 are each amended to read as follows:

(1) Except as otherwise provided in subsection (3) of this section, a contractor found to have committed an infraction under RCW 18.27.200 shall be assessed a monetary penalty of not less than two hundred dollars and not more than ((three)) five thousand dollars.

(2) ~~((The administrative law judge may waive, reduce, or suspend the monetary penalty imposed for the infraction only upon a showing of good cause that the penalty would be unduly burdensome to the contractor.))~~ The director may waive collection in favor of payment of restitution to a consumer complainant.

(3) A contractor found to have committed an infraction under RCW 18.27.200 for failure to register shall be assessed a fine of not less than one thousand dollars, nor more than five thousand dollars. The director may reduce the penalty for failure to register, but in no case below five hundred dollars, if the person becomes registered within ten days of receiving a notice of infraction and the notice of infraction is for a first offense.

(4) Monetary penalties collected under this chapter shall be deposited in the general fund.

Sec. 18. RCW 51.12.020 and 1991 c 324 s 18 and 1991 c 246 s 4 are each reenacted and amended to read as follows:

The following are the only employments which shall not be included within the mandatory coverage of this title:

(1) Any person employed as a domestic servant in a private home by an employer who has less than two employees regularly employed forty or more hours a week in such employment.

(2) Any person employed to do gardening, maintenance, or repair, ~~((remodeling, or similar work))~~ in or about the private home of the employer. For the purposes of this subsection, "maintenance" means the work of keeping in proper condition, "repair" means to restore to sound condition after damage, and "private home" means a person's place of residence.

(3) A person whose employment is not in the course of the trade, business, or profession of his or her employer and is not in or about the private home of the employer.

(4) Any person performing services in return for aid or sustenance only, received from any religious or charitable organization.

(5) Sole proprietors or partners.

(6) Any child under eighteen years of age employed by his or her parent or parents in agricultural activities on the family farm.

(7) Jockeys while participating in or preparing horses for race meets licensed by the Washington horse racing commission pursuant to chapter 67.16 RCW.

(8)(a) Except as otherwise provided in (b) of this subsection, any bona fide officer of a corporation voluntarily elected or voluntarily appointed in accordance with the articles of incorporation or bylaws of the corporation, who at all times during the period involved is also a bona fide director, and who is also a shareholder of the corporation. Only such officers who exercise substantial control in the daily management of the corporation and whose primary responsibilities do not include the performance of manual labor are included within this subsection.

(b) Alternatively, a corporation that is not a "public company" as defined in RCW 23B.01.400~~((+9))~~ (20) may exempt eight or fewer bona fide officers, who are voluntarily elected or voluntarily appointed in accordance with the articles of incorporation or bylaws of the corporation and who exercise substantial control in the daily management of the corporation, from coverage under this title without regard to the officers' performance of manual labor if the exempted officer is a shareholder of the corporation, or may exempt any number of officers if all the exempted officers are related by blood within the third degree or marriage. If a corporation that is not a "public company" elects to be covered under subsection (8)(a) of this section, the corporation's election must be made on a form prescribed by the department and under such reasonable rules as the department may adopt.

(c) Determinations respecting the status of persons performing services for a corporation shall be made, in part, by reference to Title 23B RCW and to compliance by the corporation with its own articles of incorporation and bylaws. For the purpose of determining coverage under this title, substance shall control over form, and mandatory coverage under this title shall extend to all workers of this state, regardless of honorary titles conferred upon those actually serving as workers.

(d) A corporation may elect to cover officers who are exempted by this subsection in the manner provided by RCW 51.12.110.

(9) Services rendered by a musician or entertainer under a contract with a purchaser of the services, for a specific engagement or engagements when such musician or entertainer performs no other duties for the purchaser and is not regularly and continuously employed by the purchaser. A purchaser does not include the leader of a group or recognized entity who employs other than on a casual basis musicians or entertainers.

(10) Services performed by a newspaper carrier selling or distributing newspapers on the street or from house to house.

(11) Services performed by an insurance agent, insurance broker, or insurance solicitor, as defined in RCW 48.17.010, 48.17.020, and 48.17.030, respectively.

(12) Services performed by a booth renter as defined in RCW 18.16.020. However, a person exempted under this subsection may elect coverage under RCW 51.32.030.

**NEW SECTION. Sec. 19.** A new section is added to chapter 18.27 RCW to read as follows:

Beginning December 1, 1997, the department shall report by December 1st each year to the commerce and labor committees of the senate and house of representatives and the ways and means committee of the senate and the appropriations committee of the house of representatives, or successor committees, the following information for the previous three fiscal years:

(1) The number of contractors found to have committed an infraction for failure to register;

(2) The number of contractors identified in subsection (1) of this section who were assessed a monetary penalty and the amount of the penalties assessed;

(3) The amount of the penalties reported in subsection (2) of this section that was collected; and

(4) The amount of the penalties reported in subsection (2) of this section that was waived.

Passed the House April 21, 1997.

Passed the Senate April 10, 1997.

Approved by the Governor May 12, 1997.

Filed in Office of Secretary of State May 12, 1997.

## CHAPTER 315

[Substitute House Bill 1936]

## COMMERCIAL REAL ESTATE BROKER LIEN ACT

AN ACT Relating to liens on owner's proceeds in favor of commercial real estate brokers; and adding a new chapter to Title 60 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) "Commercial real estate" means a fee title interest or possessory estate in real property located in this state except an interest in real property which is (a) improved with one single-family residential unit or one multifamily structure with four or less residential units, or (b) unimproved and the maximum permitted development is one to four residential units or structures under the county or city zoning ordinances or comprehensive plan applicable to that real estate, or (c) classified as farm and agricultural land or timber land for assessment purposes pursuant to chapter 84.34 RCW, or (d) improved with single-family residential units such as condominiums, townhouses, timeshares, or stand-alone houses in a subdivision that may be legally sold, leased, or otherwise disposed of on a unit-by-unit basis. Real estate will be considered commercial real estate if the commission agreement so provides, or if it meets the definition contained in this section on the date of the disposition.

(2) "Commission agreement" means a written instrument which meets the requirements of RCW 19.36.010 signed by the owner, or by a party duly authorized to sign on behalf of the owner, of commercial real estate, pursuant to which the owner agrees to pay a broker a real estate commission upon either the disposition or lease of commercial real estate or upon entering into an agreement for disposition or lease of commercial real estate. When a broker and owner execute multiple versions of a commission agreement regarding the same disposition of commercial real estate, the final written version of the commission agreement, which incorporates the final agreement between the broker and the owner, constitutes the "commission agreement" and shall be used to determine the amount of the lien created by this chapter.

(3) "Days" means calendar days. However, if a period ends on a day other than a business day, then the last day shall be the next business day.

(4) "Disposition" means a voluntary transfer or conveyance of commercial real estate.

(5) "Escrow closing agent" means the person or entity who receives documents and funds for recording and disbursement in completing a transaction for the disposition of commercial real estate.

(6) "Lease" means a written agreement which gives rise to a relationship of landlord and tenant, affecting commercial real estate, such that the holder of a fee simple interest or possessory estate in commercial real estate permits another to

possess the commercial real estate for a period, and which meets the requirements of RCW 19.36.010, if applicable.

(7) "Net rental proceeds" means the base rent paid by the tenant under a lease, less any amounts currently due under the terms of liens which have priority over the lien created under this chapter. Base rent is the rent so designated in a lease as base rent, or a similar term, for the possession and use of the commercial real estate, but does not include separate payments made by tenants for insurance, taxes, utilities, or other expenses.

(8) "Owner" means a person or entity which is vested in record fee title or a possessory estate in commercial real estate.

(9)(a) "Owner's net proceeds" means the gross sales proceeds from the disposition of the commercial real estate described in a notice of claim of lien against proceeds pursuant to this chapter, less the following: (i) Amounts necessary to pay all encumbrances and liens which have priority over the lien created by this chapter other than those permitted to remain by the buyer; (ii) owner's closing costs, such as real estate excise tax, title insurance premiums, real estate tax and assessment prorations, and escrow fees payable by the owner pursuant to an agreement with the buyer; and (iii) amounts held by a third party for use by the owner to complete an exchange of real estate which is deferred from federal income tax under section 1031 of the internal revenue code of 1986, as amended.

(b) "Owner's net proceeds" shall include any gross sales proceeds which are held by a third party for purposes of completing an exchange of real estate which is deferred from federal income tax under section 1031 of the internal revenue code of 1986, as amended, but are subsequently not used for that purpose. "Owner's net proceeds" are personal property, upon which the lien created by this chapter attaches.

(10) "Real estate broker" or "broker" means the same as defined in RCW 18.85.010.

(11) "Real property" means one or more parcels or tracts of land, including appurtenances or improvements.

**NEW SECTION. Sec. 2.** (1) The lien created under this chapter is a lien upon personal property, not upon real property.

(2) A broker has a lien upon the owner's net proceeds from the disposition of commercial real estate and a lien upon the net rental proceeds from the lease of commercial real estate in the amount which the owner has agreed to pay the broker under a commission agreement. The lien under this chapter is available only to the broker named in the commission agreement, and may not be assigned voluntarily or by operation of law.

(3) Subject to the requirements of subsection (4) of this section, the lien created by this chapter becomes effective on the date of the recording of a notice of claim of lien upon proceeds pursuant to subsection (6) of this section, and is

perfected by such recording. Recording must be made with the county auditor or recorder in the county or counties in which the commercial real estate is located.

(4) In the case of a disposition of commercial real estate, the lien under this chapter is not effective unless it is recorded at least thirty days prior to the date a deed conveying the commercial real estate is recorded in the office of the county auditor or recorder in the county or counties in which the commercial real estate is located. In the case of a lease of commercial real estate, the lien under this chapter is not effective unless it is recorded within ninety days after the tenant takes possession of the leased commercial real estate.

(5) The lien created by this chapter is null and void unless, within ten days of recording its notice of claim of lien against proceeds, the broker delivers a copy of the notice of claim of lien against proceeds to the owner of the commercial real estate in the manner provided in section 8 of this act. In the case of the disposition of commercial real estate, on or before the date the deed conveying the commercial real estate is recorded, the broker shall deliver a copy of the notice of claim of lien against proceeds to the escrow closing agent closing the disposition in the manner provided in section 8 of this act, if the identity of the escrow closing agent is actually known by the broker.

(6) To be effective, the notice of claim of lien against proceeds must state the following:

(a) The name, address, and telephone number of the broker;

(b) The date of the commission agreement;

(c) The name of the owner of the commercial real estate;

(d) The legal description of the commercial real estate as described in the commission agreement;

(e) The amount for which the lien is claimed, which may be stated in a dollar amount or may be stated in the form of a formula for how the amount is to be determined such as a percentage of the sales price;

(f) The real estate license number of the broker; and

(g) That the lien claimant has read the claim, knows the contents, and believes the same to be true and correct, and that the claim is made pursuant to a valid commission agreement, and is not frivolous, under penalties of perjury.

A copy of the commission agreement must be attached to the recorded notice of claim of lien against proceeds. The notice of claim of lien against proceeds must recite that the information contained in the notice of claim of lien against proceeds is true and accurate to the knowledge of the signatory. The notice of claim of lien against proceeds must be acknowledged pursuant to chapter 64.08 RCW. A notice of claim of lien against proceeds substantially in the following form is sufficient:

**NOTICE OF CLAIM OF LIEN AGAINST PROCEEDS  
PURSUANT TO CHAPTER 60.— RCW  
(sections 1 through 10 of this act)**

Notice is hereby given that the person named below claims a lien as to owner's net proceeds or net rental proceeds, but not real property, pursuant to chapter 60.—

RCW (sections 1 through 10 of this act). In support of this lien, the following information is submitted:

- 1. Name, telephone number, and address of lien claimant: .....
- .....
- 2. Washington state broker's license number of lien claimant: .....
- 3. Date of the written commission agreement on which this claim is based: ....., a true and complete copy of which is attached to this notice of claim of lien.
- 4. Name of the owner: .....
- 5. Legal description of the commercial real estate described in the commission agreement: .....
- .....

6. The amount for which the lien is claimed, which may be stated in a dollar amount or may be stated in the form of a formula for how the amount is to be determined such as a percentage of the sales price:  
.....

7. The undersigned lien claimant, being sworn, states: I have read the foregoing claim, know the contents, and believe the same to be true and correct, and the claim is made pursuant to a valid commission agreement, and is not frivolous, under penalty of perjury.

.....  
 Signature of lien claimant  
 .....

Name, Street Address, City, State  
 of person signing  
 .....

Telephone Number of person signing

State of Washington )  
 ) ss  
 County of ..... )

Subscribed and sworn to, or affirmed, before me on ... by ...

.....  
Signature

(Seal or stamp) .....

Title  
 My appointment expires .....

(Add acknowledgment pursuant to chapter 64.08 RCW)

(7) Whenever a notice of claim of lien against proceeds is recorded and a condition or event occurs, or fails to occur, that would preclude the broker from receiving compensation under the terms of the commission agreement, including the filing of a notice of claim of lien against proceeds in a manner which does not

comply with this chapter, the broker shall record, within seven days following demand by the owner, a written release of the notice of claim of lien against proceeds.

(8) Whenever the amount claimed in a notice of claim of lien against proceeds is paid to the lien claimant, the lien claimant shall promptly record a satisfaction or release of the notice of claim of lien against proceeds on written demand of the owner no later than five days after receipt of payment. In the case of a disposition of commercial real estate, the escrow closing agent is required to pay to the lien claimant the owner's net proceeds up to the amount claimed in the notice of claim of lien against proceeds. If the amount claimed in the notice of claim of lien against proceeds is to be fully or partially paid to the lien claimant by the escrow closing agent, upon such disposition, then the lien claimant shall submit a release of the notice of claim of lien against proceeds in the amount of the owner's net proceeds or the amount of the lien, whichever is smaller, to the escrow closing agent to be held in escrow pending such disposition and payment. In a suit brought by the owner to compel delivery of the release by the lien claimant, if the court determines that the delay was unjustified, the court shall, in addition to ordering the release of the notice of claim of lien, award the costs of the action including reasonable attorneys' fees to the prevailing party.

(9) An owner of commercial real estate may request that a broker waive the rights to a lien under this chapter, and such a waiver contained in the commission agreement signed by the broker is effective to waive the broker's rights to a lien under this chapter. In a suit filed by a broker to recover amounts due under a commission agreement in which the broker has waived lien rights under this chapter, if the court finds that payment is due to the broker under the commission agreement, the court, in addition to awarding normal damages, shall award to the broker court costs, reasonable attorneys' fees, and statutory interest, as provided in RCW 19.52.010, from the date the deed is recorded in the event of a disposition, or from the date the tenant takes possession in the event of a lease.

**NEW SECTION. Sec. 3.** (1) An owner of commercial real estate subject to a recorded notice of claim of lien against proceeds under this chapter, who disputes the broker's claim in the notice of claim of lien against proceeds, may apply by motion to the superior court for the county where the commercial real estate, or some part thereof, is located for an order directing the broker to appear before the court at a time no earlier than seven nor later than fifteen days following the date of service of the motion and order on the broker, to show cause as to why the relief requested should not be granted. The motion must state the grounds upon which relief is asked and must be supported by the affidavit of the owner setting forth a concise statement of the facts upon which the motion is based.

(2) The order to show cause must clearly state that if the broker fails to appear at the time and place noted, the notice of claim of lien against proceeds must be released, with prejudice, and the broker must be ordered to pay the costs requested by the owner, including reasonable attorneys' fees.

(3) If, following a hearing on the matter, the court determines that the owner is not a party to an agreement which will result in the owner being obligated to pay to the broker a commission pursuant to the terms of a commission agreement, the court shall issue an order releasing the notice of claim of lien against proceeds and awarding costs and reasonable attorneys' fees to the owner to be paid by the broker. If the court determines that the owner is a party to an agreement which will result in the owner being obligated to pay to the broker a commission pursuant to the terms of a commission agreement, the court shall issue an order so stating and awarding costs and reasonable attorneys' fees to the broker, to be paid by the owner. Such orders are final judgments.

(4) Proceedings under this section shall not affect other rights and remedies available to the parties under this chapter or otherwise.

**NEW SECTION. Sec. 4.** (1) If a broker has a lien on net rental proceeds pursuant to section 2(2) of this act, and the broker has recorded a notice of claim of lien against proceeds and otherwise complied with the requirements of this chapter, the broker may apply by motion to the superior court for the county where the commercial real estate, or some part thereof, is located, for an order directing the owner to appear before the court at a time no earlier than seven nor later than fifteen days following the date of service of the motion and order on the owner, and show cause as to why the relief requested should not be granted. The motion must state the grounds upon which relief is asked, and must be supported by the affidavit of the broker setting forth a concise statement of the facts upon which the motion is based.

(2) The order to show cause must clearly state that if the owner fails to appear at the time and place noted, the broker shall be entitled to an order enjoining the owner from paying the net rental proceeds from such lease to any party other than the broker, and that the owner shall be ordered to pay the costs requested by the broker, including reasonable attorneys' fees.

(3) If, following a hearing on the matter, the court determines that the owner is, or was, a party to an agreement for the lease of commercial real estate, which did or will result in the owner being obligated to pay to the broker a commission pursuant to the terms of a commission agreement, the court shall issue an order enjoining the owner from paying the net rental proceeds from such lease to any party other than the broker. The court shall also order the owner to pay such net rental proceeds to the broker and award costs and reasonable attorneys' fees to the broker, to be paid by the owner. If the court determines that the owner is not, or was not, a party to an agreement for the lease of commercial real estate, which did or will result in the owner being obligated to pay to the broker a commission pursuant to the terms of a commission agreement, the court shall issue an order so stating and awarding costs and reasonable attorneys' fees to the owner, to be paid by the broker. Such orders are final judgments.

(4) Proceedings under this section shall not affect other rights and remedies available to the parties under this chapter or otherwise.

**NEW SECTION.** Sec. 5. All statutory liens, consensual liens, mortgages, deeds of trust, assignments of rents, and other encumbrances, including all advances or charges made or accruing thereunder, whether voluntary or obligatory, and all modifications, extensions, renewals, and replacements thereof, recorded prior to the recording of a notice of claim of lien against proceeds have priority over a lien created under this chapter. A prior recorded lien includes, without limitation, a valid materialmen's or mechanic's lien claim that is recorded after the recording of the broker's notice of claim of lien against proceeds but which relates back to a date prior to the recording date of the broker's notice of claim of lien against proceeds.

**NEW SECTION.** Sec. 6. A notice of claim of lien against proceeds recorded under this chapter must be released without further act, upon the recording of a receipt showing the deposit with the superior court of the county in which the commercial real estate, or some part thereof, is located, of an amount equal to one and one-quarter times the amount of the lien claimed. The receipt shall be recorded in the office in which the notice of claim was recorded. The amount of the deposit in the superior court shall be held pending a resolution of amounts due to the broker and the owner.

**NEW SECTION.** Sec. 7. The county auditor or recorder shall record the notice of claim of lien against proceeds, and any release thereof, in the same manner as deeds and other instruments of title are recorded under chapter 65.08 RCW. Notices of claim of lien against proceeds for registered land need not be recorded in the Torrens register. The county auditor or recorder may not charge a higher fee for recording a notice of claim of lien against proceeds, or for a release thereof, than what the county auditor or recorder charges for other documents.

**NEW SECTION.** Sec. 8. Notices to be delivered to a party under this chapter, other than service of process as required in civil actions, shall be by service of process, or by registered or certified mail, return receipt requested, or by personal or electronic delivery and obtaining evidence of delivery in the form of a receipt or other paper or electronic acknowledgment by the party to whom the notice is delivered or an affidavit of service. Delivery is effective at the time of personal service, or personal or electronic delivery, or three days following deposit in the mail as required by this section. Notice to a broker or owner may be given to the address of the broker or owner that is contained in the commission agreement, or such other address as is contained in a written notice from the broker or owner to the party giving the notice. If no address is provided in the commission agreement, the notice to the broker may be given to the broker's address of record with the department of licensing pursuant to chapter 18.85 RCW and notice to the owner may be given to the address of the commercial real estate.

**NEW SECTION.** Sec. 9. This chapter applies to lien claims based on a commission agreement entered into on, or after, the effective date of this act.

**NEW SECTION. Sec. 10.** This chapter may be known and cited as the commercial real estate broker lien act.

**NEW SECTION. Sec. 11.** Sections 1 through 10 of this act constitute a new chapter in Title 60 RCW.

Passed the House April 21, 1997.

Passed the Senate April 14, 1997.

Approved by the Governor May 12, 1997.

Filed in Office of Secretary of State May 12, 1997.

## CHAPTER 316

[Engrossed Substitute House Bill 2013]

### DEVELOPMENT OF EXISTING PERMITS OR CERTIFICATES OF GROUND WATER RIGHT

AN ACT Relating to the full and complete development of existing permits or certificates of ground water right; amending RCW 90.44.100; and creating a new section.

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

**NEW SECTION. Sec. 1.** The legislature intends that the holder of a valid permit or certificate of ground water right be permitted by the department of ecology to amend a valid permit or certificate to allow full and complete development of the valid right by the construction of replacement or additional wells at the original location or new locations.

**Sec. 2.** RCW 90.44.100 and 1987 c 109 s 113 are each amended to read as follows:

(1) After an application to, and upon the issuance by the department of an amendment to the appropriate permit or certificate of ground water right, the holder of a valid right to withdraw public ground waters may, without losing ~~((his))~~ the holder's priority of right, construct wells or other means of withdrawal at a new location in substitution for or in addition to those at the original location, or ~~((he))~~ the holder may change the manner or the place of use of the water ~~((: PROVIDED, HOWEVER, That such amendment))~~.

(2) An amendment to construct replacement or a new additional well or wells at a location outside of the location of the original well or wells or to change the manner or place of use of the water shall be issued only after publication of notice of the application and findings as prescribed in the case of an original application. Such amendment shall be issued by the department only on the conditions that: ((+)) (a) The additional or ((substitute)) replacement well or wells shall tap the same body of public ground water as the original well or wells; ((2) use of the original well or wells shall be discontinued upon construction of the substitute well or wells; (3) the construction of an additional well or wells shall not enlarge the right conveyed by the original permit or certificate; and ((4)) (b) where a replacement well or wells is approved, the use of the original well or wells shall be discontinued and the original well or wells shall be properly decommissioned as required under chapter 18.104 RCW; (c) where an additional well or wells is

constructed, the original well or wells may continue to be used, but the combined total withdrawal from the original and additional well or wells shall not enlarge the right conveyed by the original permit or certificate; and (d) other existing rights shall not be impaired. The department may specify an approved manner of construction and shall require a showing of compliance with the terms of the amendment, as provided in RCW 90.44.080 in the case of an original permit.

(3) The construction of a replacement or new additional well or wells at the location of the original well or wells shall be allowed without application to the department for an amendment. However, the following apply to such a replacement or new additional well: (a) The well shall tap the same body of public ground water as the original well or wells; (b) if a replacement well is constructed, the use of the original well or wells shall be discontinued and the original well or wells shall be properly decommissioned as required under chapter 18.104 RCW; (c) if a new additional well is constructed, the original well or wells may continue to be used, but the combined total withdrawal from the original and additional well or wells shall not enlarge the right conveyed by the original water use permit or certificate; (d) the construction and use of the well shall not interfere with or impair water rights with an earlier date of priority than the water right or rights for the original well or wells; (e) the replacement or additional well shall be located no closer than the original well to a well it might interfere with; (f) the department may specify an approved manner of construction of the well; and (g) the department shall require a showing of compliance with the conditions of this subsection (3).

(4) As used in this section, the "location of the original well or wells" is the area described as the point of withdrawal in the original public notice published for the application for the water right for the well.

Passed the House April 21, 1997.

Passed the Senate April 8, 1997.

Approved by the Governor May 12, 1997.

Filed in Office of Secretary of State May 12, 1997.

---

**CHAPTER 317**

[Substitute House Bill 2097]

**INSURANCE COMPANY INVESTMENTS—DERIVATIVE TRANSACTIONS**

AN ACT Relating to investment practices of insurance companies; and adding a new section to chapter 48.13 RCW.

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

**NEW SECTION.** **Sec. 1.** A new section is added to chapter 48.13 RCW to read as follows:

(1) An insurer may, directly or indirectly through an investment subsidiary, engage in derivative transactions under this section under the following conditions:

(a) An insurer may use derivative instruments under this section to engage in hedging transactions and certain income generation transactions, as these terms may be further defined by rule by the insurance commissioner;

(b) Derivative instruments shall not be used for speculative purposes, but only as stated in (a) of this subsection;

(c) An insurer shall be able to demonstrate to the insurance commissioner the intended hedging characteristics and the ongoing effectiveness of the derivative transaction or combination of transactions through cash flow testing or other appropriate analysis;

(d) An insurer may enter into hedging transactions under this section if, as a result of and after giving effect to the transaction:

(i) The aggregate statement value of options, caps, floors, and warrants not attached to another financial instrument purchased and used in hedging transactions does not exceed seven and one-half percent of its admitted assets;

(ii) The aggregate statement value of options, caps, and floors written in hedging transactions does not exceed three percent of its admitted assets; and

(iii) The aggregate potential exposure of collars, swaps, forwards, and futures used in hedging transactions does not exceed six and one-half percent of its admitted assets;

(e) An insurer may only enter into the following types of income generation transactions if, as a result of and after giving effect to the transactions, the aggregate statement value of the fixed income assets that are subject to call or that generate the cash flows for payments under the caps or floors, plus the face value of fixed income securities underlying a derivative instrument subject to call, plus the amount of the purchase obligations under the puts, does not exceed ten percent of its admitted assets:

(i) Sales of covered call options on noncallable fixed income securities, callable fixed income securities if the option expires by its terms prior to the end of the noncallable period, or derivative instruments based on fixed income securities;

(ii) Sales of covered call options on equity securities, if the insurer holds in its portfolio, or can immediately acquire through the exercise of options, warrants, or conversion rights already owned, the equity securities subject to call during the complete term of the call option sold;

(iii) Sales of covered puts on investments that the insurer is permitted to acquire under this chapter, if the insurer has escrowed, or entered into a custodian agreement segregating, cash or cash equivalents with a market value equal to the amount of its purchase obligations under the put during the complete term of the put option sold; or

(iv) Sales of covered caps or floors, if the insurer holds in its portfolio the investments generating the cash flow to make the required payments under the caps or floors during the complete term that the cap or floor is outstanding;

(f) An insurer shall include all counterparty exposure amounts in determining compliance with general diversification requirements and medium and low grade investment limitations under this chapter; and

(g) Pursuant to rules adopted by the insurance commissioner under subsection (3) of this section, the commissioner may approve additional transactions involving the use of derivative instruments in excess of the limitations in (d) of this subsection or for other risk management purposes under rules adopted by the commissioner, but replication transactions shall not be permitted for other than risk management purposes.

(2) For purposes of this section:

(a) "Cap" means an agreement obligating the seller to make payments to the buyer, with each payment based on the amount by which a reference price or level or the performance or value of one or more underlying interests exceeds a predetermined number, sometimes called the strike rate or strike price;

(b) "Collar" means an agreement to receive payments as the buyer of an option, cap, or floor and to make payments as the seller of a different option, cap, or floor;

(c) "Counterparty exposure amount" means the net amount of credit risk attributable to a derivative instrument entered into with a business entity other than through a qualified exchange, qualified foreign exchange, or cleared through a qualified clearinghouse. The amount of the credit risk equals the market value of the over-the-counter derivative instrument if the liquidation of the derivative instrument would result in a final cash payment to the insurer, or zero if the liquidation of the derivative instrument would not result in a final cash payment to the insurer.

If over-the-counter derivative instruments are entered into under a written master agreement which provides for netting of payments owed by the respective parties, and the domiciliary jurisdiction of the counterparty is either within the United States or, if not within the United States, within a foreign jurisdiction listed in the purposes and procedures of the securities valuation office as eligible for netting, the net amount of credit risk shall be the greater of zero or the sum of:

(i) The market value of the over-the-counter derivative instruments entered into under the agreement, the liquidation of which would result in a final cash payment to the insurer; and

(ii) The market value of the over-the-counter derivative instruments entered into under the agreement, the liquidation of which would result in a final cash payment by the insurer to the business entity.

For open transactions, market value shall be determined at the end of the most recent quarter of the insurer's fiscal year and shall be reduced by the market value of acceptable collateral held by the insurer or placed in escrow by one or both parties;

(d) "Covered" means that an insurer owns or can immediately acquire, through the exercise of options, warrants or conversion rights already owned, the

underlying interest in order to fulfill or secure its obligations under a call option, cap or floor it has written, or has set aside under a custodial or escrow agreement cash or cash equivalents with a market value equal to the amount required to fulfill its obligations under a put option it has written, in an income generation transaction;

(e) "Derivative instrument" means an agreement, option, instrument, or a series or combination thereof:

(i) To make or take delivery of, or assume or relinquish, a specified amount of one or more underlying interests, or to make a cash settlement in lieu thereof; or

(ii) That has a price, performance, value, or cash flow based primarily upon the actual or expected price, level, performance, value, or cash flow of one or more underlying interests.

Derivative instruments include options, warrants used in a hedging transaction and not attached to another financial instrument, caps, floors, collars, swaps, forwards, futures, and any other agreements, options, or instruments substantially similar thereto or any series or combination thereof and any agreements, options, or instruments permitted under rules adopted by the commissioner under subsection (3) of this section;

(f) "Derivative transaction" means a transaction involving the use of one or more derivative instruments;

(g) "Floor" means an agreement obligating the seller to make payments to the buyer in which each payment is based on the amount by which a predetermined number, sometimes called the floor rate or price, exceeds a reference price, level, performance, or value of one or more underlying interests;

(h) "Future" means an agreement, traded on a qualified exchange or qualified foreign exchange, to make or take delivery of, or effect a cash settlement based on the actual or expected price, level, performance, or value of, one or more underlying interests;

(i) "Hedging transaction" means a derivative transaction which is entered into and maintained to reduce:

(i) The risk of a change in the value, yield, price, cash flow, or quantity of assets or liabilities which the insurer has acquired or incurred or anticipates acquiring or incurring; or

(ii) The currency exchange rate risk or the degree of exposure as to assets or liabilities which an insurer has acquired or incurred or anticipates acquiring or incurring;

(j) "Option" means an agreement giving the buyer the right to buy or receive (a "call option"), sell or deliver (a "put option"), enter into, extend, or terminate or effect a cash settlement based on the actual or expected price, level, performance, or value of one or more underlying interests;

(k) "Swap" means an agreement to exchange or to net payments at one or more times based on the actual or expected price, level, performance, or value of one or more underlying interests;

(l) "Underlying interest" means the assets, liabilities, other interests, or a combination thereof underlying a derivative instrument, such as any one or more securities, currencies, rates, indices, commodities, or derivative instruments; and

(m) "Warrant" means an instrument that gives the holder the right to purchase an underlying financial instrument at a given price and time or at a series of prices and times outlined in the warrant agreement. Warrants may be issued alone or in connection with the sale of other securities, for example, as part of a merger or recapitalization agreement, or to facilitate divestiture of the securities of another business entity.

(3) The insurance commissioner may adopt rules implementing the provisions of this section.

Passed the House March 15, 1997.

Passed the Senate April 18, 1997.

Approved by the Governor May 12, 1997.

Filed in Office of Secretary of State May 12, 1997.

**CHAPTER 318**

[Engrossed Substitute House Bill 2128]

**CONTRACTS OR GRANTS RECEIVED BY STATE OFFICERS OR EMPLOYEES--  
COMPLIANCE WITH ETHICS CODE**

AN ACT Relating to ethics in public service; and amending RCW 42.52.120.

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

Sec. 1. RCW 42.52.120 and 1996 c 213 s 6 are each amended to read as follows:

(1) No state officer or state employee may receive any thing of economic value under any contract or grant outside of his or her official duties. The prohibition in this subsection does not apply where the state officer or state employee has complied with RCW 42.52.030(2) or each of the following conditions are met:

(a) The contract or grant is bona fide and actually performed;

(b) The performance or administration of the contract or grant is not within the course of the officer's or employee's official duties, or is not under the officer's or employee's official supervision;

(c) The performance of the contract or grant is not prohibited by RCW 42.52.040 or by applicable laws or rules governing outside employment for the officer or employee;

(d) The contract or grant is neither performed for nor compensated by any person from whom such officer or employee would be prohibited by RCW 42.52.150(4) from receiving a gift;

(e) The contract or grant is not one expressly created or authorized by the officer or employee in his or her official capacity (~~or by his or her agency~~);

(f) The contract or grant would not require unauthorized disclosure of confidential information.

(2) In addition to satisfying the requirements of subsection (1) of this section, a state officer or state employee may have a beneficial interest in a grant or contract or a series of substantially identical contracts or grants with a state agency only if:

(a) The contract or grant is awarded or issued as a result of an open and competitive bidding process in which more than one bid or grant application was received; or

(b) The contract or grant is awarded or issued as a result of an open and competitive bidding or selection process in which the officer's or employee's bid or proposal was the only bid or proposal received and the officer or employee has been advised by the appropriate ethics board, before execution of the contract or grant, that the contract or grant would not be in conflict with the proper discharge of the officer's or employee's official duties; or

(c) The process for awarding the contract or issuing the grant is not open and competitive, but the officer or employee has been advised by the appropriate ethics board that the contract or grant would not be in conflict with the proper discharge of the officer's or employee's official duties.

(3) A state officer or state employee awarded a contract or issued a grant in compliance with subsection (2) of this section shall file the contract or grant with the appropriate ethics board within thirty days after the date of execution; however, if proprietary formulae, designs, drawings, or research are included in the contract or grant, the proprietary formulae, designs, drawings, or research may be deleted from the contract or grant filed with the appropriate ethics board.

(4) This section does not prevent a state officer or state employee from receiving compensation contributed from the treasury of the United States, another state, county, or municipality if the compensation is received pursuant to arrangements entered into between such state, county, municipality, or the United States and the officer's or employee's agency. This section does not prohibit a state officer or state employee from serving or performing any duties under an employment contract with a governmental entity.

(5) As used in this section, "officer" and "employee" do not include officers and employees who, in accordance with the terms of their employment or appointment, are serving without compensation from the state of Washington or are receiving from the state only reimbursement of expenses incurred or a predetermined allowance for such expenses.

Passed the House April 21, 1997.

Passed the Senate April 15, 1997.

Approved by the Governor May 12, 1997.

Filed in Office of Secretary of State May 12, 1997.

## CHAPTER 319

[Engrossed Substitute House Bill 2276]

## CIVIL LEGAL SERVICES FOR INDIGENT PERSONS

AN ACT Relating to civil legal services; amending RCW 43.08.260; adding a new section to chapter 43.08 RCW; and creating a new section.

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

**NEW SECTION. Sec. 1.** It is the intent of the legislature to promote the provision of civil legal services to indigent persons, subject to available funds. To the extent that funds are appropriated for civil legal services for the indigent, the legislature intends that civil legal services be offered within an oversight framework that ensures accountability.

**Sec. 2.** RCW 43.08.260 and 1995 c 399 s 62 are each amended to read as follows:

(1)(a) The legislature recognizes the ethical obligation of attorneys to represent clients without interference by third parties in the discharge of professional obligations to clients. However, to ensure the most beneficial use of state resources, the legislature finds that it is within the authority of the legislature to specify the categories of legal cases in which qualified legal aid programs may provide civil representation with state moneys. Accordingly, moneys appropriated for civil legal representation pursuant to this section shall not be used for legal representation that is either outside the scope of this section or prohibited by this section.

(h) Nothing in this section is intended to limit the authority of existing entities, including but not limited to the Washington state bar association, the public disclosure commission, the state auditor, and the federal legal services corporation to resolve issues within their respective jurisdictions.

(2) Any money appropriated by the legislature from the public safety and education account pursuant to RCW 43.08.250 or from any other state fund or account for civil representation of indigent persons shall be used solely for the purpose of contracting with qualified legal aid programs for legal representation of indigent persons in matters relating to: (a) Domestic relations and family law matters, (b) public assistance(-) and health care, ((and entitlement programs-)) (c) ((public)) housing and utilities, ((and)) (d) ((unemployment compensation)) social security, (e) mortgage foreclosures, (f) home protection bankruptcies, (g) consumer fraud and unfair sales practices, (h) rights of residents of long-term care facilities, (i) wills, estates, and living wills, (j) elder abuse, and (k) guardianship.

(3) For purposes of this section, a "qualified legal aid program" means a not-for-profit corporation incorporated and operating exclusively in Washington which has received basic field funding for the provision of civil legal services to indigents ((under Public Law 101-515)) from the federal legal services corporation or that has received funding for civil legal services for indigents under this section before July 1, 1997.

~~((2) Funds distributed to qualified legal aid programs under this section shall be distributed on a basis proportionate to the number of individuals with incomes below the official federal poverty income guidelines who reside within the counties in the geographic service areas of such programs. The department of community, trade, and economic development shall use the same formula for determining this distribution as is used by the legal services corporation in allocating funds for basic field services in the state of Washington.~~

~~—(3)(a))~~ (4) The department of community, trade, and economic development shall establish a distribution formula based on the distribution by county of individuals with incomes below the official federal poverty level guidelines. When entering into a contract with a qualified legal services provider under this section, the department shall require the provider to provide legal services in a manner that maximizes geographic access in accordance with the formula established in this subsection (4).

~~(5) Funds distributed to qualified legal aid programs under this section may not be used directly or indirectly for ((lobbying or in class action suits. Further, these funds are subject to all limitations and conditions imposed on use of funds made available to legal aid programs under the legal services corporation act of 1974 (P.L. 93-355; P.L. 95-222) as currently in effect or hereafter amended.);~~

~~((b)(i))~~ (a) Lobbying.

(i) For purposes of this section, "lobbying" means any personal service, advertisement, telegram, telephone communication, letter, printed or written matter, or other device directly or indirectly intended to influence any member of congress or any other federal, state, or local nonjudicial official, whether elected or appointed:

(A) In connection with any act, bill, resolution, or similar legislation by the congress of the United States or by any state or local legislative body, or any administrative rule, rule-making activity, standard, rate, or other enactment by any federal, state, or local administrative agency;

(B) In connection with any referendum, initiative, constitutional amendment, or any similar procedure of the congress, any state legislature, any local council, or any similar governing body acting in a legislative capacity; or

(C) In connection with inclusion of any provision in a legislative measure appropriating funds to, or defining or limiting the functions or authority of, the recipient of funds ((pursuant to chapter 54, Laws of 1992)) under this section.

(ii) "Lobbying" does not include the response of an employee of a legal aid program to a written request from a governmental agency, an elected or appointed official, or committee on a specific matter. This exception does not authorize communication with anyone other than the requesting party, or agent or employee of such agency, official, or committee.

(b) Grass roots lobbying. For purposes of this section, "grass roots lobbying" means preparation, production, or dissemination of information the purpose of which is to encourage the public at large, or any definable segment thereof, to

contact legislators or their staff in support of or in opposition to pending or proposed legislation; or contribute to or participate in a demonstration, march, rally, lobbying campaign, or letter writing or telephone campaign for the purpose of influencing the course of pending or proposed legislation.

(c) Class action lawsuits.

(d) Participating in or identifying the program with prohibited political activities. For purposes of this section, "prohibited political activities" means (i) any activity directed toward the success or failure of a political party, a candidate for partisan or nonpartisan office, a partisan political group, or a ballot measure; (ii) advertising or contributing or soliciting financial support for or against any candidate, political group, or ballot measure; or (iii) voter registration or transportation activities.

(e) Representation in fee-generating cases. For purposes of this section, "fee-generating" means a case that might reasonably be expected to result in a fee for legal services if undertaken by a private attorney. The charging of a fee pursuant to subsection (6) of this section does not establish the fee-generating nature of a case.

A fee generating case may be accepted when: (i) The case has been rejected by the local lawyer referral services or by two private attorneys; (ii) neither the referral service nor two private attorneys will consider the case without payment of a consultation fee; (iii) after consultation with the appropriate representatives of the private bar, the program has determined that the type of case is one that private attorneys do not ordinarily accept, or do not accept without prepayment of a fee; or (iv) the director of the program or the director's designee has determined that referral of the case to the private bar is not possible because documented attempts to refer similar cases in the past have been futile, or because emergency circumstances compel immediate action before referral can be made, but the client is advised that, if appropriate and consistent with professional responsibility, referral will be attempted at a later time.

(f) Organizing any association, union, or federation, or representing a labor union. However, nothing in this subsection (5)(f) prohibits the provision of legal services to clients as otherwise permitted by this section.

(g) Representation of undocumented aliens.

(h) Picketing, demonstrations, strikes, or boycotts.

(i) Engaging in inappropriate solicitation. For purposes of this section, "inappropriate solicitation" means promoting the assertion of specific legal claims among persons who know of their rights to make a claim and who decline to do so. Nothing in this subsection precludes a legal services program or its employees from providing information regarding legal rights and responsibilities or providing information regarding the program's services and intake procedures through community legal education activities, responding to an individual's specific question about whether the individual should consult with an attorney or take legal action, or responding to an individual's specific request for information about the

individual's legal rights or request for assistance in connection with a specific legal problem.

(j) Conducting training programs that: (i) Advocate particular public policies; (ii) encourage or facilitate political activities, labor or antilabor activities, boycotts, picketing, strikes, or demonstrations; or (iii) attempt to influence legislation or rule making. Nothing in this subsection (5)(j) precludes representation of clients as otherwise permitted by this section.

(6) The department may establish requirements for client participation in the provision of civil legal services under this section, including but not limited to copayments and sliding fee scales.

(7)(a) Contracts entered into by the department of community, trade, and economic development with qualified legal services programs under this section must specify that the program's expenditures of moneys distributed under this section:

(i) Must be audited annually by an independent outside auditor. These audit results must be provided to the department of community, trade, and economic development; and

(ii) Are subject to audit by the state auditor.

(b)(i) Any entity auditing a legal services program under this section shall have access to all records of the legal services program to the full extent necessary to determine compliance with this section, with the exception of confidential information protected by the United States Constitution, the state Constitution, the attorney-client privilege, and applicable rules of attorney conduct.

(ii) The legal services program shall have a system allowing for production of case-specific information, including client eligibility and case type, to demonstrate compliance with this section, with the exception of confidential information protected by the United States Constitution, the state Constitution, the attorney-client privilege, and applicable rules of attorney conduct. Such information shall be available to any entity that audits the program.

(8) The department of community, trade, and economic development must recover or withhold amounts determined by an audit to have been used in violation of this section.

(9) The department of community, trade, and economic development may adopt rules to implement this section.

NEW SECTION. Sec. 3. A new section is added to chapter 43.08 RCW to read as follows:

The joint legislative civil legal services oversight committee is established.

(1) The committee's members are one member from each of the minority and majority caucuses of the house of representatives, who are appointed by the speaker of the house of representatives, and one member from each of the minority and majority caucuses of the senate, who are appointed by the president of the senate.

(2)(a) The committee shall oversee the provision of civil legal services funded through RCW 43.08.260 and shall act as a forum for discussion of issues related to state-funded civil legal services.

(b) By December 1, 1997, and by December 1st of each year thereafter, the committee must report to the appropriate standing policy and fiscal committees of the legislature on the provision of legal services under RCW 43.08.260.

(3) The committee chairman is selected by the members and shall serve a one-year term. The chairman position rotates between the house and senate members and the political parties.

(4) The committee shall meet at least four times during each fiscal year. The committee shall accept public testimony at a minimum of two of these meetings.

Passed the House April 10, 1997.

Passed the Senate April 18, 1997.

Approved by the Governor May 12, 1997.

Filed in Office of Secretary of State May 12, 1997.

## CHAPTER 320

[Substitute Senate Bill 5149]

### MAILINGS BY LEGISLATORS—RESTRICTIONS

AN ACT Relating to mailings by legislators; amending RCW 42.17.132; adding a new section to chapter 42.52 RCW; and recodifying RCW 42.17.132.

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

**Sec. 1.** RCW 42.17.132 and 1995 c 397 s 5 are each amended to read as follows:

(1) During the twelve-month period (~~(preceding the last day for certification of the election results for a state legislator's election to office)~~) beginning on December 1st of the year before a general election for a state legislator's election to office and continuing through November 30th immediately after the general election, the legislator may not mail, either by regular mail or electronic mail, to a constituent at public expense a letter, newsletter, brochure, or other piece of literature, except as (~~provided in this section.~~) follows:

(a) The legislator may mail (~~(one)~~) two mailings of newsletters to constituents. All newsletters within each mailing of newsletters must be identical as to their content but not as to the constituent name or address. One such mailing may be mailed no later than thirty days after the start of a regular legislative session (~~(and one)~~), except that a legislator appointed during a regular legislative session to fill a vacant seat may have up to thirty days from the date of appointment to send out the first mailing. The other mailing may be mailed no later than sixty days after the end of a regular legislative session (~~(of identical newsletters to constituents)~~).

(b) The legislator may mail an individual letter to (i) an individual constituent who (~~(+)~~) has contacted the legislator regarding the subject matter of the letter during the legislator's current term of office; (~~(or-2))~~ (ii) an individual constituent

who holds a governmental office with jurisdiction over the subject matter of the letter; or (iii) an individual constituent who has received an award or honor of extraordinary distinction of a type that is sufficiently infrequent to be noteworthy to a reasonable person, including, but not limited to: (A) An international or national award such as the Nobel prize or the Pulitzer prize; (B) a state award such as Washington scholar; (C) an Eagle Scout award; and (D) a Medal of Honor.

(2) For purposes of subsection (1) of this section, "legislator" means a legislator who is a "candidate," as defined by RCW 42.17.020, for any public office.

(3) A violation of this section constitutes use of the facilities of a public office for the purpose of assisting a campaign under RCW 42.52.180.

(4) The house of representatives and senate shall specifically limit expenditures per member for the total cost of mailings(~~(including)~~). Those costs include, but are not limited to, production costs, printing costs, and postage costs. The limits imposed under this subsection apply only to the total expenditures on mailings per member and not to any categorical cost within the total.

(5) For purposes of this section, persons residing outside the legislative district represented by the legislator are not considered to be constituents, but students, military personnel, or others temporarily employed outside of the district who normally reside in the district are considered to be constituents.

NEW SECTION. Sec. 2. RCW 42.17.132, as amended by this act, is recodified as a new section in chapter 42.52 RCW, to be placed between RCW 42.52.180 and 42.52.190.

Passed the Senate April 24, 1997.

Passed the House April 22, 1997.

Approved by the Governor May 12, 1997.

Filed in Office of Secretary of State May 12, 1997.

---

## CHAPTER 321

[Substitute Senate Bill 5173]

### LIQUOR LICENSING—RESTRUCTURE

AN ACT Relating to improving the liquor license schematic of the state of Washington; amending RCW 66.24.010, 66.24.150, 66.24.170, 66.24.185, 66.24.200, 66.24.206, 66.24.210, 66.24.230, 66.24.240, 66.24.250, 66.24.270, 66.24.290, 66.24.310, 66.24.320, 66.24.330, 66.24.350, 66.24.360, 66.24.380, 66.24.395, 66.24.400, 66.24.420, 66.24.425, 66.24.440, 66.24.450, 66.24.455, 66.24.495, 66.24.540, 66.24.550, 66.24.570, 66.04.010, 66.28.200, 66.24.210, 15.88.030, 19.126.020, 66.16.100, 66.20.300, 66.28.030, 66.28.040, 66.28.050, 66.28.170, 66.28.180, 66.28.190, 66.44.310, 66.98.060, 82.08.150, 66.08.180, 66.16.100, 66.20.300, 66.24.375, and 66.44.190; amending 1973 1st ex.s. c 204 s 3 (uncodified); reenacting and amending RCW 66.20.010, 66.20.310, 66.28.010, and 66.20.310; adding new sections to chapter 66.24 RCW; creating a new section; repealing RCW 66.24.204, 66.24.260, 66.24.340, 66.24.370, 66.24.490, 66.24.500, 66.24.510, and 66.24.560; prescribing penalties; and providing an effective date.

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

**Sec. 1.** RCW 66.24.010 and 1995 c 232 s 1 are each amended to read as follows:

(1) Every license shall be issued in the name of the applicant, and the holder thereof shall not allow any other person to use the license.

(2) For the purpose of considering any application for a license, the board may cause an inspection of the premises to be made, and may inquire into all matters in connection with the construction and operation of the premises. For the purpose of reviewing any application for a license and for considering the denial, suspension or revocation of any license, the liquor control board may consider any prior criminal conduct of the applicant and the provisions of RCW 9.95.240 and of chapter 9.96A RCW shall not apply to such cases. The board may, in its discretion, grant or refuse the license applied for. Authority to approve an uncontested or unopposed license may be granted by the board to any staff member the board designates in writing. Conditions for granting such authority shall be adopted by rule. No retail license of any kind may be issued to:

(a) A person who has not resided in the state for at least one month prior to making application, except in cases of licenses issued to dining places on railroads, boats, or aircraft;

(b) A copartnership, unless all of the members thereof are qualified to obtain a license, as provided in this section;

(c) A person whose place of business is conducted by a manager or agent, unless such manager or agent possesses the same qualifications required of the licensee;

(d) A corporation or a limited liability company, unless it was created under the laws of the state of Washington or holds a certificate of authority to transact business in the state of Washington.

(3) The board may, in its discretion, subject to the provisions of RCW 66.08.150, suspend or cancel any license; and all rights of the licensee to keep or sell liquor thereunder shall be suspended or terminated, as the case may be. The board may request the appointment of administrative law judges under chapter 34.12 RCW who shall have power to administer oaths, issue subpoenas for the attendance of witnesses and the production of papers, books, accounts, documents, and testimony, examine witnesses, and to receive testimony in any inquiry, investigation, hearing, or proceeding in any part of the state, under such rules and regulations as the board may adopt.

Witnesses shall be allowed fees and mileage each way to and from any such inquiry, investigation, hearing, or proceeding at the rate authorized by RCW 34.05.446, as now or hereafter amended. Fees need not be paid in advance of appearance of witnesses to testify or to produce books, records, or other legal evidence.

In case of disobedience of any person to comply with the order of the board or a subpoena issued by the board, or any of its members, or administrative law judges, or on the refusal of a witness to testify to any matter regarding which he or she may be lawfully interrogated, the judge of the superior court of the county in which the person resides, on application of any member of the board or

administrative law judge, shall compel obedience by contempt proceedings, as in the case of disobedience of the requirements of a subpoena issued from said court or a refusal to testify therein.

(4) Upon receipt of notice of the suspension or cancellation of a license, the licensee shall forthwith deliver up the license to the board. Where the license has been suspended only, the board shall return the license to the licensee at the expiration or termination of the period of suspension. The board shall notify all vendors in the city or place where the licensee has its premises of the suspension or cancellation of the license; and no employee may allow or cause any liquor to be delivered to or for any person at the premises of that licensee.

(5)(a) At the time of the original issuance of a (~~class-H~~) full service restaurant license, the board shall prorate the license fee charged to the new licensee according to the number of calendar quarters, or portion thereof, remaining until the first renewal of that license is required.

(b) Unless sooner canceled, every license issued by the board shall expire at midnight of the thirtieth day of June of the fiscal year for which it was issued. However, if the board deems it feasible and desirable to do so, it may establish, by rule pursuant to chapter 34.05 RCW, a system for staggering the annual renewal dates for any and all licenses authorized by this chapter. If such a system of staggered annual renewal dates is established by the board, the license fees provided by this chapter shall be appropriately prorated during the first year that the system is in effect.

(6) Every license issued under this section shall be subject to all conditions and restrictions imposed by this title or by the regulations in force from time to time. All conditions and restrictions imposed by the board in the issuance of an individual license shall be listed on the face of the individual license along with the trade name, address, and expiration date.

(7) Every licensee shall post and keep posted its license, or licenses, in a conspicuous place on the premises.

(8) Before the board shall issue a license to an applicant it shall give notice of such application to the chief executive officer of the incorporated city or town, if the application be for a license within an incorporated city or town, or to the county legislative authority, if the application be for a license outside the boundaries of incorporated cities or towns; and such incorporated city or town, through the official or employee selected by it, or the county legislative authority or the official or employee selected by it, shall have the right to file with the board within twenty days after date of transmittal of such notice, written objections against the applicant or against the premises for which the license is asked, and shall include with such objections a statement of all facts upon which such objections are based, and in case written objections are filed, may request and the liquor control board may in its discretion hold a formal hearing subject to the applicable provisions of Title 34 RCW. Upon the granting of a license under this title the board shall send a duplicate of the license or written notification to the chief executive officer of the

incorporated city or town in which the license is granted, or to the county legislative authority if the license is granted outside the boundaries of incorporated cities or towns.

(9) Before the board issues any license to any applicant, it shall give (a) due consideration to the location of the business to be conducted under such license with respect to the proximity of churches, schools, and public institutions and (b) written notice by certified mail of the application to churches, schools, and public institutions within five hundred feet of the premises to be licensed. The board shall issue no beer retailer license (~~(class A, B, D, or E)~~) for either on-premises or off-premises consumption or wine retailer license (~~(class C or F)~~) for either on-premises or off-premises consumption or (~~(class H)~~) full service restaurant license covering any premises not now licensed, if such premises are within five hundred feet of the premises of any tax-supported public elementary or secondary school measured along the most direct route over or across established public walks, streets, or other public passageway from the outer property line of the school grounds to the nearest public entrance of the premises proposed for license, and if, after receipt by the school or public institution of the notice as provided in this subsection, the board receives written notice, within twenty days after posting such notice, from an official representative or representatives of the school within five hundred feet of said proposed licensed premises, indicating to the board that there is an objection to the issuance of such license because of proximity to a school. For the purpose of this section, church shall mean a building erected for and used exclusively for religious worship and schooling or other activity in connection therewith. No liquor license may be issued or reissued by the board to any motor sports facility or licensee operating within the motor sports facility unless the motor sports facility enforces a program reasonably calculated to prevent alcohol or alcoholic beverages not purchased within the facility from entering the facility and such program is approved by local law enforcement agencies. It is the intent under this subsection that a retail license shall not be issued by the board where doing so would, in the judgment of the board, adversely affect a private school meeting the requirements for private schools under Title 28A RCW, which school is within five hundred feet of the proposed licensee. The board shall fully consider and give substantial weight to objections filed by private schools. If a license is issued despite the proximity of a private school, the board shall state in a letter addressed to the private school the board's reasons for issuing the license.

(10) The restrictions set forth in subsection (9) of this section shall not prohibit the board from authorizing the assumption of existing licenses now located within the restricted area by other persons or licenses or relocations of existing licensed premises within the restricted area. In no case may the licensed premises be moved closer to a church or school than it was before the assumption or relocation.

(11) Nothing in this section prohibits the board, in its discretion, from issuing a temporary retail or (~~(wholesaler)~~) distributor license to an applicant assuming an existing retail or (~~(wholesaler)~~) distributor license to continue the operation of the

retail or (~~wholesaler~~) distributor premises during the period the application for the license is pending and when the following conditions exist:

(a) The licensed premises has been operated under a retail or (~~wholesaler~~) distributor license within ninety days of the date of filing the application for a temporary license;

(b) The retail or (~~wholesaler~~) distributor license for the premises has been surrendered pursuant to issuance of a temporary operating license;

(c) The applicant for the temporary license has filed with the board an application to assume the retail or (~~wholesaler~~) distributor license at such premises to himself or herself; and

(d) The application for a temporary license is accompanied by a temporary license fee established by the board by rule.

A temporary license issued by the board under this section shall be for a period not to exceed sixty days. A temporary license may be extended at the discretion of the board for an additional sixty-day period upon payment of an additional fee and upon compliance with all conditions required in this section.

Refusal by the board to issue or extend a temporary license shall not entitle the applicant to request a hearing. A temporary license may be canceled or suspended summarily at any time if the board determines that good cause for cancellation or suspension exists. RCW 66.08.130 and chapter 34.05 RCW shall apply to temporary licenses.

Application for a temporary license shall be on such form as the board shall prescribe. If an application for a temporary license is withdrawn before issuance or is refused by the board, the fee which accompanied such application shall be refunded in full.

**Sec. 2.** RCW 66.24.150 and 1981 1st ex.s. c 5 s 29 are each amended to read as follows:

There shall be a license to manufacturers of liquor, including all kinds of manufacturers except those licensed as distillers, domestic brewers, microbreweries, wineries, and domestic wineries, authorizing such licensees to manufacture, import, sell, and export liquor from the state; fee five hundred dollars per annum.

**Sec. 3.** RCW 66.24.170 and 1991 c 192 s 2 are each amended to read as follows:

(1) There shall be a license (~~(to)~~) for domestic wineries; fee to be computed only on the liters manufactured: (~~(One hundred)~~) Less than two hundred fifty thousand liters (~~(or less)~~) per year, one hundred dollars per year; (~~(over one hundred)~~) and two hundred fifty thousand liters (~~(to seven hundred fifty thousand liters)~~) or more per year, four hundred dollars per year (~~(; and over seven hundred fifty thousand liters per year, eight hundred dollars per year)~~).

(2) (~~(Any applicant for a domestic winery license shall, at the time of filing application for license, accompany such application with a license fee based upon a reasonable estimate of the amount of wine liters to be manufactured by such~~

applicant. ~~Persons holding domestic winery licenses shall report annually at the end of each fiscal year, at such time and in such manner as the board may prescribe, the amount of wine manufactured by them during the fiscal year. If the total amount of wine manufactured during the year exceeds the amount permitted annually by the license fee already paid the board, the licensee shall pay such additional license fee as may be unpaid in accordance with the schedule provided in this section.)~~ The license allows for the manufacture of wine in Washington state from grapes or other agricultural products.

(3) Any domestic winery licensed under this section (~~shall~~) may also (~~be considered as holding, for the purposes of selling or importing wine~~) act as a distributor and/or retailer of wine of its own production(~~, a current wine wholesaler's license under RCW 66.24.200, a wine importer's license under RCW 66.24.204, and a wine retailer's license, class F, under RCW 66.24.370 without further application or fee~~). Any winery operating as a (~~wholesaler, importer, or~~) distributor and/or retailer under this subsection shall comply with the applicable laws and rules relating to (~~wholesalers, importers, and~~) distributors and/or retailers.

(4) Wine produced in Washington state by a domestic winery licensee may be shipped out-of-state for the purpose of making it into sparkling wine and then returned to such licensee for resale. Such wine shall be deemed wine manufactured in the state of Washington for the purposes of RCW 66.24.206, and shall not require a special license.

Sec. 4. RCW 66.24.185 and 1984 c 19 s 1 are each amended to read as follows:

(1) There shall be a license for bonded wine warehouses which shall authorize the storage of bottled wine only. Under this license a licensee may maintain a warehouse for the storage of wine off the premises of a winery.

(2) The board shall adopt similar qualifications for a bonded wine warehouse license as required for obtaining a domestic winery license as specified in RCW 66.24.010 and 66.24.170. A licensee must be a sole proprietor, a partnership, a limited liability company, or a corporation. One or more domestic wineries may operate as a partnership, corporation, business co-op, or agricultural co-op for the purposes of obtaining a bonded wine warehouse license.

(3) All bottled wine shipped to a bonded wine warehouse from a winery or another bonded wine warehouse shall remain under bond and no tax imposed under RCW 66.24.210 shall be due, unless the wine is removed from bond and shipped to a licensed Washington wine (~~wholesaler~~) distributor. Wine may be removed from a bonded wine warehouse only for the purpose of being (a) exported from the state, (b) shipped to a licensed Washington wine (~~wholesaler~~) distributor, or (c) returned to a winery or bonded wine warehouse.

(4) Warehousing of wine by any person other than (a) a licensed domestic winery or a bonded wine warehouse licensed under the provisions of this section, (b) a licensed Washington wine (~~wholesaler~~) distributor, (c) a licensed

Washington wine importer, ~~((or))~~ (d) a wine certificate of approval holder (W7), or (e) the liquor control board, is prohibited.

(5) A license applicant shall hold a federal permit for a bonded wine cellar and post a continuing wine tax bond in the amount of five thousand dollars in a form prescribed by the board prior to the issuance of a bonded wine warehouse license. The fee for this license shall be one hundred dollars per annum.

(6) The board shall adopt rules requiring a bonded wine warehouse to be physically secure, zoned for the intended use and physically separated from any other use.

(7) Every licensee shall submit to the board a monthly report of movement of bottled wines to and from a bonded wine warehouse in a form prescribed by the board. The board may adopt other necessary procedures by which bonded wine warehouses are licensed and regulated.

**Sec. 5.** RCW 66.24.200 and 1981 1st ex.s. c 5 s 32 are each amended to read as follows:

There shall be a license ~~((to))~~ for wine ((wholesalers)) distributors to sell wine, ((manufactured within or without the state, to licensed wholesalers and/or to holders of wine retailer's licenses)) purchased from licensed Washington wineries, wine certificate of approval holders (W7), licensed wine importers, or suppliers of foreign wine located outside the state of Washington, to licensed wine retailers and other wine distributors and to export the same from the state; fee ~~((five))~~ six hundred sixty dollars per ~~((annum))~~ year for each distributing unit.

**NEW SECTION.** **Sec. 6.** A new section is added to chapter 66.24 RCW to read as follows:

There shall be a license for wine importers that authorizes the licensee to import wine manufactured within the United States by certificate of approval holders (W7) into the state of Washington. The licensee may also import wine manufactured outside the United States.

(1) Wine so imported may be sold to licensed wine distributors or exported from the state.

(2) Every person, firm, or corporation licensed as a wine importer shall establish and maintain a principal office within the state at which shall be kept proper records of all wine imported into the state under this license.

(3) No wine importer's license shall be granted to a nonresident of the state nor to a corporation whose principal place of business is outside the state until such applicant has established a principal office and agent within the state upon which service can be made.

(4) As a requirement for license approval, a wine importer shall enter into a written agreement with the board to furnish on or before the twentieth day of each month, a report under oath, detailing the quantity of wine sold or delivered to each licensed wine distributor. Failure to file such reports may result in the suspension or cancellation of this license.

(5) Wine imported under this license must conform to the provisions of RCW 66.28.110 and have received label approval from the board. The board shall not certify wines labeled with names that may be confused with other nonalcoholic beverages whether manufactured or produced from a domestic winery or imported nor wines that fail to meet quality standards established by the board.

(6) The license fee shall be one hundred sixty dollars per year.

Sec. 7. RCW 66.24.206 and 1981 1st ex.s. c 5 s 34 are each amended to read as follows:

~~((No wine wholesaler nor wine importer shall purchase any wine not manufactured within the state of Washington by a winery holding a license as a manufacturer of wine from the state of Washington, and/or transport or cause the same to be transported into the state of Washington for resale therein, unless the winery or manufacturer of such wine, or the licensed importer of wine produced outside the United States, has obtained from the Washington state liquor control board a certificate of approval, as hereinafter provided.))~~ A United States winery or manufacturer of wine, located outside the state of Washington, must hold a certificate of approval (W7) to allow sales and shipment of the certificate of approval holder's wine to licensed Washington wine distributors or importers. The certificate of approval ~~((herein provided for))~~ shall not be granted unless and until such winery~~((;))~~ or manufacturer~~((, or licensed importer of wine produced outside the United States;))~~ of wine shall have made a written agreement with the board to furnish to the board, on or before the twentieth day of each month, a report under oath, on a form to be prescribed by the board, showing the quantity of wine sold or delivered to each licensed wine ~~((importer, or imported by the licensed importer of wine produced outside the United States))~~ distributor or importer, during the preceding month, and shall further have agreed with the board, that such wineries~~((;))~~ or manufacturers, ~~((or licensed importers of wine produced outside the United States;))~~ and all general sales corporations or agencies maintained by them, and all of their trade representatives ~~((and agents)),~~ shall and will faithfully comply with all laws of the state of Washington pertaining to the sale of intoxicating liquors and all rules and regulations of the Washington state liquor control board. ~~((If any such winery, manufacturer, or licensed importer of wine produced outside the United States, shall, after obtaining such certificate, fail to submit such report, or if such winery, manufacturer, or licensed importer of wine produced outside the United States, or general sales corporations or agencies maintained by them, or their trade representatives or agents, shall violate the terms of such agreement, the board shall, in its discretion, suspend or revoke such certificate: PROVIDED, HOWEVER, That such certificates of approval shall only authorize the holder thereof to ship or import into the state of Washington specifically named designated and identified types of wine which conform to the provisions of RCW 66.28.110 and for which the liquor control board has issued a certificate of label approval. The Washington state liquor control board shall not certify wines labeled with names which may be confused with other nonalcoholic~~

~~beverages, whether manufactured or produced from a domestic winery or imported, nor wines which fail to meet quality standards established by the board))~~  
A violation of the terms of this agreement will cause the board to take action to suspend or revoke such certificate.

The fee for the certificate of approval, issued pursuant to the provisions of this title, shall be one hundred dollars per ~~((annum))~~ year, which sum shall accompany the application for such certificate.

Sec. 8. RCW 66.24.210 and 1996 c 118 s 1 are each amended to read as follows:

(1) There is hereby imposed upon all wines except cider sold to wine ~~((wholesalers))~~ distributors and the Washington state liquor control board, within the state a tax at the rate of twenty and one-fourth cents per liter ~~((and))~~. There is hereby imposed on all cider sold to wine ((wholesalers)) distributors and the Washington state liquor control board within the state a tax at the rate of three and fifty-nine one-hundredths cents per liter: PROVIDED, HOWEVER, That wine sold or shipped in bulk from one winery to another winery shall not be subject to such tax. The tax provided for in this section shall be collected by direct payments based on wine purchased by wine ((wholesalers)) distributors. Every person purchasing wine under the provisions of this section shall on or before the twentieth day of each month report to the board all purchases during the preceding calendar month in such manner and upon such forms as may be prescribed by the board, and with such report shall pay the tax due from the purchases covered by such report unless the same has previously been paid. Any such purchaser of wine whose applicable tax payment is not postmarked by the twentieth day following the month of purchase will be assessed a penalty at the rate of two percent a month or fraction thereof. The board may require that every such person shall execute to and file with the board a bond to be approved by the board, in such amount as the board may fix, securing the payment of the tax. If any such person fails to pay the tax when due, the board may forthwith suspend or cancel the license until all taxes are paid.

(2) An additional tax is imposed equal to the rate specified in RCW 82.02.030 multiplied by the tax payable under subsection (1) of this section. All revenues collected during any month from this additional tax shall be transferred to the state general fund by the twenty-fifth day of the following month.

(3) An additional tax is imposed on wines subject to tax under subsection (1) of this section, at the rate of one-fourth of one cent per liter for wine sold after June 30, 1987. After June 30, 1996, such additional tax does not apply to cider. An additional tax of five one-hundredths of one cent per liter is imposed on cider sold after June 30, 1996. The additional taxes imposed by this subsection (3) shall cease to be imposed on July 1, 2001. All revenues collected under this subsection (3) shall be disbursed quarterly to the Washington wine commission for use in carrying out the purposes of chapter 15.88 RCW.

(4) An additional tax is imposed on all wine subject to tax under subsection (1) of this section. The additional tax is equal to twenty-three and forty-four one-hundredths cents per liter on fortified wine as defined in RCW 66.04.010~~((34))~~ (37) when bottled or packaged by the manufacturer, one cent per liter on all other wine except cider, and eighteen one-hundredths of one cent per liter on cider. All revenues collected during any month from this additional tax shall be deposited in the violence reduction and drug enforcement account under RCW 69.50.520 by the twenty-fifth day of the following month.

(5)(a) An additional tax is imposed on all cider subject to tax under subsection (1) of this section. The additional tax is equal to two and four one-hundredths cents per liter of cider sold after June 30, 1996, and before July 1, 1997, and is equal to four and seven one-hundredths cents per liter of cider sold after June 30, 1997.

(b) All revenues collected from the additional tax imposed under this subsection (5) shall be deposited in the health services account under RCW 43.72.900.

(6) For the purposes of this section, "cider" means table wine that contains not less than one-half of one percent of alcohol by volume and not more than seven percent of alcohol by volume and is made from the normal alcoholic fermentation of the juice of sound, ripe apples or pears. "Cider" includes, but is not limited to, flavored, sparkling, or carbonated cider and cider made from condensed apple or pear must.

**Sec. 9.** 1973 1st ex.s. c 204 s 3 (uncodified) is amended to read as follows:

There is hereby imposed upon every licensed wine (~~wholesaler~~) distributor who possesses wine for resale upon which the tax has not been paid under section 2 (~~of this~~), chapter 204, Laws of 1973 (~~amendatory act~~), a floor stocks tax of sixty-five cents per wine gallon on wine in his or her possession or under his or her control on June 30, 1973. Each such (~~wholesaler~~) distributor shall within twenty days after June 30, 1973, file a report with the Washington state liquor control board in such form as the board may prescribe, showing the wine products on hand July 1, 1973, converted to gallons thereof and the amount of tax due thereon. The tax imposed by this section shall be due and payable within twenty days after July 1, 1973, and thereafter bear interest at the rate of one percent per month.

**Sec. 10.** RCW 66.24.230 and 1969 ex.s. c 21 s 4 are each amended to read as follows:

Every winery (~~and~~), wine importer, and wine distributor licensed under this title shall make monthly reports to the board pursuant to the regulations. Such winery (~~and~~), wine importer, and wine distributor shall make no sales of wine within the state of Washington except to the board, or as otherwise provided in this title.

**Sec. 11.** RCW 66.24.240 and 1985 c 226 s 1 are each amended to read as follows:

(1) There shall be a license (~~(to brewers to manufacture malt liquors;)~~) for domestic breweries; fee (per annum) to be (based on current fiscal year's production at the rate of fifty dollars per thousand barrels, with a maximum fee of two thousand dollars, such license fee to be collected and paid under such rules and regulations as the board shall prescribe)) two thousand dollars for production of sixty thousand barrels or more of malt liquor per year.

(2) Any domestic brewery licensed under this section (~~(shall)~~) may also (~~(be considered as holding, for the purposes of selling malt liquor of its own production; a beer wholesaler's license under RCW 66.24.250, a beer retailer's license, class B, under RCW 66.24.330, and a beer retailer's license, class E, under RCW 66.24.360 without further application or fee))~~) act as a distributor and/or retailer for beer of its own production. Any domestic brewery operating as a (~~(wholesaler or)~~) distributor and/or retailer under this subsection shall comply with the applicable laws and rules relating to (~~(such wholesalers and retailers))~~) distributors and/or retailers.

NEW SECTION. Sec. 12. A new section is added to chapter 66.24 RCW to read as follows:

(1) There shall be a license for microbreweries; fee to be one hundred dollars for production of less than sixty thousand barrels of malt liquor per year.

(2) Any microbrewery license under this section may also act as a distributor and/or retailer for beer of its own production. Any microbrewery operating as a distributor and/or retailer under this subsection shall comply with the applicable laws and rules relating to distributors and/or retailers.

(3) The board may issue an endorsement to this license allowing for on-premises consumption of beer, wine, or both of other manufacture if purchased from a Washington state-licensed distributor. Each endorsement shall cost two hundred dollars per year, or four hundred dollars per year allowing the sale and service of both beer and wine.

(4) The microbrewer obtaining such endorsement must determine, at the time the endorsement is issued, whether the licensed premises will be operated either as a tavern with persons under twenty-one years of age not allowed as provided for in RCW 66.24.330, or as a limited service restaurant as described in RCW 66.24.320.

Sec. 13. RCW 66.24.250 and 1981 1st ex.s. c 5 s 14 are each amended to read as follows:

There shall be a license (~~(to)~~) for beer ((wholesalers)) distributors to sell beer (~~(, manufactured within or without the state, to licensed wholesalers and/or to holders of beer retailer's licenses, and to export the same from the state; fee five hundred dollars per annum for each distributing unit))~~), purchased from licensed Washington breweries, beer certificate of approval holders (B5), licensed beer importers, or suppliers of foreign beer located outside the state of Washington, to licensed beer retailers and other beer distributors and to export same from the state of Washington; fee six hundred sixty dollars per year for each distributing unit.

NEW SECTION. **Sec. 14.** A new section is added to chapter 66.24 RCW to read as follows:

There shall be a license for beer importers that authorizes the licensee to import beer manufactured within the United States by certificate of approval holders (B5) into the state of Washington. The licensee may also import beer manufactured outside the United States.

(1) Beer so imported may be sold to licensed beer distributors or exported from the state.

(2) Every person, firm, or corporation licensed as a beer importer shall establish and maintain a principal office within the state at which shall be kept proper records of all beer imported into the state under this license.

(3) No beer importer's license shall be granted to a nonresident of the state nor to a corporation whose principal place of business is outside the state until such applicant has established a principal office and agent within the state upon which service can be made.

(4) As a requirement for license approval, a beer importer shall enter into a written agreement with the board to furnish on or before the twentieth day of each month, a report under oath, detailing the quantity of beer sold or delivered to each licensed beer distributor. Failure to file such reports may result in the suspension or cancellation of this license.

(5) Beer imported under this license must conform to the provisions of RCW 66.28.120 and have received label approval from the board. The board shall not certify beer labeled with names which may be confused with other nonalcoholic beverages whether manufactured or produced from a domestic brewery or imported nor beer which fails to meet quality standards established by the board.

(6) The license fee shall be one hundred sixty dollars per year.

**Sec. 15.** RCW 66.24.270 and 1981 1st ex.s. c 5 s 35 are each amended to read as follows:

(1) Every person, firm or corporation, holding a license to manufacture malt liquors within the state of Washington, shall, on or before the twentieth day of each month, furnish to the Washington state liquor control board, on a form to be prescribed by the board, a statement showing the quantity of malt liquors sold for resale during the preceding calendar month to each beer (~~wholesaler~~) distributor within the state of Washington(;;).

(2) (~~No beer wholesaler nor beer importer shall purchase any beer not manufactured within the state of Washington by a brewer holding a license as a manufacturer of malt liquors from the state of Washington, and/or transport or cause the same to be transported into the state of Washington for resale therein; unless the brewer or manufacturer of such beer or the licensed importer of beer produced outside the United States has obtained from the Washington state liquor control board a certificate of approval, as hereinafter provided:)) A United States brewery or manufacturer of beer, located outside the state of Washington, must hold a certificate of approval (B5) to allow sales and shipment of the certificate of~~

approval holder's beer to licensed Washington beer distributors or importers. The certificate of approval (~~herein provided for~~) shall not be granted unless and until such brewer or manufacturer of (~~malt liquors or the licensed importer of beer produced outside the United States~~) beer shall have made a written agreement with the board to furnish to the board, on or before the twentieth day of each month, a report under oath, on a form to be prescribed by the board, showing the quantity of beer sold or delivered to each licensed beer (~~importer or imported by the licensed importer of beer produced outside the United States~~) distributor or importer during the preceding month, and shall further have agreed with the board, that such brewer or manufacturer of (~~malt liquors or the licensed importer of beer produced outside the United States~~) beer and all general sales corporations or agencies maintained by (~~such brewers or manufacturers or importers~~) them, and all of their trade representatives (~~or agents of such brewer or manufacturer of malt liquors or the licensed importer of beer produced outside the United States, and of such general sales~~), corporations, and agencies, shall and will faithfully comply with all laws of the state of Washington pertaining to the sale of intoxicating liquors and all rules and regulations of the Washington state liquor control board. (~~If any such brewer or manufacturer of malt liquors or the licensed importer of beer produced outside the United States shall, after obtaining such certificate, fail to submit such report, or if such brewer or manufacturer of malt liquors or the licensed importer of beer produced outside the United States or general sales corporation or agency maintained by such brewers or manufacturers or importers, or any representative or agent thereof, shall violate the terms of such agreement, the board shall, in its discretion, suspend or revoke such certificate;~~) A violation of the terms of this agreement will cause the board to take action to suspend or revoke such certificate.

(3) The fee for the certificate of approval, issued pursuant to the provisions of this title, shall be one hundred dollars per (~~annum~~) year, which sum shall accompany the application for such certificate.

**Sec. 16.** RCW 66.24.290 and 1995 c 232 s 4 are each amended to read as follows:

(1) Any (~~brewer~~) microbrewer or domestic brewery or beer (~~wholesaler~~) distributor licensed under this title may sell and deliver beer to holders of authorized licenses direct, but to no other person, other than the board; and every such (~~brewer~~) brewery or beer (~~wholesaler~~) distributor shall report all sales to the board monthly, pursuant to the regulations, and shall pay to the board as an added tax for the privilege of manufacturing and selling the beer within the state a tax of two dollars and sixty cents per barrel of thirty-one gallons on sales to licensees within the state and on sales to licensees within the state of bottled and canned beer shall pay a tax computed in gallons at the rate of two dollars and sixty cents per barrel of thirty-one gallons. Any (~~brewer~~) brewery or beer (~~wholesaler~~) distributor whose applicable tax payment is not postmarked by the twentieth day following the month of sale will be assessed a penalty at the rate of

two percent per month or fraction thereof. Beer shall be sold by ~~((brewers))~~ breweries and ~~((wholesalers))~~ distributors in sealed barrels or packages.

(2) An additional tax is imposed equal to seven percent multiplied by the tax payable under subsection (1) of this section. All revenues collected during any month from this additional tax shall be transferred to the state general fund by the twenty-fifth day of the following month.

(3) An additional tax is imposed on all beer subject to tax under subsection (1) of this section. The additional tax is equal to two dollars per barrel of thirty-one gallons. All revenues collected during any month from this additional tax shall be deposited in the violence reduction and drug enforcement account under RCW 69.50.520 by the twenty-fifth day of the following month.

(4)(a) An additional tax is imposed on all beer subject to tax under subsection (1) of this section. The additional tax is equal to ninety-six cents per barrel of thirty-one gallons through June 30, 1995, two dollars and thirty-nine cents per barrel of thirty-one gallons for the period July 1, 1995, through June 30, 1997, and four dollars and seventy-eight cents per barrel of thirty-one gallons thereafter.

(b) The additional tax imposed under this subsection does not apply to the sale of the first sixty thousand barrels of beer each year by breweries that are entitled to a reduced rate of tax under 26 U.S.C. Sec. 5051, as existing on July 1, 1993, or such subsequent date as may be provided by the board by rule consistent with the purposes of this exemption.

(c) All revenues collected from the additional tax imposed under this subsection (4) shall be deposited in the health services account under RCW 43.72.900.

(5) The tax imposed under this section shall not apply to "strong beer" as defined in this title.

**Sec. 17.** RCW 66.24.310 and 1981 1st ex.s. c 5 s 36 are each amended to read as follows:

(1) No person shall canvass for, solicit, receive, or take orders for the purchase or sale of liquor, nor contact any licensees of the board in goodwill activities, unless such person shall be the accredited representative of a person, firm, or corporation holding a certificate of approval issued pursuant to RCW 66.24.270 or 66.24.206, a beer ~~((wholesaler's))~~ distributor's license, a microbrewer's license, a domestic brewer's license, a beer importer's license, a domestic winery license, a wine importer's license, or a wine ~~((wholesaler's))~~ distributor's license within the state of Washington, or the accredited representative of a distiller, manufacturer, importer, or distributor of spirituous liquor, or foreign produced beer or wine, and shall have applied for and received ~~((an-agent's))~~ a representative's license: PROVIDED, HOWEVER, That the provisions of this section shall not apply to drivers who deliver beer or wine;

(2) Every ~~((agent's))~~ representative's license issued under this title shall be subject to all conditions and restrictions imposed by this title or by the rules and regulations of the board; the board, for the purpose of maintaining an orderly

market, may limit the number of ~~((agent's))~~ representative's licenses issued for representation of specific classes of eligible employers;

(3) Every application for ~~((an agent's))~~ a representative's license must be approved by a holder of a certificate of approval issued pursuant to RCW 66.24.270 or 66.24.206, a licensed beer ~~((wholesaler))~~ distributor, a licensed domestic brewer, a licensed beer importer, a licensed microbrewer, a licensed domestic winery, a licensed wine importer, a licensed wine ~~((wholesaler))~~ distributor, or by a distiller, manufacturer, importer, or distributor of spirituous liquor, or foreign produced beer or wine, as the rules and regulations of the board shall require;

(4) The fee for ~~((an agent's))~~ a representative's license shall be twenty-five dollars per ~~((annum))~~ year;

(5) An accredited representative of a distiller, manufacturer, importer, or distributor of spirituous liquor may, after he or she has applied for and received ~~((an agent's))~~ a representative's license, contact retail licensees of the board only in goodwill activities pertaining to spirituous liquor products.

Sec. 18. RCW 66.24.320 and 1995 c 232 s 6 are each amended to read as follows:

There shall be a ~~((beer retailer's))~~ limited service restaurant license ~~((to be designated as a class A license))~~ to sell beer or wine, or both, at retail, for consumption on the premises ~~((and to sell beer for consumption off the premises. Beer sold for consumption off the premises must be in original sealed packages of the manufacturer or bottler of not less than four gallons. Beer may be sold to a purchaser in a sanitary container brought to the premises by the purchaser and filled at the tap by the retailer at the time of sale. Such licenses may be issued only to hotels, restaurants, drug stores or soda fountains, dining places on boats and airplanes, to clubs, and at sports arenas or race tracks during recognized professional athletic events. The annual fee for said license, if issued in cities and towns, shall be graduated according to the population thereof as follows:~~

<del>_____</del>	<del>Cities and towns _____</del>	<del>Fee _____</del>
<del>_____</del>	<del>Less than 20,000 _____</del>	<del>\$ 205 _____</del>
<del>_____</del>	<del>20,000 or over _____</del>	<del>\$ 355) _____</del>

A patron of the licensee may remove from the premises, recorked or recapped in its original container, any portion of wine that was purchased for consumption with a meal.

(1) The annual fee ~~((for such license, if issued outside of cities and towns,))~~ shall be two hundred ~~((five))~~ dollars ~~((The annual license fee for such license, if issued to dining places on vessels not exceeding one thousand gross tons, plying on inland waters of the state of Washington on regular schedules, shall be two hundred five dollars))~~ for the beer license, two hundred dollars for the wine license, or four hundred dollars for a combination beer and wine license.

(2) The board may issue a caterer's endorsement to this license to allow the licensee to remove from the liquor stocks at the licensed premises, only those types of liquor that are authorized under the on-premises license privileges for sale and

service at special occasion locations at a specified date and place not currently licensed by the board. The privilege of selling and serving liquor under the endorsement is limited to members and guests of a society or organization as defined in RCW 66.24.375. Cost of the endorsement is three hundred fifty dollars.

(a) The holder of this license with catering endorsement shall, if requested by the board, notify the board or its designee of the date, time, place, and location of any catered event. Upon request, the licensee shall provide to the board all necessary or requested information concerning the society or organization that will be holding the function at which the endorsed license will be utilized.

(b) If attendance at the function will be limited to members and invited guests of the sponsoring society or organization, the requirement that the society or organization be within the definition of RCW 66.24.375 is waived.

Sec. 19. RCW 66.24.330 and 1995 c 232 s 7 are each amended to read as follows:

There shall be a beer and wine retailer's license to be designated as a ~~((class B))~~ tavern license to sell beer or wine, or both, at retail, for consumption on the premises ~~((and to sell beer for consumption off the premises. Beer sold for consumption off the premises must be in original sealed packages of the manufacturer or bottler of not less than four gallons. Beer may be sold to a purchaser in a sanitary container brought to the premises by the purchaser and filled at the tap by the retailer at the time of sale))~~. Such licenses may be issued only to a person operating a tavern that may be frequented only by persons twenty-one years of age and older. ~~((The annual fee for said license, if issued in cities and towns, shall be graduated according to the population thereof as follows:~~

<del>_____</del>	<del>Cities and towns</del>	<del>_____</del>	<del>Fee</del>
<del>_____</del>	<del>Less than 20,000</del>	<del>_____</del>	<del>\$ 205</del>
<del>_____</del>	<del>20,000 or over</del>	<del>_____</del>	<del>\$ 355))</del>

~~The annual fee for such license((, if issued outside of cities and towns,)) shall be two hundred ((five)) dollars for the beer license, two hundred dollars for the wine license, or four hundred dollars for a combination beer and wine license. Licensees who have a fee increase of more than one hundred dollars as a result of this change shall have their fees increased fifty percent of the amount the first renewal year and the remaining amount beginning with the second renewal period. New licensees obtaining a license after the effective date of this act shall pay the full amount of four hundred dollars.~~

Sec. 20. RCW 66.24.350 and 1991 c 42 s 3 are each amended to read as follows:

There shall be a beer retailer's license to be designated as ~~((a} class B))~~ a snack bar license to sell beer by the opened bottle or can at retail, for consumption upon the premises only, such license to be issued to ~~((hotels, restaurants, dining places on boats and aeroplanes, clubs, drug stores, or soda fountains, and such~~

other)) places where the sale of beer is not the principal business conducted; fee one hundred twenty-five dollars per ((annum)) year.

NEW SECTION. Sec. 21. A new section is added to chapter 66.24 RCW to read as follows:

There shall be a beer and wine retailer's license that may be combined only with the on-premises licenses described in either RCW 66.24.320 or 66.24.330. The combined license permits the sale of beer and wine for consumption off the premises.

(1) Beer and wine sold for consumption off the premises must be in original sealed packages of the manufacturer or bottler.

(2) Beer may be sold to a purchaser in a sanitary container brought to the premises by the purchaser and filled at the tap by the retailer at the time of sale.

(3) Licensees holding this type of license also may sell malt liquor in kegs or other containers that are capable of holding four gallons or more of liquid and are registered in accordance with RCW 66.28.200.

(4) The board may impose conditions upon the issuance of this license to best protect and preserve the health, safety, and welfare of the public.

(5) The annual fee for this license shall be one hundred twenty dollars.

Sec. 22. RCW 66.24.360 and 1993 c 21 s 1 are each amended to read as follows:

There shall be a beer and/or wine retailer's license to be designated as a ((class E)) grocery store license to sell beer and/or wine at retail in bottles, cans, and original ((packages)) containers, not to be consumed upon the premises where sold, at any store other than the state liquor stores.

(1) Licensees ((holding only an E license)) obtaining a written endorsement from the board may also sell malt liquor in kegs or other containers capable of holding less than five and one-half gallons of liquid.

(2) The annual fee for the grocery store license is ((seventy-five)) one hundred fifty dollars for each store(~~— PROVIDED, That a holder of a class A or a class B license shall be entitled to the privileges permitted in this section by paying an annual fee of twenty-five dollars for each store. Licensees under this section whose business is primarily the sale of beer and/or wine at retail may provide, free or for a charge, single-serving samples of two ounces or less to customers for the purpose of sales promotion. Sampling activities of licensees under this section shall be subject to RCW 66.28.010 and 66.28.040 and the cost of sampling under this section may not be borne, directly or indirectly, by any manufacturer, importer, or wholesaler of liquor.~~

~~— For the purpose of this section, "beer" includes, in addition to the usual and customary meaning, bottle conditioned beer which has been fermented partially or completely in the container in which it is sold to the retail customer and which may contain residual active yeast. The bottles and original packages in which such bottle conditioned beer may be sold under this section shall not exceed one hundred seventy ounces in capacity).~~

(3) The board shall issue a restricted grocery store license authorizing the licensee to sell beer and only table wine, if the board finds upon issuance or renewal of the license that the sale of fortified wine would be against the public interest. In determining the public interest, the board shall consider at least the following factors:

(a) The likelihood that the applicant will sell fortified wine to persons who are intoxicated;

(b) Law enforcement problems in the vicinity of the applicant's establishment that may arise from persons purchasing fortified wine at the establishment; and

(c) Whether the sale of fortified wine would be detrimental to or inconsistent with a government-operated or funded alcohol treatment or detoxification program in the area.

If the board receives no evidence or objection that the sale of fortified wine would be against the public interest, it shall issue or renew the license without restriction, as applicable. The burden of establishing that the sale of fortified wine by the licensee would be against the public interest is on those persons objecting.

(4) Licensees holding a grocery store license must maintain a minimum three thousand dollar inventory of food products for human consumption, not including pop, beer, or wine.

(5) Upon approval by the board, the grocery store licensee may also receive an endorsement to permit the international export of beer and wine.

(a) Any beer or wine sold under this endorsement must have been purchased from a licensed beer or wine distributor licensed to do business within the state of Washington.

(b) Any beer and wine sold under this endorsement must be intended for consumption outside the state of Washington and the United States and appropriate records must be maintained by the licensee.

(c) A holder of this special endorsement to the grocery store license shall be considered not in violation of RCW 66.28.010.

(d) Any beer or wine sold under this license must be sold at a price no less than the acquisition price paid by the holder of the license.

(e) The annual cost of this endorsement is five hundred dollars and is in addition to the license fees paid by the licensee for a grocery store license.

**NEW SECTION, Sec. 23.** A new section is added to chapter 66.24 RCW to read as follows:

(1) There shall be a beer and/or wine retailer's license to be designated as a beer and/or wine specialty shop license to sell beer and/or wine at retail in bottles, cans, and original containers, not to be consumed upon the premises where sold, at any store other than the state liquor stores. Licensees obtaining a written endorsement from the board may also sell malt liquor in kegs or other containers capable of holding less than five and one-half gallons of liquid. The annual fee for the beer and/or wine specialty shop license is one hundred dollars for each store.

(2) Licensees under this section may provide, free or for a charge, single-serving samples of two ounces or less to customers for the purpose of sales promotion. Sampling activities of licensees under this section are subject to RCW 66.28.010 and 66.28.040 and the cost of sampling under this section may not be borne, directly or indirectly, by any manufacturer, importer, or distributor of liquor.

(3) The board shall issue a restricted beer and/or wine specialty shop license, authorizing the licensee to sell beer and only table wine, if the board finds upon issuance or renewal of the license that the sale of fortified wine would be against the public interest. In determining the public interest, the board shall consider at least the following factors:

(a) The likelihood that the applicant will sell fortified wine to persons who are intoxicated;

(b) Law enforcement problems in the vicinity of the applicant's establishment that may arise from persons purchasing fortified wine at the establishment; and

(c) Whether the sale of fortified wine would be detrimental to or inconsistent with a government-operated or funded alcohol treatment or detoxification program in the area.

If the board receives no evidence or objection that the sale of fortified wine would be against the public interest, it shall issue or renew the license without restriction, as applicable. The burden of establishing that the sale of fortified wine by the licensee would be against the public interest is on those persons objecting.

(4) Licensees holding a beer and/or wine specialty shop license must maintain a minimum three thousand dollar wholesale inventory of beer and/or wine.

**Sec. 24.** RCW 66.24.380 and 1988 c 200 s 2 are each amended to read as follows:

There shall be a ~~((beer))~~ retailer's license to be designated as ~~((class G))~~ a special occasion license to be issued to a not-for-profit society or organization to sell spirits, beer, and wine by the individual serving for on-premises consumption at a specified event, such as at picnics or other special occasions, at a specified date and place; fee ((thirty-five)) sixty dollars per day.

(1) The not-for-profit society or organization is limited to sales of no more than twelve calendar days per year.

(2) The licensee may sell beer and/or wine in original, unopened containers for off-premises consumption if permission is obtained from the board prior to the event.

(3) Sale, service, and consumption of spirits, beer, and wine is to be confined to specified premises or designated areas only.

(4) Spirituous liquor sold under this special occasion license must be purchased at a state liquor store or agency without discount at retail prices, including all taxes.

(5) Any violation of this section is a class I civil infraction having a maximum penalty of two hundred fifty dollars as provided for in chapter 7.80 RCW.

**Sec. 25.** RCW 66.24.395 and 1981 1st ex.s. c 5 s 44 are each amended to read as follows:

(1)(a) There shall be a license that may be issued to corporations, associations, or persons operating as federally licensed commercial common passenger carriers engaged in interstate commerce, in or over territorial limits of the state of Washington on passenger trains, vessels, or airplanes. Such license shall permit the sale of spirituous liquor, wine, and beer at retail for passenger consumption within the state upon one such train passenger car, vessel, or airplane, while in or over the territorial limits of the state. Such license shall include the privilege of transporting into and storing within the state such liquor for subsequent retail sale to passengers in passenger train cars, vessels or airplanes. The fees for such master license shall be seven hundred fifty dollars per annum (class CCI-1): PROVIDED, That ~~((where the sale and/or service of alcoholic beverages by such federally licensed common passenger carrier does not include spirituous liquor, the fee shall be two hundred fifty dollars per annum (class CCI-2): PROVIDED, FURTHER, That))~~ upon payment of an additional sum of five dollars per annum per car, or vessel, or airplane, the privileges authorized by such license classes shall extend to additional cars, or vessels, or airplanes operated by the same licensee within the state, and a duplicate license for each additional car, or vessel, or airplane shall be issued: PROVIDED, FURTHER, That such licensee may make such sales and/or service upon cars, or vessels, or airplanes in emergency for not more than five consecutive days without such license: AND PROVIDED, FURTHER, That such license shall be valid only while such cars, or vessels, or airplanes are actively operated as common carriers for hire in interstate commerce and not while they are out of such common carrier service.

(b) Alcoholic beverages sold and/or served for consumption by such interstate common carriers while within or over the territorial limits of this state shall be subject to such board markup and state liquor taxes in an amount to approximate the revenue that would have been realized from such markup and taxes had the alcoholic beverages been purchased in Washington: PROVIDED, That the board's markup shall be applied on spirituous liquor only. Such common carriers shall report such sales and/or service and pay such markup and taxes in accordance with procedures prescribed by the board.

(2) ~~((Where such an interstate federally licensed common carrier does not sell spirituous liquor, wine, or beer at retail for passenger consumption while within or over the territorial limits of this state, but the business operation of the interstate common carrier requires the bringing in and storing of liquor within the state the license fee shall be five hundred dollars per annum (class CCI-3): PROVIDED, That where such transporting and/or storage of alcoholic beverages by such common carrier does not include spirituous liquor, the license fee shall be one hundred twenty-five dollars per annum (class CCI-4):~~

~~—(3))~~ Alcoholic beverages sold and delivered in this state to interstate common carriers for use under the provisions of this section shall be considered exported

from the state, subject to the conditions provided in subsection (1)(b) of this section. The storage facilities for liquor within the state by common carriers licensed under this section shall be subject to written approval by the board.

Sec. 26. RCW 66.24.400 and 1987 c 196 s 1 are each amended to read as follows:

There shall be a retailer's license, to be known and designated as ~~((class-H))~~ a full service restaurant license, to sell spirituous liquor by the individual glass, beer, and wine, at retail, for consumption on the premises, including mixed drinks and cocktails compounded or mixed on the premises only: PROVIDED, That a hotel, or club licensed under chapter 70.62 RCW with overnight sleeping accommodations, that is licensed under this section may sell liquor by the bottle to registered guests of the hotel or club for consumption in guest rooms, hospitality rooms, or at banquets in the hotel or club: PROVIDED FURTHER, That a patron of a bona fide hotel, restaurant, or club licensed under this section may remove from the premises recorked or recapped in its original container any portion of wine which was purchased for consumption with a meal, and registered guests who have purchased liquor from the hotel or club by the bottle may remove from the premises any unused portion of such liquor in its original container. Such ~~((class H))~~ license may be issued only to bona fide restaurants, hotels and clubs, and to dining, club and buffet cars on passenger trains, and to dining places on passenger boats and airplanes, and to dining places at ~~((publicly-owned))~~ civic centers with facilities for sports, entertainment, and conventions, and to such other establishments operated and maintained primarily for the benefit of tourists, vacationers and travelers as the board shall determine are qualified to have, and in the discretion of the board should have, a ~~((class-H))~~ full service restaurant license under the provisions and limitations of this title.

Sec. 27. RCW 66.24.420 and 1996 c 218 s 4 are each amended to read as follows:

(1) The ~~((class-H))~~ full service restaurant license shall be issued in accordance with the following schedule of annual fees:

(a) ~~((The annual fee for said license, if issued to a club, whether inside or outside of incorporated cities and towns, shall be seven hundred dollars.~~

~~—(b))~~ The annual fee for ~~((said))~~ a full service restaurant license ~~((, if issued to any other class-H licensee in incorporated cities and towns,))~~ shall be graduated according to the ~~((population thereof))~~ dedicated dining area and type of service provided as follows:

<del>((Incorporated</del>		
<del>Cities and towns</del>	<del>Fees</del>	
<del>Less than 20,000</del>	<del>\$1,200</del>	
<del>20,000 or over</del>	<del>\$2,000))</del>	
<u>Less than 50% dedicated dining area</u>		<u>\$2.000</u>
<u>50% or more dedicated dining area</u>		<u>\$1.600</u>
<u>Service bar only</u>		<u>\$1.000</u>

~~((e))~~ (b) The annual fee for said license when issued to any other ~~((class-H))~~ full service restaurant licensee outside of incorporated cities and towns shall be ~~((Two thousand dollars; this fee shall be))~~ prorated according to the calendar quarters, or portion thereof, during which the licensee is open for business, except in case of suspension or revocation of the license.

~~((d))~~ (c) Where the license shall be issued to any corporation, association or person operating a bona fide restaurant in an airport terminal facility providing service to transient passengers with more than one place where liquor is to be dispensed and sold, such license shall be issued upon the payment of the annual fee, which shall be a master license and shall permit such sale within and from one such place. Such license may be extended to additional places on the premises at the discretion of the board and a duplicate license may be issued for each such additional place: PROVIDED, That the holder of a master license for a restaurant in an airport terminal facility shall be required to maintain in a substantial manner at least one place on the premises for preparing, cooking, and serving of complete meals, and such food service shall be available on request in other licensed places on the premises: PROVIDED, FURTHER, That an additional license fee of twenty-five percent of the annual master license fee shall be required for such duplicate licenses.

~~((e))~~ (d) Where the license shall be issued to any corporation, association, or person operating dining places at a publicly or privately owned civic or convention center with facilities for sports, entertainment, or conventions, or a combination thereof, with more than one place where liquor is to be dispensed and sold, such license shall be issued upon the payment of the annual fee, which shall be a master license and shall permit such sale within and from one such place. Such license may be extended to additional places on the premises at the discretion of the board and a duplicate license may be issued for each such additional place: PROVIDED, That the holder of a master license for a dining place at such a publicly or privately owned civic or convention center shall be required to maintain in a substantial manner at least one place on the premises for preparing, cooking, and serving of complete meals, and food service shall be available on request in other licensed places on the premises: PROVIDED FURTHER, That an additional license fee of ten dollars shall be required for such duplicate licenses.

~~((f))~~ (e) Where the license shall be issued to any corporation, association or person operating more than one building containing dining places at privately owned facilities which are open to the public and where there is a continuity of ownership of all adjacent property, such license shall be issued upon the payment of an annual fee which shall be a master license and shall permit such sale within and from one such place. Such license may be extended to the additional dining places on the property or, in the case of a ~~((class-H))~~ full service restaurant licensed hotel, property owned or controlled by leasehold interest by that hotel for use as a conference or convention center or banquet facility open to the general public for special events in the same metropolitan area, at the discretion of the board and a

duplicate license may be issued for each additional place: PROVIDED, That the holder of the master license for the dining place shall not offer alcoholic beverages for sale, service, and consumption at the additional place unless food service is available at both the location of the master license and the duplicate license: PROVIDED FURTHER, That an additional license fee of twenty dollars shall be required for such duplicate licenses.

(2) The board, so far as in its judgment is reasonably possible, shall confine ~~((class-H))~~ full service restaurant licenses to the business districts of cities and towns and other communities, and not grant such licenses in residential districts, nor within the immediate vicinity of schools, without being limited in the administration of this subsection to any specific distance requirements.

(3) The board shall have discretion to issue ~~((class-H))~~ full service restaurant licenses outside of cities and towns in the state of Washington. The purpose of this subsection is to enable the board, in its discretion, to license in areas outside of cities and towns and other communities, establishments which are operated and maintained primarily for the benefit of tourists, vacationers and travelers, and also golf and country clubs, and common carriers operating dining, club and buffet cars, or boats.

(4) The total number of ~~((class-H))~~ full service restaurant licenses issued in the state of Washington by the board, not including ~~((those class-H))~~ full service private club licenses (~~((issued to clubs))~~), shall not in the aggregate at any time exceed one license for each fifteen hundred of population in the state, determined according to the yearly population determination developed by the office of financial management pursuant to RCW 43.62.030.

(5) Notwithstanding the provisions of subsection (4) of this section, the board shall refuse a ~~((class-H))~~ full service restaurant license to any applicant if in the opinion of the board the ~~((class-H))~~ full service restaurant licenses already granted for the particular locality are adequate for the reasonable needs of the community.

(6) The board may issue a caterer's endorsement to this license to allow the licensee to remove the liquor stocks at the licensed premises, for use as liquor for sale and service at special occasion locations at a specified date and place not currently licensed by the board. The privilege of selling and serving liquor under such endorsement is limited to members and guests of a society or organization as defined in RCW 66.24.375. Cost of the endorsement is three hundred fifty dollars.

(a) The holder of this license with catering endorsement shall, if requested by the board, notify the board or its designee of the date, time, place, and location of any catered event. Upon request, the licensee shall provide to the board all necessary or requested information concerning the society or organization that will be holding the function at which the endorsed license will be utilized.

(b) If attendance at the function will be limited to members and invited guests of the sponsoring society or organization, the requirement that the society or organization be within the definition of RCW 66.24.375 is waived.

**Sec. 28.** RCW 66.24.425 and 1982 c 85 s 3 are each amended to read as follows:

(1) The board may, in its discretion, issue a ~~((class-H))~~ full service restaurant license to a business which qualifies as a "restaurant" as that term is defined in RCW 66.24.410 in all respects except that the business does not serve the general public but, through membership qualification, selectively restricts admission to the business. For purposes of RCW 66.24.400 and 66.24.420, all licenses issued under this section shall be considered ~~((class-H))~~ full service restaurant licenses and shall be subject to all requirements, fees, and qualifications in this title, or in rules adopted by the board, as are applicable to ~~((class-H))~~ full service restaurant licenses generally except that no service to the general public may be required.

(2) No license shall be issued under this section to a business:

(a) Which shall not have been in continuous operation for at least one year immediately prior to the date of its application; or

(b) Which denies membership or admission to any person because of race, creed, color, national origin, sex, or the presence of any sensory, mental, or physical handicap.

**Sec. 29.** RCW 66.24.440 and 1949 c 5 s 5 are each amended to read as follows:

Each ~~((class-H))~~ full service restaurant, full service private club, and sports entertainment facility licensee shall be entitled to purchase any spirituous liquor items salable under such ~~((class-H))~~ license from the board at a discount of not less than fifteen percent from the retail price fixed by the board, together with all taxes.

**Sec. 30.** RCW 66.24.450 and 1981 1st ex.s. c 5 s 18 are each amended to read as follows:

(1) No club shall be entitled to a ~~((class-H))~~ full service private club license:

~~((+))~~ (a) Unless such private club has been in continuous operation for at least one year immediately prior to the date of its application for such license;

~~((2))~~ (b) Unless the private club premises be constructed and equipped, conducted, managed, and operated to the satisfaction of the board and in accordance with this title and the regulations made thereunder;

~~((3))~~ (c) Unless the board shall have determined pursuant to any regulations made by it with respect to private clubs, that such private club is a bona fide private club; it being the intent of this section that license shall not be granted to a club which is, or has been, primarily formed or activated to obtain a license to sell liquor, but solely to a bona fide private club, where the sale of liquor is incidental to the main purposes of the private club, as defined in RCW 66.04.010~~((5))~~ (7).

(2) The annual fee for a full service private club license, whether inside or outside of an incorporated city or town, is seven hundred twenty dollars per year.

**NEW SECTION. Sec. 31.** A new section is added to chapter 66.24 RCW to read as follows:

(1) There shall be a beer and wine license to be issued to a private club for sale of beer and wine for on-premises consumption.

(2) Beer and wine sold by the licensee may be on tap or by open bottles or cans.

(3) The fee for the private club beer and wine license is one hundred eighty dollars per year.

**Sec. 32.** RCW 66.24.455 and 1994 c 201 s 2 are each amended to read as follows:

Subject to approval by the board, holders of (~~class A, B, C, D, or H~~) beer and wine restaurant, tavern, snack bar, full service restaurant, full service private club, or beer and wine private club licenses may extend their premises for the sale, service, and consumption of liquor authorized under their respective licenses to the concourse or lane areas in a bowling establishment where the concourse or lane areas are adjacent to the food preparation service facility.

**Sec. 33.** RCW 66.24.495 and 1981 c 142 s 1 are each amended to read as follows:

(1) There shall be a (~~retailer's~~) license to be designated as (~~class L~~) a nonprofit arts organization license. This shall be a special license to be issued to any nonprofit arts organization which sponsors and presents productions or performances of an artistic or cultural nature in a specific theater or other appropriate designated indoor premises approved by the board. The license shall permit the licensee to sell liquor to patrons of productions or performances for consumption on the premises at these events. The fee for the license shall be two hundred fifty dollars per annum.

(2) For the purposes of this section, the term "nonprofit arts organization" means an organization which is organized and operated for the purpose of providing artistic or cultural exhibitions, presentations, or performances or cultural or art education programs, as defined in subsection (3) of this section, for viewing or attendance by the general public. The organization must be a not-for-profit corporation under chapter 24.03 RCW and managed by a governing board of not less than eight individuals none of whom is a paid employee of the organization or by a corporation sole under chapter 24.12 RCW. In addition, the corporation must satisfy the following conditions:

(a) No part of its income may be paid directly or indirectly to its members, stockholders, officers, directors, or trustees except in the form of services rendered by the corporation in accordance with its purposes and bylaws;

(b) Salary or compensation paid to its officers and executives must be only for actual services rendered, and at levels comparable to the salary or compensation of like positions within the state;

(c) Assets of the corporation must be irrevocably dedicated to the activities for which the license is granted and, on the liquidation, dissolution, or abandonment by the corporation, may not inure directly or indirectly to the benefit of any member or individual except a nonprofit organization, association, or corporation;

(d) The corporation must be duly licensed or certified when licensing or certification is required by law or regulation;

(e) The proceeds derived from sales of liquor, except for reasonable operating costs, must be used in furtherance of the purposes of the organization;

(f) Services must be available regardless of race, color, national origin, or ancestry; and

(g) The liquor control board shall have access to its books in order to determine whether the corporation is entitled to a license.

(3) The term "artistic or cultural exhibitions, presentations, or performances or cultural or art education programs" includes and is limited to:

(a) An exhibition or presentation of works of art or objects of cultural or historical significance, such as those commonly displayed in art or history museums;

(b) A musical or dramatic performance or series of performances; or

(c) An educational seminar or program, or series of such programs, offered by the organization to the general public on an artistic, cultural, or historical subject.

**Sec. 34.** RCW 66.24.540 and 1993 c 511 s 1 are each amended to read as follows:

There shall be a retailer's license to be designated as ~~((class-M))~~ a motel license. The ~~((class-M))~~ motel license may be issued to a motel that holds no other class of license under this title. No license may be issued to a motel offering rooms to its guests on an hourly basis. The license authorizes the licensee to sell, at retail, in locked honor bars, spirits in individual bottles not to exceed fifty milliliters, beer in individual cans or bottles not to exceed twelve ounces, and wine in individual bottles not to exceed one hundred eighty-seven milliliters, to registered guests of the motel for consumption in guest rooms. Each honor bar must also contain snack foods. No more than one-half of the guest rooms may have honor bars. The board shall charge a reasonable fee for this license. All spirits to be sold under the license must be purchased from the board. The licensee shall require proof of age from the guest renting a guest room and requesting the use of an honor bar. The guest shall also execute an affidavit verifying that no one under twenty-one years of age shall have access to the spirits, beer, and wine in the honor bar. "Motel" as used in this section means a facility or place offering three or more self-contained units designated by number, letter, or some other method of identification to travelers and transient guests. As used in this section, "spirits," "beer," and "wine" have the meanings defined in RCW 66.04.010.

**Sec. 35.** RCW 66.24.550 and 1989 c 149 s 1 are each amended to read as follows:

There shall be a beer and wine retailer's license to be designated as ~~((class-P))~~ a beer and wine gift delivery license to solicit, take orders for, sell, and deliver beer and/or wine in bottles and original packages to persons other than the person placing the order. A ~~((class-P))~~ beer and wine gift delivery license may be issued only to a business solely engaged in the sale or sale and delivery of gifts at retail which holds no other class of license under this title or to a person in the business of selling flowers or floral arrangements at retail. No minimum beer and/or wine

inventory requirement shall apply to holders of ~~((class-P))~~ beer and wine gift delivery licenses. The fee for this license is seventy-five dollars per year. Delivery of beer and/or wine under ~~((a-class-P))~~ a beer and wine gift delivery license shall be made in accordance with all applicable provisions of this title and the rules of the board, and no beer and/or wine so delivered shall be opened on any premises licensed under this title. A ~~((class-P))~~ beer and wine gift delivery license does not authorize door-to-door solicitation of gift wine delivery orders. Deliveries of beer and/or wine under a ~~((class-P))~~ beer and wine gift delivery license shall be made only in conjunction with gifts or flowers.

**Sec. 36.** RCW 66.24.570 and 1996 c 218 s 1 are each amended to read as follows:

(1) There is a license for sports entertainment facilities to be designated as a ~~((class-R))~~ sports/entertainment facility license to sell beer, wine, and spirits at retail, for consumption upon the premises only, the license to be issued to the entity providing food and beverage service at a sports entertainment facility as defined in this section. The cost of the license is two thousand five hundred dollars per annum.

(2) For purposes of this section, a sports entertainment facility includes a publicly or privately owned arena, coliseum, stadium, or facility where sporting events are presented for a price of admission. The facility does not have to be exclusively used for sporting events.

(3) The board may impose reasonable requirements upon a licensee under this section, such as requirements for the availability of food and victuals including but not limited to hamburgers, sandwiches, salads, or other snack food. The board may also restrict the type of events at a sports entertainment facility at which beer, wine, and spirits may be served. When imposing conditions for a licensee, the board must consider the seating accommodations, eating facilities, and circulation patterns in such a facility, and other amenities available at a sports entertainment facility.

(4) The board may issue a caterer's endorsement to the license under this section to allow the licensee to remove from the liquor stocks at the licensed premises, for use as liquor for sale and service at special occasion locations at a specified date and place not currently licensed by the board. The privilege of selling and serving liquor under the endorsement is limited to members and guests of a society or organization as defined in RCW 66.24.375. Cost of the endorsement is three hundred fifty dollars.

(a) The holder of this license with catering endorsement shall, if requested by the board, notify the board or its designee of the date, time, place, and location of any catered event. Upon request, the licensee shall provide to the board all necessary or requested information concerning the society or organization that will be holding the function at which the endorsed license will be utilized.

(b) If attendance at the function will be limited to members and invited guests of the sponsoring society or organization, the requirement that the society or organization be within the definition of RCW 66.24.375 is waived.

Sec. 37. RCW 66.04.010 and 1991 c 192 s 1 are each amended to read as follows:

In this title, unless the context otherwise requires:

(1) "Alcohol" is that substance known as ethyl alcohol, hydrated oxide of ethyl, or spirit of wine, which is commonly produced by the fermentation or distillation of grain, starch, molasses, or sugar, or other substances including all dilutions and mixtures of this substance. The term "alcohol" does not include alcohol in the possession of a manufacturer or distiller of alcohol fuel, as described in RCW 66.12.130, which is intended to be denatured and used as a fuel for use in motor vehicles, farm implements, and machines or implements of husbandry.

(2) "Beer" means any malt beverage or malt liquor as these terms are defined in this chapter.

(3) "Beer distributor" means a person who buys beer from a brewer or brewery located either within or beyond the boundaries of the state, beer importers, or foreign produced beer from a source outside the state of Washington, for the purpose of selling the same pursuant to this title, or who represents such brewer or brewery as agent.

(4) "Beer importer" means a person or business within Washington who purchases beer from a United States brewery holding a certificate of approval (B5) or foreign produced beer from a source outside the state of Washington for the purpose of selling the same pursuant to this title.

(5) "Brewer" means any person engaged in the business of manufacturing beer and malt liquor.

~~((4))~~ (6) "Board" means the liquor control board, constituted under this title.

~~((5))~~ (7) "Club" means an organization of persons, incorporated or unincorporated, operated solely for fraternal, benevolent, educational, athletic or social purposes, and not for pecuniary gain.

~~((6))~~ (8) "Consume" includes the putting of liquor to any use, whether by drinking or otherwise.

~~((7))~~ (9) "Dentist" means a practitioner of dentistry duly and regularly licensed and engaged in the practice of his profession within the state pursuant to chapter 18.32 RCW.

~~((8))~~ (10) "Distiller" means a person engaged in the business of distilling spirits.

~~((9))~~ (11) "Domestic winery" means a place where wines are manufactured or produced within the state of Washington.

(12) "Druggist" means any person who holds a valid certificate and is a registered pharmacist and is duly and regularly engaged in carrying on the business of pharmaceutical chemistry pursuant to chapter 18.64 RCW.

~~((10))~~ (13) "Drug store" means a place whose principal business is, the sale of drugs, medicines and pharmaceutical preparations and maintains a regular prescription department and employs a registered pharmacist during all hours the drug store is open.

~~((11))~~ (14) "Employee" means any person employed by the board, including a vendor, as hereinafter in this section defined.

~~((12))~~ (15) "Fund" means 'liquor revolving fund.'

~~((13))~~ (16) "Hotel" means every building or other structure kept, used, maintained, advertised or held out to the public to be a place where food is served and sleeping accommodations are offered for pay to transient guests, in which twenty or more rooms are used for the sleeping accommodation of such transient guests and having one or more dining rooms where meals are served to such transient guests, such sleeping accommodations and dining rooms being conducted in the same building and buildings, in connection therewith, and such structure or structures being provided, in the judgment of the board, with adequate and sanitary kitchen and dining room equipment and capacity, for preparing, cooking and serving suitable food for its guests: PROVIDED FURTHER, That in cities and towns of less than five thousand population, the board shall have authority to waive the provisions requiring twenty or more rooms.

~~((14))~~ (17) "Importer" means a person who buys distilled spirits from a distillery outside the state of Washington and imports such spirituous liquor into the state for sale to the board or for export.

(18) "Imprisonment" means confinement in the county jail.

~~((15))~~ (19) "Liquor" includes the four varieties of liquor herein defined (alcohol, spirits, wine and beer), and all fermented, spirituous, vinous, or malt liquor, or combinations thereof, and mixed liquor, a part of which is fermented, spirituous, vinous or malt liquor, or otherwise intoxicating; and every liquid or solid or semisolid or other substance, patented or not, containing alcohol, spirits, wine or beer, and all drinks or drinkable liquids and all preparations or mixtures capable of human consumption, and any liquid, semisolid, solid, or other substance, which contains more than one percent of alcohol by weight shall be conclusively deemed to be intoxicating. Liquor does not include confections or food products that contain one percent or less of alcohol by weight.

~~((16))~~ (20) "Manufacturer" means a person engaged in the preparation of liquor for sale, in any form whatsoever.

~~((17))~~ (21) "Malt beverage" or "malt liquor" means any beverage such as beer, ale, lager beer, stout, and porter obtained by the alcoholic fermentation of an infusion or decoction of pure hops, or pure extract of hops and pure barley malt or other wholesome grain or cereal in pure water containing not more than eight percent of alcohol by weight, and not less than one-half of one percent of alcohol by volume. For the purposes of this title, any such beverage containing more than eight percent of alcohol by weight shall be referred to as "strong beer."

~~((18))~~ (22) "Package" means any container or receptacle used for holding liquor.

~~((19))~~ (23) "Permit" means a permit for the purchase of liquor under this title.

~~((20))~~ (24) "Person" means an individual, copartnership, association, or corporation.

~~((21))~~ (25) "Physician" means a medical practitioner duly and regularly licensed and engaged in the practice of his profession within the state pursuant to chapter 18.71 RCW.

~~((22))~~ (26) "Prescription" means a memorandum signed by a physician and given by him to a patient for the obtaining of liquor pursuant to this title for medicinal purposes.

~~((23))~~ (27) "Public place" includes streets and alleys of incorporated cities and towns; state or county or township highways or roads; buildings and grounds used for school purposes; public dance halls and grounds adjacent thereto; those parts of establishments where beer may be sold under this title, soft drink establishments, public buildings, public meeting halls, lobbies, halls and dining rooms of hotels, restaurants, theatres, stores, garages and filling stations which are open to and are generally used by the public and to which the public is permitted to have unrestricted access; railroad trains, stages, and other public conveyances of all kinds and character, and the depots and waiting rooms used in conjunction therewith which are open to unrestricted use and access by the public; publicly owned bathing beaches, parks, and/or playgrounds; and all other places of like or similar nature to which the general public has unrestricted right of access, and which are generally used by the public.

~~((24))~~ (28) "Regulations" means regulations made by the board under the powers conferred by this title.

~~((25))~~ (29) "Restaurant" means any establishment provided with special space and accommodations where, in consideration of payment, food, without lodgings, is habitually furnished to the public, not including drug stores and soda fountains.

~~((26))~~ (30) "Sale" and "sell" include exchange, barter, and traffic; and also include the selling or supplying or distributing, by any means whatsoever, of liquor, or of any liquid known or described as beer or by any name whatever commonly used to describe malt or brewed liquor or of wine, by any person to any person; and also include a sale or selling within the state to a foreign consignee or his agent in the state. "Sale" and "sell" shall not include the giving, at no charge, of a reasonable amount of liquor by a person not licensed by the board to a person not licensed by the board, for personal use only. "Sale" and "sell" also does not include a raffle authorized under RCW 9.46.0315: PROVIDED, That the nonprofit organization conducting the raffle has obtained the appropriate permit from the board.

~~((27))~~ (31) "Soda fountain" means a place especially equipped with apparatus for the purpose of dispensing soft drinks, whether mixed or otherwise.

~~((28))~~ (32) "Spirits" means any beverage which contains alcohol obtained by distillation, including wines exceeding twenty-four percent of alcohol by volume.

~~((29))~~ (33) "Store" means a state liquor store established under this title.

~~((30))~~ (34) "Tavern" means any establishment with special space and accommodation for sale by the glass and for consumption on the premises, of beer, as herein defined.

~~((31))~~ (35) "Vendor" means a person employed by the board as a store manager under this title.

~~((32))~~ (36) "Winery" means a business conducted by any person for the manufacture of wine for sale, other than a domestic winery.

~~((33)) "Domestic winery" means a place where wines are manufactured or produced within the state of Washington.~~

~~((34))~~ (37) "Wine" means any alcoholic beverage obtained by fermentation of fruits (grapes, berries, apples, et cetera) or other agricultural product containing sugar, to which any saccharine substances may have been added before, during or after fermentation, and containing not more than twenty-four percent of alcohol by volume, including sweet wines fortified with wine spirits, such as port, sherry, muscatel and angelica, not exceeding twenty-four percent of alcohol by volume and not less than one-half of one percent of alcohol by volume. For purposes of this title, any beverage containing no more than fourteen percent of alcohol by volume when bottled or packaged by the manufacturer shall be referred to as "table wine," and any beverage containing alcohol in an amount more than fourteen percent by volume when bottled or packaged by the manufacturer shall be referred to as "fortified wine." However, "fortified wine" shall not include: (a) Wines that are both sealed or capped by cork closure and aged two years or more; and (b) wines that contain more than fourteen percent alcohol by volume solely as a result of the natural fermentation process and that have not been produced with the addition of wine spirits, brandy, or alcohol.

This subsection shall not be interpreted to require that any wine be labeled with the designation "table wine" or "fortified wine."

~~((35)) "Beer wholesaler" means a person who buys beer from a brewer or brewery located either within or beyond the boundaries of the state for the purpose of selling the same pursuant to this title, or who represents such brewer or brewery as agent.~~

~~((36))~~ (38) "Wine (~~wholesaler~~) distributor" means a person who buys wine from a vintner or winery located either within or beyond the boundaries of the state for the purpose of selling the same not in violation of this title, or who represents such vintner or winery as agent.

(39) "Wine importer" means a person or business within Washington who purchases wine from a United States winery holding a certificate of approval (W7)

or foreign produced wine from a source outside the state of Washington for the purpose of selling the same pursuant to this title.

Sec. 38. RCW 66.28.200 and 1993 c 21 s 2 are each amended to read as follows:

Licensees holding a (~~class A or B~~) limited service restaurant or a tavern license in combination with ((a class E)) an off-premises beer and wine retailer's license may sell malt liquor in kegs or other containers capable of holding four gallons or more of liquid. Under a special endorsement from the board, a grocery store licensee may sell malt liquor in containers no larger than five and one-half gallons. The sale of any container holding four gallons or more must comply with the provisions of this section and RCW 66.28.210 through 66.28.240. Any person who sells or offers for sale the contents of kegs or other containers containing four gallons or more of malt liquor, or leases kegs or other containers that will hold four gallons of malt liquor, to consumers who are not licensed under chapter 66.24 RCW shall do the following for any transaction involving the container:

(1) Require the purchaser of the malt liquor to sign a declaration and receipt for the keg or other container or beverage in substantially the form provided in RCW 66.28.220;

(2) Require the purchaser to provide one piece of identification pursuant to RCW 66.16.040;

(3) Require the purchaser to sign a sworn statement, under penalty of perjury, that:

(a) The purchaser is of legal age to purchase, possess, or use malt liquor;

(b) The purchaser will not allow any person under the age of twenty-one years to consume the beverage except as provided by RCW 66.44.270;

(c) The purchaser will not remove, obliterate, or allow to be removed or obliterated, the identification required under RCW 66.28.220 to be affixed to the container;

(4) Require the purchaser to state the particular address where the malt liquor will be consumed, or the particular address where the keg or other container will be physically located; and

(5) Require the purchaser to maintain a copy of the declaration and receipt next to or adjacent to the keg or other container, in no event a distance greater than five feet, and visible without a physical barrier from the keg, during the time that the keg or other container is in the purchaser's possession or control.

*\*Sec. 39. RCW 66.24.210 and 1996 c 118 s 1 are each amended to read as follows:*

*(1) There is hereby imposed upon all wines except cider sold to wine ((wholesalers)) distributors and the Washington state liquor control board, within the state a tax at the rate of twenty and one-fourth cents per liter and there is hereby imposed on all cider sold to wine ((wholesalers)) distributors and the Washington state liquor control board within the state a tax at the rate of three and fifty-nine one-hundredths cents per liter: PROVIDED, HOWEVER,*

*That wine sold or shipped in bulk from one winery to another winery shall not be subject to such tax. The tax provided for in this section shall be collected by direct payments based on wine purchased by wine ((wholesalers)) distributors. Every person purchasing wine under the provisions of this section shall on or before the twentieth day of each month report to the board all purchases during the preceding calendar month in such manner and upon such forms as may be prescribed by the board, and with such report shall pay the tax due from the purchases covered by such report unless the same has previously been paid. Any such purchaser of wine whose applicable tax payment is not postmarked by the twentieth day following the month of purchase will be assessed a penalty at the rate of two percent a month or fraction thereof. The board may require that every such person shall execute to and file with the board a bond to be approved by the board, in such amount as the board may fix, securing the payment of the tax. If any such person fails to pay the tax when due, the board may forthwith suspend or cancel the license until all taxes are paid.*

*(2) An additional tax is imposed equal to the rate specified in RCW 82.02.030 multiplied by the tax payable under subsection (1) of this section. All revenues collected during any month from this additional tax shall be transferred to the state general fund by the twenty-fifth day of the following month.*

*(3) An additional tax is imposed on wines subject to tax under subsection (1) of this section, at the rate of one-fourth of one cent per liter for wine sold after June 30, 1987. After June 30, 1996, such additional tax does not apply to cider. An additional tax of five one-hundredths of one cent per liter is imposed on cider sold after June 30, 1996. The additional taxes imposed by this subsection (3) shall cease to be imposed on July 1, 2001. All revenues collected under this subsection (3) shall be disbursed quarterly to the Washington wine commission for use in carrying out the purposes of chapter 15.88 RCW.*

*(4) An additional tax is imposed on all wine subject to tax under subsection (1) of this section. The additional tax is equal to twenty-three and forty-four one-hundredths cents per liter on fortified wine as defined in RCW 66.04.010(~~((34))~~) (37) when bottled or packaged by the manufacturer, one cent per liter on all other wine except cider, and eighteen one-hundredths of one cent per liter on cider. All revenues collected during any month from this additional tax shall be deposited in the violence reduction and drug enforcement account under RCW 69.50.520 by the twenty-fifth day of the following month.*

*(5)(a) An additional tax is imposed on all cider subject to tax under subsection (1) of this section. The additional tax is equal to two and four one-hundredths cents per liter of cider sold after June 30, 1996, and before July 1, 1997, and is equal to four and seven one-hundredths cents per liter of cider sold after June 30, 1997.*

*(b) All revenues collected from the additional tax imposed under this subsection (5) shall be deposited in the health services account under RCW 43.72.900.*

*(6) For the purposes of this section, "cider" means table wine that contains not less than one-half of one percent of alcohol by volume and not more than seven percent of alcohol by volume and is made from the normal alcoholic fermentation of the juice of sound, ripe apples or pears. "Cider" includes, but is not limited to, flavored, sparkling, or carbonated cider and cider made from condensed apple or pear must.*

\*Sec. 39 was vetoed. See message at end of chapter.

Sec. 40. RCW 15.88.030 and 1988 c 254 s 12 are each amended to read as follows:

(1) There is created an agricultural commodity commission to be known and designated as the Washington wine commission. Except as provided in RCW 15.88.100(2), the commission shall be composed of eleven voting members; five voting members shall be growers, five voting members shall be wine producers, and one voting member shall be a wine (~~wholesaler~~) distributor licensed under RCW 66.24.200. Of the grower members, at least one shall be a person who does not have over fifty acres of vinifera grapes in production, at least one shall be a person who has over one hundred acres of vinifera grapes in production, and two may be persons who produce and sell their own wine. Of the wine producer members, at least one shall be a person producing not more than twenty-five thousand gallons of wine annually, at least one shall be a person producing over one million gallons of wine annually, and at least two shall be persons who produce wine from their own grapes. In addition, at least one member shall be a wine producer located in western Washington and at least two members shall be wine producers located in eastern Washington.

(2) In addition to the voting members identified in subsection (1) of this section, the commission shall have one nonvoting member who is a wine producer in this state whose principal wine or wines are produced from fruit other than vinifera grapes. The director of agriculture, or the director's designee, shall serve as an ex officio, nonvoting member.

(3) Except as provided in RCW 15.88.100(2), seven voting members of the commission constitute a quorum for the transaction of any business of the commission.

(4) Each voting member of the commission shall be a citizen and resident of this state and over the age of twenty-one years. Each voting member, except the member holding position eleven, must be or must have been engaged in that phase of the grower or wine producer industry that he or she is appointed to represent, and must during his or her term of office derive a substantial portion of income therefrom, or have a substantial investment in the growing of vinifera grapes or the production of wine from vinifera grapes as an owner, lessee, partner, or a stockholder owning at least ten percent of the voting stock in a corporation

engaged in the growing of vinifera grapes or wine production from vinifera grapes; or the manager or executive officer of such a corporation. These qualifications apply throughout each member's term of office.

**Sec. 41.** RCW 19.126.020 and 1984 c 169 s 2 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) "Agreement of distributorship" means any contract, agreement, commercial relationship, license, association, or any other arrangement, for a definite or indefinite period, between a supplier and (~~wholesale~~) distributor.

(2) "~~(Wholesale)~~ Distributor" means any person, including but not limited to a component of a supplier's distribution system constituted as an independent business, importing or causing to be imported into this state, or purchasing or causing to be purchased within this state, any malt beverage or wine for sale or resale to retailers licensed under the laws of this state, regardless of whether the business of such person is conducted under the terms of any agreement with a malt beverage or wine manufacturer.

(3) "Supplier" means any malt beverage or wine manufacturer or importer who enters into or is a party to any agreement of distributorship with a wholesale distributor. "Supplier" does not include: (a) Any domestic winery licensed pursuant to RCW 66.24.170; (b) any winery or manufacturer of wine producing less than three hundred thousand gallons of wine annually and holding a certificate of approval issued pursuant to RCW 66.24.206; (c) any domestic brewer or microbrewer licensed under RCW 66.24.240 and producing less than fifty thousand barrels of malt liquor annually; or (d) any brewer or manufacturer of malt liquor producing less than fifty thousand barrels of malt liquor annually and holding a certificate of approval issued under RCW 66.24.270.

(4) "Malt beverage manufacturer" means every brewer, fermenter, processor, bottler, or packager of malt beverages located within or outside this state, or any other person, whether located within or outside this state, who enters into an agreement of distributorship for the resale of malt beverages in this state with any wholesale distributor doing business in the state of Washington.

(5) "Wine manufacturer" means every winery, processor, bottler, or packager of wine located within or outside this state, or any other person, whether located within or outside this state who enters into an agreement of distributorship for the resale of wine in this state with any wine wholesale distributor doing business in the state of Washington.

(6) "Importer" means any (~~wholesale~~) distributor importing beer or wine into this state for sale to retailer accounts or for sale to other wholesalers designated as "subjobbers" for resale.

(7) "Person" means any natural person, corporation, partnership, trust, agency, or other entity, as well as any individual officers, directors, or other persons in active control of the activities of such entity.

**Sec. 42.** RCW 66.16.100 and 1987 c 386 s 5 are each amended to read as follows:

No state liquor store in a county with a population over three hundred thousand may sell fortified wine if the board finds that the sale would be against the public interest based on the factors in RCW (~~(66.24.370)~~) 66.24.360. The burden of establishing that the sale would be against the public interest is on those persons objecting.

**Sec. 43.** RCW 66.20.010 and 1984 c 78 s 6 and 1984 c 45 s 1 are each reenacted and amended to read as follows:

Upon application in the prescribed form being made to any employee authorized by the board to issue permits, accompanied by payment of the prescribed fee, and upon the employee being satisfied that the applicant should be granted a permit under this title, the employee shall issue to the applicant under such regulations and at such fee as may be prescribed by the board a permit of the class applied for, as follows:

(1) Where the application is for a special permit by a physician or dentist, or by any person in charge of an institution regularly conducted as a hospital or sanatorium for the care of persons in ill health, or as a home devoted exclusively to the care of aged people, a special liquor purchase permit;

(2) Where the application is for a special permit by a person engaged within the state in mechanical or manufacturing business or in scientific pursuits requiring alcohol for use therein, or by any private individual, a special permit to purchase alcohol for the purpose named in the permit;

(3) Where the application is for a special permit to consume liquor at a banquet, at a specified date and place, a special permit to purchase liquor for consumption at such banquet, to such applicants as may be fixed by the board;

(4) Where the application is for a special permit to consume liquor on the premises of a business not licensed under this title, a special permit to purchase liquor for consumption thereon for such periods of time and to such applicants as may be fixed by the board;

(5) Where the application is for a special permit by a manufacturer to import or purchase within the state alcohol, malt, and other materials containing alcohol to be used in the manufacture of liquor, or other products, a special permit;

(6) Where the application is for a special permit by a person operating a drug store to purchase liquor at retail prices only, to be thereafter sold by such person on the prescription of a physician, a special liquor purchase permit;

(7) Where the application is for a special permit by an authorized representative of a military installation operated by or for any of the armed forces within the geographical boundaries of the state of Washington, a special permit to purchase liquor for use on such military installation at prices to be fixed by the board;

(8) Where the application is for a special permit by a manufacturer, importer, (~~wholesaler~~) distributor, or (~~agent~~) representative thereof, to serve liquor

without charge to delegates and guests at a convention of a trade association composed of licensees of the board, when the said liquor is served in a hospitality room or from a booth in a board-approved suppliers' display room at the convention, and when the liquor so served is for consumption in the said hospitality room or display room during the convention, anything in Title 66 RCW to the contrary notwithstanding. Any such spirituous liquor shall be purchased from the board or a ~~((class H))~~ full service restaurant licensee and any such beer and wine shall be subject to the taxes imposed by RCW 66.24.290 and 66.24.210;

(9) Where the application is for a special permit by a manufacturer, importer, ~~((wholesaler))~~ or distributor, or ~~((agent))~~ representative thereof, to donate liquor for a reception, breakfast, luncheon, or dinner for delegates and guests at a convention of a trade association composed of licensees of the board, when the liquor so donated is for consumption at the said reception, breakfast, luncheon, or dinner during the convention, anything in Title 66 RCW to the contrary notwithstanding. Any such spirituous liquor shall be purchased from the board or a class H licensee and any such beer and wine shall be subject to the taxes imposed by RCW 66.24.290 and 66.24.210;

(10) Where the application is for a special permit by a manufacturer, importer, ~~((wholesaler))~~ or distributor, or ~~((agent))~~ representative thereof, to donate and/or serve liquor without charge to delegates and guests at an international trade fair, show, or exposition held under the auspices of a federal, state, or local governmental entity or organized and promoted by a nonprofit organization, anything in Title 66 RCW to the contrary notwithstanding. Any such spirituous liquor shall be purchased from the board and any such beer or wine shall be subject to the taxes imposed by RCW 66.24.290 and 66.24.210;

(11) Where the application is for an annual special permit by a person operating a bed and breakfast lodging facility to donate or serve wine or beer without charge to overnight guests of the facility if the wine or beer is for consumption on the premises of the facility. "Bed and breakfast lodging facility," as used in this subsection, means a hotel or similar facility offering from one to eight lodging units and breakfast to travelers and guests.

**Sec. 44.** RCW 66.20.300 and 1996 c 218 s 2 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 66.20.310 through 66.20.350.

(1) "Alcohol" has the same meaning as "liquor" in RCW 66.04.010.

(2) "Alcohol server" means any person serving or selling alcohol, spirits, wines, or beer for consumption at an on-premises retail licensed facility as a regular requirement of his or her employment, and includes those persons eighteen years of age or older permitted by the liquor laws of this state to serve alcoholic beverages with meals.

(3) "Board" means the Washington state liquor control board.

(4) "Training entity" means any liquor licensee associations, independent contractors, private persons, and private or public schools, that have been certified by the board.

(5) "Retail licensed premises" means any premises licensed to sell alcohol by the glass or by the drink, or in original containers primarily for consumption on the premises as authorized by RCW 66.24.320, 66.24.330, ~~((66.24.340;))~~ 66.24.350, 66.24.400, 66.24.425, 66.24.450, and 66.24.570.

**Sec. 45.** RCW 66.20.310 and 1996 c 311 s 1 and 1996 c 218 s 3 are each reenacted and amended to read as follows:

(1)(a) There shall be an alcohol server permit, known as a class 12 permit, for a manager or bartender selling or mixing alcohol, spirits, wines, or beer for consumption at an on-premises licensed facility.

(b) There shall be an alcohol server permit, known as a class 13 permit, for a person who only serves alcohol, spirits, wines, or beer for consumption at an on-premises licensed facility.

(c) As provided by rule by the board, a class 13 permit holder may be allowed to act as a bartender without holding a class 12 permit.

(2)(a) Effective January 1, 1997, except as provided in (d) of this subsection, every person employed, under contract or otherwise, by an annual retail liquor licensee holding a license as authorized by RCW 66.24.320, 66.24.330, ~~((66.24.340;))~~ 66.24.350, 66.24.400, 66.24.425, 66.24.450, or 66.24.570, who as part of his or her employment participates in any manner in the sale or service of alcoholic beverages shall have issued to them a class 12 or class 13 permit.

(b) Every class 12 and class 13 permit issued shall be issued in the name of the applicant and no other person may use the permit of another permit holder. The holder shall present the permit upon request to inspection by a representative of the board or a peace officer. The class 12 or class 13 permit shall be valid for employment at any retail licensed premises described in (a) of this subsection.

(c) No licensee described in (a) of this subsection, except as provided in (d) of this subsection, may employ or accept the services of any person without the person first having a valid class 12 or class 13 permit.

(d) Within sixty days of initial employment, every person whose duties include the compounding, sale, service, or handling of liquor shall have a class 12 or class 13 permit.

(e) No person may perform duties that include the sale or service of alcoholic beverages on a retail licensed premises without possessing a valid alcohol server permit.

(3) A permit issued by a training entity under this section is valid for employment at any retail licensed premises described in subsection (2)(a) of this section for a period of five years unless suspended by the board.

(4) The board may suspend or revoke an existing permit if any of the following occur:

(a) The applicant or permittee has been convicted of violating any of the state or local intoxicating liquor laws of this state or has been convicted at any time of a felony; or

(b) The permittee has performed or permitted any act that constitutes a violation of this title or of any rule of the board.

(5) The suspension or revocation of a permit under this section does not relieve a licensee from responsibility for any act of the employee or agent while employed upon the retail licensed premises. The board may, as appropriate, revoke or suspend either the permit of the employee who committed the violation or the license of the licensee upon whose premises the violation occurred, or both the permit and the license.

(6)(a) After January 1, 1997, it is a violation of this title for any retail licensee or agent of a retail licensee as described in subsection (2)(a) of this section to employ in the sale or service of alcoholic beverages, any person who does not have a valid alcohol server permit or whose permit has been revoked, suspended, or denied.

(b) It is a violation of this title for a person whose alcohol server permit has been denied, suspended, or revoked to accept employment in the sale or service of alcoholic beverages.

(7) ~~((Establishments))~~ Grocery stores licensed under RCW ~~((66.24.320 and 66.24.340))~~ 66.24.360, the primary commercial activity of which is the sale of grocery products and for which the sale and service of beer and wine for on-premises consumption with food is incidental to the primary business, and employees of such establishments, are exempt from RCW 66.20.300 through 66.20.350.

**Sec. 46.** RCW 66.28.010 and 1996 c 224 s 3 and 1996 c 106 s 1 are each reenacted and amended to read as follows:

(1)(a) No manufacturer, importer, or ~~((wholesaler))~~ distributor, or person financially interested, directly or indirectly, in such business; whether resident or nonresident, shall have any financial interest, direct or indirect, in any licensed retail business; nor shall any manufacturer, importer, or ~~((wholesaler))~~ distributor own any of the property upon which such licensed persons conduct their business; nor shall any such licensed person, under any arrangement whatsoever, conduct his or her business upon property in which any manufacturer, importer, or ~~((wholesaler))~~ distributor has any interest unless title to that property is owned by a corporation in which a manufacturer has no direct stock ownership and there are no interlocking officers or directors, the retail license is held by an independent concessionaire which is not owned directly or indirectly by the manufacturer or property owner, the sales of liquor are incidental to the primary activity of operating the property as an amphitheater offering live musical and similar live entertainment activities to the public, alcoholic beverages produced by the manufacturer are not sold at the licensed premises, and the board reviews the ownership and proposed method of operation of all involved entities and

determines that there will not be an unacceptable level of control or undue influence over the operation of the retail licensee. Except as provided in subsection (3) of this section, no manufacturer, importer, or ~~((wholesaler))~~ distributor shall advance moneys or moneys' worth to a licensed person under an arrangement, nor shall such licensed person receive, under an arrangement, an advance of moneys or moneys' worth. "Person" as used in this section only shall not include those state or federally chartered banks, state or federally chartered savings and loan associations, state or federally chartered mutual savings banks, or institutional investors which are not controlled directly or indirectly by a manufacturer, importer, or ~~((wholesaler))~~ distributor as long as the bank, savings and loan association, or institutional investor does not influence or attempt to influence the purchasing practices of the retailer with respect to alcoholic beverages. No manufacturer, importer, or ~~((wholesaler))~~ distributor shall be eligible to receive or hold a retail license under this title, nor shall such manufacturer, importer, or ~~((wholesaler))~~ distributor sell at retail any liquor as herein defined.

(b) Nothing in this section shall prohibit a licensed ~~((brewer))~~ domestic brewery or microbrewery from being licensed as a retailer pursuant to chapter 66.24 RCW for the purpose of selling beer or wine at retail on the brewery premises and nothing in this section shall prohibit a domestic winery from being licensed as a retailer pursuant to chapter 66.24 RCW for the purpose of selling beer or wine at retail on the winery premises. Such beer and wine so sold at retail shall be subject to the taxes imposed by RCW 66.24.290 and 66.24.210 and to reporting and bonding requirements as prescribed by regulations adopted by the board pursuant to chapter 34.05 RCW, and beer and wine that is not produced by the brewery or winery shall be purchased from a licensed beer or wine ~~((wholesaler))~~ distributor.

(c) Nothing in this section shall prohibit a licensed ~~((brewer or))~~ domestic brewery, microbrewery, domestic winery, or a lessee of a licensed domestic brewer, microbrewery, or domestic winery, from being licensed as a ~~((class-H))~~ full service restaurant pursuant to chapter 66.24 RCW for the purpose of selling liquor at a ~~((class-H))~~ full service restaurant premises on the property on which the primary manufacturing facility of the licensed domestic brewer, microbrewery, or domestic winery is located or on contiguous property owned by the licensed domestic brewer, microbrewery, or domestic winery as prescribed by ~~((regulations))~~ rules adopted by the board pursuant to chapter 34.05 RCW.

(2) Financial interest, direct or indirect, as used in this section, shall include any interest, whether by stock ownership, mortgage, lien, or through interlocking directors, or otherwise. Pursuant to rules promulgated by the board in accordance with chapter 34.05 RCW manufacturers, ~~((wholesalers))~~ distributors, and importers may perform, and retailers may accept the service of building, rotating and restocking case displays and stock room inventories; rotating and rearranging can and bottle displays of their own products; provide point of sale material and brand

signs; price case goods of their own brands; and perform such similar normal business services as the board may by regulation prescribe.

(3)(a) This section does not prohibit a manufacturer, importer, or ~~((wholesaler))~~ distributor from providing services to a ~~((class G or J retail))~~ special occasion licensee for: (i) Installation of draft beer dispensing equipment or advertising, (ii) advertising, pouring, or dispensing of beer or wine at a beer or wine tasting exhibition or judging event, or (iii) a ~~((class G or J retail))~~ special occasion licensee from receiving any such services as may be provided by a manufacturer, importer, or ~~((wholesaler))~~ distributor. Nothing in this section shall prohibit a retail licensee, or any person financially interested, directly or indirectly, in such a retail licensee from having a financial interest, direct or indirect, in a business which provides, for a compensation commensurate in value to the services provided, bottling, canning or other services to a manufacturer, so long as the retail licensee or person interested therein has no direct financial interest in or control of said manufacturer.

(b) A person holding contractual rights to payment from selling a liquor ~~((wholesaler's))~~ distributor's business and transferring the license shall not be deemed to have a financial interest under this section if the person (i) lacks any ownership in or control of the ~~((wholesaler))~~ distributor, (ii) is not employed by the ~~((wholesaler))~~ distributor, and (iii) does not influence or attempt to influence liquor purchases by retail liquor licensees from the ~~((wholesaler))~~ distributor.

(c) The board shall adopt such rules as are deemed necessary to carry out the purposes and provisions of subsection (3)(a) of this section in accordance with the administrative procedure act, chapter 34.05 RCW.

(4) A license issued under RCW 66.24.395 does not constitute a retail license for the purposes of this section.

(5) A public house license issued under RCW 66.24.580 does not violate the provisions of this section as to a retailer having an interest directly or indirectly in a liquor-licensed manufacturer.

**Sec. 47.** RCW 66.28.030 and 1975 1st ex.s. c 173 s 8 are each amended to read as follows:

Every licensed brewer, domestic brewer and microbrewer, domestic winery, manufacturer holding a certificate of approval, licensed wine importer, and licensed beer importer shall be responsible for the conduct of any licensed beer or wine ~~((wholesaler))~~ distributor in selling, or contracting to sell, to retail licensees, beer or wine manufactured by such brewer, domestic brewer and microbrewer, domestic winery, manufacturer holding a certificate of approval, or imported by such beer or wine importer. Where the board finds that any licensed beer or wine ~~((wholesaler))~~ distributor has violated any of the provisions of this title or of the regulations of the board in selling or contracting to sell beer or wine to retail licensees, the board may, in addition to any punishment inflicted or imposed upon such ~~((wholesaler))~~ distributor, prohibit the sale of the brand or brands of beer or wine involved in such violation to any or all retail licensees within the trade

territory usually served by such ~~((wholesaler))~~ distributor for such period of time as the board may fix, irrespective of whether the brewer manufacturing such beer or the beer importer importing such beer or the domestic winery manufacturing such wine or the wine importer importing such wine or the certificate of approval holder manufacturing such beer or wine actually participated in such violation.

*\*Sec. 48. RCW 66.28.040 and 1987 c 452 s 15 are each amended to read as follows:*

*Except as permitted by the board under RCW 66.20.010, no ~~((brewer, wholesaler))~~ brewery, distributor, distiller, winery, importer, rectifier, or other manufacturer of liquor shall, within the state, ~~((by himself, his clerk, servant, or agent;))~~ give or allow any employee or representative to give to any person any liquor; but nothing in this section nor in RCW 66.28.010 shall prevent a ~~((brewer, wholesaler))~~ brewery, distributor, winery, or importer from furnishing samples of beer or wine to authorized licensees for the purpose of negotiating a sale, in accordance with regulations adopted by the liquor control board, provided that the samples are subject to taxes imposed by RCW 66.24.290 and 66.24.210; nothing in this section shall prevent the furnishing of samples of liquor to the board for the purpose of negotiating the sale of liquor to the state liquor control board; nothing in this section shall prevent a brewery, winery, or ~~((wholesaler))~~ distributor from furnishing beer or wine for instructional purposes under RCW 66.28.150; nothing in this section shall prevent a winery or ~~((wholesaler))~~ distributor from furnishing wine without charge to a not-for-profit group organized and operated solely for the purpose of enology or the study of viticulture which has been in existence for at least six months and any wine so furnished shall be used solely for such educational purposes, provided that the wine furnished shall be subject to the taxes imposed by RCW 66.24.210; nothing in this section shall prevent a brewer from serving beer without charge, on the brewery premises; nothing in this section shall prevent donations of wine for the purposes of RCW 66.12.180; and nothing in this section shall prevent a domestic winery from serving wine without charge, on the winery premises.*

*\*Sec. 48 was vetoed. See message at end of chapter.*

*Sec. 49. RCW 66.28.050 and 1982 c 85 s 11 are each amended to read as follows:*

*No person shall canvass for, solicit, receive, or take orders for the purchase or sale of any liquor, or act as ~~((agent))~~ representative for the purchase or sale of liquor except as authorized by RCW 66.24.310 ~~((as now or hereafter amended))~~ or by RCW 66.24.550. ~~((Nothing in this section contained shall apply to agents dealing with the board or to the receipt or transmission of a telegram or letter by any telegraph agent or operator or post office employee in the ordinary course of his employment as such agent, operator or employee.))~~*

*Sec. 50. RCW 66.28.170 and 1985 c 226 s 3 are each amended to read as follows:*

It is unlawful for a manufacturer of wine or malt beverages holding a certificate of approval issued under RCW 66.24.270 or 66.24.206, a ((~~brewer's~~)) brewery license, or a domestic winery license to discriminate in price in selling to any purchaser for resale in the state.

Sec. 51. RCW 66.28.180 and 1995 c 232 s 10 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 ((~~wholesaler's~~)) 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 ((~~wholesaler's~~)) 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 ((~~wholesalers~~)) distributors.

(2) Beer and wine ((~~wholesale~~)) distributor price posting.

(a) Every beer or wine ((~~wholesaler~~)) 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 ((~~wholesaler~~)) 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 ((~~wholesaler~~)) distributor;

(ii) The wholesale prices thereof to retail licensees, including allowances, if any, for returned empty containers.

(c) No beer and/or wine ((~~wholesaler~~)) 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 ((~~wholesaler~~)) 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) ~~((Wholesale))~~ 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 ~~((wholesaler))~~ 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) All price postings filed as required by this section 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.

(h) Any beer and/or wine ~~((wholesaler))~~ distributor or employee authorized by the ~~((wholesaler))~~ distributor-employer may sell beer and/or wine at the ~~((wholesaler's))~~ distributor's posted prices to any ~~((class A, B, C, D, E, F, H, G, or J))~~ annual or special occasion retail licensee upon presentation to the ~~((wholesaler))~~ distributor or employee at the time of purchase of a special permit issued by the board to such licensee.

(i) Every ~~((class A, B, C, D, E, F, H, G, or J))~~ annual or special occasion retail licensee, upon purchasing any beer and/or wine from a ~~((wholesaler))~~ 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 ~~((wholesaler))~~ distributor or an authorized employee either to the retailer's licensed premises or directly to the retailer at the ~~((wholesaler's))~~ distributor's licensed premises. A ~~((wholesaler's))~~ 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 ~~((wholesaler))~~ distributor, which contracts or memoranda shall contain a schedule of prices charged to ~~((wholesalers))~~ 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 (~~wholesalers~~) distributors who sell to other beer and/or wine (~~wholesalers~~) 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 (~~wholesalers~~) distributors on a state-wide 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 (~~wholesaler~~) distributor, or to a beer or wine (~~wholesaler~~) distributor who sells beer or wine to another beer or wine (~~wholesaler~~) 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 (~~wholesaler~~) 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 (~~wholesaler~~) distributor at a price differing from the price for such package or container as shown in the schedule of prices filed by the (~~brewer~~) brewery or (~~domestic~~) 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) All prices, contracts, and memoranda filed as required by this section 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.

**Sec. 52.** RCW 66.28.190 and 1988 c 50 s 1 are each amended to read as follows:

RCW 66.28.010 notwithstanding, persons licensed under RCW 66.24.200 as wine (~~wholesalers~~) distributors and persons licensed under RCW 66.24.250 as beer (~~wholesalers~~) distributors may sell at wholesale nonliquor food products on thirty-day credit terms to persons licensed as retailers under this title, but complete and separate accounting records shall be maintained on all sales of nonliquor food products to ensure that such persons are in compliance with RCW 66.28.010.

For the purpose of this section, "nonliquor food products" (~~includes~~) includes all food products for human consumption as defined in RCW 82.08.0293 as it exists on July 1, 1987, except that for the purposes of this section bottled water and carbonated beverages, whether liquid or frozen, shall be considered food products.

**Sec. 53.** RCW 66.44.310 and 1994 c 201 s 8 are each amended to read as follows:

(1) Except as otherwise provided by RCW 66.44.316 and 66.44.350, it shall be a misdemeanor:

(a) To serve or allow to remain in any area classified by the board as off-limits to any person under the age of twenty-one years;

(b) For any person under the age of twenty-one years to enter or remain in any area classified as off-limits to such a person, but persons under twenty-one years of age may pass through a restricted area in a facility holding a (~~class H~~) private club full service license;

(c) For any person under the age of twenty-one years to represent his or her age as being twenty-one or more years for the purpose of purchasing liquor or securing admission to, or remaining in any area classified by the board as off-limits to such a person.

(2) The Washington state liquor control board shall have the power and it shall be its duty to classify licensed premises or portions of licensed premises as off-limits to persons under the age of twenty-one years of age.

**Sec. 54.** RCW 66.98.060 and 1949 c 5 s 14 are each amended to read as follows:

Notwithstanding any provisions of chapter 62 (~~of the~~), Laws of 1933( ~~extraordinary session~~) ex. sess., as last amended, or of any provisions of any other law which may otherwise be applicable, it shall be lawful for the holder of a (~~class H~~) full service restaurant license to sell beer, wine, and spirituous liquor in this state in accordance with the terms of (~~this act~~) chapter 5, Laws of 1949.

**Sec. 55.** RCW 82.08.150 and 1994 sp.s. c 7 s 903 are each amended to read as follows:

(1) There is levied and shall be collected a tax upon each retail sale of spirits, or strong beer in the original package at the rate of fifteen percent of the selling price. The tax imposed in this subsection shall apply to all such sales including sales by the Washington state liquor stores and agencies, but excluding sales to ~~((class-H))~~ full service restaurant licensees.

(2) There is levied and shall be collected a tax upon each sale of spirits, or strong beer in the original package at the rate of ten percent of the selling price on sales by Washington state liquor stores and agencies to ~~((class-H))~~ full service restaurant licensees.

(3) There is levied and shall be collected an additional tax upon each retail sale of spirits in the original package at the rate of one dollar and seventy-two cents per liter. The additional tax imposed in this subsection shall apply to all such sales including sales by Washington state liquor stores and agencies, and including sales to ~~((class-H))~~ full service restaurant licensees.

(4) An additional tax is imposed equal to fourteen percent multiplied by the taxes payable under subsections (1), (2), and (3) of this section.

(5) An additional tax is imposed upon each retail sale of spirits in the original package at the rate of seven cents per liter. The additional tax imposed in this subsection shall apply to all such sales including sales by Washington state liquor stores and agencies, and including sales to ~~((class-H))~~ full service restaurant licensees. All revenues collected during any month from this additional tax shall be deposited in the violence reduction and drug enforcement account under RCW 69.50.520 by the twenty-fifth day of the following month.

(6)(a) An additional tax is imposed upon retail sale of spirits in the original package at the rate of one and seven-tenths percent of the selling price through June 30, 1995, two and six-tenths percent of the selling price for the period July 1, 1995, through June 30, 1997, and three and four-tenths of the selling price thereafter. This additional tax applies to all such sales including sales by Washington state liquor stores and agencies, but excluding sales to ~~((class-H))~~ full service restaurant licensees.

(b) An additional tax is imposed upon retail sale of spirits in the original package at the rate of one and one-tenth percent of the selling price through June 30, 1995, one and seven-tenths percent of the selling price for the period July 1, 1995, through June 30, 1997, and two and three-tenths of the selling price thereafter. This additional tax applies to all such sales to ~~((class-H))~~ full service restaurant licensees.

(c) An additional tax is imposed upon each retail sale of spirits in the original package at the rate of twenty cents per liter through June 30, 1995, thirty cents per liter for the period July 1, 1995, through June 30, 1997, and forty-one cents per liter thereafter. This additional tax applies to all such sales including sales by

Washington state liquor stores and agencies, and including sales to ~~((class-H))~~ full service restaurant licensees.

(d) All revenues collected during any month from additional taxes under this subsection shall be deposited in the health services account created under RCW 43.72.900 by the twenty-fifth day of the following month.

(7) The tax imposed in RCW 82.08.020 shall not apply to sales of spirits or strong beer in the original package.

(8) The taxes imposed in this section shall be paid by the buyer to the seller, and each seller shall collect from the buyer the full amount of the tax payable in respect to each taxable sale under this section. The taxes required by this section to be collected by the seller shall be stated separately from the selling price and for purposes of determining the tax due from the buyer to the seller, it shall be conclusively presumed that the selling price quoted in any price list does not include the taxes imposed by this section.

(9) As used in this section, the terms, "spirits," "strong beer," and "package" shall have the meaning ascribed to them in chapter 66.04 RCW.

**NEW SECTION.** Sec. 56. The liquor control board may adopt appropriate rules pursuant to chapter 34.05 RCW for the purpose of carrying out the provisions of this act.

**Sec. 57.** RCW 66.08.180 and 1995 c 398 s 16 are each amended to read as follows:

Moneys in the liquor revolving fund shall be distributed by the board at least once every three months in accordance with RCW 66.08.190, 66.08.200 and 66.08.210: PROVIDED, That the board shall reserve from distribution such amount not exceeding five hundred thousand dollars as may be necessary for the proper administration of this title.

(1) All license fees, penalties and forfeitures derived under this act from class H licenses or class H licensees shall every three months be disbursed by the board as follows:

(a) Three hundred thousand dollars per biennium, to the University of Washington for the forensic investigations council to conduct the state toxicological laboratory pursuant to RCW 68.50.107; and

(b) Of the remaining funds:

(i) 6.06 percent to the University of Washington and 4.04 percent to Washington State University for alcoholism and drug abuse research and for the dissemination of such research; and

(ii) 89.9 percent to the general fund to be used by the department of social and health services solely to carry out the purposes of RCW 70.96A.050;

(2) The first fifty-five dollars per license fee provided in RCW 66.24.320 and 66.24.330 up to a maximum of one hundred fifty thousand dollars annually shall be disbursed every three months by the board to the general fund to be used for juvenile alcohol and drug prevention programs for kindergarten through third grade to be administered by the superintendent of public instruction;

(3) Twenty percent of the remaining total amount derived from license fees pursuant to RCW 66.24.320, 66.24.330, (~~66.24.340;~~) 66.24.350, and 66.24.360, (~~and 66.24.370;~~) shall be transferred to the general fund to be used by the department of social and health services solely to carry out the purposes of RCW 70.96A.050; and

(4) One-fourth cent per liter of the tax imposed by RCW 66.24.210 shall every three months be disbursed by the board to Washington State University solely for wine and wine grape research, extension programs related to wine and wine grape research, and resident instruction in both wine grape production and the processing aspects of the wine industry in accordance with RCW 28B.30.068. The director of financial management shall prescribe suitable accounting procedures to ensure that the funds transferred to the general fund to be used by the department of social and health services and appropriated are separately accounted for.

*\*Sec. 58. RCW 66.16.100 and 1987 c 386 s 5 are each amended to read as follows:*

*No state liquor store in a county with a population over three hundred thousand may sell fortified wine if the board finds that the sale would be against the public interest based on the factors in RCW (~~66.24.370~~) 66.24.360. The burden of establishing that the sale would be against the public interest is on those persons objecting.*

*\*Sec. 58 was vetoed. See message at end of chapter.*

*\*Sec. 59. RCW 66.20.300 and 1996 c 218 s 2 are each amended to read as follows:*

*Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 66.20.310 through 66.20.350.*

*(1) "Alcohol" has the same meaning as "liquor" in RCW 66.04.010.*

*(2) "Alcohol server" means any person serving or selling alcohol, spirits, wines, or beer for consumption at an on-premises retail licensed facility as a regular requirement of his or her employment, and includes those persons eighteen years of age or older permitted by the liquor laws of this state to serve alcoholic beverages with meals.*

*(3) "Board" means the Washington state liquor control board.*

*(4) "Training entity" means any liquor licensee associations, independent contractors, private persons, and private or public schools, that have been certified by the board.*

*(5) "Retail licensed premises" means any premises licensed to sell alcohol by the glass or by the drink, or in original containers primarily for consumption on the premises as authorized by RCW 66.24.320, 66.24.330, (~~66.24.340;~~) 66.24.350, 66.24.400, 66.24.425, 66.24.450, and 66.24.570.*

*\*Sec. 59 was vetoed. See message at end of chapter.*

*\*Sec. 60. RCW 66.20.310 and 1996 c 311 s 1 and 1996 c 218 s 3 are each reenacted and amended to read as follows:*

*(1)(a) There shall be an alcohol server permit, known as a class 12 permit, for a manager or bartender selling or mixing alcohol, spirits, wines, or beer for consumption at an on-premises licensed facility.*

*(b) There shall be an alcohol server permit, known as a class 13 permit, for a person who only serves alcohol, spirits, wines, or beer for consumption at an on-premises licensed facility.*

*(c) As provided by rule by the board, a class 13 permit holder may be allowed to act as a bartender without holding a class 12 permit.*

*(2)(a) Effective January 1, 1997, except as provided in (d) of this subsection, every person employed, under contract or otherwise, by an annual retail liquor licensee holding a license as authorized by RCW 66.24.320, 66.24.330, ((66.24.340,)) 66.24.350, 66.24.400, 66.24.425, 66.24.450, or 66.24.570, who as part of his or her employment participates in any manner in the sale or service of alcoholic beverages shall have issued to them a class 12 or class 13 permit.*

*(b) Every class 12 and class 13 permit issued shall be issued in the name of the applicant and no other person may use the permit of another permit holder. The holder shall present the permit upon request to inspection by a representative of the board or a peace officer. The class 12 or class 13 permit shall be valid for employment at any retail licensed premises described in (a) of this subsection.*

*(c) No licensee described in (a) of this subsection, except as provided in (d) of this subsection, may employ or accept the services of any person without the person first having a valid class 12 or class 13 permit.*

*(d) Within sixty days of initial employment, every person whose duties include the compounding, sale, service, or handling of liquor shall have a class 12 or class 13 permit.*

*(e) No person may perform duties that include the sale or service of alcoholic beverages on a retail licensed premises without possessing a valid alcohol server permit.*

*(3) A permit issued by a training entity under this section is valid for employment at any retail licensed premises described in subsection (2)(a) of this section for a period of five years unless suspended by the board.*

*(4) The board may suspend or revoke an existing permit if any of the following occur:*

*(a) The applicant or permittee has been convicted of violating any of the state or local intoxicating liquor laws of this state or has been convicted at any time of a felony; or*

*(b) The permittee has performed or permitted any act that constitutes a violation of this title or of any rule of the board.*

*(5) The suspension or revocation of a permit under this section does not relieve a licensee from responsibility for any act of the employee or agent while employed upon the retail licensed premises. The board may, as appropriate, revoke or suspend either the permit of the employee who committed the violation*

*or the license of the licensee upon whose premises the violation occurred, or both the permit and the license.*

*(6)(a) After January 1, 1997, it is a violation of this title for any retail licensee or agent of a retail licensee as described in subsection (2)(a) of this section to employ in the sale or service of alcoholic beverages, any person who does not have a valid alcohol server permit or whose permit has been revoked, suspended, or denied.*

*(b) It is a violation of this title for a person whose alcohol server permit has been denied, suspended, or revoked to accept employment in the sale or service of alcoholic beverages.*

*(7) Establishments licensed under RCW 66.24.320 (~~and 66.24.340~~), the primary commercial activity of which is the sale of grocery products and for which the sale and service of beer and wine is incidental to the primary business, and employees of such establishments, are exempt from RCW 66.20.300 through 66.20.350.*

\*Sec. 60 was vetoed. See message at end of chapter.

**Sec. 61.** RCW 66.24.375 and 1981 c 287 s 2 are each amended to read as follows:

"Society or organization" as used in RCW 66.24.380 (~~and 66.24.500 and "nonprofit organization" as used in RCW 66.24.510~~) means a not-for-profit group organized and operated solely for charitable, religious, social, political, educational, civic, fraternal, athletic, or benevolent purposes. No portion of the profits from events sponsored by a not-for-profit group may be paid directly or indirectly to members, officers, directors, or trustees except for services performed for the organization. Any compensation paid to its officers and executives must be only for actual services and at levels comparable to the compensation for like positions within the state. A society or organization which is registered with the secretary of state or the federal internal revenue service as a nonprofit organization may submit such registration as proof that it is a not-for-profit group.

**Sec. 62.** RCW 66.44.190 and 1979 ex.s. c 104 s 1 are each amended to read as follows:

Except at the faculty center as so designated by the university board of regents to the Washington state liquor control board who may issue a class H club license therefor, it shall be unlawful to sell any intoxicating liquors, with or without a license on the grounds of the University of Washington, otherwise known and described as follows: Fractional section 16, township 25 north, range 4 east of Willamette Meridian except to the extent allowed under banquet permits issued pursuant to RCW (~~66.24.490~~) 66.24.481.

**NEW SECTION.** **Sec. 63.** The following acts or parts of acts are each repealed:

- (1) RCW 66.24.204 and 1981 1st ex.s. c 5 s 33 & 1969 ex.s. c 21 s 9;
- (2) RCW 66.24.260 and 1981 1st ex.s. c 5 s 15 & 1937 c 217 s 1;

(3) RCW 66.24.340 and 1981 1st ex.s. c 5 s 39, 1981 c 94 s 1, 1977 ex.s. c 9 s 3, 1967 ex.s. c 75 s 4, 1941 c 220 s 3, & 1937 c 217 s 1;

(4) RCW 66.24.370 and 1992 c 42 s 1, 1987 c 386 s 4, 1981 1st ex.s. c 5 s 42, 1981 c 182 s 1, 1973 1st ex.s. c 209 s 16, 1967 ex.s. c 75 s 7, & 1937 c 217 s 1;

(5) RCW 66.24.490 and 1995 c 232 s 9, 1994 c 201 s 3, 1987 c 386 s 6, 1985 c 306 s 1, 1981 1st ex.s. c 5 s 19, 1977 ex.s. c 9 s 5, 1969 ex.s. c 178 s 7, & 1967 c 55 s 1;

(6) RCW 66.24.500 and 1988 c 200 s 3 & 1982 c 85 s 6;

(7) RCW 66.24.510 and 1984 c 71 s 1, 1981 1st ex.s. c 5 s 47, & 1975 1st ex.s. c 173 s 12; and

(8) RCW 66.24.560 and 1994 c 201 s 4.

**NEW SECTION.** Sec. 64. This act takes effect July 1, 1998.

Passed the Senate April 21, 1997.

Passed the House April 9, 1997.

Approved by the Governor May 12, 1997, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State May 12, 1997.

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

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

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

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

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

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

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

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

---

## CHAPTER 322

[Substitute Senate Bill 5267]

### REAL ESTATE BROKERS AND SALESPERSONS—ADMINISTRATION AND TECHNICAL CHANGES

AN ACT Relating to real estate brokers and salespersons; amending RCW 18.85.010, 18.85.030, 18.85.060, 18.85.085, 18.85.095, 18.85.100, 18.85.110, 18.85.120, 18.85.130, 18.85.140, 18.85.150, 18.85.155, 18.85.165, 18.85.170, 18.85.180, 18.85.210, 18.85.230, 18.85.281, 18.85.317, 18.85.330, 18.85.340, 18.85.343, 18.85.345, 18.85.350, and 18.85.360; and repealing RCW 18.85.290 and 18.85.300.

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

**Sec. 1.** RCW 18.85.010 and 1987 c 332 s 1 are each amended to read as follows:

In this chapter words and phrases have the following meanings unless otherwise apparent from the context:

(1) "Real estate broker," or "broker," means a person, while acting for another for commissions or other compensation or the promise thereof, or a licensee under this chapter while acting in his or her own behalf, who:

(a) Sells or offers for sale, lists or offers to list, buys or offers to buy real estate or business opportunities, or any interest therein, for others;

(b) Negotiates or offers to negotiate, either directly or indirectly, the purchase, sale, exchange, lease, or rental of real estate or business opportunities, or any interest therein, for others;

(c) Negotiates or offers to negotiate, either directly or indirectly, the purchase, sale, or exchange of a used mobile home in conjunction with the purchase, sale, exchange, rental, or lease of the land upon which the used mobile home is located;

(d) Advertises or holds himself or herself out to the public by any oral or printed solicitation or representation that he or she is so engaged; or

(e) Engages, directs, or assists in procuring prospects or in negotiating or closing any transaction which results or is calculated to result in any of these acts;

(2) "Real estate salesperson" or "salesperson" means any natural person employed, either directly or indirectly, by a real estate broker, or any person who represents a real estate broker in the performance of any of the acts specified in subsection (1) of this section;

(3) An "associate real estate broker" is a person who has qualified as a "real estate broker" who works with a broker and whose license states that he or she is associated with a broker;

(4) The word "person" as used in this chapter shall be construed to mean and include a corporation, limited liability company, limited liability partnership, or ~~((partnership))~~ partnership, except where otherwise restricted;

(5) "Business opportunity" shall mean and include business, business opportunity and good will of an existing business or any one or combination thereof;

(6) "Commission" means the real estate commission of the state of Washington;

(7) "Director" means the director of licensing;

(8) "Real estate multiple listing association" means any association of real estate brokers:

(a) Whose members circulate listings of the members among themselves so that the properties described in the listings may be sold by any member for an agreed portion of the commission to be paid; and

(b) Which require in a real estate listing agreement between the seller and the broker, that the members of the real estate multiple listing association shall have the same rights as if each had executed a separate agreement with the seller;

(9) "Clock hours of instruction" means actual hours spent in classroom instruction in any tax supported, public (~~(vocational-technical institution)~~) technical college, community college, or any other institution of higher learning or a correspondence course from any of the aforementioned institutions certified by such institution as the equivalent of the required number of clock hours, and the real estate commission may certify courses of instruction other than in the aforementioned institutions; and

(10) "Incapacitated" means the physical or mental inability to perform the duties of broker prescribed by this chapter.

Sec. 2. RCW 18.85.030 and 1972 ex.s. c 139 s 2 are each amended to read as follows:

The director shall appoint an adequate staff to assist him or her.

Sec. 3. RCW 18.85.060 and 1972 ex.s. c 139 s 5 are each amended to read as follows:

The director shall adopt a seal with the words real estate director, state of Washington, and such other device as ~~((he))~~ the director may approve engraved thereon, by which he or she shall authenticate the proceedings of ~~((his))~~ the office. Copies of all records and papers in the office of the director certified to be a true copy under the hand and seal of the director shall be received in evidence in all cases equally and with like effect as the originals. The director may deputize one or more ~~((of his))~~ assistants to certify records and papers.

Sec. 4. RCW 18.85.085 and 1977 ex.s. c 24 s 1 are each amended to read as follows:

The commission shall have authority to hold educational conferences for the benefit of the industry, and shall conduct examinations of applicants for licenses under this chapter. ~~((It shall be charged with the preparation of such examinations and shall administer them at least once a month, with not less than six examinations per year in each of the following six areas of the state: Northwest Washington, southwest Washington, northeast Washington, southeast Washington, north-central Washington, and south-central Washington.))~~ The commission shall ensure that examinations are prepared and administered at examination centers throughout the state.

Sec. 5. RCW 18.85.095 and 1994 c 291 s 2 are each amended to read as follows:

(1) The minimum requirements for an individual to receive a salesperson's license are that the individual:

(a) Is eighteen years of age or older;

(b) Except as provided in RCW ~~((18.85.087))~~ 18.85.097, has furnished proof, as the director may require, that the applicant has successfully completed a sixty clock-hour course, approved by the director, in real estate fundamentals. The applicant must pass a course examination approved by the director. This course

must be completed within five years prior to applying for the salesperson's license examination; and

(c) Has passed a salesperson's license examination.

(2) The minimum requirements for a salesperson to be issued the first renewal of a license are that the salesperson:

(a) Has furnished proof, as the director may require, that the salesperson has successfully completed a thirty clock-hour course, from a prescribed curriculum approved by the director, in real estate practices. The salesperson must pass a course examination approved by the director. This course shall be commenced after issuance of a first license; and

(b) Has furnished proof, as the director may require, that the salesperson has completed an additional thirty clock hours of continuing education in compliance with RCW 18.85.165. Courses for continuing education clock-hour credit shall be commenced after issuance of a first license.

(3) Nothing in this section applies to persons who are licensed as salespersons under any real estate law in Washington which exists prior to this law's enactment, but only if their license has not been subsequently canceled or revoked.

**Sec. 6.** RCW 18.85.100 and 1972 ex.s. c 139 s 9 are each amended to read as follows:

It shall be unlawful for any person to act as a real estate broker, associate real estate broker, or real estate (~~salesman~~) salesperson without first obtaining a license therefor, and otherwise complying with the provisions of this chapter.

No suit or action shall be brought for the collection of compensation as a real estate broker, associate real estate broker, or real estate (~~salesman~~) salesperson, without alleging and proving that the plaintiff was a duly licensed real estate broker, associate real estate broker, or real estate (~~salesman~~) salesperson prior to the time of offering to perform any such act or service or procuring any promise or contract for the payment of compensation for any such contemplated act or service.

**Sec. 7.** RCW 18.85.110 and 1989 c 161 s 1 are each amended to read as follows:

This chapter shall not apply to (1) any person who purchases property and/or a business opportunity for his or her own account, or that of a group of which he or she is a member, or who, as the owner or part owner of property, and/or a business opportunity, in any way disposes of the same; nor, (2) any duly authorized attorney in fact acting without compensation, or an attorney at law in the performance of his or her duties; nor, (3) any receiver, trustee in bankruptcy, executor, administrator, guardian, or any person acting under the order of any court, or selling under a deed of trust; nor, (4) any secretary, bookkeeper, accountant, or other office personnel who does not engage in any conduct or activity specified in any of the definitions under RCW 18.85.010; nor, (5) any owner of rental or lease property, members of the owner's family whether or not residing on such property, or a resident manager of a complex of residential

dwelling units wherein such manager resides; nor, (6) any person who manages residential dwelling units on an incidental basis and not as his or her principal source of income so long as that person does not advertise or hold ~~((himself))~~ out to the public by any oral or printed solicitation or representation that he or she is so engaged; nor, (7) only with respect to the rental or lease of individual storage space, any person who owns or manages a self-service storage facility as defined under chapter 19.150 RCW.

Sec. 8. RCW 18.85.120 and 1987 c 332 s 4 are each amended to read as follows:

Any person desiring to be a real estate broker, associate real estate broker, or real estate salesperson, must pass an examination as provided in this chapter. Such person shall make application for an examination and for a license on a form prescribed by the director. Concurrently, the applicant shall:

- (1) Pay an examination fee as prescribed by the director by rule.
- (2) If the applicant is a corporation, furnish a certified copy of its articles of incorporation, and a list of its officers and directors and their addresses. If the applicant is a foreign corporation, the applicant shall furnish a certified copy of certificate of authority to conduct business in the state of Washington, a list of its officers and directors and their addresses, and evidence of current registration with the secretary of state. If the applicant is a limited liability company, the applicant shall furnish a list of the members and managers of the company and their addresses. If the applicant is a ~~((copartnership))~~ limited liability partnership or partnership, the applicant shall furnish a list of the ~~((members))~~ partners thereof and their addresses.

(3) Furnish such other proof as the director may require concerning the honesty, truthfulness, and good reputation, as well as the identity, which may include fingerprints, of any applicants for a license, or of the officers of a corporation, or limited liability company, or the partners of a limited liability partnership or partnership, making the application.

Sec. 9. RCW 18.85.130 and 1972 ex.s. c 139 s 11 are each amended to read as follows:

The director shall provide each original applicant for ~~((a license))~~ an examination with a manual containing a sample list of questions and answers pertaining to real estate law and the operation of the business and may provide the same at cost to any licensee or to other members of the public. The director shall ascertain by written examination, that each applicant, and in case of a corporation, limited liability company, limited liability partnership, or ((copartnership)) partnership, that each officer, agent, or ~~((member))~~ partner thereof whom it proposes to act as licensee, has:

- (1) Appropriate knowledge of the English language, including reading, writing, spelling, and arithmetic;

(2) An understanding of the principles of real estate conveyancing, the general purposes and legal effect of deeds, mortgages, land contracts of sale, exchanges, rental and option agreements, and leases;

(3) An understanding of the principles of land economics and appraisals;

(4) An understanding of the obligations between principal and agent;

(5) An understanding of the principles of real estate practice and the canons of business ethics pertaining thereto; and,

(6) An understanding of the provisions of this chapter.

The examination for real estate brokers shall be more exacting than that for real estate ~~((salesmen))~~ salespersons.

All moneys received for the sale of the manual to licensees and members of the public shall be placed in the real estate commission fund to be returned to the current biennium operating budget.

**Sec. 10.** RCW 18.85.140 and 1991 c 225 s 2 are each amended to read as follows:

Before receiving his or her license every real estate broker, every associate real estate broker, and every real estate salesperson must pay a license fee as prescribed by the director by rule. Every license issued under the provisions of this chapter expires on the applicant's second birthday following issuance of the license. Licenses issued to partnerships, limited liability partnerships, limited liability companies, and corporations expire on a date prescribed by the director by rule (~~((Licenses issued to corporations expire on a date prescribed by the director by rule))~~), except that if the ~~((corporation))~~ registration or certificate of authority filed with the secretary of state expires, the real estate broker's license issued ~~((to the corporation))~~ shall expire on that date. Licenses must be renewed every two years on or before the date established under this section and a biennial renewal license fee as prescribed by the director by rule must be paid.

If the application for a renewal license is not received by the director on or before the renewal date, a penalty fee as prescribed by the director by rule shall be paid. Acceptance by the director of an application for renewal after the renewal date shall not be a waiver of the delinquency.

The license of any person whose license renewal fee is not received within one year from the date of expiration shall be canceled. This person may obtain a new license by satisfying the procedures and requirements as prescribed by the director by rule.

The director shall issue to each active licensee a license and a pocket identification card in such form and size as he or she shall prescribe.

**Sec. 11.** RCW 18.85.150 and 1979 c 25 s 3 are each amended to read as follows:

A temporary broker's permit may, in the discretion of the director, be issued to the legally accredited representative of a deceased or incapacitated broker, the senior qualified ~~((salesman))~~ salesperson in that office or other qualified representative of the deceased or incapacitated broker, which shall be valid for a

period not exceeding four months and in the case of a partnership, a limited liability partnership, a limited liability company, or a corporation, the same rule shall prevail in the selection of a person to whom a temporary broker's permit may be issued.

**Sec. 12.** RCW 18.85.155 and 1977 ex.s. c 370 s 6 are each amended to read as follows:

Responsibility for any (~~salesman~~) salesperson, associate broker or branch manager in conduct covered by this chapter shall rest with the broker to which such licensees shall be licensed.

In addition to the broker, a branch manager shall bear responsibility for (~~salesmen~~) salespersons and associate brokers operating under the branch manager at a branch office.

**Sec. 13.** RCW 18.85.165 and 1991 c 225 s 1 are each amended to read as follows:

All real estate brokers, associate brokers, and salespersons shall furnish proof as the director may require that they have successfully completed a total of thirty clock hours of instruction every two years in real estate courses approved by the director in order to renew their licenses. Up to fifteen clock hours of instruction beyond the thirty hours in two years may be carried forward for credit in a subsequent two-year period. To count towards this requirement, a course shall be commenced within thirty-six months before the proof date for renewal. Examinations shall not be required to fulfill any part of the education requirement in this section. This section shall apply to renewal dates after January 1, 1991.

**Sec. 14.** RCW 18.85.170 and 1972 ex.s. c 139 s 16 are each amended to read as follows:

No license issued under the provisions of this chapter shall authorize any person other than the person to whom it is issued to do any act by virtue thereof nor to operate in any other manner than under his or her own name except:

(1) When a license is issued to a corporation it shall entitle one officer thereof, to be named by the corporation in its application, who shall qualify the same as any other (~~agent~~) broker, to act as a real estate broker on behalf of said corporation, without the payment of additional fees;

(2) When a license is issued to a limited liability company it shall entitle one manager or member of the company, to be named by the limited liability company in its application, who shall qualify the same as any broker, to act as a real estate broker on behalf of the limited liability company, without the payment of additional fees;

(3) When a license is issued to a (~~copartnership~~) limited liability partnership or partnership it shall entitle one (~~member~~) partner thereof to be named in the application, who shall qualify to act as a real estate broker on behalf of the (~~copartnership~~) limited liability partnership or partnership, without the payment of additional license fees;

~~((3))~~ (4) A licensed broker, associate broker, or ~~((salesman))~~ salesperson may operate and/or advertise under a name other than the one under which the license is issued by obtaining the written consent of the director to do so;

~~((4))~~ (5) A broker may establish one or more branch offices under a name or names different from that of the main office if the name or names are approved by the director, so long as each branch office is clearly identified as a branch or division of the main office. No broker may establish branch offices under more than three names. Both the name of the branch office and of the main office must clearly appear on the sign identifying the office, if any, and in any advertisement or on any letterhead of any stationery or any forms, or signs used by the real estate firm on which either the name of the main or branch offices appears.

**Sec. 15.** RCW 18.85.180 and 1957 c 52 s 41 are each amended to read as follows:

Every licensed real estate broker must have and maintain an office in this state accessible to the public which shall serve as ~~((his))~~ the office for the transaction of business. Any office so established must comply with the zoning requirements of city or county ordinances and the broker's license must be prominently displayed therein.

**Sec. 16.** RCW 18.85.210 and 1972 ex.s. c 139 s 18 are each amended to read as follows:

The director may publish ~~((annually a list of names and addresses of brokers and salesmen licensed under the provisions hereof, together with))~~ a copy of this chapter and such information relative to the enforcement of ~~((the provisions hereof as he may deem of interest to the public;))~~ this chapter and ~~((he))~~ may mail ~~((one))~~ a copy ~~((thereof))~~ of this chapter and the information to each licensed broker.

**Sec. 17.** RCW 18.85.230 and 1996 c 179 s 18 are each amended to read as follows:

The director may, upon his or her own motion, and shall upon verified complaint in writing by any person, investigate the actions of any person engaged in the business or acting in the capacity of a real estate broker, associate real estate broker, or real estate salesperson, regardless of whether the transaction was for his or her own account or in his or her capacity as broker, associate real estate broker, or real estate salesperson, and may impose any one or more of the following sanctions: Suspend or revoke, levy a fine not to exceed one thousand dollars for each offense, require the completion of a course in a selected area of real estate practice relevant to the section of this chapter or rule violated, or deny the license of any holder or applicant who is guilty of:

(1) Obtaining a license by means of fraud, misrepresentation, concealment, or through the mistake or inadvertence of the director;

(2) Violating any of the provisions of this chapter or any lawful rules or regulations made by the director pursuant thereto or violating a provision of chapter 64.36, 19.105, or 58.19 RCW or RCW 18.86.030 or the rules adopted under those chapters or section;

(3) Being convicted in a court of competent jurisdiction of this or any other state, or federal court, of forgery, embezzlement, obtaining money under false pretenses, bribery, larceny, extortion, conspiracy to defraud, or any similar offense or offenses: PROVIDED, That for the purposes of this section being convicted shall include all instances in which a plea of guilty or nolo contendere is the basis for the conviction, and all proceedings in which the sentence has been deferred or suspended;

(4) Making, printing, publishing, distributing, or causing, authorizing, or knowingly permitting the making, printing, publication or distribution of false statements, descriptions or promises of such character as to reasonably induce any person to act thereon, if the statements, descriptions or promises purport to be made or to be performed by either the licensee or his or her principal and the licensee then knew or, by the exercise of reasonable care and inquiry, could have known, of the falsity of the statements, descriptions or promises;

(5) Knowingly committing, or being a party to, any material fraud, misrepresentation, concealment, conspiracy, collusion, trick, scheme or device whereby any other person lawfully relies upon the word, representation or conduct of the licensee;

(6) Accepting the services of, or continuing in a representative capacity, any associate broker or salesperson who has not been granted a license, or after his or her license has been revoked or during a suspension thereof;

(7) Conversion of any money, contract, deed, note, mortgage, or abstract or other evidence of title, to his or her own use or to the use of his or her principal or of any other person, when delivered to him or her in trust or on condition, in violation of the trust or before the happening of the condition; and failure to return any money or contract, deed, note, mortgage, abstract or other evidence of title within thirty days after the owner thereof is entitled thereto, and makes demand therefor, shall be prima facie evidence of such conversion;

(8) Failing, upon demand, to disclose any information within his or her knowledge to, or to produce any document, book or record in his or her possession for inspection of the director or his or her authorized representatives acting by authority of law;

(9) Continuing to sell any real estate, or operating according to a plan of selling, whereby the interests of the public are endangered, after the director has, by order in writing, stated objections thereto;

(10) Committing any act of fraudulent or dishonest dealing or a crime involving moral turpitude, and a certified copy of the final holding of any court of competent jurisdiction in such matter shall be conclusive evidence in any hearing under this chapter;

(11) Advertising in any manner without affixing the broker's name as licensed, and in the case of a salesperson or associate broker, without affixing the name of the broker as licensed for whom or under whom the salesperson or associate broker operates, to the advertisement; except, that a real estate broker, associate real estate

broker, or real estate salesperson advertising their personally owned real property must only disclose that they hold a real estate license;

(12) Accepting other than cash or its equivalent as earnest money unless that fact is communicated to the owner prior to his or her acceptance of the offer to purchase, and such fact is shown in the earnest money receipt;

(13) Charging or accepting compensation from more than one party in any one transaction without first making full disclosure in writing of all the facts to all the parties interested in the transaction;

(14) Accepting, taking or charging any undisclosed commission, rebate or direct profit on expenditures made for the principal;

(15) Accepting employment or compensation for appraisal of real property contingent upon reporting a predetermined value;

(16) Issuing an appraisal report on any real property in which the broker, associate broker, or salesperson has an interest unless his or her interest is clearly stated in the appraisal report;

(17) Misrepresentation of his or her membership in any state or national real estate association;

(18) Discrimination against any person in hiring or in sales activity, on the basis of (~~race, color, creed or national origin, or violating~~) any of the provisions of any state or federal antidiscrimination law;

(19) Failing to keep an escrow or trustee account of funds deposited with him or her relating to a real estate transaction, for a period of three years, showing to whom paid, and such other pertinent information as the director may require, such records to be available to the director, or his or her representatives, on demand, or upon written notice given to the bank;

(20) Failing to preserve for three years following its consummation records relating to any real estate transaction;

(21) Failing to furnish a copy of any listing, sale, lease or other contract relevant to a real estate transaction to all signatories thereof at the time of execution;

(22) Acceptance by a branch manager, associate broker, or salesperson of a commission or any valuable consideration for the performance of any acts specified in this chapter, from any person, except the licensed real estate broker with whom he or she is licensed;

(23) To direct any transaction involving his or her principal, to any lending institution for financing or to any escrow company, in expectation of receiving a kickback or rebate therefrom, without first disclosing such expectation to his or her principal;

(24) Buying, selling, or leasing directly, or through a third party, any interest in real property without disclosing in writing that he or she holds a real estate license;

(25) In the case of a broker licensee, failing to exercise adequate supervision over the activities of his or her licensed associate brokers and salespersons within the scope of this chapter;

(26) Any conduct in a real estate transaction which demonstrates bad faith, dishonesty, untrustworthiness or incompetency;

(27) Acting as a ~~((mobile home and travel trailer))~~ vehicle dealer ~~((or salesperson))~~, as defined in RCW 46.70.011 ~~((as now or hereafter amended))~~, without having a license to do so;

(28) Failing to assure that the title is transferred under chapter 46.12 RCW when engaging in a transaction involving a mobile home as a broker, associate broker, or salesperson; or

(29) Violation of an order to cease and desist which is issued by the director under this chapter.

**Sec. 18.** RCW 18.85.281 and 1951 c 222 s 26 are each amended to read as follows:

~~((The filing of such notice and bond shall supersede the order of the director until the final determination of such appeal.))~~ The director shall prepare at appellant's expense and shall certify a transcript of the whole record ~~((to the director's office))~~ of all matters involved in the appeal, which shall be thereupon delivered by the director to the court in which the appeal is pending. The appellant shall be notified of the filing of the transcript and the cost thereof and shall within fifteen days thereafter pay the cost of said transcript. If the cost is not paid in full within fifteen days the appeal shall be dismissed.

**Sec. 19.** RCW 18.85.317 and 1993 c 50 s 4 are each amended to read as follows:

The real estate education account is created in the custody of the state treasurer. All moneys received for credit to this account pursuant to RCW 18.85.315 and all moneys derived from fines imposed under this chapter shall be deposited into the account. ~~((Any fund balance remaining in the real estate commission account attributable to moneys received under RCW 18.85.315 and moneys derived from fines imposed under this chapter as of July 1, 1993, shall be transferred to the real estate education account.))~~ Expenditures from the account may be made only upon the authorization of the director or a duly authorized representative of the director, and may be used only for the purposes of carrying out the director's programs for education of real estate licensees and others in the real estate industry as described in RCW 18.85.040(4). All expenses and costs relating to the implementation or administration of, or payment of contract fees or charges for, the director's real estate education programs may be paid from this account. The account is subject to appropriation under chapter 43.88 RCW.

**Sec. 20.** RCW 18.85.330 and 1953 c 235 s 15 are each amended to read as follows:

(1) It shall be unlawful for any licensed broker to pay any part of his or her commission or other compensation to any person who is not a licensed real estate

broker in any state of the United States or its possessions or any province of the Dominion of Canada(;) or any foreign jurisdiction with a real estate regulatory program.

(2) It shall be unlawful for any licensed broker to pay any part of his or her commission or other compensation to a real estate ((~~salesman~~)) salesperson not licensed to do business for such broker((~~or~~)).

(3) It shall be unlawful for any licensed ((~~salesman~~)) salesperson to pay any part of his or her commission or other compensation to any person, whether licensed or not, except through his or her broker.

**Sec. 21.** RCW 18.85.340 and 1951 c 222 s 20 are each amended to read as follows:

Any person acting as a real estate broker, associate real estate broker, or real estate ((~~salesman~~)) salesperson, without a license, or violating any of the provisions of this chapter, shall be guilty of a gross misdemeanor.

**Sec. 22.** RCW 18.85.343 and 1989 c 175 s 67 are each amended to read as follows:

(1) The director may issue a cease and desist order to a person after notice and hearing and upon a determination that the person has violated a provision of this chapter or a lawful order or rule of the director.

(2) If the director makes a written finding of fact that the public interest will be irreparably harmed by delay in issuing an order, he or she may issue a temporary cease and desist order. Before issuing the temporary cease and desist order, whenever possible the director shall give notice by telephone or otherwise of the proposal to issue a temporary cease and desist order to the person. Every temporary cease and desist order shall include a provision that a hearing will be held upon request to determine whether or not the order will become permanent.

At the time the temporary cease and desist order is served, the licensee shall be notified that he or she is entitled to request a hearing for the sole purpose of determining whether or not the public interest imperatively requires that the temporary cease and desist order be continued or modified pending the outcome of the hearing to determine whether or not the order will become permanent. The hearing shall be held within thirty days after the department receives the request for hearing, unless the licensee requests a later hearing. A licensee may secure review of any decision rendered at a temporary cease and desist order review hearing in the same manner as an adjudicative proceeding.

**Sec. 23.** RCW 18.85.345 and 1941 c 252 s 9 are each amended to read as follows:

The attorney general shall render to the director opinions upon all questions of law relating to the construction or interpretation of this chapter, or arising in the administration thereof, that may be submitted to ((~~him-by~~)) the director, and shall act as attorney for the director in all actions and proceedings brought by or against him or her under or pursuant to any provisions of this chapter.

**Sec. 24.** RCW 18.85.350 and 1967 c 22 s 2 are each amended to read as follows:

The director may prefer a complaint for violation of any section of this chapter before any court of competent jurisdiction.

The prosecuting attorney of each county shall prosecute any violation of the provisions of this chapter which occurs in his or her county, and if the prosecuting attorney fails to act, the director may request the attorney general to take action in lieu of the prosecuting attorney.

Process issued by the director shall extend to all parts of the state, and may be served by any person authorized to serve process of courts of record, or may be mailed by registered mail to the licensee's last business address of record in the office of the director.

Whenever the director believes from evidence satisfactory to him or her that any person has violated any of the provisions of this chapter, or any order, license, decision, demand or requirement, or any part or provision thereof, he or she may bring an action, in the superior court in the county wherein such person resides, against such person to enjoin any such person from continuing such violation or engaging therein or doing any act or acts in furtherance thereof. In this action an order or judgment may be entered awarding such preliminary or final injunction as may be proper.

The director may petition the superior court in any county in this state for the immediate appointment of a receiver to take over, operate or close any real estate office in this state which is found, upon inspection of its books and records to be operating in violation of the provisions of this chapter, pending a hearing as herein provided.

**Sec. 25.** RCW 18.85.360 and 1957 c 52 s 49 are each amended to read as follows:

The director may administer oaths; certify to all official acts; subpoena and bring before him or her any person in this state as a witness; compel the production of books and papers; and take the testimony of any person by deposition in the manner prescribed for procedure of the superior courts in civil cases, in any hearing in any part of the state.

Each witness, who appears by order of the director, shall receive for his or she attendance the fees and mileage allowed to a witness in civil cases in the superior court. Witness fees shall be paid by the party at whose request the witness is subpoenaed.

If a witness, who has not been required to attend at the request of any party, is subpoenaed by the director, his or her fees and mileage shall be paid from funds appropriated for the use of the real estate department in the same manner as other expenses of the department are paid.

**NEW SECTION.** **Sec. 26.** The following acts or parts of acts are each repealed:

(1) RCW 18.85.290 and 1972 ex.s. c 139 s 21, 1971 c 81 s 62, 1957 c 52 s 46, & 1951 c 222 s 17; and

(2) RCW 18.85.300 and 1951 c 222 s 18, 1943 c 118 s 3, & 1941 c 252 s 17.

Passed the Senate April 22, 1997.

Passed the House April 15, 1997.

Approved by the Governor May 12, 1997.

Filed in Office of Secretary of State May 12, 1997.

---

## CHAPTER 323

[Senate Bill 5361]

### CHARTER USE OF STATE FERRIES FOR TRANSPORTING HAZARDOUS MATERIALS

AN ACT Relating to the charter use of Washington state ferries for transporting hazardous materials; adding a new section to chapter 47.60 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 when established route operations and normal user requirements are not disrupted Washington state ferries may be used for the transportation of hazardous materials under the chartering procedures and rates described in section 2 of this act.

**NEW SECTION.** Sec. 2. A new section is added to chapter 47.60 RCW to read as follows:

(1) The charter use of Washington State Ferry vessels when established route operations and normal user requirements are not disrupted is permissible.

(2) Consistent with the policy as established in subsection (1) of this section, the general manager of the Washington State Ferries may approve agreements for the chartering of Washington State Ferry vessels to groups or individuals, including hazardous material transporters, in accordance with the following:

(a) Vessels may be committed to charter only when established route operation and normal user requirements are not disrupted or inconvenienced. If a vessel is engaged in the transport of hazardous materials, the transporter shall pay for all legs necessary to complete the charter, even if the vessel is simultaneously engaged in an operational voyage on behalf of Washington state ferries.

(b) Charter rates for vessels must be established at actual vessel operating costs plus fifty percent of such actual costs rounded to the nearest fifty dollars. Actual vessel operating costs include, but are not limited to, all labor, fuel, and vessel maintenance costs incurred due to the charter agreement, including deadheading and standby.

(c) Recognizing the need for stabilized charter rates in order to encourage use of vessels, rates must be established and revised July 1st of each year and must remain fixed for a one-year period unless actual vessel operating costs increase five percent or more within that year, in which case the charter rates must be revised in accordance with (b) of this subsection.

(d) All charter agreements must be in writing and substantially in the form of (e) of this subsection and available, with calculations, for inspection by the legislature and the public.

(e) Parties chartering Washington State Ferry vessels shall comply with all applicable laws, rules, and regulations during the charter voyage, and failure to so comply is cause for immediate termination of the charter voyage.

**"CHARTER CRUISE AGREEMENT**

On this . . . . day of . . . . , . . . . , Washington State Ferries (WSF) and . . . . , hereinafter called Lessee, enter into this agreement for rental of a ferry vessel for the purpose of a charter voyage to be held on . . . . , the parties agree as follows:

1. WSF agrees to supply the vessel . . . . (subject to change) for the use of the Lessee from the period from . . . . to . . . . on . . . . (date).

2. The maximum number of passengers; or in the case of hazardous materials transports, trucks and trailers; that will be accommodated on the assigned vessel is . . . . This number MAY NOT be exceeded.

3. The voyage will originate at . . . . , and the route of travel during the voyage will be as follows:

.....

4. The charge for the above voyage is . . . . dollars (\$ . . . ) plus a property damage deposit of \$350 for a total price of \$ . . . . , to be paid by cashier's check three working days before the date of the voyage at the offices of the WSF at Seattle Ferry Terminal, Pier 52, Seattle, Washington, 98104. The Lessee remains responsible for property damage in excess of \$350.

5. WSF is responsible only for the navigational operation of the chartered ferry and in no way is responsible for directing voyage activities, providing equipment, or any food service.

6. Other than for hazardous materials transport, the voyage activities must be conducted exclusively on the passenger decks of the assigned ferry. Voyage patrons will not be permitted to enter the pilot house or the engine room, nor shall the vehicle decks be used for any purpose other than loading or unloading of voyage patrons or hazardous materials.

7. If the Lessee or any of the voyage patrons will possess or consume alcoholic beverages aboard the vessel, the Lessee must obtain the appropriate licenses or permits from the Washington State Liquor Control Board. The Lessee must furnish copies of any necessary licenses or permits to WSF at the same time payment for the voyage is made. Failure to comply with applicable laws, rules, and regulations of appropriate State and Federal agencies is cause for immediate termination of the voyage, and WSF shall retain all payments made as liquidated damages.

8. WSF is not obligated to provide shoreside parking for the vehicles belonging to voyage patrons.

9. The Lessee recognizes that the primary function of the WSF is for the cross-Sound transportation of the public and the maintaining of the existing schedule. The Lessee recognizes therefore the right of WSF to cancel a voyage commitment without liability to the Lessee due to unforeseen circumstances or events that require the use of the chartered vessel on its scheduled route operations. In the event of such a cancellation, WSF agrees to refund the entire amount of the charter fee to the Lessee.

10. The Lessee agrees to hold WSF harmless from, and shall process and defend at its own expense, all claims, demands, or suits at law or equity, of whatever nature brought against WSF arising in whole or in part from the performance of provisions of this agreement. This indemnity provision does not require the Lessee to defend or indemnify WSF against any action based solely on the alleged negligence of WSF.

11. This writing is the full agreement between the parties.

..... WASHINGTON STATE FERRIES  
Lessee

By: ..... By: .....  
General Manager"

Passed the Senate April 19, 1997.  
Passed the House April 9, 1997.  
Approved by the Governor May 12, 1997.  
Filed in Office of Secretary of State May 12, 1997.

---

**CHAPTER 324**

[Senate Bill 5570]

**TAX EVASION BY EMPLOYERS—PENALTIES**

AN ACT Relating to tax evasion; amending RCW 51.48.020; repealing RCW 51.48.015; and prescribing penalties.

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

**Sec. 1.** RCW 51.48.020 and 1995 c 160 s 4 are each amended to read as follows:

(1)(a) Any employer, who knowingly misrepresents to the department the amount of his or her payroll or employee hours upon which the premium under this title is based, shall be liable to the state ~~((in))~~ for up to ten times the amount of the difference in premiums paid and the amount the employer should have paid and for the reasonable expenses of auditing his or her books and collecting such sums. Such liability may be enforced in the name of the department.

(b) An employer is guilty of a class C felony, if ((such));

(i) The employer, with intent to evade determination and payment of the correct amount of the premiums, knowingly makes misrepresentations ((are made knowingly, an employer shall also be guilty of a felony, or gross misdemeanor in accordance with the theft and anticipatory provisions of Title 9A RCW)) regarding payroll or employee hours; or

(ii) The employer engages in employment covered under this title and, with intent to evade determination and payment of the correct amount of the premiums, knowingly fails to secure payment of compensation under this title or knowingly fails to report the payroll or employee hours related to that employment.

(c) Upon conviction under (b) of this subsection, the employer shall be ordered by the court to pay the premium due and owing, a penalty in the amount of one hundred percent of the premium due and owing, and interest on the premium and penalty from the time the premium was due until the date of payment. The court shall:

(A) Collect the premium and interest and transmit it to the department of labor and industries; and

(B) Collect the penalty and disburse it pro rata as follows: One-third to the investigative agencies involved; one-third to the prosecuting authority; and one-third to the general fund of the county in which the matter was prosecuted.

Payments collected under this subsection must be applied until satisfaction of the obligation in the following order: Premium payments; penalty; and interest.

(2) Any person claiming benefits under this title, who knowingly gives false information required in any claim or application under this title shall be guilty of a felony, or gross misdemeanor in accordance with the theft and anticipatory provisions of Title 9A RCW.

NEW SECTION. Sec. 2. RCW 51.48.015 and 1971 ex.s. c 289 s 62 are each repealed.

Passed the Senate April 21, 1997.

Passed the House April 9, 1997.

Approved by the Governor May 12, 1997.

Filed in Office of Secretary of State May 12, 1997.

## CHAPTER 325

[Senate Bill 5571]

### REPORTING OF UNEMPLOYMENT CONTRIBUTIONS AND INDUSTRIAL INSURANCE PREMIUMS AND ASSESSMENTS

AN ACT Relating to reporting payments under unemployment insurance and industrial insurance; amending RCW 51.04.030, 51.32.110, 50.29.070, 51.32.140, and 51.08.050; and creating a new section.

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

NEW SECTION. Sec. 1. (1) The legislature finds that failure to report and underreporting of industrial insurance premiums and unemployment insurance

contributions creates, among other problems, a serious economic disadvantage for those employers who comply with the law. Based on the recommendations of a legislative task force that reviewed these issues, the legislature finds that some employers who comply with one of these laws, but fail to comply with the other, may be more likely to comply with both laws if employers were required to file their reports on a unified form. In addition, the agencies may be better able to coordinate efforts to enforce the reporting requirements if reporting information is provided to both agencies.

(2) By January 1, 1998, the department of labor and industries and the employment security department shall jointly develop a plan, and report the plan to the appropriate committees of the legislature, for implementing a unified form for reporting industrial insurance premiums under Title 51 RCW and unemployment insurance contributions under Title 50 RCW beginning with reports due in calendar year 1999. The implementation plan must address at least the following:

(a) The use of separate pages or separate sections on the form for each agency's report. The agencies may review but are not required to change coverage or reporting requirements in developing a unified form;

(b) Procedures for employers to mail or electronically transmit the report to a central location with distribution to the agencies or other distribution alternative that provides the agencies with notice of the employers' filings; and

(c) Methods to permit employers to make payment to both agencies in a single payment.

(3) By January 1, 1998, the department of labor and industries and the employment security department shall report to the appropriate committees of the legislature the results of a study that cross-matches the names or the unified business identifier numbers, or both, of employers who file reports under Title 50 RCW or Title 51 RCW, or both. At a minimum, the report must include the number of employers who file a report under only one title and the results of the agency's investigating the failure to file a report under both titles.

**Sec. 2.** RCW 51.04.030 and 1994 c 164 s 25 are each amended to read as follows:

(1) The director shall supervise the providing of prompt and efficient care and treatment, including care provided by physician assistants governed by the provisions of chapters 18.57A and 18.71A RCW, acting under a supervising physician, and including chiropractic care, to workers injured during the course of their employment at the least cost consistent with promptness and efficiency, without discrimination or favoritism, and with as great uniformity as the various and diverse surrounding circumstances and locations of industries will permit and to that end shall, from time to time, establish and adopt and supervise the administration of printed forms, rules, regulations, and practices for the furnishing of such care and treatment: **PROVIDED**, That, the department may recommend to an injured worker particular health care services and providers where specialized treatment is indicated or where cost effective payment levels or rates are obtained

by the department: AND PROVIDED FURTHER, That the department may enter into contracts for goods and services including, but not limited to, durable medical equipment so long as state-wide access to quality service is maintained for injured workers.

(2) The director shall, in consultation with interested persons, establish and, in his or her discretion, periodically change as may be necessary, and make available a fee schedule of the maximum charges to be made by any physician, surgeon, chiropractor, hospital, druggist, physicians' assistants as defined in chapters 18.57A and 18.71A RCW, acting under a supervising physician or other agency or person rendering services to injured workers. The department shall coordinate with other state purchasers of health care services to establish as much consistency and uniformity in billing and coding practices as possible, taking into account the unique requirements and differences between programs. No service covered under this title, including services provided to injured workers, whether aliens or other injured workers, who are not residing in the United States at the time of receiving the services, shall be charged or paid at a rate or rates exceeding those specified in such fee schedule, and no contract providing for greater fees shall be valid as to the excess. The establishment of such a schedule, exclusive of conversion factors, does not constitute "agency action" as used in RCW 34.05.010(3), nor does such a fee schedule constitute a "rule" as used in RCW 34.05.010(15).

(3) The director or self-insurer, as the case may be, shall make a record of the commencement of every disability and the termination thereof and, when bills are rendered for the care and treatment of injured workers, shall approve and pay those which conform to the adopted rules, regulations, established fee schedules, and practices of the director and may reject any bill or item thereof incurred in violation of the principles laid down in this section or the rules, regulations, or the established fee schedules and rules and regulations adopted under it.

Sec. 3. RCW 51.32.110 and 1993 c 375 s I are each amended to read as follows:

(1) Any worker entitled to receive any benefits or claiming such under this title shall, if requested by the department or self-insurer, submit himself or herself for medical examination, at a time and from time to time, at a place reasonably convenient for the worker and as may be provided by the rules of the department. An injured worker, whether an alien or other injured worker, who is not residing in the United States at the time that a medical examination is requested may be required to submit to an examination at any location in the United States determined by the department or self-insurer.

(2) If the worker refuses to submit to medical examination, or obstructs the same, or, if any injured worker shall persist in unsanitary or injurious practices which tend to imperil or retard his or her recovery, or shall refuse to submit to such medical or surgical treatment as is reasonably essential to his or her recovery or refuse or obstruct evaluation or examination for the purpose of vocational

rehabilitation or does not cooperate in reasonable efforts at such rehabilitation, the department or the self-insurer upon approval by the department, with notice to the worker may suspend any further action on any claim of such worker so long as such refusal, obstruction, noncooperation, or practice continues and reduce, suspend, or deny any compensation for such period: PROVIDED, That the department or the self-insurer shall not suspend any further action on any claim of a worker or reduce, suspend, or deny any compensation if a worker has good cause for refusing to submit to or to obstruct any examination, evaluation, treatment or practice requested by the department or required under this section.

(3) If the worker necessarily incurs traveling expenses in attending the examination pursuant to the request of the department, such traveling expenses shall be repaid to him or her out of the accident fund upon proper voucher and audit or shall be repaid by the self-insurer, as the case may be.

(4)(a) If the medical examination required by this section causes the worker to be absent from his or her work without pay:

(i) In the case of a worker insured by the department, the worker shall be paid compensation out of the accident fund in an amount equal to his or her usual wages for the time lost from work while attending the medical examination; or

(ii) In the case of a worker of a self-insurer, the self-insurer shall pay the worker an amount equal to his or her usual wages for the time lost from work while attending the medical examination.

(b) This subsection (4) shall apply prospectively to all claims regardless of the date of injury.

*\*Sec. 4. RCW 50.29.070 and 1990 c 245 s 8 are each amended to read as follows:*

***(1) Within a reasonable time after the computation date each employer shall be notified of the employer's rate of contribution as determined for the succeeding rate year and factors used in the calculation. The commissioner shall include on the notice sent to each employer in 1997 and 1998 the following information for the rate year immediately preceding the computation date:***

***(a) The taxable wages reported by the employer;***

***(b) The employer's contribution rate;***

***(c) The contributions paid by the employer;***

***(d)(i) The benefits charged to the employer's experience rating account; and***

***(ii) The benefits not charged to the employer's experience rating account under RCW 50.29.020(2)(e); and***

***(e) The dollar amount that represents the difference between (c) and (d) of this subsection, to be termed "share of employer's contribution that is socialized cost." The notice must include an explanation in plain language of socialized cost and the relationship of the employer's contribution to the support of socialized cost.***

***(2) Any employer dissatisfied with the benefit charges made to the employer's account for the twelve-month period immediately preceding the***

*computation date or with his or her determined rate may file a request for review and redetermination with the commissioner within thirty days of the mailing of the notice to the employer, showing the reason for such request. Should such request for review and redetermination be denied, the employer may, within thirty days of the mailing of such notice of denial, file with the appeal tribunal a petition for hearing which shall be heard in the same manner as a petition for denial of refund. The appellate procedure prescribed by this title for further appeal shall apply to all denials of review and redetermination under this section.*

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

Sec. 5. RCW 51.32.140 and 1971 ex.s. c 289 s 45 are each amended to read as follows:

Except as otherwise provided by treaty or this title, whenever compensation is payable to a beneficiary who is an alien not residing in the United States, (~~there shall be paid fifty percent of~~) the department or self-insurer, as the case may be, shall pay the compensation (~~herein otherwise provided~~) to (~~such~~) which a resident beneficiary is entitled under this title. But if a nonresident alien beneficiary is a citizen of a government having a compensation law which excludes citizens of the United States, either resident or nonresident, from partaking of the benefit of such law in as favorable a degree as herein extended to nonresident aliens, he or she shall receive no compensation. No payment shall be made to any beneficiary residing in any country with which the United States does not maintain diplomatic relations when such payment is due.

Sec. 6. RCW 51.08.050 and 1977 ex.s. c 350 s 11 are each amended to read as follows:

"Dependent" means any of the following named relatives of a worker whose death results from any injury and who leaves surviving no widow, widower, or child, viz: father, mother, grandfather, grandmother, stepfather, stepmother, grandson, granddaughter, brother, sister, half-sister, half-brother, niece, nephew, who at the time of the accident are actually and necessarily dependent in whole or in part for their support upon the earnings of the worker(~~—PROVIDED, That unless otherwise provided by treaty, aliens other than father or mother, not residing within the United States at the time of the accident, are not included~~)).

Passed the Senate April 22, 1997.

Passed the House April 17, 1997.

Approved by the Governor May 12, 1997, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State May 12, 1997.

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

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

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

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

Section 4 of SB 5571 would require the Employment Security Department to add new information to employer notification forms. This addition is not related to the primary intent of this bill, which is to address non-compliance with reporting requirements. There are many complicated issues regarding the unemployment tax structure. Rather than deal with unemployment insurance on a piecemeal basis, those issues should be considered separately, and properly dealt with in the context of the entire unemployment tax structure.

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

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

## CHAPTER 326

[Substitute Senate Bill 5749]

### MEDICAL GAS PIPING INSTALLERS

AN ACT Relating to regulation of plumbers; amending RCW 18.106.010, 18.106.020, 18.106.030, 18.106.050, and 18.106.070; adding a new section to chapter 18.106 RCW; and providing an effective date.

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

**NEW SECTION.** **Sec. 1.** A new section is added to chapter 18.106 RCW to read as follows:

The department shall adopt requirements that qualify a journeyman plumber to be issued a medical gas piping installer endorsement.

**Sec. 2.** RCW 18.106.010 and 1995 c 282 s 2 are each amended to read as follows:

Unless a different meaning is plainly required by the context, the following words and phrases as hereinafter used in this chapter shall have the following meaning:

(1) "Advisory board" means the state advisory board of plumbers;  
 (2) "Department" means the department of labor and industries;  
 (3) "Director" means the director of department of labor and industries;  
 (4) "Journeyman plumber" means any person who has been issued a certificate of competency by the department of labor and industries as provided in this chapter;

(5) "Medical gas piping" means oxygen, nitrous oxide, high pressure nitrogen, medical compressed air, and medical vacuum systems;

(6) (~~"Specialty plumber" means anyone who has been issued a specialty certificate of competency limited to installation, maintenance, and repair of the plumbing of single family dwellings, duplexes, and apartment buildings which do not exceed three stories;~~) **"Medical gas piping installer" means a journeyman plumber who has been issued a medical gas piping installer endorsement.**

(7) "Plumbing" means that craft involved in installing, altering, repairing and renovating potable water systems, liquid waste systems, and medical gas piping systems within a building(~~(- PROVIDED, That)).~~ **Installation in a water system**

of water softening or water treatment equipment ~~((shall))~~ is not ~~((be))~~ within the meaning of plumbing as used in this chapter;

(8) "Specialty plumber" means anyone who has been issued a specialty certificate of competency limited to installation, maintenance, and repair of the plumbing of single-family dwellings, duplexes, and apartment buildings that do not exceed three stories.

Sec. 3. RCW 18.106.020 and 1994 c 174 s 2 are each amended to read as follows:

(1) No person may engage in or offer to engage in the trade of plumbing without having a journeyman certificate, specialty certificate, ~~((or))~~ temporary permit, or ~~((without being))~~ trainee certificate. A trainee must be supervised by a person who has a journeyman certificate, specialty certificate, or temporary permit, as specified in RCW 18.106.070. No contractor may employ a person to engage in or offer to engage in the trade of plumbing unless the person employed has a journeyman certificate, specialty certificate, ~~((or))~~ temporary permit, or ~~((is supervised by a person who has a journeyman certificate, specialty certificate, or temporary permit))~~ trainee certificate. For the purposes of this section, "contractor" means any person or body of persons, corporate or otherwise, engaged in any work covered by the provisions of this chapter, chapter 18.27 RCW, or chapter 19.28 RCW, by way of trade or business. However, in no case shall this section apply to a contractor who is contracting for work on his or her own residence.

(2) No person may engage in or offer to engage in medical gas piping installation without having a certificate of competency as a journeyman plumber and a medical gas piping installer endorsement. A trainee may engage in medical gas piping installation if he or she has a training certificate and is supervised by a person with a medical gas piping installer endorsement. No contractor may employ a person to engage in or offer to engage in medical gas piping installation unless the person employed has a certificate of competency as a journeyman plumber and a medical gas piping installer endorsement.

(3) Violation of subsection (1) or (2) of this section is an infraction. Each day in which a person engages in the trade of plumbing in violation of subsection (1) or (2) of this section or employs a person in violation of subsection (1) or (2) of this section is a separate infraction. Each worksite at which a person engages in the trade of plumbing in violation of subsection (1) or (2) of this section or at which a person is employed in violation of subsection (1) or (2) of this section is a separate infraction.

~~((3))~~ (4) Notices of infractions for violations of subsection (1) or (2) of this section may be issued to:

(a) The person engaging in or offering to engage in the trade of plumbing in violation of subsection (1) or (2) of this section;

(b) The contractor in violation of subsection (1) or (2) of this section; and

(c) The contractor's employee who authorized the work assignment of the person employed in violation of subsection (1) or (2) of this section.

**Sec. 4.** RCW 18.106.030 and 1977 ex.s. c 149 s 3 are each amended to read as follows:

Any person desiring to be issued a certificate of competency as provided in this chapter shall deliver evidence in a form prescribed by the department affirming that said person has had sufficient experience in as well as demonstrated general competency in the trade of plumbing or specialty plumbing so as to qualify bim to make an application for a certificate of competency as a journeyman plumber or specialty plumber(~~(-PROVIDED, That)).~~ Completion of a course of study in the plumbing trade in the armed services of the United States or at a school accredited by the ((~~coordinating council on occupational education~~)) ~~work force training and education coordinating board~~ shall constitute sufficient evidence of experience and competency to enable such person to make application for a certificate of competency.

Any person desiring to be issued a medical gas piping installer endorsement shall deliver evidence in a form prescribed by the department affirming that the person has met the requirements established by the department for a medical gas piping installer endorsement.

In addition to supplying the evidence as prescribed in this section, each applicant for a certificate of competency shall submit an application for such certificate on such form and in such manner as shall be prescribed by the director of the department.

**Sec. 5.** RCW 18.106.050 and 1983 c 124 s 2 are each amended to read as follows:

(1) The department, with the advice of the advisory board, shall prepare a written examination to be administered to applicants for certificates of competency for journeyman plumber and specialty plumber. The examination shall be constructed to determine:

((+)) (a) Whether the applicant possesses varied general knowledge of the technical information and practical procedures that are identified with the trade of journeyman plumber or specialty plumber; and

((2)) (b) Whether the applicant is familiar with the applicable plumbing codes and the administrative rules of the department pertaining to plumbing and plumbers.

The department shall administer the examination to eligible persons. All applicants shall, before taking the examination, pay to the department a fee.

(2) For purposes of the medical gas piping installer endorsement, the department may enter into a contract with a nationally recognized testing agency to develop, administer, and score medical gas piping installer examinations. All applicants shall, before taking an examination for a medical gas piping installer endorsement, pay the required examination fee. The department shall set the examination fee by contract with a nationally recognized testing agency. The fee shall cover but not exceed the costs of preparing and administering the examination and the materials necessary to conduct the practical elements of the examination.

The department shall approve training courses and set the fees for training courses for the medical gas piping installer endorsement.

The department shall certify the results of the examination, and shall notify the applicant in writing whether he or she has passed or failed. Any applicant who has failed the examination may retake the examination, upon the terms and after a period of time that the director shall set by rule. The director may not limit the number of times that a person may take the examination.

Sec. 6. RCW 18.106.070 and 1985 c 465 s 1 are each amended to read as follows:

(1) The department shall issue a certificate of competency to all applicants who have passed the examination and have paid the fee for the certificate. The certificate shall bear the date of issuance, and shall expire on the birthdate of the holder immediately following the date of issuance. The certificate shall be renewable every other year, upon application, on or before the birthdate of the holder. A renewal fee shall be assessed for each certificate. If a person fails to renew the certificate by the renewal date, he or she must pay a doubled fee. If the person does not renew the certificate within ninety days of the renewal date, he or she must retake the examination and pay the examination fee.

The journeyman plumber and specialty plumber certificates of competency, the medical gas piping installer endorsement, and the temporary permit provided for in this chapter grant the holder the right to engage in the work of plumbing as a journeyman plumber (~~(or)~~), specialty plumber, or medical gas piping installer, in accordance with their provisions throughout the state and within any of its political subdivisions on any job or any employment without additional proof of competency or any other license or permit or fee to engage in the work. This section does not preclude employees from adhering to a union security clause in any employment where such a requirement exists.

(2) A person who is indentured in an apprenticeship program approved under chapter 49.04 RCW for the plumbing construction trade or who is learning the plumbing construction trade may work in the plumbing construction trade if supervised by a certified journeyman plumber or a certified specialty plumber in that plumber's specialty. All apprentices and individuals learning the plumbing construction trade shall obtain a plumbing training certificate from the department. The certificate shall authorize the holder to learn the plumbing construction trade while under the direct supervision of a journeyman plumber or a specialty plumber working in his or her specialty. The holder of the plumbing training certificate shall renew the certificate annually. At the time of renewal, the holder shall provide the department with an accurate list of the holder's employers in the plumbing construction industry for the previous year and the number of hours worked for each employer. An annual fee shall be charged for the issuance or renewal of the certificate. The department shall set the fee by rule. The fee shall cover but not exceed the cost of administering and enforcing the trainee certification and supervision requirements of this chapter. Apprentices and

individuals learning the plumbing construction trade shall have their plumbing training certificates in their possession at all times that they are performing plumbing work. They shall show their certificates to an authorized representative of the department at the representative's request.

(3) Any person who has been issued a plumbing training certificate under this chapter may work if that person is under supervision. Supervision shall consist of a person being on the same job site and under the control of either a journeyman plumber or an appropriate specialty plumber who has an applicable certificate of competency issued under this chapter. Either a journeyman plumber or an appropriate specialty plumber shall be on the same job site as the noncertified individual for a minimum of seventy-five percent of each working day unless otherwise provided in this chapter. The ratio of noncertified individuals to certified journeymen or specialty plumbers working on a job site shall be: (a) From July 28, 1985, through June 30, 1988, not more than three noncertified plumbers working on any one job site for every certified journeyman or specialty plumber; (b) effective July 1, 1988, not more than two noncertified plumbers working on any one job site for every certified specialty plumber or journeyman plumber working as a specialty plumber; and (c) effective July 1, 1988, not more than one noncertified plumber working on any one job site for every certified journeyman plumber working as a journeyman plumber.

An individual who has a current training certificate and who has successfully completed or is currently enrolled in an approved apprenticeship program or in a technical school program in the plumbing construction trade in a school approved by the (~~commission for vocational education~~) work force training and education coordinating board, may work without direct on-site supervision during the last six months of meeting the practical experience requirements of this chapter.

(4) An individual who has a current training certificate and who has successfully completed or is currently enrolled in a medical gas piping installer training course approved by the department may work on medical gas piping systems if the individual is under the direct supervision of a certified medical gas piping installer who holds a medical gas piping installer endorsement one hundred percent of a working day on a one-to-one ratio.

**NEW SECTION. Sec. 7.** This act takes effect July 1, 1998.

Passed the Senate April 22, 1997.

Passed the House April 18, 1997.

Approved by the Governor May 12, 1997.

Filed in Office of Secretary of State May 12, 1997.

---

## CHAPTER 327

[Substitute Senate Bill 5965]

INDUSTRIAL INSURANCE—INDUSTRIAL INSURANCE PREMIUM ACCOUNT  
ADMINISTRATION—AGENCY RATINGS

AN ACT Relating to agency ratings for industrial insurance; amending RCW 51.44.170; and amending 1990 c 204 s 1 (uncodified).

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

**Sec. 1.** RCW 51.44.170 and 1991 sp.s. c 13 s 29 are each amended to read as follows:

The industrial insurance premium refund account is created in the custody of the state (treasury) treasurer. All industrial insurance refunds earned by state agencies or institutions of higher education under the state fund retrospective rating program shall be deposited into the account. ~~((Moneys in the account may be spent only after appropriation))~~ The account is subject to the allotment procedures under chapter 43.88 RCW, but no appropriation is required for expenditures from the account. Only the executive head of the agency or institution of higher education, or designee, may authorize expenditures from the account. No agency or institution of higher education may ~~((receive an appropriation))~~ make an expenditure from the account for an amount greater than the refund earned by the agency. If the agency or institution of higher education has staff dedicated to workers' compensation claims management, expenditures from the account must be used to pay for that staff, but additional expenditure from the account may be used for any program within an agency or institution of higher education ~~((but preference shall be given to programs))~~ that promotes or provides incentives for employee workplace safety and health and early, appropriate return-to-work for injured employees.

**Sec. 2.** 1990 c 204 s 1 (uncodified) is amended to read as follows:

The legislature finds that workplace safety in state employment is of paramount importance in maintaining a productive and committed state work force. The legislature also finds that recognition in state agencies and institutions of higher education of industrial insurance programs that provide safe working environments and promote early return-to-work for injured employees will encourage agencies and institutions of higher education to develop these programs. A purpose of this act is to provide incentives for agencies and institutions of higher education to participate in industrial insurance safety programs and return-to-work programs by authorizing use of the industrial insurance premium refunds earned by agencies or institutions of higher education participating in industrial insurance retrospective rating programs. Since agency and institution of higher education retrospective rating refunds are generated from safety performance and cannot be set at predictable levels determined by the budget process, the incentive awards should not impact an agency's or institution of higher education's legislatively approved budget.

Passed the Senate April 21, 1997.  
Passed the House April 10, 1997.  
Approved by the Governor May 12, 1997.  
Filed in Office of Secretary of State May 12, 1997.

---

## CHAPTER 328

[Senate Bill 5968]

### ELECTRIC-ASSISTED BICYCLES

AN ACT Relating to electric-assisted bicycles; amending RCW 46.16.010, 46.20.500, 46.37.530, and 46.61.710; 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:

"Electric-assisted bicycle" means a bicycle with two or three wheels, a saddle, fully operative pedals for human propulsion, and an electric motor. The electric-assisted bicycle's electric motor must have a power output of no more than one thousand watts, be incapable of propelling the device at a speed of more than twenty miles per hour on level ground, and be incapable of further increasing the speed of the device when human power alone is used to propel the device beyond twenty miles per hour.

**Sec. 2.** RCW 46.16.010 and 1996 c 184 s 1 are each amended to read as follows:

(1) It is unlawful for a person to operate any vehicle over and along a public highway of this state without first having obtained and having in full force and effect a current and proper vehicle license and display vehicle license number plates therefor as by this chapter provided. Failure to make initial registration before operation on the highways of this state is a misdemeanor, and any person convicted thereof shall be punished by a fine of no less than three hundred thirty dollars, no part of which may be suspended or deferred. Failure to renew an expired registration before operation on the highways of this state is a traffic infraction.

(2) The licensing of a vehicle in another state by a resident of this state, as defined in RCW 46.16.028, evading the payment of any tax or license fee imposed in connection with registration, is a gross misdemeanor punishable as follows:

(a) For a first offense, up to one year in the county jail and a fine equal to twice the amount of delinquent taxes and fees, no part of which may be suspended or deferred;

(b) For a second or subsequent offense, up to one year in the county jail and a fine equal to four times the amount of delinquent taxes and fees, no part of which may be suspended or deferred;

(c) For fines levied under (b) of this subsection, an amount equal to the avoided taxes and fees owed shall be deposited in the vehicle licensing fraud account created in the state treasury;

(d) The avoided taxes and fees shall be deposited and distributed in the same manner as if the taxes and fees were properly paid in a timely fashion.

(3) These provisions shall not apply to the following vehicles:

(a) Electric-assisted bicycles;

(b) Farm vehicles ((as defined in RCW 46.04.181)) if operated within a radius of fifteen miles of the farm where principally used or garaged, farm tractors and farm implements including trailers designed as cook or bunk houses used exclusively for animal herding temporarily operating or drawn upon the public highways, and trailers used exclusively to transport farm implements from one farm to another during the daylight hours or at night when such equipment has lights that comply with the law(~~(- PROVIDED FURTHER, That these provisions shall not apply to)~~);

(c) Spray or fertilizer applicator rigs designed and used exclusively for spraying or fertilization in the conduct of agricultural operations and not primarily for the purpose of transportation, and nurse rigs or equipment auxiliary to the use of and designed or modified for the fueling, repairing, or loading of spray and fertilizer applicator rigs and not used, designed, or modified primarily for the purpose of transportation(~~(- PROVIDED FURTHER, That these provisions shall not apply to)~~);

(d) Fork lifts operated during daylight hours on public highways adjacent to and within five hundred feet of the warehouses which they serve(~~(- PROVIDED FURTHER, That these provisions shall not apply to equipment defined as follows:)~~);

(e) "Special highway construction equipment" ((is)) defined as follows: Any vehicle which is designed and used primarily for grading of highways, paving of highways, earth moving, and other construction work on highways and which is not designed or used primarily for the transportation of persons or property on a public highway and which is only incidentally operated or moved over the highway. It includes, but is not limited to, road construction and maintenance machinery so designed and used such as portable air compressors, air drills, asphalt spreaders, bituminous mixers, bucket loaders, track laying tractors, ditchers, leveling graders, finishing machines, motor graders, paving mixers, road rollers, scarifiers, earth moving scrapers and carryalls, lighting plants, welders, pumps, power shovels and draglines, self-propelled and tractor-drawn earth moving equipment and machinery, including dump trucks and tractor-dump trailer combinations which either (((+)) (i) are in excess of the legal width, or (((2)) (ii) which, because of their length, height, or unladen weight, may not be moved on a public highway without the permit specified in RCW 46.44.090 and which are not operated laden except within the boundaries of the project limits as defined by the contract, and other similar types of construction equipment, or (((3)) (iii) which are driven or moved upon a public highway only for the purpose of crossing such highway from one property to another, provided such movement does not exceed

five hundred feet and the vehicle is equipped with wheels or pads which will not damage the roadway surface.

Exclusions:

"Special highway construction equipment" does not include any of the following:

Dump trucks originally designed to comply with the legal size and weight provisions of this code notwithstanding any subsequent modification which would require a permit, as specified in RCW 46.44.090, to operate such vehicles on a public highway, including trailers, truck-mounted transit mixers, cranes and shovels, or other vehicles designed for the transportation of persons or property to which machinery has been attached.

(4) The following vehicles, whether operated solo or in combination, are exempt from license registration and displaying license plates as required by this chapter:

(a) A converter gear used to convert a semitrailer into a trailer or a two-axle truck or tractor into a three or more axle truck or tractor or used in any other manner to increase the number of axles of a vehicle. Converter gear includes an auxiliary axle, booster axle, dolly, and jeep axle.

(b) A tow dolly that is used for towing a motor vehicle behind another motor vehicle. The front or rear wheels of the towed vehicle are secured to and rest on the tow dolly that is attached to the towing vehicle by a tow bar.

**Sec. 3.** RCW 46.20.500 and 1982 c 77 s 1 are each amended to read as follows:

No person may drive a motorcycle or a motor-driven cycle unless such person has a valid driver's license specially endorsed by the director to enable the holder to drive such vehicles, nor may a person drive a motorcycle of a larger engine displacement than that authorized by such special endorsement or by an instruction permit for such category(~~(-PROVIDED, That any)~~). However, a person sixteen years of age or older, holding a valid driver's license of any class issued by the state of the person's residence, may operate a moped without taking any special examination for the operation of a moped. No driver's license is required for operation of an electric-assisted bicycle if the operator is at least sixteen years of age. Persons under sixteen years of age may not operate an electric-assisted bicycle.

**Sec. 4.** RCW 46.37.530 and 1990 c 270 s 7 are each amended to read as follows:

(1) It is unlawful:

(a) For any person to operate a motorcycle or motor-driven cycle not equipped with mirrors on the left and right sides of the motorcycle which shall be so located as to give the driver a complete view of the highway for a distance of at least two hundred feet to the rear of the motorcycle or motor-driven cycle: **PROVIDED,** That mirrors shall not be required on any motorcycle or motor-driven cycle over twenty-five years old originally manufactured without mirrors and which has been

restored to its original condition and which is being ridden to or from or otherwise in conjunction with an antique or classic motorcycle contest, show, or other such assemblage: PROVIDED FURTHER, That no mirror is required on any motorcycle manufactured prior to January 1, 1931;

(b) For any person to operate a motorcycle or motor-driven cycle which does not have a windshield unless wearing glasses, goggles, or a face shield of a type conforming to rules adopted by the state patrol;

(c) For any person to operate or ride upon a motorcycle, motor-driven cycle, or moped on a state highway, county road, or city street unless wearing upon his or her head a protective helmet of a type conforming to rules adopted by the state patrol except when the vehicle is an antique motor-driven cycle or automobile that is licensed as a motorcycle or when the vehicle is equipped with seat belts and roll bars approved by the state patrol. The helmet must be equipped with either a neck or chin strap which shall be fastened securely while the motorcycle or motor-driven cycle is in motion. Persons operating electric-assisted bicycles shall comply with all laws and regulations related to the use of bicycle helmets;

(d) For any person to transport a child under the age of five on a motorcycle or motor-driven cycle;

(e) For any person to sell or offer for sale a motorcycle helmet which does not meet the requirements established by the state patrol.

(2) The state patrol is hereby authorized and empowered to adopt and amend rules, pursuant to the Administrative Procedure Act, concerning the standards and procedures for conformance of rules adopted for glasses, goggles, face shields, and protective helmets.

**Sec. 5.** RCW 46.61.710 and 1979 ex.s. c 213 s 8 are each amended to read as follows:

(1) No person shall operate a moped upon the highways of this state unless the moped has been assigned a moped registration number and displays a moped permit in accordance with the provisions of RCW 46.16.630.

(2) Notwithstanding any other provision of law, a moped may not be operated on a bicycle path or trail, bikeway, equestrian trail, or hiking or recreational trail.

(3) Operation of a moped or an electric-assisted bicycle on a fully controlled limited access highway or on a sidewalk is unlawful.

(4) Removal of any muffling device or pollution control device from a moped is unlawful.

(5) Subsections (1), (2), and (4) of this section do not apply to electric-assisted bicycles. Electric-assisted bicycles may have access to highways of the state to the same extent as bicycles. Electric-assisted bicycles may be operated on a multipurpose trail or bicycle lane, but local jurisdictions may restrict or otherwise limit the access of electric-assisted bicycles.

Passed the Senate April 22, 1997.  
 Passed the House April 10, 1997.  
 Approved by the Governor May 12, 1997.  
 Filed in Office of Secretary of State May 12, 1997.

---

## CHAPTER 329

[Senate Bill 5991]

### WASHINGTON QUALITY AWARDS COUNCIL—RESTRUCTURE

AN ACT Relating to quality awards; amending RCW 43.330.140; adding new sections to chapter 43.07 RCW; and recodifying RCW 43.330.140.

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

**Sec. 1.** RCW 43.330.140 and 1994 c 306 s 1 are each amended to read as follows:

~~(1)~~ (1) The Washington quality award council shall be organized as a ~~((part of the))~~ private, nonprofit corporation ~~((quality for Washington state foundation, with the assistance of the department))~~, in accordance with chapter 24.03 RCW and this section, with limited staff assistance by the secretary of state as provided by section 2 of this act.

~~((+))~~ (2) The council shall oversee the governor's Washington state quality achievement award program. The purpose of the program is to improve the overall competitiveness of the state's economy by stimulating Washington state industries, business, and organizations to bring about measurable success through setting standards of organizational excellence, encouraging organizational self-assessment, identifying successful organizations as role models, and providing a valuable mechanism for promoting and strengthening a commitment to continuous quality improvement in all sectors of the state's economy. The program shall annually recognize organizations that improve the quality of their products and services and are noteworthy examples of high-performing work organizations.

~~((2))~~ (3) The council shall consist of the governor and the ~~((director))~~ secretary of state, or their designees, as chair and vice-chair, respectively, ~~((and))~~ the director of the department of community, trade, and economic development, or his or her designee, and twenty-seven members appointed by the governor. Those twenty-seven council members must be selected from recognized professionals who shall have backgrounds in or experience with effective quality improvement techniques, employee involvement quality of work life initiatives, ~~((and))~~ development of innovative labor-management relations, and other recognized leaders in state and local government and private business. The ~~((initial))~~ membership of the board beyond the chair and vice-chair shall be appointed by the governor ~~((from a list of nominees submitted by the quality for Washington state foundation. The list of nominees shall include representatives from the governor's small business improvement council, the Washington state efficiency commission, the Washington state productivity board, the Washington state service quality network, the association for quality and participation, the American society for~~

quality control, business and labor associations, educational institutions, elected officials, and representatives from former recipients of international, national, or state quality awards)) for terms of three years.

~~((3))~~ (4) The council shall establish a board of examiners, a recognition committee, and such other subcouncil groups as it deems appropriate to carry out its responsibilities. Subcouncil groups established by the council may be composed of noncouncilmembers.

~~((4) The council shall receive its administrative support and operational expenses from the quality for Washington state foundation;))~~

(5) The council shall ~~((, in conjunction with the quality for Washington state foundation;))~~ compile a list of resources available for organizations interested in productivity improvement, quality techniques, effective methods of work organization, and upgrading work force skills as a part of the quality for Washington state foundation's ongoing educational programs. The council shall make the list of resources available to the general public ~~((, including labor, business, nonprofit and public agencies, and the department)).~~

(6) The council ~~((, in conjunction with the quality for Washington state foundation;))~~ may conduct such public information, research, education, and assistance programs as it deems appropriate to further quality improvement in organizations operating in the state of Washington.

(7) The council shall:

(a) Approve and announce achievement award recipients;

(b) Approve guidelines to examine applicant organizations;

(c) Approve appointment of judges and examiners;

(d) Arrange appropriate annual awards and recognition for recipients, in conjunction with the quality for Washington state foundation;

(e) Formulate recommendations for change in the nomination form or award categories, in cooperation with the quality for Washington state foundation; and

(f) Review any related education, training, technology transfer, and research initiatives proposed ~~((by the quality for Washington state foundation))~~ to it, and that it determines merits such a review.

(8) By January 1st of each even-numbered year, the council shall report to the governor and the appropriate committees of the legislature on its activities in the proceeding two years and on any recommendations in state policies or programs that could encourage quality improvement and the development of high-performance work organizations.

(9) The council shall cease to exist on July 1, ~~((2004))~~ 1999, unless otherwise extended by law.

**NEW SECTION.** Sec. 2. A new section is added to chapter 43.07 RCW to read as follows:

(1) The secretary of state shall provide administrative assistance and support to the Washington quality award council only to the extent that the legislature appropriates funds specifically designated for this purpose. The secretary of state

has no duty to provide assistance or support except to the extent specifically provided by appropriation.

(2) The Washington quality award council may develop private sources of funding, including the establishment of a private foundation. Except as provided in subsection (1) of this section, the council shall receive all administrative support and expenses through private sources of funding and arrangements with a private foundation. Public funds shall not be used to purchase awards, be distributed as awards, or be utilized for any expenses of the board of examiners, recognition committee, and such other subcouncil groups as the council may establish. Public funds shall not be used to pay overtime or travel expenses of secretary of state staff, for purposes related to the council, unless funded by specific appropriation.

NEW SECTION. Sec. 3. RCW 43.330.140 is recodified as a section in chapter 43.07 RCW.

Passed the Senate April 22, 1997.

Passed the House April 14, 1997.

Approved by the Governor May 12, 1997.

Filed in Office of Secretary of State May 12, 1997.

## CHAPTER 330

[Substitute Senate Bill 6030]

### WORKERS' COMPENSATION SYSTEM PERFORMANCE AUDIT AND REVIEW

AN ACT Relating to establishing a performance audit and operations review of the state workers' compensation system; and creating new sections.

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

NEW SECTION. Sec. 1. The legislature recognizes the importance of the state workers' compensation program in providing medical and financial services and benefits to workers who are injured on the job, and to their families, and in facilitating the injured workers' return to employment and a productive life. In addition, the legislature considers periodic performance audits to be of assistance in determining the impact of state programs and in developing findings and recommendations that ensure the most effective use of worker, employer, state agency, and public time and resources.

NEW SECTION. Sec. 2. The joint legislative audit and review committee, in consultation with members of the senate and house of representatives commerce and labor committees and the workers' compensation advisory committee established under RCW 51.04.110, shall conduct a performance audit of the state workers' compensation system.

The performance audit shall review the following issues:

(1)(a) The organizational structure of the workers' compensation system and its effectiveness;

(b) The management principles, program process, and ongoing practices of the workers' compensation system;

- (2)(a) The program's taxation system, including the method of collection and the manner in which funds are prioritized and distributed;
- (b) The use of all revenues generated from reserve surpluses and all other fund sources;
- (3) The types of services and programs within the system;
- (4) The level of cooperation and continuity between program and services;
- (5)(a) The effectiveness of the system in providing sure and certain relief to injured workers as mandated by Title 51 RCW;
- (b) The effectiveness of the workers' compensation system in returning injured workers to work and meeting other system goals;
- (6) The level of customer satisfaction of workers and employers participating in the system;
- (7) The current method by which the department internally reviews and determines the workers' compensation program effectiveness and performance and its process for responding to its findings or recommendations;
- (8) The manner in which the workers' compensation system coordinates its activities with other programs or activities within the department or other state agencies, including: the WISHA program, the board of industrial insurance appeals, the employment security department, the department of revenue, the department of health, and the work force training and education coordinating board;
- (9) The cost-effectiveness and efficiency of the state workers' compensation system as compared with other private and public sector delivery systems;
- (10) Claims administration practices of the state fund, self-insured employers, and third-party administrators, and the effectiveness of department sanctions in promoting best practices in claims administration; and
- (11) Any other item considered necessary by the joint legislative audit and review committee.

**NEW SECTION.** Sec. 3. The joint legislative audit and review committee is directed to contract with a private entity that is not affiliated with an insurance company, brokerage, or agency, consistent with the provisions of chapter 39.29 RCW. The committee shall consult with the workers' compensation advisory committee in the design of the request for proposals from potential contractors and in the choice of a performance audit contractor. The committee shall provide an interim report on its findings and recommendations to the appropriate house of representatives and senate standing committees by December 31, 1997, and a final report by August 1, 1998.

**NEW SECTION.** Sec. 4. The department of labor and industries shall actively cooperate with the joint legislative audit and review committee in the course of the performance audit and provide information and assistance as necessary. Funding for the performance audit in the amount, as determined by the joint legislative audit and review committee, is provided from the nonappropriated medical aid fund within the department of labor and industries. The department

will transfer the funds necessary to implement this act to the joint legislative audit and review committee through an interagency agreement.

**NEW SECTION.** Sec. 5. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed the Senate April 22, 1997.

Passed the House April 10, 1997.

Approved by the Governor May 12, 1997.

Filed in Office of Secretary of State May 12, 1997.

### CHAPTER 331

[Second Substitute Senate Bill 5127]

#### TRAUMA CARE SERVICE FUNDING

AN ACT Relating to funding trauma care services; amending RCW 70.168.040, 46.63.110, 3.62.090, 63.14.010, and 63.14.130; adding a new section to chapter 70.168 RCW; adding a new section to chapter 46.12 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. A new section is added to chapter 70.168 RCW to read as follows:

The department shall establish by rule a grant program for designated trauma care services. The grants shall be made from the emergency medical services and trauma care system trust account and shall require regional matching funds. The trust account funds and regional match shall be in a seventy-five to twenty-five percent ratio.

**Sec. 2.** RCW 70.168.040 and 1990 c 269 s 17 are each amended to read as follows:

The emergency medical services and trauma care system trust account is hereby created in the state treasury. Moneys shall be transferred to the emergency medical services and trauma care system trust account from the public safety education account or other sources as appropriated, and as collected under RCW 46.63.110(6) and section 5 of this act. Disbursements shall be made by the department subject to legislative appropriation. Expenditures may be made only for the purposes of the state trauma care system under this chapter, including emergency medical services, trauma care services, rehabilitative services, and the planning and development of related services under this chapter and for reimbursement by the department of social and health services for trauma care services provided by designated trauma centers.

**Sec. 3.** RCW 46.63.110 and 1993 c 501 s 11 are each amended to read as follows:

(1) A person found to have committed a traffic infraction shall be assessed a monetary penalty. No penalty may exceed two hundred and fifty dollars for each offense unless authorized by this chapter or title.

(2) The supreme court shall prescribe by rule a schedule of monetary penalties for designated traffic infractions. This rule shall also specify the conditions under which local courts may exercise discretion in assessing fines and penalties for traffic infractions. The legislature respectfully requests the supreme court to adjust this schedule every two years for inflation.

(3) There shall be a penalty of twenty-five dollars for failure to respond to a notice of traffic infraction except where the infraction relates to parking as defined by local law, ordinance, regulation, or resolution or failure to pay a monetary penalty imposed pursuant to this chapter. A local legislative body may set a monetary penalty not to exceed twenty-five dollars for failure to respond to a notice of traffic infraction relating to parking as defined by local law, ordinance, regulation, or resolution. The local court, whether a municipal, police, or district court, shall impose the monetary penalty set by the local legislative body.

(4) Monetary penalties provided for in chapter 46.70 RCW which are civil in nature and penalties which may be assessed for violations of chapter 46.44 RCW relating to size, weight, and load of motor vehicles are not subject to the limitation on the amount of monetary penalties which may be imposed pursuant to this chapter.

(5) Whenever a monetary penalty is imposed by a court under this chapter it is immediately payable. If the person is unable to pay at that time the court may, in its discretion, grant an extension of the period in which the penalty may be paid. If the penalty is not paid on or before the time established for payment the court shall notify the department of the failure to pay the penalty, and the department shall suspend the person's driver's license or driving privilege until the penalty has been paid and the penalty provided in subsection (3) of this section has been paid.

(6) In addition to any other penalties imposed under this section and not subject to the limitation of subsection (1) of this section, a person found to have committed a traffic infraction shall be assessed a fee of five dollars per infraction. Under no circumstances shall this fee be reduced or waived. Revenue from this fee shall be forwarded to the state treasurer for deposit in the emergency medical services and trauma care system trust account under RCW 70.168.040.

**Sec. 4.** RCW 3.62.090 and 1995 c 332 s 7 are each amended to read as follows:

(1) There shall be assessed and collected in addition to any fines, forfeitures, or penalties assessed, other than for parking infractions, by all courts organized under Title 3 or 35 RCW a public safety and education assessment equal to sixty percent of such fines, forfeitures, or penalties, which shall be remitted as provided in chapters 3.46, 3.50, 3.62, and 35.20 RCW. The assessment required by this section shall not be suspended or waived by the court.

(2) There shall be assessed and collected in addition to any fines, forfeitures, or penalties assessed, other than for parking infractions and for fines levied under RCW 46.61.5055, and in addition to the public safety and education assessment required under subsection (1) of this section, by all courts organized under Title 3 or 35 RCW, an additional public safety and education assessment equal to fifty percent of the public safety and education assessment required under subsection (1) of this section, which shall be remitted to the state treasurer and deposited as provided in RCW 43.08.250. The additional assessment required by this subsection shall not be suspended or waived by the court.

(3) This section does not apply to the fee imposed under RCW 43.63.110(6).

**NEW SECTION.** **Sec. 5.** A new section is added to chapter 46.12 RCW to read as follows:

(1) Upon the retail sale or lease of any new or used motor vehicle by a vehicle dealer, the dealer shall collect from the consumer an emergency medical services fee of six dollars and fifty cents, two dollars and fifty cents of which shall be an administrative fee to be retained by the vehicle dealer. The remainder of the fee shall be forwarded with the required title application and all other fees to the department of licensing, or any of its authorized agents. The four-dollar fee collected in this section shall be deposited in the emergency medical services and trauma care system trust account created in RCW 70.168.040. The administrative fee charged by a dealer shall not be considered a violation of RCW 46.70.180(2).

(2) If a fee is not imposed under subsection (1) of this section, there is hereby imposed a fee of six dollars and fifty cents at the time of application for (a) an original title or transfer of title issued on any motor vehicle pursuant to this chapter or chapter 46.09 RCW, or (b) an original transaction or transfer of ownership transaction of a vehicle under chapter 46.10 RCW. The department of licensing or any of its authorized agents shall collect the fee when processing these transactions. The fee shall be transmitted to the emergency medical services and trauma care system trust account created in RCW 70.168.040.

(3) This section does not apply to a motor vehicle that has been declared a total loss by an insurer or self-insurer unless an application for certificate of ownership or license registration is made to the department of licensing after the declaration of total loss.

**Sec. 6.** RCW 63.14.010 and 1993 sp.s. c 5 s 1 are each amended to read as follows:

In this chapter, unless the context otherwise requires:

(1) "Goods" means all chattels personal when purchased primarily for personal, family, or household use and not for commercial or business use, but not including money or, except as provided in the next sentence, things in action. The term includes but is not limited to merchandise certificates or coupons, issued by a retail seller, to be used in their face amount in lieu of cash in exchange for goods or services sold by such a seller and goods which, at the time of sale or

subsequently, are to be so affixed to real property as to become a part thereof, whether or not severable therefrom;

(2) "Lender credit card" means a card or device under a lender credit card agreement pursuant to which the issuer gives to a cardholder residing in this state the privilege of obtaining credit from the issuer or other persons in purchasing or leasing property or services, obtaining loans, or otherwise, and the issuer of which is not: (a) Principally engaged in the business of selling goods; or (b) a financial institution;

(3) "Lender credit card agreement" means an agreement entered into or performed in this state prescribing the terms of retail installment transactions pursuant to which the issuer may, with the buyer's consent, purchase or acquire one or more retail sellers' indebtedness of the buyer under a sales slip or memorandum evidencing the purchase, lease, loan, or otherwise to be paid in accordance with the agreement. The issuer of a lender credit card agreement shall not be principally engaged in the business of selling goods or be a financial institution;

(4) "Financial institution" means any bank or trust company, mutual savings bank, credit union, or savings and loan association organized pursuant to the laws of any one of the United States of America or the United States of America, or the laws of a foreign country if also qualified to conduct business in any one of the United States of America or pursuant to the laws of the United States of America;

(5) "Services" means work, labor, or services of any kind when purchased primarily for personal, family, or household use and not for commercial or business use whether or not furnished in connection with the delivery, installation, servicing, repair, or improvement of goods and includes repairs, alterations, or improvements upon or in connection with real property, but does not include services for which the price charged is required by law to be determined or approved by or to be filed, subject to approval or disapproval, with the United States or any state, or any department, division, agency, officer, or official of either as in the case of transportation services;

(6) "Retail buyer" or "buyer" means a person who buys or agrees to buy goods or obtain services or agrees to have services rendered or furnished, from a retail seller;

(7) "Retail seller" or "seller" means a person engaged in the business of selling goods or services to retail buyers;

(8) "Retail installment transaction" means any transaction in which a retail buyer purchases goods or services from a retail seller pursuant to a retail installment contract, a retail charge agreement, or a lender credit card agreement, as defined in this section, which provides for a service charge, as defined in this section, and under which the buyer agrees to pay the unpaid balance in one or more installments or which provides for no service charge and under which the buyer agrees to pay the unpaid balance in more than four installments;

(9) "Retail installment contract" or "contract" means a contract, other than a retail charge agreement, a lender credit card agreement, or an instrument reflecting

a sale made pursuant thereto, entered into or performed in this state for a retail installment transaction. The term "retail installment contract" may include a chattel mortgage, a conditional sale contract, and a contract in the form of a bailment or a lease if the bailee or lessee contracts to pay as compensation for their use a sum substantially equivalent to or in excess of the value of the goods sold and if it is agreed that the bailee or lessee is bound to become, or for no other or a merely nominal consideration, has the option of becoming the owner of the goods upon full compliance with the provisions of the bailment or lease. The term "retail installment contract" does not include: (a) A "consumer lease," heretofore or hereafter entered into, as defined in RCW 63.10.020; (b) a lease which would constitute such "consumer lease" but for the fact that: (i) It was entered into before April 29, 1983; (ii) the lessee was not a natural person; (iii) the lease was not primarily for personal, family, or household purposes; or (iv) the total contractual obligations exceeded twenty-five thousand dollars; or (c) a lease-purchase agreement under chapter 63.19 RCW;

(10) "Retail charge agreement," "revolving charge agreement," or "charge agreement" means an agreement between a retail buyer and a retail seller that is entered into or performed in this state and that prescribes the terms of retail installment transactions with one or more sellers which may be made thereunder from time to time and under the terms of which a service charge, as defined in this section, is to be computed in relation to the buyer's unpaid balance from time to time;

(11) "Service charge" however denominated or expressed, means the amount which is paid or payable for the privilege of purchasing goods or services to be paid for by the buyer in installments over a period of time. It does not include the amount, if any, charged for insurance premiums, delinquency charges, attorneys' fees, court costs, any vehicle dealer administrative fee under section 5 of this act, or official fees;

(12) "Sale price" means the price for which the seller would have sold or furnished to the buyer, and the buyer would have bought or obtained from the seller, the goods or services which are the subject matter of a retail installment transaction. The sale price may include any taxes, registration and license fees, any vehicle dealer administrative fee, and charges for transferring vehicle titles, delivery, installation, servicing, repairs, alterations, or improvements;

(13) "Official fees" means the amount of the fees prescribed by law and payable to the state, county, or other governmental agency for filing, recording, or otherwise perfecting, and releasing or satisfying, a retained title, lien, or other security interest created by a retail installment transaction;

(14) "Time balance" means the principal balance plus the service charge;

(15) "Principal balance" means the sale price of the goods or services which are the subject matter of a retail installment contract less the amount of the buyer's down payment in money or goods or both, plus the amounts, if any, included

therein, if a separate identified charge is made therefor and stated in the contract, for insurance, any vehicle dealer administrative fee, and official fees;

(16) "Person" means an individual, partnership, joint venture, corporation, association, or any other group, however organized;

(17) "Rate" means the percentage which, when multiplied times the outstanding balance for each month or other installment period, yields the amount of the service charge for such month or period.

**Sec. 7.** RCW 63.14.130 and 1992 c 193 s 1 are each amended to read as follows:

The service charge shall be inclusive of all charges incident to investigating and making the retail installment contract or charge agreement and for the privilege of making the installment payments thereunder and no other fee, expense or charge whatsoever shall be taken, received, reserved or contracted therefor from the buyer, except for any vehicle dealer administrative fee under section 5 of this act.

(1) The service charge, in a retail installment contract, shall not exceed the dollar amount or rate agreed to by contract and disclosed under RCW 63.14.040(1)(7)(g).

(2) The service charge in a retail charge agreement, revolving charge agreement, lender credit card agreement, or charge agreement, shall not exceed the schedule or rate agreed to by contract and disclosed under RCW 63.14.120(1). If the service charge so computed is less than one dollar for any month, then one dollar may be charged.

**NEW SECTION.** **Sec. 8.** The legislature finds as follows:

Emergency medical services and trauma care are provided to all residents of the state regardless of a person's ability to pay. Historically, hospitals and health care providers have been able to recover some of their financial losses incurred in caring for an uninsured or underinsured person by charging persons able to pay more. In recent years, the health care industry has undergone substantial changes. With the advent of managed health care programs and the adoption of new cost control measures, some hospitals and health care providers assert that it is difficult to shift costs for uninsured and underinsured patients onto insured patients.

In 1990 the legislature established a coordinated trauma care system. Part of the 1990 legislation included funding for a study to determine the extent to which trauma care is uncompensated and undercompensated. This study focused exclusively on trauma care. The legislature finds that, as a prerequisite to determining the amount of state aid that may be necessary to assist health care providers and facilities, it is necessary to examine trauma care losses within the context of a health care provider or facility's total financial operations.

***\*NEW SECTION. Sec. 9. The committees on finance and health care of the house of representatives and the committee on health and long-term care of the senate shall jointly review the rules implementing the grant program established pursuant to section 1 of this act. The committees shall additionally conduct joint work sessions and hearings during 1997 to verify that public funds***

*are being used in a fiscally accountable and efficient fashion that maximizes the availability of quality trauma care services. Representatives of verified ambulance services, designated trauma services, physicians who are active members of a trauma care service team at a designated facility, and the department of health shall present financial information associated with trauma care and administrative costs of the trauma system at these hearings.*

\*Sec. 9 was vetoed. See message at end of chapter.

**NEW SECTION.** Sec. 10. The department of health, in cooperation with the department of social and health services, shall monitor the adequacy of the funding mechanisms created in this act. The department of health shall report to the legislature by December 1998 the extent to which these funds covered the cost of uncompensated care in designated trauma care services in the state.

**NEW SECTION.** Sec. 11. Sections 1 through 8 of this act take effect January 1, 1998.

Passed the Senate April 27, 1997.

Passed the House April 27, 1997.

Approved by the Governor May 13, 1997, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State May 13, 1997.

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

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

"AN ACT Relating to funding trauma care services;"

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

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

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

---

## CHAPTER 332

[Substitute Senate Bill 5227]

### NONPROFIT HOSPITAL SALES

AN ACT Relating to nonprofit hospital sales; amending RCW 70.44.007, 70.44.240, and 70.44.300; adding a new section to chapter 70.44 RCW; adding a new chapter to Title 70 RCW; and declaring an emergency.

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

**NEW SECTION.** Sec. 1. The health of the people of our state is a most important public concern. The state has an interest in assuring the continued existence of accessible, affordable health care facilities that are responsive to the needs of the communities in which they exist. The state also has a responsibility

to protect the public interest in nonprofit hospitals and to clarify the responsibilities of local public hospital district boards with respect to public hospital district assets by making certain that the charitable and public assets of those hospitals are managed prudently and safeguarded consistent with their mission under the laws governing nonprofit and municipal corporations.

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

(1) "Department" means the Washington state department of health.

(2) "Hospital" means any entity that is: (a) Defined as a hospital in RCW 70.41.020 and is required to obtain a license under RCW 70.41.090; or (b) a psychiatric hospital required to obtain a license under chapter 71.12 RCW.

(3) "Acquisition" means an acquisition by a person of an interest in a nonprofit hospital, whether by purchase, merger, lease, gift, joint venture, or otherwise, that results in a change of ownership or control of twenty percent or more of the assets of the hospital, or that results in the acquiring person holding or controlling fifty percent or more of the assets of the hospital, but acquisition does not include an acquisition if the acquiring person: (a) Is a nonprofit corporation having a substantially similar charitable health care purpose as the nonprofit corporation from whom the hospital is being acquired, or is a government entity; (b) is exempt from federal income tax under section 501(c)(3) of the internal revenue code or as a government entity; and (c) will maintain representation from the affected community on the local board of the hospital.

(4) "Nonprofit hospital" means a hospital owned by a nonprofit corporation organized under Title 24 RCW.

(5) "Person" means an individual, a trust or estate, a partnership, a corporation including associations, limited liability companies, joint stock companies, and insurance companies.

**NEW SECTION. Sec. 3.** (1) A person may not engage in the acquisition of a nonprofit hospital without first having applied for and received the approval of the department under this chapter.

(2) An application must be submitted to the department on forms provided by the department, and at a minimum must include: The name of the hospital being acquired, the name of the acquiring person or other parties to the acquisition, the acquisition price, a copy of the acquisition agreement, a financial and economic analysis and report from an independent expert or consultant of the effect of the acquisition under the criteria in section 7 of this act, and all other related documents. The applications and all related documents are considered public records for purposes of chapter 42.17 RCW.

(3) The department shall charge an applicant fees sufficient to cover the costs of implementing this chapter. The fees must include the cost of the attorney general's opinion under section 6 of this act. The department shall transfer this portion of the fee, upon receipt, to the attorney general.

**NEW SECTION.** Sec. 4. (1) The department, in consultation with the attorney general, shall determine if the application is complete for the purposes of review. The department may find that an application is incomplete if a question on the application form has not been answered in whole or in part, or has been answered in a manner that does not fairly meet the question addressed, or if the application does not include attachments of supporting documents as required by section 3 of this act. If the department determines that an application is incomplete, it shall notify the applicant within fifteen working days after the date the application was received stating the reasons for its determination of incompleteness, with reference to the particular questions for which a deficiency is noted.

(2) Within five working days after receipt of a completed application, the department shall publish notice of the application in a newspaper of general circulation in the county or counties where the hospital is located and shall notify by first class United States mail, electronic mail, or facsimile transmission, any person who has requested notice of the filing of such applications. The notice must state that an application has been received, state the names of the parties to the agreement, describe the contents of the application, and state the date by which a person may submit written comments about the application to the department.

**NEW SECTION.** Sec. 5. During the course of review under this chapter, the department shall conduct one or more public hearings, at least one of which must be in the county where the hospital to be acquired is located. At the hearings, anyone may file written comments and exhibits or appear and make a statement. The department may subpoena additional information or witnesses, require and administer oaths, require sworn statements, take depositions, and use related discovery procedures for purposes of the hearing and at any time prior to making a decision on the application.

A hearing must be held not later than forty-five days after receipt of a completed application. At least ten days' public notice must be given before the holding of a hearing.

**NEW SECTION.** Sec. 6. (1) The department shall provide the attorney general with a copy of a completed application upon receiving it. The attorney general shall review the completed application, and within forty-five days of the first public hearing held under section 5 of this act shall provide a written opinion to the department as to whether or not the acquisition meets the requirements for approval in section 7 of this act.

(2) The department shall review the completed application to determine whether or not the acquisition meets the requirements for approval in sections 7 and 8 of this act. Within thirty days after receiving the written opinion of the attorney general under subsection (1) of this section, the department shall:

(a) Approve the acquisition, with or without any specific modifications or conditions; or

(b) Disapprove the acquisition.

(3) The department may not make its decision subject to any condition not directly related to requirements in section 7 or 8 of this act, and any condition or modification must bear a direct and rational relationship to the application under review.

(4) A person engaged in an acquisition and affected by a final decision of the department has the right to an adjudicative proceeding under chapter 34.05 RCW. The opinion of the attorney general provided under subsection (1) of this section may not constitute a final decision for purposes of review.

(5) The department or the attorney general may extend, by not more than thirty days, any deadline established under this chapter one time during consideration of any application, for good cause.

**NEW SECTION. Sec. 7.** The department shall only approve an application if the parties to the acquisition have taken the proper steps to safeguard the value of charitable assets and ensure that any proceeds from the acquisition are used for appropriate charitable health purposes. To this end, the department may not approve an application unless, at a minimum, it determines that:

(1) The acquisition is permitted under chapter 24.03 RCW, the Washington nonprofit corporation act, and other laws governing nonprofit entities, trusts, or charities;

(2) The nonprofit corporation that owns the hospital being acquired has exercised due diligence in authorizing the acquisition, selecting the acquiring person, and negotiating the terms and conditions of the acquisition;

(3) The procedures used by the nonprofit corporation's board of trustees and officers in making its decision fulfilled their fiduciary duties, that the board and officers were sufficiently informed about the proposed acquisition and possible alternatives, and that they used appropriate expert assistance;

(4) No conflict of interest exists related to the acquisition, including, but not limited to, conflicts of interest related to board members of, executives of, and experts retained by the nonprofit corporation, acquiring person, or other parties to the acquisition;

(5) The nonprofit corporation will receive fair market value for its assets. The attorney general or the department may employ, at the expense of the acquiring person, reasonably necessary expert assistance in making this determination. This expense must be in addition to the fees charged under section 3 of this act;

(6) Charitable funds will not be placed at unreasonable risk, if the acquisition is financed in part by the nonprofit corporation;

(7) Any management contract under the acquisition will be for fair market value;

(8) The proceeds from the acquisition will be controlled as charitable funds independently of the acquiring person or parties to the acquisition, and will be used for charitable health purposes consistent with the nonprofit corporation's original purpose, including providing health care to the disadvantaged, the uninsured, and

the underinsured and providing benefits to promote improved health in the affected community;

(9) Any charitable entity established to hold the proceeds of the acquisition will be broadly based in and representative of the community where the hospital to be acquired is located, taking into consideration the structure and governance of such entity; and

(10) A right of first refusal to repurchase the assets by a successor nonprofit corporation or foundation has been retained if the hospital is subsequently sold to, acquired by, or merged with another entity.

**NEW SECTION. Sec. 8.** The department shall only approve an application if the acquisition in question will not detrimentally affect the continued existence of accessible, affordable health care that is responsive to the needs of the community in which the hospital to be acquired is located. To this end, the department shall not approve an application unless, at a minimum, it determines that:

(1) Sufficient safeguards are included to assure the affected community continued access to affordable care, and that alternative sources of care are available in the community should the acquisition result in a reduction or elimination of particular health services;

(2) The acquisition will not result in the revocation of hospital privileges;

(3) Sufficient safeguards are included to maintain appropriate capacity for health science research and health care provider education;

(4) The acquiring person and parties to the acquisition are committed to providing health care to the disadvantaged, the uninsured, and the underinsured and to providing benefits to promote improved health in the affected community. Activities and funding provided under section 7(8) of this act may be considered in evaluating compliance with this commitment; and

(5) Sufficient safeguards are included to avoid conflict of interest in patient referral.

**NEW SECTION. Sec. 9.** (1) The secretary of state may not accept any forms or documents in connection with any acquisition of a nonprofit hospital until the acquisition has been approved by the department under this chapter.

(2) The attorney general may seek an injunction to prevent any acquisition not approved by the department under this chapter.

**NEW SECTION. Sec. 10.** The department shall require periodic reports from the nonprofit corporation or its successor nonprofit corporation or foundation and from the acquiring person or other parties to the acquisition to ensure compliance with commitments made. The department may subpoena information and documents and may conduct onsite compliance audits at the acquiring person's expense.

If the department receives information indicating that the acquiring person is not fulfilling commitments to the affected community under section 8 of this act, the department shall hold a hearing upon ten days' notice to the affected parties.

If after the hearing the department determines that the information is true, it may revoke or suspend the hospital license issued to the acquiring person pursuant to the procedure established under RCW 70.41.130, refer the matter to the attorney general for appropriate action, or both. The attorney general may seek a court order compelling the acquiring person to fulfill its commitments under section 8 of this act.

**NEW SECTION.** Sec. 11. The attorney general has the authority to ensure compliance with commitments that inure to the public interest.

**NEW SECTION.** Sec. 12. An acquisition of a hospital completed before the effective date of this act and an acquisition in which an application for a certificate of need under chapter 70.38 RCW has been granted by the department before the effective date of this act is not subject to this chapter.

**NEW SECTION.** Sec. 13. No provision of this chapter derogates from the common law or statutory authority of the attorney general.

**NEW SECTION.** Sec. 14. The department may adopt rules necessary to implement this chapter and may contract with and provide reasonable reimbursement to qualified persons to assist in determining whether the requirements of sections 7 and 8 have been met.

Sec. 15. RCW 70.44.007 and 1982 c 84 s 12 are each amended to read as follows:

As used in this chapter, the following words (~~(shall)~~) have the meanings indicated:

(1) (~~(The words)~~) "Other health care facilities" (~~(shall)~~) means nursing home, extended care, long-term care, outpatient and rehabilitative facilities, ambulances, and such other facilities as are appropriate to the health needs of the population served.

(2) (~~(The words)~~) "Other health care services" (~~(shall)~~) means nursing home, extended care, long-term care, outpatient, rehabilitative, health maintenance, and ambulance services and such other services as are appropriate to the health needs of the population served.

(3) "Public hospital district" or "district" means public health care service district.

Sec. 16. RCW 70.44.240 and 1982 c 84 s 19 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 (~~(or provide services or facilities)~~), 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 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 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.

Sec. 17. RCW 70.44.300 and 1984 c 103 s 4 are each amended to read as follows:

(1) The board of commissioners of any public hospital district may sell and convey at public or private sale real property of the district (~~which~~) if the board (~~has determined~~) determines by resolution that the property is no longer required for public hospital district purposes or determines by resolution that the sale of the property will further the purposes of the public hospital district. (~~Such sale and conveyance may be by deed or real estate contract.~~)

(2) Any sale of district real property authorized pursuant to this section shall be preceded, not more than one year prior to the date of sale, by market value appraisals by three licensed real estate brokers or professionally designated real estate appraisers as defined in RCW 74.46.020 or three independent experts in valuing health care property, selected by the board of commissioners, and no sale shall take place if the sale price would be less than ninety percent of the average of such appraisals.

(3) When the board of commissioners of any public hospital district proposes a sale of district real property pursuant to this section and the value of the property exceeds one hundred thousand dollars, the board shall publish a notice of its intention to sell the property. The notice shall be published at least once each week during two consecutive weeks in a legal newspaper of general circulation within the public hospital district. The notice shall describe the property to be sold and designate the place where and the day and hour when a hearing will be held. The board shall hold a public hearing upon the proposal to dispose of the public hospital district property at the place and the day and hour fixed in the notice and consider evidence offered for and against the propriety and advisability of the proposed sale.

(4) If in the judgment of the board of commissioners of any district the sale of any district real property not needed for public hospital district purposes would be facilitated and greater value realized through use of the services of licensed real estate brokers, a contract for such services may be negotiated and concluded. The fee or commissions charged for any broker service shall not exceed seven percent of the resulting sale price for a single parcel. No licensed real estate broker or professionally designated real estate appraisers as defined in RCW 74.46.020 or independent expert in valuing health care property selected by the board to appraise the market value of a parcel of property to be sold may be a party to any contract

with the public hospital district to sell such property for a period of three years after the appraisal.

**NEW SECTION.** Sec. 18. A new section is added to chapter 70.44 RCW to read as follows:

(1) When evaluating a potential acquisition, the commissioners shall determine their compliance with the following requirements:

(a) That the acquisition is authorized under chapter 70.44 RCW and other laws governing public hospital districts;

(b) That the procedures used in the decision-making process allowed district officials to thoroughly fulfill their due diligence responsibilities as municipal officers, including those covered under chapter 42.23 RCW governing conflicts of interest and chapter 42.20 RCW prohibiting malfeasance of public officials;

(c) That the acquisition will not result in the revocation of hospital privileges;

(d) That sufficient safeguards are included to maintain appropriate capacity for health science research and health care provider education;

(e) That the acquisition is allowed under Article VIII, section 7 of the state Constitution, which prohibits gifts of public funds or lending of credit and Article XI, section 14, prohibiting private use of public funds;

(f) That the public hospital district will retain control over district functions as required under chapter 70.44 RCW and other laws governing hospital districts;

(g) That the activities related to the acquisition process complied with chapters 42.17 and 42.32 RCW, governing disclosure of public records, and chapter 42.30 RCW, governing public meetings;

(h) That the acquisition complies with the requirements of RCW 70.44.300 relating to fair market value; and

(i) Other state laws affecting the proposed acquisition.

(2) The commissioners shall also determine whether the public hospital district should retain a right of first refusal to repurchase the assets by the public hospital district if the hospital is subsequently sold to, acquired by, or merged with another entity.

(3)(a) Prior to approving the acquisition of a district hospital, the board of commissioners of the hospital district shall obtain a written opinion from a qualified independent expert or the Washington state department of health as to whether or not the acquisition meets the standards set forth in section 8 of this act.

(b) Upon request, the hospital district and the person seeking to acquire its hospital shall provide the department or independent expert with any needed information and documents. The department shall charge the hospital district for any costs the department incurs in preparing an opinion under this section. The hospital district may recover from the acquiring person any costs it incurs in obtaining the opinion from either the department or the independent expert. The opinion shall be delivered to the board of commissioners no later than ninety days after it is requested.

(c) Within ten working days after it receives the opinion, the board of commissioners shall publish notice of the opinion in at least one newspaper of general circulation within the hospital district, stating how a person may obtain a copy, and giving the time and location of the hearing required under (d) of this subsection. It shall make a copy of the report and the opinion available to anyone upon request.

(d) Within thirty days after it received the opinion, the board of commissioners shall hold a public hearing regarding the proposed acquisition. The board of commissioners may vote to approve the acquisition no sooner than thirty days following the public hearing.

(4)(a) For purposes of this section, "acquisition" means an acquisition by a person of any interest in a hospital owned by a public hospital district, whether by purchase, merger, lease, or otherwise, that results in a change of ownership or control of twenty percent or more of the assets of a hospital currently licensed and operating under RCW 70.41.090. Acquisition does not include an acquisition where the other party or parties to the acquisition are nonprofit corporations having a substantially similar charitable health care purpose, organizations exempt from federal income tax under section 501(c)(3) of the internal revenue code, or governmental entities. Acquisition does not include an acquisition where the other party is an organization that is a limited liability corporation, a partnership, or any other legal entity and the members, partners, or otherwise designated controlling parties of the organization are all nonprofit corporations having a charitable health care purpose, organizations exempt from federal income tax under section 501(c)(3) of the internal revenue code, or governmental entities. Acquisition does not include activities between two or more governmental organizations, including organizations acting pursuant to chapter 39.34 RCW, regardless of the type of organizational structure used by the governmental entities.

(b) For purposes of this subsection (4), "person" means an individual, a trust or estate, a partnership, a corporation including associations, a limited liability company, a joint stock company, or an insurance company.

**NEW SECTION.** Sec. 19. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

**NEW SECTION.** Sec. 20. Sections 1 through 14 of this act constitute a new chapter in Title 70 RCW.

**\*NEW SECTION.** Sec. 21. *This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.*

\*Sec. 21 was vetoed. See message at end of chapter.

Passed the Senate April 27, 1997.

Passed the House April 27, 1997.

Approved by the Governor May 13, 1997, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State May 13, 1997.

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

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

"AN ACT Relating to nonprofit hospital sales;"

Section 21 of SSB 5227 is an emergency clause requiring the immediate implementation of the bill. Although this legislation is important, it is not a matter necessary for the immediate preservation of the public peace, health or safety, or support of the state government and its existing public institutions. Without section 21, the bill will be effective July 27, 1997.

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

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

## CHAPTER 333

[House Bill 1420]

### LOCAL PUBLIC HEALTH FINANCING—MODIFICATIONS

AN ACT Relating to local public health financing; amending RCW 70.05.125 and 82.14.200; providing an effective date; and declaring an emergency.

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

**Sec. 1.** RCW 70.05.125 and 1995 1st sp.s. c 15 s 1 are each amended to read as follows:

(1) The county public health account is created in the state treasury. Funds deposited in the county public health account shall be distributed by the state treasurer to each local public health jurisdiction based upon amounts certified to it by the department of community, trade, and economic development in consultation with the Washington state association of counties. The account shall include funds distributed under RCW 82.44.110 and 82.14.200(8) and such funds as are appropriated to the account from the health services account under RCW 43.72.900, the public health services account under RCW 43.72.902, and such other funds as the legislature may appropriate to it.

(2)(a) The director of the department of community, trade, and economic development shall certify the amounts to be distributed to each local public health jurisdiction using 1995 as the base year of actual city contributions to local public health.

(b) Only if funds are available and in an amount no greater than available funds under RCW 82.14.200(8), the department of community, trade, and economic development shall adjust the amount certified under (a) of this subsection to compensate for any city that became newly incorporated as a result of an election during calendar year 1994 or 1995. The amount to be adjusted shall be equal to the amount which otherwise would have been lost to the health

jurisdiction due to the incorporation as calculated using the jurisdiction's 1995 funding formula.

(c) The county treasurer shall certify the actual 1995 city contribution to the department. Funds in excess of the base shall be distributed proportionately among the health jurisdictions based on incorporated population figures as last determined by the office of financial management.

(3) Moneys distributed under this section shall be expended exclusively for local public health purposes.

**Sec. 2.** RCW 82.14.200 and 1991 sp.s. c 13 s 15 are each amended to read as follows:

There is created in the state treasury a special account to be known as the "county sales and use tax equalization account." Into this account shall be placed a portion of all motor vehicle excise tax receipts as provided in RCW 82.44.110(1)(f). Funds in this account shall be allocated by the state treasurer according to the following procedure:

(1) Prior to April 1st of each year the director of revenue shall inform the state treasurer of the total and the per capita levels of revenues for the unincorporated area of each county and the state-wide weighted average per capita level of revenues for the unincorporated areas of all counties imposing the sales and use tax authorized under RCW 82.14.030(1) for the previous calendar year.

(2) At such times as distributions are made under RCW 82.44.150, as now or hereafter amended, the state treasurer shall apportion to each county imposing the sales and use tax under RCW 82.14.030(1) at the maximum rate and receiving less than one hundred fifty thousand dollars from the tax for the previous calendar year, an amount from the county sales and use tax equalization account sufficient, when added to the amount of revenues received the previous calendar year by the county, to equal one hundred fifty thousand dollars.

The department of revenue shall establish a governmental price index as provided in this subsection. The base year for the index shall be the end of the third quarter of 1982. Prior to November 1, 1983, and prior to each November 1st thereafter, the department of revenue shall establish another index figure for the third quarter of that year. The department of revenue may use the implicit price deflators for state and local government purchases of goods and services calculated by the United States department of commerce to establish the governmental price index. Beginning on January 1, 1984, and each January 1st thereafter, the one hundred fifty thousand dollar base figure in this subsection shall be adjusted in direct proportion to the percentage change in the governmental price index from 1982 until the year before the adjustment. Distributions made under this subsection for 1984 and thereafter shall use this adjusted base amount figure.

(3) Subsequent to the distributions under subsection (2) of this section and at such times as distributions are made under RCW 82.44.150, as now or hereafter amended, the state treasurer shall apportion to each county imposing the sales and use tax under RCW 82.14.030(1) at the maximum rate and receiving less than

seventy percent of the state-wide weighted average per capita level of revenues for the unincorporated areas of all counties as determined by the department of revenue under subsection (1) of this section, an amount from the county sales and use tax equalization account sufficient, when added to the per capita level of revenues for the unincorporated area received the previous calendar year by the county, to equal seventy percent of the state-wide weighted average per capita level of revenues for the unincorporated areas of all counties determined under subsection (1) of this section, subject to reduction under subsections (6) and (7) of this section. When computing distributions under this section, any distribution under subsection (2) of this section shall be considered revenues received from the tax imposed under RCW 82.14.030(1) for the previous calendar year.

(4) Subsequent to the distributions under subsection (3) of this section and at such times as distributions are made under RCW 82.44.150, as now or hereafter amended, the state treasurer shall apportion to each county imposing the sales and use tax under RCW 82.14.030(2) at the maximum rate and receiving a distribution under subsection (2) of this section, a third distribution from the county sales and use tax equalization account. The distribution to each qualifying county shall be equal to the distribution to the county under subsection (2) of this section, subject to the reduction under subsections (6) and (7) of this section. To qualify for the total distribution under this subsection, the county must impose the tax under RCW 82.14.030(2) for the entire calendar year. Counties imposing the tax for less than the full year shall qualify for prorated allocations under this subsection proportionate to the number of months of the year during which the tax is imposed.

(5) Subsequent to the distributions under subsection (4) of this section and at such times as distributions are made under RCW 82.44.150, as now or hereafter amended, the state treasurer shall apportion to each county imposing the sales and use tax under RCW 82.14.030(2) at the maximum rate and receiving a distribution under subsection (3) of this section, a fourth distribution from the county sales and use tax equalization account. The distribution to each qualifying county shall be equal to the distribution to the county under subsection (3) of this section, subject to the reduction under subsections (6) and (7) of this section. To qualify for the distributions under this subsection, the county must impose the tax under RCW 82.14.030(2) for the entire calendar year. Counties imposing the tax for less than the full year shall qualify for prorated allocations under this subsection proportionate to the number of months of the year during which the tax is imposed.

(6) Revenues distributed under subsections (2) through (5) of this section in any calendar year shall not exceed an amount equal to seventy percent of the state-wide weighted average per capita level of revenues for the unincorporated areas of all counties during the previous calendar year. If distributions under subsections (3) through (5) of this section cannot be made because of this limitation, then distributions under subsections (3) through (5) of this section shall be reduced ratably among the qualifying counties.

(7) If inadequate revenues exist in the county sales and use tax equalization account to make the distributions under subsections (3) through (5) of this section, then the distributions under subsections (3) through (5) of this section shall be reduced ratably among the qualifying counties. At such time during the year as additional funds accrue to the county sales and use tax equalization account, additional distributions shall be made under subsections (3) through (5) of this section to the counties.

(8) If the level of revenues in the county sales and use tax equalization account exceeds the amount necessary to make the distributions under subsections (2) through (5) of this section, at such times as distributions are made under RCW 82.44.150, the state treasurer shall apportion an amount to the county public health account created in RCW 70.05.125 equal to the adjustment under RCW 70.05.125(2)(b).

(9) If the level of revenues in the county sales and use tax equalization account exceeds the amount necessary to make the distributions under subsections (2) through (5) and (8) of this section, then the additional revenues shall be credited and transferred to the state general fund.

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 July 1, 1997.

Passed the House April 14, 1997.

Passed the Senate April 18, 1997.

Approved by the Governor May 13, 1997.

Filed in Office of Secretary of State May 13, 1997.

## CHAPTER 334

[Substitute House Bill 1536]

### RESPIRATORY CARE PRACTITIONERS—LICENSURE

AN ACT Relating to respiratory care; amending RCW 18.89.010, 18.89.020, 18.89.040, 18.89.050, 18.89.060, 18.89.080, 18.89.090, 18.89.110, 18.89.120, 18.89.140, and 18.120.020; reenacting and amending RCW 18.130.040; adding new sections to chapter 18.89 RCW; repealing RCW 18.89.130 and 18.89.900; providing effective dates; and declaring an emergency.

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

Sec. 1. RCW 18.89.010 and 1987 c 415 s 1 are each amended to read as follows:

The legislature finds that ~~((it is necessary to regulate the practice of respiratory care at the level of certification))~~ in order to ~~((protect the public health and safety))~~ safeguard life, health, and to promote public welfare, a person practicing or offering to practice respiratory care as a respiratory care practitioner in this state shall be required to submit evidence that he or she is qualified to practice, and shall be licensed as provided. The settings for these services may include, health facilities licensed in this state, clinics, home care, home health agencies, physicians' offices, and public or community health services. Nothing in this chapter shall be

construed to require that individual or group policies or contracts of an insurance carrier, health care service contractor, or health maintenance organization provide benefits or coverage for services and supplies provided by a person certified under this chapter.

**NEW SECTION. Sec. 2.** A new section is added to chapter 18.89 RCW to read as follows:

After the effective date of this act, it shall be unlawful for a person to practice or to offer to practice as a respiratory care practitioner in this state or to use a title, sign, or device to indicate that such a person is practicing as a respiratory care practitioner unless the person has been duly licensed and registered under the provisions of this chapter.

**Sec. 3.** RCW 18.89.020 and 1994 sp.s. c 9 s 511 are each amended to read as follows:

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

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

(2) "Secretary" means the secretary of health or the secretary's designee.

(3) "Respiratory care practitioner" means an individual (~~certified~~) licensed under this chapter.

(4) "Physician" means an individual licensed under chapter 18.57 or 18.71 RCW.

~~((5) "Rural hospital" means a hospital located anywhere in the state except the following areas:~~

~~—(a) The entire counties of Snohomish (including Camano Island), King, Kitsap, Pierce, Thurston, Clark, and Spokane;~~

~~—(b) Areas within a twenty-mile radius of an urban area with a population exceeding thirty thousand persons; and~~

~~—(c) Those cities or city clusters located in rural counties but which for all practical purposes are urban. These areas are Bellingham, Aberdeen-Hoquiam, Longview-Kelso, Wenatchee, Yakima, Sunnyside, Richland-Kennewick-Paseo, and Walla Walla.)~~

**Sec. 4.** RCW 18.89.040 and 1994 sp.s. c 9 s 716 are each amended to read as follows:

(1) A respiratory care practitioner (~~certified~~) licensed under this chapter is employed in the treatment, management, diagnostic testing, rehabilitation, and care of patients with deficiencies and abnormalities which affect the cardiopulmonary system and associated aspects of other systems, and is under the direct order and under the qualified medical direction of a physician. The practice of respiratory care includes (~~but is not limited to~~):

~~((1))~~ (a) The use and administration of prescribed medical gases, exclusive of general anesthesia;

~~((2))~~ (b) The use of air and oxygen administering apparatus;

~~((3))~~ (c) The use of humidification and aerosols;

~~((4))~~ (d) The administration, to the extent of training, as determined by the secretary, of prescribed pharmacologic agents related to respiratory care;

~~((5))~~ (e) The use of mechanical ~~((or))~~ ventilatory, hyperbaric, and physiological ~~((ventilatory))~~ support:

~~((6))~~ (f) Postural drainage, chest percussion, and vibration;

~~((7))~~ (g) Bronchopulmonary hygiene;

~~((8))~~ (h) Cardiopulmonary resuscitation as it pertains to ~~((establishing airways and external cardiac compression))~~ advanced cardiac life support or pediatric advanced life support guidelines;

~~((9))~~ (i) The maintenance of natural and artificial airways and insertion, without cutting tissues, of artificial airways, as ~~((ordered))~~ prescribed by ~~((the attending))~~ a physician;

~~((10))~~ (j) Diagnostic and monitoring techniques such as the collection and measurement of cardiorespiratory specimens, volumes, pressures, and flows; ~~((and — (11) The drawing and analyzing of))~~ (k) The insertion of devices to draw, analyze, infuse, or monitor pressure in arterial, capillary, ~~((and mixed))~~ or venous blood ~~((specimens))~~ as ~~((ordered))~~ prescribed by ~~((the attending))~~ a physician or an advanced registered nurse practitioner as authorized by the nursing care quality assurance commission under chapter 18.79 RCW; and

(l) Diagnostic monitoring of and therapeutic interventions for desaturation, ventilatory patterns, and related sleep abnormalities to aid the physician in diagnosis.

(2) Nothing in this chapter prohibits or restricts:

(a) The practice of a profession by individuals who are licensed under other laws of this state who are performing services within their authorized scope of practice, that may overlap the services provided by respiratory care practitioners;

(b) The practice of respiratory care by an individual employed by the government of the United States while the individual is engaged in the performance of duties prescribed for him or her by the laws and rules of the United States;

(c) The practice of respiratory care by a person pursuing a supervised course of study leading to a degree or certificate in respiratory care as a part of an accredited and approved educational program, if the person is designated by a title that clearly indicates his or her status as a student or trainee and limited to the extent of demonstrated proficiency of completed curriculum, and under direct supervision;

(d) The use of the title "respiratory care practitioner" by registered nurses authorized under chapter 18.79 RCW; or

(e) The practice without compensation of respiratory care of a family member. Nothing in this chapter shall be construed to require that individual or group policies or contracts of an insurance carrier, health care service contractor, or health maintenance organization provide benefits or coverage for services and supplies provided by a person licensed under this chapter.

Sec. 5. RCW 18.89.050 and 1994 sp.s. c 9 s 512 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 ~~((certification))~~ 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 ~~((certificate))~~ license to any applicant who has met the education, training, and examination requirements for ~~((certification))~~ licensure;
  - (e) Hire clerical, administrative, and investigative staff as needed to implement this chapter and hire individuals ~~((certified))~~ 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 ~~((certification))~~ licensure examination, specifically requiring that applicants must have completed programs 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 ~~((certification))~~ 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 ~~((certificates))~~ licenses to individuals legally credentialed in those states without examination;
  - (j) Define and approve any experience requirement for ~~((certification))~~ 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 ~~((certificates, uncertified))~~ licenses, unlicensed practice, and the disciplining of persons ~~((certified))~~ licensed under this chapter. The secretary shall be the disciplining authority under this chapter.

Sec. 6. RCW 18.89.060 and 1991 c 3 s 229 are each amended to read as follows:

The secretary shall keep an official record of all proceedings, a part of which record shall consist of a register of all applicants for ~~((certification))~~ licensure under this chapter, with the result of each application.

**Sec. 7.** RCW 18.89.080 and 1994 sp.s. c 9 s 513 are each amended to read as follows:

The secretary, ad hoc committee members, or individuals acting on their behalf are immune from suit in any civil action based on any ~~((certification))~~ licensure or disciplinary proceedings, or other official acts performed in the course of their duties.

**Sec. 8.** RCW 18.89.090 and 1991 c 3 s 232 are each amended to read as follows:

~~(1)~~ The secretary shall issue a ~~((certificate))~~ license to any applicant who demonstrates to the secretary's satisfaction that the following requirements have been met:

~~((+))~~ ~~(a)~~ Graduation from a school approved by the secretary or successful completion of alternate training which meets the criteria established by the secretary;

~~((2))~~ ~~(b)~~ Successful completion of an examination administered or approved by the secretary;

~~((3))~~ ~~(c)~~ Successful completion of any experience requirement established by the secretary;

~~((4))~~ ~~(d)~~ Good moral character.

In addition, applicants shall be subject to the grounds for denial or issuance of a conditional ~~((certificate))~~ license under chapter 18.130 RCW.

~~(2)~~ A person who meets the qualifications to be admitted to the examination for ~~((certification))~~ licensure as a respiratory care practitioner may practice as a respiratory care practitioner under the supervision of a respiratory care practitioner ~~((certified))~~ licensed under this chapter between the date of filing an application for ~~((certification))~~ licensure and the announcement of the results of the next succeeding examination for ~~((certification))~~ licensure if that person applies for and takes the first examination for which he or she is eligible.

~~(3)~~ A person certified as a respiratory care practitioner in good standing on the effective date of this act, who applies within one year of the effective date of this act, may be licensed without having completed the two-year curriculum set forth in RCW 18.89.050(1)(f), and without having to retake an examination under subsection (1)(b) of this section.

~~(4)~~ The secretary shall establish by rule what constitutes adequate proof of meeting the criteria.

**Sec. 9.** RCW 18.89.110 and 1996 c 191 s 76 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 ~~((certification))~~ 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 ~~((certification))~~ 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) 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 ~~((certification))~~ licensure requirement.

**Sec. 10.** RCW 18.89.120 and 1996 c 191 s 77 are each amended to read as follows:

Applications for ~~((certification))~~ licensure shall be submitted on forms provided by the secretary. The secretary may require any information and documentation which reasonably relates to the need to determine whether the applicant meets the criteria for ~~((certification))~~ licensure provided in this chapter and chapter 18.130 RCW. All applicants shall comply with administrative procedures, administrative requirements, and fees determined by the secretary under RCW 43.70.250 and 43.70.280.

**Sec. 11.** RCW 18.89.140 and 1996 c 191 s 78 are each amended to read as follows:

~~((Certificates))~~ Licenses shall be renewed according to administrative procedures, administrative requirements, continuing education requirements, and fees determined by the secretary under RCW 43.70.250 and 43.70.280.

**NEW SECTION.** **Sec. 12.** A new section is added to chapter 18.89 RCW to read as follows:

An applicant holding a license in another state may be licensed to practice in this state without examination if the secretary determines that the other state's licensing standards are substantially equivalent to the standards in this state.

**Sec. 13.** RCW 18.120.020 and 1996 c 178 s 9 are each amended to read as follows:

The definitions contained in this section shall apply throughout this chapter unless the context clearly requires otherwise.

(1) "Applicant group" includes any health professional group or organization, any individual, or any other interested party which proposes that any health

professional group not presently regulated be regulated or which proposes to substantially increase the scope of practice of the profession.

(2) "Certificate" and "certification" mean a voluntary process by which a statutory regulatory entity grants recognition to an individual who (a) has met certain prerequisite qualifications specified by that regulatory entity, and (b) may assume or use "certified" in the title or designation to perform prescribed health professional tasks.

(3) "Grandfather clause" means a provision in a regulatory statute applicable to practitioners actively engaged in the regulated health profession prior to the effective date of the regulatory statute which exempts the practitioners from meeting the prerequisite qualifications set forth in the regulatory statute to perform prescribed occupational tasks.

(4) "Health professions" means and includes the following health and health-related licensed or regulated professions and occupations: Podiatric medicine and surgery under chapter 18.22 RCW; chiropractic under chapter 18.25 RCW; dental hygiene under chapter 18.29 RCW; dentistry under chapter 18.32 RCW; denturism under chapter 18.30 RCW; dispensing opticians under chapter 18.34 RCW; hearing ((aids)) instruments under chapter 18.35 RCW; naturopaths under chapter 18.36A RCW; embalming and funeral directing under chapter 18.39 RCW; midwifery under chapter 18.50 RCW; nursing home administration under chapter 18.52 RCW; optometry under chapters 18.53 and 18.54 RCW; ocularists under chapter 18.55 RCW; osteopathic medicine and surgery under chapters 18.57 and 18.57A RCW; pharmacy under chapters 18.64 and 18.64A RCW; medicine under chapters 18.71 and 18.71A RCW; emergency medicine under chapter 18.73 RCW; physical therapy under chapter 18.74 RCW; practical nurses under chapter 18.79 RCW; psychologists under chapter 18.83 RCW; registered nurses under chapter 18.79 RCW; occupational therapists licensed under chapter 18.59 RCW; respiratory care practitioners ((certified)) licensed under chapter 18.89 RCW; veterinarians and animal technicians under chapter 18.92 RCW; health care assistants under chapter 18.135 RCW; massage practitioners under chapter 18.108 RCW; acupuncturists licensed under chapter 18.06 RCW; persons registered or certified under chapter 18.19 RCW; dietitians and nutritionists certified by chapter 18.138 RCW; radiologic technicians under chapter 18.84 RCW; and nursing assistants registered or certified under chapter 18.88A RCW.

(5) "Inspection" means the periodic examination of practitioners by a state agency in order to ascertain whether the practitioners' occupation is being carried out in a fashion consistent with the public health, safety, and welfare.

(6) "Legislative committees of reference" means the standing legislative committees designated by the respective rules committees of the senate and house of representatives to consider proposed legislation to regulate health professions not previously regulated.

(7) "License," "licensing," and "licensure" mean permission to engage in a health profession which would otherwise be unlawful in the state in the absence of

the permission. A license is granted to those individuals who meet prerequisite qualifications to perform prescribed health professional tasks and for the use of a particular title.

(8) "Professional license" means an individual, nontransferable authorization to carry on a health activity based on qualifications which include: (a) Graduation from an accredited or approved program, and (b) acceptable performance on a qualifying examination or series of examinations.

(9) "Practitioner" means an individual who (a) has achieved knowledge and skill by practice, and (b) is actively engaged in a specified health profession.

(10) "Public member" means an individual who is not, and never was, a member of the health profession being regulated or the spouse of a member, or an individual who does not have and never has had a material financial interest in either the rendering of the health professional service being regulated or an activity directly related to the profession being regulated.

(11) "Registration" means the formal notification which, prior to rendering services, a practitioner shall submit to a state agency setting forth the name and address of the practitioner; the location, nature and operation of the health activity to be practiced; and, if required by the regulatory entity, a description of the service to be provided.

(12) "Regulatory entity" means any board, commission, agency, division, or other unit or subunit of state government which regulates one or more professions, occupations, industries, businesses, or other endeavors in this state.

(13) "State agency" includes every state office, department, board, commission, regulatory entity, and agency of the state, and, where provided by law, programs and activities involving less than the full responsibility of a state agency.

**Sec. 14.** RCW 18.130.040 and 1996 c 200 s 32 and 1996 c 81 s 5 are each reenacted and amended to read as follows:

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

(2)(a) The secretary has authority under this chapter in relation to the following professions:

(i) Dispensing opticians licensed under chapter 18.34 RCW;

(ii) Naturopaths licensed under chapter 18.36A RCW;

(iii) Midwives licensed under chapter 18.50 RCW;

(iv) Ocularists licensed under chapter 18.55 RCW;

(v) Massage operators and businesses licensed under chapter 18.108 RCW;

(vi) Dental hygienists licensed under chapter 18.29 RCW;

(vii) Acupuncturists licensed under chapter 18.06 RCW;

(viii) Radiologic technologists certified and X-ray technicians registered under chapter 18.84 RCW;

(ix) Respiratory care practitioners ((eertified)) licensed under chapter 18.89 RCW;

(x) Persons registered or certified under chapter 18.19 RCW;

(xi) Persons registered as nursing pool operators under chapter 18.52C RCW;

(xii) Nursing assistants registered or certified under chapter 18.79 RCW;

(xiii) Health care assistants certified under chapter 18.135 RCW;

(xiv) Dietitians and nutritionists certified under chapter 18.138 RCW;

(xv) Sex offender treatment providers certified under chapter 18.155 RCW;

(xvi) Persons licensed and certified under chapter 18.73 RCW or RCW 18.71.205;

(xvii) Persons registered as adult family home providers and resident managers under RCW 18.48.020; and

(xviii) Denturists licensed under chapter 18.30 RCW.

(b) The boards and commissions having authority under this chapter are as follows:

(i) The podiatric medical board as established in chapter 18.22 RCW;

(ii) The chiropractic quality assurance commission as established in chapter 18.25 RCW;

(iii) The dental quality assurance commission as established in chapter 18.32 RCW;

(iv) The board of hearing and speech as established in chapter 18.35 RCW;

(v) The board of examiners for nursing home administrators as established in chapter 18.52 RCW;

(vi) The optometry board as established in chapter 18.54 RCW governing licenses issued under chapter 18.53 RCW;

(vii) The board of osteopathic medicine and surgery as established in chapter 18.57 RCW governing licenses issued under chapters 18.57 and 18.57A RCW;

(viii) The board of pharmacy as established in chapter 18.64 RCW governing licenses issued under chapters 18.64 and 18.64A RCW;

(ix) The medical quality assurance commission as established in chapter 18.71 RCW governing licenses and registrations issued under chapters 18.71 and 18.71A RCW;

(x) The board of physical therapy as established in chapter 18.74 RCW;

(xi) The board of occupational therapy practice as established in chapter 18.59 RCW;

(xii) The nursing care quality assurance commission as established in chapter 18.79 RCW governing licenses issued under that chapter;

(xiii) The examining board of psychology and its disciplinary committee as established in chapter 18.83 RCW; and

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

(3) In addition to the authority to discipline license holders, the disciplining authority has the authority to grant or deny licenses based on the conditions and criteria published in this chapter and the chapters specified in subsection (2) of

this section. This chapter also governs any investigation, hearing, or proceeding relating to denial of licensure or issuance of a license conditioned on the applicant's compliance with an order entered pursuant to RCW 18.130.160 by the disciplining authority.

(4) All disciplining authorities shall adopt procedures to ensure substantially consistent application of this chapter, the Uniform Disciplinary Act, among the disciplining authorities listed in subsection (2) of this section.

**NEW SECTION.** Sec. 15. The following acts or parts of acts are each repealed:

- (1) RCW 18.89.130 and 1991 c 3 s 236 & 1987 c 415 s 14; and
- (2) RCW 18.89.900 and 1987 c 415 s 20.

**NEW SECTION.** Sec. 16. (1) Sections 5, 9, and 10 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect July 1, 1997.

(2) Sections 1 through 4, 6 through 8, and 11 through 15 of this act take effect July 1, 1998.

Passed the House April 19, 1997.

Passed the Senate April 10, 1997.

Approved by the Governor May 13, 1997.

Filed in Office of Secretary of State May 13, 1997.

## CHAPTER 335

[House Bill 1982]

### BASIC HEALTH PLAN ELIGIBILITY FOR PERSONS IN INSTITUTIONS

AN ACT Relating to defining basic health plan eligibility for persons in institutions; and reenacting and amending RCW 70.47.020 and 70.47.060.

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

**Sec. 1.** RCW 70.47.020 and 1995 c 266 s 2 and 1995 c 2 s 3 are each reenacted and amended to read as follows:

As used in this chapter:

(1) "Washington basic health plan" or "plan" means the system of enrollment and payment on a prepaid capitated basis for basic health care services, administered by the plan administrator through participating managed health care systems, created by this chapter.

(2) "Administrator" means the Washington basic health plan administrator, who also holds the position of administrator of the Washington state health care authority.

(3) "Managed health care system" means any health care organization, including health care providers, insurers, health care service contractors, health maintenance organizations, or any combination thereof, that provides directly or by contract basic health care services, as defined by the administrator and rendered

by duly licensed providers, on a prepaid capitated basis to a defined patient population enrolled in the plan and in the managed health care system.

(4) "Subsidized enrollee" means an individual, or an individual plus the individual's spouse or dependent children(:); (a) Who is not eligible for medicare(:); (b) who is not confined or residing in a government-operated institution, unless he or she meets eligibility criteria adopted by the administrator; (c) who resides in an area of the state served by a managed health care system participating in the plan(:); (d) whose gross family income at the time of enrollment does not exceed twice the federal poverty level as adjusted for family size and determined annually by the federal department of health and human services(:); and (e) who chooses to obtain basic health care coverage from a particular managed health care system in return for periodic payments to the plan.

(5) "Nonsubsidized enrollee" means an individual, or an individual plus the individual's spouse or dependent children(:); (a) Who is not eligible for medicare(:); (b) who is not confined or residing in a government-operated institution, unless he or she meets eligibility criteria adopted by the administrator; (c) who resides in an area of the state served by a managed health care system participating in the plan(~~(, and)~~); (d) who chooses to obtain basic health care coverage from a particular managed health care system(:); and (e) who pays or on whose behalf is paid the full costs for participation in the plan, without any subsidy from the plan.

(6) "Subsidy" means the difference between the amount of periodic payment the administrator makes to a managed health care system on behalf of a subsidized enrollee plus the administrative cost to the plan of providing the plan to that subsidized enrollee, and the amount determined to be the subsidized enrollee's responsibility under RCW 70.47.060(2).

(7) "Premium" means a periodic payment, based upon gross family income which an individual, their employer or another financial sponsor makes to the plan as consideration for enrollment in the plan as a subsidized enrollee or a nonsubsidized enrollee.

(8) "Rate" means the per capita amount, negotiated by the administrator with and paid to a participating managed health care system, that is based upon the enrollment of subsidized and nonsubsidized enrollees in the plan and in that system.

**Sec. 2.** RCW 70.47.060 and 1995 c 266 s 1 and 1995 c 2 s 4 are each reenacted and amended to read as follows:

The administrator has the following powers and duties:

(1) To design and from time to time revise a schedule of covered basic health care services, including physician services, inpatient and outpatient hospital services, prescription drugs and medications, and other services that may be necessary for basic health care. In addition, the administrator may offer as basic health plan services chemical dependency services, mental health services and organ transplant services; however, no one service or any combination of these

three services shall increase the actuarial value of the basic health plan benefits by more than five percent excluding inflation, as determined by the office of financial management. All subsidized and nonsubsidized enrollees in any participating managed health care system under the Washington basic health plan shall be entitled to receive covered services in return for premium payments to the plan. The schedule of services shall emphasize proven preventive and primary health care and shall include all services necessary for prenatal, postnatal, and well-child care. However, with respect to coverage for groups of subsidized enrollees who are eligible to receive prenatal and postnatal services through the medical assistance program under chapter 74.09 RCW, the administrator shall not contract for such services except to the extent that such services are necessary over not more than a one-month period in order to maintain continuity of care after diagnosis of pregnancy by the managed care provider. The schedule of services shall also include a separate schedule of basic health care services for children, eighteen years of age and younger, for those subsidized or nonsubsidized enrollees who choose to secure basic coverage through the plan only for their dependent children. In designing and revising the schedule of services, the administrator shall consider the guidelines for assessing health services under the mandated benefits act of 1984, RCW 48.42.080, and such other factors as the administrator deems appropriate.

However, with respect to coverage for subsidized enrollees who are eligible to receive prenatal and postnatal services through the medical assistance program under chapter 74.09 RCW, the administrator shall not contract for such services except to the extent that the services are necessary over not more than a one-month period in order to maintain continuity of care after diagnosis of pregnancy by the managed care provider.

(2)(a) To design and implement a structure of periodic premiums due the administrator from subsidized enrollees that is based upon gross family income, giving appropriate consideration to family size and the ages of all family members. The enrollment of children shall not require the enrollment of their parent or parents who are eligible for the plan. The structure of periodic premiums shall be applied to subsidized enrollees entering the plan as individuals pursuant to subsection (9) of this section and to the share of the cost of the plan due from subsidized enrollees entering the plan as employees pursuant to subsection (10) of this section.

(b) To determine the periodic premiums due the administrator from nonsubsidized enrollees. Premiums due from nonsubsidized enrollees shall be in an amount equal to the cost charged by the managed health care system provider to the state for the plan plus the administrative cost of providing the plan to those enrollees and the premium tax under RCW 48.14.0201.

(c) An employer or other financial sponsor may, with the prior approval of the administrator, pay the premium, rate, or any other amount on behalf of a subsidized or nonsubsidized enrollee, by arrangement with the enrollee and through a

mechanism acceptable to the administrator, but in no case shall the payment made on behalf of the enrollee exceed the total premiums due from the enrollee.

(d) To develop, as an offering by all health carriers providing coverage identical to the basic health plan, a model plan benefits package with uniformity in enrollee cost-sharing requirements.

(3) To design and implement a structure of enrollee cost sharing due a managed health care system from subsidized and nonsubsidized enrollees. The structure shall discourage inappropriate enrollee utilization of health care services, and may utilize copayments, deductibles, and other cost-sharing mechanisms, but shall not be so costly to enrollees as to constitute a barrier to appropriate utilization of necessary health care services.

(4) To limit enrollment of persons who qualify for subsidies so as to prevent an overexpenditure of appropriations for such purposes. Whenever the administrator finds that there is danger of such an overexpenditure, the administrator shall close enrollment until the administrator finds the danger no longer exists.

(5) To limit the payment of subsidies to subsidized enrollees, as defined in RCW 70.47.020. The level of subsidy provided to persons who qualify may be based on the lowest cost plans, as defined by the administrator.

(6) To adopt a schedule for the orderly development of the delivery of services and availability of the plan to residents of the state, subject to the limitations contained in RCW 70.47.080 or any act appropriating funds for the plan.

(7) To solicit and accept applications from managed health care systems, as defined in this chapter, for inclusion as eligible basic health care providers under the plan. The administrator shall endeavor to assure that covered basic health care services are available to any enrollee of the plan from among a selection of two or more participating managed health care systems. In adopting any rules or procedures applicable to managed health care systems and in its dealings with such systems, the administrator shall consider and make suitable allowance for the need for health care services and the differences in local availability of health care resources, along with other resources, within and among the several areas of the state. Contracts with participating managed health care systems shall ensure that basic health plan enrollees who become eligible for medical assistance may, at their option, continue to receive services from their existing providers within the managed health care system if such providers have entered into provider agreements with the department of social and health services.

(8) To receive periodic premiums from or on behalf of subsidized and nonsubsidized enrollees, deposit them in the basic health plan operating account, keep records of enrollee status, and authorize periodic payments to managed health care systems on the basis of the number of enrollees participating in the respective managed health care systems.

(9) To accept applications from individuals residing in areas served by the plan, on behalf of themselves and their spouses and dependent children, for

enrollment in the Washington basic health plan as subsidized or nonsubsidized enrollees, to establish appropriate minimum-enrollment periods for enrollees as may be necessary, and to determine, upon application and on a reasonable schedule defined by the authority, or at the request of any enrollee, eligibility due to current gross family income for sliding scale premiums. No subsidy may be paid with respect to any enrollee whose current gross family income exceeds twice the federal poverty level or, subject to RCW 70.47.110, who is a recipient of medical assistance or medical care services under chapter 74.09 RCW. If, as a result of an eligibility review, the administrator determines that a subsidized enrollee's income exceeds twice the federal poverty level and that the enrollee knowingly failed to inform the plan of such increase in income, the administrator may bill the enrollee for the subsidy paid on the enrollee's behalf during the period of time that the enrollee's income exceeded twice the federal poverty level. If a number of enrollees drop their enrollment for no apparent good cause, the administrator may establish appropriate rules or requirements that are applicable to such individuals before they will be allowed to reenroll in the plan.

(10) To accept applications from business owners on behalf of themselves and their employees, spouses, and dependent children, as subsidized or nonsubsidized enrollees, who reside in an area served by the plan. The administrator may require all or the substantial majority of the eligible employees of such businesses to enroll in the plan and establish those procedures necessary to facilitate the orderly enrollment of groups in the plan and into a managed health care system. The administrator may require that a business owner pay at least an amount equal to what the employee pays after the state pays its portion of the subsidized premium cost of the plan on behalf of each employee enrolled in the plan. Enrollment is limited to those not eligible for medicare who wish to enroll in the plan and choose to obtain the basic health care coverage and services from a managed care system participating in the plan. The administrator shall adjust the amount determined to be due on behalf of or from all such enrollees whenever the amount negotiated by the administrator with the participating managed health care system or systems is modified or the administrative cost of providing the plan to such enrollees changes.

(11) To determine the rate to be paid to each participating managed health care system in return for the provision of covered basic health care services to enrollees in the system. Although the schedule of covered basic health care services will be the same for similar enrollees, the rates negotiated with participating managed health care systems may vary among the systems. In negotiating rates with participating systems, the administrator shall consider the characteristics of the populations served by the respective systems, economic circumstances of the local area, the need to conserve the resources of the basic health plan trust account, and other factors the administrator finds relevant.

(12) To monitor the provision of covered services to enrollees by participating managed health care systems in order to assure enrollee access to good quality basic health care, to require periodic data reports concerning the utilization of

health care services rendered to enrollees in order to provide adequate information for evaluation, and to inspect the books and records of participating managed health care systems to assure compliance with the purposes of this chapter. In requiring reports from participating managed health care systems, including data on services rendered enrollees, the administrator shall endeavor to minimize costs, both to the managed health care systems and to the plan. The administrator shall coordinate any such reporting requirements with other state agencies, such as the insurance commissioner and the department of health, to minimize duplication of effort.

(13) To evaluate the effects this chapter has on private employer-based health care coverage and to take appropriate measures consistent with state and federal statutes that will discourage the reduction of such coverage in the state.

(14) To develop a program of proven preventive health measures and to integrate it into the plan wherever possible and consistent with this chapter.

(15) To provide, consistent with available funding, assistance for rural residents, underserved populations, and persons of color.

(16) In consultation with appropriate state and local government agencies, to establish criteria defining eligibility for persons confined or residing in government-operated institutions.

Passed the House April 22, 1997.

Passed the Senate April 18, 1997.

Approved by the Governor May 13, 1997.

Filed in Office of Secretary of State May 13, 1997.

## CHAPTER 336

[Substitute House Bill 2227]

### HEALTH SERVICES PROVIDERS UNDER INDUSTRIAL INSURANCE—REQUIREMENTS

AN ACT Relating to health services providers under industrial insurance; amending RCW 51.48.280; adding a new section to chapter 51.36 RCW; and prescribing penalties.

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

**Sec. I.** RCW 51.48.280 and 1986 c 200 s 6 are each amended to read as follows:

(1) Any person, firm, corporation, partnership, association, agency, institution, or other legal entity, that solicits or receives any remuneration (including any kickback, bribe, or rebate) directly or indirectly, overtly or covertly, in cash or in kind:

(a) In return for referring an individual to a person for the furnishing or arranging for the furnishing of any item or service for which payment may be made in whole or in part under this chapter; or

(b) In return for purchasing, leasing, ordering, or arranging for or recommending purchasing, leasing, or ordering any goods, facility, service, or item for which payment may be made in whole or in part under this chapter;

shall be guilty of a class C felony(~~(- PROVIDED, That)~~). However, the fine, if imposed, shall not be in an amount more than twenty-five thousand dollars, except as authorized by RCW 9A.20.030.

(2) Any person, firm, corporation, partnership, association, agency, institution, or other legal entity, that offers or pays any remuneration (including any kickback, bribe, or rebate) directly or indirectly, overtly or covertly, in cash or in kind to any person to induce such person:

(a) To refer an individual to a person for the furnishing or arranging for the furnishing of any item or service for which payment may be made, in whole or in part, under this chapter; or

(b) To purchase, lease, order, or arrange for or recommend purchasing, leasing, or ordering any goods, facility, service, or item for which payment may be made in whole or in part under this chapter;

shall be guilty of a class C felony(~~(- PROVIDED, That)~~). However, the fine, if imposed, shall not be in an amount more than twenty-five thousand dollars, except as authorized by RCW 9A.20.030.

(3) A health services provider who (a) provides a health care service to a claimant, while acting as the claimant's representative for the purpose of obtaining authorization for the services, and (b) charges a percentage of the claimant's benefits or other fee for acting as the claimant's representative under this title shall be guilty of a gross misdemeanor. However, the fine, if imposed, shall not be in an amount more than twenty-five thousand dollars, except as authorized by RCW 9A.20.030.

(4) Subsections (1) and (2) of this section shall not apply to:

(a) A discount or other reduction in price obtained by a provider of services or other entity under this chapter if the reduction in price is properly disclosed and appropriately reflected in the costs claimed or charges made by the provider or entity under this chapter; and

(b) Any amount paid by an employer to an employee (who has a bona fide employment relationship with such employer) for employment in the provision of covered items or services.

~~((4))~~ (5) Subsections (1) and (2) of this section, if applicable to the conduct involved, shall supersede the criminal provisions of chapter 19.68 RCW, but shall not preclude administrative proceedings authorized by chapter 19.68 RCW.

NEW SECTION. **Sec. 2.** A new section is added to chapter 51.36 RCW to read as follows:

In addition to other authority granted under this chapter, the department may deny applications of health care providers to participate as a provider of services to injured workers under this title, or terminate or suspend providers' eligibility to participate, if the provider uses or causes or promotes the use of, advertising matter, promotional materials, or other representation, however disseminated or published, that is false, misleading, or deceptive with respect to the industrial insurance system or benefits for injured workers under this title.

Passed the House April 22, 1997.  
Passed the Senate April 18, 1997.  
Approved by the Governor May 13, 1997.  
Filed in Office of Secretary of State May 13, 1997.

---

## CHAPTER 337

[Substitute House Bill 2279]

### BASIC HEALTH PLAN—REVISIONS

AN ACT Relating to the basic health plan; amending RCW 70.47.015, 48.43.025, 48.43.035, 48.41.060, 48.41.030, 70.47.120, and 70.47.130; reenacting and amending RCW 70.47.060; providing an effective date; and declaring an emergency.

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

**Sec. 1.** RCW 70.47.015 and 1995 c 265 s 1 are each amended to read as follows:

(1) The legislature finds that the basic health plan has been an effective program in providing health coverage for uninsured residents. Further, since 1993, substantial amounts of public funds have been allocated for subsidized basic health plan enrollment.

(2) It is the intent of the legislature that the basic health plan enrollment be expanded expeditiously, consistent with funds available in the health services account, with the goal of two hundred thousand adult subsidized basic health plan enrollees and one hundred thirty thousand children covered through expanded medical assistance services by June 30, 1997, with the priority of providing needed health services to children in conjunction with other public programs.

(3) Effective January 1, 1996, basic health plan enrollees whose income is less than one hundred twenty-five percent of the federal poverty level shall pay at least a ten-dollar premium share.

(4) No later than July 1, 1996, the administrator shall implement procedures whereby hospitals licensed under chapters 70.41 and 71.12 RCW, health carrier, rural health care facilities regulated under chapter 70.175 RCW, and community and migrant health centers funded under RCW 41.05.220, may expeditiously assist patients and their families in applying for basic health plan or medical assistance coverage, and in submitting such applications directly to the health care authority or the department of social and health services. The health care authority and the department of social and health services shall make every effort to simplify and expedite the application and enrollment process.

(5) No later than July 1, 1996, the administrator shall implement procedures whereby health insurance agents and brokers, licensed under chapter 48.17 RCW, may expeditiously assist patients and their families in applying for basic health plan or medical assistance coverage, and in submitting such applications directly to the health care authority or the department of social and health services. Brokers and agents ~~((shall be entitled to))~~ may receive a commission for each individual sale of the basic health plan to anyone not ~~((at anytime previously))~~ signed up

within the previous five years and a commission for each group sale of the basic health plan, if funding for this purpose is provided in a specific appropriation to the health care authority. No commission shall be provided upon a renewal. Commissions shall be determined based on the estimated annual cost of the basic health plan, however, commissions shall not result in a reduction in the premium amount paid to health carriers. For purposes of this section "health carrier" is as defined in RCW 48.43.005. The administrator may establish: (a) Minimum educational requirements that must be completed by the agents or brokers; (b) an appointment process for agents or brokers marketing the basic health plan; or (c) standards for revocation of the appointment of an agent or broker to submit applications for cause, including untrustworthy or incompetent conduct or harm to the public. The health care authority and the department of social and health services shall make every effort to simplify and expedite the application and enrollment process.

Sec. 2. RCW 70.47.060 and 1995 c 266 s 1 and 1995 c 2 s 4 are each reenacted and amended to read as follows:

The administrator has the following powers and duties:

(1) To design and from time to time revise a schedule of covered basic health care services, including physician services, inpatient and outpatient hospital services, prescription drugs and medications, and other services that may be necessary for basic health care. In addition, the administrator may, to the extent that funds are available, offer as basic health plan services chemical dependency services, mental health services and organ transplant services; however, no one service or any combination of these three services shall increase the actuarial value of the basic health plan benefits by more than five percent excluding inflation, as determined by the office of financial management. All subsidized and nonsubsidized enrollees in any participating managed health care system under the Washington basic health plan shall be entitled to receive ~~((covered basic health care services))~~ covered basic health care services in return for premium payments to the plan. The schedule of services shall emphasize proven preventive and primary health care and shall include all services necessary for prenatal, postnatal, and well-child care. However, with respect to coverage for groups of subsidized enrollees who are eligible to receive prenatal and postnatal services through the medical assistance program under chapter 74.09 RCW, the administrator shall not contract for such services except to the extent that such services are necessary over not more than a one-month period in order to maintain continuity of care after diagnosis of pregnancy by the managed care provider. The schedule of services shall also include a separate schedule of basic health care services for children, eighteen years of age and younger, for those subsidized or nonsubsidized enrollees who choose to secure basic coverage through the plan only for their dependent children. In designing and revising the schedule of services, the administrator shall consider the guidelines for assessing health services under the mandated benefits

act of 1984, RCW 48.42.080, and such other factors as the administrator deems appropriate.

However, with respect to coverage for subsidized enrollees who are eligible to receive prenatal and postnatal services through the medical assistance program under chapter 74.09 RCW, the administrator shall not contract for such services except to the extent that the services are necessary over not more than a one-month period in order to maintain continuity of care after diagnosis of pregnancy by the managed care provider.

(2)(a) To design and implement a structure of periodic premiums due the administrator from subsidized enrollees that is based upon gross family income, giving appropriate consideration to family size and the ages of all family members. The enrollment of children shall not require the enrollment of their parent or parents who are eligible for the plan. The structure of periodic premiums shall be applied to subsidized enrollees entering the plan as individuals pursuant to subsection (9) of this section and to the share of the cost of the plan due from subsidized enrollees entering the plan as employees pursuant to subsection (10) of this section.

(b) To determine the periodic premiums due the administrator from nonsubsidized enrollees. Premiums due from nonsubsidized enrollees shall be in an amount equal to the cost charged by the managed health care system provider to the state for the plan plus the administrative cost of providing the plan to those enrollees and the premium tax under RCW 48.14.0201.

(c) An employer or other financial sponsor may, with the prior approval of the administrator, pay the premium, rate, or any other amount on behalf of a subsidized or nonsubsidized enrollee, by arrangement with the enrollee and through a mechanism acceptable to the administrator (~~(-but in no case shall the payment made on behalf of the enrollee exceed the total premiums due from the enrollee)).~~

(d) To develop, as an offering by all health carriers providing coverage identical to the basic health plan, a model plan benefits package with uniformity in enrollee cost-sharing requirements.

(3) To design and implement a structure of enrollee cost sharing due a managed health care system from subsidized and nonsubsidized enrollees. The structure shall discourage inappropriate enrollee utilization of health care services, and may utilize copayments, deductibles, and other cost-sharing mechanisms, but shall not be so costly to enrollees as to constitute a barrier to appropriate utilization of necessary health care services.

(4) To limit enrollment of persons who qualify for subsidies so as to prevent an overexpenditure of appropriations for such purposes. Whenever the administrator finds that there is danger of such an overexpenditure, the administrator shall close enrollment until the administrator finds the danger no longer exists.

(5) To limit the payment of subsidies to subsidized enrollees, as defined in RCW 70.47.020. The level of subsidy provided to persons who qualify may be based on the lowest cost plans, as defined by the administrator.

(6) To adopt a schedule for the orderly development of the delivery of services and availability of the plan to residents of the state, subject to the limitations contained in RCW 70.47.080 or any act appropriating funds for the plan.

(7) To solicit and accept applications from managed health care systems, as defined in this chapter, for inclusion as eligible basic health care providers under the plan. The administrator shall endeavor to assure that covered basic health care services are available to any enrollee of the plan from among a selection of two or more participating managed health care systems. In adopting any rules or procedures applicable to managed health care systems and in its dealings with such systems, the administrator shall consider and make suitable allowance for the need for health care services and the differences in local availability of health care resources, along with other resources, within and among the several areas of the state. Contracts with participating managed health care systems shall ensure that basic health plan enrollees who become eligible for medical assistance may, at their option, continue to receive services from their existing providers within the managed health care system if such providers have entered into provider agreements with the department of social and health services.

(8) To receive periodic premiums from or on behalf of subsidized and nonsubsidized enrollees, deposit them in the basic health plan operating account, keep records of enrollee status, and authorize periodic payments to managed health care systems on the basis of the number of enrollees participating in the respective managed health care systems.

(9) To accept applications from individuals residing in areas served by the plan, on behalf of themselves and their spouses and dependent children, for enrollment in the Washington basic health plan as subsidized or nonsubsidized enrollees, to establish appropriate minimum-enrollment periods for enrollees as may be necessary, and to determine, upon application and on a reasonable schedule defined by the authority, or at the request of any enrollee, eligibility due to current gross family income for sliding scale premiums. No subsidy may be paid with respect to any enrollee whose current gross family income exceeds twice the federal poverty level or, subject to RCW 70.47.110, who is a recipient of medical assistance or medical care services under chapter 74.09 RCW. If, as a result of an eligibility review, the administrator determines that a subsidized enrollee's income exceeds twice the federal poverty level and that the enrollee knowingly failed to inform the plan of such increase in income, the administrator may bill the enrollee for the subsidy paid on the enrollee's behalf during the period of time that the enrollee's income exceeded twice the federal poverty level. If a number of enrollees drop their enrollment for no apparent good cause, the administrator may establish appropriate rules or requirements that are applicable to such individuals before they will be allowed to reenroll in the plan.

(10) To accept applications from business owners on behalf of themselves and their employees, spouses, and dependent children, as subsidized or nonsubsidized enrollees, who reside in an area served by the plan. The administrator may require all or the substantial majority of the eligible employees of such businesses to enroll in the plan and establish those procedures necessary to facilitate the orderly enrollment of groups in the plan and into a managed health care system. The administrator may require that a business owner pay at least an amount equal to what the employee pays after the state pays its portion of the subsidized premium cost of the plan on behalf of each employee enrolled in the plan. Enrollment is limited to those not eligible for medicare who wish to enroll in the plan and choose to obtain the basic health care coverage and services from a managed care system participating in the plan. The administrator shall adjust the amount determined to be due on behalf of or from all such enrollees whenever the amount negotiated by the administrator with the participating managed health care system or systems is modified or the administrative cost of providing the plan to such enrollees changes.

(11) To determine the rate to be paid to each participating managed health care system in return for the provision of covered basic health care services to enrollees in the system. Although the schedule of covered basic health care services will be the same for similar enrollees, the rates negotiated with participating managed health care systems may vary among the systems. In negotiating rates with participating systems, the administrator shall consider the characteristics of the populations served by the respective systems, economic circumstances of the local area, the need to conserve the resources of the basic health plan trust account, and other factors the administrator finds relevant.

(12) To monitor the provision of covered services to enrollees by participating managed health care systems in order to assure enrollee access to good quality basic health care, to require periodic data reports concerning the utilization of health care services rendered to enrollees in order to provide adequate information for evaluation, and to inspect the books and records of participating managed health care systems to assure compliance with the purposes of this chapter. In requiring reports from participating managed health care systems, including data on services rendered enrollees, the administrator shall endeavor to minimize costs, both to the managed health care systems and to the plan. The administrator shall coordinate any such reporting requirements with other state agencies, such as the insurance commissioner and the department of health, to minimize duplication of effort.

(13) To evaluate the effects this chapter has on private employer-based health care coverage and to take appropriate measures consistent with state and federal statutes that will discourage the reduction of such coverage in the state.

(14) To develop a program of proven preventive health measures and to integrate it into the plan wherever possible and consistent with this chapter.

(15) To provide, consistent with available funding, assistance for rural residents, underserved populations, and persons of color.

*\*Sec. 3. RCW 48.43.025 and 1997 c . . . s 203 (Engrossed Substitute House Bill No. 2018) are each amended to read as follows:*

*(1) Except as permitted in RCW 48.43.035 or otherwise specified in this section (~~and in RCW 48.43.035~~):*

*(a) No carrier may reject an individual for health plan coverage based upon preexisting conditions of the individual.*

*(b) No carrier may deny, exclude, or otherwise limit coverage for an individual's preexisting health conditions; except that a carrier may impose a three-month benefit waiting period for preexisting conditions for which medical advice was given, or for which a health care provider recommended or provided treatment within three months before the effective date of coverage.*

*(c) Every health carrier offering any individual health plan to any individual must allow open enrollment to eligible applicants into all individual health plans offered by the carrier during the full months of July and August of each year. The individual health plans exempt from guaranteed continuity under RCW 48.43.035(4) are exempt from this requirement. All applications for open enrollment coverage must be complete and postmarked to or received by the carrier in the months of July or August in any year following July 27, 1997. Coverage for these applicants must begin the first day of the next month subject to receipt of timely payment consistent with the terms of the policies.*

*(d) At any time other than the open enrollment period specified in (c) of this subsection, a carrier may either decline to accept an applicant for enrollment or apply to such applicant's coverage a preexisting condition benefit waiting period not to exceed the amount of time remaining until the next open enrollment period, or three months, whichever is greater, provided that in either case all of the following conditions are met:*

*(i) The applicant has not maintained coverage as required in (f) of this subsection;*

*(ii) The applicant is not applying as a newly eligible dependent meeting the requirements of (g) of this subsection; and*

*(iii) The carrier uses uniform health evaluation criteria and practices among all individual health plans it offers.*

*(e) If a carrier exercises the options specified in (d) of this subsection it must advise the applicant in writing within ten business days of such decision. Notice of the availability of Washington state health insurance pool coverage and a brochure outlining the benefits and exclusions of the Washington state health insurance pool policy or policies must be provided in accordance with RCW 48.41.180 to any person rejected for individual health plan coverage, who has had any health condition limited or excluded through health underwriting or who otherwise meets requirements for notice in chapter 48.41 RCW. Provided timely and complete application is received by the pool, eligible individuals shall be enrolled in the Washington state health insurance pool in an expeditious manner as determined by the board of directors of the pool.*

*(f) A carrier may not refuse enrollment at any time based upon health evaluation criteria to otherwise eligible applicants who have been covered for any part of the three-month period immediately preceding the date of application for the new individual health plan under a comparable group or individual health benefit plan with substantially similar benefits. For purposes of this subsection, in addition to provisions in RCW 48.43.015, the following publicly administered coverage shall be considered comparable health benefit plans: The basic health plan established by chapter 70.47 RCW; the medical assistance program established by chapter 74.09 RCW; and the Washington state health insurance pool, established by chapter 48.41 RCW, as long as the person is continuously enrolled in the pool until the next open enrollment period. If the person is enrolled in the pool for less than three months, she or he will be credited for that period up to three months.*

*(g) A carrier must accept for enrollment all newly eligible dependents of an enrollee for enrollment onto the enrollee's individual health plan at any time of the year, provided application is made within sixty-three days of eligibility, or such longer time as provided by law or contract.*

*(h) At no time are carriers required to accept for enrollment any individual residing outside the state of Washington, except for qualifying dependents who reside outside the carrier service area.*

*(2) No carrier may avoid the requirements of this section through the creation of a new rate classification or the modification of an existing rate classification. A new or changed rate classification will be deemed an attempt to avoid the provisions of this section if the new or changed classification would substantially discourage applications for coverage from individuals or groups who are higher than average health risks. The provisions of this section apply only to individuals who are Washington residents.*

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

*\*Sec. 4. RCW 48.43.035 and 1997 c . . . s 204 (Engrossed Substitute House Bill No. 2018) are each amended to read as follows:*

*(1) Except as permitted in RCW 48.43.025 or otherwise specified in this section (~~and in RCW 48.43.025~~), every health carrier shall accept for enrollment any state resident 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 (6) 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. In the case of group plans, 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;*

*(g) Change or implementation of federal or state laws that no longer permit the continued offering of such coverage; or*

*(h) Cessation of a plan in accordance with subsection (5) or (7) of this section.*

*(4) The provisions of this section do not apply in the following cases:*

*(a) A carrier has zero enrollment on a product;*

*(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; or*

*(c) 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) A health carrier may discontinue or materially modify a particular health plan, only if:*

*(a) The health carrier provides notice to each covered person or group provided coverage of this type of such discontinuation or modification at least ninety days prior to the date of the discontinuation or modification of coverage;*

*(b) The health carrier offers to each covered person or group provided coverage of this type the option to purchase any other health plan currently being offered by the health carrier to similar covered persons in the market category and geographic area; and*

*(c) In exercising the option to discontinue or modify a particular health plan and in offering the option of coverage under (b) of this subsection, the health carrier acts uniformly without regard to any health-status related factor of covered persons or persons who may become eligible for coverage.*

*(6) 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.*

*(7) A health carrier may discontinue all health plan coverage in one or more of the following lines of business:*

*(a)(i) Individual; or*

*(ii)(A) Small group (1-50 eligible employees); and*

*(B) Large group (51+ eligible employees);*

*(b) Only if:*

*(i) The health carrier provides notice to the office of the insurance commissioner and to each person covered by a plan within the line of business of such discontinuation at least one hundred eighty days prior to the expiration of coverage; and*

*(ii) All plans issued or delivered in the state by the health carrier in such line of business are discontinued, and coverage under such plans in such line of business is not renewed; and*

*(iii) The health carrier may not issue any health plan coverage in the line of business and state involved during the five-year period beginning on the date of the discontinuation of the last health plan not so renewed.*

*(8) The portability provisions of RCW 48.43.015 continue to apply to all enrollees whose health insurance coverage is modified or discontinued pursuant to this section.*

*(9) Nothing in this section modifies a health carrier's responsibility to offer the basic health plan model plan as required by RCW 70.47.060(2)(d).*

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

Sec. 5. RCW 48.41.060 and 1997 c . . . s 211 (Engrossed Substitute House Bill No. 2018) are each amended to read as follows:

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 may:

(1) 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;

(2) 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;

(3) Establish appropriate rates, rate schedules, rate adjustments, expense allowances, agent referral fees, 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 small group plan rating requirements under RCW ((~~48.20.028, 48.44.022, and 48.46.064~~) 48.44.023 and 48.46.066;

(4) 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;

(5) Issue policies of health coverage in accordance with the requirements of this chapter;

(6) 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

(7) 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.

**Sec. 6.** RCW 48.41.030 and 1997 c . . . (Engrossed Substitute House Bill No. 2018) s 210 are each amended to read as follows:

**HEALTH INSURANCE POOL—DEFINITIONS.** As used in this chapter, the following terms have the meaning indicated, unless the context 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.

~~((6))~~ (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.

~~((7))~~ (8) "Health care services" means services for the purpose of preventing, alleviating, curing, or healing human illness or injury.

~~((8))~~ (9) "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, civilian health and medical program for the uniform services (CHAMPUS), 10 U.S.C. 55, 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.

~~((9))~~ (10) "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 ~~((8))~~ (9) of this section.

~~((10))~~ (11) "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.

~~((11))~~ (12) "Medicare" means coverage under Title XVIII of the Social Security Act, (42 U.S.C. Sec. 1395 et seq., as amended).

~~((12))~~ (13) "Member" means any commercial insurer which provides disability insurance, any health care service contractor, and any health maintenance organization licensed under Title 48 RCW. "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 ~~((8))~~ (9) of this section.

~~((13))~~ (14) "Network provider" means a health care provider who has contracted in writing with the pool administrator to accept payment from and to look solely to the pool according to the terms of the pool health plans.

~~((14))~~ (15) "Plan of operation" means the pool, including articles, by-laws, and operating rules, adopted by the board pursuant to RCW 48.41.050.

~~((15))~~ (16) "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.

~~((16))~~ (17) "Pool" means the Washington state health insurance pool as created in RCW 48.41.040.

~~((17))~~ (18) "Substantially equivalent health plan" means a "health plan" as defined in subsection ~~((9))~~ (10) of this section which, in the judgment of the board or the administrator, offers persons including dependents or spouses covered or making application to be covered by this pool an overall level of benefits deemed approximately equivalent to the minimum benefits available under this pool.

**Sec. 7.** RCW 70.47.120 and 1987 1st ex.s. c 5 s 14 are each amended to read as follows:

In addition to the powers and duties specified in RCW 70.47.040 and 70.47.060, the administrator has the power to enter into contracts for the following functions and services:

(1) With public or private agencies, to assist the administrator in her or his duties to design or revise the schedule of covered basic health care services, and/or to monitor or evaluate the performance of participating managed health care systems.

(2) With public or private agencies, to provide technical or professional assistance to health care providers, particularly public or private nonprofit organizations and providers serving rural areas, who show serious intent and apparent capability to participate in the plan as managed health care systems.

(3) With public or private agencies, including health care service contractors registered under RCW 48.44.015, and doing business in the state, for marketing and administrative services in connection with participation of managed health care systems, enrollment of enrollees, billing and collection services to the administrator, and other administrative functions ordinarily performed by health care service contractors, other than insurance. Any activities of a health care service contractor pursuant to a contract with the administrator under this section shall be exempt from the provisions and requirements of Title 48 RCW except that persons appointed or authorized to solicit applications for enrollment in the basic health plan shall comply with chapter 48.17 RCW.

**Sec. 8.** RCW 70.47.130 and 1994 c 309 s 6 are each amended to read as follows:

(1) The activities and operations of the Washington basic health plan under this chapter, including those of managed health care systems to the extent of their

participation in the plan, are exempt from the provisions and requirements of Title 48 RCW (~~except as provided in RCW 70.47.070 and that the premium and prepayment tax imposed under RCW 48.14.0201 shall apply to amounts paid to a managed health care system by the basic health plan for participating in the basic health plan and providing health care services for nonsubsidized enrollees in the basic health plan~~) except:

(a) Benefits as provided in RCW 70.47.070;

(b) Persons appointed or authorized to solicit applications for enrollment in the basic health plan, including employees of the health care authority, must comply with chapter 48.17 RCW. For purposes of this subsection (1)(b), "solicit" does not include distributing information and applications for the basic health plan and responding to questions; and

(c) Amounts paid to a managed health care system by the basic health plan for participating in the basic health plan and providing health care services for nonsubsidized enrollees in the basic health plan must comply with RCW 48.14.0201.

(2) The purpose of the 1994 amendatory language to this section in chapter 309, Laws of 1994 is to clarify the intent of the legislature that premiums paid on behalf of nonsubsidized enrollees in the basic health plan are subject to the premium and prepayment tax. The legislature does not consider this clarifying language to either raise existing taxes nor to impose a tax that did not exist previously.

NEW SECTION. Sec. 9. Sections 1 and 2 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect July 1, 1997.

Passed the House April 27, 1997.

Passed the Senate April 27, 1997.

Approved by the Governor May 13, 1997, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State May 13, 1997.

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

"I am returning herewith, without my approval as to sections 3 and 4, Substitute House Bill No. 2279 entitled:

"AN ACT Relating to the basic health plan;"

I have vetoed sections 3 and 4 of SHB 2279 because they amend sections of ESHB 2018 that I have already vetoed. Section 3 makes reference to Section 203 of ESHB 2018 which would have limited the open enrollment period for health insurance to two months per year. This section represents a significant change to current policy and could require individuals to wait as long as 13 months for regular health insurance coverage.

Section 4 of SHB 2279 makes reference to section 204 of ESHB 2108 which would have allowed health carriers the option to discontinue or modify a particular plan with ninety days' notice to enrollees, with no requirement that comparable benefits be offered in another plan. Again, this is a significant change to current law which requires that carriers may not discontinue a plan unless the carrier offers a comparable product as an alternative.

For these reasons, I have vetoed sections 3 and 4 of Substitute House Bill No. 2279.

With the exception of sections 3 and 4, I am approving Substitute House Bill No. 2279."

---

**CHAPTER 338**

[Engrossed Third Substitute House Bill 3900]

**JUVENILE OFFENDERS**

AN ACT Relating to offenders; amending RCW 5.60.060, 9.94A.040, 13.04.011, 13.40.010, 13.40.0357, 13.40.0357, 13.40.040, 13.40.045, 13.40.050, 13.40.060, 13.40.070, 13.40.077, 13.40.100, 13.40.110, 13.40.130, 13.40.135, 13.40.150, 13.40.160, 13.40.190, 13.40.193, 13.40.200, 13.40.210, 13.40.230, 13.40.250, 13.40.265, 13.40.320, 13.50.010, 13.50.050, 72.01.410, 72.09.460, 9A.36.045, 9A.36.050, 9.41.010, 9.41.040, 9.94A.103, 9.94A.105, 9.94A.310, 10.99.020, 10.99.040, 10.99.050, 82.44.110, 69.50.520, and 13.40.080; reenacting and amending RCW 9.94A.030, 9.94A.120, 9.94A.360, 13.04.030, 13.40.020, 13.40.020, 9.94A.320, and 9A.46.060; adding new sections to chapter 13.40 RCW; adding a new section to chapter 70.96A RCW; adding a new section to chapter 72.01 RCW; adding a new section to chapter 43.121 RCW; creating new sections; repealing RCW 9.94A.045, 13.40.025, 13.40.075, 13.40.125, and 13.40.0354; prescribing penalties; providing effective dates; providing expiration dates; and declaring an emergency.

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

**Sec. 1.** RCW 5.60.060 and 1996 c 156 s 1 are each amended to read as follows:

(1) A husband shall not be examined for or against his wife, without the consent of the wife, nor a wife for or against her husband without the consent of the husband; nor can either during marriage or afterward, be without the consent of the other, examined as to any communication made by one to the other during marriage. But this exception shall not apply to a civil action or proceeding by one against the other, nor to a criminal action or proceeding for a crime committed by one against the other, nor to a criminal action or proceeding against a spouse if the marriage occurred subsequent to the filing of formal charges against the defendant, nor to a criminal action or proceeding for a crime committed by said husband or wife against any child of whom said husband or wife is the parent or guardian, nor to a proceeding under chapter 70.96A or 71.05 RCW: **PROVIDED**, That the spouse of a person sought to be detained under chapter 70.96A or 71.05 RCW may not be compelled to testify and shall be so informed by the court prior to being called as a witness.

(2)(a) An attorney or counselor shall not, without the consent of his or her client, be examined as to any communication made by the client to him or her, or his or her advice given thereon in the course of professional employment.

(b) A parent or guardian of a minor child arrested on a criminal charge may not be examined as to a communication between the child and his or her attorney if the communication was made in the presence of the parent or guardian. This privilege does not extend to communications made prior to the arrest.

(3) A member of the clergy or a priest shall not, without the consent of a person making the confession, be examined as to any confession made to him or her in his or her professional character, in the course of discipline enjoined by the church to which he or she belongs.

(4) Subject to the limitations under RCW 70.96A.140 or 71.05.250, a physician or surgeon or osteopathic physician or surgeon shall not, without the consent of his or her patient, be examined in a civil action as to any information acquired in attending such patient, which was necessary to enable him or her to prescribe or act for the patient, except as follows:

(a) In any judicial proceedings regarding a child's injury, neglect, or sexual abuse or the cause thereof; and

(b) Ninety days after filing an action for personal injuries or wrongful death, the claimant shall be deemed to waive the physician-patient privilege. Waiver of the physician-patient privilege for any one physician or condition constitutes a waiver of the privilege as to all physicians or conditions, subject to such limitations as a court may impose pursuant to court rules.

(5) A public officer shall not be examined as a witness as to communications made to him or her in official confidence, when the public interest would suffer by the disclosure.

(6)(a) A peer support group counselor shall not, without consent of the law enforcement officer making the communication, be compelled to testify about any communication made to the counselor by the officer while receiving counseling. The counselor must be designated as such by the sheriff, police chief, or chief of the Washington state patrol, prior to the incident that results in counseling. The privilege only applies when the communication was made to the counselor while acting in his or her capacity as a peer support group counselor. The privilege does not apply if the counselor was an initial responding officer, a witness, or a party to the incident which prompted the delivery of peer support group counseling services to the law enforcement officer.

(b) For purposes of this section, "peer support group counselor" means a:

(i) Law enforcement officer, or civilian employee of a law enforcement agency, who has received training to provide emotional and moral support and counseling to an officer who needs those services as a result of an incident in which the officer was involved while acting in his or her official capacity; or

(ii) Nonemployee counselor who has been designated by the sheriff, police chief, or chief of the Washington state patrol to provide emotional and moral support and counseling to an officer who needs those services as a result of an incident in which the officer was involved while acting in his or her official capacity.

(7) A sexual assault advocate may not, without the consent of the victim, be examined as to any communication made by the victim to the sexual assault advocate.

(a) For purposes of this section, "sexual assault advocate" means the employee or volunteer from a rape crisis center, victim assistance unit, program, or association, that provides information, medical or legal advocacy, counseling, or support to victims of sexual assault, who is designated by the victim to accompany the victim to the hospital or other health care facility and to proceedings concerning

the alleged assault, including police and prosecution interviews and court proceedings.

(b) A sexual assault advocate may disclose a confidential communication without the consent of the victim if failure to disclose is likely to result in a clear, imminent risk of serious physical injury or death of the victim or another person. Any sexual assault advocate participating in good faith in the disclosing of records and communications under this section shall have immunity from any liability, civil, criminal, or otherwise, that might result from the action. In any proceeding, civil or criminal, arising out of a disclosure under this section, the good faith of the sexual assault advocate who disclosed the confidential communication shall be presumed.

**Sec. 2.** RCW 9.94A.030 and 1996 c 289 s 1 and 1996 c 275 s 5 are each reenacted and amended to read as follows:

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

(1) "Collect," or any derivative thereof, "collect and remit," or "collect and deliver," when used with reference to the department of corrections, means that the department is responsible for monitoring and enforcing the offender's sentence with regard to the legal financial obligation, receiving payment thereof from the offender, and, consistent with current law, delivering daily the entire payment to the superior court clerk without depositing it in a departmental account.

(2) "Commission" means the sentencing guidelines commission.

(3) "Community corrections officer" means an employee of the department who is responsible for carrying out specific duties in supervision of sentenced offenders and monitoring of sentence conditions.

(4) "Community custody" means that portion of an inmate's sentence of confinement in lieu of earned early release time or imposed pursuant to RCW 9.94A.120 (6), (8), or (10) served in the community subject to controls placed on the inmate's movement and activities by the department of corrections.

(5) "Community placement" means that period during which the offender is subject to the conditions of community custody and/or postrelease supervision, which begins either upon completion of the term of confinement (postrelease supervision) or at such time as the offender is transferred to community custody in lieu of earned early release. Community placement may consist of entirely community custody, entirely postrelease supervision, or a combination of the two.

(6) "Community service" means compulsory service, without compensation, performed for the benefit of the community by the offender.

(7) "Community supervision" means a period of time during which a convicted offender is subject to crime-related prohibitions and other sentence conditions imposed by a court pursuant to this chapter or RCW 16.52.200(6) or 46.61.524. For first-time offenders, the supervision may include crime-related prohibitions and other conditions imposed pursuant to RCW 9.94A.120(5). For purposes of the interstate compact for out-of-state supervision of parolees and

probationers, RCW 9.95.270, community supervision is the functional equivalent of probation and should be considered the same as probation by other states.

(8) "Confinement" means total or partial confinement as defined in this section.

(9) "Conviction" means an adjudication of guilt pursuant to Titles 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and acceptance of a plea of guilty.

(10) "Court-ordered legal financial obligation" means a sum of money that is ordered by a superior court of the state of Washington for legal financial obligations which may include restitution to the victim, statutorily imposed crime victims' compensation fees as assessed pursuant to RCW 7.68.035, court costs, county or interlocal drug funds, court-appointed attorneys' fees, and costs of defense, fines, and any other financial obligation that is assessed to the offender as a result of a felony conviction. Upon conviction for vehicular assault while under the influence of intoxicating liquor or any drug, RCW 46.61.522(1)(b), or vehicular homicide while under the influence of intoxicating liquor or any drug, RCW 46.61.520(1)(a), legal financial obligations may also include payment to a public agency of the expense of an emergency response to the incident resulting in the conviction, subject to the provisions in RCW 38.52.430.

(11) "Crime-related prohibition" means an order of a court prohibiting conduct that directly relates to the circumstances of the crime for which the offender has been convicted, and shall not be construed to mean orders directing an offender affirmatively to participate in rehabilitative programs or to otherwise perform affirmative conduct.

(12)((a)) "Criminal history" means the list of a defendant's prior convictions and juvenile adjudications, whether in this state, in federal court, or elsewhere. The history shall include, where known, for each conviction ((+)) (a) whether the defendant has been placed on probation and the length and terms thereof; and ((+)) (b) whether the defendant has been incarcerated and the length of incarceration.

~~((b) "Criminal history" shall always include juvenile convictions for sex offenses and serious violent offenses and shall also include a defendant's other prior convictions in juvenile court if: (i) The conviction was for an offense which is a felony or a serious traffic offense and is criminal history as defined in RCW 13.40.020(9); (ii) the defendant was fifteen years of age or older at the time the offense was committed; and (iii) with respect to prior juvenile class B and C felonies or serious traffic offenses, the defendant was less than twenty-three years of age at the time the offense for which he or she is being sentenced was committed.))~~

(13) "Day fine" means a fine imposed by the sentencing judge that equals the difference between the offender's net daily income and the reasonable obligations that the offender has for the support of the offender and any dependents.

(14) "Day reporting" means a program of enhanced supervision designed to monitor the defendant's daily activities and compliance with sentence conditions, and in which the defendant is required to report daily to a specific location designated by the department or the sentencing judge.

(15) "Department" means the department of corrections.

(16) "Determinate sentence" means a sentence that states with exactitude the number of actual years, months, or days of total confinement, of partial confinement, of community supervision, the number of actual hours or days of community service work, or dollars or terms of a legal financial obligation. The fact that an offender through "earned early release" can reduce the actual period of confinement shall not affect the classification of the sentence as a determinate sentence.

(17) "Disposable earnings" means that part of the earnings of an individual remaining after the deduction from those earnings of any amount required by law to be withheld. For the purposes of this definition, "earnings" means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonuses, or otherwise, and, notwithstanding any other provision of law making the payments exempt from garnishment, attachment, or other process to satisfy a court-ordered legal financial obligation, specifically includes periodic payments pursuant to pension or retirement programs, or insurance policies of any type, but does not include payments made under Title 50 RCW, except as provided in RCW 50.40.020 and 50.40.050, or Title 74 RCW.

(18) "Drug offense" means:

(a) Any felony violation of chapter 69.50 RCW except possession of a controlled substance (RCW 69.50.401(d)) or forged prescription for a controlled substance (RCW 69.50.403);

(b) Any offense defined as a felony under federal law that relates to the possession, manufacture, distribution, or transportation of a controlled substance; or

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

(19) "Escape" means:

(a) Escape in the first degree (RCW 9A.76.110), escape in the second degree (RCW 9A.76.120), willful failure to return from furlough (RCW 72.66.060), willful failure to return from work release (RCW 72.65.070), or willful failure to be available for supervision by the department while in community custody (RCW 72.09.310); or

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

(20) "Felony traffic offense" means:

(a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW 46.61.522), eluding a police officer (RCW 46.61.024), or felony hit-and-run injury-accident (RCW 46.52.020(4)); or

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

(21) "Fines" means the requirement that the offender pay a specific sum of money over a specific period of time to the court.

(22)~~((a))~~ "First-time offender" means any person who is convicted of a felony ~~((#))~~ (a) not classified as a violent offense or a sex offense under this chapter, or ~~((#))~~ (b) that is not the manufacture, delivery, or possession with intent to manufacture or deliver a controlled substance classified in schedule I or II that is a narcotic drug, nor the manufacture, delivery, or possession with intent to deliver methamphetamine, its salts, isomers, and salts of its isomers as defined in RCW 69.50.206(d)(2), nor the selling for profit of any controlled substance or counterfeit substance classified in schedule I, RCW 69.50.204, except leaves and flowering tops of marihuana, ~~((and except as provided in (b) of this subsection;))~~ who previously has never been convicted of a felony in this state, federal court, or another state, and who has never participated in a program of deferred prosecution for a felony offense.

~~((b) For purposes of (a) of this subsection, a juvenile adjudication for an offense committed before the age of fifteen years is not a previous felony conviction except for adjudications of sex offenses and serious violent offenses.))~~

(23) "Most serious offense" means any of the following felonies or a felony attempt to commit any of the following felonies, as now existing or hereafter amended:

(a) Any felony defined under any law as a class A felony or criminal solicitation of or criminal conspiracy to commit a class A felony;

(b) Assault in the second degree;

(c) Assault of a child in the second degree;

(d) Child molestation in the second degree;

(e) Controlled substance homicide;

(f) Extortion in the first degree;

(g) Incest when committed against a child under age fourteen;

(h) Indecent liberties;

(i) Kidnapping in the second degree;

(j) Leading organized crime;

(k) Manslaughter in the first degree;

(l) Manslaughter in the second degree;

(m) Promoting prostitution in the first degree;

(n) Rape in the third degree;

(o) Robbery in the second degree;

(p) Sexual exploitation;

(q) Vehicular assault;

(r) Vehicular homicide, when proximately caused by the driving of any vehicle by any person while under the influence of intoxicating liquor or any drug

as defined by RCW 46.61.502, or by the operation of any vehicle in a reckless manner;

(s) Any other class B felony offense with a finding of sexual motivation, as "sexual motivation" is defined under this section;

(t) Any other felony with a deadly weapon verdict under RCW 9.94A.125;

(u) Any felony offense in effect at any time prior to December 2, 1993, that is comparable to a most serious offense under this subsection, or any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a most serious offense under this subsection.

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

(25) "Offender" means a person who has committed a felony established by state law and is eighteen years of age or older or is less than eighteen years of age but whose case is under superior court jurisdiction under RCW 13.04.030 or has been transferred by the appropriate juvenile court to a criminal court pursuant to RCW 13.40.110. Throughout this chapter, the terms "offender" and "defendant" are used interchangeably.

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

(27) "Persistent offender" is an offender who:

(a)(i) Has been convicted in this state of any felony considered a most serious offense; and

(ii) Has, before the commission of the offense under (a) of this subsection, been convicted as an offender on at least two separate occasions, whether in this state or elsewhere, of felonies that under the laws of this state would be considered most serious offenses and would be included in the offender score under RCW 9.94A.360; provided that of the two or more previous convictions, at least one conviction must have occurred before the commission of any of the other most serious offenses for which the offender was previously convicted; or

(b)(i) Has been convicted of (A) rape in the first degree, rape in the second degree, or indecent liberties by forcible compulsion; (B) murder in the first degree, murder in the second degree, kidnapping in the first degree, kidnapping in the second degree, assault in the first degree, assault in the second degree, or burglary in the first degree, with a finding of sexual motivation; or (C) an attempt to commit any crime listed in this subsection (27)(b)(i); and

(ii) Has, before the commission of the offense under (b)(i) of this subsection, been convicted as an offender on at least one occasion, whether in this state or elsewhere, of an offense listed in (b)(i) of this subsection.

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

(29) "Restitution" means the requirement that the offender pay a specific sum of money over a specific period of time to the court as payment of damages. The sum may include both public and private costs. The imposition of a restitution order does not preclude civil redress.

(30) "Serious traffic offense" means:

(a) Driving while under the influence of intoxicating liquor or any drug (RCW 46.61.502), actual physical control while under the influence of intoxicating liquor or any drug (RCW 46.61.504), reckless driving (RCW 46.61.500), or hit-and-run an attended vehicle (RCW 46.52.020(5)); or

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

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

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

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

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

(33) "Sex offense" means:

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

(b) A felony with a finding of sexual motivation under RCW 9.94A.127 or 13.40.135; or

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

(34) "Sexual motivation" means that one of the purposes for which the defendant committed the crime was for the purpose of his or her sexual gratification.

(35) "Total confinement" means confinement inside the physical boundaries of a facility or institution operated or utilized under contract by the state or any other unit of government for twenty-four hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

(36) "Transition training" means written and verbal instructions and assistance provided by the department to the offender during the two weeks prior to the offender's successful completion of the work ethic camp program. The transition

training shall include instructions in the offender's requirements and obligations during the offender's period of community custody.

(37) "Victim" means any person who has sustained emotional, psychological, physical, or financial injury to person or property as a direct result of the crime charged.

(38) "Violent offense" means:

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

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

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

(39) "Work crew" means a program of partial confinement consisting of civic improvement tasks for the benefit of the community of not less than thirty-five hours per week that complies with RCW 9.94A.135. The civic improvement tasks shall have minimal negative impact on existing private industries or the labor force in the county where the service or labor is performed. The civic improvement tasks shall not affect employment opportunities for people with developmental disabilities contracted through sheltered workshops as defined in RCW 82.04.385. Only those offenders sentenced to a facility operated or utilized under contract by a county or the state are eligible to participate on a work crew. Offenders sentenced for a sex offense as defined in subsection (33) of this section are not eligible for the work crew program.

(40) "Work ethic camp" means an alternative incarceration program designed to reduce recidivism and lower the cost of corrections by requiring offenders to complete a comprehensive array of real-world job and vocational experiences, character-building work ethics training, life management skills development, substance abuse rehabilitation, counseling, literacy training, and basic adult education.

(41) "Work release" means a program of partial confinement available to offenders who are employed or engaged as a student in a regular course of study at school. Participation in work release shall be conditioned upon the offender

attending work or school at regularly defined hours and abiding by the rules of the work release facility.

(42) "Home detention" means a program of partial confinement available to offenders wherein the offender is confined in a private residence subject to electronic surveillance.

**Sec. 3.** RCW 9.94A.040 and 1996 c 232 s 1 are each amended to read as follows:

(1) A sentencing guidelines commission is established as an agency of state government.

(2) The legislature finds that the commission, having accomplished its original statutory directive to implement this chapter, and having expertise in sentencing practice and policies, shall:

(a) Evaluate state sentencing policy, to include whether the sentencing ranges and standards are consistent with and further:

(i) The purposes of this chapter as defined in RCW 9.94A.010; and

(ii) The intent of the legislature to emphasize confinement for the violent offender and alternatives to confinement for the nonviolent offender.

The commission shall provide the governor and the legislature with its evaluation and recommendations under this subsection not later than December 1, 1996, and every two years thereafter;

(b) Recommend to the legislature revisions or modifications to the standard sentence ranges, state sentencing policy, prosecuting standards, and other standards. If implementation of the revisions or modifications would result in exceeding the capacity of correctional facilities, then the commission shall accompany its recommendation with an additional list of standard sentence ranges which are consistent with correction capacity;

(c) Study the existing criminal code and from time to time make recommendations to the legislature for modification;

(d)(i) Serve as a clearinghouse and information center for the collection, preparation, analysis, and dissemination of information on state and local adult and juvenile sentencing practices; (ii) develop and maintain a computerized adult and juvenile sentencing information system by individual superior court judge consisting of offender, offense, history, and sentence information entered from judgment and sentence forms for all adult felons; and (iii) conduct ongoing research regarding adult and juvenile sentencing guidelines, use of total confinement and alternatives to total confinement, plea bargaining, and other matters relating to the improvement of the adult criminal justice system and the juvenile justice system;

(e) Assume the powers and duties of the juvenile disposition standards commission after June 30, 1996;

(f) Evaluate the effectiveness of existing disposition standards and related statutes in implementing policies set forth in RCW 13.40.010 generally, specifically review the guidelines relating to the confinement of minor and first

offenders as well as the use of diversion, and review the application of current and proposed juvenile sentencing standards and guidelines for potential adverse impacts on the sentencing outcomes of racial and ethnic minority youth;

(g) Solicit the comments and suggestions of the juvenile justice community concerning disposition standards, and make recommendations to the legislature regarding revisions or modifications of the standards (~~(in accordance with RCW 9.94A.045)~~). The evaluations shall be submitted to the legislature on December 1 of each odd-numbered year. The department of social and health services shall provide the commission with available data concerning the implementation of the disposition standards and related statutes and their effect on the performance of the department's responsibilities relating to juvenile offenders, and with recommendations for modification of the disposition standards. The office of the administrator for the courts shall provide the commission with available data on diversion and dispositions of juvenile offenders under chapter 13.40 RCW; and

(h) Not later than December 1, 1997, and at least every two years thereafter, based on available information, report to the governor and the legislature on:

(i) Racial disproportionality in juvenile and adult sentencing;

(ii) The capacity of state and local juvenile and adult facilities and resources; and

(iii) Recidivism information on adult and juvenile offenders.

(3) Each of the commission's recommended standard sentence ranges shall include one or more of the following: Total confinement, partial confinement, community supervision, community service, and a fine.

(4) The standard sentence ranges of total and partial confinement under this chapter are subject to the following limitations:

(a) If the maximum term in the range is one year or less, the minimum term in the range shall be no less than one-third of the maximum term in the range, except that if the maximum term in the range is ninety days or less, the minimum term may be less than one-third of the maximum;

(b) If the maximum term in the range is greater than one year, the minimum term in the range shall be no less than seventy-five percent of the maximum term in the range; and

(c) The maximum term of confinement in a range may not exceed the statutory maximum for the crime as provided in RCW 9A.20.021.

(5) The commission shall exercise its duties under this section in conformity with chapter 34.05 RCW.

**Sec. 4.** RCW 9.94A.120 and 1996 c 275 s 2, 1996 c 215 s 5, 1996 c 199 s 1, and 1996 c 93 s 1 are each reenacted and amended to read as follows:

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

(1) Except as authorized in subsections (2), (4), (5), (6), and (8) of this section, the court shall impose a sentence within the sentence range for the offense.

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

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

(4) A persistent offender shall be sentenced to a term of total confinement for life without the possibility of parole or, when authorized by RCW 10.95.030 for the crime of aggravated murder in the first degree, sentenced to death, notwithstanding the maximum sentence under any other law. An offender convicted of the crime of murder in the first degree shall be sentenced to a term of total confinement not less than twenty years. An offender convicted of the crime of assault in the first degree or assault of a child in the first degree where the offender used force or means likely to result in death or intended to kill the victim shall be sentenced to a term of total confinement not less than five years. An offender convicted of the crime of rape in the first degree shall be sentenced to a term of total confinement not less than five years. The foregoing minimum terms of total confinement are mandatory and shall not be varied or modified as provided in subsection (2) of this section. In addition, all offenders subject to the provisions of this subsection shall not be eligible for community custody, earned early release time, furlough, home detention, partial confinement, work crew, work release, or any other form of early release as defined under RCW 9.94A.150 (1), (2), (3), (5), (7), or (8), or any other form of authorized leave of absence from the correctional facility while not in the direct custody of a corrections officer or officers during such minimum terms of total confinement except in the case of an offender in need of emergency medical treatment or for the purpose of commitment to an inpatient treatment facility in the case of an offender convicted of the crime of rape in the first degree.

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

- (a) Devote time to a specific employment or occupation;
- (b) Undergo available outpatient treatment for up to two years, or inpatient treatment not to exceed the standard range of confinement for that offense;
- (c) Pursue a prescribed, secular course of study or vocational training;
- (d) Remain within prescribed geographical boundaries and notify the court or the community corrections officer prior to any change in the offender's address or employment;
- (e) Report as directed to the court and a community corrections officer; or

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

(6)(a) An offender is eligible for the special drug offender sentencing alternative if:

(i) The offender is convicted of the manufacture, delivery, or possession with intent to manufacture or deliver a controlled substance classified in Schedule I or II that is a narcotic drug or a felony that is, under chapter 9A.28 RCW or RCW 69.50.407, a criminal attempt, criminal solicitation, or criminal conspiracy to commit such crimes, and the violation does not involve a sentence enhancement under RCW 9.94A.310 (3) or (4);

(ii) The offender has no prior convictions for a felony in this state, another state, or the United States; and

(iii) The offense involved only a small quantity of the particular controlled substance as determined by the judge upon consideration of such factors as the weight, purity, packaging, sale price, and street value of the controlled substance.

(b) If the midpoint of the standard range is greater than one year and the sentencing judge determines that the offender is eligible for this option and that the offender and the community will benefit from the use of the special drug offender sentencing alternative, the judge may waive imposition of a sentence within the standard range and impose a sentence that must include a period of total confinement in a state facility for one-half of the midpoint of the standard range. During incarceration in the state facility, offenders sentenced under this subsection shall undergo a comprehensive substance abuse assessment and receive, within available resources, treatment services appropriate for the offender. The treatment services shall be designed by the division of alcohol and substance abuse of the department of social and health services, in cooperation with the department of corrections. If the midpoint of the standard range is twenty-four months or less, no more than three months of the sentence may be served in a work release status. The court shall also impose one year of concurrent community custody and community supervision that must include appropriate outpatient substance abuse treatment, crime-related prohibitions including a condition not to use illegal controlled substances, and a requirement to submit to urinalysis or other testing to monitor that status. The court may require that the monitoring for controlled substances be conducted by the department or by a treatment alternatives to street crime program or a comparable court or agency-referred program. The offender may be required to pay thirty dollars per month while on community custody to offset the cost of monitoring. In addition, the court shall impose three or more of the following conditions:

(i) Devote time to a specific employment or training;

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

(iii) Report as directed to a community corrections officer;

(iv) Pay all court-ordered legal financial obligations;

(v) Perform community service work;

(vi) Stay out of areas designated by the sentencing judge.

(c) If the offender violates any of the sentence conditions in (b) of this subsection, the department shall impose sanctions administratively, with notice to the prosecuting attorney and the sentencing court. Upon motion of the court or the prosecuting attorney, a violation hearing shall be held by the court. If the court finds that conditions have been willfully violated, the court may impose confinement consisting of up to the remaining one-half of the midpoint of the standard range. All total confinement served during the period of community custody shall be credited to the offender, regardless of whether the total confinement is served as a result of the original sentence, as a result of a sanction imposed by the department, or as a result of a violation found by the court. The term of community supervision shall be tolled by any period of time served in total confinement as a result of a violation found by the court.

(d) The department shall determine the rules for calculating the value of a day fine based on the offender's income and reasonable obligations which the offender has for the support of the offender and any dependents. These rules shall be developed in consultation with the administrator for the courts, the office of financial management, and the commission.

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

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

The report of the examination shall include at a minimum the following: The defendant's version of the facts and the official version of the facts, the defendant's offense history, an assessment of problems in addition to alleged deviant behaviors, the offender's social and employment situation, and other evaluation measures used. The report shall set forth the sources of the evaluator's information.

The examiner shall assess and report regarding the defendant's amenability to treatment and relative risk to the community. A proposed treatment plan shall be provided and shall include, at a minimum:

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

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

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

(D) Anticipated length of treatment; and

(E) Recommended crime-related prohibitions.

The court on its own motion may order, or on a motion by the state shall order, a second examination regarding the offender's amenability to treatment. The evaluator shall be selected by the party making the motion. The defendant shall pay the cost of any second examination ordered unless the court finds the defendant to be indigent in which case the state shall pay the cost.

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

(A) The court shall place the defendant on community custody for the length of the suspended sentence or three years, whichever is greater, and require the offender to comply with any conditions imposed by the department of corrections under subsection (14) of this section; and

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

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

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

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

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

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

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

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

(v) If a violation of conditions occurs during community custody, the department shall either impose sanctions as provided for in RCW 9.94A.205(2)(a) or refer the violation to the court and recommend revocation of the suspended sentence as provided for in (a)(vi) of this subsection.

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

(vii) Except as provided in (a) (viii) of this subsection, after July 1, 1991, examinations and treatment ordered pursuant to this subsection shall only be conducted by sex offender treatment providers certified by the department of health pursuant to chapter 18.155 RCW.

(viii) A sex offender therapist who examines or treats a sex offender pursuant to this subsection (8) does not have to be certified by the department of health pursuant to chapter 18.155 RCW if the court finds that: (A) The offender has already moved to another state or plans to move to another state for reasons other than circumventing the certification requirements; (B) no certified providers are available for treatment within a reasonable geographical distance of the offender's home; and (C) the evaluation and treatment plan comply with this subsection (8) and the rules adopted by the department of health.

(ix) For purposes of this subsection (8), "victim" means any person who has sustained emotional, psychological, physical, or financial injury to person or property as a result of the crime charged. "Victim" also means a parent or guardian of a victim who is a minor child unless the parent or guardian is the perpetrator of the offense.

(x) If the defendant was less than eighteen years of age when the charge was filed, the state shall pay for the cost of initial evaluation and treatment.

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

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

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

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

Nothing in this subsection (8)(b) shall confer eligibility for such programs for offenders convicted and sentenced for a sex offense committed prior to July 1, 1987. This subsection (8)(b) does not apply to any crime committed after July 1, 1990.

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

(9)(a) When a court sentences a person to a term of total confinement to the custody of the department of corrections for an offense categorized as a sex offense or a serious violent offense committed after July 1, 1988, but before July 1, 1990, assault in the second degree, assault of a child in the second degree, any crime against a person where it is determined in accordance with RCW 9.94A.125 that

the defendant or an accomplice was armed with a deadly weapon at the time of commission, or any felony offense under chapter 69.50 or 69.52 RCW not sentenced under subsection (6) of this section, committed on or after July 1, 1988, the court shall in addition to the other terms of the sentence, sentence the offender to a one-year term of community placement beginning either upon completion of the term of confinement or at such time as the offender is transferred to community custody in lieu of earned early release in accordance with RCW 9.94A.150 (1) and (2). When the court sentences an offender under this subsection to the statutory maximum period of confinement then the community placement portion of the sentence shall consist entirely of such community custody to which the offender may become eligible, in accordance with RCW 9.94A.150 (1) and (2). Any period of community custody actually served shall be credited against the community placement portion of the sentence.

(b) When a court sentences a person to a term of total confinement to the custody of the department of corrections for an offense categorized as a sex offense committed on or after July 1, 1990, but before June 6, 1996, a serious violent offense, vehicular homicide, or vehicular assault, committed on or after July 1, 1990, the court shall in addition to other terms of the sentence, sentence the offender to community placement for two years or up to the period of earned early release awarded pursuant to RCW 9.94A.150 (1) and (2), whichever is longer. The community placement shall begin either upon completion of the term of confinement or at such time as the offender is transferred to community custody in lieu of earned early release in accordance with RCW 9.94A.150 (1) and (2). When the court sentences an offender under this subsection to the statutory maximum period of confinement then the community placement portion of the sentence shall consist entirely of the community custody to which the offender may become eligible, in accordance with RCW 9.94A.150 (1) and (2). Any period of community custody actually served shall be credited against the community placement portion of the sentence. Unless a condition is waived by the court, the terms of community placement for offenders sentenced pursuant to this section shall include the following conditions:

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

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

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

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

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

(vi) The residence location and living arrangements are subject to the prior approval of the department of corrections during the period of community placement.

(c) As a part of any sentence imposed under (a) or (b) of this subsection, the court may also order any of the following special conditions:

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

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

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

(iv) The offender shall not consume alcohol;

(v) The offender shall comply with any crime-related prohibitions; or

(vi) For an offender convicted of a felony sex offense against a minor victim after June 6, 1996, the offender shall comply with any terms and conditions of community placement imposed by the department of corrections relating to contact between the sex offender and a minor victim or a child of similar age or circumstance as a previous victim.

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

(10)(a) When a court sentences a person to the custody of the department of corrections for an offense categorized as a sex offense committed on or after June 6, 1996, the court shall, in addition to other terms of the sentence, sentence the offender to community custody for three years or up to the period of earned early release awarded pursuant to RCW 9.94A.150 (1) and (2), whichever is longer. The community custody shall begin either upon completion of the term of confinement or at such time as the offender is transferred to community custody in lieu of earned early release in accordance with RCW 9.94A.150 (1) and (2).

(b) Unless a condition is waived by the court, the terms of community custody shall be the same as those provided for in subsection (9)(b) of this section and may include those provided for in subsection (9)(c) of this section. As part of any sentence that includes a term of community custody imposed under this subsection, the court shall also require the offender to comply with any conditions imposed by the department of corrections under subsection (14) of this section.

(c) At any time prior to the completion of a sex offender's term of community custody, if the court finds that public safety would be enhanced, the court may impose and enforce an order extending any or all of the conditions imposed pursuant to this section for a period up to the maximum allowable sentence for the crime as it is classified in chapter 9A.20 RCW, regardless of the expiration of the offender's term of community custody. If a violation of a condition extended under this subsection occurs after the expiration of the offender's term of community custody, it shall be deemed a violation of the sentence for the purposes of RCW

9.94A.195 and may be punishable as contempt of court as provided for in RCW 7.21.040.

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

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

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

(14) All offenders sentenced to terms involving community supervision, community service, community placement, or legal financial obligation shall be under the supervision of the department of corrections and shall follow explicitly the instructions and conditions of the department of corrections.

(a) The instructions shall include, at a minimum, reporting as directed to a community corrections officer, remaining within prescribed geographical boundaries, notifying the community corrections officer of any change in the offender's address or employment, and paying the supervision fee assessment.

(b) For sex offenders sentenced to terms involving community custody for crimes committed on or after June 6, 1996, the department may include, in addition to the instructions in (a) of this subsection, any appropriate conditions of supervision, including but not limited to, prohibiting the offender from having contact with any other specified individuals or specific class of individuals. The conditions authorized under this subsection (14)(b) may be imposed by the

department prior to or during a sex offender's community custody term. If a violation of conditions imposed by the court or the department pursuant to subsection (10) of this section occurs during community custody, it shall be deemed a violation of community placement for the purposes of RCW 9.94A.207 and shall authorize the department to transfer an offender to a more restrictive confinement status as provided in RCW 9.94A.205. At any time prior to the completion of a sex offender's term of community custody, the department may recommend to the court that any or all of the conditions imposed by the court or the department pursuant to subsection (10) of this section be continued beyond the expiration of the offender's term of community custody as authorized in subsection (10)(c) of this section.

The department may require offenders to pay for special services rendered on or after July 25, 1993, including electronic monitoring, day reporting, and telephone reporting, dependent upon the offender's ability to pay. The department may pay for these services for offenders who are not able to pay.

(15) All offenders sentenced to terms involving community supervision, community service, or community placement under the supervision of the department of corrections shall not own, use, or possess firearms or ammunition. Offenders who own, use, or are found to be in actual or constructive possession of firearms or ammunition shall be subject to the appropriate violation process and sanctions. "Constructive possession" as used in this subsection means the power and intent to control the firearm or ammunition. "Firearm" as used in this subsection means a weapon or device from which a projectile may be fired by an explosive such as gunpowder.

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

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

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

(19) As a part of any sentence, the court may impose and enforce an order that relates directly to the circumstances of the crime for which the offender has been convicted, prohibiting the offender from having any contact with other specified individuals or a specific class of individuals for a period not to exceed the

maximum allowable sentence for the crime, regardless of the expiration of the offender's term of community supervision or community placement.

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

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

Sec. 5. RCW 9.94A.360 and 1995 c 316 s 1 and 1995 c 101 s I are each reenacted and amended to read as follows:

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

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

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

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

(3) Out-of-state convictions for offenses shall be classified according to the comparable offense definitions and sentences provided by Washington law. Federal convictions for offenses shall be classified according to the comparable offense definitions and sentences provided by Washington law. If there is no

clearly comparable offense under Washington law or the offense is one that is usually considered subject to exclusive federal jurisdiction, the offense shall be scored as a class C felony equivalent if it was a felony under the relevant federal statute.

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

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

~~((6))~~ (5)(a) In the case of multiple prior convictions, for the purpose of computing the offender score, count all convictions separately, except:

(i) Prior ~~((adult))~~ offenses which were found, under RCW 9.94A.400(1)(a), to encompass the same criminal conduct, shall be counted as one offense, the offense that yields the highest offender score. The current sentencing court shall determine with respect to other prior adult offenses for which sentences were served concurrently or prior juvenile offenses for which sentences were served consecutively, whether those offenses shall be counted as one offense or as separate offenses using the "same criminal conduct" analysis found in RCW 9.94A.400(1)(a), and if the court finds that they shall be counted as one offense, then the offense that yields the highest offender score shall be used. The current sentencing court may presume that such other prior ~~((adult))~~ offenses were not the same criminal conduct from sentences imposed on separate dates, or in separate counties or jurisdictions, or in separate complaints, indictments, or informations;

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

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

(b) As used in this subsection ~~((6))~~ (5), "served concurrently" means that: (i) The latter sentence was imposed with specific reference to the former; (ii) the concurrent relationship of the sentences was judicially imposed; and (iii) the concurrent timing of the sentences was not the result of a probation or parole revocation on the former offense.

~~((7))~~ (6) If the present conviction is one of the anticipatory offenses of criminal attempt, solicitation, or conspiracy, count each prior conviction as if the present conviction were for a completed offense.

~~((8))~~ (7) If the present conviction is for a nonviolent offense and not covered by subsection ~~((12))~~ (11) or ~~((13))~~ (12) of this section, count one point for each adult prior felony conviction and one point for each juvenile prior violent felony conviction and ½ point for each juvenile prior nonviolent felony conviction.

~~((9))~~ (8) If the present conviction is for a violent offense and not covered in subsection ~~((10), (11), (12), or (13))~~ (9), (10), (11), or (12) of this section, count two points for each prior adult and juvenile violent felony conviction, one point for each prior adult nonviolent felony conviction, and ½ point for each prior juvenile nonviolent felony conviction.

~~((10))~~ (9) If the present conviction is for Murder 1 or 2, Assault 1, Assault of a Child 1, Kidnapping 1, Homicide by Abuse, or Rape 1, count three points for prior adult and juvenile convictions for crimes in these categories, two points for each prior adult and juvenile violent conviction (not already counted), one point for each prior adult nonviolent felony conviction, and ½ point for each prior juvenile nonviolent felony conviction.

~~((11))~~ (10) If the present conviction is for Burglary 1, count prior convictions as in subsection ~~((9))~~ (8) of this section; however count two points for each prior adult Burglary 2 or residential burglary conviction, and one point for each prior juvenile Burglary 2 or residential burglary conviction.

~~((12))~~ (11) If the present conviction is for a felony traffic offense count two points for each adult or juvenile prior conviction for Vehicular Homicide or Vehicular Assault; for each felony offense or serious traffic offense, count one point for each adult and ½ point for each juvenile prior conviction.

~~((13))~~ (12) If the present conviction is for a drug offense count three points for each adult prior felony drug offense conviction and two points for each juvenile drug offense. All other adult and juvenile felonies are scored as in subsection ~~((9))~~ (8) of this section if the current drug offense is violent, or as in subsection ~~((8))~~ (7) of this section if the current drug offense is nonviolent.

~~((14))~~ (13) If the present conviction is for Willful Failure to Return from Furlough, RCW 72.66.060, Willful Failure to Return from Work Release, RCW 72.65.070, or Escape from Community Custody, RCW 72.09.310, count only prior escape convictions in the offender score. Count adult prior escape convictions as one point and juvenile prior escape convictions as ½ point.

~~((15))~~ (14) If the present conviction is for Escape 1, RCW 9A.76.110, or Escape 2, RCW 9A.76.120, count adult prior convictions as one point and juvenile prior convictions as ½ point.

~~((16))~~ (15) If the present conviction is for Burglary 2 or residential burglary, count priors as in subsection ~~((8))~~ (7) of this section; however, count two points for each adult and juvenile prior Burglary 1 conviction, two points for each adult

prior Burglary 2 or residential burglary conviction, and one point for each juvenile prior Burglary 2 or residential burglary conviction.

~~((17))~~ (16) If the present conviction is for a sex offense, count priors as in subsections ~~((8))~~ (7) through ~~((16))~~ (15) of this section; however count three points for each adult and juvenile prior sex offense conviction.

~~((18))~~ (17) If the present conviction is for an offense committed while the offender was under community placement, add one point.

**Sec. 6.** RCW 13.04.011 and 1992 c 205 s 119 are each amended to read as follows:

For purposes of this title:

(1) "Adjudication" has the same meaning as "conviction" in RCW 9.94A.030, and the terms must be construed identically and used interchangeably;

(2) Except as specifically provided in RCW 13.40.020 and chapter 13.24 RCW, ~~((as now or hereafter amended;))~~ "juvenile," "youth," and "child" mean any individual who is under the chronological age of eighteen years;

~~((2))~~ (3) "Juvenile offender" and "juvenile offense" have the meaning ascribed in RCW 13.40.020;

~~((3))~~ (4) "Court" when used without further qualification means the juvenile court judge(s) or commissioner(s);

~~((4))~~ (5) "Parent" or "parents," except as used in chapter 13.34 RCW, ~~((as now or hereafter amended;))~~ means that parent or parents who have the right of legal custody of the child. "Parent" or "parents" as used in chapter 13.34 RCW, means the biological or adoptive parents of a child unless the legal rights of that person have been terminated by judicial proceedings;

~~((5))~~ (6) "Custodian" means that person who has the legal right to custody of the child.

**Sec. 7.** RCW 13.04.030 and 1995 c 312 s 39 and 1995 c 311 s 15 are each reenacted and amended to read as follows:

(1) Except as provided in ~~((subsection (2) of))~~ this section, the juvenile courts in ~~((the several counties of))~~ this state~~(;)~~ shall have exclusive original jurisdiction over all proceedings:

(a) Under the interstate compact on placement of children as provided in chapter 26.34 RCW;

(b) Relating to children alleged or found to be dependent as provided in chapter 26.44 RCW and in RCW 13.34.030 through 13.34.170;

(c) Relating to the termination of a parent and child relationship as provided in RCW 13.34.180 through 13.34.210;

(d) To approve or disapprove out-of-home placement as provided in RCW 13.32A.170;

(e) Relating to juveniles alleged or found to have committed offenses, traffic or civil infractions, or violations as provided in RCW 13.40.020 through 13.40.230, unless:

(i) The juvenile court transfers jurisdiction of a particular juvenile to adult criminal court pursuant to RCW 13.40.110; or

(ii) The statute of limitations applicable to adult prosecution for the offense, traffic or civil infraction, or violation has expired; or

(iii) The alleged offense or infraction is a traffic, fish, boating, or game offense, or traffic or civil infraction committed by a juvenile sixteen years of age or older and would, if committed by an adult, be tried or heard in a court of limited jurisdiction, in which instance the appropriate court of limited jurisdiction shall have jurisdiction over the alleged offense or infraction, and no guardian ad litem is required in any such proceeding due to the juvenile's age: PROVIDED, That if such an alleged offense or infraction and an alleged offense or infraction subject to juvenile court jurisdiction arise out of the same event or incident, the juvenile court may have jurisdiction of both matters: PROVIDED FURTHER, That the jurisdiction under this subsection does not constitute "transfer" or a "decline" for purposes of RCW 13.40.110(1) or (e)(i) of this subsection: PROVIDED FURTHER, That courts of limited jurisdiction which confine juveniles for an alleged offense or infraction may place juveniles in juvenile detention facilities under an agreement with the officials responsible for the administration of the juvenile detention facility in RCW 13.04.035 and 13.20.060; or

(iv) The juvenile is sixteen or seventeen years old and the alleged offense is:

(A) A serious violent offense as defined in RCW 9.94A.030 (~~committed on or after June 13, 1994, or~~);

(B) A violent offense as defined in RCW 9.94A.030 (~~committed on or after June 13, 1994,~~) and the juvenile has a criminal history consisting of: (I) One or more prior serious violent offenses; (II) two or more prior violent offenses; or (III) three or more of any combination of the following offenses: Any class A felony, any class B felony, vehicular assault, or manslaughter in the second degree, all of which must have been committed after the juvenile's thirteenth birthday and prosecuted separately;

(C) Robbery in the first degree, rape of a child in the first degree, or drive-by shooting, committed on or after the effective date of this section;

(D) Burglary in the first degree committed on or after the effective date of this section, and the juvenile has a criminal history consisting of one or more prior felony or misdemeanor offenses; or

(E) Any violent offense as defined in RCW 9.94A.030 committed on or after the effective date of this section, and the juvenile is alleged to have been armed with a firearm.

In such a case the adult criminal court shall have exclusive original jurisdiction.

If the juvenile challenges the state's determination of the juvenile's criminal history under (e)(iv) of this subsection, the state may establish the offender's criminal history by a preponderance of the evidence. If the criminal history

consists of adjudications entered upon a plea of guilty, the state shall not bear a burden of establishing the knowing and voluntariness of the plea;

(f) Under the interstate compact on juveniles as provided in chapter 13.24 RCW;

(g) Relating to termination of a diversion agreement under RCW 13.40.080, including a proceeding in which the diveree has attained eighteen years of age;

(h) Relating to court validation of a voluntary consent to an out-of-home placement under chapter 13.34 RCW, by the parent or Indian custodian of an Indian child, except if the parent or Indian custodian and child are residents of or domiciled within the boundaries of a federally recognized Indian reservation over which the tribe exercises exclusive jurisdiction; and

(i) Relating to petitions to compel disclosure of information filed by the department of social and health services pursuant to RCW 74.13.042.

(2) The family court shall have concurrent original jurisdiction with the juvenile court over all proceedings under this section if the superior court judges of a county authorize concurrent jurisdiction as provided in RCW 26.12.010.

(3) A juvenile subject to adult superior court jurisdiction under subsection (1)(e)(i) through (iv) of this section, who is detained pending trial, may be detained in a ((county)) detention facility as defined in RCW 13.40.020 pending sentencing or a dismissal.

**Sec. 8.** RCW 13.40.010 and 1992 c 205 s 101 are each amended to read as follows:

(1) This chapter shall be known and cited as the Juvenile Justice Act of 1977.

(2) It is the intent of the legislature that a system capable of having primary responsibility for, being accountable for, and responding to the needs of youthful offenders, as defined by this chapter, be established. It is the further intent of the legislature that youth, in turn, be held accountable for their offenses and that ((both)) communities, families, and the juvenile courts carry out their functions consistent with this intent. To effectuate these policies, the legislature declares the following to be equally important purposes of this chapter:

(a) Protect the citizenry from criminal behavior;

(b) Provide for determining whether accused juveniles have committed offenses as defined by this chapter;

(c) Make the juvenile offender accountable for his or her criminal behavior;

(d) Provide for punishment commensurate with the age, crime, and criminal history of the juvenile offender;

(e) Provide due process for juveniles alleged to have committed an offense;

(f) Provide necessary treatment, supervision, and custody for juvenile offenders;

(g) Provide for the handling of juvenile offenders by communities whenever consistent with public safety;

(h) Provide for restitution to victims of crime;

(i) Develop effective standards and goals for the operation, funding, and evaluation of all components of the juvenile justice system and related services at the state and local levels; ~~((and))~~

(j) Provide for a clear policy to determine what types of offenders shall receive punishment, treatment, or both, and to determine the jurisdictional limitations of the courts, institutions, and community services; and

(k) Encourage the parents, guardian, or custodian of the juvenile to actively participate in the juvenile justice process.

**Sec. 9.** RCW 13.40.020 and 1995 c 395 s 2 and 1995 c 134 s 1 are each reenacted and amended to read as follows:

For the purposes of this chapter:

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

(a) A class A felony, or an attempt to commit a class A felony;

(b) Manslaughter in the first degree; or

(c) Assault in the second degree, extortion in the first degree, child molestation in the second degree, kidnapping in the second degree, robbery in the second degree, residential burglary, or burglary in the second degree, where such offenses include the infliction of bodily harm upon another or where during the commission of or immediate withdrawal from such an offense the perpetrator is armed with a deadly weapon;

(2) "Community service" means compulsory service, without compensation, performed for the benefit of the community by the offender as punishment for committing an offense. Community service may be performed through public or private organizations or through work crews;

(3) "Community supervision" means an order of disposition by the court of an adjudicated youth not committed to the department or an order granting a deferred ~~((adjudication pursuant to RCW 13.40.125))~~ disposition. A community supervision order for a single offense may be for a period of up to two years for a sex offense as defined by RCW 9.94A.030 and up to one year for other offenses. As a mandatory condition of any term of community supervision, the court shall order the juvenile to refrain from committing new offenses. As a mandatory condition of community supervision, the court shall order the juvenile to comply with the mandatory school attendance provisions of chapter 28A.225 RCW and to inform the school of the existence of this requirement. Community supervision is an individualized program comprised of one or more of the following:

(a) Community-based sanctions;

(b) Community-based rehabilitation;

(c) Monitoring and reporting requirements;

(d) Posting of a probation bond ~~((imposed pursuant to RCW 13.40.0357))~~;

(4) Community-based sanctions may include one or more of the following:

(a) A fine, not to exceed one hundred dollars;

(b) Community service not to exceed one hundred fifty hours of service;

(5) "Community-based rehabilitation" means one or more of the following: Employment; attendance of information classes; literacy classes; counseling, outpatient substance abuse treatment programs, outpatient mental health programs, anger management classes, education or outpatient treatment programs to prevent animal cruelty, or other services; or attendance at school or other educational programs appropriate for the juvenile as determined by the school district. Placement in community-based rehabilitation programs is subject to available funds;

(6) "Monitoring and reporting requirements" means one or more of the following: Curfews; requirements to remain at home, school, work, or court-ordered treatment programs during specified hours; restrictions from leaving or entering specified geographical areas; requirements to report to the probation officer as directed and to remain under the probation officer's supervision; and other conditions or limitations as the court may require which may not include confinement;

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

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

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

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

(b) The criminal complaint was diverted by a prosecutor pursuant to the provisions of this chapter on agreement of the respondent and after an advisement to the respondent that the criminal complaint would be considered as part of the respondent's criminal history. A successfully completed deferred adjudication that was entered before the effective date of this section or a deferred disposition shall not be considered part of the respondent's criminal history;

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

(11) "Detention facility" means a county facility, paid for by the county, for the physical confinement of a juvenile alleged to have committed an offense or an adjudicated offender subject to a disposition or modification order. "Detention

facility" includes county group homes, inpatient substance abuse programs, juvenile basic training camps, and electronic monitoring;

(12) "Diversion unit" means any probation counselor who enters into a diversion agreement with an alleged youthful offender, or any other person, community accountability board, or other entity except a law enforcement official or entity, with whom the juvenile court administrator has contracted to arrange and supervise such agreements pursuant to RCW 13.40.080, or any person, community accountability board, or other entity specially funded by the legislature to arrange and supervise diversion agreements in accordance with the requirements of this chapter. For purposes of this subsection, "community accountability board" means a board comprised of members of the local community in which the juvenile offender resides. The superior court shall appoint the members. The boards shall consist of at least three and not more than seven members. If possible, the board should include a variety of representatives from the community, such as a law enforcement officer, teacher or school administrator, high school student, parent, and business owner, and should represent the cultural diversity of the local community;

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

(14) "Intensive supervision program" means a parole program that requires intensive supervision and monitoring, offers an array of individualized treatment and transitional services, and emphasizes community involvement and support in order to reduce the likelihood a juvenile offender will commit further offenses;

(15) "Juvenile," "youth," and "child" mean any individual who is under the chronological age of eighteen years and who has not been previously transferred to adult court pursuant to RCW 13.40.110 or who is otherwise under adult court jurisdiction;

~~((+5))~~ (16) "Juvenile offender" means any juvenile who has been found by the juvenile court to have committed an offense, including a person eighteen years of age or older over whom jurisdiction has been extended under RCW 13.40.300;

~~((+6))~~ (17) "Manifest injustice" means a disposition that would either impose an excessive penalty on the juvenile or would impose a serious, and clear danger to society in light of the purposes of this chapter;

~~((+7))~~ (18) "Middle offender" means a person who has committed an offense and who is neither a minor or first offender nor a serious offender;

~~((+8))~~ (19) "Minor or first offender" means a person whose current offense(s) and criminal history fall entirely within one of the following categories:

- (a) Four misdemeanors;
- (b) Two misdemeanors and one gross misdemeanor;
- (c) One misdemeanor and two gross misdemeanors; and
- (d) Three gross misdemeanors.

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

~~((19))~~ (20) "Offense" means an act designated a violation or a crime if committed by an adult under the law of this state, under any ordinance of any city or county of this state, under any federal law, or under the law of another state if the act occurred in that state;

~~((20))~~ (21) "Respondent" means a juvenile who is alleged or proven to have committed an offense;

~~((21))~~ (22) "Restitution" means financial reimbursement by the offender to the victim, and shall be limited to easily ascertainable damages for injury to or loss of property, actual expenses incurred for medical treatment for physical injury to persons, lost wages resulting from physical injury, and costs of the victim's counseling reasonably related to the offense if the offense is a sex offense. Restitution shall not include reimbursement for damages for mental anguish, pain and suffering, or other intangible losses. Nothing in this chapter shall limit or replace civil remedies or defenses available to the victim or offender;

~~((22))~~ (23) "Secretary" means the secretary of the department of social and health services. "Assistant secretary" means the assistant secretary for juvenile rehabilitation for the department;

~~((23))~~ (24) "Services" means services which provide alternatives to incarceration for those juveniles who have pleaded or been adjudicated guilty of an offense or have signed a diversion agreement pursuant to this chapter;

~~((24))~~ (25) "Sex offense" means an offense defined as a sex offense in RCW 9.94A.030;

~~((25))~~ (26) "Sexual motivation" means that one of the purposes for which the respondent committed the offense was for the purpose of his or her sexual gratification;

~~((26))~~ (27) "Foster care" means temporary physical care in a foster family home or group care facility as defined in RCW 74.15.020 and licensed by the department, or other legally authorized care;

~~((27))~~ (28) "Violation" means an act or omission, which if committed by an adult, must be proven beyond a reasonable doubt, and is punishable by sanctions which do not include incarceration;

~~((28))~~ (29) "Violent offense" means a violent offense as defined in RCW 9.94A.030;

~~((29))~~ (30) "Probation bond" means a bond, posted with sufficient security by a surety justified and approved by the court, to secure the offender's appearance at required court proceedings and compliance with court-ordered community supervision or conditions of release ordered pursuant to RCW 13.40.040 or 13.40.050. It also means a deposit of cash or posting of other collateral in lieu of a bond if approved by the court;

~~((30))~~ (31) "Surety" means an entity licensed under state insurance laws or by the state department of licensing, to write corporate, property, or probation bonds within the state, and justified and approved by the superior court of the county having jurisdiction of the case.

This section expires July 1, 1998.

Sec. 10. RCW 13.40.020 and 1995 c 395 s 2 and 1995 c 134 s 1 are each reenacted and amended to read as follows:

For the purposes of this chapter:

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

— (a) A class A felony, or an attempt to commit a class A felony;

— (b) Manslaughter in the first degree; or

— (c) Assault in the second degree, extortion in the first degree, child molestation in the second degree, kidnapping in the second degree, robbery in the second degree, residential burglary, or burglary in the second degree, where such offenses include the infliction of bodily harm upon another or where during the commission of or immediate withdrawal from such an offense the perpetrator is armed with a deadly weapon;

— (2)) "Community service" means compulsory service, without compensation, performed for the benefit of the community by the offender as punishment for committing an offense. Community service may be performed through public or private organizations or through work crews;

((3)) (2) "Community supervision" means an order of disposition by the court of an adjudicated youth not committed to the department or an order granting a deferred (~~adjudication pursuant to RCW 13.40.125~~) disposition. A community supervision order for a single offense may be for a period of up to two years for a sex offense as defined by RCW 9.94A.030 and up to one year for other offenses. As a mandatory condition of any term of community supervision, the court shall order the juvenile to refrain from committing new offenses. As a mandatory condition of community supervision, the court shall order the juvenile to comply with the mandatory school attendance provisions of chapter 28A.225 RCW and to inform the school of the existence of this requirement. Community supervision is an individualized program comprised of one or more of the following:

(a) Community-based sanctions;

(b) Community-based rehabilitation;

(c) Monitoring and reporting requirements;

(d) Posting of a probation bond (~~imposed pursuant to RCW 13.40.0357~~);

((4)) (3) Community-based sanctions may include one or more of the following:

(a) A fine, not to exceed (~~one~~) five hundred dollars;

(b) Community service not to exceed one hundred fifty hours of service;

((5)) (4) "Community-based rehabilitation" means one or more of the following: Employment; attendance of information classes; literacy classes; counseling, outpatient substance abuse treatment programs, outpatient mental health programs, anger management classes, education or outpatient treatment programs to prevent animal cruelty, or other services; or attendance at school or other educational programs appropriate for the juvenile as determined by the

school district. Placement in community-based rehabilitation programs is subject to available funds;

((6)) (5) "Monitoring and reporting requirements" means one or more of the following: Curfews; requirements to remain at home, school, work, or court-ordered treatment programs during specified hours; restrictions from leaving or entering specified geographical areas; requirements to report to the probation officer as directed and to remain under the probation officer's supervision; and other conditions or limitations as the court may require which may not include confinement;

((7)) (6) "Confinement" means physical custody by the department of social and health services in a facility operated by or pursuant to a contract with the state, or physical custody in a detention facility operated by or pursuant to a contract with any county. The county may operate or contract with vendors to operate county detention facilities. The department may operate or contract to operate detention facilities for juveniles committed to the department. Pretrial confinement or confinement of less than thirty-one days imposed as part of a disposition or modification order may be served consecutively or intermittently, in the discretion of the court;

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

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

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

(b) The criminal complaint was diverted by a prosecutor pursuant to the provisions of this chapter on agreement of the respondent and after an advisement to the respondent that the criminal complaint would be considered as part of the respondent's criminal history. A successfully completed deferred adjudication that was entered before the effective date of this section or a deferred disposition shall not be considered part of the respondent's criminal history;

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

((11)) (10) "Detention facility" means a county facility, paid for by the county, for the physical confinement of a juvenile alleged to have committed an offense or an adjudicated offender subject to a disposition or modification order. "Detention facility" includes county group homes, inpatient substance abuse programs, juvenile basic training camps, and electronic monitoring;

((12)) (11) "Diversion unit" means any probation counselor who enters into a diversion agreement with an alleged youthful offender, or any other person, community accountability board, or other entity except a law enforcement official or entity, with whom the juvenile court administrator has contracted to arrange and supervise such agreements pursuant to RCW 13.40.080, or any person, community

accountability board, or other entity specially funded by the legislature to arrange and supervise diversion agreements in accordance with the requirements of this chapter. For purposes of this subsection, "community accountability board" means a board comprised of members of the local community in which the juvenile offender resides. The superior court shall appoint the members. The boards shall consist of at least three and not more than seven members. If possible, the board should include a variety of representatives from the community, such as a law enforcement officer, teacher or school administrator, high school student, parent, and business owner, and should represent the cultural diversity of the local community;

~~((13))~~ (12) "Institution" means a juvenile facility established pursuant to chapters 72.05 and 72.16 through 72.20 RCW;

~~((14))~~ (13) "Intensive supervision program" means a parole program that requires intensive supervision and monitoring, offers an array of individualized treatment and transitional services, and emphasizes community involvement and support in order to reduce the likelihood a juvenile offender will commit further offenses;

(14) "Juvenile," "youth," and "child" mean any individual who is under the chronological age of eighteen years and who has not been previously transferred to adult court pursuant to RCW 13.40.110 or who is otherwise under adult court jurisdiction;

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

(16) "Local sanctions" means one or more of the following: (a) 0-30 days of confinement; (b) 0-12 months of community supervision; (c) 0-150 hours of community service; or (d) \$0-\$500 fine;

~~((16))~~ (17) "Manifest injustice" means a disposition that would either impose an excessive penalty on the juvenile or would impose a serious, and clear danger to society in light of the purposes of this chapter;

~~((17))~~ "Middle offender" means a person who has committed an offense and who is neither a minor or first offender nor a serious offender;

~~(18)~~ "Minor or first offender" means a person whose current offense(s) and criminal history fall entirely within one of the following categories:

~~(a) Four misdemeanors;~~

~~(b) Two misdemeanors and one gross misdemeanor;~~

~~(c) One misdemeanor and two gross misdemeanors; and~~

~~(d) Three gross misdemeanors;~~

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

~~((19))~~ (18) "Offense" means an act designated a violation or a crime if committed by an adult under the law of this state, under any ordinance of any city

or county of this state, under any federal law, or under the law of another state if the act occurred in that state;

~~((20))~~ (19) "Respondent" means a juvenile who is alleged or proven to have committed an offense;

~~((21))~~ (20) "Restitution" means financial reimbursement by the offender to the victim, and shall be limited to easily ascertainable damages for injury to or loss of property, actual expenses incurred for medical treatment for physical injury to persons, lost wages resulting from physical injury, and costs of the victim's counseling reasonably related to the offense if the offense is a sex offense. Restitution shall not include reimbursement for damages for mental anguish, pain and suffering, or other intangible losses. Nothing in this chapter shall limit or replace civil remedies or defenses available to the victim or offender;

~~((22))~~ (21) "Secretary" means the secretary of the department of social and health services. "Assistant secretary" means the assistant secretary for juvenile rehabilitation for the department;

~~((23))~~ (22) "Services" means services which provide alternatives to incarceration for those juveniles who have pleaded or been adjudicated guilty of an offense or have signed a diversion agreement pursuant to this chapter;

~~((24))~~ (23) "Sex offense" means an offense defined as a sex offense in RCW 9.94A.030;

~~((25))~~ (24) "Sexual motivation" means that one of the purposes for which the respondent committed the offense was for the purpose of his or her sexual gratification;

~~((26))~~ (25) "Foster care" means temporary physical care in a foster family home or group care facility as defined in RCW 74.15.020 and licensed by the department, or other legally authorized care;

~~((27))~~ (26) "Violation" means an act or omission, which if committed by an adult, must be proven beyond a reasonable doubt, and is punishable by sanctions which do not include incarceration;

~~((28))~~ (27) "Violent offense" means a violent offense as defined in RCW 9.94A.030;

~~((29))~~ (28) "Probation bond" means a bond, posted with sufficient security by a surety justified and approved by the court, to secure the offender's appearance at required court proceedings and compliance with court-ordered community supervision or conditions of release ordered pursuant to RCW 13.40.040 or 13.40.050. It also means a deposit of cash or posting of other collateral in lieu of a bond if approved by the court;

~~((29))~~ (29) "Surety" means an entity licensed under state insurance laws or by the state department of licensing, to write corporate, property, or probation bonds within the state, and justified and approved by the superior court of the county having jurisdiction of the case.

Sec. 11. RCW 13.40.0357 and 1996 c 205 s 6 are each amended to read as follows:

**SCHEDULE A  
DESCRIPTION AND OFFENSE CATEGORY**

JUVENILE DISPOSITION OFFENSE CATEGORY	DESCRIPTION (RCW CITATION)	JUVENILE DISPOSITION CATEGORY FOR ATTEMPT, BAILJUMP, CONSPIRACY, OR SOLICITATION
--	----------------------------	---

.....

**Arson and Malicious Mischief**

A	Arson 1 (9A.48.020)	B+
B	Arson 2 (9A.48.030)	C
C	Reckless Burning 1 (9A.48.040)	D
D	Reckless Burning 2 (9A.48.050)	E
B	Malicious Mischief 1 (9A.48.070)	C
C	Malicious Mischief 2 (9A.48.080)	D
D	Malicious Mischief 3 (<\$50 is E class) (9A.48.090)	E
E	Tampering with Fire Alarm Apparatus (9.40.100)	E
A	Possession of Incendiary Device (9.40.120)	B+

**Assault and Other Crimes  
Involving Physical Harm**

A	Assault 1 (9A.36.011)	B+
B+	Assault 2 (9A.36.021)	C+
C+	Assault 3 (9A.36.031)	D+
D+	Assault 4 (9A.36.041)	E
<u>B+</u>	<u>Drive-By Shooting</u> (9A.36.045)	<u>C+</u>
D+	Reckless Endangerment (9A.36.050)	E
C+	Promoting Suicide Attempt (9A.36.060)	D+
D+	Coercion (9A.36.070)	E
C+	Custodial Assault (9A.36.100)	D+

**Burglary and Trespass**

B+	Burglary 1 (9A.52.020)	C+
<u>B</u>	<u>Residential Burglary</u> (9A.52.025)	<u>C</u>
B	Burglary 2 (9A.52.030)	C
D	Burglary Tools (Possession of) (9A.52.060)	E
D	Criminal Trespass 1 (9A.52.070)	E

E	Criminal Trespass 2 (9A.52.080)	E
<u>C</u>	<u>Vehicle Prowling 1 (9A.52.095)</u>	<u>D</u>
D	Vehicle Prowling 2 (9A.52.100)	E
	<b>Drugs</b>	
E	Possession/Consumption of Alcohol (66.44.270)	E
C	Illegally Obtaining Legend Drug (69.41.020)	D
C+	Sale, Delivery, Possession of Legend Drug with Intent to Sell (69.41.030)	D+
E	Possession of Legend Drug (69.41.030)	E
B+	Violation of Uniform Controlled Substances Act - Narcotic or Methamphetamine Sale (69.50.401(a)(1)(i) or (ii))	B+
C	Violation of Uniform Controlled Substances Act - Nonnarcotic Sale (69.50.401(a)(1)(iii))	C
E	Possession of Marihuana <40 grams (69.50.401(e))	E
C	Fraudulently Obtaining Controlled Substance (69.50.403)	C
C+	Sale of Controlled Substance for Profit (69.50.410)	C+
E	Unlawful Inhalation (9.47A.020)	E
B	Violation of Uniform Controlled Substances Act - Narcotic or Methamphetamine Counterfeit Substances (69.50.401(b)(1)(i) or (ii))	B
C	Violation of Uniform Controlled Substances Act - Nonnarcotic Counterfeit Substances (69.50.401(b)(1) (iii), (iv), (v))	C
C	Violation of Uniform Controlled Substances Act - Possession of a Controlled Substance (69.50.401(d))	C
C	Violation of Uniform Controlled Substances Act - Possession of a	

	Controlled Substance (69.50.401(c))	C
	<b>Firearms and Weapons</b>	
<u>B</u>	<u>Theft of Firearm (9A.56.300)</u>	<u>C</u>
<u>B</u>	<u>Possession of Stolen Firearm (9A.56.310)</u>	<u>C</u>
E	Carrying Loaded Pistol Without Permit (9.41.050)	E
C	Possession of Firearms by Minor (<18) (9.41.040(1) (b)((+)) (iii))	C
D+	Possession of Dangerous Weapon (9.41.250)	E
D	Intimidating Another Person by use of Weapon (9.41.270)	E
	<b>Homicide</b>	
A+	Murder 1 (9A.32.030)	A
A+	Murder 2 (9A.32.050)	B+
B+	Manslaughter 1 (9A.32.060)	C+
C+	Manslaughter 2 (9A.32.070)	D+
B+	Vehicular Homicide (46.61.520)	C+
	<b>Kidnapping</b>	
A	Kidnap 1 (9A.40.020)	B+
B+	Kidnap 2 (9A.40.030)	C+
C+	Unlawful Imprisonment (9A.40.040)	D+
	<b>Obstructing Governmental Operation</b>	
((E))		
<u>D</u>	<u>Obstructing a Law Enforcement Officer (9A.76.020)</u>	<u>E</u>
E	Resisting Arrest (9A.76.040)	E
B	Introducing Contraband 1 (9A.76.140)	C
C	Introducing Contraband 2 (9A.76.150)	D
E	Introducing Contraband 3 (9A.76.160)	E
B+	Intimidating a Public Servant (9A.76.180)	C+
B+	Intimidating a Witness (9A.72.110)	C+
	<b>Public Disturbance</b>	
C+	Riot with Weapon (9A.84.010)	D+

D+	Riot Without Weapon (9A.84.010)	E
E	Failure to Disperse (9A.84.020)	E
E	Disorderly Conduct (9A.84.030)	E
	<b>Sex Crimes</b>	
A	Rape 1 (9A.44.040)	B+
A-	Rape 2 (9A.44.050)	B+
C+	Rape 3 (9A.44.060)	D+
A-	Rape of a Child 1 (9A.44.073)	B+
B±	Rape of a Child 2 (9A.44.076)	C+
B	Incest 1 (9A.64.020(1))	C
C	Incest 2 (9A.64.020(2))	D
D+	Indecent Exposure (Victim <14) (9A.88.010)	E
E	Indecent Exposure (Victim 14 or over) (9A.88.010)	E
B+	Promoting Prostitution 1 (9A.88.070)	C+
C+	Promoting Prostitution 2 (9A.88.080)	D+
E	O & A (Prostitution) (9A.88.030)	E
B+	Indecent Liberties (9A.44.100)	C+
((B+))		((E+))
<u>A-</u>	Child Molestation 1 (9A.44.083)	<u>B±</u>
((E+))		
<u>B</u>	Child Molestation 2 (9A.44.086)	<u>C±</u>
	<b>Theft, Robbery, Extortion, and Forgery</b>	
B	Theft 1 (9A.56.030)	C
C	Theft 2 (9A.56.040)	D
D	Theft 3 (9A.56.050)	E
B	Theft of Livestock (9A.56.080)	C
C	Forgery (9A.60.020)	D
A	Robbery 1 (9A.56.200)	B+
B+	Robbery 2 (9A.56.210)	C+
B+	Extortion 1 (9A.56.120)	C+
C+	Extortion 2 (9A.56.130)	D+
B	Possession of Stolen Property 1 (9A.56.150)	C
C	Possession of Stolen Property 2 (9A.56.160)	D
D	Possession of Stolen Property 3 (9A.56.170)	E

C	Taking Motor Vehicle Without Owner's Permission (9A.56.070)	D
	<b>Motor Vehicle Related Crimes</b>	
E	Driving Without a License (46.20.021)	E
C	Hit and Run - Injury (46.52.020(4))	D
D	Hit and Run-Attended (46.52.020(5))	E
E	Hit and Run-Unattended (46.52.010)	E
C	Vehicular Assault (46.61.522)	D
C	Attempting to Elude Pursuing Police Vehicle (46.61.024)	D
E	Reckless Driving (46.61.500)	E
D	Driving While Under the Influence (46.61.502 and 46.61.504)	E
<del>(D)</del>	<del>Vehicle Prowling (9A.52.100)</del>	<del>E</del>
<del>C</del>	<del>Taking Motor Vehicle Without Owner's Permission (9A.56.070)</del>	<del>D))</del>
	<b>Other</b>	
B	Bomb Threat (9.61.160)	C
C	Escape 1 <sup>1</sup> (9A.76.110)	C
C	Escape 2 <sup>1</sup> (9A.76.120)	C
D	Escape 3 (9A.76.130)	E
E	Obscene, Harassing, Etc., Phone Calls (9.61.230)	E
A	Other Offense Equivalent to an Adult Class A Felony	B+
B	Other Offense Equivalent to an Adult Class B Felony	C
C	Other Offense Equivalent to an Adult Class C Felony	D
D	Other Offense Equivalent to an Adult Gross Misdemeanor	E
E	Other Offense Equivalent to an Adult Misdemeanor	E
V	Violation of Order of Restitution, Community Supervision, or Confinement (13.40.200) <sup>2</sup>	V

<sup>1</sup>Escape 1 and 2 and Attempted Escape 1 and 2 are classed as C offenses and the standard range is established as follows:

1st escape or attempted escape during 12-month period - 4 weeks confinement  
 2nd escape or attempted escape during 12-month period - 8 weeks confinement

3rd and subsequent escape or attempted escape during 12-month period - 12 weeks confinement

<sup>2</sup>If the court finds that a respondent has violated terms of an order, it may impose a penalty of up to 30 days of confinement.

**SCHEDULE B  
 PRIOR OFFENSE INCREASE FACTOR**

For use with all CURRENT OFFENSES occurring on or after July 1, 1989.

**TIME SPAN**

OFFENSE CATEGORY	0-12 Months	13-24 Months	25 Months or More
A+	.9	.9	.9
A	.9	.8	.6
A-	.9	.8	.5
B+	.9	.7	.4
B	.9	.6	.3
C+	.6	.3	.2
C	.5	.2	.2
D+	.3	.2	.1
D	.2	.1	.1
E	.1	.1	.1

Prior history - Any offense in which a diversion agreement or counsel and release form was signed, or any offense which has been adjudicated by court to be correct prior to the commission of the current offense(s).

**SCHEDULE C  
 CURRENT OFFENSE POINTS**

For use with all CURRENT OFFENSES occurring on or after July 1, 1989.

**AGE**

OFFENSE CATEGORY	12 & Under	13	14	15	16	17
A+	<b>STANDARD RANGE 180-224 WEEKS</b>					
A	250	300	350	375	375	375
A-	150	150	150	200	200	200
B+	110	110	120	130	140	150
B	45	45	50	50	57	57
C+	44	44	49	49	55	55

C	40	40	45	45	50	50
D+	16	18	20	22	24	26
D	14	16	18	20	22	24
E	4	4	4	6	8	10

**JUVENILE SENTENCING STANDARDS  
SCHEDULE D-1**

This schedule may only be used for minor/first offenders. After the determination is made that a youth is a minor/first offender, the court has the discretion to select sentencing option A, B, or C.

**MINOR/FIRST OFFENDER**

**OPTION A  
STANDARD RANGE**

Points	Community Supervision	Community Service Hours	Fine
1-9	0-3 months	and/or 0-8	and/or 0-\$10
10-19	0-3 months	and/or 0-8	and/or 0-\$10
20-29	0-3 months	and/or 0-16	and/or 0-\$10
30-39	0-3 months	and/or 8-24	and/or 0-\$25
40-49	3-6 months	and/or 16-32	and/or 0-\$25
50-59	3-6 months	and/or 24-40	and/or 0-\$25
60-69	6-9 months	and/or 32-48	and/or 0-\$50
70-79	6-9 months	and/or 40-56	and/or 0-\$50
80-89	9-12 months	and/or 48-64	and/or 10-\$100
90-109	9-12 months	and/or 56-72	and/or 10-\$100

**OR**

**OPTION B  
STATUTORY OPTION**

0-12 Months Community Supervision

0-150 Hours Community Service

0-100 Fine

Posting of a Probation Bond

A term of community supervision with a maximum of 150 hours, \$100.00 fine, and 12 months supervision.

**OR**

**OPTION C  
MANIFEST INJUSTICE**

When a term of community supervision would effectuate a manifest injustice, another disposition may be imposed. When a judge imposes a sentence of

confinement exceeding 30 days, the court shall sentence the juvenile to a maximum term and the provisions of RCW 13.40.030(2) shall be used to determine the range.

**JUVENILE SENTENCING STANDARDS  
SCHEDULE D-2**

This schedule may only be used for middle offenders. After the determination is made that a youth is a middle offender, the court has the discretion to select sentencing option A, B, or C.

**MIDDLE OFFENDER**

**OPTION A  
STANDARD RANGE**

Points	Community Supervision	Community Service Hours	Fine	Confinement Days Weeks
1-9	0-3 months	and/or 0-8	and/or 0-\$10	and/or 0
10-19	0-3 months	and/or 0-8	and/or 0-\$10	and/or 0
20-29	0-3 months	and/or 0-16	and/or 0-\$10	and/or 0
30-39	0-3 months	and/or 8-24	and/or 0-\$25	and/or 2-4
40-49	3-6 months	and/or 16-32	and/or 0-\$25	and/or 2-4
50-59	3-6 months	and/or 24-40	and/or 0-\$25	and/or 5-10
60-69	6-9 months	and/or 32-48	and/or 0-\$50	and/or 5-10
70-79	6-9 months	and/or 40-56	and/or 0-\$50	and/or 10-20
80-89	9-12 months	and/or 48-64	and/or 0-\$100	and/or 10-20
90-109	9-12 months	and/or 56-72	and/or 0-\$100	and/or 15-30
110-129				8-12
130-149				13-16
150-199				21-28
200-249				30-40
250-299				52-65
300-374				80-100
375+				103-129

Middle offenders with 110 points or more do not have to be committed. They may be assigned community supervision under option B.

All A+ offenses 180-224 weeks

**OR**

**OPTION B  
STATUTORY OPTION**

0-12 Months Community Supervision

0-150 Hours Community Service

0-100 Fine

Posting of a Probation Bond

If the offender has less than 110 points, the court may impose a determinate disposition of community supervision and/or up to 30 days confinement; in which

case, if confinement has been imposed, the court shall state either aggravating or mitigating factors as set forth in RCW 13.40.150.

If the middle offender has 110 points or more, the court may impose a disposition under option A and may suspend the disposition on the condition that the offender serve up to thirty days of confinement and follow all conditions of community supervision. If the offender fails to comply with the terms of community supervision, the court may impose sanctions pursuant to RCW 13.40.200 or may revoke the suspended disposition and order execution of the disposition. If the court imposes confinement for offenders with 110 points or more, the court shall state either aggravating or mitigating factors set forth in RCW 13.40.150.

**OR**

**OPTION C**

**MANIFEST INJUSTICE**

If the court determines that a disposition under option A or B would effectuate a manifest injustice, the court shall sentence the juvenile to a maximum term and the provisions of RCW 13.40.030(2) shall be used to determine the range.

**JUVENILE SENTENCING STANDARDS**

**SCHEDULE D-3**

This schedule may only be used for serious offenders. After the determination is made that a youth is a serious offender, the court has the discretion to select sentencing option A or B.

**SERIOUS OFFENDER**

**OPTION A**

**STANDARD RANGE**

Points	Institution Time
0-129	8-12 weeks
130-149	13-16 weeks
150-199	21-28 weeks
200-249	30-40 weeks
250-299	52-65 weeks
300-374	80-100 weeks
375+	103-129 weeks
All A+ Offenses	180-224 weeks

**OR**

**OPTION B**

**MANIFEST INJUSTICE**

A disposition outside the standard range shall be determined and shall be comprised of confinement or community supervision including posting a probation

bond or a combination thereof. When a judge finds a manifest injustice and imposes a sentence of confinement exceeding 30 days, the court shall sentence the juvenile to a maximum term, and the provisions of RCW 13.40.030(2) shall be used to determine the range.

This section expires July 1, 1998.

Sec. 12. RCW 13.40.0357 and 1996 c 205 s 6 are each amended to read as follows:

**((SCHEDULE A))  
DESCRIPTION AND OFFENSE CATEGORY**

JUVENILE DISPOSITION OFFENSE CATEGORY	DESCRIPTION (RCW CITATION)	JUVENILE DISPOSITION CATEGORY FOR ATTEMPT, BAILJUMP, CONSPIRACY, OR SOLICITATION
<b>Arson and Malicious Mischief</b>		
A	Arson 1 (9A.48.020)	B+
B	Arson 2 (9A.48.030)	C
C	Reckless Burning 1 (9A.48.040)	D
D	Reckless Burning 2 (9A.48.050)	E
B	Malicious Mischief 1 (9A.48.070)	C
C	Malicious Mischief 2 (9A.48.080)	D
D	Malicious Mischief 3 (<\$50 is E class) (9A.48.090)	E
E	Tampering with Fire Alarm Apparatus (9.40.100)	E
A	Possession of Incendiary Device (9.40.120)	B+
<b>Assault and Other Crimes Involving Physical Harm</b>		
A	Assault 1 (9A.36.011)	B+
B+	Assault 2 (9A.36.021)	C+
C+	Assault 3 (9A.36.031)	D+
D+	Assault 4 (9A.36.041)	E
<u>B±</u>	<u>Drive-By Shooting</u> (9A.36.045)	<u>C±</u>
D+	Reckless Endangerment (9A.36.050)	E
C+	Promoting Suicide Attempt (9A.36.060)	D+
D+	Coercion (9A.36.070)	E
C+	Custodial Assault (9A.36.100)	D+
<b>Burglary and Trespass</b>		

B+	Burglary 1 (9A.52.020)	C+
<u>B</u>	<u>Residential Burglary</u> <u>(9A.52.025)</u>	<u>C</u>
B	Burglary 2 (9A.52.030)	C
D	Burglary Tools (Possession of) (9A.52.060)	E
D	Criminal Trespass 1 (9A.52.070)	E
E	Criminal Trespass 2 (9A.52.080)	E
<u>C</u>	<u>Vehicle Prowling 1 (9A.52.095)</u>	<u>D</u>
D	Vehicle Prowling 2 (9A.52.100)	E
<b>Drugs</b>		
E	Possession/Consumption of Alcohol (66.44.270)	E
C	Illegally Obtaining Legend Drug (69.41.020)	D
C+	Sale, Delivery, Possession of Legend Drug with Intent to Sell (69.41.030)	D+
E	Possession of Legend Drug (69.41.030)	E
B+	Violation of Uniform Controlled Substances Act - Narcotic or Methamphetamine Sale (69.50.401(a)(1)(i) or (ii))	B+
C	Violation of Uniform Controlled Substances Act - Nonnarcotic Sale (69.50.401(a)(1)(iii))	C
E	Possession of Marihuana <40 grams (69.50.401(e))	E
C	Fraudulently Obtaining Controlled Substance (69.50.403)	C
C+	Sale of Controlled Substance for Profit (69.50.410)	C+
E	Unlawful Inhalation (9.47A.020)	E
B	Violation of Uniform Controlled Substances Act - Narcotic or Methamphetamine Counterfeit Substances (69.50.401(b)(1)(i) or (ii))	B
C	Violation of Uniform Controlled Substances Act - Nonnarcotic	

	Counterfeit Substances (69.50.401(b)(1) (iii), (iv), (v))	C
C	Violation of Uniform Controlled Substances Act - Possession of a Controlled Substance (69.50.401(d))	C
C	Violation of Uniform Controlled Substances Act - Possession of a Controlled Substance (69.50.401(c))	C
	<b>Firearms and Weapons</b>	
<u>B</u>	<u>Theft of Firearm (9A.56.300)</u>	<u>C</u>
<u>B</u>	<u>Possession of Stolen Firearm (9A.56.310)</u>	<u>C</u>
E	Carrying Loaded Pistol Without Permit (9.41.050)	E
C	Possession of Firearms by Minor (<18) (9.41.040(1) (b)((+)) (iii))	C
D+	Possession of Dangerous Weapon (9.41.250)	E
D	Intimidating Another Person by use of Weapon (9.41.270)	E
	<b>Homicide</b>	
A+	Murder 1 (9A.32.030)	A
A+	Murder 2 (9A.32.050)	B+
B+	Manslaughter 1 (9A.32.060)	C+
C+	Manslaughter 2 (9A.32.070)	D+
B+	Vehicular Homicide (46.61.520)	C+
	<b>Kidnapping</b>	
A	Kidnap 1 (9A.40.020)	B+
B+	Kidnap 2 (9A.40.030)	C+
C+	Unlawful Imprisonment (9A.40.040)	D+
	<b>Obstructing Governmental Operation</b>	
((E))		
<u>D</u>	<u>Obstructing a Law Enforcement Officer (9A.76.020)</u>	<u>E</u>
E	Resisting Arrest (9A.76.040)	E
B	Introducing Contraband I (9A.76.140)	C

C	Introducing Contraband 2 (9A.76.150)	D
E	Introducing Contraband 3 (9A.76.160)	E
B+	Intimidating a Public Servant (9A.76.180)	C+
B+	Intimidating a Witness (9A.72.110)	C+
	<b>Public Disturbance</b>	
C+	Riot with Weapon (9A.84.010)	D+
D+	Riot Without Weapon (9A.84.010)	E
E	Failure to Disperse (9A.84.020)	E
E	Disorderly Conduct (9A.84.030)	E
	<b>Sex Crimes</b>	
A	Rape 1 (9A.44.040)	B+
A-	Rape 2 (9A.44.050)	B+
C+	Rape 3 (9A.44.060)	D+
A-	Rape of a Child 1 (9A.44.073)	B+
B±	Rape of a Child 2 (9A.44.076)	C+
B	Incest 1 (9A.64.020(1))	C
C	Incest 2 (9A.64.020(2))	D
D+	Indecent Exposure (Victim <14) (9A.88.010)	E
E	Indecent Exposure (Victim 14 or over) (9A.88.010)	E
B+	Promoting Prostitution 1 (9A.88.070)	C+
C+	Promoting Prostitution 2 (9A.88.080)	D+
E	O & A (Prostitution) (9A.88.030)	E
B+	Indecent Liberties (9A.44.100)	C+
((B+))		((E+))
<u>A-</u>	Child Molestation 1 (9A.44.083)	<u>B±</u>
((E+))		
<u>B</u>	Child Molestation 2 (9A.44.086)	<u>C±</u>
	<b>Theft, Robbery, Extortion, and Forgery</b>	
B	Theft 1 (9A.56.030)	C
C	Theft 2 (9A.56.040)	D
D	Theft 3 (9A.56.050)	E
B	Theft of Livestock (9A.56.080)	C
C	Forgery (9A.60.020)	D
A	Robbery 1 (9A.56.200)	B+

B+	Robbery 2 (9A.56.210)	C+
B+	Extortion 1 (9A.56.120)	C+
C+	Extortion 2 (9A.56.130)	D+
B	Possession of Stolen Property 1 (9A.56.150)	C
C	Possession of Stolen Property 2 (9A.56.160)	D
D	Possession of Stolen Property 3 (9A.56.170)	E
C	Taking Motor Vehicle Without Owner's Permission (9A.56.070)	D
	<b>Motor Vehicle Related Crimes</b>	
E	Driving Without a License (46.20.021)	E
C	Hit and Run - Injury (46.52.020(4))	D
D	Hit and Run-Attended (46.52.020(5))	E
E	Hit and Run-Unattended (46.52.010)	E
C	Vehicular Assault (46.61.522)	D
C	Attempting to Elude Pursuing Police Vehicle (46.61.024)	D
E	Reckless Driving (46.61.500)	E
D	Driving While Under the Influence (46.61.502 and 46.61.504)	E
<del>((D</del>	<del>Vehicle Prowling (9A.52.100)</del>	<del>E</del>
<del>C</del>	<del>Taking Motor Vehicle Without Owner's Permission (9A.56.070)</del>	<del>D))</del>
	<b>Other</b>	
B	Bomb Threat (9.61.160)	C
C	Escape 1 <sup>1</sup> (9A.76.110)	C
C	Escape 2 <sup>1</sup> (9A.76.120)	C
D	Escape 3 (9A.76.130)	E
E	Obscene, Harassing, Etc., Phone Calls (9.61.230)	E
A	Other Offense Equivalent to an Adult Class A Felony	B+
B	Other Offense Equivalent to an Adult Class B Felony	C
C	Other Offense Equivalent to an Adult Class C Felony	D

- D Other Offense Equivalent to an Adult Gross Misdemeanor E
- E Other Offense Equivalent to an Adult Misdemeanor E
- V Violation of Order of Restitution, Community Supervision, or Confinement (13.40.200)<sup>2</sup> V

<sup>1</sup>Escape 1 and 2 and Attempted Escape 1 and 2 are classed as C offenses and the standard range is established as follows:

- 1st escape or attempted escape during 12-month period - 4 weeks confinement
- 2nd escape or attempted escape during 12-month period - 8 weeks confinement
- 3rd and subsequent escape or attempted escape during 12-month period - 12 weeks confinement

<sup>2</sup>If the court finds that a respondent has violated terms of an order, it may impose a penalty of up to 30 days of confinement.

~~((SCHEDULE B~~

~~PRIOR OFFENSE INCREASE FACTOR~~

~~For use with all CURRENT OFFENSES occurring on or after July 1, 1989.~~

~~TIME SPAN~~

<del>OFFENSE</del>	<del>0-12</del>	<del>13-24</del>	<del>25 Months</del>
<del>CATEGORY</del>	<del>Months</del>	<del>Months</del>	<del>or More</del>

<del>A+</del>	<del>.9</del>	<del>.9</del>	<del>.9</del>
<del>A</del>	<del>.9</del>	<del>.8</del>	<del>.6</del>
<del>A-</del>	<del>.9</del>	<del>.8</del>	<del>.5</del>
<del>B+</del>	<del>.9</del>	<del>.7</del>	<del>.4</del>
<del>A</del>	<del>.9</del>	<del>.8</del>	<del>.5</del>
<del>C+</del>	<del>.6</del>	<del>.3</del>	<del>.2</del>
<del>C</del>	<del>.5</del>	<del>.2</del>	<del>.2</del>
<del>D+</del>	<del>.3</del>	<del>.2</del>	<del>.1</del>
<del>D</del>	<del>.2</del>	<del>.1</del>	<del>.1</del>
<del>E</del>	<del>.1</del>	<del>.1</del>	<del>.1</del>

~~Prior history - Any offense in which a diversion agreement or counsel and release form was signed, or any offense which has been adjudicated by court to be correct prior to the commission of the current offense(s).~~

~~SCHEDULE C~~

~~CURRENT OFFENSE POINTS~~

~~For use with all CURRENT OFFENSES occurring on or after July 1, 1989.~~

~~AGE~~

OFFENSE CATEGORY	12 & Under	13	14	15	16	17
<b>STANDARD RANGE 180-224 WEEKS</b>						
A+	250	300	350	375	375	375
A	150	150	150	200	200	200
B+	110	110	120	130	140	150
B	45	45	50	50	57	57
C+	44	44	49	49	55	55
C	40	40	45	45	50	50
D+	16	18	20	22	24	26
D	14	16	18	20	22	24
E	4	4	4	6	8	10

**JUVENILE SENTENCING STANDARDS  
((SCHEDULE D-1))**

This schedule ((~~may only~~)) must be used for ((~~minor/first~~)) juvenile offenders. ((~~After the determination is made that a youth is a minor/first offender,~~)) The court ((~~has the discretion to~~)) may select sentencing option A, B, or C.

**((MINOR/FIRST OFFENDER**

**OPTION A**

**STANDARD RANGE**

Points	Community Service		Fine
	Supervision	Hours	
1-9	0-3 months	and/or 0-8	and/or 0-\$10
10-19	0-3 months	and/or 0-8	and/or 0-\$10
20-29	0-3 months	and/or 0-16	and/or 0-\$10
30-39	0-3 months	and/or 8-24	and/or 0-\$25
40-49	3-6 months	and/or 16-32	and/or 0-\$25
50-59	3-6 months	and/or 24-40	and/or 0-\$25
60-69	6-9 months	and/or 32-48	and/or 0-\$50
70-79	6-9 months	and/or 40-56	and/or 0-\$50
80-89	9-12 months	and/or 48-64	and/or 10-\$100
90-109	9-12 months	and/or 56-72	and/or 10-\$100

**OR**

**OPTION B**

**STATUTORY OPTION**

0-12 Months Community Supervision

0-150 Hours Community Service

0-100 Fine

Posting of a Probation Bond

A term of community supervision with a maximum of 150 hours, \$100.00 fine, and 12 months supervision:

**OR**

**OPTION C**

**MANIFEST INJUSTICE**

When a term of community supervision would effectuate a manifest injustice, another disposition may be imposed. When a judge imposes a sentence of confinement exceeding 30 days, the court shall sentence the juvenile to a maximum term and the provisions of RCW 13.40.030(2) shall be used to determine the range:

**JUVENILE SENTENCING STANDARDS**

**SCHEDULE D-2**

This schedule may only be used for middle offenders. After the determination is made that a youth is a middle offender, the court has the discretion to select sentencing option A, B, or C:

**MIDDLE OFFENDER**

**OPTION A**

**STANDARD RANGE**

Points	Community		Fine	Confinement Days Weeks
	Supervision	Service Hours		
1-9	0-3 months	and/or 0-8	and/or 0-\$10	and/or 0
10-19	0-3 months	and/or 0-8	and/or 0-\$10	and/or 0
20-29	0-3 months	and/or 0-16	and/or 0-\$10	and/or 0
30-39	0-3 months	and/or 8-24	and/or 0-\$25	and/or 2-4
40-49	3-6 months	and/or 16-32	and/or 0-\$25	and/or 2-4
50-59	3-6 months	and/or 24-40	and/or 0-\$25	and/or 5-10
60-69	3-6 months	and/or 24-40	and/or 0-\$25	and/or 5-10
70-79	6-9 months	and/or 40-56	and/or 0-\$50	and/or 10-20
80-89	9-12 months	and/or 48-64	and/or 0-\$100	and/or 10-20
90-109	9-12 months	and/or 56-72	and/or 0-\$100	and/or 15-30
110-129				8-12
130-149				13-16
150-199				21-28
200-249				30-40
250-299				52-65
300-374				80-100
375+				103-129

Middle offenders with 110 points or more do not have to be committed. They may be assigned community supervision under option B:

All A+ offenses (180-224 weeks))

**OPTION A**  
**JUVENILE OFFENDER SENTENCING GRID**  
**STANDARD RANGE**

	<b>A+</b>	<b>180 WEEKS TO AGE 21 YEARS</b>			
	<b>A</b>	<b>103 WEEKS TO 129 WEEKS</b>			
	<b>A-</b>	<b>15-36 WEEKS</b>	<b>152-65 WEEKS</b>	<b>180-100 WEEKS</b>	<b>1103-129 WEEKS</b>
		<b>EXCEPT</b>	L	L	L
		<b>30-40 WEEKS FOR</b>	L	L	L
		<b>15-17 YEAR OLDS</b>	L	L	L
<b>Current Offense Category</b>	<b>B+</b>	<b>15-36 WEEKS</b>	<b>152-65 WEEKS</b>	<b>180-100 WEEKS</b>	<b>1103-129 WEEKS</b>
	<b>B</b>	<b>LOCAL SANCTIONS (LS)</b>	L <b>115-36 WEEKS</b>		<b>152-65 WEEKS</b>
	<b>C+</b>	<b>LS</b>		L <b>115-36 WEEKS</b>	
	<b>C</b>	<b>LS</b>		<b>115-36 WEEKS</b> L	
			<b>Local Sanctions:</b>		
			<b>0 to 30 Days</b>		
	<b>D+</b>	<b>LS</b>	<b>0 to 12 Months Community Supervision</b>		
	<b>D</b>	<b>LS</b>	<b>0 to 150 Hours Community Service</b>		
			<b>\$0 to \$500 Fine</b>		
	<b>E</b>	<b>LS</b>			
		<b>0</b>	<b>1</b>	<b>2</b>	<b>3</b>
			<b>PRIOR ADJUDICATIONS</b>		
					<b>4 or more</b>

**NOTE: References in the grid to days or weeks mean periods of confinement.**

**(1) The vertical axis of the grid is the current offense category. The current offense category is determined by the offense of adjudication.**

**(2) The horizontal axis of the grid is the number of prior adjudications included in the juvenile's criminal history. Each prior felony adjudication shall count as one point. Each prior violation, misdemeanor, and gross misdemeanor adjudication shall count as 1/4 point. Fractional points shall be rounded down.**

**(3) The standard range disposition for each offense is determined by the intersection of the column defined by the prior adjudications and the row defined by the current offense category.**

**(4) RCW 13.40.180 applies if the offender is being sentenced for more than one offense.**

(5) A current offense that is a violation is equivalent to an offense category of E. However, a disposition for a violation shall not include confinement.

OR

**OPTION B**

**~~((STATUTORY OPTION))~~**

**CHEMICAL DEPENDENCY DISPOSITION ALTERNATIVE**

~~((0-12 Months Community Supervision~~

~~0-150 Hours Community Service~~

~~0-100 Fine~~

~~Posting of a Probation Bond~~

~~If the offender has less than 110 points, the court may impose a determinate disposition of community supervision and/or up to 30 days confinement; in which case, if confinement has been imposed, the court shall state either aggravating or mitigating factors as set forth in RCW 13.40.150;))~~

~~If the ((middle)) juvenile offender ((has 110 points or more)) is subject to a standard range disposition of local sanctions or 15 to 36 weeks of confinement and has not committed an A- or B+ offense, the court may impose a disposition under ((option A and may suspend the disposition on the condition that the offender serve up to thirty days of confinement and follow all conditions of community supervision. If the offender fails to comply with the terms of community supervision, the court may impose sanctions pursuant to RCW 13.40.200 or may revoke the suspended disposition and order execution of the disposition. If the court imposes confinement for offenders with 110 points or more, the court shall state either aggravating or mitigating factors set forth in RCW 13.40.150)) RCW 13.40.160(5) and section 26 of this act.~~

OR

**OPTION C**

**MANIFEST INJUSTICE**

If the court determines that a disposition under option A or B would effectuate a manifest injustice, the court shall ~~((sentence the juvenile to a maximum term and the provisions of RCW 13.40.030(2) shall be used to determine the range))~~ impose a disposition outside the standard range under RCW 13.40.160(2).

**~~((JUVENILE SENTENCING STANDARDS~~**

**~~SCHEDULE D-3~~**

~~This schedule may only be used for serious offenders. After the determination is made that a youth is a serious offender, the court has the discretion to select sentencing option A or B.~~

~~SERIOUS OFFENDER~~

~~OPTION A~~

~~STANDARD RANGE~~

<del>Points</del>	<del>Institution Time</del>
<del>0-129</del>	<del>8-12 weeks</del>
<del>130-149</del>	<del>13-16 weeks</del>
<del>150-199</del>	<del>21-28 weeks</del>
<del>200-249</del>	<del>30-40 weeks</del>
<del>250-299</del>	<del>52-65 weeks</del>
<del>300-374</del>	<del>80-100 weeks</del>
<del>375+</del>	<del>103-129 weeks</del>
<del>All A+ Offenses</del>	<del>180-224 weeks</del>

~~OR~~

~~OPTION B~~

~~MANIFEST INJUSTICE~~

~~A disposition outside the standard range shall be determined and shall be comprised of confinement or community supervision including posting a probation bond or a combination thereof. When a judge finds a manifest injustice and imposes a sentence of confinement exceeding 30 days, the court shall sentence the juvenile to a maximum term, and the provisions of RCW 13.40.030(2) shall be used to determine the range:)~~

**Sec. 13.** RCW 13.40.040 and 1995 c 395 s 4 are each amended to read as follows:

(1) A juvenile may be taken into custody:

(a) Pursuant to a court order if a complaint is filed with the court alleging, and the court finds probable cause to believe, that the juvenile has committed an offense or has violated terms of a disposition order or release order; or

(b) Without a court order, by a law enforcement officer if grounds exist for the arrest of an adult in identical circumstances. Admission to, and continued custody in, a court detention facility shall be governed by subsection (2) of this section; or

(c) Pursuant to a court order that the juvenile be held as a material witness; or

(d) Where the secretary or the secretary's designee has suspended the parole of a juvenile offender.

(2) A juvenile may not be held in detention unless there is probable cause to believe that:

(a) The juvenile has committed an offense or has violated the terms of a disposition order; and

(i) The juvenile will likely fail to appear for further proceedings; or

(ii) Detention is required to protect the juvenile from himself or herself; or

(iii) The juvenile is a threat to community safety; or

(iv) The juvenile will intimidate witnesses or otherwise unlawfully interfere with the administration of justice; or

(v) The juvenile has committed a crime while another case was pending; or

(b) The juvenile is a fugitive from justice; or

(c) The juvenile's parole has been suspended or modified; or

(d) The juvenile is a material witness.

(3) Upon a finding that members of the community have threatened the health of a juvenile taken into custody, at the juvenile's request the court may order continued detention pending further order of the court.

(4) A juvenile detained under this section may be released upon posting a probation bond set by the court. The juvenile's parent or guardian may sign for the probation bond. A court authorizing such a release shall issue an order containing a statement of conditions imposed upon the juvenile and shall set the date of his or her next court appearance. The court shall advise the juvenile of any conditions specified in the order and may at any time amend such an order in order to impose additional or different conditions of release upon the juvenile or to return the juvenile to custody for failing to conform to the conditions imposed. In addition to requiring the juvenile to appear at the next court date, the court may condition the probation bond on the juvenile's compliance with conditions of release. The juvenile's parent or guardian may notify the court that the juvenile has failed to conform to the conditions of release or the provisions in the probation bond. If the parent notifies the court of the juvenile's failure to comply with the probation bond, the court shall notify the surety. As provided in the terms of the bond, the surety shall provide notice to the court of the offender's noncompliance. A juvenile may be released only to a responsible adult or the department of social and health services. Failure to appear on the date scheduled by the court pursuant to this section shall constitute the crime of bail jumping.

**Sec. 14.** RCW 13.40.045 and 1994 sp.s. c 7 s 518 are each amended to read as follows:

The secretary, assistant secretary, or the secretary's designee shall issue arrest warrants for juveniles who escape from department residential custody. The secretary, assistant secretary, or the secretary's designee may issue arrest warrants for juveniles who abscond from parole supervision or fail to meet conditions of parole. These arrest warrants shall authorize any law enforcement, probation and parole, or peace officer of this state, or any other state where the juvenile is located, to arrest the juvenile and to place the juvenile in physical custody pending the juvenile's return to confinement in a state juvenile rehabilitation facility.

**Sec. 15.** RCW 13.40.050 and 1995 c 395 s 5 are each amended to read as follows:

(1) When a juvenile taken into custody is held in detention:

(a) An information, a community supervision modification or termination of diversion petition, or a parole modification petition shall be filed within seventy-

two hours, Saturdays, Sundays, and holidays excluded, or the juvenile shall be released; and

(b) A detention hearing, a community supervision modification or termination of diversion petition, or a parole modification petition shall be held within seventy-two hours, Saturdays, Sundays, and holidays excluded, from the time of filing the information or petition, to determine whether continued detention is necessary under RCW 13.40.040.

(2) Notice of the detention hearing, stating the time, place, and purpose of the hearing, ~~(and)~~ stating the right to counsel, and requiring attendance shall be given to the parent, guardian, or custodian if such person can be found and shall also be given to the juvenile if over twelve years of age.

(3) At the commencement of the detention hearing, the court shall advise the parties of their rights under this chapter and shall appoint counsel as specified in this chapter.

(4) The court shall, based upon the allegations in the information, determine whether the case is properly before it or whether the case should be treated as a diversion case under RCW 13.40.080. If the case is not properly before the court the juvenile shall be ordered released.

(5) Notwithstanding a determination that the case is properly before the court and that probable cause exists, a juvenile shall at the detention hearing be ordered released on the juvenile's personal recognizance pending further hearing unless the court finds detention is necessary under RCW 13.40.040 ~~((as now or hereafter amended))~~.

(6) If detention is not necessary under RCW 13.40.040, ~~((as now or hereafter amended;))~~ the court shall impose the most appropriate of the following conditions or, if necessary, any combination of the following conditions:

(a) Place the juvenile in the custody of a designated person agreeing to supervise such juvenile;

(b) Place restrictions on the travel of the juvenile during the period of release;

(c) Require the juvenile to report regularly to and remain under the supervision of the juvenile court;

(d) Impose any condition other than detention deemed reasonably necessary to assure appearance as required;

(e) Require that the juvenile return to detention during specified hours; or

(f) Require the juvenile to post a probation bond set by the court under terms and conditions as provided in RCW 13.40.040(4).

(7) A juvenile may be released only to a responsible adult or the department.

(8) If the parent, guardian, or custodian of the juvenile in detention is available, the court shall consult with them prior to a determination to further detain or release the juvenile or treat the case as a diversion case under RCW 13.40.080.

(9) A person notified under this section who fails without reasonable cause to appear and abide by the order of the court may be proceeded against as for

contempt of court. In determining whether a parent, guardian, or custodian had reasonable cause not to appear, the court may consider all factors relevant to the person's ability to appear as summoned.

Sec. 16. RCW 13.40.060 and 1989 c 71 s 1 are each amended to read as follows:

(1) All actions under this chapter shall be commenced and tried in the county where any element of the offense was committed except as otherwise specially provided by statute. In cases in which diversion is provided by statute, venue is in the county in which the juvenile resides or in the county in which any element of the offense was committed.

~~(2) ((The case and copies of all legal and social documents pertaining thereto may in the discretion of the court be transferred to the county where the juvenile resides for a disposition hearing. All costs and arrangements for care and transportation of the juvenile in custody shall be the responsibility of the receiving county as of the date of the transfer of the juvenile to such county, unless the counties otherwise agree.~~

~~—(3))~~ The case and copies of all legal and social documents pertaining thereto may in the discretion of the court be transferred to the county in which the juvenile resides for supervision and enforcement of the disposition order. The court of the receiving county has jurisdiction to modify and enforce the disposition order.

~~((4))~~ (3) The court upon motion of any party or upon its own motion may, at any time, transfer a proceeding to another juvenile court when there is reason to believe that an impartial proceeding cannot be held in the county in which the proceeding was begun.

Sec. 17. RCW 13.40.070 and 1994 sp.s. c 7 s 543 are each amended to read as follows:

(1) Complaints referred to the juvenile court alleging the commission of an offense shall be referred directly to the prosecutor. The prosecutor, upon receipt of a complaint, shall screen the complaint to determine whether:

- (a) The alleged facts bring the case within the jurisdiction of the court; and
- (b) On a basis of available evidence there is probable cause to believe that the juvenile did commit the offense.

(2) If the identical alleged acts constitute an offense under both the law of this state and an ordinance of any city or county of this state, state law shall govern the prosecutor's screening and charging decision for both filed and diverted cases.

(3) If the requirements of subsections (1)(a) and (b) of this section are met, the prosecutor shall either file an information in juvenile court or divert the case, as set forth in subsections (5), (6), and (7) of this section. If the prosecutor finds that the requirements of subsection (1)(a) and (b) of this section are not met, the prosecutor shall maintain a record, for one year, of such decision and the reasons therefor. In lieu of filing an information or diverting an offense a prosecutor may file a motion to modify community supervision where such offense constitutes a violation of community supervision.

(4) An information shall be a plain, concise, and definite written statement of the essential facts constituting the offense charged. It shall be signed by the prosecuting attorney and conform to chapter 10.37 RCW.

(5) Where a case is legally sufficient, the prosecutor shall file an information with the juvenile court if:

(a) An alleged offender is accused of a class A felony, a class B felony, an attempt to commit a class B felony, a class C felony listed in RCW 9A.40.060 as a crime against persons or listed in RCW 9A.46.060 as a crime of harassment, ~~or a class C felony that is a violation of RCW 9.41.080 or ((9.41.040(1)(e), or any other offense listed in RCW 13.40.020(1)(b) or (c)))~~ 9.41.040(1)(b)(iii); or

(b) An alleged offender is accused of a felony and has a criminal history of any felony, or at least two gross misdemeanors, or at least two misdemeanors; or

(c) An alleged offender has previously been committed to the department; or

(d) An alleged offender has been referred by a diversion unit for prosecution or desires prosecution instead of diversion; or

(e) An alleged offender has two or more diversion contracts on the alleged offender's criminal history; or

(f) A special allegation has been filed that the offender or an accomplice was armed with a firearm when the offense was committed.

(6) Where a case is legally sufficient the prosecutor shall divert the case if the alleged offense is a misdemeanor or gross misdemeanor or violation and the alleged offense is the offender's first offense or violation. If the alleged offender is charged with a related offense that must or may be filed under subsections (5) and (7) of this section, a case under this subsection may also be filed.

(7) Where a case is legally sufficient and falls into neither subsection (5) nor (6) of this section, it may be filed or diverted. In deciding whether to file or divert an offense under this section the prosecutor shall be guided only by the length, seriousness, and recency of the alleged offender's criminal history and the circumstances surrounding the commission of the alleged offense.

(8) Whenever a juvenile is placed in custody or, where not placed in custody, referred to a ~~((diversionary))~~ diversion interview, the parent or legal guardian of the juvenile shall be notified as soon as possible concerning the allegation made against the juvenile and the current status of the juvenile. Where a case involves victims of crimes against persons or victims whose property has not been recovered at the time a juvenile is referred to a ~~((diversionary))~~ diversion unit, the victim shall be notified of the referral and informed how to contact the unit.

(9) The responsibilities of the prosecutor under subsections (1) through (8) of this section may be performed by a juvenile court probation counselor for any complaint referred to the court alleging the commission of an offense which would not be a felony if committed by an adult, if the prosecutor has given sufficient written notice to the juvenile court that the prosecutor will not review such complaints.

(10) The prosecutor, juvenile court probation counselor, or diversion unit may, in exercising their authority under this section or RCW 13.40.080, refer juveniles to mediation or victim offender reconciliation programs. Such mediation or victim offender reconciliation programs shall be voluntary for victims.

**Sec. 18.** RCW 13.40.077 and 1996 c 9 s 1 are each amended to read as follows:

**RECOMMENDED PROSECUTING STANDARDS  
FOR CHARGING AND PLEA DISPOSITIONS**

**INTRODUCTION:** These standards are intended solely for the guidance of prosecutors in the state of Washington. They are not intended to, do not, and may not be relied upon to create a right or benefit, substantive or procedural, enforceable at law by a party in litigation with the state.

Evidentiary sufficiency.

(1) Decision not to prosecute.

**STANDARD:** A prosecuting attorney may decline to prosecute, even though technically sufficient evidence to prosecute exists, in situations where prosecution would serve no public purpose, would defeat the underlying purpose of the law in question, or would result in decreased respect for the law. The decision not to prosecute or divert shall not be influenced by the race, gender, religion, or creed of the suspect.

**GUIDELINES/COMMENTARY:**

Examples

The following are examples of reasons not to prosecute which could satisfy the standard.

(a) **Contrary to Legislative Intent** - It may be proper to decline to charge where the application of criminal sanctions would be clearly contrary to the intent of the legislature in enacting the particular statute.

(b) **Antiquated Statute** - It may be proper to decline to charge where the statute in question is antiquated in that:

- (i) It has not been enforced for many years;
- (ii) Most members of society act as if it were no longer in existence;
- (iii) It serves no deterrent or protective purpose in today's society; and
- (iv) The statute has not been recently reconsidered by the legislature.

This reason is not to be construed as the basis for declining cases because the law in question is unpopular or because it is difficult to enforce.

(c) **De Minimis Violation** - It may be proper to decline to charge where the violation of law is only technical or insubstantial and where no public interest or deterrent purpose would be served by prosecution.

(d) **Confinement on Other Charges** - It may be proper to decline to charge because the accused has been sentenced on another charge to a lengthy period of confinement; and

(i) Conviction of the new offense would not merit any additional direct or collateral punishment;

(ii) The new offense is either a misdemeanor or a felony which is not particularly aggravated; and

(iii) Conviction of the new offense would not serve any significant deterrent purpose.

(e) Pending Conviction on Another Charge - It may be proper to decline to charge because the accused is facing a pending prosecution in the same or another county; and

(i) Conviction of the new offense would not merit any additional direct or collateral punishment;

(ii) Conviction in the pending prosecution is imminent;

(iii) The new offense is either a misdemeanor or a felony which is not particularly aggravated; and

(iv) Conviction of the new offense would not serve any significant deterrent purpose.

(f) High Disproportionate Cost of Prosecution - It may be proper to decline to charge where the cost of locating or transporting, or the burden on, prosecution witnesses is highly disproportionate to the importance of prosecuting the offense in question. The reason should be limited to minor cases and should not be relied upon in serious cases.

(g) Improper Motives of Complainant - It may be proper to decline charges because the motives of the complainant are improper and prosecution would serve no public purpose, would defeat the underlying purpose of the law in question, or would result in decreased respect for the law.

(h) Immunity - It may be proper to decline to charge where immunity is to be given to an accused in order to prosecute another where the accused information or testimony will reasonably lead to the conviction of others who are responsible for more serious criminal conduct or who represent a greater danger to the public interest.

(i) Victim Request - It may be proper to decline to charge because the victim requests that no criminal charges be filed and the case involves the following crimes or situations:

(i) Assault cases where the victim has suffered little or no injury;

(ii) Crimes against property, not involving violence, where no major loss was suffered;

(iii) Where doing so would not jeopardize the safety of society.

Care should be taken to insure that the victim's request is freely made and is not the product of threats or pressure by the accused.

The presence of these factors may also justify the decision to dismiss a prosecution which has been commenced.

#### Notification

The prosecutor is encouraged to notify the victim, when practical, and the law enforcement personnel, of the decision not to prosecute.

#### (2) Decision to prosecute.

**STANDARD:**

Crimes against persons will be filed if sufficient admissible evidence exists, which, when considered with the most plausible, reasonably foreseeable defense that could be raised under the evidence, would justify conviction by a reasonable and objective fact-finder. With regard to offenses prohibited by RCW 9A.44.040, 9A.44.050, 9A.44.073, 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, 9A.44.089, and 9A.64.020 the prosecutor should avoid prefilng agreements or diversions intended to place the accused in a program of treatment or counseling, so that treatment, if determined to be beneficial, can be proved under RCW 13.40.160(~~(5)~~) (4).

Crimes against property/other crimes will be filed if the admissible evidence is of such convincing force as to make it probable that a reasonable and objective fact-finder would convict after hearing all the admissible evidence and the most plausible defense that could be raised.

The categorization of crimes for these charging standards shall be the same as found in RCW 9.94A.440(2).

The decision to prosecute or use diversion shall not be influenced by the race, gender, religion, or creed of the respondent.

**(3) Selection of Charges/Degree of Charge**

(a) The prosecutor should file charges which adequately describe the nature of the respondent's conduct. Other offenses may be charged only if they are necessary to ensure that the charges:

- (i) Will significantly enhance the strength of the state's case at trial; or
- (ii) Will result in restitution to all victims.

(b) The prosecutor should not overcharge to obtain a guilty plea. Overcharging includes:

- (i) Charging a higher degree;
- (ii) Charging additional counts.

This standard is intended to direct prosecutors to charge those crimes which demonstrate the nature and seriousness of a respondent's criminal conduct, but to decline to charge crimes which are not necessary to such an indication. Crimes which do not merge as a matter of law, but which arise from the same course of conduct, do not all have to be charged.

**(4) Police Investigation**

A prosecuting attorney is dependent upon law enforcement agencies to conduct the necessary factual investigation which must precede the decision to prosecute. The prosecuting attorney shall ensure that a thorough factual investigation has been conducted before a decision to prosecute is made. In ordinary circumstances the investigation should include the following:

- (a) The interviewing of all material witnesses, together with the obtaining of written statements whenever possible;
- (b) The completion of necessary laboratory tests; and

(c) The obtaining, in accordance with constitutional requirements, of the suspect's version of the events.

If the initial investigation is incomplete, a prosecuting attorney should insist upon further investigation before a decision to prosecute is made, and specify what the investigation needs to include.

(5) Exceptions

In certain situations, a prosecuting attorney may authorize filing of a criminal complaint before the investigation is complete if:

(a) Probable cause exists to believe the suspect is guilty; and

(b) The suspect presents a danger to the community or is likely to flee if not apprehended; or

(c) The arrest of the suspect is necessary to complete the investigation of the crime.

In the event that the exception ((~~that-to~~)) to the standard is applied, the prosecuting attorney shall obtain a commitment from the law enforcement agency involved to complete the investigation in a timely manner. If the subsequent investigation does not produce sufficient evidence to meet the normal charging standard, the complaint should be dismissed.

(6) Investigation Techniques

The prosecutor should be fully advised of the investigatory techniques that were used in the case investigation including:

(a) Polygraph testing;

(b) Hypnosis;

(c) Electronic surveillance;

(d) Use of informants.

(7) Prefiling Discussions with Defendant

Discussions with the defendant or his or her representative regarding the selection or disposition of charges may occur prior to the filing of charges, and potential agreements can be reached.

(8) Plea dispositions:

STANDARD

(a) Except as provided in subsection (2) of this section, a respondent will normally be expected to plead guilty to the charge or charges which adequately describe the nature of his or her criminal conduct or go to trial.

(h) In certain circumstances, a plea agreement with a respondent in exchange for a plea of guilty to a charge or charges that may not fully describe the nature of his or her criminal conduct may be necessary and in the public interest. Such situations may include the following:

(i) Evidentiary problems which make conviction of the original charges doubtful;

(ii) The respondent's willingness to cooperate in the investigation or prosecution of others whose criminal conduct is more serious or represents a greater public threat;

(iii) A request by the victim when it is not the result of pressure from the respondent;

(iv) The discovery of facts which mitigate the seriousness of the respondent's conduct;

(v) The correction of errors in the initial charging decision;

(vi) The respondent's history with respect to criminal activity;

(vii) The nature and seriousness of the offense or offenses charged;

(viii) The probable effect of witnesses.

(c) No plea agreement shall be influenced by the race, gender, religion, or creed of the respondent. This includes but is not limited to the prosecutor's decision to utilize such disposition alternatives as (~~"Option B,"~~) the Special Sex Offender Disposition Alternative, the Chemical Dependency Disposition Alternative, and manifest injustice.

(9) Disposition recommendations:

STANDARD

The prosecutor may reach an agreement regarding disposition recommendations.

The prosecutor shall not agree to withhold relevant information from the court concerning the plea agreement.

**Sec. 19.** RCW 13.40.100 and 1979 c 155 s 62 are each amended to read as follows:

(1) Upon the filing of an information the alleged offender shall be notified by summons, warrant, or other method approved by the court of the next required court appearance.

(2) If notice is by summons, the clerk of the court shall issue a summons directed to the juvenile, if the juvenile is twelve or more years of age, and another to the parents, guardian, or custodian, and such other persons as appear to the court to be proper or necessary parties to the proceedings, requiring them to appear personally before the court at the time fixed to hear the petition. Where the custodian is summoned, the parent or guardian or both shall also be served with a summons.

(3) A copy of the information shall be attached to each summons.

(4) The summons shall advise the parties of the right to counsel.

(5) The judge may endorse upon the summons an order directing the parents, guardian, or custodian having the custody or control of the juvenile to bring the juvenile to the hearing.

(6) If it appears from affidavit or sworn statement presented to the judge that there is probable cause for the issuance of a warrant of arrest or that the juvenile needs to be taken into custody pursuant to RCW 13.34.050(~~(, as now or hereafter amended)~~), the judge may endorse upon the summons an order that an officer serving the summons shall at once take the juvenile into custody and take the juvenile to the place of detention or shelter designated by the court.

(7) Service of summons may be made under the direction of the court by any law enforcement officer or probation counselor.

(8) If the person summoned as herein provided fails without reasonable cause to appear and abide the order of the court, the person may be proceeded against as for contempt of court. In determining whether a parent, guardian, or custodian had reasonable cause not to appear, the court may consider all factors relevant to the person's ability to appear as summoned.

**Sec. 20.** RCW 13.40.110 and 1990 c 3 s 303 are each amended to read as follows:

(1) The prosecutor, respondent, or the court on its own motion may, before a hearing on the information on its merits, file a motion requesting the court to transfer the respondent for adult criminal prosecution and the matter shall be set for a hearing on the question of declining jurisdiction. Unless waived by the court, the parties, and their counsel, a decline hearing shall be held ~~((where))~~ when:

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

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

(c) The information alleges an escape by the respondent and the respondent is serving a minimum juvenile sentence to age twenty-one.

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

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

**NEW SECTION.** **Sec. 21.** A new section is added to chapter 13.40 RCW to read as follows:

(1) A juvenile is eligible for deferred disposition unless he or she:

(a) Is charged with a sex or violent offense;

(b) Has a criminal history which includes any felony;

(c) Has a prior deferred disposition or deferred adjudication; or

(d) Has two or more diversions.

(2) The juvenile court may, upon motion at least fourteen days before commencement of trial and, after consulting the juvenile's custodial parent or parents or guardian and with the consent of the juvenile, continue the case for disposition for a period not to exceed one year from the date the juvenile is found guilty. The court shall consider whether the offender and the community will benefit from a deferred disposition before deferring the disposition.

(3) Any juvenile who agrees to a deferral of disposition shall:

(a) Stipulate to the admissibility of the facts contained in the written police report;

(b) Acknowledge that the report will be entered and used to support a finding of guilt and to impose a disposition if the juvenile fails to comply with terms of supervision; and

(c) Waive the following rights to: (i) A speedy disposition; and (ii) call and confront witnesses.

The adjudicatory hearing shall be limited to a reading of the court's record.

(4) Following the stipulation, acknowledgment, waiver, and entry of a finding or plea of guilt, the court shall defer entry of an order of disposition of the juvenile.

(5) Any juvenile granted a deferral of disposition under this section shall be placed under community supervision. The court may impose any conditions of supervision that it deems appropriate including posting a probation bond. Payment of restitution under RCW 13.40.190 shall be a condition of community supervision under this section.

(6) A parent who signed for a probation bond has the right to notify the counselor if the juvenile fails to comply with the bond or conditions of supervision. The counselor shall notify the court and surety of any failure to comply. A surety shall notify the court of the juvenile's failure to comply with the probation bond. The state shall bear the burden to prove, by a preponderance of the evidence, that the juvenile has failed to comply with the terms of community supervision.

(7) A juvenile's lack of compliance shall be determined by the judge upon written motion by the prosecutor or the juvenile's juvenile court community supervision counselor. If a juvenile fails to comply with terms of supervision, the court shall enter an order of disposition.

(8) At any time following deferral of disposition the court may, following a hearing, continue the case for an additional one-year period for good cause.

(9) At the conclusion of the period set forth in the order of deferral and upon a finding by the court of full compliance with conditions of supervision and payment of full restitution, the respondent's conviction shall be vacated and the court shall dismiss the case with prejudice.

**Sec. 22.** RCW 13.40.130 and 1981 c 299 s 10 are each amended to read as follows:

(1) The respondent shall be advised of the allegations in the information and shall be required to plead guilty or not guilty to the allegation(s). The state or the respondent may make preliminary motions up to the time of the plea.

(2) If the respondent pleads guilty, the court may proceed with disposition or may continue the case for a dispositional hearing. If the respondent denies guilt, an adjudicatory hearing date shall be set. The court shall notify the parent, guardian, or custodian who has custody of a juvenile described in the charging document of the dispositional or adjudicatory hearing and shall require attendance.

(3) At the adjudicatory hearing it shall be the burden of the prosecution to prove the allegations of the information beyond a reasonable doubt.

(4) The court shall record its findings of fact and shall enter its decision upon the record. Such findings shall set forth the evidence relied upon by the court in reaching its decision.

(5) If the respondent is found not guilty he or she shall be released from detention.

(6) If the respondent is found guilty the court may immediately proceed to disposition or may continue the case for a dispositional hearing. Notice of the time and place of the continued hearing may be given in open court. If notice is not given in open court to a party, the party and the parent, guardian, or custodian who has custody of the juvenile shall be notified by mail of the time and place of the continued hearing.

(7) The court following an adjudicatory hearing may request that a predisposition study be prepared to aid the court in its evaluation of the matters relevant to disposition of the case.

(8) The disposition hearing shall be held within fourteen days after the adjudicatory hearing or plea of guilty unless good cause is shown for further delay, or within twenty-one days if the juvenile is not held in a detention facility, unless good cause is shown for further delay.

(9) In sentencing an offender, the court shall use the disposition standards in effect on the date of the offense.

(10) A person notified under this section who fails without reasonable cause to appear and abide by the order of the court may be proceeded against as for contempt of court. In determining whether a parent, guardian, or custodian had reasonable cause not to appear, the court may consider all factors relevant to the person's ability to appear as summoned.

**Sec. 23.** RCW 13.40.135 and 1990 c 3 s 604 are each amended to read as follows:

(1) The prosecuting attorney shall file a special allegation of sexual motivation in every juvenile offense other than sex offenses as defined in RCW 9.94A.030(~~((29))~~) (33) (a) or (c) when sufficient admissible evidence exists, which, when considered with the most plausible, reasonably consistent defense that could be raised under the evidence, would justify a finding of sexual motivation by a reasonable and objective fact-finder.

(2) In a juvenile case wherein there has been a special allegation the state shall prove beyond a reasonable doubt that the juvenile committed the offense with a sexual motivation. The court shall make a finding of fact of whether or not the sexual motivation was present at the time of the commission of the offense. This finding shall not be applied to sex offenses as defined in RCW 9.94A.030(~~((29))~~) (33) (a) or (c).

(3) The prosecuting attorney shall not withdraw the special allegation of "sexual motivation" without approval of the court through an order of dismissal.

The court shall not dismiss the special allegation unless it finds that such an order is necessary to correct an error in the initial charging decision or unless there are evidentiary problems which make proving the special allegation doubtful.

**Sec. 24.** RCW 13.40.150 and 1995 c 268 s 5 are each amended to read as follows:

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

(2) For purposes of disposition:

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

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

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

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

(c) Consider any predisposition reports;

(d) Consult with the respondent's parent, guardian, or custodian on the appropriateness of dispositional options under consideration and afford the respondent and the respondent's parent, guardian, or custodian an opportunity to speak in the respondent's behalf;

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

(f) Determine the amount of restitution owing to the victim, if any, or set a hearing for a later date to determine the amount;

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

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

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

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

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

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

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

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

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

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

(iii) The victim or victims were particularly vulnerable;

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

(v) The current offense included a finding of sexual motivation pursuant to RCW 13.40.135;

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

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

(viii) The standard range disposition is clearly too lenient considering the seriousness of the juvenile's prior adjudications.

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

(a) The sex of the respondent;

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

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

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

and

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

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

**Sec. 25.** RCW 13.40.160 and 1995 c 395 s 7 are each amended to read as follows:

~~(1) ((When the respondent is found to be a serious offender, the court shall commit the offender to the department for the standard range of disposition for the offense, as indicated in option A of schedule D-3, RCW 13.40.0357 except as provided in subsections (5) and (6) of this section.))~~ The standard range disposition for a juvenile adjudicated of an offense is determined according to RCW 13.40.0357.

(a) When the court sentences an offender to a local sanction as provided in RCW 13.40.0357 option A, the court shall impose a determinate disposition within the standard ranges, except as provided in subsections (2), (4), and (5) of this section. The disposition may be comprised of one or more local sanctions.

(b) When the court sentences an offender to a standard range as provided in RCW 13.40.0357 option A that includes a term of confinement exceeding thirty days, commitment shall be to the department for the standard range of confinement, except as provided in subsections (2), (4), and (5) of this section.

(2) If the court concludes, and enters reasons for its conclusion, that disposition within the standard range would effectuate a manifest injustice the court shall impose a disposition outside the standard range, as indicated in option ((B)) C of ((schedule D-3;)) RCW 13.40.0357. The court's finding of manifest injustice shall be supported by clear and convincing evidence.

A disposition outside the standard range shall be determinate and shall be comprised of confinement or community supervision, or a combination thereof. When a judge finds a manifest injustice and imposes a sentence of confinement exceeding thirty days, the court shall sentence the juvenile to a maximum term, and the provisions of RCW 13.40.030(2) shall be used to determine the range. A disposition outside the standard range is appealable under RCW 13.40.230 by the state or the respondent. A disposition within the standard range is not appealable under RCW 13.40.230.

~~((2) Where the respondent is found to be a minor or first offender, the court shall order that the respondent serve a term of community supervision as indicated in option A or option B of schedule D-1, RCW 13.40.0357 except as provided in subsections (5) and (6) of this section. If the court determines that a disposition of community supervision would effectuate a manifest injustice the court may impose another disposition under option C of schedule D-1, RCW 13.40.0357. Except as provided in subsection (5) of this section, a disposition other than a community supervision may be imposed only after the court enters reasons upon which it bases its conclusions that imposition of community supervision would effectuate a manifest injustice. When a judge finds a manifest injustice and imposes a sentence of confinement exceeding thirty days, the court shall sentence the juvenile to a maximum term, and the provisions of RCW 13.40.030(2) shall be used to determine the range. The court's finding of manifest injustice shall be supported by clear and convincing evidence.~~

~~— Except for disposition of community supervision or a disposition imposed pursuant to subsection (5) of this section, disposition may be appealed as provided in RCW 13.40.230 by the state or the respondent. A disposition of community supervision or a disposition imposed pursuant to subsection (5) of this section may not be appealed under RCW 13.40.230.)~~

(3) Where a respondent is found to have committed an offense for which the respondent declined to enter into a diversion agreement, the court shall impose a term of community supervision limited to the conditions allowed in a diversion agreement as provided in RCW 13.40.080(2).

(4) ~~((If a respondent is found to be a middle offender:~~  
~~— (a) The court shall impose a determinate disposition within the standard range(s) for such offense, as indicated in option A of schedule D-2, RCW~~

~~13.40.0357 except as provided in subsections (5) and (6) of this section. If the standard range includes a term of confinement exceeding thirty days, commitment shall be to the department for the standard range of confinement; or~~

~~—(b) If the middle offender has less than 110 points, the court shall impose a determinate disposition of community supervision and/or up to thirty days confinement, as indicated in option B of schedule D-2, RCW 13.40.0357 in which case, if confinement has been imposed, the court shall state either aggravating or mitigating factors as set forth in RCW 13.40.150. If the middle offender has 110 points or more, the court may impose a disposition under option A and may suspend the disposition on the condition that the offender serve up to thirty days of confinement and follow all conditions of community supervision. If the offender violates any condition of the disposition including conditions of a probation bond, the court may impose sanctions pursuant to RCW 13.40.200 or may revoke the suspension and order execution of the disposition. The court shall give credit for any confinement time previously served if that confinement was for the offense for which the suspension is being revoked.~~

~~—(c) Only if the court concludes, and enters reasons for its conclusions, that disposition as provided in subsection (4) (a) or (b) of this section would effectuate a manifest injustice, the court shall sentence the juvenile to a maximum term, and the provisions of RCW 13.40.030(2) shall be used to determine the range. The court's finding of manifest injustice shall be supported by clear and convincing evidence.~~

~~—(d) A disposition pursuant to subsection (4)(c) of this section is appealable under RCW 13.40.230 by the state or the respondent. A disposition pursuant to subsection (4) (a) or (b) of this section is not appealable under RCW 13.40.230.~~

~~—(5)) When a ((serious, middle, or minor first)) juvenile offender is found to have committed a sex offense, other than a sex offense that is also a serious violent offense as defined by RCW 9.94A.030, and has no history of a prior sex offense, the court, on its own motion or the motion of the state or the respondent, may order an examination to determine whether the respondent is amenable to treatment.~~

The report of the examination shall include at a minimum the following: The respondent's version of the facts and the official version of the facts, the respondent's offense history, an assessment of problems in addition to alleged deviant behaviors, the respondent's social, educational, and employment situation, and other evaluation measures used. The report shall set forth the sources of the evaluator's information.

The examiner shall assess and report regarding the respondent's amenability to treatment and relative risk to the community. A proposed treatment plan shall be provided and shall include, at a minimum:

- (a)(i) Frequency and type of contact between the offender and therapist;
- (ii) Specific issues to be addressed in the treatment and description of planned treatment modalities;

(iii) Monitoring plans, including any requirements regarding living conditions, lifestyle requirements, and monitoring by family members, legal guardians, or others;

(iv) Anticipated length of treatment; and

(v) Recommended crime-related prohibitions.

The court on its own motion may order, or on a motion by the state shall order, a second examination regarding the offender's amenability to treatment. The evaluator shall be selected by the party making the motion. The defendant shall pay the cost of any second examination ordered unless the court finds the defendant to be indigent in which case the state shall pay the cost.

After receipt of reports of the examination, the court shall then consider whether the offender and the community will benefit from use of this special sex offender disposition alternative and consider the victim's opinion whether the offender should receive a treatment disposition under this section. If the court determines that this special sex offender disposition alternative is appropriate, then the court shall impose a determinate disposition within the standard range for the offense, or if the court concludes, and enters reasons for its conclusions, that such disposition would cause a manifest injustice, the court shall impose a disposition under option C, and the court may suspend the execution of the disposition and place the offender on community supervision for ~~((up to))~~ at least two years. As a condition of the suspended disposition, the court may impose the conditions of community supervision and other conditions, including up to thirty days of confinement and requirements that the offender do any one or more of the following:

(b)(i) Devote time to a specific education, employment, or occupation;

(ii) Undergo available outpatient sex offender treatment for up to two years, or inpatient sex offender treatment not to exceed the standard range of confinement for that offense. A community mental health center may not be used for such treatment unless it has an appropriate program designed for sex offender treatment. The respondent shall not change sex offender treatment providers or treatment conditions without first notifying the prosecutor, the probation counselor, and the court, and shall not change providers without court approval after a hearing if the prosecutor or probation counselor object to the change;

(iii) Remain within prescribed geographical boundaries and notify the court or the probation counselor prior to any change in the offender's address, educational program, or employment;

(iv) Report to the prosecutor and the probation counselor prior to any change in a sex offender treatment provider. This change shall have prior approval by the court;

(v) Report as directed to the court and a probation counselor;

(vi) Pay all court-ordered legal financial obligations, perform community service, or any combination thereof;

(vii) Make restitution to the victim for the cost of any counseling reasonably related to the offense; or

(viii) Comply with the conditions of any court-ordered probation bond.

The sex offender treatment provider shall submit quarterly reports on the respondent's progress in treatment to the court and the parties. The reports shall reference the treatment plan and include at a minimum the following: Dates of attendance, respondent's compliance with requirements, treatment activities, the respondent's relative progress in treatment, and any other material specified by the court at the time of the disposition.

At the time of the disposition, the court may set treatment review hearings as the court considers appropriate.

Except as provided in this subsection (~~((5))~~) (4), after July 1, 1991, examinations and treatment ordered pursuant to this subsection shall only be conducted by sex offender treatment providers certified by the department of health pursuant to chapter 18.155 RCW. A sex offender therapist who examines or treats a juvenile sex offender pursuant to this subsection does not have to be certified by the department of health pursuant to chapter 18.155 RCW if the court finds that: (A) The offender has already moved to another state or plans to move to another state for reasons other than circumventing the certification requirements; (B) no certified providers are available for treatment within a reasonable geographical distance of the offender's home; and (C) the evaluation and treatment plan comply with this subsection (~~((5))~~) (4) and the rules adopted by the department of health.

If the offender violates any condition of the disposition or the court finds that the respondent is failing to make satisfactory progress in treatment, the court may revoke the suspension and order execution of the disposition or the court may impose a penalty of up to thirty days' confinement for violating conditions of the disposition. The court may order both execution of the disposition and up to thirty days' confinement for the violation of the conditions of the disposition. The court shall give credit for any confinement time previously served if that confinement was for the offense for which the suspension is being revoked.

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

~~((6))~~ A disposition entered under this subsection (4) is not appealable under RCW 13.40.230.

(5) If the juvenile offender is subject to a standard range disposition of local sanctions or 15 to 36 weeks of confinement and has not committed an A- or B+ offense, the court may impose the disposition alternative under section 26 of this act.

(6) RCW 13.40.193 shall govern the disposition of any juvenile adjudicated of possessing a firearm in violation of RCW 9.41.040(1)((e)) (b)(iii) or any crime in which a special finding is entered that the juvenile was armed with a firearm.

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

(8) Except as provided ~~((for in))~~ under subsection (4)~~((b))~~ or (5) of this section or ~~((RCW 13.40.125))~~ section 21 of this act, the court shall not suspend or defer the imposition or the execution of the disposition.

(9) In no case shall the term of confinement imposed by the court at disposition exceed that to which an adult could be subjected for the same offense.

**NEW SECTION.** Sec. 26. A new section is added to chapter 13.40 RCW to read as follows:

(1) When a juvenile offender is subject to a standard range disposition of local sanctions or 15 to 36 weeks of confinement and has not committed an A- or B+ offense, the court, on its own motion or the motion of the state or the respondent if the evidence shows that the offender may be chemically dependent, may order an examination by a chemical dependency counselor from a chemical dependency treatment facility approved under chapter 70.96A RCW to determine if the youth is chemically dependent and amenable to treatment.

(2) The report of the examination shall include at a minimum the following: The respondent's version of the facts and the official version of the facts, the respondent's offense history, an assessment of drug-alcohol problems and previous treatment attempts, the respondent's social, educational, and employment situation, and other evaluation measures used. The report shall set forth the sources of the examiner's information.

(3) The examiner shall assess and report regarding the respondent's amenability to treatment and relative risk to the community. A proposed treatment plan shall be provided and shall include, at a minimum:

- (a) Whether inpatient and/or outpatient treatment is recommended;
- (b) Availability of appropriate treatment;
- (c) Monitoring plans, including any requirements regarding living conditions, lifestyle requirements, and monitoring by family members, legal guardians, or others;
- (d) Anticipated length of treatment;
- (e) Recommended crime-related prohibitions; and
- (f) Whether the respondent is amenable to treatment.

(4) The court on its own motion may order, or on a motion by the state shall order, a second examination regarding the offender's amenability to treatment. The evaluator shall be selected by the party making the motion. The defendant shall pay the cost of any examination ordered under this subsection (4) or subsection (1) of this section unless the court finds that the offender is indigent and no third party insurance coverage is available, in which case the state shall pay the cost.

(5)(a) After receipt of reports of the examination, the court shall then consider whether the offender and the community will benefit from use of this chemical dependency disposition alternative and consider the victim's opinion whether the offender should receive a treatment disposition under this section.

(b) If the court determines that this chemical dependency disposition alternative is appropriate, then the court shall impose the standard range for the offense, suspend execution of the disposition, and place the offender on community supervision for up to one year. As a condition of the suspended disposition, the court shall require the offender to undergo available outpatient drug/alcohol treatment and/or inpatient drug/alcohol treatment. For purposes of this section, the sum of confinement time and inpatient treatment may not exceed ninety days. As a condition of the suspended disposition, the court may impose conditions of community supervision and other sanctions, including up to thirty days of confinement, one hundred fifty hours of community service, and payment of legal financial obligations and restitution.

(6) The drug/alcohol treatment provider shall submit monthly reports on the respondent's progress in treatment to the court and the parties. The reports shall reference the treatment plan and include at a minimum the following: Dates of attendance, respondent's compliance with requirements, treatment activities, the respondent's relative progress in treatment, and any other material specified by the court at the time of the disposition.

At the time of the disposition, the court may set treatment review hearings as the court considers appropriate.

If the offender violates any condition of the disposition or the court finds that the respondent is failing to make satisfactory progress in treatment, the court may revoke the suspension and order execution of the disposition. The court shall give credit for any confinement time previously served if that confinement was for the offense for which the suspension is being revoked.

(7) For purposes of this section, "victim" means any person who has sustained emotional, psychological, physical, or financial injury to person or property as a direct result of the offense charged.

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

(9) In no case shall the term of confinement imposed by the court at disposition exceed that to which an adult could be subjected for the same offense.

(10) A disposition under this section is not appealable under RCW 13.40.230.

**NEW SECTION. Sec. 27.** The University of Washington shall develop standards for measuring effectiveness of treatment programs established under section 26 of this act. The standards shall be developed and presented to the governor and legislature not later than January 1, 1998. The standards shall include methods for measuring success factors following treatment. Success factors shall include, but need not be limited to, continued use of alcohol or

controlled substances, arrests, violations of terms of community supervision, and convictions for subsequent offenses.

**NEW SECTION.** **Sec. 28.** A new section is added to chapter 70.96A RCW to read as follows:

The department shall prioritize expenditures for treatment provided under section 26 of this act. The department shall provide funds for inpatient and outpatient treatment providers that are the most successful, using the standards developed by the University of Washington under section 27, chapter . . . , Laws of 1997 (section 27 of this act). The department may consider variations between the nature of the programs provided and clients served but must provide funds first for those programs that demonstrate the greatest success in treatment within categories of treatment and the nature of the persons receiving treatment.

The department shall, not later than January 1st of each year, provide a report to the governor and the legislature on the success rates of programs funded under this section.

**Sec. 29.** RCW 13.40.190 and 1996 c 124 s 2 are each amended to read as follows:

(1) In its dispositional order, the court shall require the respondent to make restitution to any persons who have suffered loss or damage as a result of the offense committed by the respondent. In addition, restitution may be ordered for loss or damage if the offender pleads guilty to a lesser offense or fewer offenses and agrees with the prosecutor's recommendation that the offender be required to pay restitution to a victim of an offense or offenses which, pursuant to a plea agreement, are not prosecuted. The payment of restitution shall be in addition to any punishment which is imposed pursuant to the other provisions of this chapter. The court may determine the amount, terms, and conditions of the restitution including a payment plan extending up to ten years if the court determines that the respondent does not have the means to make full restitution over a shorter period. Restitution may include the costs of counseling reasonably related to the offense. If the respondent participated in the crime with another person or other persons, all such participants shall be jointly and severally responsible for the payment of restitution. For the purposes of this section, the respondent shall remain under the court's jurisdiction for a maximum term of ten years after the respondent's eighteenth birthday. ~~((The court may not require the respondent to pay full or partial restitution if the respondent reasonably satisfies the court that he or she does not have the means to make full or partial restitution and could not reasonably acquire the means to pay such restitution over a ten-year period.))~~

(2) Regardless of the provisions of subsection (1) of this section, the court shall order restitution in all cases where the victim is entitled to benefits under the crime victims' compensation act, chapter 7.68 RCW. If the court does not order restitution and the victim of the crime has been determined to be entitled to benefits under the crime victims' compensation act, the department of labor and industries, as administrator of the crime victims' compensation program, may petition the

court within one year of entry of the disposition order for entry of a restitution order. Upon receipt of a petition from the department of labor and industries, the court shall hold a restitution hearing and shall enter a restitution order.

(3) If an order includes restitution as one of the monetary assessments, the county clerk shall make disbursements to victims named in the order. The restitution to victims named in the order shall be paid prior to any payment for other penalties or monetary assessments.

(4) A respondent under obligation to pay restitution may petition the court for modification of the restitution order.

**Sec. 30.** RCW 13.40.193 and 1994 sp.s. c 7 s 525 are each amended to read as follows:

(1) If a respondent is found to have been in possession of a firearm in violation of RCW 9A.040(1)~~((e))~~ (b)(iii), the court shall impose a ~~((determinate))~~ minimum disposition of ten days of confinement ~~((and up to twelve months of community supervision))~~. If the offender's standard range of disposition for the offense as indicated in RCW 13.40.0357 is more than thirty days of confinement, the court shall commit the offender to the department for the standard range disposition. The offender shall not be released until the offender has served a minimum of ten days in confinement.

(2) If the court finds that the respondent or an accomplice was armed with a firearm, the court shall determine the standard range disposition for the offense pursuant to RCW 13.40.160. ~~((Ninety days of confinement shall be added to the entire standard range disposition of confinement))~~ If the offender or an accomplice was armed with a firearm when the offender committed ~~((a) Any violent offense; or (b) escape in the first degree; burglary in the second degree; theft of livestock in the first or second degree; or any felony drug offense. If the offender or an accomplice was armed with a firearm and the offender is being adjudicated for an anticipatory felony offense under chapter 9A.28 RCW to commit one of the offenses listed in this subsection, ninety days shall be added to the entire standard range disposition of confinement))~~ any felony other than possession of a machine gun, possession of a stolen firearm, drive-by shooting, theft of a firearm, unlawful possession of a firearm in the first and second degree, or use of a machine gun in a felony, the following periods of total confinement must be added to the sentence: For a class A felony, six months; for a class B felony, four months; and for a class C felony, two months. The ~~((ninety days))~~ additional time shall be imposed regardless of the offense's juvenile disposition offense category as designated in RCW 13.40.0357. ~~((The department shall not release the offender until the offender has served a minimum of ninety days in confinement, unless the juvenile is committed to and successfully completes the juvenile offender basic training camp disposition option.))~~

(3) ~~((Option B or schedule D-2, RCW 13.40.0357, shall not be available for middle offenders who receive a disposition under this section.))~~ When a disposition under this section would effectuate a manifest injustice, the court may

impose another disposition. When a judge finds a manifest injustice and imposes a disposition of confinement exceeding thirty days, the court shall commit the juvenile to a maximum term, and the provisions of RCW 13.40.030(2) shall be used to determine the range. When a judge finds a manifest injustice and imposes a disposition of confinement less than thirty days, the disposition shall be comprised of confinement or community supervision or both.

(4) Any term of confinement ordered pursuant to this section (~~(may)~~) shall run (~~(concurrently)~~) consecutively to any term of confinement imposed in the same disposition for other offenses.

**Sec. 31.** RCW 13.40.200 and 1995 c 395 s 8 are each amended to read as follows:

(1) When a respondent fails to comply with an order of restitution, community supervision, penalty assessments, or confinement of less than thirty days, the court upon motion of the prosecutor or its own motion, may modify the order after a hearing on the violation.

(2) The hearing shall afford the respondent the same due process of law as would be afforded an adult probationer. The court may issue a summons or a warrant to compel the respondent's appearance. The state shall have the burden of proving by a preponderance of the evidence the fact of the violation. The respondent shall have the burden of showing that the violation was not a willful refusal to comply with the terms of the order. If a respondent has failed to pay a fine, penalty assessments, or restitution or to perform community service hours, as required by the court, it shall be the respondent's burden to show that he or she did not have the means and could not reasonably have acquired the means to pay the fine, penalty assessments, or restitution or perform community service.

(3)~~((a))~~ If the court finds that a respondent has willfully violated the terms of an order pursuant to subsections (1) and (2) of this section, it may impose a penalty of up to thirty days' confinement. Penalties for multiple violations occurring prior to the hearing shall not be aggregated to exceed thirty days' confinement. Regardless of the number of times a respondent is brought to court for violations of the terms of a single disposition order, the combined total number of days spent by the respondent in detention shall never exceed the maximum term to which an adult could be sentenced for the underlying offense.

~~((b) If the violation of the terms of the order under (a) of this subsection is failure to pay fines, penalty assessments, complete community service, or make restitution, the term of confinement imposed under (a) of this subsection shall be assessed at a rate of one day of confinement for each twenty-five dollars or eight hours owed.)~~

(4) If a respondent has been ordered to pay a fine or monetary penalty and due to a change of circumstance cannot reasonably comply with the order, the court, upon motion of the respondent, may order that the unpaid fine or monetary penalty be converted to community service. The number of hours of community service in lieu of a monetary penalty or fine shall be converted at the rate of the prevailing

state minimum wage per hour. The monetary penalties or fines collected shall be deposited in the county general fund. A failure to comply with an order under this subsection shall be deemed a failure to comply with an order of community supervision and may be proceeded against as provided in this section.

(5) When a respondent has willfully violated the terms of a probation bond, the court may modify, revoke, or retain the probation bond as provided in RCW 13.40.054.

**Sec. 32.** RCW 13.40.210 and 1994 sp.s. c 77 s 527 are each amended to read as follows:

(1) The secretary shall, except in the case of a juvenile committed by a court to a term of confinement in a state institution outside the appropriate standard range for the offense(s) for which the juvenile was found to be guilty established pursuant to RCW 13.40.030, set a release or discharge date for each juvenile committed to its custody. The release or discharge date shall be within the prescribed range to which a juvenile has been committed except as provided in RCW 13.40.320 concerning offenders the department determines are eligible for the juvenile offender basic training camp program. Such dates shall be determined prior to the expiration of sixty percent of a juvenile's minimum term of confinement included within the prescribed range to which the juvenile has been committed. The secretary shall release any juvenile committed to the custody of the department within four calendar days prior to the juvenile's release date or on the release date set under this chapter. Days spent in the custody of the department shall be tolled by any period of time during which a juvenile has absented himself or herself from the department's supervision without the prior approval of the secretary or the secretary's designee.

(2) The secretary shall monitor the average daily population of the state's juvenile residential facilities. When the secretary concludes that in-residence population of residential facilities exceeds one hundred five percent of the rated bed capacity specified in statute, or in absence of such specification, as specified by the department in rule, the secretary may recommend reductions to the governor. On certification by the governor that the recommended reductions are necessary, the secretary has authority to administratively release a sufficient number of offenders to reduce in-residence population to one hundred percent of rated bed capacity. The secretary shall release those offenders who have served the greatest proportion of their sentence. However, the secretary may deny release in a particular case at the request of an offender, or if the secretary finds that there is no responsible custodian, as determined by the department, to whom to release the offender, or if the release of the offender would pose a clear danger to society. The department shall notify the committing court of the release at the time of release if any such early releases have occurred as a result of excessive in-residence population. In no event shall an offender adjudicated of a violent offense be granted release under the provisions of this subsection.

(3)(a) Following the juvenile's release under subsection (1) of this section, the secretary may require the juvenile to comply with a program of parole to be administered by the department in his or her community which shall last no longer than eighteen months, except that in the case of a juvenile sentenced for rape in the first or second degree, rape of a child in the first or second degree, child molestation in the first degree, or indecent liberties with forcible compulsion, the period of parole shall be twenty-four months and, in the discretion of the secretary, may be up to thirty-six months when the secretary finds that an additional period of parole is necessary and appropriate in the interests of public safety or to meet the ongoing needs of the juvenile. A parole program is mandatory for offenders released under subsection (2) of this section. The decision to place an offender on parole shall be based on an assessment by the department of the offender's risk for reoffending upon release. The department shall prioritize available parole resources to provide supervision and services to offenders at moderate to high risk for reoffending.

(b) The secretary shall, for the period of parole, facilitate the juvenile's reintegration into his or her community and to further this goal shall require the juvenile to refrain from possessing a firearm or using a deadly weapon and refrain from committing new offenses and may require the juvenile to: ~~((a))~~ (i) Undergo available medical ~~((or)), psychiatric ~~((treatment)), drug and alcohol, sex offender, mental health, and other offense-related treatment services;~~ ~~((b))~~ (ii) report as directed to a parole officer and/or designee;~~ ~~((e))~~ (iii) pursue a course of study ~~((or)), vocational training, or employment;~~ ~~(and ~~(d))~~ (iv) notify the parole officer of the current address where he or she resides;~~ (v) be present at a particular address during specified hours; (vi) remain within prescribed geographical boundaries ~~((and notify the department of any change in his or her address));~~ (vii) submit to electronic monitoring; (viii) refrain from using illegal drugs and alcohol, and submit to random urinalysis when requested by the assigned parole officer; (ix) refrain from contact with specific individuals or a specified class of individuals; (x) meet other conditions determined by the parole officer to further enhance the juvenile's reintegration into the community; (xi) pay any court-ordered fines or restitution; and (xii) perform community service. Community service for the purpose of this section means compulsory service, without compensation, performed for the benefit of the community by the offender. Community service may be performed through public or private organizations or through work crews.

(c) The secretary may further require up to twenty-five percent of the highest risk juvenile offenders who are placed on parole to participate in an intensive supervision program. Offenders participating in an intensive supervision program shall be required to comply with all terms and conditions listed in (b) of this subsection and shall also be required to comply with the following additional terms and conditions: (i) Obey all laws and refrain from any conduct that threatens public safety; (ii) report at least once a week to an assigned community case manager; and (iii) meet all other requirements imposed by the community case

manager related to participating in the intensive supervision program. As a part of the intensive supervision program, the secretary may require day reporting.

(d) After termination of the parole period, the juvenile shall be discharged from the department's supervision.

(4)(a) The department may also modify parole for violation thereof. If, after affording a juvenile all of the due process rights to which he or she would be entitled if the juvenile were an adult, the secretary finds that a juvenile has violated a condition of his or her parole, the secretary shall order one of the following which is reasonably likely to effectuate the purpose of the parole and to protect the public: (i) Continued supervision under the same conditions previously imposed; (ii) intensified supervision with increased reporting requirements; (iii) additional conditions of supervision authorized by this chapter; (iv) except as provided in (a)(v) of this subsection, imposition of a period of confinement not to exceed thirty days in a facility operated by or pursuant to a contract with the state of Washington or any city or county for a portion of each day or for a certain number of days each week with the balance of the days or weeks spent under supervision; and (v) the secretary may order any of the conditions or may return the offender to confinement (~~(in an institution)~~) for the remainder of the sentence range if the offense for which the offender was sentenced is rape in the first or second degree, rape of a child in the first or second degree, child molestation in the first degree, indecent liberties with forcible compulsion, or a sex offense that is also a serious violent offense as defined by RCW 9.94A.030.

(b) If the department finds that any juvenile in a program of parole has possessed a firearm or used a deadly weapon during the program of parole, the department shall modify the parole under (a) of this subsection and confine the juvenile for at least thirty days. Confinement shall be in a facility operated by or pursuant to a contract with the state or any county.

(5) A parole officer of the department of social and health services shall have the power to arrest a juvenile under his or her supervision on the same grounds as a law enforcement officer would be authorized to arrest the person.

(6) If so requested and approved under chapter 13.06 RCW, the secretary shall permit a county or group of counties to perform functions under subsections (3) through (5) of this section.

**NEW SECTION.** Sec. 33. The legislature finds the present system of transitioning youths from residential status to parole status to discharge is insufficient to provide adequate rehabilitation and public safety in many instances, particularly in cases of offenders at highest risk of reoffending. The legislature further finds that an intensive supervision program based on the following principles holds much promise for positively impacting recidivism rates for juvenile offenders: (1) Progressive increase in responsibility and freedom in the community; (2) facilitation of youths' interaction and involvement with their communities; (3) involvement of both the youth and targeted community support systems such as family, peers, schools, and employers, on the qualities needed for

constructive interaction and successful adjustment with the community; (4) development of new resources, supports, and opportunities where necessary; and (5) ongoing monitoring and testing of youth on their ability to abide by community rules and standards.

The legislature intends for the department to create an intensive supervision program based on the principles stated in this section that will be available to the highest risk juvenile offenders placed on parole.

**NEW SECTION. Sec. 34.** A new section is added to chapter 13.40 RCW to read as follows:

(1) The department shall, no later than January 1, 1999, implement an intensive supervision program as a part of its parole services that includes, at a minimum, the following program elements:

(a) A process of case management involving coordinated and comprehensive planning, information exchange, continuity and consistency, service provision and referral, and monitoring. The components of the case management system shall include assessment, classification, and selection criteria; individual case planning that incorporates a family and community perspective; a mixture of intensive surveillance and services; a balance of incentives and graduated consequences coupled with the imposition of realistic, enforceable conditions; and service brokerage with community resources and linkage with social networks;

(b) Administration of transition services that transcend traditional agency boundaries and professional interests and include courts, institutions, aftercare, education, social and mental health services, substance abuse treatment, and employment and vocational training; and

(c) A plan for information management and program evaluation that maintains close oversight over implementation and quality control, and determines the effectiveness of both the processes and outcomes of the program.

(2) The department shall report annually to the legislature, beginning December 1, 1999, on the department's progress in meeting the intensive supervision program evaluation goals required under subsection (1)(c) of this section.

**Sec. 35.** RCW 13.40.230 and 1981 c 299 s 16 are each amended to read as follows:

(1) Dispositions reviewed pursuant to RCW 13.40.160(~~(, as now or hereafter amended,)~~) shall be reviewed in the appropriate division of the court of appeals.

An appeal under this section shall be heard solely upon the record that was before the disposition court. No written briefs may be required, and the appeal shall be heard within thirty days following the date of sentencing and a decision rendered within fifteen days following the argument. The supreme court shall promulgate any necessary rules to effectuate the purposes of this section.

(2) To uphold a disposition outside the standard range, (~~or which imposes confinement for a minor or first offender,)~~ the court of appeals must find (a) that the reasons supplied by the disposition judge are supported by the record which

was before the judge and that those reasons clearly and convincingly support the conclusion that a disposition within the range (~~(, or nonconfinement for a minor or first offender,))~~) would constitute a manifest injustice, and (b) that the sentence imposed was neither clearly excessive nor clearly too lenient.

(3) If the court does not find subsection (2)(a) of this section it shall remand the case for disposition within the standard range (~~(or for community supervision without confinement as would otherwise be appropriate pursuant to this chapter)).~~

(4) If the court finds subsection (2)(a) but not subsection (2)(b) of this section it shall remand the case with instructions for further proceedings consistent with the provisions of this chapter.

(5) (~~(Pending appeal, a respondent may not be committed or detained for a period of time in excess of the standard range for the offense(s) committed or sixty days, whichever is longer.))~~) The disposition court may impose conditions on release pending appeal as provided in RCW 13.40.040(4) and 13.40.050(6). (~~(Upon the expiration of the period of commitment or detention specified in this subsection, the court may also impose such conditions on the respondent's release pending disposition of the appeal.))~~)

(6) Appeal of a disposition under this section does not affect the finality or appeal of the underlying adjudication of guilt.

**Sec. 36.** RCW 13.40.250 and 1980 c 128 s 16 are each amended to read as follows:

A traffic or civil infraction case involving a juvenile under the age of sixteen may be diverted in accordance with the provisions of this chapter or filed in juvenile court.

(1) If a notice of a traffic or civil infraction is filed in juvenile court, the juvenile named in the notice shall be afforded the same due process afforded to adult defendants in traffic infraction cases.

(2) A monetary penalty imposed upon a juvenile under the age of sixteen who is found to have committed a traffic or civil infraction may not exceed one hundred dollars. At the juvenile's request, the court may order performance of a number of hours of community service in lieu of a monetary penalty, at the rate of the prevailing state minimum wage per hour.

(3) A diversion agreement entered into by a juvenile referred pursuant to this section shall be limited to thirty hours of community service, or educational or informational sessions.

(4) If a case involving the commission of a traffic or civil infraction or offense by a juvenile under the age of sixteen has been referred to a diversion unit, an abstract of the action taken by the diversion unit may be forwarded to the department of licensing in the manner provided for in RCW 46.20.270(2).

**Sec. 37.** RCW 13.40.265 and 1994 sp.s. c 7 s 435 are each amended to read as follows:

(1)(a) If a juvenile thirteen years of age or older is found by juvenile court to have committed an offense while armed with a firearm or an offense that is a

violation of RCW 9.41.040(1)(~~(e)~~) (b)(iii) or chapter 66.44, 69.41, 69.50, or 69.52 RCW, the court shall notify the department of licensing within twenty-four hours after entry of the judgment.

(b) Except as otherwise provided in (c) of this subsection, upon petition of a juvenile who has been found by the court to have committed an offense that is a violation of chapter 66.44, 69.41, 69.50, or 69.52 RCW, the court may at any time the court deems appropriate notify the department of licensing that the juvenile's driving privileges should be reinstated.

(c) If the offense is the juvenile's first violation of chapter 66.44, 69.41, 69.50, or 69.52 RCW, the juvenile may not petition the court for reinstatement of the juvenile's privilege to drive revoked pursuant to RCW 46.20.265 until ninety days after the date the juvenile turns sixteen or ninety days after the judgment was entered, whichever is later. If the offense is the juvenile's second or subsequent violation of chapter 66.44, 69.41, 69.50, or 69.52 RCW, the juvenile may not petition the court for reinstatement of the juvenile's privilege to drive revoked pursuant to RCW 46.20.265 until the date the juvenile turns seventeen or one year after the date judgment was entered, whichever is later.

(2)(a) If a juvenile enters into a diversion agreement with a diversion unit pursuant to RCW 13.40.080 concerning an offense that is a violation of chapter 66.44, 69.41, 69.50, or 69.52 RCW, the diversion unit shall notify the department of licensing within twenty-four hours after the diversion agreement is signed.

(b) If a diversion unit has notified the department pursuant to (a) of this subsection, the diversion unit shall notify the department of licensing when the juvenile has completed the agreement.

**Sec. 38.** RCW 13.40.320 and 1995 c 40 s 1 are each amended to read as follows:

(1) The department of social and health services shall establish and operate a medium security juvenile offender basic training camp program. The department shall site a juvenile offender basic training camp facility in the most cost-effective facility possible and shall review the possibility of using an existing abandoned and/or available state, federally, or military-owned site or facility.

(2) The department may contract under this chapter with private companies, the national guard, or other federal, state, or local agencies to operate the juvenile offender basic training camp, notwithstanding the provisions of RCW 41.06.380. Requests for proposals from possible contractors shall not call for payment on a per diem basis.

(3) The juvenile offender basic training camp shall accommodate at least seventy offenders. The beds shall count as additions to, and not be used as replacements for, existing bed capacity at existing department of social and health services juvenile facilities.

(4) The juvenile offender basic training camp shall be a structured and regimented model lasting one hundred twenty days emphasizing the building up of an offender's self-esteem, confidence, and discipline. The juvenile offender

basic training camp program shall provide participants with basic education, prevocational training, work-based learning, live work, work ethic skills, conflict resolution counseling, substance abuse intervention, anger management counseling, and structured intensive physical training. The juvenile offender basic training camp program shall have a curriculum training and work schedule that incorporates a balanced assignment of these or other rehabilitation and training components for no less than sixteen hours per day, six days a week.

The department shall adopt rules for the safe and effective operation of the juvenile offender basic training camp program, standards for an offender's successful program completion, and rules for the continued after-care supervision of offenders who have successfully completed the program.

(5) Offenders eligible for the juvenile offender basic training camp option shall be those with a disposition of not more than ~~((seventy-eight))~~ sixty-five weeks. Violent and sex offenders shall not be eligible for the juvenile offender basic training camp program.

(6) If the court determines that the offender is eligible for the juvenile offender basic training camp option, the court may recommend that the department place the offender in the program. The department shall evaluate the offender and may place the offender in the program. The evaluation shall include, at a minimum, a risk assessment developed by the department and designed to determine the offender's suitability for the program. No juvenile who is assessed as a high risk offender or suffers from any mental or physical problems that could endanger his or her health or drastically affect his or her performance in the program shall be admitted to or retained in the juvenile offender basic training camp program.

(7) All juvenile offenders eligible for the juvenile offender basic training camp sentencing option shall spend one hundred twenty days of their disposition in a juvenile offender basic training camp. If the juvenile offender's activities while in the juvenile offender basic training camp are so disruptive to the juvenile offender basic training camp program, as determined by the secretary according to rules adopted by the department, as to result in the removal of the juvenile offender from the juvenile offender basic training camp program, or if the offender cannot complete the juvenile offender basic training camp program due to medical problems, the secretary shall require that the offender be committed to a juvenile institution to serve the entire remainder of his or her disposition, less the amount of time already served in the juvenile offender basic training camp program.

(8) All offenders who successfully graduate from the one hundred twenty day juvenile offender basic training camp program shall spend the remainder of their disposition on parole in a division of juvenile rehabilitation intensive aftercare program in the local community. The program shall provide for the needs of the offender based on his or her progress in the aftercare program as indicated by ongoing assessment of those needs and progress. The intensive aftercare program shall monitor postprogram juvenile offenders and assist them to successfully reintegrate into the community. In addition, the program shall develop a process

for closely monitoring and assessing public safety risks. The intensive aftercare program shall be designed and funded by the department of social and health services.

(9) The department shall also develop and maintain a data base to measure recidivism rates specific to this incarceration program. The data base shall maintain data on all juvenile offenders who complete the juvenile offender basic training camp program for a period of two years after they have completed the program. The data base shall also maintain data on the criminal activity, educational progress, and employment activities of all juvenile offenders who participated in the program. ~~((The department shall produce an outcome evaluation report on the progress of the juvenile offender basic training camp program to the appropriate committees of the legislature no later than December 12, 1996.))~~

**Sec. 39.** RCW 13.50.010 and 1996 c 232 s 6 are each amended to read as follows:

(1) For purposes of this chapter:

(a) "Juvenile justice or care agency" means any of the following: Police, diversion units, court, prosecuting attorney, defense attorney, detention center, attorney general, the department of social and health services and its contracting agencies, schools; and, in addition, persons or public or private agencies having children committed to their custody;

(b) "Official juvenile court file" means the legal file of the juvenile court containing the petition or information, motions, memorandums, briefs, findings of the court, and court orders;

(c) "Social file" means the juvenile court file containing the records and reports of the probation counselor;

(d) "Records" means the official juvenile court file, the social file, and records of any other juvenile justice or care agency in the case.

(2) Each petition or information filed with the court may include only one juvenile and each petition or information shall be filed under a separate docket number. The social file shall be filed separately from the official juvenile court file.

(3) It is the duty of any juvenile justice or care agency to maintain accurate records. To this end:

(a) The agency may never knowingly record inaccurate information. Any information in records maintained by the department of social and health services relating to a petition filed pursuant to chapter 13.34 RCW that is found by the court, upon proof presented, to be false or inaccurate shall be corrected or expunged from such records by the agency;

(b) An agency shall take reasonable steps to assure the security of its records and prevent tampering with them; and

(c) An agency shall make reasonable efforts to insure the completeness of its records, including action taken by other agencies with respect to matters in its files.

(4) Each juvenile justice or care agency shall implement procedures consistent with the provisions of this chapter to facilitate inquiries concerning records.

(5) Any person who has reasonable cause to believe information concerning that person is included in the records of a juvenile justice or care agency and who has been denied access to those records by the agency may make a motion to the court for an order authorizing that person to inspect the juvenile justice or care agency record concerning that person. The court shall grant the motion to examine records unless it finds that in the interests of justice or in the best interests of the juvenile the records or parts of them should remain confidential.

(6) A juvenile, or his or her parents, or any person who has reasonable cause to believe information concerning that person is included in the records of a juvenile justice or care agency may make a motion to the court challenging the accuracy of any information concerning the moving party in the record or challenging the continued possession of the record by the agency. If the court grants the motion, it shall order the record or information to be corrected or destroyed.

(7) The person making a motion under subsection (5) or (6) of this section shall give reasonable notice of the motion to all parties to the original action and to any agency whose records will be affected by the motion.

(8) The court may permit inspection of records by, or release of information to, any clinic, hospital, or agency which has the subject person under care or treatment. The court may also permit inspection by or release to individuals or agencies, including juvenile justice advisory committees of county law and justice councils, engaged in legitimate research for educational, scientific, or public purposes. The court may also permit inspection of, or release of information from, records which have been sealed pursuant to RCW 13.50.050(11). The court shall release to the sentencing guidelines commission records needed for its research and data-gathering functions under RCW 9.94A.040 and other statutes. Access to records or information for research purposes shall be permitted only if the anonymity of all persons mentioned in the records or information will be preserved. Each person granted permission to inspect juvenile justice or care agency records for research purposes shall present a notarized statement to the court stating that the names of juveniles and parents will remain confidential.

(9) Juvenile detention facilities shall release records to the sentencing guidelines commission under RCW ~~((13.40.025 and))~~ 9.94A.040 upon request. The commission shall not disclose the names of any juveniles or parents mentioned in the records without the named individual's written permission.

Sec. 40. RCW 13.50.050 and 1992 c 188 s 7 are each amended to read as follows:

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

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

(3) All records other than the official juvenile court file are confidential and may be released only as provided in this section, RCW 13.50.010, 13.40.215, and 4.24.550.

(4) Except as otherwise provided in this section and RCW 13.50.010, records retained or produced by any juvenile justice or care agency may be released to other participants in the juvenile justice or care system only when an investigation or case involving the juvenile in question is being pursued by the other participant or when that other participant is assigned the responsibility for supervising the juvenile.

(5) Except as provided in RCW 4.24.550, information not in an official juvenile court file concerning a juvenile or a juvenile's family may be released to the public only when that information could not reasonably be expected to identify the juvenile or the juvenile's family.

(6) Notwithstanding any other provision of this chapter, the release, to the juvenile or his or her attorney, of law enforcement and prosecuting attorneys' records pertaining to investigation, diversion, and prosecution of juvenile offenses shall be governed by the rules of discovery and other rules of law applicable in adult criminal investigations and prosecutions.

(7) The juvenile court and the prosecutor may set up and maintain a central record-keeping system which may receive information on all alleged juvenile offenders against whom a complaint has been filed pursuant to RCW 13.40.070 whether or not their cases are currently pending before the court. The central record-keeping system may be computerized. If a complaint has been referred to a diversion unit, the diversion unit shall promptly report to the juvenile court or the prosecuting attorney when the juvenile has agreed to diversion. An offense shall not be reported as criminal history in any central record-keeping system without notification by the diversion unit of the date on which the offender agreed to diversion.

(8) Upon request of the victim of a crime or the victim's immediate family, the identity of an alleged or proven juvenile offender alleged or found to have committed a crime against the victim and the identity of the alleged or proven juvenile offender's parent, guardian, or custodian and the circumstance of the alleged or proven crime shall be released to the victim of the crime or the victim's immediate family.

(9) Subject to the rules of discovery applicable in adult criminal prosecutions, the juvenile offense records of an adult criminal defendant or witness in an adult criminal proceeding shall be released upon request to prosecution and defense counsel after a charge has actually been filed. The juvenile offense records of any adult convicted of a crime and placed under the supervision of the adult corrections system shall be released upon request to the adult corrections system.

(10) In any case in which an information has been filed pursuant to RCW 13.40.100 or a complaint has been filed with the prosecutor and referred for diversion pursuant to RCW 13.40.070, the person the subject of the information or complaint may file a motion with the court to have the court vacate its order and findings, if any, and, subject to subsection ~~((24))~~ (22) of this section, order the sealing of the official juvenile court file, the social file, and records of the court and of any other agency in the case.

(11) The court shall grant the motion to seal records made pursuant to subsection (10) of this section if it finds that:

(a) ~~((Two years have elapsed from the later of: (i) Final discharge of the person from the supervision of any agency charged with supervising juvenile offenders; or (ii) from the entry of a court order relating to the commission of a juvenile offense or a criminal offense))~~ For class B offenses other than sex offenses, since the last date of release from confinement, including full-time residential treatment, if any, or entry of disposition, the person has spent ten consecutive years in the community without committing any offense or crime that subsequently results in conviction. For class C offenses other than sex offenses, since the last date of release from confinement, including full-time residential treatment, if any, or entry of disposition, the person has spent five consecutive years in the community without committing any offense or crime that subsequently results in conviction;

(b) No proceeding is pending against the moving party seeking the conviction of a juvenile offense or a criminal offense; ~~((and))~~

(c) No proceeding is pending seeking the formation of a diversion agreement with that person;

(d) The person has not been convicted of a class A or sex offense; and

(e) Full restitution has been paid.

(12) The person making a motion pursuant to subsection (10) of this section shall give reasonable notice of the motion to the prosecution and to any person or agency whose files are sought to be sealed.

(13) If the court grants the motion to seal made pursuant to subsection (10) of this section, it shall, subject to subsection ~~((24))~~ (22) of this section, order sealed the official juvenile court file, the social file, and other records relating to the case as are named in the order. Thereafter, the proceedings in the case shall be treated as if they never occurred, and the subject of the records may reply accordingly to any inquiry about the events, records of which are sealed. Any agency shall reply to any inquiry concerning confidential or sealed records that records are confidential, and no information can be given about the existence or nonexistence of records concerning an individual.

(14) Inspection of the files and records included in the order to seal may thereafter be permitted only by order of the court upon motion made by the person who is the subject of the information or complaint, except as otherwise provided in RCW 13.50.010(8) and subsection ~~((24))~~ (22) of this section.

(15) Any adjudication of a juvenile offense or a crime subsequent to sealing has the effect of nullifying the sealing order. Any ~~((conviction for any))~~ charging of an adult felony subsequent to the sealing has the effect of nullifying the sealing order for the purposes of chapter 9.94A RCW ~~((for any juvenile adjudication of guilt for a class A offense or a sex offense as defined in RCW 9.94A.030)).~~

(16) ~~((In any case in which an information has been filed pursuant to RCW 13.40.100 or a complaint has been filed with the prosecutor and referred for diversion pursuant to RCW 13.40.070, the person who is the subject of the information or complaint may file a motion with the court to have the court vacate its order and findings, if any, and, subject to subsection (24) of this section, order the destruction of the official juvenile court file, the social file, and records of the court and of any other agency in the case.~~

~~—(17) The court may grant the motion to destroy records made pursuant to subsection (16) of this section if it finds:~~

~~—(a) The person making the motion is at least twenty-three years of age;~~

~~—(b) The person has not subsequently been convicted of a felony;~~

~~—(c) No proceeding is pending against that person seeking the conviction of a criminal offense; and~~

~~—(d) The person has never been found guilty of a serious offense.~~

~~—(18)) A person eighteen years of age or older whose criminal history consists of only one referral for diversion may request that the court order the records in that case destroyed. The request shall be granted, subject to subsection ~~((24))~~ (22) of this section, if the court finds that two years have elapsed since completion of the diversion agreement.~~

~~((19)) (17) If the court grants the motion to destroy records made pursuant to subsection (16) ~~((or (18)))~~ of this section, it shall, subject to subsection ~~((24))~~ (22) of this section, order the official juvenile court file, the social file, and any other records named in the order to be destroyed.~~

~~((20)) (18) The person making the motion pursuant to subsection (16) ~~((or (18)))~~ of this section shall give reasonable notice of the motion to the prosecuting attorney and to any agency whose records are sought to be destroyed.~~

~~((21)) (19) Any juvenile to whom the provisions of this section may apply shall be given written notice of his or her rights under this section at the time of his or her disposition hearing or during the diversion process.~~

~~((22)) (20) Nothing in this section may be construed to prevent a crime victim or a member of the victim's family from divulging the identity of the alleged or proven juvenile offender or his or her family when necessary in a civil proceeding.~~

~~((23)) (21) Any juvenile justice or care agency may, subject to the limitations in subsection ~~((24))~~ (22) of this section and ~~((subparagraphs))~~ (a) and (b) of this subsection, develop procedures for the routine destruction of records relating to juvenile offenses and diversions.~~

(a) Records may be routinely destroyed only when the person the subject of the information or complaint has attained twenty-three years of age or older, or is eighteen years of age or older and his or her criminal history consists entirely of one diversion agreement and two years have passed since completion of the agreement.

(h) The court may not routinely destroy the official juvenile court file or recordings or transcripts of any proceedings.

~~((24))~~ (22) No identifying information held by the Washington state patrol in accordance with chapter 43.43 RCW is subject to destruction or sealing under this section. For the purposes of this subsection, identifying information includes photographs, fingerprints, palmprints, soleprints, toeprints and any other data that identifies a person by physical characteristics, name, hirthdate or address, but does not include information regarding criminal activity, arrest, charging, diversion, conviction or other information about a person's treatment by the criminal justice system or about the person's behavior.

~~((25))~~ (23) Information identifying child victims under age eighteen who are victims of sexual assaults by juvenile offenders is confidential and not subject to release to the press or public without the permission of the child victim or the child's legal guardian. Identifying information includes the child victim's name, addresses, location, photographs, and in cases in which the child victim is a relative of the alleged perpetrator, identification of the relationship between the child and the alleged perpetrator. Information identifying a child victim of sexual assault may be released to law enforcement, prosecutors, judges, defense attorneys, or private or governmental agencies that provide services to the child victim of sexual assault.

**Sec. 41.** RCW 72.01.410 and 1994 c 220 s 1 are each amended to read as follows:

(1) Whenever any child under the age of eighteen is convicted in the courts of this state of a crime amounting to a felony, and is committed for a term of confinement in a correctional institution wherein adults are confined, the secretary of corrections, after making an independent assessment and evaluation of the child and determining that the needs and correctional goals for the child could better be met by the programs and housing environment provided by the juvenile correctional institution, with the consent of the secretary of social and health services, may transfer such child to a juvenile correctional institution, or to such other institution as is now, or may hereafter be authorized by law to receive such child, until such time as the child arrives at the age of twenty-one years, whereupon the child shall be returned to the institution of original commitment. Retention within a juvenile detention facility or return to an adult correctional facility shall regularly be reviewed by the secretary of corrections and the secretary of social and health services with a determination made based on the level of maturity and sophistication of the individual, the behavior and progress while within the juvenile detention facility, security needs, and the program/treatment alternatives which



would best prepare the individual for a successful return to the community. Notice of such transfers shall be given to the clerk of the committing court and the parents, guardian, or next of kin of such child, if known.

(2)(a) Except as provided in (b) of this subsection, an offender under the age of eighteen who is convicted in adult criminal court and who is committed to a term of confinement at the department of corrections must be placed in a housing unit, or a portion of a housing unit, that is separated from offenders eighteen years of age or older, until the offender reaches the age of eighteen.

(b) An offender under the age of eighteen may be housed in an intensive management unit or administrative segregation unit containing offenders eighteen years of age or older if it is necessary for the safety or security of the offender or staff. In these cases, the offender shall be kept physically separate from other offenders at all times.

NEW SECTION. Sec. 42. A new section is added to chapter 72.01 RCW to read as follows:

An offender under the age of eighteen who is convicted in adult criminal court of a crime and who is committed for a term of confinement in a jail as defined in RCW 70.48.020, must be housed in a jail cell that does not contain adult offenders, until the offender reaches the age of eighteen.

Sec. 43. RCW 72.09.460 and 1995 1st sp.s. c 19 s 5 are each amended to read as follows:

(1) The legislature intends that all inmates be required to participate in department-approved education programs, work programs, or both, unless exempted under subsection ~~((3))~~ (4) of this section. Eligible inmates who refuse to participate in available education or work programs available at no charge to the inmates shall lose privileges according to the system established under RCW 72.09.130. Eligible inmates who are required to contribute financially to an education or work program and refuse to contribute shall be placed in another work program. Refusal to contribute shall not result in a loss of privileges. The legislature recognizes more inmates may agree to participate in education and work programs than are available. The department must make every effort to achieve maximum public benefit by placing inmates in available and appropriate education and work programs.

(2) The department shall provide a program of education to all offenders who are under the age of eighteen and who have not met high school graduation or general equivalency diploma requirements. The program of education established by the department for offenders under the age of eighteen must provide each offender a choice of curriculum that will assist the inmate in achieving a high school diploma or general equivalency diploma.

(3) The department shall, to the extent possible and considering all available funds, prioritize its resources to meet the following goals for inmates in the order listed:

(a) Achievement of basic academic skills through obtaining a high school diploma or its equivalent and achievement of vocational skills necessary for purposes of work programs and for an inmate to qualify for work upon release;

(b) Additional work and education programs based on assessments and placements under subsection ~~((4))~~ (5) of this section; and

(c) Other work and education programs as appropriate.

~~((3))~~ (4) The department shall establish, by rule, objective medical standards to determine when an inmate is physically or mentally unable to participate in available education or work programs. When the department determines an inmate is permanently unable to participate in any available education or work program due to a medical condition, the inmate is exempt from the requirement under subsection (1) of this section. When the department determines an inmate is temporarily unable to participate in an education or work program due to a medical condition, the inmate is exempt from the requirement of subsection (1) of this section for the period of time he or she is temporarily disabled. The department shall periodically review the medical condition of all temporarily disabled inmates to ensure the earliest possible entry or reentry by inmates into available programming.

~~((4))~~ (5) The department shall establish, by rule, standards for participation in department-approved education and work programs. The standards shall address the following areas:

(a) Assessment. The department shall assess all inmates for their basic academic skill levels using a professionally accepted method of scoring reading, math, and language skills as grade level equivalents. The department shall determine an inmate's education history, work history, and vocational or work skills. The initial assessment shall be conducted, whenever possible, within the first thirty days of an inmate's entry into the correctional system, except that initial assessments are not required for inmates who are sentenced to life without the possibility of release, assigned to an intensive management unit within the first thirty days after entry into the correctional system, are returning to the correctional system within one year of a prior release, or whose physical or mental condition renders them unable to complete the assessment process. The department shall track and record changes in the basic academic skill levels of all inmates reflected in any testing or assessment performed as part of their education programming;

(b) Placement. The department shall follow the policies set forth in subsection (1) of this section in establishing criteria for placing inmates in education and work programs. The department shall, to the extent possible, place all inmates whose composite grade level score for basic academic skills is below the eighth grade level in a combined education and work program. The placement criteria shall include at least the following factors:

(i) An inmate's release date and custody level, except an inmate shall not be precluded from participating in an education or work program solely on the basis of his or her release date;

- (ii) An inmate's education history and basic academic skills;
- (iii) An inmate's work history and vocational or work skills;
- (iv) An inmate's economic circumstances, including but not limited to an inmate's family support obligations; and
- (v) Where applicable, an inmate's prior performance in department-approved education or work programs;

(c) Performance and goals. The department shall establish, and periodically review, inmate behavior standards and program goals for all education and work programs. Inmates shall be notified of applicable behavior standards and program goals prior to placement in an education or work program and shall be removed from the education or work program if they consistently fail to meet the standards or goals;

(d) Financial responsibility. (i) The department shall establish a formula by which inmates, based on their ability to pay, shall pay all or a portion of the costs or tuition of certain programs. Inmates shall, based on the formula, pay a portion of the costs or tuition of participation in:

(A) Second and subsequent vocational programs associated with an inmate's work programs; and

(B) An associate of arts or baccalaureate degree program when placement in a degree program is the result of a placement made under this subsection;

(ii) Inmates shall pay all costs and tuition for participation in:

(A) Any postsecondary academic degree program which is entered independently of a placement decision made under this subsection; and

(B) Second and subsequent vocational programs not associated with an inmate's work program.

Enrollment in any program specified in (d)(ii) of this subsection shall only be allowed by correspondence or if there is an opening in an education or work program at the institution where an inmate is incarcerated and no other inmate who is placed in a program under this subsection will be displaced; and

(e) Notwithstanding any other provision in this section, an inmate sentenced to life without the possibility of release:

(i) Shall not be required to participate in education programming; and

(ii) May receive not more than one postsecondary academic degree in a program offered by the department or its contracted providers.

If an inmate sentenced to life without the possibility of release requires prevocational or vocational training for a work program, he or she may participate in the training subject to this section.

~~((5))~~ (6) The department shall coordinate education and work programs among its institutions, to the greatest extent possible, to facilitate continuity of programming among inmates transferred between institutions. Before transferring an inmate enrolled in a program, the department shall consider the effect the transfer will have on the inmate's ability to continue or complete a program. This

subsection shall not be used to delay or prohibit a transfer necessary for legitimate safety or security concerns.

~~((6))~~ (7) Before construction of a new correctional institution or expansion of an existing correctional institution, the department shall adopt a plan demonstrating how cable, closed-circuit, and satellite television will be used for education and training purposes in the institution. The plan shall specify how the use of television in the education and training programs will improve inmates' preparedness for available work programs and job opportunities for which inmates may qualify upon release.

~~((7))~~ (8) The department shall adopt a plan to reduce the per-pupil cost of instruction by, among other methods, increasing the use of volunteer instructors and implementing technological efficiencies. The plan shall be adopted by December 1996 and shall be transmitted to the legislature upon adoption. The department shall, in adoption of the plan, consider distance learning, satellite instruction, video tape usage, computer-aided instruction, and flexible scheduling of offender instruction.

~~((8))~~ (9) Following completion of the review required by section 27(3), chapter 19, Laws of 1995 1st sp. sess. the department shall take all necessary steps to assure the vocation and education programs are relevant to work programs and skills necessary to enhance the employability of inmates upon release.

**Sec. 44.** RCW 9A.36.045 and 1995 c 129 s 8 are each amended to read as follows:

(1) A person is guilty of ~~((reckless endangerment in the first degree))~~ drive-by shooting when he or she recklessly discharges a firearm as defined in RCW 9.41.010 in a manner which creates a substantial risk of death or serious physical injury to another person and the discharge is either from a motor vehicle or from the immediate area of a motor vehicle that was used to transport the shooter or the firearm, or both, to the scene of the discharge.

(2) A person who unlawfully discharges a firearm from a moving motor vehicle may be inferred to have engaged in reckless conduct, unless the discharge is shown by evidence satisfactory to the trier of fact to have been made without such recklessness.

(3) ~~((Reckless endangerment in the first degree))~~ Drive-by shooting is a class B felony.

**Sec. 45.** RCW 9A.36.050 and 1989 c 271 s 110 are each amended to read as follows:

(1) A person is guilty of reckless endangerment ~~((in the second degree))~~ when he or she recklessly engages in conduct not amounting to ~~((reckless endangerment in the first degree but which))~~ drive-by shooting but that creates a substantial risk of death or serious physical injury to another person.

(2) Reckless endangerment ~~((in the second degree))~~ is a gross misdemeanor.

**Sec. 46.** RCW 9.41.010 and 1996 c 295 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) "Firearm" means a weapon or device from which a projectile or projectiles may be fired by an explosive such as gunpowder.

(2) "Pistol" means any firearm with a barrel less than sixteen inches in length, or is designed to be held and fired by the use of a single hand.

(3) "Rifle" means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned, made or remade, and intended to use the energy of the explosive in a fixed metallic cartridge to fire only a single projectile through a rifled bore for each single pull of the trigger.

(4) "Short-barreled rifle" means a rifle having one or more barrels less than sixteen inches in length and any weapon made from a rifle by any means of modification if such modified weapon has an overall length of less than twenty-six inches.

(5) "Shotgun" means a weapon with one or more barrels, designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned, made or remade, and intended to use the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of ball shot or a single projectile for each single pull of the trigger.

(6) "Short-barreled shotgun" means a shotgun having one or more barrels less than eighteen inches in length and any weapon made from a shotgun by any means of modification if such modified weapon has an overall length of less than twenty-six inches.

(7) "Machine gun" means any firearm known as a machine gun, mechanical rifle, submachine gun, or any other mechanism or instrument not requiring that the trigger be pressed for each shot and having a reservoir clip, disc, drum, belt, or other separable mechanical device for storing, carrying, or supplying ammunition which can be loaded into the firearm, mechanism, or instrument, and fired therefrom at the rate of five or more shots per second.

(8) "Antique firearm" means a firearm or replica of a firearm not designed or redesigned for using rim fire or conventional center fire ignition with fixed ammunition and manufactured in or before 1898, including any matchlock, flintlock, percussion cap, or similar type of ignition system and also any firearm using fixed ammunition manufactured in or before 1898, for which ammunition is no longer manufactured in the United States and is not readily available in the ordinary channels of commercial trade.

(9) "Loaded" means:

(a) There is a cartridge in the chamber of the firearm;

(b) Cartridges are in a clip that is locked in place in the firearm;

(c) There is a cartridge in the cylinder of the firearm, if the firearm is a revolver;

(d) There is a cartridge in the tube or magazine that is inserted in the action;  
or

(e) There is a ball in the barrel and the firearm is capped or primed if the firearm is a muzzle loader.

(10) "Dealer" means a person engaged in the business of selling firearms at wholesale or retail who has, or is required to have, a federal firearms license under 18 U.S.C. Sec. 923(a). A person who does not have, and is not required to have, a federal firearms license under 18 U.S.C. Sec. 923(a), is not a dealer if that person makes only occasional sales, exchanges, or purchases of firearms for the enhancement of a personal collection or for a hobby, or sells all or part of his or her personal collection of firearms.

(11) "Crime of violence" means:

(a) Any of the following felonies, as now existing or hereafter amended: Any felony defined under any law as a class A felony or an attempt to commit a class A felony, criminal solicitation of or criminal conspiracy to commit a class A felony, manslaughter in the first degree, manslaughter in the second degree, indecent liberties if committed by forcible compulsion, kidnapping in the second degree, arson in the second degree, assault in the second degree, assault of a child in the second degree, extortion in the first degree, burglary in the second degree, residential burglary, and robbery in the second degree;

(b) Any conviction for a felony offense in effect at any time prior to June 6, 1996, which is comparable to a felony classified as a crime of violence in (a) of this subsection; and

(c) Any federal or out-of-state conviction for an offense comparable to a felony classified as a crime of violence under (a) or (b) of this subsection.

(12) "Serious offense" means any of the following felonies or a felony attempt to commit any of the following felonies, as now existing or hereafter amended:

(a) Any crime of violence;

(b) Any felony violation of the uniform controlled substances act, chapter 69.50 RCW, that is classified as a class B felony or that has a maximum term of imprisonment of at least ten years;

(c) Child molestation in the second degree;

(d) Incest when committed against a child under age fourteen;

(e) Indecent liberties;

(f) Leading organized crime;

(g) Promoting prostitution in the first degree;

(h) Rape in the third degree;

(i) (~~Reckless endangerment in the first degree~~) Drive-by shooting;

(j) Sexual exploitation;

(k) Vehicular assault;

(l) Vehicular homicide, when proximately caused by the driving of any vehicle by any person while under the influence of intoxicating liquor or any drug as

defined by RCW 46.61.502, or by the operation of any vehicle in a reckless manner;

(m) Any other class B felony offense with a finding of sexual motivation, as "sexual motivation" is defined under RCW 9.94A.030;

(n) Any other felony with a deadly weapon verdict under RCW 9.94A.125; or

(o) Any felony offense in effect at any time prior to June 6, 1996, that is comparable to a serious offense, or any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a serious offense.

(13) "Law enforcement officer" includes a general authority Washington peace officer as defined in RCW 10.93.020, or a specially commissioned Washington peace officer as defined in RCW 10.93.020. "Law enforcement officer" also includes a limited authority Washington peace officer as defined in RCW 10.93.020 if such officer is duly authorized by his or her employer to carry a concealed pistol.

(14) "Felony" means any felony offense under the laws of this state or any federal or out-of-state offense comparable to a felony offense under the laws of this state.

(15) "Sell" refers to the actual approval of the delivery of a firearm in consideration of payment or promise of payment of a certain price in money.

(16) "Barrel length" means the distance from the bolt face of a closed action down the length of the axis of the bore to the crown of the muzzle, or in the case of a barrel with attachments to the end of any legal device permanently attached to the end of the muzzle.

(17) "Family or household member" means "family" or "household member" as used in RCW 10.99.020.

**Sec. 47.** RCW 9.41.040 and 1996 c 295 s 2 are each amended to read as follows:

(1)(a) A person, whether an adult or juvenile, is guilty of the crime of unlawful possession of a firearm in the first degree, if the person owns, has in his or her possession, or has in his or her control any firearm after having previously been convicted in this state or elsewhere of any serious offense as defined in this chapter.

(b) A person, whether an adult or juvenile, is guilty of the crime of unlawful possession of a firearm in the second degree, if the person does not qualify under (a) of this subsection for the crime of unlawful possession of a firearm in the first degree and the person owns, has in his or her possession, or has in his or her control any firearm:

(i) After having previously been convicted in this state or elsewhere of any felony not specifically listed as prohibiting firearm possession under (a) of this subsection, or any of the following crimes when committed by one family or household member against another, committed on or after July 1, 1993: Assault in the fourth degree, coercion, stalking, reckless endangerment (~~in the second~~

degree)), criminal trespass in the first degree, or violation of the provisions of a protection order or no-contact order restraining the person or excluding the person from a residence (RCW 26.50.060, 26.50.070, 26.50.130, or 10.99.040);

(ii) After having previously been involuntarily committed for mental health treatment under RCW 71.05.320, 71.34.090, chapter 10.77 RCW, or equivalent statutes of another jurisdiction, unless his or her right to possess a firearm has been restored as provided in RCW 9.41.047;

(iii) If the person is under eighteen years of age, except as provided in RCW 9.41.042; and/or

(iv) If the person is free on bond or personal recognizance pending trial, appeal, or sentencing for a serious offense as defined in RCW 9.41.010.

(2)(a) Unlawful possession of a firearm in the first degree is a class B felony, punishable under chapter 9A.20 RCW.

(b) Unlawful possession of a firearm in the second degree is a class C felony, punishable under chapter 9A.20 RCW.

(3) Notwithstanding RCW 9.41.047 or any other provisions of law, as used in this chapter, a person has been "convicted", whether in an adult court or adjudicated in a juvenile court, at such time as a plea of guilty has been accepted, or a verdict of guilty has been filed, notwithstanding the pendency of any future proceedings including but not limited to sentencing or disposition, post-trial or post-factfinding motions, and appeals. Conviction includes a dismissal entered after a period of probation, suspension or deferral of sentence, and also includes equivalent dispositions by courts in jurisdictions other than Washington state. A person shall not be precluded from possession of a firearm if the conviction has been the subject of a pardon, annulment, certificate of rehabilitation, or other equivalent procedure based on a finding of the rehabilitation of the person convicted or the conviction or disposition has been the subject of a pardon, annulment, or other equivalent procedure based on a finding of innocence. Where no record of the court's disposition of the charges can be found, there shall be a rebuttable presumption that the person was not convicted of the charge.

(4) Notwithstanding subsection (1) of this section, a person convicted of an offense prohibiting the possession of a firearm under this section other than murder, manslaughter, robbery, rape, indecent liberties, arson, assault, kidnapping, extortion, burglary, or violations with respect to controlled substances under RCW 69.50.401(a) and 69.50.410, who received a probationary sentence under RCW 9.95.200, and who received a dismissal of the charge under RCW 9.95.240, shall not be precluded from possession of a firearm as a result of the conviction. Notwithstanding any other provisions of this section, if a person is prohibited from possession of a firearm under subsection (1) of this section and has not previously been convicted of a sex offense prohibiting firearm ownership under subsection (1) of this section and/or any felony defined under any law as a class A felony or with a maximum sentence of at least twenty years, or both, the individual may petition a court of record to have his or her right to possess a firearm restored:

(a) Under RCW 9.41.047; and/or

(b)(i) If the conviction was for a felony offense, after five or more consecutive years in the community without being convicted or currently charged with any felony, gross misdemeanor, or misdemeanor crimes, if the individual has no prior felony convictions that prohibit the possession of a firearm counted as part of the offender score under RCW 9.94A.360; or

(ii) If the conviction was for a nonfelony offense, after three or more consecutive years in the community without being convicted or currently charged with any felony, gross misdemeanor, or misdemeanor crimes, if the individual has no prior felony convictions that prohibit the possession of a firearm counted as part of the offender score under RCW 9.94A.360 and the individual has completed all conditions of the sentence.

(5) In addition to any other penalty provided for by law, if a person under the age of eighteen years is found by a court to have possessed a firearm in a vehicle in violation of subsection (1) of this section or to have committed an offense while armed with a firearm during which offense a motor vehicle served an integral function, the court shall notify the department of licensing within twenty-four hours and the person's privilege to drive shall be revoked under RCW 46.20.265.

(6) Nothing in chapter 129, Laws of 1995 shall ever be construed or interpreted as preventing an offender from being charged and subsequently convicted for the separate felony crimes of theft of a firearm or possession of a stolen firearm, or both, in addition to being charged and subsequently convicted under this section for unlawful possession of a firearm in the first or second degree. Notwithstanding any other law, if the offender is convicted under this section for unlawful possession of a firearm in the first or second degree and for the felony crimes of theft of a firearm or possession of a stolen firearm, or both, then the offender shall serve consecutive sentences for each of the felony crimes of conviction listed in this subsection.

(7) Each firearm unlawfully possessed under this section shall be a separate offense.

**Sec. 48.** RCW 9.94A.103 and 1995 c 129 s 5 are each amended to read as follows:

Any and all recommended sentencing agreements or plea agreements and the sentences for any and all felony crimes shall be made and retained as public records if the felony crime involves:

- (1) Any violent offense as defined in this chapter;
  - (2) Any most serious offense as defined in this chapter;
  - (3) Any felony with a deadly weapon special verdict under RCW 9.94A.125;
  - (4) Any felony with any deadly weapon enhancements under RCW 9.94A.310
- (3) or (4), or both; and/or

(5) The felony crimes of possession of a machine gun, possessing a stolen firearm, (~~reckless endangerment in the first degree~~) drive-by shooting, theft of a

firearm, unlawful possession of a firearm in the first or second degree, and/or use of a machine gun in a felony.

Sec. 49. RCW 9.94A.105 and 1995 c 129 s 6 are each amended to read as follows:

(1) A current, newly created or reworked judgment and sentence document for each felony sentencing shall record any and all recommended sentencing agreements or plea agreements and the sentences for any and all felony crimes kept as public records under RCW 9.94A.103 shall contain the clearly printed name and legal signature of the sentencing judge. The judgment and sentence document as defined in this section shall also provide additional space for the sentencing judge's reasons for going either above or below the presumptive sentence range for any and all felony crimes covered as public records under RCW 9.94A.103. Both the sentencing judge and the prosecuting attorney's office shall each retain or receive a completed copy of each sentencing document as defined in this section for their own records.

(2) The sentencing guidelines commission shall be sent a completed copy of the judgment and sentence document upon conviction for each felony sentencing under subsection (1) of this section and shall compile a yearly and cumulative judicial record of each sentencing judge in regards to his or her sentencing practices for any and all felony crimes involving:

(a) Any violent offense as defined in this chapter;

(b) Any most serious offense as defined in this chapter;

(c) Any felony with any deadly weapon special verdict under RCW 9.94A.125;

(d) Any felony with any deadly weapon enhancements under RCW 9.94A.310 (3) or (4), or both; and/or

(e) The felony crimes of possession of a machine gun, possessing a stolen firearm, (~~reckless endangerment in the first degree~~) drive-by shooting, theft of a firearm, unlawful possession of a firearm in the first or second degree, and/or use of a machine gun in a felony.

(3) The sentencing guidelines commission shall compare each individual judge's sentencing practices to the standard or presumptive sentence range for any and all felony crimes listed in subsection (2) of this section for the appropriate offense level as defined in RCW 9.94A.320, offender score as defined in RCW 9.94A.360, and any applicable deadly weapon enhancements as defined in RCW 9.94A.310 (3) or (4), or both. These comparative records shall be retained and made available to the public for review in a current, newly created or reworked official published document by the sentencing guidelines commission.

(4) Any and all felony sentences which are either above or below the standard or presumptive sentence range in subsection (3) of this section shall also mark whether the prosecuting attorney in the case also recommended a similar sentence, if any, which was either above or below the presumptive sentence range and shall also indicate if the sentence was in conjunction with an approved alternative

sentencing option including a first-time offender waiver, sex offender sentencing alternative, or other prescribed sentencing option.

(5) If any completed judgment and sentence document as defined in subsection (1) of this section is not sent to the sentencing guidelines commission as required in subsection (2) of this section, the sentencing guidelines commission shall have the authority and shall undertake reasonable and necessary steps to assure that all past, current, and future sentencing documents as defined in subsection (1) of this section are received by the sentencing guidelines commission.

Sec. 50. RCW 9.94A.310 and 1996 c 205 s 5 are each amended to read as follows:

(1) **TABLE I**  
**Sentencing Grid**

SERIOUSNESS SCORE	OFFENDER SCORE									
	0	1	2	3	4	5	6	7	8	9 or more
XV	Life Sentence without Parole/Death Penalty									
XIV	23y4m 240- 320	24y4m 250- 333	25y4m 261- 347	26y4m 271- 361	27y4m 281- 374	28y4m 291- 388	30y4m 312- 416	32y10m 338- 450	36y 370- 493	40y 411- 548
XIII	12y 123- 164	13y 134- 178	14y 144- 192	15y 154- 205	16y 165- 219	17y 175- 233	19y 195- 260	21y 216- 288	25y 257- 342	29y 298- 397
XII	9y 93- 123	9y11m 102- 136	10y9m 111- 147	11y8m 120- 160	12y6m 129- 171	13y5m 138- 184	15y9m 162- 216	17y3m 178- 236	20y3m 209- 277	23y3m 240- 318
XI	7y6m 78- 102	8y4m 86- 114	9y2m 95- 125	9y11m 102- 136	10y9m 111- 147	11y7m 120- 158	14y2m 146- 194	15y5m 159- 211	17y11m 185- 245	20y5m 210- 280
X	5y 51- 68	5y6m 57- 75	6y 62- 82	6y6m 67- 89	7y 72- 96	7y6m 77- 102	9y6m 98- 130	10y6m 108- 144	12y6m 129- 171	14y6m 149- 198
IX	3y 31- 41	3y6m 36- 48	4y 41- 54	4y6m 46- 61	5y 51- 68	5y6m 57- 75	7y6m 77- 102	8y6m 87- 116	10y6m 108- 144	12y6m 129- 171
VIII	2y 21- 27	2y6m 26- 34	3y 31- 41	3y6m 36- 48	4y 41- 54	4y6m 46- 61	6y6m 67- 89	7y6m 77- 102	8y6m 87- 116	10y6m 108- 144
VII	18m 15- 20	2y 21- 27	2y6m 26- 34	3y 31- 41	3y6m 36- 48	4y 41- 54	5y6m 57- 75	6y6m 67- 89	7y6m 77- 102	8y6m 87- 116

VI	13m	18m	2y	2y6m	3y	3y6m	4y6m	5y6m	6y6m	7y6m
	12+-	15-	21-	26-	31-	36-	46-	57-	67-	77-
	14	20	27	34	41	48	61	75	89	102
V	9m	13m	15m	18m	2y2m	3y2m	4y	5y	6y	7y
	6-	12+-	13-	15-	22-	33-	41-	51-	62-	72-
	12	14	17	20	29	43	54	68	82	96
IV	6m	9m	13m	15m	18m	2y2m	3y2m	4y2m	5y2m	6y2m
	3-	6-	12+-	13-	15-	22-	33-	43-	53-	63-
	9	12	14	17	20	29	43	57	70	84
III	2m	5m	8m	11m	14m	20m	2y2m	3y2m	4y2m	5y
	1-	3-	4-	9-	12+-	17-	22-	33-	43-	51-
	3	8	12	12	16	22	29	43	57	68
II		4m	6m	8m	13m	16m	20m	2y2m	3y2m	4y2m
	0-90 Days	2-	3-	4-	12+-	14-	17-	22-	33-	43-
		6	9	12	14	18	22	29	43	57
I			3m	4m	5m	8m	13m	16m	20m	2y2m
	0-60 Days	0-90 Days	2-	2-	3-	4-	12+-	14-	17-	22-
			5	6	8	12	14	18	22	29

NOTE: Numbers in the first horizontal row of each seriousness category represent sentencing midpoints in years(y) and months(m). Numbers in the second and third rows represent presumptive sentencing ranges in months, or in days if so designated. 12+ equals one year and one day.

(2) For persons convicted of the anticipatory offenses of criminal attempt, solicitation, or conspiracy under chapter 9A.28 RCW, the presumptive sentence is determined by locating the sentencing grid sentence range defined by the appropriate offender score and the seriousness level of the completed crime, and multiplying the range by 75 percent.

(3) The following additional times shall be added to the presumptive sentence for felony crimes committed after July 23, 1995, if the offender or an accomplice was armed with a firearm as defined in RCW 9.41.010 and the offender is being sentenced for one of the crimes listed in this subsection as eligible for any firearm enhancements based on the classification of the completed felony crime. If the offender or an accomplice was armed with a firearm as defined in RCW 9.41.010 and the offender is being sentenced for an anticipatory offense under chapter 9A.28 RCW to commit one of the crimes listed in this subsection as eligible for any firearm enhancements, the following additional times shall be added to the presumptive sentence determined under subsection (2) of this section based on the felony crime of conviction as classified under RCW 9A.28.020:

(a) Five years for any felony defined under any law as a class A felony or with a maximum sentence of at least twenty years, or both, and not covered under (f) of this subsection.

(b) Three years for any felony defined under any law as a class B felony or with a maximum sentence of ten years, or both, and not covered under (f) of this subsection.

(c) Eighteen months for any felony defined under any law as a class C felony or with a maximum sentence of five years, or both, and not covered under (f) of this subsection.

(d) If the offender is being sentenced for any firearm enhancements under (a), (b), and/or (c) of this subsection and the offender has previously been sentenced for any deadly weapon enhancements after July 23, 1995, under (a), (b), and/or (c) of this subsection or subsection (4)(a), (b), and/or (c) of this section, or both, any and all firearm enhancements under this subsection shall be twice the amount of the enhancement listed.

(e) Notwithstanding any other provision of law, any and all firearm enhancements under this section are mandatory, shall be served in total confinement, and shall not run concurrently with any other sentencing provisions.

(f) The firearm enhancements in this section shall apply to all felony crimes except the following: Possession of a machine gun, possessing a stolen firearm, (~~reckless endangerment in the first degree~~) drive-by shooting, theft of a firearm, unlawful possession of a firearm in the first and second degree, and use of a machine gun in a felony.

(g) If the presumptive sentence under this section exceeds the statutory maximum for the offense, the statutory maximum sentence shall be the presumptive sentence unless the offender is a persistent offender as defined in RCW 9.94A.030.

(4) The following additional times shall be added to the presumptive sentence for felony crimes committed after July 23, 1995, if the offender or an accomplice was armed with a deadly weapon as defined in this chapter other than a firearm as defined in RCW 9.41.010 and the offender is being sentenced for one of the crimes listed in this subsection as eligible for any deadly weapon enhancements based on the classification of the completed felony crime. If the offender or an accomplice was armed with a deadly weapon other than a firearm as defined in RCW 9.41.010 and the offender is being sentenced for an anticipatory offense under chapter 9A.28 RCW to commit one of the crimes listed in this subsection as eligible for any deadly weapon enhancements, the following additional times shall be added to the presumptive sentence determined under subsection (2) of this section based on the felony crime of conviction as classified under RCW 9A.28.020:

(a) Two years for any felony defined under any law as a class A felony or with a maximum sentence of at least twenty years, or both, and not covered under (f) of this subsection.

(b) One year for any felony defined under any law as a class B felony or with a maximum sentence of ten years, or both, and not covered under (f) of this subsection.

(c) Six months for any felony defined under any law as a class C felony or with a maximum sentence of five years, or both, and not covered under (f) of this subsection.

(d) If the offender is being sentenced under (a), (b), and/or (c) of this subsection for any deadly weapon enhancements and the offender has previously been sentenced for any deadly weapon enhancements after July 23, 1995, under (a), (b), and/or (c) of this subsection or subsection (3)(a), (b), and/or (c) of this section, or both, any and all deadly weapon enhancements under this subsection shall be twice the amount of the enhancement listed.

(e) Notwithstanding any other provision of law, any and all deadly weapon enhancements under this section are mandatory, shall be served in total confinement, and shall not run concurrently with any other sentencing provisions.

(f) The deadly weapon enhancements in this section shall apply to all felony crimes except the following: Possession of a machine gun, possessing a stolen firearm, (~~reckless endangerment in the first degree~~) drive-by shooting, theft of a firearm, unlawful possession of a firearm in the first and second degree, and use of a machine gun in a felony.

(g) If the presumptive sentence under this section exceeds the statutory maximum for the offense, the statutory maximum sentence shall be the presumptive sentence unless the offender is a persistent offender as defined in RCW 9.94A.030.

(5) The following additional times shall be added to the presumptive sentence if the offender or an accomplice committed the offense while in a county jail or state correctional facility as that term is defined in this chapter and the offender is being sentenced for one of the crimes listed in this subsection. If the offender or an accomplice committed one of the crimes listed in this subsection while in a county jail or state correctional facility as that term is defined in this chapter, and the offender is being sentenced for an anticipatory offense under chapter 9A.28 RCW to commit one of the crimes listed in this subsection, the following additional times shall be added to the presumptive sentence determined under subsection (2) of this section:

(a) Eighteen months for offenses committed under RCW 69.50.401(a)(1) (i) or (ii) or 69.50.410;

(b) Fifteen months for offenses committed under RCW 69.50.401(a)(1) (iii), (iv), and (v);

(c) Twelve months for offenses committed under RCW 69.50.401(d).

For the purposes of this subsection, all of the real property of a state correctional facility or county jail shall be deemed to be part of that facility or county jail.

(6) An additional twenty-four months shall be added to the presumptive sentence for any ranked offense involving a violation of chapter 69.50 RCW if the offense was also a violation of RCW 69.50.435.

Sec. 51. RCW 9.94A.320 and 1996 c 302 s 6, 1996 c 205 s 3, and 1996 c 36 s 2 are each reenacted and amended to read as follows:

TABLE 2

CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

- XV Aggravated Murder 1 (RCW 10.95.020)
- XIV Murder 1 (RCW 9A.32.030)  
Homicide by abuse (RCW 9A.32.055)
- XIII Murder 2 (RCW 9A.32.050)
- XII Assault 1 (RCW 9A.36.011)  
Assault of a Child 1 (RCW 9A.36.120)
- XI Rape 1 (RCW 9A.44.040)  
Rape of a Child 1 (RCW 9A.44.073)
- X Kidnapping 1 (RCW 9A.40.020)  
Rape 2 (RCW 9A.44.050)  
Rape of a Child 2 (RCW 9A.44.076)  
Child Molestation 1 (RCW 9A.44.083)  
Damaging building, etc., by explosion with threat to human being (RCW 70.74.280(1))  
Over 18 and deliver heroin or narcotic from Schedule I or II to someone under 18 (RCW 69.50.406)  
Leading Organized Crime (RCW 9A.82.060(1)(a))
- IX Assault of a Child 2 (RCW 9A.36.130)  
Robbery 1 (RCW 9A.56.200)  
Manslaughter 1 (RCW 9A.32.060)  
Explosive devices prohibited (RCW 70.74.180)  
Indecent Liberties (with forcible compulsion) (RCW 9A.44.100(1)(a))  
Endangering life and property by explosives with threat to human being (RCW 70.74.270)  
Over 18 and deliver narcotic from Schedule III, IV, or V or a nonnarcotic from Schedule I-V to someone under 18 and 3 years junior (RCW 69.50.406)  
Controlled Substance Homicide (RCW 69.50.415)

- Sexual Exploitation (RCW 9.68A.040)
- Inciting Criminal Profiteering (RCW 9A.82.060(1)(b))
- Vehicular Homicide, by being under the influence of intoxicating liquor or any drug (RCW 46.61.520)
- VIII Arson 1 (RCW 9A.48.020)
- Promoting Prostitution 1 (RCW 9A.88.070)
- Selling for profit (controlled or counterfeit) any controlled substance (RCW 69.50.410)
- Manufacture, deliver, or possess with intent to deliver heroin or cocaine (RCW 69.50.401(a)(1)(i))
- Manufacture, deliver, or possess with intent to deliver methamphetamine (RCW 69.50.401(a)(1)(ii))
- Possession of ephedrine or pseudoephedrine with intent to manufacture methamphetamine (RCW 69.50.440)
- Vehicular Homicide, by the operation of any vehicle in a reckless manner (RCW 46.61.520)
- VII Burglary 1 (RCW 9A.52.020)
- Vehicular Homicide, by disregard for the safety of others (RCW 46.61.520)
- Introducing Contraband 1 (RCW 9A.76.140)
- Indecent Liberties (without forcible compulsion) (RCW 9A.44.100(1) (b) and (c))
- Child Molestation 2 (RCW 9A.44.086)
- Dealing in depictions of minor engaged in sexually explicit conduct (RCW 9.68A.050)
- Sending, bringing into state depictions of minor engaged in sexually explicit conduct (RCW 9.68A.060)
- Involving a minor in drug dealing (RCW 69.50.401(f))
- ~~((Reckless—Endangerment—t))~~ Drive-by Shooting (RCW 9A.36.045)
- Unlawful Possession of a Firearm in the first degree (RCW 9.41.040(1)(a))

- VI
- Bribery (RCW 9A.68.010)
  - Manslaughter 2 (RCW 9A.32.070)
  - Rape of a Child 3 (RCW 9A.44.079)
  - Intimidating a Juror/Witness (RCW 9A.72.110, 9A.72.130)
  - Damaging building, etc., by explosion with no threat to human being (RCW 70.74.280(2))
  - Endangering life and property by explosives with no threat to human being (RCW 70.74.270)
  - Incest 1 (RCW 9A.64.020(1))
  - Manufacture, deliver, or possess with intent to deliver narcotics from Schedule I or II (except heroin or cocaine) (RCW 69.50.401(a)(1)(i))
  - Intimidating a Judge (RCW 9A.72.160)
  - Bail Jumping with Murder I (RCW 9A.76.170(2)(a))
  - Theft of a Firearm (RCW 9A.56.300)
- V
- Persistent prison misbehavior (RCW 9.94.070)
  - Criminal Mistreatment 1 (RCW 9A.42.020)
  - Abandonment of dependent person 1 (RCW 9A.42.060)
  - Rape 3 (RCW 9A.44.060)
  - Sexual Misconduct with a Minor 1 (RCW 9A.44.093)
  - Child Molestation 3 (RCW 9A.44.089)
  - Kidnapping 2 (RCW 9A.40.030)
  - Extortion 1 (RCW 9A.56.120)
  - Incest 2 (RCW 9A.64.020(2))
  - Perjury 1 (RCW 9A.72.020)
  - Extortionate Extension of Credit (RCW 9A.82.020)
  - Advancing money or property for extortionate extension of credit (RCW 9A.82.030)
  - Extortionate Means to Collect Extensions of Credit (RCW 9A.82.040)
  - Rendering Criminal Assistance 1 (RCW 9A.76.070)
  - Bail Jumping with class A Felony (RCW 9A.76.170(2)(b))

- Sexually Violating Human Remains (RCW 9A.44.105)
- Delivery of imitation controlled substance by person eighteen or over to person under eighteen (RCW 69.52.030(2))
- Possession of a Stolen Firearm (RCW 9A.56.310)
- IV Residential Burglary (RCW 9A.52.025)
- Theft of Livestock 1 (RCW 9A.56.080)
- Robbery 2 (RCW 9A.56.210)
- Assault 2 (RCW 9A.36.021)
- Escape 1 (RCW 9A.76.110)
- Arson 2 (RCW 9A.48.030)
- Commercial Bribery (RCW 9A.68.060)
- Bribing a Witness/Bribe Received by Witness (RCW 9A.72.090, 9A.72.100)
- Malicious Harassment (RCW 9A.36.080)
- Threats to Bomb (RCW 9.61.160)
- Willful Failure to Return from Furlough (RCW 72.66.060)
- Hit and Run — Injury Accident (RCW 46.52.020(4))
- Hit and Run with Vessel — Injury Accident (RCW 88.12.155(3))
- Vehicular Assault (RCW 46.61.522)
- Manufacture, deliver, or possess with intent to deliver narcotics from Schedule III, IV, or V or nonnarcotics from Schedule I-V (except marijuana or methamphetamines) (RCW 69.50.401(a)(1) (iii) through (v))
- Influencing Outcome of Sporting Event (RCW 9A.82.070)
- Use of Proceeds of Criminal Profiteering (RCW 9A.82.080 (1) and (2))
- Knowingly Trafficking in Stolen Property (RCW 9A.82.050(2))
- III Criminal Mistreatment 2 (RCW 9A.42.030)
- Abandonment of dependent person 2 (RCW 9A.42.070)
- Extortion 2 (RCW 9A.56.130)
- Unlawful Imprisonment (RCW 9A.40.040)
- Assault 3 (RCW 9A.36.031)
- Assault of a Child 3 (RCW 9A.36.140)

- Custodial Assault (RCW 9A.36.100)
- Unlawful possession of firearm in the second degree (RCW 9A.1.040(1)(b))
- Harassment (RCW 9A.46.020)
- Promoting Prostitution 2 (RCW 9A.88.080)
- Willful Failure to Return from Work Release (RCW 72.65.070)
- Burglary 2 (RCW 9A.52.030)
- Introducing Contraband 2 (RCW 9A.76.150)
- Communication with a Minor for Immoral Purposes (RCW 9.68A.090)
- Patronizing a Juvenile Prostitute (RCW 9.68A.100)
- Escape 2 (RCW 9A.76.120)
- Perjury 2 (RCW 9A.72.030)
- Bail Jumping with class B or C Felony (RCW 9A.76.170(2)(c))
- Intimidating a Public Servant (RCW 9A.76.180)
- Tampering with a Witness (RCW 9A.72.120)
- Manufacture, deliver, or possess with intent to deliver marijuana (RCW 69.50.401 (a)(1)(iii))
- Delivery of a material in lieu of a controlled substance (RCW 69.50.401(c))
- Manufacture, distribute, or possess with intent to distribute an imitation controlled substance (RCW 69.52.030(1))
- Recklessly Trafficking in Stolen Property (RCW 9A.82.050(1))
- Theft of livestock 2 (RCW 9A.56.080)
- Securities Act violation (RCW 21.20.400)
- II Unlawful Practice of Law (RCW 2.48.180)
- Malicious Mischief I (RCW 9A.48.070)
- Possession of Stolen Property 1 (RCW 9A.56.150)
- Theft 1 (RCW 9A.56.030)
- Trafficking in Insurance Claims (RCW 48.30A.015)
- Unlicensed Practice of a Profession or Business (RCW 18.130.190(7))
- Health Care False Claims (RCW 48.80.030)

- Possession of controlled substance that is either heroin or narcotics from Schedule I or II (RCW 69.50.401(d))
- Possession of phencyclidine (PCP) (RCW 69.50.401(d))
- Create, deliver, or possess a counterfeit controlled substance (RCW 69.50.401(b))
- Computer Trespass 1 (RCW 9A.52.110)
- Escape from Community Custody (RCW 72.09.110)
- 1 Theft 2 (RCW 9A.56.040)
- Possession of Stolen Property 2 (RCW 9A.56.160)
- Forgery (RCW 9A.60.020)
- Taking Motor Vehicle Without Permission (RCW 9A.56.070)
- Vehicle Prowl 1 (RCW 9A.52.095)
- Attempting to Elude a Pursuing Police Vehicle (RCW 46.61.024)
- Malicious Mischief 2 (RCW 9A.48.080)
- Reckless Burning 1 (RCW 9A.48.040)
- Unlawful Issuance of Checks or Drafts (RCW 9A.56.060)
- Unlawful Use of Food Stamps (RCW 9.91.140 (2) and (3))
- False Verification for Welfare (RCW 74.08.055)
- Forged Prescription (RCW 69.41.020)
- Forged Prescription for a Controlled Substance (RCW 69.50.403)
- Possess Controlled Substance that is a Narcotic from Schedule III, IV, or V or Non-narcotic from Schedule I-V (except phencyclidine) (RCW 69.50.401(d))

**Sec. 52.** RCW 9A.46.060 and 1994 c 271 s 802 and 1994 c 121 s 2 are each reenacted and amended to read as follows:

As used in this chapter, "harassment" may include but is not limited to any of the following crimes:

- (1) Harassment (RCW 9A.46.020);
- (2) Malicious harassment (RCW 9A.36.080);
- (3) Telephone harassment (RCW 9.61.230);
- (4) Assault in the first degree (RCW 9A.36.011);
- (5) Assault of a child in the first degree (RCW 9A.36.120);

- (6) Assault in the second degree (RCW 9A.36.021);
- (7) Assault of a child in the second degree (RCW 9A.36.130);
- (8) Assault in the fourth degree (RCW 9A.36.041);
- (9) Reckless endangerment (~~(in the second degree)~~) (RCW 9A.36.050);
- (10) Extortion in the first degree (RCW 9A.56.120);
- (11) Extortion in the second degree (RCW 9A.56.130);
- (12) Coercion (RCW 9A.36.070);
- (13) Burglary in the first degree (RCW 9A.52.020);
- (14) Burglary in the second degree (RCW 9A.52.030);
- (15) Criminal trespass in the first degree (RCW 9A.52.070);
- (16) Criminal trespass in the second degree (RCW 9A.52.080);
- (17) Malicious mischief in the first degree (RCW 9A.48.070);
- (18) Malicious mischief in the second degree (RCW 9A.48.080);
- (19) Malicious mischief in the third degree (RCW 9A.48.090);
- (20) Kidnapping in the first degree (RCW 9A.40.020);
- (21) Kidnapping in the second degree (RCW 9A.40.030);
- (22) Unlawful imprisonment (RCW 9A.40.040);
- (23) Rape in the first degree (RCW 9A.44.040);
- (24) Rape in the second degree (RCW 9A.44.050);
- (25) Rape in the third degree (RCW 9A.44.060);
- (26) Indecent liberties (RCW 9A.44.100);
- (27) Rape of a child in the first degree (RCW 9A.44.073);
- (28) Rape of a child in the second degree (RCW 9A.44.076);
- (29) Rape of a child in the third degree (RCW 9A.44.079);
- (30) Child molestation in the first degree (RCW 9A.44.083);
- (31) Child molestation in the second degree (RCW 9A.44.086);
- (32) Child molestation in the third degree (RCW 9A.44.089);
- (33) Stalking (RCW 9A.46.110);
- (34) Residential burglary (RCW 9A.52.025); and
- (35) Violation of a temporary or permanent protective order issued pursuant to chapter 9A.46, 10.14, 10.99, 26.09, or 26.50 RCW.

**Sec. 53.** RCW 10.99.020 and 1996 c 248 s 5 are each amended to read as follows:

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

(1) "Family or household members" means spouses, former spouses, persons who have a child in common regardless of whether they have been married or have lived together at any time, adult persons related by blood or marriage, adult persons who are presently residing together or who have resided together in the past, persons sixteen years of age or older who are presently residing together or who have resided together in the past and who have or have had a dating relationship, persons sixteen years of age or older with whom a person sixteen years of age or older has or has had a dating relationship, and persons who have a biological or

legal parent-child relationship, including stepparents and stepchildren and grandparents and grandchildren.

(2) "Dating relationship" has the same meaning as in RCW 26.50.010.

(3) "Domestic violence" includes but is not limited to any of the following crimes when committed by one family or household member against another:

(a) Assault in the first degree (RCW 9A.36.011);

(b) Assault in the second degree (RCW 9A.36.021);

(c) Assault in the third degree (RCW 9A.36.031);

(d) Assault in the fourth degree (RCW 9A.36.041);

(e) (~~Reckless endangerment in the first degree~~) Drive-by shooting (RCW 9A.36.045);

(f) ~~Reckless endangerment ((in the second degree))~~ (RCW 9A.36.050);

(g) Coercion (RCW 9A.36.070);

(h) Burglary in the first degree (RCW 9A.52.020);

(i) Burglary in the second degree (RCW 9A.52.030);

(j) Criminal trespass in the first degree (RCW 9A.52.070);

(k) Criminal trespass in the second degree (RCW 9A.52.080);

(l) Malicious mischief in the first degree (RCW 9A.48.070);

(m) Malicious mischief in the second degree (RCW 9A.48.080);

(n) Malicious mischief in the third degree (RCW 9A.48.090);

(o) Kidnapping in the first degree (RCW 9A.40.020);

(p) Kidnapping in the second degree (RCW 9A.40.030);

(q) Unlawful imprisonment (RCW 9A.40.040);

(r) Violation of the provisions of a restraining order restraining the person or restraining the person from going onto the grounds of or entering a residence, workplace, school, or day care (RCW 26.09.300, 26.10.220, or 26.26.138);

(s) Violation of the provisions of a protection order or no-contact order restraining the person or restraining the person from going onto the grounds of or entering a residence, workplace, school, or day care (RCW 26.50.060, 26.50.070, 26.50.130, 10.99.040, or 10.99.050);

(t) Rape in the first degree (RCW 9A.44.040);

(u) Rape in the second degree (RCW 9A.44.050);

(v) Residential burglary (RCW 9A.52.025);

(w) Stalking (RCW 9A.46.110); and

(x) Interference with the reporting of domestic violence (RCW 9A.36.150).

(4) "Victim" means a family or household member who has been subjected to domestic violence.

**Sec. 54.** RCW 10.99.040 and 1996 c 248 s 7 are each amended to read as follows:

(1) Because of the serious nature of domestic violence, the court in domestic violence actions:

(a) Shall not dismiss any charge or delay disposition because of concurrent dissolution or other civil proceedings;

(b) Shall not require proof that either party is seeking a dissolution of marriage prior to instigation of criminal proceedings;

(c) Shall waive any requirement that the victim's location be disclosed to any person, other than the attorney of a criminal defendant, upon a showing that there is a possibility of further violence: PROVIDED, That the court may order a criminal defense attorney not to disclose to his or her client the victim's location; and

(d) Shall identify by any reasonable means on docket sheets those criminal actions arising from acts of domestic violence.

(2) Because of the likelihood of repeated violence directed at those who have been victims of domestic violence in the past, when any person charged with or arrested for a crime involving domestic violence is released from custody before arraignment or trial on bail or personal recognizance, the court authorizing the release may prohibit that person from having any contact with the victim. The jurisdiction authorizing the release shall determine whether that person should be prohibited from having any contact with the victim. If there is no outstanding restraining or protective order prohibiting that person from having contact with the victim, the court authorizing release may issue, by telephone, a no-contact order prohibiting the person charged or arrested from having contact with the victim. In issuing the order, the court shall consider the provisions of RCW 9A.18.000. The no-contact order shall also be issued in writing as soon as possible.

(3) At the time of arraignment the court shall determine whether a no-contact order shall be issued or extended. If a no-contact order is issued or extended, the court may also include in the conditions of release a requirement that the defendant submit to electronic monitoring. If electronic monitoring is ordered, the court shall specify who shall provide the monitoring services, and the terms under which the monitoring shall be performed. Upon conviction, the court may require as a condition of the sentence that the defendant reimburse the providing agency for the costs of the electronic monitoring.

(4)(a) Willful violation of a court order issued under subsection (2) or (3) of this section is a gross misdemeanor except as provided in (b) and (c) of this subsection (4). Upon conviction and in addition to other penalties provided by law, the court may require that the defendant submit to electronic monitoring. The court shall specify who shall provide the electronic monitoring services and the terms under which the monitoring must be performed. The court also may include a requirement that the defendant pay the costs of the monitoring. The court shall consider the ability of the convicted person to pay for electronic monitoring.

(b) Any assault that is a violation of an order issued under this section and that does not amount to assault in the first or second degree under RCW 9A.36.011 or 9A.36.021 is a class C felony punishable under chapter 9A.20 RCW, and any conduct in violation of a protective order issued under this section that is reckless and creates a substantial risk of death or serious physical injury to another person is a class C felony punishable under chapter 9A.20 RCW.

(c) A willful violation of a court order issued under this section is a class C felony if the offender has at least two previous convictions for violating the provisions of a no-contact order issued under this chapter, a domestic violence protection order issued under chapter 26.09, 26.10, 26.26, or 26.50 RCW, or any federal or out-of-state order that is comparable to a no-contact order or protection order issued under Washington law. The previous convictions may involve the same victim or other victims specifically protected by the no-contact orders or protection orders the offender violated.

(d) The written order releasing the person charged or arrested shall contain the court's directives and shall bear the legend: "Violation of this order is a criminal offense under chapter 10.99 RCW and will subject a violator to arrest; any assault, drive-by shooting, or reckless endangerment that is a violation of this order is a felony. You can be arrested even if any person protected by the order invites or allows you to violate the order's prohibitions. You have the sole responsibility to avoid or refrain from violating the order's provisions. Only the court can change the order." A certified copy of the order shall be provided to the victim. If a no-contact order has been issued prior to charging, that order shall expire at arraignment or within seventy-two hours if charges are not filed. Such orders need not be entered into the computer-based criminal intelligence information system in this state which is used by law enforcement agencies to list outstanding warrants.

(5) Whenever an order prohibiting contact is issued, modified, or terminated under subsection (2) or (3) of this section, the clerk of the court shall forward a copy of the order on or before the next judicial day to the appropriate law enforcement agency specified in the order. Upon receipt of the copy of the order the law enforcement agency shall forthwith enter the order for one year or until the expiration date specified on the order into any computer-based criminal intelligence information system available in this state used by law enforcement agencies to list outstanding warrants. Entry into the law enforcement information system constitutes notice to all law enforcement agencies of the existence of the order. The order is fully enforceable in any jurisdiction in the state.

**Sec. 55.** RCW 10.99.050 and 1996 c 248 s 8 are each amended to read as follows:

(1) When a defendant is found guilty of a crime and a condition of the sentence restricts the defendant's ability to have contact with the victim, such condition shall be recorded and a written certified copy of that order shall be provided to the victim.

(2) Willful violation of a court order issued under this section is a gross misdemeanor. Any assault that is a violation of an order issued under this section and that does not amount to assault in the first or second degree under RCW 9A.36.011 or 9A.36.021 is a class C felony, and any conduct in violation of a protective order issued under this section that is reckless and creates a substantial risk of death or serious physical injury to another person is a class C felony. A

willful violation of a court order issued under this section is also a class C felony if the offender has at least two previous convictions for violating the provisions of a no-contact order issued under this chapter, or a domestic violence protection order issued under chapter 26.09, 26.10, 26.26, or 26.50 RCW, or any federal or out-of-state order that is comparable to a no-contact order or protection order that is issued under Washington law. The previous convictions may involve the same victim or other victims specifically protected by the no-contact orders or protection orders the offender violated.

The written order shall contain the court's directives and shall bear the legend: Violation of this order is a criminal offense under chapter 10.99 RCW and will subject a violator to arrest; any assault, drive-by shooting, or reckless endangerment that is a violation of this order is a felony.

(3) Whenever an order prohibiting contact is issued pursuant to this section, the clerk of the court shall forward a copy of the order on or before the next judicial day to the appropriate law enforcement agency specified in the order. Upon receipt of the copy of the order the law enforcement agency shall forthwith enter the order for one year into any computer-based criminal intelligence information system available in this state used by law enforcement agencies to list outstanding warrants. Entry into the law enforcement information system constitutes notice to all law enforcement agencies of the existence of the order. The order is fully enforceable in any jurisdiction in the state.

NEW SECTION. **Sec. 56.** A new section is added to chapter 43.121 RCW to read as follows:

The legislature of the state of Washington finds that community deterioration and family disintegration are increasing problems in our state. One clear indicator of this damage is juvenile crime and violence. The legislature further finds that prevention is one of the best methods of fighting juvenile crime. Building more facilities to house juvenile offenders can be at best only one part of any solution. Any increased spending on confining juvenile offenders must be closely linked to existing efforts to prevent juvenile crime.

NEW SECTION. **Sec. 57.** The sentencing guidelines commission shall review conviction data for the past ten years. The commission shall submit a proposed bill to the legislature for introduction in the 1998 legislative session that appropriately ranks all unranked felony offenses for which there have been convictions for the period studied.

NEW SECTION. **Sec. 58.** The legislature finds that it is necessary to improve the analysis, evaluation, and forecasting of sentencing and treatment alternatives for adult and juvenile offenders.

In order to establish a universally accepted measuring tool for use in making informed corrections and public safety policy decisions in the adult and juvenile corrections systems, the Washington state institute for public policy shall develop a proposed definition of recidivism. The institute's definition shall provide the legislature and the governor with an objective, outcome-based standard for

measuring the success of programs in increasing public safety and reducing subsequent offenses by convicted persons.

The definition shall be reported to the governor and the legislature by December 31, 1997.

**NEW SECTION. Sec. 59.** The legislature finds it critical to evaluate the effectiveness of the revisions made in this act to juvenile sentencing for purposes of measuring improvements in public safety and reduction of recidivism.

To accomplish this evaluation, the Washington state institute for public policy shall conduct a study of the sentencing revisions. The study shall: (1) Be conducted starting January 1, 2001; (2) examine whether the revisions have affected the rate of initial offense commission and recidivism; (3) determine the impacts of the revisions by age, race, and gender impacts of the revisions; (4) compare the utilization and effectiveness of sentencing alternatives and manifest injustice determinations before and after the revisions; and (5) examine the impact and effectiveness of changes made in the exclusive original jurisdiction of juvenile court over juvenile offenders.

The institute shall report the results of the study to the governor and legislature not later than July 1, 2002.

**NEW SECTION. Sec. 60.** The legislature finds that meaningful community involvement is vital to the juvenile justice system's ability to respond to the serious problem of juvenile crime. Citizens and crime victims need to be active partners in responding to crime, in the management of resources, and in the disposition decisions regarding juvenile offenders in their community. Involvement of citizens and crime victims increase offender accountability and build healthier communities, which will reduce recidivism and crime rates in Washington state.

The legislature also finds that local governments are in the best position to develop, coordinate, and manage local community prevention, intervention, and corrections programs for juvenile offenders, and to determine local resource priorities. Local community management will build upon local values and increase local control of resources, encourage the use of a comprehensive range of community-based intervention strategies.

The primary purpose of sections 60 through 64 of this act, the community juvenile accountability act, is to provide a continuum of community-based programs that emphasize the juvenile offender's accountability for his or her actions while assisting him or her in the development of skills necessary to function effectively and positively in the community in a manner consistent with public safety.

**NEW SECTION. Sec. 61.** (1) In order to receive funds under sections 60 through 64 of this act, local governments may, through their respective agencies that administer funding for consolidated juvenile services, submit proposals that establish community juvenile accountability programs within their communities. These proposals must be submitted to the juvenile rehabilitation administration of the department of social and health services for certification.

(2) The proposals must:

(a) Demonstrate that the proposals were developed with the input of the community public health and safety networks established under RCW 70.190.060, and the local law and justice councils established under RCW 72.09.300;

(b) Describe how local community groups or members are involved in the implementation of the programs funded under sections 60 through 64 of this act;

(c) Include a description of how the grant funds will contribute to the expected outcomes of the program and the reduction of youth violence and juvenile crime in their community. Data approaches are not required to be replicated if the networks have information that addresses risks in the community for juvenile offenders.

(3) A local government receiving a grant under this section shall agree that any funds received must be used efficiently to encourage the use of community-based programs that reduce the reliance on secure confinement as the sole means of holding juvenile offenders accountable for their crimes. The local government shall also agree to account for the expenditure of all funds received under the grant and to submit to audits for compliance with the grant criteria developed under section 62 of this act.

(4) The juvenile rehabilitation administration, in consultation with the Washington association of juvenile court administrators, the state law and justice advisory council, and the family policy council, shall establish guidelines for programs that may be funded under sections 60 through 64 of this act. The guidelines must:

(a) Target diverted and adjudicated juvenile offenders;

(b) Include assessment methods to determine services, programs, and intervention strategies most likely to change behaviors and norms of juvenile offenders;

(c) Provide maximum structured supervision in the community. Programs should use natural surveillance and community guardians such as employers, relatives, teachers, clergy, and community mentors to the greatest extent possible;

(d) Promote good work ethic values and educational skills and competencies necessary for the juvenile offender to function effectively and positively in the community;

(e) Maximize the efficient delivery of treatment services aimed at reducing risk factors associated with the commission of juvenile offenses;

(f) Maximize the reintegration of the juvenile offender into the community upon release from confinement;

(g) Maximize the juvenile offender's opportunities to make full restitution to the victims and amends to the community;

(h) Support and encourage increased court discretion in imposing community-based intervention strategies;

(i) Be compatible with research that shows which prevention and early intervention strategies work with juvenile offenders;

(j) Be outcome-based in that it describes what outcomes will be achieved or what outcomes have already been achieved;

(k) Include an evaluation component; and

(l) Recognize the diversity of local needs.

(5) The state law and justice advisory council, with the assistance of the family policy council and the governor's juvenile justice advisory committee, may provide support and technical assistance to local governments for training and education regarding community-based prevention and intervention strategies.

**NEW SECTION.** **Sec. 62.** (1) The state may make grants to local governments for the provision of community-based programs for juvenile offenders. The grants must be made under a grant formula developed by the juvenile rehabilitation administration, in consultation with the Washington association of juvenile court administrators.

(2) Upon certification by the juvenile rehabilitation administration that a proposal satisfies the application and selection criteria, grant funds will be distributed to the local government agency that administers funding for consolidated juvenile services.

**NEW SECTION.** **Sec. 63.** The legislature recognizes the importance of evaluation and outcome measurements of programs serving juvenile offenders in order to ensure cost-effective use of public funds.

The Washington state institute for public policy shall develop standards for measuring the effectiveness of juvenile accountability programs established and approved under section 61 of this act. The standards must be developed and presented to the governor and legislature not later than January 1, 1998. The standards must include methods for measuring success factors following intervention. Success factors include, but are not limited to, continued use of alcohol or controlled substances, arrests, violations of terms of community supervision, convictions for subsequent offenses, and restitution to victims.

**NEW SECTION.** **Sec. 64.** (1) Each community juvenile accountability program approved and funded under sections 60 through 64 of this act shall comply with the information collection requirements in subsection (2) of this section and the reporting requirements in subsection (3) of this section.

(2) The information collected by each community juvenile accountability program must include, at a minimum for each juvenile participant: (a) The name, date of birth, gender, social security number, and, when available, the juvenile information system (JUVIS) control number; (b) an initial intake assessment of each juvenile participating in the program; (c) a list of all juveniles who completed the program; and (d) an assessment upon completion or termination of each juvenile, including outcomes and, where applicable, reasons for termination.

(3) The juvenile rehabilitation administration shall annually compile the data and report to the legislature on: (a) The programs funded under sections 60 through 64 of this act; (b) the total cost for each funded program and cost per juvenile; and (c) the essential elements of the program.

**NEW SECTION. Sec. 65.** The Washington state institute for public policy shall evaluate the costs and benefits of the programs funded in sections 60 through 64 of this act. The evaluation must measure whether the programs cost-effectively reduce recidivism and crime rates in Washington state. The institute shall submit reports to the governor and the legislature by December 1, 1998, and December 1, 2000.

**NEW SECTION. Sec. 66.** Sections 60 through 64 of this act may be known as the community juvenile accountability act.

**NEW SECTION. Sec. 67.** Sections 60 through 64 and 66 of this act are added to chapter 13.40 RCW.

**Sec. 68.** RCW 82.44.110 and 1997 c 149 s 911 (SSB 6062) are each amended to read as follows:

The county auditor shall regularly, when remitting license fee receipts, pay over and account to the director of licensing for the excise taxes collected under the provisions of this chapter. The director shall forthwith transmit the excise taxes to the state treasurer.

(1) The state treasurer shall deposit the excise taxes collected under RCW 82.44.020(1) as follows:

(a) 1.60 percent into the motor vehicle fund to defray administrative and other expenses incurred by the department in the collection of the excise tax.

(b) 8.15 percent into the Puget Sound capital construction account in the motor vehicle fund.

(c) 4.07 percent into the Puget Sound ferry operations account in the motor vehicle fund.

(d) 5.88 percent into the general fund to be distributed under RCW 82.44.155.

(e) 4.75 percent into the municipal sales and use tax equalization account in the general fund created in RCW 82.14.210.

(f) 1.60 percent into the county sales and use tax equalization account in the general fund created in RCW 82.14.200.

(g) 62.6440 percent into the general fund through June 30, 1995, and 57.6440 percent into the general fund beginning July 1, 1995.

(h) 5 percent into the transportation fund created in RCW 82.44.180 beginning July 1, 1995.

(i) 5.9686 percent into the county criminal justice assistance account created in RCW 82.14.310.

(j) 1.1937 percent into the municipal criminal justice assistance account for distribution under RCW 82.14.320.

(k) 1.1937 percent into the municipal criminal justice assistance account for distribution under RCW 82.14.330.

(l) 2.95 percent into the county public health account created in RCW 70.05.125.

Notwithstanding (i) through (k) of this subsection, no more than sixty million dollars shall be deposited into the accounts specified in (i) through (k) of this subsection for the period January 1, 1994, through June 30, 1995. Not more than five percent of the funds deposited to these accounts shall be available for appropriations for enhancements to the state patrol crime laboratory system and the continuing costs related to these enhancements. Motor vehicle excise tax funds appropriated for such enhancements shall not supplant existing funds from the state general fund. For the fiscal year ending June 30, 1998, and for each fiscal year thereafter, the amounts deposited into the accounts specified in (i) through (k) of this subsection shall not increase by more than the amounts deposited into those accounts in the previous fiscal year increased by the implicit price deflator for the previous fiscal year. Any revenues in excess of this amount shall be deposited into the violence reduction and drug enforcement account (~~(during the 1997-99 fiscal biennium)~~).

(2) The state treasurer shall deposit the excise taxes collected under RCW 82.44.020(2) into the transportation fund.

(3) The state treasurer shall deposit the excise tax imposed by RCW 82.44.020(3) into the air pollution control account created by RCW 70.94.015.

**Sec. 69.** RCW 69.50.520 and 1997 c 149 s 912 (SSB 6062) 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(7), 66.24.210(4), 66.24.290(3), 69.50.505(h)(1), 82.08.150(5), 82.24.020(2), 82.64.020, and section 420, chapter 271, Laws of 1989 shall be deposited into the account. Expenditures from the account may be used only for funding services and programs under 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 . . . , Laws of 1997 (this act). During the 1997-1999 biennium, funds from the account may also be used (~~(to implement Engrossed Third Substitute House Bill No. 3900 (juvenile code revisions), including local government costs, and)~~ for costs associated with conducting a feasibility study of the department of corrections' offender-based tracking system. After July 1, 1999, at least seven and one-half percent of expenditures from the account shall be used for providing grants to community networks under chapter 70.190 RCW by the family policy council.

**Sec. 70.** RCW 13.40.080 and 1997 c 121 s 8 are each amended to read as follows:

(1) A diversion agreement shall be a contract between a juvenile accused of an offense and a diversionary unit whereby the juvenile agrees to fulfill certain conditions in lieu of prosecution. Such agreements may be entered into only after the prosecutor, or probation counselor pursuant to this chapter, has determined that probable cause exists to believe that a crime has been committed and that the

juvenile committed it. Such agreements shall be entered into as expeditiously as possible.

(2) A diversion agreement shall be limited to one or more of the following:

(a) Community service not to exceed one hundred fifty hours, not to be performed during school hours if the juvenile is attending school;

(b) Restitution limited to the amount of actual loss incurred by the victim;

(c) Attendance at up to ten hours of counseling and/or up to twenty hours of educational or informational sessions at a community agency. The educational or informational sessions may include sessions relating to respect for self, others, and authority; victim awareness; accountability; self-worth; responsibility; work ethics; good citizenship; literacy; and life skills. For purposes of this section, "community agency" may also mean a community-based nonprofit organization, if approved by the diversion unit. The state shall not be liable for costs resulting from the diversionary unit exercising the option to permit diversion agreements to mandate attendance at up to ten hours of counseling and/or up to twenty hours of educational or informational sessions;

(d) A fine, not to exceed one hundred dollars. In determining the amount of the fine, the diversion unit shall consider only the juvenile's financial resources and whether the juvenile has the means to pay the fine. The diversion unit shall not consider the financial resources of the juvenile's parents, guardian, or custodian in determining the fine to be imposed; and

(e) Requirements to remain during specified hours at home, school, or work, and restrictions on leaving or entering specified geographical areas.

(3) In assessing periods of community service to be performed and restitution to be paid by a juvenile who has entered into a diversion agreement, the court officer to whom this task is assigned shall consult with the juvenile's custodial parent or parents or guardian and victims who have contacted the diversionary unit and, to the extent possible, involve members of the community. Such members of the community shall meet with the juvenile and advise the court officer as to the terms of the diversion agreement and shall supervise the juvenile in carrying out its terms.

(4)(a) A diversion agreement may not exceed a period of six months and may include a period extending beyond the eighteenth birthday of the divertee.

(b) If additional time is necessary for the juvenile to complete restitution to the victim, the time period limitations of this subsection may be extended by an additional six months.

(c) If the juvenile has not paid the full amount of restitution by the end of the additional six-month period, then the juvenile shall be referred to the juvenile court for entry of an order establishing the amount of restitution still owed to the victim. In this order, the court shall also determine the terms and conditions of the restitution, including a payment plan extending up to ten years if the court determines that the juvenile does not have the means to make full restitution over a shorter period. For the purposes of this subsection (4)(c), the juvenile shall

remain under the court's jurisdiction for a maximum term of ten years after the juvenile's eighteenth birthday. Prior to the expiration of the initial ten-year period, the juvenile court may extend the judgment for restitution an additional ten years. The court may not require the juvenile to pay full or partial restitution if the juvenile reasonably satisfies the court that he or she does not have the means to make full or partial restitution and could not reasonably acquire the means to pay the restitution over a ten-year period. The county clerk shall make disbursements to victims named in the order. The restitution to victims named in the order shall be paid prior to any payment for other penalties or monetary assessments. A juvenile under obligation to pay restitution may petition the court for modification of the restitution order.

(5) The juvenile shall retain the right to be referred to the court at any time prior to the signing of the diversion agreement.

(6) Divertees and potential diverttees shall be afforded due process in all contacts with a diversionary unit regardless of whether the juveniles are accepted for diversion or whether the diversion program is successfully completed. Such due process shall include, but not be limited to, the following:

(a) A written diversion agreement shall be executed stating all conditions in clearly understandable language;

(b) Violation of the terms of the agreement shall be the only grounds for termination;

(c) No diverttee may be terminated from a diversion program without being given a court hearing, which hearing shall be preceded by:

(i) Written notice of alleged violations of the conditions of the diversion program; and

(ii) Disclosure of all evidence to be offered against the diverttee;

(d) The hearing shall be conducted by the juvenile court and shall include:

(i) Opportunity to be heard in person and to present evidence;

(ii) The right to confront and cross-examine all adverse witnesses;

(iii) A written statement by the court as to the evidence relied on and the reasons for termination, should that be the decision; and

(iv) Demonstration by evidence that the diverttee has substantially violated the terms of his or her diversion agreement.

(e) The prosecutor may file an information on the offense for which the diverttee was diverted:

(i) In juvenile court if the diverttee is under eighteen years of age; or

(ii) In superior court or the appropriate court of limited jurisdiction if the diverttee is eighteen years of age or older.

(7) The diversion unit shall, subject to available funds, be responsible for providing interpreters when juveniles need interpreters to effectively communicate during diversion unit hearings or negotiations.

(8) The diversion unit shall be responsible for advising a diverttee of his or her rights as provided in this chapter.

(9) The diversion unit may refer a juvenile to community-based counseling or treatment programs.

(10) The right to counsel shall inure prior to the initial interview for purposes of advising the juvenile as to whether he or she desires to participate in the diversion process or to appear in the juvenile court. The juvenile may be represented by counsel at any critical stage of the diversion process, including intake interviews and termination hearings. The juvenile shall be fully advised at the intake of his or her right to an attorney and of the relevant services an attorney can provide. For the purpose of this section, intake interviews mean all interviews regarding the diversion agreement process.

The juvenile shall be advised that a diversion agreement shall constitute a part of the juvenile's criminal history as defined by RCW 13.40.020(9). A signed acknowledgment of such advisement shall be obtained from the juvenile, and the document shall be maintained by the diversionary unit together with the diversion agreement, and a copy of both documents shall be delivered to the prosecutor if requested by the prosecutor. The supreme court shall promulgate rules setting forth the content of such advisement in simple language.

(11) When a juvenile enters into a diversion agreement, the juvenile court may receive only the following information for dispositional purposes:

- (a) The fact that a charge or charges were made;
- (b) The fact that a diversion agreement was entered into;
- (c) The juvenile's obligations under such agreement;
- (d) Whether the alleged offender performed his or her obligations under such agreement; and
- (e) The facts of the alleged offense.

(12) A diversionary unit may refuse to enter into a diversion agreement with a juvenile. When a diversionary unit refuses to enter a diversion agreement with a juvenile, it shall immediately refer such juvenile to the court for action and shall forward to the court the criminal complaint and a detailed statement of its reasons for refusing to enter into a diversion agreement. The diversionary unit shall also immediately refer the case to the prosecuting attorney for action if such juvenile violates the terms of the diversion agreement.

(13) A diversionary unit may, in instances where it determines that the act or omission of an act for which a juvenile has been referred to it involved no victim, or where it determines that the juvenile referred to it has no prior criminal history and is alleged to have committed an illegal act involving no threat of or instance of actual physical harm and involving not more than fifty dollars in property loss or damage and that there is no loss outstanding to the person or firm suffering such damage or loss, counsel and release or release such a juvenile without entering into a diversion agreement. A diversion unit's authority to counsel and release a juvenile under this subsection shall include the authority to refer the juvenile to community-based counseling or treatment programs. Any juvenile released under this subsection shall be advised that the act or omission of any act for which he or

she had been referred shall constitute a part of the juvenile's criminal history as defined by RCW 13.40.020(9). A signed acknowledgment of such advisement shall be obtained from the juvenile, and the document shall be maintained by the unit, and a copy of the document shall be delivered to the prosecutor if requested by the prosecutor. The supreme court shall promulgate rules setting forth the content of such advisement in simple language. A juvenile determined to be eligible by a diversionary unit for release as provided in this subsection shall retain the same right to counsel and right to have his or her case referred to the court for formal action as any other juvenile referred to the unit.

(14) A diversion unit may supervise the fulfillment of a diversion agreement entered into before the juvenile's eighteenth birthday and which includes a period extending beyond the divertee's eighteenth birthday.

(15) If a fine required by a diversion agreement cannot reasonably be paid due to a change of circumstance, the diversion agreement may be modified at the request of the divertee and with the concurrence of the diversion unit to convert an unpaid fine into community service. The modification of the diversion agreement shall be in writing and signed by the divertee and the diversion unit. The number of hours of community service in lieu of a monetary penalty shall be converted at the rate of the prevailing state minimum wage per hour.

(16) Fines imposed under this section shall be collected and paid into the county general fund in accordance with procedures established by the juvenile court administrator under RCW 13.04.040 and may be used only for juvenile services. In the expenditure of funds for juvenile services, there shall be a maintenance of effort whereby counties exhaust existing resources before using amounts collected under this section.

**NEW SECTION.** Sec. 71. The code reviser shall alphabetize the definitions in RCW 13.40.020 and correct any references.

**NEW SECTION.** Sec. 72. The following acts or parts of acts are each repealed:

- (1) RCW 9.94A.045 and 1996 c 232 s 2;
- (2) RCW 13.40.025 and 1996 c 232 s 4, 1995 c 269 s 302, 1986 c 288 s 8, 1984 c 287 s 11, & 1981 c 299 s 3;
- (3) RCW 13.40.075 and 1994 sp.s. c 7 s 546; and
- (4) RCW 13.40.125 and 1995 c 395 s 6 & 1994 sp.s. c 7 s 545.

**NEW SECTION.** Sec. 73. RCW 13.40.0354 and 1994 sp.s. c 7 s 521 & 1989 c 407 s 6 are each repealed effective July 1, 1998.

**NEW SECTION.** Sec. 74. 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. 75. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 1997,

except sections 10, 12, 18, 24 through 26, 30, 38, and 59 of this act which take effect July 1, 1998.

Passed the House April 26, 1997.

Passed the Senate April 26, 1997.

Approved by the Governor May 13, 1997.

Filed in Office of Secretary of State May 13, 1997.

---

## CHAPTER 339

[Substitute House Bill 1176]

### PERSISTENT OFFENDERS—RAPE OF A CHILD

AN ACT Relating to persistent offenders; and reenacting and amending RCW 9.94A.030.

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

**Sec. 1.** RCW 9.94A.030 and 1996 c 289 s 1 and 1996 c 275 s 5 are each reenacted and amended to read as follows:

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

(1) "Collect," or any derivative thereof, "collect and remit," or "collect and deliver," when used with reference to the department of corrections, means that the department is responsible for monitoring and enforcing the offender's sentence with regard to the legal financial obligation, receiving payment thereof from the offender, and, consistent with current law, delivering daily the entire payment to the superior court clerk without depositing it in a departmental account.

(2) "Commission" means the sentencing guidelines commission.

(3) "Community corrections officer" means an employee of the department who is responsible for carrying out specific duties in supervision of sentenced offenders and monitoring of sentence conditions.

(4) "Community custody" means that portion of an inmate's sentence of confinement in lieu of earned early release time or imposed pursuant to RCW 9.94A.120 (6), (8), or (10) served in the community subject to controls placed on the inmate's movement and activities by the department of corrections.

(5) "Community placement" means that period during which the offender is subject to the conditions of community custody and/or postrelease supervision, which begins either upon completion of the term of confinement (postrelease supervision) or at such time as the offender is transferred to community custody in lieu of earned early release. Community placement may consist of entirely community custody, entirely postrelease supervision, or a combination of the two.

(6) "Community service" means compulsory service, without compensation, performed for the benefit of the community by the offender.

(7) "Community supervision" means a period of time during which a convicted offender is subject to crime-related prohibitions and other sentence conditions imposed by a court pursuant to this chapter or RCW 16.52.200(6) or 46.61.524. For first-time offenders, the supervision may include crime-related

prohibitions and other conditions imposed pursuant to RCW 9.94A.120(5). For purposes of the interstate compact for out-of-state supervision of parolees and probationers, RCW 9.95.270, community supervision is the functional equivalent of probation and should be considered the same as probation by other states.

(8) "Confinement" means total or partial confinement as defined in this section.

(9) "Conviction" means an adjudication of guilt pursuant to Titles 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and acceptance of a plea of guilty.

(10) "Court-ordered legal financial obligation" means a sum of money that is ordered by a superior court of the state of Washington for legal financial obligations which may include restitution to the victim, statutorily imposed crime victims' compensation fees as assessed pursuant to RCW 7.68.035, court costs, county or interlocal drug funds, court-appointed attorneys' fees, and costs of defense, fines, and any other financial obligation that is assessed to the offender as a result of a felony conviction. Upon conviction for vehicular assault while under the influence of intoxicating liquor or any drug, RCW 46.61.522(1)(b), or vehicular homicide while under the influence of intoxicating liquor or any drug, RCW 46.61.520(1)(a), legal financial obligations may also include payment to a public agency of the expense of an emergency response to the incident resulting in the conviction, subject to the provisions in RCW 38.52.430.

(11) "Crime-related prohibition" means an order of a court prohibiting conduct that directly relates to the circumstances of the crime for which the offender has been convicted, and shall not be construed to mean orders directing an offender affirmatively to participate in rehabilitative programs or to otherwise perform affirmative conduct.

(12)(a) "Criminal history" means the list of a defendant's prior convictions, whether in this state, in federal court, or elsewhere. The history shall include, where known, for each conviction (i) whether the defendant has been placed on probation and the length and terms thereof; and (ii) whether the defendant has been incarcerated and the length of incarceration.

(b) "Criminal history" shall always include juvenile convictions for sex offenses and serious violent offenses and shall also include a defendant's other prior convictions in juvenile court if: (i) The conviction was for an offense which is a felony or a serious traffic offense and is criminal history as defined in RCW 13.40.020(9); (ii) the defendant was fifteen years of age or older at the time the offense was committed; and (iii) with respect to prior juvenile class B and C felonies or serious traffic offenses, the defendant was less than twenty-three years of age at the time the offense for which he or she is being sentenced was committed.

(13) "Day fine" means a fine imposed by the sentencing judge that equals the difference between the offender's net daily income and the reasonable obligations that the offender has for the support of the offender and any dependents.

(14) "Day reporting" means a program of enhanced supervision designed to monitor the defendant's daily activities and compliance with sentence conditions, and in which the defendant is required to report daily to a specific location designated by the department or the sentencing judge.

(15) "Department" means the department of corrections.

(16) "Determinate sentence" means a sentence that states with exactitude the number of actual years, months, or days of total confinement, of partial confinement, of community supervision, the number of actual hours or days of community service work, or dollars or terms of a legal financial obligation. The fact that an offender through "earned early release" can reduce the actual period of confinement shall not affect the classification of the sentence as a determinate sentence.

(17) "Disposable earnings" means that part of the earnings of an individual remaining after the deduction from those earnings of any amount required by law to be withheld. For the purposes of this definition, "earnings" means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonuses, or otherwise, and, notwithstanding any other provision of law making the payments exempt from garnishment, attachment, or other process to satisfy a court-ordered legal financial obligation, specifically includes periodic payments pursuant to pension or retirement programs, or insurance policies of any type, but does not include payments made under Title 50 RCW, except as provided in RCW 50.40.020 and 50.40.050, or Title 74 RCW.

(18) "Drug offense" means:

(a) Any felony violation of chapter 69.50 RCW except possession of a controlled substance (RCW 69.50.401(d)) or forged prescription for a controlled substance (RCW 69.50.403);

(b) Any offense defined as a felony under federal law that relates to the possession, manufacture, distribution, or transportation of a controlled substance; or

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

(19) "Escape" means:

(a) Escape in the first degree (RCW 9A.76.110), escape in the second degree (RCW 9A.76.120), willful failure to return from furlough (RCW 72.66.060), willful failure to return from work release (RCW 72.65.070), or willful failure to be available for supervision by the department while in community custody (RCW 72.09.310); or

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

(20) "Felony traffic offense" means:

(a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW 46.61.522), eluding a police officer (RCW 46.61.024), or felony hit-and-run injury-accident (RCW 46.52.020(4)); or

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

(21) "Fines" means the requirement that the offender pay a specific sum of money over a specific period of time to the court.

(22)(a) "First-time offender" means any person who is convicted of a felony (i) not classified as a violent offense or a sex offense under this chapter, or (ii) that is not the manufacture, delivery, or possession with intent to manufacture or deliver a controlled substance classified in schedule I or II that is a narcotic drug, nor the manufacture, delivery, or possession with intent to deliver methamphetamine, its salts, isomers, and salts of its isomers as defined in RCW 69.50.206(d)(2), nor the selling for profit of any controlled substance or counterfeit substance classified in schedule I, RCW 69.50.204, except leaves and flowering tops of marijuana, and except as provided in (b) of this subsection, who previously has never been convicted of a felony in this state, federal court, or another state, and who has never participated in a program of deferred prosecution for a felony offense.

(b) For purposes of (a) of this subsection, a juvenile adjudication for an offense committed before the age of fifteen years is not a previous felony conviction except for adjudications of sex offenses and serious violent offenses.

(23) "Most serious offense" means any of the following felonies or a felony attempt to commit any of the following felonies, as now existing or hereafter amended:

(a) Any felony defined under any law as a class A felony or criminal solicitation of or criminal conspiracy to commit a class A felony;

(b) Assault in the second degree;

(c) Assault of a child in the second degree;

(d) Child molestation in the second degree;

(e) Controlled substance homicide;

(f) Extortion in the first degree;

(g) Incest when committed against a child under age fourteen;

(h) Indecent liberties;

(i) Kidnapping in the second degree;

(j) Leading organized crime;

(k) Manslaughter in the first degree;

(l) Manslaughter in the second degree;

(m) Promoting prostitution in the first degree;

(n) Rape in the third degree;

(o) Robbery in the second degree;

(p) Sexual exploitation;

(q) Vehicular assault;

(r) Vehicular homicide, when proximately caused by the driving of any vehicle by any person while under the influence of intoxicating liquor or any drug

as defined by RCW 46.61.502, or by the operation of any vehicle in a reckless manner;

(s) Any other class B felony offense with a finding of sexual motivation, as "sexual motivation" is defined under this section;

(t) Any other felony with a deadly weapon verdict under RCW 9.94A.125;

(u) Any felony offense in effect at any time prior to December 2, 1993, that is comparable to a most serious offense under this subsection, or any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a most serious offense under this subsection.

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

(25) "Offender" means a person who has committed a felony established by state law and is eighteen years of age or older or is less than eighteen years of age but whose case has been transferred by the appropriate juvenile court to a criminal court pursuant to RCW 13.40.110. Throughout this chapter, the terms "offender" and "defendant" are used interchangeably.

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

(27) "Persistent offender" is an offender who:

(a)(i) Has been convicted in this state of any felony considered a most serious offense; and

(ii) Has, before the commission of the offense under (a) of this subsection, been convicted as an offender on at least two separate occasions, whether in this state or elsewhere, of felonies that under the laws of this state would be considered most serious offenses and would be included in the offender score under RCW 9.94A.360; provided that of the two or more previous convictions, at least one conviction must have occurred before the commission of any of the other most serious offenses for which the offender was previously convicted; or

(b)(i) Has been convicted of (A) rape in the first degree, rape in the second degree, rape of a child in the first degree, rape of a child in the second degree, or indecent liberties by forcible compulsion; (B) murder in the first degree, murder in the second degree, kidnapping in the first degree, kidnapping in the second degree, assault in the first degree, assault in the second degree, or burglary in the first degree, with a finding of sexual motivation; or (C) an attempt to commit any crime listed in this subsection (27)(b)(i); and

(ii) Has, before the commission of the offense under (b)(i) of this subsection, been convicted as an offender on at least one occasion, whether in this state or elsewhere, of an offense listed in (b)(i) of this subsection. A conviction for rape of a child in the first degree constitutes a conviction under subsection (27)(b)(i)

only when the offender was sixteen years of age or older when the offender committed the offense. A conviction for rape of a child in the second degree constitutes a conviction under subsection (27)(b)(i) only when the offender was eighteen years of age or older when the offender committed the offense.

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

(29) "Restitution" means the requirement that the offender pay a specific sum of money over a specific period of time to the court as payment of damages. The sum may include both public and private costs. The imposition of a restitution order does not preclude civil redress.

(30) "Serious traffic offense" means:

(a) Driving while under the influence of intoxicating liquor or any drug (RCW 46.61.502), actual physical control while under the influence of intoxicating liquor or any drug (RCW 46.61.504), reckless driving (RCW 46.61.500), or hit-and-run an attended vehicle (RCW 46.52.020(5)); or

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

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

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

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

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

(33) "Sex offense" means:

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

(b) A felony with a finding of sexual motivation under RCW 9.94A.127 or 13.40.135; or

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

(34) "Sexual motivation" means that one of the purposes for which the defendant committed the crime was for the purpose of his or her sexual gratification.

(35) "Total confinement" means confinement inside the physical boundaries of a facility or institution operated or utilized under contract by the state or any

other unit of government for twenty-four hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

(36) "Transition training" means written and verbal instructions and assistance provided by the department to the offender during the two weeks prior to the offender's successful completion of the work ethic camp program. The transition training shall include instructions in the offender's requirements and obligations during the offender's period of community custody.

(37) "Victim" means any person who has sustained emotional, psychological, physical, or financial injury to person or property as a direct result of the crime charged.

(38) "Violent offense" means:

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

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

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

(39) "Work crew" means a program of partial confinement consisting of civic improvement tasks for the benefit of the community of not less than thirty-five hours per week that complies with RCW 9.94A.135. The civic improvement tasks shall have minimal negative impact on existing private industries or the labor force in the county where the service or labor is performed. The civic improvement tasks shall not affect employment opportunities for people with developmental disabilities contracted through sheltered workshops as defined in RCW 82.04.385. Only those offenders sentenced to a facility operated or utilized under contract by a county or the state are eligible to participate on a work crew. Offenders sentenced for a sex offense as defined in subsection (33) of this section are not eligible for the work crew program.

(40) "Work ethic camp" means an alternative incarceration program designed to reduce recidivism and lower the cost of corrections by requiring offenders to complete a comprehensive array of real-world job and vocational experiences, character-building work ethics training, life management skills development,

substance abuse rehabilitation, counseling, literacy training, and basic adult education.

(41) "Work release" means a program of partial confinement available to offenders who are employed or engaged as a student in a regular course of study at school. Participation in work release shall be conditioned upon the offender attending work or school at regularly defined hours and abiding by the rules of the work release facility.

(42) "Home detention" means a program of partial confinement available to offenders wherein the offender is confined in a private residence subject to electronic surveillance.

Passed the House March 13, 1997.

Passed the Senate April 18, 1997.

Approved by the Governor May 13, 1997.

Filed in Office of Secretary of State May 13, 1997.

**CHAPTER 340**

[House Bill 1924]

**SEX OFFENSES—SENTENCING**

AN ACT Relating to sex offenses; amending RCW 9A.44.130; reenacting and amending RCW 9.94A.320, 9.94A.120, and 9.94A.030; and prescribing penalties.

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

**Sec. 1.** RCW 9.94A.320 and 1996 c 302 s 6, 1996 c 205 s 3, and 1996 c 36 s 2 are each reenacted and amended to read as follows:

**TABLE 2**

**CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL**

XV	Aggravated Murder 1 (RCW 10.95.020)
XIV	Murder 1 (RCW 9A.32.030) Homicide by abuse (RCW 9A.32.055)
XIII	Murder 2 (RCW 9A.32.050)
XII	Assault 1 (RCW 9A.36.011) Assault of a Child 1 (RCW 9A.36.120) <u>Rape 1 (RCW 9A.44.040)</u> <u>Rape of a Child 1 (RCW 9A.44.073)</u>
XI	<del>((Rape 1 (RCW 9A.44.040)</del> <del>Rape of a Child 1 (RCW 9A.44.073)))</del> <u>Rape 2 (RCW 9A.44.050)</u> <u>Rape of a Child 2 (RCW 9A.44.076)</u>
X	Kidnapping 1 (RCW 9A.40.020) <del>((Rape 1 (RCW 9A.44.040)</del> <del>Rape of a Child 1 (RCW 9A.44.073)))</del>

Child Molestation 1 (RCW 9A.44.083)  
 Damaging building, etc., by explosion with  
 threat to human being (RCW  
 70.74.280(1))  
 Over 18 and deliver heroin or narcotic from  
 Schedule I or II to someone under 18  
 (RCW 69.50.406)  
 Leading Organized Crime (RCW  
 9A.82.060(1)(a))  
Indecent Liberties (with forcible compulsion)  
(RCW 9A.44.100(1)(a))

IX

Assault of a Child 2 (RCW 9A.36.130)  
 Robbery 1 (RCW 9A.56.200)  
 Manslaughter 1 (RCW 9A.32.060)  
 Explosive devices prohibited (RCW 70.74.180)  
 (~~Indecent Liberties (with forcible compulsion)~~  
~~(RCW 9A.44.100(1)(a))~~)  
 Endangering life and property by explosives  
 with threat to human being (RCW  
 70.74.270)  
 Over 18 and deliver narcotic from Schedule III,  
 IV, or V or a nonnarcotic from Schedule  
 I-V to someone under 18 and 3 years  
 junior (RCW 69.50.406)  
 Controlled Substance Homicide (RCW  
 69.50.415)  
 Sexual Exploitation (RCW 9.68A.040)  
 Inciting Criminal Profiteering (RCW  
 9A.82.060(1)(b))  
 Vehicular Homicide, by being under the  
 influence of intoxicating liquor or any  
 drug (RCW 46.61.520)

VIII

Arson I (RCW 9A.48.020)  
 Promoting Prostitution 1 (RCW 9A.88.070)  
 Selling for profit (controlled or counterfeit) any  
 controlled substance (RCW 69.50.410)  
 Manufacture, deliver, or possess with intent to  
 deliver heroin or cocaine (RCW  
 69.50.401(a)(1)(i))  
 Manufacture, deliver, or possess with intent to  
 deliver methamphetamine (RCW  
 69.50.401(a)(1)(ii))

- Possession of ephedrine or pseudoephedrine with intent to manufacture methamphetamine (RCW 69.50.440)
- Vehicular Homicide, by the operation of any vehicle in a reckless manner (RCW 46.61.520)
- VII Burglary 1 (RCW 9A.52.020)
- Vehicular Homicide, by disregard for the safety of others (RCW 46.61.520)
- Introducing Contraband 1 (RCW 9A.76.140)
- Indecent Liberties (without forcible compulsion) (RCW 9A.44.100(1) (b) and (c))
- Child Molestation 2 (RCW 9A.44.086)
- Dealing in depictions of minor engaged in sexually explicit conduct (RCW 9.68A.050)
- Sending, bringing into state depictions of minor engaged in sexually explicit conduct (RCW 9.68A.060)
- Involving a minor in drug dealing (RCW 69.50.401(f))
- Reckless Endangerment 1 (RCW 9A.36.045)
- Unlawful Possession of a Firearm in the first degree (RCW 9.41.040(1)(a))
- VI Bribery (RCW 9A.68.010)
- Manslaughter 2 (RCW 9A.32.070)
- Rape of a Child 3 (RCW 9A.44.079)
- Intimidating a Juror/Witness (RCW 9A.72.110, 9A.72.130)
- Damaging building, etc., by explosion with no threat to human being (RCW 70.74.280(2))
- Endangering life and property by explosives with no threat to human being (RCW 70.74.270)
- Incest 1 (RCW 9A.64.020(1))
- Manufacture, deliver, or possess with intent to deliver narcotics from Schedule I or II (except heroin or cocaine) (RCW 69.50.401(a)(1)(i))

- Intimidating a Judge (RCW 9A.72.160)
- Bail Jumping with Murder 1 (RCW 9A.76.170(2)(a))
- Theft of a Firearm (RCW 9A.56.300)
- V Persistent prison misbehavior (RCW 9.94.070)
- Criminal Mistreatment 1 (RCW 9A.42.020)
- Abandonment of dependent person 1 (RCW 9A.42.060)
- Rape 3 (RCW 9A.44.060)
- Sexual Misconduct with a Minor 1 (RCW 9A.44.093)
- Child Molestation 3 (RCW 9A.44.089)
- Kidnapping 2 (RCW 9A.40.030)
- Extortion 1 (RCW 9A.56.120)
- Incest 2 (RCW 9A.64.020(2))
- Perjury 1 (RCW 9A.72.020)
- Extortionate Extension of Credit (RCW 9A.82.020)
- Advancing money or property for extortionate extension of credit (RCW 9A.82.030)
- Extortionate Means to Collect Extensions of Credit (RCW 9A.82.040)
- Rendering Criminal Assistance 1 (RCW 9A.76.070)
- Bail Jumping with class A Felony (RCW 9A.76.170(2)(b))
- Sexually Violating Human Remains (RCW 9A.44.105)
- Delivery of imitation controlled substance by person eighteen or over to person under eighteen (RCW 69.52.030(2))
- Possession of a Stolen Firearm (RCW 9A.56.310)
- IV Residential Burglary (RCW 9A.52.025)
- Theft of Livestock 1 (RCW 9A.56.080)
- Robbery 2 (RCW 9A.56.210)
- Assault 2 (RCW 9A.36.021)
- Escape 1 (RCW 9A.76.110)
- Arson 2 (RCW 9A.48.030)
- Commercial Bribery (RCW 9A.68.060)
- Bribing a Witness/Bribe Received by Witness (RCW 9A.72.090, 9A.72.100)
- Malicious Harassment (RCW 9A.36.080)

- Threats to Bomb (RCW 9.61.160)
- Willful Failure to Return from Furlough (RCW 72.66.060)
- Hit and Run — Injury Accident (RCW 46.52.020(4))
- Hit and Run with Vessel — Injury Accident (RCW 88.12.155(3))
- Vehicular Assault (RCW 46.61.522)
- Manufacture, deliver, or possess with intent to deliver narcotics from Schedule III, IV, or V or nonnarcotics from Schedule I-V (except marijuana or methamphetamines) (RCW 69.50.401(a)(1) (iii) through (v))
- Influencing Outcome of Sporting Event (RCW 9A.82.070)
- Use of Proceeds of Criminal Profiteering (RCW 9A.82.080 (1) and (2))
- Knowingly Trafficking in Stolen Property (RCW 9A.82.050(2))
- III Criminal Mistreatment 2 (RCW 9A.42.030)
- Abandonment of dependent person 2 (RCW 9A.42.070)
- Extortion 2 (RCW 9A.56.130)
- Unlawful Imprisonment (RCW 9A.40.040)
- Assault 3 (RCW 9A.36.031)
- Assault of a Child 3 (RCW 9A.36.140)
- Custodial Assault (RCW 9A.36.100)
- Unlawful possession of firearm in the second degree (RCW 9A.41.040(1)(b))
- Harassment (RCW 9A.46.020)
- Promoting Prostitution 2 (RCW 9A.88.080)
- Willful Failure to Return from Work Release (RCW 72.65.070)
- Burglary 2 (RCW 9A.52.030)
- Introducing Contraband 2 (RCW 9A.76.150)
- Communication with a Minor for Immoral Purposes (RCW 9.68A.090)
- Patronizing a Juvenile Prostitute (RCW 9.68A.100)
- Escape 2 (RCW 9A.76.120)
- Perjury 2 (RCW 9A.72.030)
- Bail Jumping with class B or C Felony (RCW 9A.76.170(2)(c))

- Intimidating a Public Servant (RCW 9A.76.180)
- Tampering with a Witness (RCW 9A.72.120)
- Manufacture, deliver, or possess with intent to deliver marijuana (RCW 69.50.401 (a)(1)(iii))
- Delivery of a material in lieu of a controlled substance (RCW 69.50.401(c))
- Manufacture, distribute, or possess with intent to distribute an imitation controlled substance (RCW 69.52.030(1))
- Recklessly Trafficking in Stolen Property (RCW 9A.82.050(1))
- Theft of livestock 2 (RCW 9A.56.080)
- Securities Act violation (RCW 21.20.400)
- II Unlawful Practice of Law (RCW 2.48.180)
- Malicious Mischief 1 (RCW 9A.48.070)
- Possession of Stolen Property 1 (RCW 9A.56.150)
- Theft 1 (RCW 9A.56.030)
- Trafficking in Insurance Claims (RCW 48.30A.015)
- Unlicensed Practice of a Profession or Business (RCW 18.130.190(7))
- Health Care False Claims (RCW 48.80.030)
- Possession of controlled substance that is either heroin or narcotics from Schedule I or II (RCW 69.50.401(d))
- Possession of phencyclidine (PCP) (RCW 69.50.401(d))
- Create, deliver, or possess a counterfeit controlled substance (RCW 69.50.401(b))
- Computer Trespass 1 (RCW 9A.52.110)
- Escape from Community Custody (RCW 72.09.310)
- I Theft 2 (RCW 9A.56.040)
- Possession of Stolen Property 2 (RCW 9A.56.160)
- Forgery (RCW 9A.60.020)
- Taking Motor Vehicle Without Permission (RCW 9A.56.070)
- Vehicle Prowl 1 (RCW 9A.52.095)

Attempting to Elude a Pursuing Police Vehicle  
 (RCW 46.61.024)  
 Malicious Mischief 2 (RCW 9A.48.080)  
 Reckless Burning 1 (RCW 9A.48.040)  
 Unlawful Issuance of Checks or Drafts (RCW  
 9A.56.060)  
 Unlawful Use of Food Stamps (RCW 9.91.140  
 (2) and (3))  
 False Verification for Welfare (RCW  
 74.08.055)  
 Forged Prescription (RCW 69.41.020)  
 Forged Prescription for a Controlled Substance  
 (RCW 69.50.403)  
 Possess Controlled Substance that is a Narcotic  
 from Schedule III, IV, or V or Non-  
 narcotic from Schedule I-V (except  
 phencyclidine) (RCW 69.50.401(d))

Sec. 2. RCW 9.94A.120 and 1996 c 275 s 2, 1996 c 215 s 5, 1996 c 199 s 1, and 1996 c 93 s 1 are each reenacted and amended to read as follows:

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

(1) Except as authorized in subsections (2), (4), (5), (6), and (8) of this section, the court shall impose a sentence within the sentence range for the offense.

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

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

(4) A persistent offender shall be sentenced to a term of total confinement for life without the possibility of parole or, when authorized by RCW 10.95.030 for the crime of aggravated murder in the first degree, sentenced to death, notwithstanding the maximum sentence under any other law. An offender convicted of the crime of murder in the first degree shall be sentenced to a term of total confinement not less than twenty years. An offender convicted of the crime of assault in the first degree or assault of a child in the first degree where the offender used force or means likely to result in death or intended to kill the victim shall be sentenced to a term of total confinement not less than five years. An offender convicted of the crime of rape in the first degree shall be sentenced to a term of total confinement not less than five years. The foregoing minimum terms of total confinement are mandatory and shall not be varied or modified as provided in subsection (2) of this section. In addition, all offenders subject to the provisions of this subsection shall not be eligible for community custody, earned early release

time, furlough, home detention, partial confinement, work crew, work release, or any other form of early release as defined under RCW 9.94A.150 (1), (2), (3), (5), (7), or (8), or any other form of authorized leave of absence from the correctional facility while not in the direct custody of a corrections officer or officers during such minimum terms of total confinement except in the case of an offender in need of emergency medical treatment or for the purpose of commitment to an inpatient treatment facility in the case of an offender convicted of the crime of rape in the first degree.

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

- (a) Devote time to a specific employment or occupation;
- (b) Undergo available outpatient treatment for up to two years, or inpatient treatment not to exceed the standard range of confinement for that offense;
- (c) Pursue a prescribed, secular course of study or vocational training;
- (d) Remain within prescribed geographical boundaries and notify the court or the community corrections officer prior to any change in the offender's address or employment;
- (e) Report as directed to the court and a community corrections officer; or
- (f) Pay all court-ordered legal financial obligations as provided in RCW 9.94A.030 and/or perform community service work.

(6)(a) An offender is eligible for the special drug offender sentencing alternative if:

(i) The offender is convicted of the manufacture, delivery, or possession with intent to manufacture or deliver a controlled substance classified in Schedule I or II that is a narcotic drug or a felony that is, under chapter 9A.28 RCW or RCW 69.50.407, a criminal attempt, criminal solicitation, or criminal conspiracy to commit such crimes, and the violation does not involve a sentence enhancement under RCW 9.94A.310 (3) or (4);

(ii) The offender has no prior convictions for a felony in this state, another state, or the United States; and

(iii) The offense involved only a small quantity of the particular controlled substance as determined by the judge upon consideration of such factors as the weight, purity, packaging, sale price, and street value of the controlled substance.

(b) If the midpoint of the standard range is greater than one year and the sentencing judge determines that the offender is eligible for this option and that the offender and the community will benefit from the use of the special drug offender sentencing alternative, the judge may waive imposition of a sentence within the standard range and impose a sentence that must include a period of total

confinement in a state facility for one-half of the midpoint of the standard range. During incarceration in the state facility, offenders sentenced under this subsection shall undergo a comprehensive substance abuse assessment and receive, within available resources, treatment services appropriate for the offender. The treatment services shall be designed by the division of alcohol and substance abuse of the department of social and health services, in cooperation with the department of corrections. If the midpoint of the standard range is twenty-four months or less, no more than three months of the sentence may be served in a work release status. The court shall also impose one year of concurrent community custody and community supervision that must include appropriate outpatient substance abuse treatment, crime-related prohibitions including a condition not to use illegal controlled substances, and a requirement to submit to urinalysis or other testing to monitor that status. The court may require that the monitoring for controlled substances be conducted by the department or by a treatment alternatives to street crime program or a comparable court or agency-referred program. The offender may be required to pay thirty dollars per month while on community custody to offset the cost of monitoring. In addition, the court shall impose three or more of the following conditions:

(i) Devote time to a specific employment or training;

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

(iii) Report as directed to a community corrections officer;

(iv) Pay all court-ordered legal financial obligations;

(v) Perform community service work;

(vi) Stay out of areas designated by the sentencing judge.

(c) If the offender violates any of the sentence conditions in (b) of this subsection, the department shall impose sanctions administratively, with notice to the prosecuting attorney and the sentencing court. Upon motion of the court or the prosecuting attorney, a violation hearing shall be held by the court. If the court finds that conditions have been willfully violated, the court may impose confinement consisting of up to the remaining one-half of the midpoint of the standard range. All total confinement served during the period of community custody shall be credited to the offender, regardless of whether the total confinement is served as a result of the original sentence, as a result of a sanction imposed by the department, or as a result of a violation found by the court. The term of community supervision shall be tolled by any period of time served in total confinement as a result of a violation found by the court.

(d) The department shall determine the rules for calculating the value of a day fine based on the offender's income and reasonable obligations which the offender has for the support of the offender and any dependents. These rules shall be developed in consultation with the administrator for the courts, the office of financial management, and the commission.

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

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

The report of the examination shall include at a minimum the following: The defendant's version of the facts and the official version of the facts, the defendant's offense history, an assessment of problems in addition to alleged deviant behaviors, the offender's social and employment situation, and other evaluation measures used. The report shall set forth the sources of the evaluator's information.

The examiner shall assess and report regarding the defendant's amenability to treatment and relative risk to the community. A proposed treatment plan shall be provided and shall include, at a minimum:

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

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

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

(D) Anticipated length of treatment; and

(E) Recommended crime-related prohibitions.

The court on its own motion may order, or on a motion by the state shall order, a second examination regarding the offender's amenability to treatment. The evaluator shall be selected by the party making the motion. The defendant shall pay the cost of any second examination ordered unless the court finds the defendant to be indigent in which case the state shall pay the cost.

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

(A) The court shall place the defendant on community custody for the length of the suspended sentence or three years, whichever is greater, and require the

offender to comply with any conditions imposed by the department of corrections under subsection (14) of this section; and

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

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

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

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

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

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

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

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

(v) If a violation of conditions occurs during community custody, the department shall either impose sanctions as provided for in RCW 9.94A.205(2)(a) or refer the violation to the court and recommend revocation of the suspended sentence as provided for in (a)(vi) of this subsection.

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

(vii) Except as provided in (a) (viii) of this subsection, after July 1, 1991, examinations and treatment ordered pursuant to this subsection shall only be conducted by sex offender treatment providers certified by the department of health pursuant to chapter 18.155 RCW.

(viii) A sex offender therapist who examines or treats a sex offender pursuant to this subsection (8) does not have to be certified by the department of health pursuant to chapter 18.155 RCW if the court finds that: (A) The offender has already moved to another state or plans to move to another state for reasons other than circumventing the certification requirements; (B) no certified providers are available for treatment within a reasonable geographical distance of the offender's home; and (C) the evaluation and treatment plan comply with this subsection (8) and the rules adopted by the department of health.

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

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

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

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

(iv) Undergo available outpatient treatment.

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

Nothing in this subsection (8)(b) shall confer eligibility for such programs for offenders convicted and sentenced for a sex offense committed prior to July 1, 1987. This subsection (8)(b) does not apply to any crime committed after July 1, 1990.

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

(9)(a) When a court sentences a person to a term of total confinement to the custody of the department of corrections for an offense categorized as a sex offense or a serious violent offense committed after July 1, 1988, but before July 1, 1990, assault in the second degree, assault of a child in the second degree, any crime against a person where it is determined in accordance with RCW 9.94A.125 that the defendant or an accomplice was armed with a deadly weapon at the time of commission, or any felony offense under chapter 69.50 or 69.52 RCW not sentenced under subsection (6) of this section, committed on or after July 1, 1988, the court shall in addition to the other terms of the sentence, sentence the offender to a one-year term of community placement beginning either upon completion of the term of confinement or at such time as the offender is transferred to community custody in lieu of earned early release in accordance with RCW 9.94A.150 (1) and (2). When the court sentences an offender under this subsection to the statutory maximum period of confinement then the community placement portion of the sentence shall consist entirely of such community custody to which the offender may become eligible, in accordance with RCW 9.94A.150 (1) and (2). Any period of community custody actually served shall be credited against the community placement portion of the sentence.

(b) When a court sentences a person to a term of total confinement to the custody of the department of corrections for an offense categorized as a sex offense committed on or after July 1, 1990, but before June 6, 1996, a serious violent offense, vehicular homicide, or vehicular assault, committed on or after July 1, 1990, the court shall in addition to other terms of the sentence, sentence the offender to community placement for two years or up to the period of earned early release awarded pursuant to RCW 9.94A.150 (1) and (2), whichever is longer. The community placement shall begin either upon completion of the term of confinement or at such time as the offender is transferred to community custody in lieu of earned early release in accordance with RCW 9.94A.150 (1) and (2). When the court sentences an offender under this subsection to the statutory

maximum period of confinement then the community placement portion of the sentence shall consist entirely of the community custody to which the offender may become eligible, in accordance with RCW 9.94A.150 (1) and (2). Any period of community custody actually served shall be credited against the community placement portion of the sentence. Unless a condition is waived by the court, the terms of community placement for offenders sentenced pursuant to this section shall include the following conditions:

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

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

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

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

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

(vi) The residence location and living arrangements are subject to the prior approval of the department of corrections during the period of community placement.

(c) As a part of any sentence imposed under (a) or (b) of this subsection, the court may also order any of the following special conditions:

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

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

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

(iv) The offender shall not consume alcohol;

(v) The offender shall comply with any crime-related prohibitions; or

(vi) For an offender convicted of a felony sex offense against a minor victim after June 6, 1996, the offender shall comply with any terms and conditions of community placement imposed by the department of corrections relating to contact between the sex offender and a minor victim or a child of similar age or circumstance as a previous victim.

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

(10)(a) When a court sentences a person to the custody of the department of corrections for an offense categorized as a sex offense committed on or after June 6, 1996, the court shall, in addition to other terms of the sentence, sentence the offender to community custody for three years or up to the period of earned early release awarded pursuant to RCW 9.94A.150 (1) and (2), whichever is longer. The

community custody shall begin either upon completion of the term of confinement or at such time as the offender is transferred to community custody in lieu of earned early release in accordance with RCW 9.94A.150 (1) and (2).

(b) Unless a condition is waived by the court, the terms of community custody shall be the same as those provided for in subsection (9)(b) of this section and may include those provided for in subsection (9)(c) of this section. As part of any sentence that includes a term of community custody imposed under this subsection, the court shall also require the offender to comply with any conditions imposed by the department of corrections under subsection (14) of this section.

(c) At any time prior to the completion of a sex offender's term of community custody, if the court finds that public safety would be enhanced, the court may impose and enforce an order extending any or all of the conditions imposed pursuant to this section for a period up to the maximum allowable sentence for the crime as it is classified in chapter 9A.20 RCW, regardless of the expiration of the offender's term of community custody. If a violation of a condition extended under this subsection occurs after the expiration of the offender's term of community custody, it shall be deemed a violation of the sentence for the purposes of RCW 9.94A.195 and may be punishable as contempt of court as provided for in RCW 7.21.040.

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

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

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

(14) All offenders sentenced to terms involving community supervision, community service, community placement, or legal financial obligation shall be under the supervision of the department of corrections and shall follow explicitly the instructions and conditions of the department of corrections.

(a) The instructions shall include, at a minimum, reporting as directed to a community corrections officer, remaining within prescribed geographical boundaries, notifying the community corrections officer of any change in the offender's address or employment, and paying the supervision fee assessment.

(b) For sex offenders sentenced to terms involving community custody for crimes committed on or after June 6, 1996, the department may include, in addition to the instructions in (a) of this subsection, any appropriate conditions of supervision, including but not limited to, prohibiting the offender from having contact with any other specified individuals or specific class of individuals. The conditions authorized under this subsection (14)(b) may be imposed by the department prior to or during a sex offender's community custody term. If a violation of conditions imposed by the court or the department pursuant to subsection (10) of this section occurs during community custody, it shall be deemed a violation of community placement for the purposes of RCW 9.94A.207 and shall authorize the department to transfer an offender to a more restrictive confinement status as provided in RCW 9.94A.205. At any time prior to the completion of a sex offender's term of community custody, the department may recommend to the court that any or all of the conditions imposed by the court or the department pursuant to subsection (10) of this section be continued beyond the expiration of the offender's term of community custody as authorized in subsection (10)(c) of this section.

The department may require offenders to pay for special services rendered on or after July 25, 1993, including electronic monitoring, day reporting, and telephone reporting, dependent upon the offender's ability to pay. The department may pay for these services for offenders who are not able to pay.

(15) All offenders sentenced to terms involving community supervision, community service, or community placement under the supervision of the department of corrections shall not own, use, or possess firearms or ammunition. Offenders who own, use, or are found to be in actual or constructive possession of firearms or ammunition shall be subject to the appropriate violation process and sanctions. "Constructive possession" as used in this subsection means the power and intent to control the firearm or ammunition. "Firearm" as used in this subsection means a weapon or device from which a projectile may be fired by an explosive such as gunpowder.

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

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

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

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

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

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

**Sec. 3.** RCW 9A.44.130 and 1996 c 275 s 11 are each amended to read as follows:

(1) Any adult or juvenile residing in this state who has been found to have committed or has been convicted of any sex offense, or who has been found not guilty by reason of insanity under chapter 10.77 RCW of committing any sex offense, shall register with the county sheriff for the county of the person's residence.

(2) The person shall provide the county sheriff with the following information when registering: (a) Name; (b) address; (c) date and place of birth; (d) place of employment; (e) crime for which convicted; (f) date and place of conviction; (g) aliases used; and (h) social security number.

(3)(a) Sex offenders shall register within the following deadlines. For purposes of this section the term "conviction" refers to adult convictions and juvenile adjudications for sex offenses:

(i) **SEX OFFENDERS IN CUSTODY.** Sex offenders who committed a sex offense on, before, or after February 28, 1990, and who, on or after July 28, 1991, are in custody, as a result of that offense, of the state department of corrections, the state department of social and health services, a local division of youth services, or a local jail or juvenile detention facility, must register within twenty-four hours from the time of release with the county sheriff for the county of the person's residence. The agency that has jurisdiction over the offender shall provide notice to the sex offender of the duty to register. Failure to register within twenty-four hours of release constitutes a violation of this section and is punishable as provided in subsection (7) of this section.

(ii) **SEX OFFENDERS NOT IN CUSTODY BUT UNDER STATE OR LOCAL JURISDICTION.** Sex offenders, who, on July 28, 1991, are not in custody but are under the jurisdiction of the indeterminate sentence review board or under the department of correction's active supervision, as defined by the department of corrections, the state department of social and health services, or a local division of youth services, for sex offenses committed before, on, or after February 28, 1990, must register within ten days of July 28, 1991. A change in supervision status of a sex offender who was required to register under this subsection (3)(a)(ii) as of July 28, 1991, shall not relieve the offender of the duty to register or to reregister following a change in residence. The obligation to register shall only cease pursuant to RCW 9A.44.140.

(iii) **SEX OFFENDERS UNDER FEDERAL JURISDICTION.** Sex offenders who, on or after July 23, 1995, as a result of that offense are in the custody of the United States bureau of prisons or other federal or military correctional agency for sex offenses committed before, on, or after February 28, 1990, must register within twenty-four hours from the time of release with the county sheriff for the county of the person's residence. Sex offenders who, on July 23, 1995, are not in custody but are under the jurisdiction of the United States bureau of prisons, United States courts, United States parole commission, or military parole board for sex offenses committed before, on, or after February 28, 1990, must register within ten days of July 23, 1995. A change in supervision status of a sex offender who was required to register under this subsection (3)(a)(iii) as of July 23, 1995, shall not relieve the offender of the duty to register or to reregister following a change in residence. The obligation to register shall only cease pursuant to RCW 9A.44.140.

(iv) **SEX OFFENDERS WHO ARE CONVICTED BUT NOT CONFINED.** Sex offenders who are convicted of a sex offense on or after July 28, 1991, for a sex offense that was committed on or after February 28, 1990, but who are not sentenced to serve a term of confinement immediately upon sentencing, shall report to the county sheriff to register immediately upon completion of being sentenced.

(v) **SEX OFFENDERS WHO ARE NEW RESIDENTS OR RETURNING WASHINGTON RESIDENTS.** Sex offenders who move to Washington state from another state or a foreign country that are not under the jurisdiction of the state department of corrections, the indeterminate sentence review board, or the

state department of social and health services at the time of moving to Washington, must register within thirty days of establishing residence or reestablishing residence if the person is a former Washington resident. The duty to register under this subsection applies to sex offenders convicted under the laws of another state or a foreign country, federal or military statutes, or Washington state for offenses committed on or after February 28, 1990. Sex offenders from other states or a foreign country who, when they move to Washington, are under the jurisdiction of the department of corrections, the indeterminate sentence review board, or the department of social and health services must register within twenty-four hours of moving to Washington. The agency that has jurisdiction over the offender shall notify the offender of the registration requirements before the offender moves to Washington.

(vi) **SEX OFFENDERS FOUND NOT GUILTY BY REASON OF INSANITY.** Any adult or juvenile who has been found not guilty by reason of insanity under chapter 10.77 RCW of committing a sex offense on, before, or after February 28, 1990, and who, on or after July 23, 1995, is in custody, as a result of that finding, of the state department of social and health services, must register within twenty-four hours from the time of release with the county sheriff for the county of the person's residence. The state department of social and health services shall provide notice to the adult or juvenile in its custody of the duty to register. Any adult or juvenile who has been found not guilty by reason of insanity of committing a sex offense on, before, or after February 28, 1990, but who was released prior to July 23, 1995, shall be required to register within twenty-four hours of receiving notice of this registration requirement. The state department of social and health services shall make reasonable attempts within available resources to notify offenders who were released prior to July 23, 1995. Failure to register within twenty-four hours of release, or of receiving notice, constitutes a violation of this section and is punishable as provided in subsection (7) of this section.

(b) Failure to register within the time required under this section constitutes a per se violation of this section and is punishable as provided in subsection (7) of this section. The county sheriff shall not be required to determine whether the person is living within the county.

(c) An arrest on charges of failure to register, service of an information, or a complaint for a violation of this section, or arraignment on charges for a violation of this section, constitutes actual notice of the duty to register. Any person charged with the crime of failure to register under this section who asserts as a defense the lack of notice of the duty to register shall register immediately following actual notice of the duty through arrest, service, or arraignment. Failure to register as required under this subsection (c) constitutes grounds for filing another charge of failing to register. Registering following arrest, service, or arraignment on charges shall not relieve the offender from criminal liability for failure to register prior to the filing of the original charge.

(d) The deadlines for the duty to register under this section do not relieve any sex offender of the duty to register under this section as it existed prior to July 28, 1991.

(4)(a) If any person required to register pursuant to this section changes his or her residence address within the same county, the person must send written notice of the change of address to the county sheriff at least fourteen days before moving. If any person required to register pursuant to this section moves to a new county, the person must send written notice of the change of address at least fourteen days before moving to the county sheriff in the new county of residence and must register with that county sheriff within twenty-four hours of moving. The person must also send written notice within ten days of the change of address in the new county to the county sheriff with whom the person last registered. If any person required to register pursuant to this section moves out of Washington state, the person must also send written notice within ten days of moving to the new state or a foreign country to the county sheriff with whom the person last registered in Washington state.

(b) It is an affirmative defense to a charge that the person failed to send a notice at least fourteen days in advance of moving as required under (a) of this subsection that the person did not know the location of his or her new residence at least fourteen days before moving. The defendant must establish the defense by a preponderance of the evidence and, to prevail on the defense, must also prove by a preponderance that the defendant sent the required notice within twenty-four hours of determining the new address.

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

(6) "Sex offense" for the purpose of RCW 9A.44.130, 10.01.200, 43.43.540, 70.48.470, and 72.09.330 means any offense defined as a sex offense by RCW 9.94A.030 and any violation of RCW 9.68A.090 or 9A.44.096 as well as any gross misdemeanor that is, under chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or criminal conspiracy to commit an offense that is classified as a sex offense under RCW 9.94A.030.

(7) A person who knowingly fails to register or who moves without notifying the county sheriff as required by this section is guilty of a class C felony if the crime for which the individual was convicted was a (~~class A~~) felony or a federal or out-of-state conviction for an offense that under the laws of this state would be a (~~class A~~) felony. If the crime was other than a (~~class A~~) felony or a federal or out-of-state conviction for an offense that under the laws of this state would be other than a (~~class A~~) felony, violation of this section is a gross misdemeanor.

**See. 4.** RCW 9.94A.030 and 1996 c 289 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) "Collect," or any derivative thereof, "collect and remit," or "collect and deliver," when used with reference to the department of corrections, means that the department is responsible for monitoring and enforcing the offender's sentence with regard to the legal financial obligation, receiving payment thereof from the offender, and, consistent with current law, delivering daily the entire payment to the superior court clerk without depositing it in a departmental account.

(2) "Commission" means the sentencing guidelines commission.

(3) "Community corrections officer" means an employee of the department who is responsible for carrying out specific duties in supervision of sentenced offenders and monitoring of sentence conditions.

(4) "Community custody" means that portion of an inmate's sentence of confinement in lieu of earned early release time or imposed pursuant to RCW 9.94A.120 (6), (8), or (10) served in the community subject to controls placed on the inmate's movement and activities by the department of corrections.

(5) "Community placement" means that period during which the offender is subject to the conditions of community custody and/or postrelease supervision, which begins either upon completion of the term of confinement (postrelease supervision) or at such time as the offender is transferred to community custody in lieu of earned early release. Community placement may consist of entirely community custody, entirely postrelease supervision, or a combination of the two.

(6) "Community service" means compulsory service, without compensation, performed for the benefit of the community by the offender.

(7) "Community supervision" means a period of time during which a convicted offender is subject to crime-related prohibitions and other sentence conditions imposed by a court pursuant to this chapter or RCW 16.52.200(6) or 46.61.524. For first-time offenders, the supervision may include crime-related prohibitions and other conditions imposed pursuant to RCW 9.94A.120(5). For purposes of the interstate compact for out-of-state supervision of parolees and probationers, RCW 9.95.270, community supervision is the functional equivalent of probation and should be considered the same as probation by other states.

(8) "Confinement" means total or partial confinement as defined in this section.

(9) "Conviction" means an adjudication of guilt pursuant to Titles 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and acceptance of a plea of guilty.

(10) "Court-ordered legal financial obligation" means a sum of money that is ordered by a superior court of the state of Washington for legal financial obligations which may include restitution to the victim, statutorily imposed crime victims' compensation fees as assessed pursuant to RCW 7.68.035, court costs, county or interlocal drug funds, court-appointed attorneys' fees, and costs of defense, fines, and any other financial obligation that is assessed to the offender as a result of a felony conviction. Upon conviction for vehicular assault while under the influence of intoxicating liquor or any drug, RCW 46.61.522(1)(b), or vehicular

homicide while under the influence of intoxicating liquor or any drug, RCW 46.61.520(1)(a), legal financial obligations may also include payment to a public agency of the expense of an emergency response to the incident resulting in the conviction, subject to the provisions in RCW 38.52.430.

(11) "Crime-related prohibition" means an order of a court prohibiting conduct that directly relates to the circumstances of the crime for which the offender has been convicted, and shall not be construed to mean orders directing an offender affirmatively to participate in rehabilitative programs or to otherwise perform affirmative conduct.

(12)(a) "Criminal history" means the list of a defendant's prior convictions, whether in this state, in federal court, or elsewhere. The history shall include, where known, for each conviction (i) whether the defendant has been placed on probation and the length and terms thereof; and (ii) whether the defendant has been incarcerated and the length of incarceration.

(b) "Criminal history" shall always include juvenile convictions for sex offenses and serious violent offenses and shall also include a defendant's other prior convictions in juvenile court if: (i) The conviction was for an offense which is a felony or a serious traffic offense and is criminal history as defined in RCW 13.40.020(9); (ii) the defendant was fifteen years of age or older at the time the offense was committed; and (iii) with respect to prior juvenile class B and C felonies or serious traffic offenses, the defendant was less than twenty-three years of age at the time the offense for which he or she is being sentenced was committed.

(13) "Day fine" means a fine imposed by the sentencing judge that equals the difference between the offender's net daily income and the reasonable obligations that the offender has for the support of the offender and any dependents.

(14) "Day reporting" means a program of enhanced supervision designed to monitor the defendant's daily activities and compliance with sentence conditions, and in which the defendant is required to report daily to a specific location designated by the department or the sentencing judge.

(15) "Department" means the department of corrections.

(16) "Determinate sentence" means a sentence that states with exactitude the number of actual years, months, or days of total confinement, of partial confinement, of community supervision, the number of actual hours or days of community service work, or dollars or terms of a legal financial obligation. The fact that an offender through "earned early release" can reduce the actual period of confinement shall not affect the classification of the sentence as a determinate sentence.

(17) "Disposable earnings" means that part of the earnings of an individual remaining after the deduction from those earnings of any amount required by law to be withheld. For the purposes of this definition, "earnings" means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonuses, or otherwise, and, notwithstanding any other provision of

law making the payments exempt from garnishment, attachment, or other process to satisfy a court-ordered legal financial obligation, specifically includes periodic payments pursuant to pension or retirement programs, or insurance policies of any type, but does not include payments made under Title 50 RCW, except as provided in RCW 50.40.020 and 50.40.050, or Title 74 RCW.

(18) "Drug offense" means:

(a) Any felony violation of chapter 69.50 RCW except possession of a controlled substance (RCW 69.50.401(d)) or forged prescription for a controlled substance (RCW 69.50.403);

(b) Any offense defined as a felony under federal law that relates to the possession, manufacture, distribution, or transportation of a controlled substance; or

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

(19) "Escape" means:

(a) Escape in the first degree (RCW 9A.76.110), escape in the second degree (RCW 9A.76.120), willful failure to return from furlough (RCW 72.66.060), willful failure to return from work release (RCW 72.65.070), or willful failure to be available for supervision by the department while in community custody (RCW 72.09.310); or

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

(20) "Felony traffic offense" means:

(a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW 46.61.522), eluding a police officer (RCW 46.61.024), or felony hit-and-run injury-accident (RCW 46.52.020(4)); or

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

(21) "Fines" means the requirement that the offender pay a specific sum of money over a specific period of time to the court.

(22)(a) "First-time offender" means any person who is convicted of a felony (i) not classified as a violent offense or a sex offense under this chapter, or (ii) that is not the manufacture, delivery, or possession with intent to manufacture or deliver a controlled substance classified in schedule I or II that is a narcotic drug, nor the manufacture, delivery, or possession with intent to deliver methamphetamine, its salts, isomers, and salts of its isomers as defined in RCW 69.50.206(d)(2), nor the selling for profit of any controlled substance or counterfeit substance classified in schedule I, RCW 69.50.204, except leaves and flowering tops of marijuana, and except as provided in (b) of this subsection, who previously has never been convicted of a felony in this state, federal court, or another state, and who has never participated in a program of deferred prosecution for a felony offense.

(b) For purposes of (a) of this subsection, a juvenile adjudication for an offense committed before the age of fifteen years is not a previous felony conviction except for adjudications of sex offenses and serious violent offenses.

(23) "Most serious offense" means any of the following felonies or a felony attempt to commit any of the following felonies, as now existing or hereafter amended:

(a) Any felony defined under any law as a class A felony or criminal solicitation of or criminal conspiracy to commit a class A felony;

(b) Assault in the second degree;

(c) Assault of a child in the second degree;

(d) Child molestation in the second degree;

(e) Controlled substance homicide;

(f) Extortion in the first degree;

(g) Incest when committed against a child under age fourteen;

(h) Indecent liberties;

(i) Kidnapping in the second degree;

(j) Leading organized crime;

(k) Manslaughter in the first degree;

(l) Manslaughter in the second degree;

(m) Promoting prostitution in the first degree;

(n) Rape in the third degree;

(o) Robbery in the second degree;

(p) Sexual exploitation;

(q) Vehicular assault;

(r) Vehicular homicide, when proximately caused by the driving of any vehicle by any person while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.502, or by the operation of any vehicle in a reckless manner;

(s) Any other class B felony offense with a finding of sexual motivation, as "sexual motivation" is defined under this section;

(t) Any other felony with a deadly weapon verdict under RCW 9A.125;

(u) Any felony offense in effect at any time prior to December 2, 1993, that is comparable to a most serious offense under this subsection, or any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a most serious offense under this subsection;

(v)(i) A prior conviction for indecent liberties under RCW 9A.88.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex. sess. as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b), and (c) as it existed from July 1, 1979, until June 11, 1986, and RCW 9A.44.100(1) (a), (b), and (d) as it existed from June 11, 1986, until July 1, 1988;

(ii) A prior conviction for indecent liberties under RCW 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988, if: (A) The crime was committed against a child under the age of fourteen; or (B) the relationship between the victim

and perpetrator is included in the definition of indecent liberties under RCW 9A.44.100(1)(c) as it existed from July 1, 1988, through the effective date of this section or RCW 9A.44.100(1) (d) or (e) as it existed from July 25, 1993, through the effective date of this section.

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

(25) "Offender" means a person who has committed a felony established by state law and is eighteen years of age or older or is less than eighteen years of age but whose case has been transferred by the appropriate juvenile court to a criminal court pursuant to RCW 13.40.110. Throughout this chapter, the terms "offender" and "defendant" are used interchangeably.

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

(27) "Persistent offender" is an offender who:

(a)(i) Has been convicted in this state of any felony considered a most serious offense; and

(ii) Has, before the commission of the offense under (a) of this subsection, been convicted as an offender on at least two separate occasions, whether in this state or elsewhere, of felonies that under the laws of this state would be considered most serious offenses and would be included in the offender score under RCW 9.94A.360; provided that of the two or more previous convictions, at least one conviction must have occurred before the commission of any of the other most serious offenses for which the offender was previously convicted; or

(b)(i) Has been convicted of (A) rape in the first degree, rape in the second degree, or indecent liberties by forcible compulsion; (B) murder in the first degree, murder in the second degree, kidnapping in the first degree, kidnapping in the second degree, assault in the first degree, assault in the second degree, or burglary in the first degree, with a finding of sexual motivation; or (C) an attempt to commit any crime listed in this subsection (27)(b)(i); and

(ii) Has, before the commission of the offense under (b)(i) of this subsection, been convicted as an offender on at least one occasion, whether in this state or elsewhere, of an offense listed in (b)(i) of this subsection.

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

(29) "Restitution" means the requirement that the offender pay a specific sum of money over a specific period of time to the court as payment of damages. The sum may include both public and private costs. The imposition of a restitution order does not preclude civil redress.

(30) "Serious traffic offense" means:

(a) Driving while under the influence of intoxicating liquor or any drug (RCW 46.61.502), actual physical control while under the influence of intoxicating liquor or any drug (RCW 46.61.504), reckless driving (RCW 46.61.500), or hit-and-run an attended vehicle (RCW 46.52.020(5)); or

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

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

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

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

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

(33) "Sex offense" means:

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

(b) A felony with a finding of sexual motivation under RCW 9.94A.127 or 13.40.135; or

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

(34) "Sexual motivation" means that one of the purposes for which the defendant committed the crime was for the purpose of his or her sexual gratification.

(35) "Total confinement" means confinement inside the physical boundaries of a facility or institution operated or utilized under contract by the state or any other unit of government for twenty-four hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

(36) "Transition training" means written and verbal instructions and assistance provided by the department to the offender during the two weeks prior to the offender's successful completion of the work ethic camp program. The transition training shall include instructions in the offender's requirements and obligations during the offender's period of community custody.

(37) "Victim" means any person who has sustained emotional, psychological, physical, or financial injury to person or property as a direct result of the crime charged.

(38) "Violent offense" means:

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

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

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

(39) "Work crew" means a program of partial confinement consisting of civic improvement tasks for the benefit of the community of not less than thirty-five hours per week that complies with RCW 9.94A.135. The civic improvement tasks shall have minimal negative impact on existing private industries or the labor force in the county where the service or labor is performed. The civic improvement tasks shall not affect employment opportunities for people with developmental disabilities contracted through sheltered workshops as defined in RCW 82.04.385. Only those offenders sentenced to a facility operated or utilized under contract by a county or the state are eligible to participate on a work crew. Offenders sentenced for a sex offense as defined in subsection (33) of this section are not eligible for the work crew program.

(40) "Work ethic camp" means an alternative incarceration program designed to reduce recidivism and lower the cost of corrections by requiring offenders to complete a comprehensive array of real-world job and vocational experiences, character-building work ethics training, life management skills development, substance abuse rehabilitation, counseling, literacy training, and basic adult education.

(41) "Work release" means a program of partial confinement available to offenders who are employed or engaged as a student in a regular course of study at school. Participation in work release shall be conditioned upon the offender attending work or school at regularly defined hours and abiding by the rules of the work release facility.

(42) "Home detention" means a program of partial confinement available to offenders wherein the offender is confined in a private residence subject to electronic surveillance.

Passed the House April 23, 1997.  
Passed the Senate April 17, 1997.  
Approved by the Governor May 13, 1997.  
Filed in Office of Secretary of State May 13, 1997.

---

## CHAPTER 341

[House Bill 1922]

### JURISDICTION OF COURTS OF LIMITED JURISDICTION OVER JUVENILE OFFENSES

AN ACT Relating to granting courts of limited jurisdiction concurrent jurisdiction over certain juvenile offenses; reenacting and amending RCW 13.04.030; adding a new section to chapter 13.04 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 a swift and certain response to a juvenile who begins engaging in acts of delinquency may prevent the offender from becoming a chronic or more serious offender. However, given pressing demands to address serious offenders, the system does not always respond to minor offenders expeditiously and effectively. Consequently, this act is adopted to implement an experiment to determine whether granting courts of limited jurisdiction concurrent jurisdiction over certain juvenile offenses will improve the system's effectiveness in curbing delinquency. The legislature may ascertain whether this approach might be successful on a larger scale by conducting an experiment with local governments, which are the laboratories of democracy.

**NEW SECTION. Sec. 2.** A new section is added to chapter 13.04 RCW to read as follows:

(1) Any county with a population of at least two hundred thousand but less than three hundred fifty thousand that is located east of the crest of the Cascades may authorize a pilot project to allow courts of limited jurisdiction within the county to exercise concurrent jurisdiction with the juvenile court under certain circumstances. District and municipal courts of limited jurisdiction at the local option of the county or any city or town located within the county may exercise concurrent original jurisdiction with the juvenile court over traffic or civil infractions, violations of compulsory school attendance provisions under chapter 28A.225 RCW, and misdemeanors, when those offenses are allegedly committed by juveniles and:

(a)(i) The offense, if it were committed by an adult, would be punishable by sanctions that do not include incarceration; or

(ii) The offender's standard range disposition does not include a term of confinement as defined in RCW 13.40.020;

(b)(i) The court of limited jurisdiction has a computer system that is linked to the state-wide criminal history information data system used by juvenile courts to track and record juvenile offenders' criminal history; and

(ii) All information, including but not limited to filing charges, truancy petitions, and court dispositions, pertaining to offenses over which district and

municipal courts of limited jurisdiction are exercising concurrent jurisdiction shall be transmitted without delay to juvenile court for entry into the appropriate court information system;

(c) The county legislative authority of the county has authorized creation of concurrent jurisdiction between the court of limited jurisdiction and the juvenile court; and

(d) The court of limited jurisdiction has an agreement with officials responsible for administering the county juvenile detention facility under RCW 13.04.035 and 13.20.060 that the court may order juveniles into the detention facility for an offense in cases in which the court finds that a disposition without confinement would be a manifest injustice.

(2) The juvenile court shall retain jurisdiction over the offense if the juvenile is charged with another offense arising out of the same incident and the juvenile court has jurisdiction over the other offense.

(3) Jurisdiction under this section does not constitute a decline or transfer of juvenile court jurisdiction under RCW 13.40.110.

(4) The procedural and disposition provisions of chapter 13.40 RCW apply to offenses prosecuted under this section.

(5) All diversions and adjudications entered by a court of limited jurisdiction must be included in an offender's criminal history as provided in chapter 13.40 RCW.

(6) This section is to be implemented as a pilot project in the county and the pilot project, together with the authority to exercise concurrent jurisdiction with the juvenile court, expires June 30, 2002.

**Sec. 3.** RCW 13.04.030 and 1995 c 312 s 39 and 1995 c 311 s 15 are each reenacted and amended to read as follows:

(1) Except as provided in subsection (2) of this section, the juvenile courts in the several counties of this state, shall have exclusive original jurisdiction over all proceedings:

(a) Under the interstate compact on placement of children as provided in chapter 26.34 RCW;

(b) Relating to children alleged or found to be dependent as provided in chapter 26.44 RCW and in RCW 13.34.030 through 13.34.170;

(c) Relating to the termination of a parent and child relationship as provided in RCW 13.34.180 through 13.34.210;

(d) To approve or disapprove out-of-home placement as provided in RCW 13.32A.170;

(e) Relating to juveniles alleged or found to have committed offenses, traffic infractions, or violations as provided in RCW 13.40.020 through 13.40.230, unless:

(i) The juvenile court transfers jurisdiction of a particular juvenile to adult criminal court pursuant to RCW 13.40.110; ~~((or))~~

(ii) The statute of limitations applicable to adult prosecution for the offense, traffic infraction, or violation has expired; ~~((or))~~

(iii) The alleged offense or infraction is a traffic, fish, boating, or game offense or traffic infraction committed by a juvenile sixteen years of age or older and would, if committed by an adult, be tried or heard in a court of limited jurisdiction, in which instance the appropriate court of limited jurisdiction shall have jurisdiction over the alleged offense or infraction: PROVIDED, That if such an alleged offense or infraction and an alleged offense or infraction subject to juvenile court jurisdiction arise out of the same event or incident, the juvenile court may have jurisdiction of both matters: PROVIDED FURTHER, That the jurisdiction under this subsection does not constitute "transfer" or a "decline" for purposes of RCW 13.40.110(1) or (e)(i) of this subsection: PROVIDED FURTHER, That courts of limited jurisdiction which confine juveniles for an alleged offense or infraction may place juveniles in juvenile detention facilities under an agreement with the officials responsible for the administration of the juvenile detention facility in RCW 13.04.035 and 13.20.060; ((or))

(iv) The alleged offense is a traffic or civil infraction, a violation of compulsory school attendance provisions under chapter 28A.225 RCW, or a misdemeanor, and a court of limited jurisdiction has assumed concurrent jurisdiction over those offenses as provided in section 2 of this act; or

(v) The juvenile is sixteen or seventeen years old and the alleged offense is: (A) A serious violent offense as defined in RCW 9.94A.030 committed on or after June 13, 1994; or (B) a violent offense as defined in RCW 9.94A.030 committed on or after June 13, 1994, and the juvenile has a criminal history consisting of: (I) One or more prior serious violent offenses; (II) two or more prior violent offenses; or (III) three or more of any combination of the following offenses: Any class A felony, any class B felony, vehicular assault, or manslaughter in the second degree, all of which must have been committed after the juvenile's thirteenth birthday and prosecuted separately. In such a case the adult criminal court shall have exclusive original jurisdiction.

If the juvenile challenges the state's determination of the juvenile's criminal history, the state may establish the offender's criminal history by a preponderance of the evidence. If the criminal history consists of adjudications entered upon a plea of guilty, the state shall not bear a burden of establishing the knowing and voluntariness of the plea;

(f) Under the interstate compact on juveniles as provided in chapter 13.24 RCW;

(g) Relating to termination of a diversion agreement under RCW 13.40.080, including a proceeding in which the diveree has attained eighteen years of age;

(h) Relating to court validation of a voluntary consent to an out-of-home placement under chapter 13.34 RCW, by the parent or Indian custodian of an Indian child, except if the parent or Indian custodian and child are residents of or domiciled within the boundaries of a federally recognized Indian reservation over which the tribe exercises exclusive jurisdiction; and

(i) Relating to petitions to compel disclosure of information filed by the department of social and health services pursuant to RCW 74.13.042.

(2) The family court shall have concurrent original jurisdiction with the juvenile court over all proceedings under this section if the superior court judges of a county authorize concurrent jurisdiction as provided in RCW 26.12.010.

(3) A juvenile subject to adult superior court jurisdiction under subsection (1)(e)(i) through ~~((+))~~ (v) of this section, who is detained pending trial, may be detained in a county detention facility as defined in RCW 13.40.020 pending sentencing or a dismissal.

Passed the House April 21, 1997.

Passed the Senate April 15, 1997.

Approved by the Governor May 13, 1997.

Filed in Office of Secretary of State May 13, 1997.

## CHAPTER 342

[Second Substitute Senate Bill 6002]

### SUPERVISION OF MENTALLY ILL OFFENDERS—PILOT PROGRAM

AN ACT Relating to supervision of mentally ill offenders; adding new sections to chapter 71.24 RCW; and creating new sections.

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

**NEW SECTION.** **Sec. 1.** (1) Many acute and chronically mentally ill offenders are delayed in their release from Washington correctional facilities due to their inability to access reasonable treatment and living accommodations prior to the maximum expiration of their sentences. Often the offender reaches the end of his or her sentence and is released without any follow-up care, funds, or housing. These delays are costly to the state, often lead to psychiatric relapse, and result in unnecessary risk to the public.

These offenders rarely possess the skills or emotional stability to maintain employment or even complete applications to receive entitlement funding. Nationwide only five percent of diagnosed schizophrenics are able to maintain part-time or full-time employment. Housing and appropriate treatment are difficult to obtain.

This lack of resources, funding, treatment, and housing creates additional stress for the mentally ill offender, impairing self-control and judgment. When the mental illness is instrumental in the offender's patterns of crime, such stresses may lead to a worsening of his or her illness, reoffending, and a threat to public safety.

(2) It is the intent of the legislature to create a pilot program to provide for postrelease mental health care and housing for a select group of mentally ill offenders entering community living, in order to reduce incarceration costs, increase public safety, and enhance the offender's quality of life.

**NEW SECTION.** **Sec. 2.** A new section is added to chapter 71.24 RCW to read as follows:

(1) The secretary shall select and contract with a regional support network or private provider to provide specialized access and services to mentally ill offenders upon release from total confinement within the department of corrections who have been identified by the department of corrections and selected by the regional support network or private provider as high-priority clients for services and who meet service program entrance criteria. The program shall enroll no more than twenty-five offenders at any one time, or a number of offenders that can be accommodated within the appropriated funding level, and shall seek to fill any vacancies that occur.

(2) Criteria shall include a determination by department of corrections staff that:

(a) The offender suffers from a major mental illness and needs continued mental health treatment;

(b) The offender's previous crime or crimes have been determined by either the court or department of corrections staff to have been substantially influenced by the offender's mental illness;

(c) It is believed the offender will be less likely to commit further criminal acts if provided ongoing mental health care;

(d) The offender is unable or unlikely to obtain housing and/or treatment from other sources for any reason; and

(e) The offender has at least one year remaining before his or her sentence expires but is within six months of release to community housing and is currently housed within a work release facility or any department of corrections' division of prisons facility.

(3) The regional support network or private provider shall provide specialized access and services to the selected offenders. The services shall be aimed at lowering the risk of recidivism. An oversight committee composed of a representative of the department, a representative of the selected regional support network or private provider, and a representative of the department of corrections shall develop policies to guide the pilot program, provide dispute resolution including making determinations as to when entrance criteria or required services may be waived in individual cases, advise the department of corrections and the regional support network or private provider on the selection of eligible offenders, and set minimum requirements for service contracts. The selected regional support network or private provider shall implement the policies and service contracts. The following services shall be provided:

(a) Intensive case management to include a full range of intensive community support and treatment in client-to-staff ratios of not more than ten offenders per case manager including: (i) A minimum of weekly group and weekly individual counseling; (ii) home visits by the program manager at least two times per month; and (iii) counseling focusing on relapse prevention and past, current, or future behavior of the offender.

(b) The case manager shall attempt to locate and procure housing appropriate to the living and clinical needs of the offender and as needed to maintain the psychiatric stability of the offender. The entire range of emergency, transitional, and permanent housing and involuntary hospitalization must be considered as available housing options. A housing subsidy may be provided to offenders to defray housing costs up to a maximum of six thousand six hundred dollars per offender per year and be administered by the case manager. Additional funding sources may be used to offset these costs when available.

(c) The case manager shall collaborate with the assigned prison, work release, or community corrections staff during release planning, prior to discharge, and in ongoing supervision of the offender while under the authority of the department of corrections.

(d) Medications including the full range of psychotropic medications including atypical antipsychotic medications may be required as a condition of the program. Medication prescription, medication monitoring, and counseling to support offender understanding, acceptance, and compliance with prescribed medication regimens must be included.

(e) A systematic effort to engage offenders to continuously involve themselves in current and long-term treatment and appropriate rehabilitative activities shall be made.

(f) Classes appropriate to the clinical and living needs of the offender and appropriate to his or her level of understanding.

(g) The case manager shall assist the offender in the application and qualification for entitlement funding, including medicaid, state assistance, and other available government and private assistance at any point that the offender is qualified and resources are available.

(h) The offender shall be provided access to daily activities such as drop-in centers, prevocational and vocational training and jobs, and volunteer activities.

(4) Once an offender has been selected into the pilot program, the offender shall remain in the program until the end of his or her sentence or unless the offender is released from the pilot program earlier by the department of corrections.

(5) Specialized training in the management and supervision of high-crime risk mentally ill offenders shall be provided to all participating mental health providers by the department and the department of corrections prior to their participation in the program and as requested thereafter.

(6) The pilot program provided for in this section must be providing services by July 1, 1998.

***\*NEW SECTION. Sec. 3. The department shall indemnify and hold harmless the regional support network, private provider, and any mental health center, housing facility, or other mental health provider from all claims or suits arising in any manner from any acts committed by an enrolled offender during his or her period of enrollment.***

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

NEW SECTION. Sec. 4. A new section is added to chapter 71.24 RCW to read as follows:

The department, in collaboration with the department of corrections and the oversight committee created in section 2 of this act, shall track outcomes and submit to the legislature a report of services and outcomes by December 1, 1998, and annually thereafter as may be necessary. The reports shall include the following: (1) A statistical analysis regarding the reoffense and reinstitutionalization rate by the enrollees in the program set forth in section 2 of this act; (2) a quantitative description of the services provided in the program set forth in section 2 of this act; and (3) recommendations for any needed modifications in the services and funding levels to increase the effectiveness of the program set forth in section 2 of this act. By December 1, 2003, the department shall certify the reoffense rate for enrollees in the program authorized by section 2 of this act to the office of financial management and the appropriate legislative committees. If the reoffense rate exceeds fifteen percent, the authorization for the department to conduct the program under section 2 of this act is terminated on January 1, 2004.

NEW SECTION. Sec. 5. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 1997, in the omnibus appropriations act, this act is null and void.

NEW SECTION. Sec. 6. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed the Senate April 22, 1997.

Passed the House April 14, 1997.

Approved by the Governor May 13, 1997, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State May 13, 1997.

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. 6002 entitled:

"AN ACT Relating to supervision of mentally ill offenders;"

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

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

For this reason, I have vetoed section 3 of Second Substitute Senate Bill No. 6002.  
With the exception of section 3, I am approving Second Substitute Senate Bill No. 6002."

---

## CHAPTER 343

[House Bill 1589]

### PRESENCE OF CRIME VICTIM ADVOCATES AT JUDICIAL PROCEEDINGS

AN ACT Relating to crime victim rights; and amending RCW 7.69.030.

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

**Sec. 1.** RCW 7.69.030 and 1993 c 350 s 6 are each amended to read as follows:

There shall be a reasonable effort made to ensure that victims, survivors of victims, and witnesses of crimes have the following rights:

(1) With respect to victims of violent or sex crimes, to receive, at the time of reporting the crime to law enforcement officials, a written statement of the rights of crime victims as provided in this chapter. The written statement shall include the name, address, and telephone number of a county or local crime victim/witness program, if such a crime victim/witness program exists in the county;

(2) To be informed by local law enforcement agencies or the prosecuting attorney of the final disposition of the case in which the victim, survivor, or witness is involved;

(3) To be notified by the party who issued the subpoena that a court proceeding to which they have been subpoenaed will not occur as scheduled, in order to save the person an unnecessary trip to court;

(4) To receive protection from harm and threats of harm arising out of cooperation with law enforcement and prosecution efforts, and to be provided with information as to the level of protection available;

(5) To be informed of the procedure to be followed to apply for and receive any witness fees to which they are entitled;

(6) To be provided, whenever practical, a secure waiting area during court proceedings that does not require them to be in close proximity to defendants and families or friends of defendants;

(7) To have any stolen or other personal property expeditiously returned by law enforcement agencies or the superior court when no longer needed as evidence. When feasible, all such property, except weapons, currency, contraband, property subject to evidentiary analysis, and property of which ownership is disputed, shall be photographed and returned to the owner within ten days of being taken;

(8) To be provided with appropriate employer intercession services to ensure that employers of victims, survivors of victims, and witnesses of crime will cooperate with the criminal justice process in order to minimize an employee's loss of pay and other benefits resulting from court appearance;

(9) To access to immediate medical assistance and not to be detained for an unreasonable length of time by a law enforcement agency before having such

assistance administered. However, an employee of the law enforcement agency may, if necessary, accompany the person to a medical facility to question the person about the criminal incident if the questioning does not hinder the administration of medical assistance;

(10) With respect to victims of violent and sex crimes, to have a crime victim advocate from a crime victim/witness program present at any prosecutorial or defense interviews with the victim, and at any judicial proceedings related to criminal acts committed against the victim. This subsection applies if practical and if the presence of the crime victim advocate does not cause any unnecessary delay in the investigation or prosecution of the case. The role of the crime victim advocate is to provide emotional support to the crime victim;

(11) With respect to victims and survivors of victims, to be physically present in court during trial, or if subpoenaed to testify, to be scheduled as early as practical in the proceedings in order to be physically present during trial after testifying and not to be excluded solely because they have testified;

(12) With respect to victims and survivors of victims, to be informed by the prosecuting attorney of the date, time, and place of the trial and of the sentencing hearing for felony convictions upon request by a victim or survivor;

(13) To submit a victim impact statement or report to the court, with the assistance of the prosecuting attorney if requested, which shall be included in all presentence reports and permanently included in the files and records accompanying the offender committed to the custody of a state agency or institution;

(14) With respect to victims and survivors of victims, to present a statement personally or by representation, at the sentencing hearing for felony convictions; and

(15) With respect to victims and survivors of victims, to entry of an order of restitution by the court in all felony cases, even when the offender is sentenced to confinement, unless extraordinary circumstances exist which make restitution inappropriate in the court's judgment.

Passed the House April 19, 1997.

Passed the Senate April 10, 1997.

Approved by the Governor May 13, 1997.

Filed in Office of Secretary of State May 13, 1997.

## CHAPTER 344

[Substitute Senate Bill 5512]

### CHILD ABUSE AND NEGLECT TREATMENT—PROHIBITING ADMISSION OF GUILT FOR ACCESS

AN ACT Relating to admittance of guilt in child abuse and neglect; and amending RCW 26.44.140.

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

**Sec. 1.** RCW 26.44.140 and 1991 c 301 s 15 are each amended to read as follows:

The court shall require that an individual who, while acting in a parental role, has physically or sexually abused a child and has been removed from the home pursuant to a court order issued in a proceeding under chapter 13.34 RCW, prior to being permitted to reside in the home where the child resides, complete the treatment and education requirements necessary to protect the child from future abuse. The court may require the individual to continue treatment as a condition for remaining in the home where the child resides. Unless a parent, custodian, or guardian has been convicted of the crime for the acts of abuse determined in a fact-finding hearing under chapter 13.34 RCW, such person shall not be required to admit guilt in order to begin to fulfill any necessary treatment and education requirements under this section.

The department of social and health services or supervising agency shall be responsible for advising the court as to appropriate treatment and education requirements, providing referrals to the individual, monitoring and assessing the individual's progress, informing the court of such progress, and providing recommendations to the court.

The person removed from the home shall pay for these services unless the person is otherwise eligible to receive financial assistance in paying for such services. Nothing in this section shall be construed to create in any person an entitlement to services or financial assistance in paying for services.

Passed the Senate April 21, 1997.

Passed the House April 9, 1997.

Approved by the Governor May 13, 1997.

Filed in Office of Secretary of State May 13, 1997.

---

## CHAPTER 345

[Substitute House Bill 1605]

### DISCLOSURE OF INFORMATION CONCERNING DISEASES OF OFFENDERS AND DETAINEES

AN ACT Relating to disclosure of information concerning diseases; amending RCW 70.24.105 and 70.24.340; adding a new section to chapter 72.09 RCW; adding a new section to chapter 70.48 RCW; and creating new sections.

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

**NEW SECTION.** **Sec. 1.** (1) The legislature finds that department of corrections staff and jail staff perform essential public functions that are vital to our communities. The health and safety of these workers is often placed in jeopardy while they perform the responsibilities of their jobs. Therefore, the legislature intends that the results of any HIV tests conducted on an offender or detainee pursuant to RCW 70.24.340(1), 70.24.360, or 70.24.370 shall be disclosed to the health care administrator or infection control coordinator of the department of corrections facility or the local jail that houses the offender or detainee. The legislature intends that these test results also be disclosed to any corrections or jail staff who have been substantially exposed to the bodily fluids of the offender or

detainee when the disclosure is provided by a licensed health care provider in accordance with Washington Administrative Code rules governing employees' occupational exposure to bloodborne pathogens.

(2) The legislature further finds that, through the efforts of health care professionals and corrections staff, offenders in department of corrections facilities and people detained in local jails are being encouraged to take responsibility for their health by requesting voluntary and anonymous pretest counseling, HIV testing, posttest counseling, and AIDS counseling. The legislature does not intend, through this act, to mandate disclosure of the results of voluntary and anonymous tests. The legislature intends to continue to protect the confidential exchange of medical information related to voluntary and anonymous pretest counseling, HIV testing, posttest counseling, and AIDS counseling as provided by chapter 70.24 RCW.

**Sec. 2.** RCW 70.24.105 and 1994 c 72 s 1 are each amended to read as follows:

(1) No person may disclose or be compelled to disclose the identity of any person who has investigated, considered, or requested a test or treatment for a sexually transmitted disease, except as authorized by this chapter.

(2) No person may disclose or be compelled to disclose the identity of any person upon whom an HIV antibody test is performed, or the results of such a test, nor may the result of a test for any other sexually transmitted disease when it is positive be disclosed. This protection against disclosure of test subject, diagnosis, or treatment also applies to any information relating to diagnosis of or treatment for HIV infection and for any other confirmed sexually transmitted disease. The following persons, however, may receive such information:

(a) The subject of the test or the subject's legal representative for health care decisions in accordance with RCW 7.70.065, with the exception of such a representative of a minor child over fourteen years of age and otherwise competent;

(b) Any person who secures a specific release of test results or information relating to HIV or confirmed diagnosis of or treatment for any other sexually transmitted disease executed by the subject or the subject's legal representative for health care decisions in accordance with RCW 7.70.065, with the exception of such a representative of a minor child over fourteen years of age and otherwise competent;

(c) The state public health officer, a local public health officer, or the centers for disease control of the United States public health service in accordance with reporting requirements for a diagnosed case of a sexually transmitted disease;

(d) A health facility or health care provider that procures, processes, distributes, or uses: (i) A human body part, tissue, or blood from a deceased person with respect to medical information regarding that person; (ii) semen, including that provided prior to March 23, 1988, for the purpose of artificial insemination; or (iii) blood specimens;

(e) Any state or local public health officer conducting an investigation pursuant to RCW 70.24.024, provided that such record was obtained by means of court ordered HIV testing pursuant to RCW 70.24.340 or 70.24.024;

(f) A person allowed access to the record by a court order granted after application showing good cause therefor. In assessing good cause, the court shall weigh the public interest and the need for disclosure against the injury to the patient, to the physician-patient relationship, and to the treatment services. Upon the granting of the order, the court, in determining the extent to which any disclosure of all or any part of the record of any such test is necessary, shall impose appropriate safeguards against unauthorized disclosure. An order authorizing disclosure shall: (i) Limit disclosure to those parts of the patient's record deemed essential to fulfill the objective for which the order was granted; (ii) limit disclosure to those persons whose need for information is the basis for the order; and (iii) include any other appropriate measures to keep disclosure to a minimum for the protection of the patient, the physician-patient relationship, and the treatment services, including but not limited to the written statement set forth in subsection (5) of this section;

(g) Persons who, because of their behavioral interaction with the infected individual, have been placed at risk for acquisition of a sexually transmitted disease, as provided in RCW 70.24.022, if the health officer or authorized representative believes that the exposed person was unaware that a risk of disease exposure existed and that the disclosure of the identity of the infected person is necessary;

(h) A law enforcement officer, fire fighter, health care provider, health care facility staff person, department of correction's staff person, jail staff person, or other persons as defined by the board in rule pursuant to RCW 70.24.340(4), who has requested a test of a person whose bodily fluids he or she has been substantially exposed to, pursuant to RCW 70.24.340(4), if a state or local public health officer performs the test;

(i) Claims management personnel employed by or associated with an insurer, health care service contractor, health maintenance organization, self-funded health plan, state-administered health care claims payer, or any other payer of health care claims where such disclosure is to be used solely for the prompt and accurate evaluation and payment of medical or related claims. Information released under this subsection shall be confidential and shall not be released or available to persons who are not involved in handling or determining medical claims payment; and

(j) A department of social and health services worker, a child placing agency worker, or a guardian ad litem who is responsible for making or reviewing placement or case-planning decisions or recommendations to the court regarding a child, who is less than fourteen years of age, has a sexually transmitted disease, and is in the custody of the department of social and health services or a licensed child placing agency; this information may also be received by a person

responsible for providing residential care for such a child when the department of social and health services or a licensed child placing agency determines that it is necessary for the provision of child care services.

(3) No person to whom the results of a test for a sexually transmitted disease have been disclosed pursuant to subsection (2) of this section may disclose the test results to another person except as authorized by that subsection.

(4) The release of sexually transmitted disease information regarding an offender or detained person, except as provided in subsection (2)(e) of this section, shall be governed as follows:

(a) The sexually transmitted disease status of a department of corrections offender who has had a mandatory test conducted pursuant to RCW 70.24.340(1), 70.24.360, or 70.24.370 shall be made available by department of corrections health care providers and local public health officers to ((a)) the department of corrections ((superintendent or administrator as necessary)) health care administrator or infection control coordinator of the facility in which the offender is housed. The information made available to the health care administrator or the infection control coordinator under this subsection (4)(a) shall be used only for disease prevention or control and for protection of the safety and security of the staff, offenders, and the public. The information may be submitted to transporting officers and receiving facilities, including facilities that are not under the department of ((correction's)) corrections' jurisdiction according to the provisions of (d) and (e) of this subsection.

(b) The sexually transmitted disease status of a person detained in a jail who has had a mandatory test conducted pursuant to RCW 70.24.340(1), 70.24.360, or 70.24.370 shall be made available by the local public health officer to a jail ((administrator as necessary)) health care administrator or infection control coordinator. The information made available to a health care administrator under this subsection (4)(b) shall be used only for disease prevention or control and for protection of the safety and security of the staff, offenders, detainees, and the public. The information may be submitted to transporting officers and receiving facilities according to the provisions of (d) and (e) of this subsection.

(c) Information regarding ((a department of corrections offender's)) the sexually transmitted disease status of an offender or detained person is confidential and may be disclosed by a correctional ((superintendent or)) health care administrator or infection control coordinator or local jail health care administrator or infection control coordinator only as necessary for disease prevention or control and for protection of the safety and security of the staff, offenders, and the public. Unauthorized disclosure of this information to any person may result in disciplinary action, in addition to the penalties prescribed in RCW 70.24.080 or any other penalties as may be prescribed by law.

(d) Notwithstanding the limitations on disclosure contained in (a), (b), and (c) of this subsection, whenever any member of a jail staff or department of corrections staff has been substantially exposed to the bodily fluids of an offender

or detained person, then the results of any tests conducted pursuant to RCW 70.24.340(1), 70.24.360, or 70.24.370, shall be immediately disclosed to the staff person in accordance with the Washington Administrative Code rules governing employees' occupational exposure to bloodborne pathogens. Disclosure must be accompanied by appropriate counseling for the staff member, including information regarding follow-up testing and treatment. Disclosure shall also include notice that subsequent disclosure of the information in violation of this chapter or use of the information to harass or discriminate against the offender or detainee may result in disciplinary action, in addition to the penalties prescribed in RCW 70.24.080, and imposition of other penalties prescribed by law.

(e) The staff member shall also be informed whether the offender or detained person had any other communicable disease, as defined in section 4(3) of this act, when the staff person was substantially exposed to the offender's or detainee's bodily fluids.

(f) The test results of voluntary and anonymous HIV testing or HIV-related condition may not be disclosed to a staff person except as provided in subsection (2)(h) of this section and RCW 70.24.340(4). A health care administrator or infection control coordinator may provide the staff member with information about how to obtain the offender's or detainee's test results under subsection (2)(h) of this section and RCW 70.24.340(4).

(5) Whenever disclosure is made pursuant to this section, except for subsections (2)(a) and (6) of this section, it shall be accompanied by a statement in writing which includes the following or substantially similar language: "This information has been disclosed to you from records whose confidentiality is protected by state law. State law prohibits you from making any further disclosure of it without the specific written consent of the person to whom it pertains, or as otherwise permitted by state law. A general authorization for the release of medical or other information is NOT sufficient for this purpose." An oral disclosure shall be accompanied or followed by such a notice within ten days.

(6) The requirements of this section shall not apply to the customary methods utilized for the exchange of medical information among health care providers in order to provide health care services to the patient, nor shall they apply within health care facilities where there is a need for access to confidential medical information to fulfill professional duties.

(7) Upon request of the victim, disclosure of test results under this section to victims of sexual offenses under chapter 9A.44 RCW shall be made if the result is negative or positive. The county prosecuting attorney shall notify the victim of the right to such disclosure. Such disclosure shall be accompanied by appropriate counseling, including information regarding follow-up testing.

**Sec. 3.** RCW 70.24.340 and 1988 c 206 s 703 are each amended to read as follows:

(1) Local health departments authorized under this chapter shall conduct or cause to be conducted pretest counseling, HIV testing, and posttest counseling of all persons:

(a) Convicted of a sexual offense under chapter 9A.44 RCW;

(b) Convicted of prostitution or offenses relating to prostitution under chapter 9A.88 RCW; or

(c) Convicted of drug offenses under chapter 69.50 RCW if the court determines at the time of conviction that the related drug offense is one associated with the use of hypodermic needles.

(2) Such testing shall be conducted as soon as possible after sentencing and shall be so ordered by the sentencing judge.

(3) This section applies only to offenses committed after March 23, 1988.

(4) A law enforcement officer, fire fighter, health care provider, health care facility staff person, department of corrections' staff person, jail staff person, or other categories of employment determined by the board in rule to be at risk of substantial exposure to HIV, who has experienced a substantial exposure to another person's bodily fluids in the course of his or her employment, may request a state or local public health officer to order pretest counseling, HIV testing, and posttest counseling for the person whose bodily fluids he or she has been exposed to. If the state or local public health officer refuses to order counseling and testing under this subsection, the person who made the request may petition the superior court for a hearing to determine whether an order shall be issued. The hearing on the petition shall be held within seventy-two hours of filing the petition, exclusive of Saturdays, Sundays, and holidays. The standard of review to determine whether the public health officer shall be required to issue the order is whether substantial exposure occurred and whether that exposure presents a possible risk of transmission of the HIV virus as defined by the board by rule. Upon conclusion of the hearing, the court shall issue the appropriate order.

The person who is subject to the state or local public health officer's order to receive counseling and testing shall be given written notice of the order promptly, personally, and confidentially, stating the grounds and provisions of the order, including the factual basis therefor. If the person who is subject to the order refuses to comply, the state or local public health officer may petition the superior court for a hearing. The hearing on the petition shall be held within seventy-two hours of filing the petition, exclusive of Saturdays, Sundays, and holidays. The standard of review for the order is whether substantial exposure occurred and whether that exposure presents a possible risk of transmission of the HIV virus as defined by the board by rule. Upon conclusion of the hearing, the court shall issue the appropriate order.

The state or local public health officer shall perform counseling and testing under this subsection if he or she finds that the exposure was substantial and presents a possible risk as defined by the board of health by rule or if he or she is ordered to do so by a court.

The counseling and testing required under this subsection shall be completed as soon as possible after the substantial exposure or after an order is issued by a court, but shall begin not later than seventy-two hours after the substantial exposure or an order is issued by the court.

**NEW SECTION. Sec. 4.** A new section is added to chapter 72.09 RCW to read as follows:

(1) The department shall develop and implement policies and procedures for the uniform distribution of communicable disease prevention guidelines to all corrections staff who, in the course of their regularly assigned job responsibilities, may come within close physical proximity to offenders with communicable diseases.

(2) The guidelines shall identify special precautions necessary to reduce the risk of transmission of communicable diseases.

(3) For the purposes of this section, "communicable disease" means sexually transmitted diseases, as defined in RCW 70.24.017, diseases caused by bloodborne pathogens, or any other illness caused by an infectious agent that can be transmitted from one person, animal, or object to another person by direct or indirect means including transmission via an intermediate host or vector, food, water, or air.

**NEW SECTION. Sec. 5.** A new section is added to chapter 70.48 RCW to read as follows:

(1) Local jail administrators shall develop and implement policies and procedures for the uniform distribution of communicable disease prevention guidelines to all jail staff who, in the course of their regularly assigned job responsibilities, may come within close physical proximity to offenders or detainees with communicable diseases.

(2) The guidelines shall identify special precautions necessary to reduce the risk of transmission of communicable diseases.

(3) For the purposes of this section, "communicable disease" means a sexually transmitted disease, as defined in RCW 70.24.017, diseases caused by bloodborne pathogens, or any other illness caused by an infectious agent that can be transmitted from one person, animal, or object to another person by direct or indirect means including transmission via an intermediate host or vector, food, water, or air.

**NEW SECTION. Sec. 6.** The department of health and the department of corrections shall each adopt rules to implement this act. The department of health and the department of corrections shall also report to the legislature by January 1, 1998, on the following: (1) Changes made in rules and department of corrections and local jail policies and procedures to implement this act; and (2) a summary of the number of times and the circumstances under which individual corrections staff and jail staff members were informed that a particular offender or detainee had a sexually transmitted disease or other communicable disease. The department of health and the department of corrections shall cooperate with local jail

administrators to obtain the information from local jail administrators that is necessary to comply with this section.

Passed the House April 26, 1997.

Passed the Senate April 24, 1997.

Approved by the Governor May 13, 1997.

Filed in Office of Secretary of State May 13, 1997.

---

## CHAPTER 346

[Substitute House Bill 2059]

### THEFT OF RENTAL, LEASED, OR LEASE-PURCHASED PROPERTY

AN ACT Relating to theft of rental property; amending RCW 9A.56.010; reenacting and amending RCW 9.94A.320; adding a new section to chapter 9A.56 RCW; repealing RCW 9.45.062 and 9A.56.095; and prescribing penalties.

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

**NEW SECTION.** Sec. 1. A new section is added to chapter 9A.56 RCW to read as follows:

(1) A person who, with intent to deprive the owner or owner's agent, wrongfully obtains, or exerts unauthorized control over, or by color or aid of deception gains control of personal property that is rented or leased to the person, is guilty of theft of rental, leased, or lease-purchased property.

(2) The finder of fact may presume intent to deprive if the finder of fact finds either of the following:

(a) That the person who rented or leased the property failed to return or make arrangements acceptable to the owner of the property or the owner's agent to return the property to the owner or the owner's agent within seventy-two hours after receipt of proper notice following the due date of the rental, lease, or lease-purchase agreement; or

(b) That the renter or lessee presented identification to the owner or the owner's agent that was materially false, fictitious, or not current with respect to name, address, place of employment, or other appropriate items.

(3) As used in subsection (2) of this section, "proper notice" consists of a written demand by the owner or the owner's agent made after the due date of the rental, lease, or lease-purchase period, mailed by certified or registered mail to the renter or lessee at: (a) The address the renter or lessee gave when the contract was made; or (b) the renter or lessee's last known address if later furnished in writing by the renter, lessee, or the agent of the renter or lessee.

(4) The replacement value of the property obtained must be utilized in determining the amount involved in the theft of rental, leased, or lease-purchased property. Theft of rental, leased, or lease-purchased property is a: Class B felony if the rental, leased, or lease-purchased property is valued at one thousand five hundred dollars or more; class C felony if the rental, leased, or lease-purchased property is valued at two hundred fifty dollars or more but less than one thousand

five hundred dollars; and gross misdemeanor if the rental, leased, or lease-purchased property is valued at less than two hundred fifty dollars.

(5) This section applies to rental agreements that provide that the renter may return the property any time within the rental period and pay only for the time the renter actually retained the property, in addition to any minimum rental fee, to lease agreements, and to lease-purchase agreements as defined under RCW 63.19.010. This section does not apply to rental or leasing of real property under the residential landlord-tenant act, chapter 59.18 RCW.

**Sec. 2.** RCW 9A.56.010 and 1995 c 92 s 1 are each amended to read as follows:

The following definitions are applicable in this chapter unless the context otherwise requires:

(1) "Appropriate lost or misdelivered property or services" means obtaining or exerting control over the property or services of another which the actor knows to have been lost or mislaid, or to have been delivered under a mistake as to identity of the recipient or as to the nature or amount of the property;

(2) "By color or aid of deception" means that the deception operated to bring about the obtaining of the property or services; it is not necessary that deception be the sole means of obtaining the property or services;

(3) "Access device" means any card, plate, code, account number, or other means of account access that can be used alone or in conjunction with another access device to obtain money, goods, services, or anything else of value, or that can be used to initiate a transfer of funds, other than a transfer originated solely by paper instrument;

(4) "Deception" occurs when an actor knowingly:

(a) Creates or confirms another's false impression which the actor knows to be false; or

(b) Fails to correct another's impression which the actor previously has created or confirmed; or

(c) Prevents another from acquiring information material to the disposition of the property involved; or

(d) Transfers or encumbers property without disclosing a lien, adverse claim, or other legal impediment to the enjoyment of the property, whether that impediment is or is not valid, or is or is not a matter of official record; or

(e) Promises performance which the actor does not intend to perform or knows will not be performed.

(5) "Deprive" in addition to its common meaning means to make unauthorized use or an unauthorized copy of records, information, data, trade secrets, or computer programs;

(6) "Obtain control over" in addition to its common meaning, means:

(a) In relation to property, to bring about a transfer or purported transfer to the obtainer or another of a legally recognized interest in the property; or

(b) In relation to labor or service, to secure performance thereof for the benefits of the obtainer or another;

(7) "Wrongfully obtains" or "exerts unauthorized control" means:

(a) To take the property or services of another;

(b) Having any property or services in one's possession, custody or control as bailee, factor, lessee, pledgee, renter, servant, attorney, agent, employee, trustee, executor, administrator, guardian, or officer of any person, estate, association, or corporation, or as a public officer, or person authorized by agreement or competent authority to take or hold such possession, custody, or control, to secrete, withhold, or appropriate the same to his or her own use or to the use of any person other than the true owner or person entitled thereto; or

(c) Having any property or services in one's possession, custody, or control as partner, to secrete, withhold, or appropriate the same to his or her use or to the use of any person other than the true owner or person entitled thereto, where such use is unauthorized by the partnership agreement;

(8) "Owner" means a person, other than the actor, who has possession of or any other interest in the property or services involved, and without whose consent the actor has no authority to exert control over the property or services;

(9) "Receive" includes, but is not limited to, acquiring title, possession, control, or a security interest, or any other interest in the property;

(10) "Services" includes, but is not limited to, labor, professional services, transportation services, electronic computer services, the supplying of hotel accommodations, restaurant services, entertainment, the supplying of equipment for use, and the supplying of commodities of a public utility nature such as gas, electricity, steam, and water;

(11) "Stolen" means obtained by theft, robbery, or extortion;

(12) "Subscription television service" means cable or encrypted video and related audio and data services intended for viewing on a home television by authorized members of the public only, who have agreed to pay a fee for the service. Subscription services include but are not limited to those video services presently delivered by coaxial cable, fiber optic cable, terrestrial microwave, television broadcast, and satellite transmission;

(13) "Telecommunication device" means (a) any type of instrument, device, machine, or equipment that is capable of transmitting or receiving telephonic or electronic communications; or (b) any part of such an instrument, device, machine, or equipment, or any computer circuit, computer chip, electronic mechanism, or other component, that is capable of facilitating the transmission or reception of telephonic or electronic communications;

(14) "Telecommunication service" includes any service other than subscription television service provided for a charge or compensation to facilitate the transmission, transfer, or reception of a telephonic communication or an electronic communication;

(15) Value. (a) "Value" means the market value of the property or services at the time and in the approximate area of the criminal act.

(b) Whether or not they have been issued or delivered, written instruments, except those having a readily ascertained market value, shall be evaluated as follows:

(i) The value of an instrument constituting an evidence of debt, such as a check, draft, or promissory note, shall be deemed the amount due or collectible thereon or thereby, that figure ordinarily being the face amount of the indebtedness less any portion thereof which has been satisfied;

(ii) The value of a ticket or equivalent instrument which evidences a right to receive transportation, entertainment, or other service shall be deemed the price stated thereon, if any; and if no price is stated thereon, the value shall be deemed the price of such ticket or equivalent instrument which the issuer charged the general public;

(iii) The value of any other instrument that creates, releases, discharges, or otherwise affects any valuable legal right, privilege, or obligation shall be deemed the greatest amount of economic loss which the owner of the instrument might reasonably suffer by virtue of the loss of the instrument.

(c) Whenever any series of transactions which constitute theft, would, when considered separately, constitute theft in the third degree because of value, and said series of transactions are a part of a common scheme or plan, then the transactions may be aggregated in one count and the sum of the value of all said transactions shall be the value considered in determining the degree of theft involved.

(d) Whenever any person is charged with possessing stolen property and such person has unlawfully in his possession at the same time the stolen property of more than one person, then the stolen property possessed may be aggregated in one count and the sum of the value of all said stolen property shall be the value considered in determining the degree of theft involved.

(e) Property or services having value that cannot be ascertained pursuant to the standards set forth above shall be deemed to be of a value not exceeding two hundred and fifty dollars;

(16) "Shopping cart" means a basket mounted on wheels or similar container generally used in a retail establishment by a customer for the purpose of transporting goods of any kind;

(17) "Parking area" means a parking lot or other property provided by retailers for use by a customer for parking an automobile or other vehicle.

Sec. 3. RCW 9.94A.320 and 1996 c 302 s 6, 1996 c 205 s 3, and 1996 c 36 s 2 are each reenacted and amended to read as follows:

#### TABLE 2

#### CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

XV Aggravated Murder 1 (RCW 10.95.020)

- XIV Murder 1 (RCW 9A.32.030)  
Homicide by abuse (RCW 9A.32.055)
- XIII Murder 2 (RCW 9A.32.050)
- XII Assault 1 (RCW 9A.36.011)  
Assault of a Child 1 (RCW 9A.36.120)
- XI Rape 1 (RCW 9A.44.040)  
Rape of a Child 1 (RCW 9A.44.073)
- X Kidnapping 1 (RCW 9A.40.020)  
Rape 2 (RCW 9A.44.050)  
Rape of a Child 2 (RCW 9A.44.076)  
Child Molestation 1 (RCW 9A.44.083)  
Damaging building, etc., by explosion with  
threat to human being (RCW  
70.74.280(1))  
Over 18 and deliver heroin or narcotic from  
Schedule I or II to someone under 18  
(RCW 69.50.406)  
Leading Organized Crime (RCW  
9A.82.060(1)(a))
- IX Assault of a Child 2 (RCW 9A.36.130)  
Robbery 1 (RCW 9A.56.200)  
Manslaughter 1 (RCW 9A.32.060)  
Explosive devices prohibited (RCW 70.74.180)  
Indecent Liberties (with forcible compulsion)  
(RCW 9A.44.100(1)(a))  
Endangering life and property by explosives  
with threat to human being (RCW  
70.74.270)  
Over 18 and deliver narcotic from Schedule III,  
IV, or V or a nonnarcotic from Schedule  
I-V to someone under 18 and 3 years  
junior (RCW 69.50.406)  
Controlled Substance Homicide (RCW  
69.50.415)  
Sexual Exploitation (RCW 9.68A.040)  
Inciting Criminal Profiteering (RCW  
9A.82.060(1)(b))  
Vehicular Homicide, by being under the  
influence of intoxicating liquor or any  
drug (RCW 46.61.520)

- VIII
  - Arson 1 (RCW 9A.48.020)
  - Promoting Prostitution 1 (RCW 9A.88.070)
  - Selling for profit (controlled or counterfeit) any controlled substance (RCW 69.50.410)
  - Manufacture, deliver, or possess with intent to deliver heroin or cocaine (RCW 69.50.401(a)(1)(i))
  - Manufacture, deliver, or possess with intent to deliver methamphetamine (RCW 69.50.401(a)(1)(ii))
  - Possession of ephedrine or pseudoephedrine with intent to manufacture methamphetamine (RCW 69.50.440)
  - Vehicular Homicide, by the operation of any vehicle in a reckless manner (RCW 46.61.520)
- VII
  - Burglary 1 (RCW 9A.52.020)
  - Vehicular Homicide, by disregard for the safety of others (RCW 46.61.520)
  - Introducing Contraband 1 (RCW 9A.76.140)
  - Indecent Liberties (without forcible compulsion) (RCW 9A.44.100(1) (b) and (c))
  - Child Molestation 2 (RCW 9A.44.086)
  - Dealing in depictions of minor engaged in sexually explicit conduct (RCW 9.68A.050)
  - Sending, bringing into state depictions of minor engaged in sexually explicit conduct (RCW 9.68A.060)
  - Involving a minor in drug dealing (RCW 69.50.401(f))
  - Reckless Endangerment I (RCW 9A.36.045)
  - Unlawful Possession of a Firearm in the first degree (RCW 9A.1.040(1)(a))
- VI
  - Bribery (RCW 9A.68.010)
  - Manslaughter 2 (RCW 9A.32.070)
  - Rape of a Child 3 (RCW 9A.44.079)
  - Intimidating a Juror/Witness (RCW 9A.72.110, 9A.72.130)
  - Damaging building, etc., by explosion with no threat to human being (RCW 70.74.280(2))

- Endangering life and property by explosives with no threat to human being (RCW 70.74.270)
- Incest 1 (RCW 9A.64.020(1))
- Manufacture, deliver, or possess with intent to deliver narcotics from Schedule I or II (except heroin or cocaine) (RCW 69.50.401(a)(1)(i))
- Intimidating a Judge (RCW 9A.72.160)
- Bail Jumping with Murder 1 (RCW 9A.76.170(2)(a))
- Theft of a Firearm (RCW 9A.56.300)
- V Persistent prison misbehavior (RCW 9.94.070)
- Criminal Mistreatment 1 (RCW 9A.42.020)
- Abandonment of dependent person 1 (RCW 9A.42.060)
- Rape 3 (RCW 9A.44.060)
- Sexual Misconduct with a Minor 1 (RCW 9A.44.093)
- Child Molestation 3 (RCW 9A.44.089)
- Kidnapping 2 (RCW 9A.40.030)
- Extortion 1 (RCW 9A.56.120)
- Incest 2 (RCW 9A.64.020(2))
- Perjury 1 (RCW 9A.72.020)
- Extortionate Extension of Credit (RCW 9A.82.020)
- Advancing money or property for extortionate extension of credit (RCW 9A.82.030)
- Extortionate Means to Collect Extensions of Credit (RCW 9A.82.040)
- Rendering Criminal Assistance 1 (RCW 9A.76.070)
- Bail Jumping with class A Felony (RCW 9A.76.170(2)(b))
- Sexually Violating Human Remains (RCW 9A.44.105)
- Delivery of imitation controlled substance by person eighteen or over to person under eighteen (RCW 69.52.030(2))
- Possession of a Stolen Firearm (RCW 9A.56.310)

- IV Residential Burglary (RCW 9A.52.025)  
 Theft of Livestock 1 (RCW 9A.56.080)  
 Robbery 2 (RCW 9A.56.210)  
 Assault 2 (RCW 9A.36.021)  
 Escape 1 (RCW 9A.76.110)  
 Arson 2 (RCW 9A.48.030)  
 Commercial Bribery (RCW 9A.68.060)  
 Bribing a Witness/Bribe Received by Witness  
 (RCW 9A.72.090, 9A.72.100)  
 Malicious Harassment (RCW 9A.36.080)  
 Threats to Bomb (RCW 9.61.160)  
 Willful Failure to Return from Furlough (RCW  
 72.66.060)  
 Hit and Run — Injury Accident (RCW  
 46.52.020(4))  
 Hit and Run with Vessel — Injury Accident  
 (RCW 88.12.155(3))  
 Vehicular Assault (RCW 46.61.522)  
 Manufacture, deliver, or possess with intent to  
 deliver narcotics from Schedule III, IV, or  
 V or nonnarcotics from Schedule I-V  
 (except marijuana or methamphetamines)  
 (RCW 69.50.401(a)(1) (iii) through (v))  
 Influencing Outcome of Sporting Event (RCW  
 9A.82.070)  
 Use of Proceeds of Criminal Profiteering (RCW  
 9A.82.080 (1) and (2))  
 Knowingly Trafficking in Stolen Property  
 (RCW 9A.82.050(2))
- III Criminal Mistreatment 2 (RCW 9A.42.030)  
 Abandonment of dependent person 2 (RCW  
 9A.42.070)  
 Extortion 2 (RCW 9A.56.130)  
 Unlawful Imprisonment (RCW 9A.40.040)  
 Assault 3 (RCW 9A.36.031)  
 Assault of a Child 3 (RCW 9A.36.140)  
 Custodial Assault (RCW 9A.36.100)  
 Unlawful possession of firearm in the second  
 degree (RCW 9.41.040(1)(b))  
 Harassment (RCW 9A.46.020)  
 Promoting Prostitution 2 (RCW 9A.88.080)  
 Willful Failure to Return from Work Release  
 (RCW 72.65.070)

- Burglary 2 (RCW 9A.52.030)
- Introducing Contraband 2 (RCW 9A.76.150)
- Communication with a Minor for Immoral Purposes (RCW 9.68A.090)
- Patronizing a Juvenile Prostitute (RCW 9.68A.100)
- Escape 2 (RCW 9A.76.120)
- Perjury 2 (RCW 9A.72.030)
- Bail Jumping with class B or C Felony (RCW 9A.76.170(2)(c))
- Intimidating a Public Servant (RCW 9A.76.180)
- Tampering with a Witness (RCW 9A.72.120)
- Manufacture, deliver, or possess with intent to deliver marijuana (RCW 69.50.401 (a)(1)(iii))
- Delivery of a material in lieu of a controlled substance (RCW 69.50.401(c))
- Manufacture, distribute, or possess with intent to distribute an imitation controlled substance (RCW 69.52.030(1))
- Recklessly Trafficking in Stolen Property (RCW 9A.82.050(1))
- Theft of livestock 2 (RCW 9A.56.080)
- Securities Act violation (RCW 21.20.400)
- II Unlawful Practice of Law (RCW 2.48.180)
- Malicious Mischief 1 (RCW 9A.48.070)
- Possession of Stolen Property 1 (RCW 9A.56.150)
- Theft 1 (RCW 9A.56.030)
- Class B Felony Theft of Rental, Leased, or Lease-purchased Property (section 1(4) of this act)
- Trafficking in Insurance Claims (RCW 48.30A.015)
- Unlicensed Practice of a Profession or Business (RCW 18.130.190(7))
- Health Care False Claims (RCW 48.80.030)
- Possession of controlled substance that is either heroin or narcotics from Schedule I or II (RCW 69.50.401(d))
- Possession of phencyclidine (PCP) (RCW 69.50.401(d))

Create, deliver, or possess a counterfeit controlled substance (RCW 69.50.401(b))  
 Computer Trespass 1 (RCW 9A.52.110)  
 Escape from Community Custody (RCW 72.09.310)

- I Theft 2 (RCW 9A.56.040)  
Class C Felony Theft of Rental, Leased, or Lease-purchased Property (section 1(4) of this act)  
 Possession of Stolen Property 2 (RCW 9A.56.160)  
 Forgery (RCW 9A.60.020)  
 Taking Motor Vehicle Without Permission (RCW 9A.56.070)  
 Vehicle Prowl 1 (RCW 9A.52.095)  
 Attempting to Elude a Pursuing Police Vehicle (RCW 46.61.024)  
 Malicious Mischief 2 (RCW 9A.48.080)  
 Reckless Burning 1 (RCW 9A.48.040)  
 Unlawful Issuance of Checks or Drafts (RCW 9A.56.060)  
 Unlawful Use of Food Stamps (RCW 9.91.140 (2) and (3))  
 False Verification for Welfare (RCW 74.08.055)  
 Forged Prescription (RCW 69.41.020)  
 Forged Prescription for a Controlled Substance (RCW 69.50.403)  
 Possess Controlled Substance that is a Narcotic from Schedule III, IV, or V or Non-narcotic from Schedule I-V (except phencyclidine) (RCW 69.50.401(d))

**NEW SECTION.** Sec. 4. The following acts or parts of acts are each repealed:

- (1) RCW 9.45.062 and 1971 c 61 s 2; and
- (2) RCW 9A.56.095 and 1977 ex.s. c 236 s 1.

Passed the House April 21, 1997.

Passed the Senate April 14, 1997.

Approved by the Governor May 13, 1997.

Filed in Office of Secretary of State May 13, 1997.

## CHAPTER 347

[House Bill 1398]

## SNOHOMISH COUNTY SUPERIOR COURT—ADDITIONAL JUDGES AUTHORIZED

AN ACT Relating to superior court judges; amending RCW 2.08.064 and 2.08.061; and creating new sections.

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

**Sec. 1.** RCW 2.08.064 and 1993 sp.s. c 14 s 1 are each amended to read as follows:

There shall be in the counties of Benton and Franklin jointly, five judges of the superior court; in the county of Clallam, two judges of the superior court; in the county of Jefferson, one judge of the superior court; in the county of Snohomish, ~~((thirteen))~~ fifteen judges of the superior court; in the counties of Asotin, Columbia and Garfield jointly, one judge of the superior court; in the county of Cowlitz, four judges of the superior court; in the counties of Klickitat and Skamania jointly, one judge of the superior court.

**NEW SECTION. Sec. 2.** The additional judicial positions created for the county of Snohomish under section 1 of this act are effective January 1, 1998, but the actual starting dates for these positions may be established by the Snohomish county council upon request of the superior court and by the recommendation of the Snohomish county executive.

**Sec. 3.** RCW 2.08.061 and 1996 c 208 s 3 are each amended to read as follows:

There shall be in the county of King no more than fifty-eight judges of the superior court; in the county of Spokane ~~((eleven))~~ thirteen judges of the superior court; and in the county of Pierce ~~((nineteen))~~ twenty-four judges of the superior court.

**NEW SECTION. Sec. 4.** (1) The additional judicial positions created by section 3 of this act for the county of Spokane take effect upon the effective date of this act, but the actual starting dates for these positions may be established by the Spokane county commissioners upon the request of the superior court.

(2) The additional positions created by section 3 of this act for the county of Pierce, take effect as follows: One additional judicial position is effective January 1, 1998; two positions are effective January 1, 1999; and two positions are effective January 1, 2000. The actual starting dates for these positions may be established by the Pierce county council upon request of the superior court and by recommendation of the Pierce county executive.

Passed the House April 19, 1997.

Passed the Senate April 17, 1997.

Approved by the Governor May 13, 1997.

Filed in Office of Secretary of State May 13, 1997.

## CHAPTER 348

[House Bill 1388]

## WORK RELEASE PROGRAM SITING

AN ACT Relating to siting of work release programs; and amending RCW 72.65.220.

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

Sec. 1. RCW 72.65.220 and 1994 c 271 s 1001 are each amended to read as follows:

(1) The department or a private or public entity under contract with the department may establish or relocate for the operation of a work release or other community-based facility only after public notifications and local public meetings have been completed consistent with this section.

(2) The department and other state agencies (~~((that have responsibility))~~) responsible for siting (~~((the department's))~~) department-owned, operated, or contracted facilities shall establish a process for early and continuous public participation in establishing or relocating work release or other community-based facilities. This process shall include public meetings in the local communities affected, opportunities for written and oral comments, and wide dissemination of proposals and alternatives(~~(-~~

~~—(2) The department may establish or relocate a work release or other community-based facility only after holding local public meetings and providing public notification to local communities consistent with this chapter.~~

~~—(3)), including at least the following:~~

(a) When the department or a private or public entity under contract with the department has selected three or fewer sites for final consideration (~~((for site selection))~~) of a department-owned, operated, or contracted work release or other community-based facility, the department or contracting organization shall make public notification (~~((shall be given))~~) and conduct public hearings (~~((shall be held))~~) in the (~~((final three or fewer))~~) local communities (~~((where the siting is proposed))~~) of the final three or fewer proposed sites. (~~((Additional notification and a))~~) An additional public hearing after public notification shall also be conducted in the local community selected as the final proposed site(~~(-~~ prior to completion of the siting process. ~~All hearings and notifications shall be consistent with this chapter).~~

~~((4) Throughout this process the department shall provide notification to))~~ (b) Notifications required under this section shall be provided to the following:

(i) All newspapers of general circulation in the local area and all local radio stations, television stations, and cable networks((-);

~~((5) Notice shall also be provided to))~~ (ii) Appropriate school districts, private schools, kindergartens, city and county libraries, and all other local government offices within a one-half mile radius of the proposed ((facility-)) site or sites;

~~((6) In addition, the department shall also provide notice to))~~ (iii) The local chamber of commerce, local economic development agencies, and any other local organizations that request such notification from the department((-); and

~~((7) Notification in writing shall be provided to)~~ (iv) In writing to all residents and/or property owners within a one-half mile radius of the proposed site or sites.

(3) When the department contracts for the operation of a work release or other community-based facility that is not owned or operated by the department, the department shall require as part of its contract that the contracting entity comply with all the public notification and public hearing requirements as provided in this section for each located and relocated work release or other community-based facility.

Passed the House April 26, 1997.

Passed the Senate April 24, 1997.

Approved by the Governor May 13, 1997.

Filed in Office of Secretary of State May 13, 1997.

## CHAPTER 349

[Substitute House Bill 1433]

### EASTERN STATE HOSPITAL—LEASES WITH CONSORTIUMS OF COUNTIES FORMED TO ACQUIRE FACILITIES

AN ACT Relating to leases with consortiums of counties formed to acquire correctional facilities; amending RCW 43.17.360; and declaring an emergency.

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

**Sec. 1.** RCW 43.17.360 and 1996 c 261 s 2 are each amended to read as follows:

(1) The department of social and health services and other state agencies may lease real property and improvements thereon to a consortium of three or more counties in order for the counties to construct or otherwise acquire correctional facilities for juveniles or adults.

(2) A lease governed by subsection (1) of this section shall not charge more than one dollar per year for the land value and facilities value, during the initial term of the lease, but the lease may include provisions for payment of any reasonable operation and maintenance expenses incurred by the state.

The initial term of a lease governed by subsection (1) of this section shall not exceed twenty years, except as provided in subsection (4) of this section. A lease renewed under subsection (1) of this section after the initial term shall charge the fair rental value for the land and ~~((facilities, and may))~~ improvements other than those improvements paid for by a contracting consortium. The renewed lease may also include provisions for payment of any reasonable operation and maintenance expenses incurred by the state. For the purposes of this subsection, fair rental value shall be determined by the commissioner of public lands in consultation with the department and shall not include the value of any improvements paid for by a contracting consortium.

(3) The net proceeds generated from any lease entered or renewed under subsection (1) of this section involving land and facilities on the grounds of eastern

state hospital shall be used solely for the benefit of eastern state hospital programs for the long-term care needs of patients with mental disorders. These proceeds shall not supplant or replace funding from traditional sources for the normal operations and maintenance or capital budget projects. It is the intent of this subsection to ensure that eastern state hospital receives the full benefit intended by this section, and that such effect will not be diminished by budget adjustments inconsistent with this intent.

(4) The initial term of a lease under subsection (1) of this section entered into after January 1, 1996, and involving the grounds of Eastern State hospital, shall not exceed fifty years. This subsection applies retroactively, and the department shall modify any existing leases to comply with the terms of this subsection. No other terms of a lease modified by this subsection may be modified unless both parties agree.

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.

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 the House April 19, 1997.

Passed the Senate April 7, 1997.

Approved by the Governor May 13, 1997.

Filed in Office of Secretary of State May 13, 1997.

## CHAPTER 350

[House Bill 1646]

### INDETERMINATE SENTENCE REVIEW BOARD—MODIFICATIONS AND EXTENSION

AN ACT Relating to the indeterminate sentence review board; and amending RCW 9.95.0011 and 9.95.003.

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

**Sec. 1.** RCW 9.95.0011 and 1989 c 259 s 4 are each amended to read as follows:

(1) The indeterminate (~~sentencing~~) sentence review board shall cease to exist on June 30, ~~((1998))~~ 2008. Prior to June 30, ~~((1998))~~ 2008, the board shall review each inmate convicted of crimes committed before July 1, 1984, and prepare a report. This report shall include a recommendation regarding the offender's suitability for parole, appropriate parole conditions, and, for those persons committed under a mandatory life sentence, duration of confinement.

(2) The governor, through the office of financial management, shall recommend to the legislature alternatives for carrying out the duties of the board. In developing recommendations, the office of financial management shall consult with the indeterminate sentence review board, Washington association of

prosecuting attorneys, Washington defender association, department of corrections, and administrator for the courts. Recommendations shall include a detailed fiscal analysis and recommended formulas and procedures for the reimbursement of costs to local governments if necessary. Recommendations shall be presented to the ((+997)) 2007 legislature.

Sec. 2. RCW 9.95.003 and 1986 c 224 s 3 are each amended to read as follows:

The board shall consist of a chairman and ~~((six))~~ two other members, each of whom shall be appointed by the governor with the consent of the senate. Each member shall hold office for a term of five years, and until his or her successor is appointed and qualified. The terms shall expire on April 15th of the expiration year. Vacancies in the membership of the board shall be filled by appointment by the governor with the consent of the senate. In the event of the inability of any member to act, the governor shall appoint some competent person to act in his stead during the continuance of such inability. The members shall not be removable during their respective terms except for cause determined by the superior court of Thurston county. The governor in appointing the members shall designate one of them to serve as chairman at the governor's pleasure.

The members of the board and its officers and employees shall not engage in any other business or profession or hold any other public office without the prior approval of the executive ethics board indicating compliance with RCW 42.52.020, 42.52.030, 42.52.040 and 42.52.120; nor shall they, at the time of appointment or employment or during their incumbency, serve as the representative of any political party on an executive committee or other governing body thereof, or as an executive officer or employee of any political committee or association. The members of the board shall each severally receive salaries fixed by the governor in accordance with the provisions of RCW 43.03.040, and in addition shall receive travel expenses incurred in the discharge of their official duties in accordance with RCW 43.03.050 and 43.03.060.

The board may employ, and fix, with the approval of the governor, the compensation of and prescribe the duties of a secretary and such officers, employees, and assistants as may be necessary, and provide necessary quarters, supplies, and equipment.

Passed the House April 19, 1997.

Passed the Senate April 10, 1997.

Approved by the Governor May 13, 1997.

Filed in Office of Secretary of State May 13, 1997.

---

## CHAPTER 351

[Engrossed Second Substitute House Bill 1423]  
CRIMINAL JUSTICE TRAINING

AN ACT Relating to criminal justice training; amending RCW 43.101.030; reenacting and amending RCW 43.101.200; adding new sections to chapter 43.101 RCW; and declaring an emergency.

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

*\*Sec. 1. RCW 43.101.030 and 1981 c 132 s 3 are each amended to read as follows:*

*The commission shall consist of ((twelve)) sixteen members, who shall be selected as follows:*

*(1) The governor shall appoint two incumbent sheriffs and two incumbent chiefs of police.*

*(2) The governor shall appoint one person employed in a county correctional system and one person employed in the state correctional system.*

*(3) The governor shall appoint one incumbent county prosecuting attorney or municipal attorney.*

*(4) The governor shall appoint one elected official of a local government.*

*(5) The governor shall appoint one private citizen.*

*(6) The governor shall appoint four peace officers with the rank of sergeant or below and are currently serving as a training officer.*

*(7) The three remaining members shall be:*

*(a) The attorney general;*

*(b) The special agent in charge of the Seattle office of the federal bureau of investigation; and*

*(c) The chief of the state patrol.*

*\*Sec. 1 was vetoed. See message at end of chapter.*

**NEW SECTION. Sec. 2.** A new section is added to chapter 43.101 RCW to read as follows:

(1) Two separate training standards and education boards are created and established, to be known and designated as (a) the board on law enforcement training standards and education and (b) the board on correctional training standards and education.

(2) The purpose of the board on law enforcement training standards and education is to review and recommend to the commission programs and standards for the training and education of law enforcement personnel.

(3) The purpose of the board on correctional training standards and education is to review and recommend to the commission programs and standards for the training and education of correctional personnel.

**NEW SECTION. Sec. 3.** A new section is added to chapter 43.101 RCW to read as follows:

(1) The board on law enforcement training standards and education consists of thirteen members, appointed by the executive director and subject to approval

by the commission. Members must be selected as follows: (a) Three must represent county law enforcement agencies, at least two of whom must be incumbent sheriffs; (b) three must represent city police agencies, at least two of whom must be incumbent police chiefs, one of whom shall be from a city under five thousand; (c) one must represent community colleges; (d) one must represent the four-year colleges and universities; (e) four must represent the council of police officers, two of whom must be training officers; and (f) one must represent tribal law enforcement in Washington. The six officers under (a) and (b) of this subsection may be appointed by the executive director only after the Washington association of sheriffs and police chiefs provides the director with the names of qualified officers. The four officers under (e) of this subsection may be appointed by the executive director only after the council of police officers provides the director with the names of qualified officers.

(2) The board on correctional training standards and education consists of fourteen members, appointed by the executive director and subject to approval by the commission. Members must be selected as follows: (a) Three must be employed in the state correctional system; (b) three must be employed in county correctional systems; (c) two must be employed in juvenile corrections or probation, one at the local level and the other at the state level; (d) two must be employed in community corrections; (e) one must represent community colleges; (f) one must represent four-year colleges and universities; and (g) two must be additional persons with experience and interest in correctional training standards and education. At least one of the members appointed under (a) of this subsection and at least one of the members appointed under (b) of this subsection must be currently employed as front line correctional officers.

**NEW SECTION. Sec. 4.** A new section is added to chapter 43.101 RCW to read as follows:

All members of each of the training standards and education boards must be appointed for terms of six years, commencing on July 1st, and expiring on June 30th. However, of the members first appointed three will serve for terms of two years, four will serve for terms of four years, and four will serve for terms of six years. A member chosen to fill a vacancy that has been created other than by expiration of a term must be appointed for the unexpired term of the member to be succeeded. A member may be reappointed for additional terms.

**NEW SECTION. Sec. 5.** A new section is added to chapter 43.101 RCW to read as follows:

A member of either board appointed under section 3 of this act as an incumbent official or because of employment status, ceases to be a member of the board immediately upon the termination of the holding of the qualifying office or employment.

**NEW SECTION. Sec. 6.** A new section is added to chapter 43.101 RCW to read as follows:

Each training standards and education board shall elect a chair and vice-chair from among its members. A simple majority of the members of a training standards and education board constitutes a quorum. The commission shall summon each of the training standards and education boards to its first meeting.

NEW SECTION. **Sec. 7.** A new section is added to chapter 43.101 RCW to read as follows:

Members of the training standards and education boards may be paid their travel expenses in accordance with RCW 43.03.050 and 43.03.060.

NEW SECTION. **Sec. 8.** A new section is added to chapter 43.101 RCW to read as follows:

The training standards and education boards have the following powers:

- (1) To meet at such times and places as they may deem proper;
- (2) To adopt bylaws for the conduct of their business as deemed necessary by each board;
- (3) To cooperate with and secure the cooperation of any department, agency, or instrumentality in state, county, or city government, and commissions affected by or concerned with the business of the commission;
- (4) To do any and all things necessary or convenient to enable them fully and adequately to perform their duties and to exercise the powers granted to them;
- (5) To advise the commission of the training and education needs of criminal justice personnel within their specific purview;
- (6) To recommend to the commission standards for the training and education of criminal justice personnel within their specific purview;
- (7) To recommend to the commission minimum curriculum standards for all training and education programs conducted for criminal justice personnel within their specific purview;
- (8) To recommend to the commission standards for instructors of training and education programs for criminal justice personnel within their specific purview;
- (9) To recommend to the commission alternative, innovative, and interdisciplinary training and education techniques for criminal justice personnel within their specific purview;
- (10) To review and recommend to the commission the approval of training and education programs for criminal justice personnel within their specific purview;
- (11) To monitor and evaluate training and education programs for criminal justice personnel with their specific purview.

Each training standards and education board shall report to the commission at the end of each fiscal year on the effectiveness of training and education programs for criminal justice personnel within its specific purview.

NEW SECTION. **Sec. 9.** A new section is added to chapter 43.101 RCW to read as follows:

For the purpose of raising the level of competence of criminal justice personnel, the commission shall review the recommendations of training standards and education boards made under section 8 of this act.

**NEW SECTION.** Sec. 10. A new section is added to chapter 43.101 RCW to read as follows:

(1) All law enforcement personnel initially hired to, transferred to, or promoted to a supervisory or management position on or after January 1, 1999, shall, within the first six months of entry into the position, successfully complete the core training requirements prescribed by rule of the commission for the position, or obtain a waiver or extension of the core training requirements from the commission.

(2) Within one year after completion of the core training requirements of this section, all law enforcement personnel shall successfully complete all remaining requirements for career level certification prescribed by rule of the commission applicable to their position or rank, or obtain a waiver or extension of the career level training requirements from the commission.

(3) The commission shall provide the training required in this section, together with facilities, supplies, materials, and the room and board for attendees who do not live within fifty miles of the training center. The training shall be delivered in the least disruptive manner to local law enforcement agencies, and will include but not be limited to regional on-site training, interactive training, and credit for training given by the home department.

(4) Nothing in this section affects or impairs the employment status of an employee whose employer does not provide the opportunity to engage in the required training.

**NEW SECTION.** Sec. 11. A new section is added to chapter 43.101 RCW to read as follows:

By January 1st of every odd-numbered year, the commission shall provide a written report to the legislature addressing the following items: (1) Status and satisfaction of service to its clients; (2) detailed analysis of how it will maintain and update adequate state-of-the-art training models and their delivery in the most cost-effective and efficient manner; and (3) fiscal data projecting its current and future funding requirements.

**NEW SECTION.** Sec. 12. A new section is added to chapter 43.101 RCW to read as follows:

Each year the criminal justice training commission shall offer an intensive training session on investigation of child abuse and neglect. The training shall focus on the investigative duties of law enforcement established under chapter 26.44 RCW with particular emphasis placed on child interview techniques to increase the accuracy of statements taken from children and decrease the need for additional interviews.

Sec. 13. RCW 43.101.200 and 1993 sp.s. c 24 s 920 and 1993 sp.s. c 21 s 5 are each reenacted and amended to read as follows:

(1) All law enforcement personnel, except volunteers, and reserve officers whether paid or unpaid, initially employed on or after January 1, 1978, shall

engage in basic law enforcement training which complies with standards adopted by the commission pursuant to RCW 43.101.080. For personnel initially employed before January 1, 1990, such training shall be successfully completed during the first fifteen months of employment of such personnel unless otherwise extended or waived by the commission and shall be requisite to the continuation of such employment. Personnel initially employed on or after January 1, 1990, shall commence basic training during the first six months of employment unless the basic training requirement is otherwise waived or extended by the commission. Successful completion of basic training is requisite to the continuation of employment of such personnel initially employed on or after January 1, 1990.

(2) Except as otherwise provided in this chapter, the commission shall provide the aforementioned training together with necessary facilities, supplies, materials, and the board and room of noncommuting attendees for seven days per week. Additionally, to the extent funds are provided for this purpose, the commission shall reimburse to participating law enforcement agencies with ten or less full-time commissioned patrol officers the cost of temporary replacement of each officer who is enrolled in basic law enforcement training: PROVIDED, That such reimbursement shall include only the actual cost of temporary replacement not to exceed the total amount of salary and benefits received by the replaced officer during his or her training period.

NEW SECTION. Sec. 14. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 15. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed the House April 19, 1997.

Passed the Senate April 15, 1997.

Approved by the Governor May 13, 1997, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State May 13, 1997.

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

"I am returning herewith, without my approval as to section 1, Engrossed Second Substitute House Bill No. 1423 entitled:

"AN ACT Relating to criminal justice training;"

The creation of training standards and education boards for law enforcement and corrections will give the Criminal Justice Training Commission a valuable new tool to develop and evaluate training programs for these important public employees. Providing for training and certification of supervisory and management personnel will ultimately result in better law enforcement and greater public safety. I am particularly pleased with the provisions of 2SHB 1423 that require intensive training for investigating cases of child abuse and neglect.

Section 1 of the bill would expand the Training Commission from twelve to sixteen members by the addition of four "rank and file" law enforcement officers. The commission has a broad mission, providing training to corrections and jail personnel, county detention personnel, prosecutors and public defenders, in addition to law enforcement officers. I

strongly support the presence of line officers on the Training Commission, however, four is too many.

Currently, four of the 16 members of the Training Commission are from law enforcement, two sheriffs and two police chiefs. Four additional law enforcement representatives would upset the balance of the Training Commission.

For these reasons, I have vetoed section 1 of Engrossed Second Substitute House Bill No. 1423.

With the exception of section 1, I am approving Engrossed Second Substitute House Bill No. 1423."

## CHAPTER 352

[Substitute Senate Bill 5295]

### DISTRICT COURTS—TRIAL DATES—SMALL CLAIMS REVISIONS

AN ACT Relating to district court proceedings; amending RCW 12.40.030, 12.40.040, 12.40.080, 12.40.120, 4.14.010, 12.36.010, 12.36.020, 12.36.030, 12.36.050, 12.36.080, 12.36.090, and 2.24.040; adding a new section to chapter 12.40 RCW; adding a new section to chapter 12.36 RCW; and repealing RCW 12.36.040 and 12.36.070.

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

**Sec. 1.** RCW 12.40.030 and 1984 c 258 s 60 are each amended to read as follows:

Upon filing of a claim, the court shall set a time for hearing ((~~of~~) on the matter ~~((and cause to be issued))~~. The court shall issue a notice of the claim which shall be served upon the defendant to notify the defendant of the hearing date. A trial need not be held on this first appearance, if dispute resolution services are offered instead of trial, or local practice rules provide that trials will be held on different days.

**Sec. 2.** RCW 12.40.040 and 1984 c 258 s 61 are each amended to read as follows:

The notice of claim can be served either as provided for the service of summons or complaint and notice in civil actions or by registered or certified mail if a return receipt with the signature of the party being served is filed with the court. No other ~~((paper))~~ legal document or process is to be served with the notice of claim. Information from the court regarding the small claims department, local small claims procedure, dispute resolution services, or other matters related to litigation in the small claims department may be included with the notice of claim when served.

The notice of claim shall be served promptly after filing the claim. Service must be complete at least ten days prior to the first hearing.

The ~~((officer))~~ person serving the notice of claim shall be entitled to receive from the plaintiff, besides mileage, the fee specified in RCW 36.18.040 for such service; which sum, together with the filing fee ~~((named in RCW 12.40.030))~~ set forth in RCW 12.40.020, shall be added to any judgment given for plaintiff.

**Sec. 3.** RCW 12.40.080 and 1991 c 71 s 2 are each amended to read as follows:

(1) No attorney at law, legal paraprofessional, nor any person other than the plaintiff and defendant, shall ~~((concern himself or herself or in any manner interfere))~~ appear or participate with the prosecution or defense of litigation in the small claims department without the consent of the ~~((judge of the district court))~~ judicial officer hearing the case. A corporation ~~((plaintiff))~~ may not be represented by an attorney at law~~(;)~~ or legal paraprofessional except as set forth in RCW 12.40.025.

(2) In the small claims department it shall not be necessary to summon witnesses, but the plaintiff and defendant in any claim shall have the privilege of offering evidence in their behalf by witnesses appearing at ~~((such hearing, and))~~ trial.

(3) The judge may informally consult witnesses or otherwise investigate the controversy between the parties~~(;)~~ and give judgment or make such orders as the judge may deem to be right, just, and equitable for the disposition of the controversy.

Sec. 4. RCW 12.40.120 and 1988 c 85 s 2 are each amended to read as follows:

No appeal shall be permitted from a judgment of the small claims department of the district court where the amount claimed was less than ~~((one))~~ two hundred fifty dollars. No appeal shall be permitted by a party who requested the exercise of jurisdiction by the small claims department where the amount claimed by that party was less than one thousand dollars. A party in default may seek to have the default judgment set aside according to the court rules applicable to setting aside judgments in district court.

NEW SECTION. Sec. 5. A new section is added to chapter 12.40 RCW to read as follows:

RCW 4.14.010 regarding removal of actions to superior court shall not apply to cases originally filed in small claims court, or transferred to the small claims court pursuant to RCW 12.40.025. No defendant or third party defendant may remove a small claims case from small claims court as a matter of right by merely filing a claim or counterclaim or other request for relief that is beyond the jurisdiction of the small claims court. Claims, counterclaims, or other requests for relief filed by a defendant or third party defendant in excess of the jurisdiction of small claims court may be maintained simultaneously in superior court as a separate action brought by such defendant or third party defendant. Such a superior court action does not affect the jurisdiction of the small claims court to hear the original small claims case. The decision of the small claims court shall have no preclusive effect on a superior court action brought pursuant to this section. If the small claims case is appealed, it shall be automatically joined with any superior court case filed pursuant to this section, and the procedures set forth in section 11 of this act shall not apply.

Nothing in this section may be construed to limit the small claims court from transferring a small claims case to district court or superior court after notice and hearing.

**Sec. 6.** RCW 4.14.010 and 1967 ex.s. c 46 s 4 are each amended to read as follows:

Whenever the removal of such action to superior court is required in order to acquire jurisdiction over a third party defendant, who is or may be liable to the defendant for all or part of the judgment and resides outside the county wherein the action was commenced, any civil action which could have been brought in superior court may, if commenced in ~~((justice))~~ district court, be removed by the defendant or defendants to the superior court for the county where such action is pending if the district court determines that there are reasonable grounds to believe that a third party may be liable to the plaintiff and issues an order so stating.

Whenever a separate or independent claim or cause of action which would be removable if sued upon alone is joined with one or more otherwise nonremovable claims or causes of action, the entire case may be removed and the superior court may determine all issues therein, or, in its discretion, may remand all matters not otherwise within its original jurisdiction.

This section does not apply to cases originally filed in the small claims department of a district court, or transferred to the small claims department pursuant to RCW 12.40.025, except as set forth in section 5 of this act.

**Sec. 7.** RCW 12.36.010 and 1979 ex.s. c 136 s 21 are each amended to read as follows:

Any person ~~((considering himself aggrieved by the))~~ wishing to appeal a judgment or decision ~~((of))~~ in a ~~((justice of the peace in a civil))~~ small claims action may, in person or by his or her agent ~~((or attorney))~~, appeal ~~((therefrom))~~ to the superior court of the county where the judgment was rendered or decision made: PROVIDED, There shall be no appeal allowed unless the amount in controversy, exclusive of costs, ~~((shall exceed the sum of twenty))~~ exceeds two hundred fifty dollars: PROVIDED FURTHER, That an appeal from the court's determination or order on a traffic infraction proceeding may be taken only in accordance with RCW 46.63.090(5).

**Sec. 8.** RCW 12.36.020 and 1929 c 58 s 2 are each amended to read as follows:

~~((Such appeal shall be taken by serving a copy of notice of appeal on the adverse party or his attorney, and filing such notice of appeal with the justice, and, unless such appeal be by a county, city, town or school district, filing a bond or undertaking, as herein provided, within twenty))~~ (1) To appeal a judgment or decision in a small claims action, an appellant shall file a notice of appeal in the district court, pay the statutory superior court filing fee, and serve a copy of the notice of appeal on all parties of record within thirty days after the judgment is rendered or decision made.

~~(2) No appeal~~~~(, except when such appeal is by a county, city, town or school district, shall)~~ may be allowed ~~((in any case)), nor proceedings on the judgment or decision stayed,~~ unless a bond or undertaking shall be executed on the part of the appellant and filed with and approved by the ~~((justice, with one or more sureties, in the sum of one hundred dollars, conditioned that the appellant will pay all costs that may be awarded against him on appeal, or if a stay of proceedings before the justice be claimed, except by a county, city, town or school district, a bond or undertaking;))~~ district court. The bond or undertaking shall be executed with two or more personal sureties, or a surety company as surety, to be approved by the ~~((justice))~~ district court, in a sum equal to twice the amount of the judgment and costs, or twice the amount in controversy, whichever is greater, conditioned that the appellant will pay ~~((such))~~ any judgment, including costs, as may be rendered ~~((against him))~~ on appeal ~~((, be so executed and filed)).~~ No bond is required if the appellant is a county, city, town, or school district.

(3) When an appellant has filed a notice of appeal, paid the statutory filing fee, and posted bond as required, the clerk of the district court shall immediately file a copy of the notice of appeal with the superior court.

Sec. 9. RCW 12.36.030 and 1929 c 58 s 3 are each amended to read as follows:

~~((Upon an appeal being taken and a bond filed to stay all proceedings, the justice shall allow the same and make an entry of such allowance in his docket, and all further proceedings on the judgment before the justice shall thereupon be suspended; and if in the meantime execution shall have been issued, the justice shall give the appellant a certificate that such appeal has been allowed;))~~ When an appeal and any necessary bond are properly filed in the district court, and the appeal filed in superior court pursuant to RCW 12.36.010, the appellant may move to stay all further proceedings in the district court. If the stay is granted, the district court shall order that all further proceedings on the judgment be suspended. If proceedings have commenced on motion of the appellant the district court may order the proceedings halted and such process recalled.

If any property is held pursuant to such proceedings at the time the stay is granted and the process recalled, such property shall be returned immediately to the party entitled to such property.

Sec. 10. RCW 12.36.050 and 1929 c 58 s 5 are each amended to read as follows:

(1) Within ~~((ten))~~ fourteen days after ~~((the))~~ a small claims appeal has been ~~((taken))~~ filed ~~((a civil action or proceeding))~~ superior court by the clerk of the district court, the appellant shall file with the clerk of the ~~((superior))~~ district court, and serve on all parties, a designation of that portion of the complete record which the appellant wishes to have transmitted to superior court. The designation may be supplemented by any party within fourteen days of such filing.

(2) The complete record shall consist of a transcript of all entries made in the ~~((justice's))~~ district court docket relating to the case, together with all the process

and other papers relating to the case filed with the ~~((justice which))~~ district court and any contemporaneous recording made of the proceeding.

~~(3) The record as designated shall be made and certified by ((such justice)) the clerk of the district court to be correct ((upon the payment of the fees allowed by law therefor, and upon the filing of such transcript;)). The clerk shall notify all parties designating portions of the record that the designated record is complete, and the amount to be paid for preparation of that portion of the record requested by each party. Payment of such costs by each party for preparation of that portion of the record they designate must be made within ten days of such notice from the clerk. Upon payment of such costs, the designated record shall be transmitted to the superior court. By such transmittal the superior court shall become possessed of the cause((- and shall proceed in the same manner, as near as may be, as in actions originally commenced in that court, except as in this chapter otherwise provided. The issue before the justice shall be tried in the superior court without other or new pleadings, unless otherwise directed by the court)).~~

NEW SECTION. Sec. 11. A new section is added to chapter 12.36 RCW to read as follows:

(1) The appeal from a small claims judgment or decision shall be a trial de novo in superior court. A trial de novo pursuant to this chapter shall be tried as nearly as possible in the manner of the original small claims trial. No jury may be allowed, or attorney or legal paraprofessional involved, without written order of the superior court, unless allowed in the original trial. No new pleadings other than the notice of appeal may be allowed without written permission of the superior court. Each party shall be allowed equal time, but no more than thirty minutes each without permission of the superior court. No new or other evidence, nor new or other testimony may be presented other than at the trial in small claims court, without permission of the superior court.

(2) Any cases heard in superior court pursuant to this section may be heard by a duly appointed commissioner. As used in this chapter "judge" includes any duly appointed commissioner.

Sec. 12. RCW 12.36.080 and 1929 c 58 s 7 are each amended to read as follows:

No appeal ~~((allowed by a justice of the peace))~~ under this chapter shall be dismissed on account of any defect in the bond on appeal, if, within ten days of notice to appellant of such defect, the appellant ~~((before the motion is determined, shall))~~ executes and files in the ~~((superior))~~ district court such bond as ~~((he))~~ should have been executed at the time of taking the appeal, and pay all costs that may have accrued by reason of such defect.

Sec. 13. RCW 12.36.090 and 1929 c 58 s 8 are each amended to read as follows:

In all cases of appeal to the superior court under this chapter, if ~~((on the trial anew in such court;))~~ the judgment ~~((be))~~ is against the appellant, in whole or in

part, such judgment shall be rendered against ~~((him))~~ the appellant and his or her sureties on the bond on appeal.

**Sec. 14.** RCW 2.24.040 and 1991 c 33 s 6 are each amended to read as follows:

Such court commissioner shall have power, authority, and jurisdiction, concurrent with the superior court and the judge thereof, in the following particulars:

(1) To hear and determine all matters in probate, to make and issue all proper orders therein, and to issue citations in all cases where same are authorized by the probate statutes of this state.

(2) To grant and enter defaults and enter judgment thereon.

(3) To issue temporary restraining orders and temporary injunctions, and to fix and approve bonds thereon.

(4) To act as referee in all matters and actions referred to him or her by the superior court as such, with all the powers now conferred upon referees by law.

(5) To hear and determine all proceedings supplemental to execution, with all the powers conferred upon the judge of the superior court in such matters.

(6) To hear and determine all petitions for the adoption of children~~((and))~~ and for the dissolution of incorporations.

(7) To hear and determine all applications for the commitment of any person to the hospital for the insane, with all the powers of the superior court in such matters: PROVIDED, That in cases where a jury is demanded, same shall be referred to the superior court for trial.

(8) To hear and determine all complaints for the commitments of minors with all powers conferred upon the superior court in such matters.

(9) To hear and determine ex parte and uncontested civil matters of any nature.

(10) To grant adjournments, administer oaths, preserve order, compel attendance of witnesses, and to punish for contempts in the refusal to obey or the neglect of the court commissioner's lawful orders made in any matter before the court commissioner as fully as the judge of the superior court.

(11) To take acknowledgments and proofs of deeds, mortgages and all other instruments requiring acknowledgment under the laws of this state, and to take affidavits and depositions in all cases.

(12) To provide an official seal, upon which shall be engraved the words "Court Commissioner," and the name of the county for which he or she may be appointed, and to authenticate his official acts therewith in all cases where same is necessary.

(13) To charge and collect, for his or her own use, the same fees for the official performance of official acts mentioned in subsections (4) and (11) of this section as are provided by law for referees and notaries public.

(14) To hear and determine small claims appeals as provided in chapter 12.36 RCW.

NEW SECTION. Sec. 15. The following acts or parts of acts are each repealed:

- (1) RCW 12.36.040 and 1929 c 58 s 4; and
- (2) RCW 12.36.070 and 1929 c 58 s 6.

Passed the Senate April 19, 1997.

Passed the House April 10, 1997.

Approved by the Governor May 13, 1997.

Filed in Office of Secretary of State May 13, 1997.

## CHAPTER 353

[Substitute House Bill 1464]

### NOXIOUS WEED CONTROL

AN ACT Relating to noxious weeds; amending RCW 17.10.905, 17.10.010, 17.10.020, 17.10.030, 17.10.040, 17.10.050, 17.10.060, 17.10.070, 17.10.074, 17.10.080, 17.10.090, 17.10.100, 17.10.110, 17.10.120, 17.10.130, 17.10.134, 17.10.140, 17.10.145, 17.10.154, 17.10.160, 17.10.170, 17.10.180, 17.10.190, 17.10.205, 17.10.210, 17.10.235, 17.10.240, 17.10.250, 17.10.300, 17.10.310, 17.10.350, 17.10.890, and 17.10.900; adding new sections to chapter 17.10 RCW; recodifying RCW 17.10.905; repealing RCW 17.10.005, 17.10.150, 17.10.200, 17.10.320, 17.10.330, and 17.10.340; and prescribing penalties.

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

**Sec. 1.** RCW 17.10.905 and 1975 1st ex.s. c 13 s 17 are each amended to read as follows:

The purpose of this chapter is to limit economic loss (~~((due to the presence and spread of noxious weeds on or near agricultural land))~~) and adverse effects to Washington's agricultural, natural, and human resources due to the presence and spread of noxious weeds on all terrestrial and aquatic areas in the state.

The intent of the legislature is that this chapter be liberally construed, and that the jurisdiction, powers, and duties granted to the county noxious weed control boards by this chapter are limited only by specific provisions of this chapter or other state and federal law.

**Sec. 2.** RCW 17.10.010 and 1995 c 255 s 6 are each amended to read as follows:

~~((Unless a different meaning is plainly required by the context, the following words and phrases as hereinafter used in this chapter shall have the following meanings))~~ The definitions in this section apply throughout this chapter unless the context clearly requires otherwise:

(1) "Noxious weed" means ~~((any))~~ a plant ~~((which))~~ that when established is highly destructive, competitive, or difficult to control by cultural or chemical practices.

(2) "State noxious weed list" means a list of noxious weeds adopted by the state noxious weed control board ~~((which))~~, The list is divided into three classes:

(a) Class A ~~((shall))~~ consists of those noxious weeds not native to the state that are of limited distribution or are unrecorded in the state and that pose a serious threat to the state;

(b) Class B (~~shall~~) consists of those noxious weeds not native to the state that are of limited distribution or are unrecorded in a region of the state and that pose a serious threat to that region;

(c) Class C (~~shall~~) consists of any other noxious weeds.

(3) "Person" means any individual, partnership, corporation, firm, the state or any department, agency, or subdivision thereof, or any other entity.

(4) "Owner" means the person in actual control of property, or his or her agent, whether (~~such~~) the control is based on legal or equitable title or on any other interest entitling the holder to possession and, for purposes of liability, pursuant to RCW 17.10.170 or 17.10.210, means the possessor of legal or equitable title or the possessor of an easement: PROVIDED, That when the possessor of an easement has the right to control or limit the growth of vegetation within the boundaries of an easement, only the possessor of (~~such~~) the easement (~~shall be~~) is deemed, for the purpose of this chapter, an "owner" of the property within the boundaries of (~~such~~) the easement.

(5) As pertains to the duty of an owner, the words "control", "contain", "eradicate", and the term "prevent the spread of noxious weeds" (~~shall~~) means conforming to the standards of noxious weed control or prevention in this chapter or as adopted by rule (or regulation) in chapter 16-750 WAC by the state noxious weed control board and an activated county noxious weed control board.

(6) "Agent" means any occupant or any other person acting for the owner and working or in charge of the land.

(7) "Agricultural purposes" are those (~~which~~) that are intended to provide for the growth and harvest of food and fiber.

(8) "Director" means the director of the department of agriculture or the director's appointed representative.

(9) "Weed district" means a weed district as defined in chapters 17.04 and 17.06 RCW.

(10) "Aquatic noxious weed" means an aquatic plant species that is listed on the state weed list under RCW 17.10.080.

(11) "Screenings" means a mixture of mill or elevator run mixture or a combination of varying amounts of materials obtained in the process of cleaning either grain or seeds, or both, such as light or broken grain or seed, weed seeds, hulls, chaff, joints, straw, elevator dust, floor sweepings, sand, and dirt.

Sec. 3. RCW 17.10.020 and 1969 ex.s. c 113 s 2 are each amended to read as follows:

(1) In each county of the state there is (~~hereby~~) created a noxious weed control board, (~~which shall~~) bearing the name of the county within which it is located. The jurisdictional boundaries of each board (~~shall be coextensive with~~) are the boundaries of the county within which it is located.

(2) Each noxious weed control board (~~shall be~~) is inactive until activated pursuant to the provisions of RCW 17.10.040.

Sec. 4. RCW 17.10.030 and 1987 c 438 s 2 are each amended to read as follows:

There is ~~((hereby))~~ created a state noxious weed control board ~~((which shall be))~~ comprised of nine voting members and three nonvoting members. Four of the voting members shall be elected by the members of the various activated county noxious weed control boards, and shall be residents of a county in which a county noxious weed control board has been activated and a member of said board, and those qualifications shall continue through their term of office. Two ~~((such))~~ of these members shall be elected from the west side of the state, the crest of the Cascades being the dividing line, and two from the east side of the state. The director of agriculture ~~((shall be))~~ is a voting member of the board. One voting member shall be elected by the directors of the various active weed districts formed under chapter 17.04 or 17.06 RCW. The Washington state association of counties ~~((shall))~~ appoints one voting member who shall be a member of a county legislative authority. ~~((The director shall appoint three nonvoting members representing scientific disciplines relating to weed control.))~~ The director shall ~~((also))~~ appoint two voting members to represent the public interest, one from the west side and one from the east side of the state. The director shall also appoint three nonvoting members representing scientific disciplines relating to weed control. The term of office for all members of the board ~~((shall be))~~ is three years from the date of election or appointment.

The board, by rule, shall establish a position number for each elected position of the board and shall designate which county noxious weed control board members are eligible to vote for each elected position. The elected members ~~((shall))~~ serve staggered terms. Elections for the elected members of the board shall be held thirty days prior to the expiration date of their respective terms. Nominations and elections shall be by mail and conducted by the board.

The board shall conduct its first meeting within thirty days after all its members have been elected. The board shall elect from its members a ~~((chairman))~~ chair and ~~((such))~~ other officers as may be necessary. A majority of the voting members of the board ~~((shall))~~ constitutes a quorum for the transaction of business and ~~((shall be))~~ is necessary for any action taken by the board. The members of the board ~~((shall))~~ serve without salary, but shall be reimbursed for travel expenses incurred in the performance of their duties under this chapter in accordance with RCW 43.03.050 and 43.03.060 ~~((as now existing or hereafter amended))~~.

Sec. 5. RCW 17.10.040 and 1987 c 438 s 3 are each amended to read as follows:

An inactive county noxious weed control board may be activated by any one of the following methods:

(1) Either within sixty days after a petition is filed by one hundred registered voters within the county or, on its own motion, the county legislative authority shall hold a hearing to determine whether there is a need, due to a damaging infestation of noxious weeds, to activate the county noxious weed control board.

If such a need is found to exist, then the county legislative authority shall, in the manner provided by RCW 17.10.050, appoint five persons to ~~((hold seats on))~~ the county's noxious weed control board.

(2) If the county's noxious weed control board is not activated within one year following a hearing by the county legislative authority to determine the need for activation, then upon the filing with the state noxious weed control board of a petition comprised either of the signatures of at least two hundred registered voters within the county, or of the signatures of a majority of an adjacent county's noxious weed control board, the state board shall, within six months of the date of ~~((such))~~ the filing, hold a hearing in the county to determine the need for activation. If a need for activation is found to exist, then the state board shall order the county legislative authority to activate the county's noxious weed control board and to appoint members to ~~((such))~~ the board in the manner provided by RCW 17.10.050.

(3) The director, ~~((with notice to))~~ upon request of the state noxious weed control board, ~~((may))~~ shall order a county legislative authority to activate the noxious weed control board immediately if an infestation of a class A noxious weed or class B noxious weed designated for control ~~((within the region wherein the county lies as defined in RCW 17.10.080))~~ on the state noxious weed list is confirmed in that county. The county legislative authority may, as an alternative to activating the noxious weed board, combat the class A noxious weed or class B noxious weed with county resources and personnel operating with the authorities and responsibilities imposed by this chapter on a county noxious weed control board. No county may continue without a noxious weed control board for a second consecutive year if the class A noxious weed or class B noxious weed ~~((designated for control within the region wherein the county lies))~~ has not been eradicated.

Sec. 6. RCW 17.10.050 and 1987 c 438 s 4 are each amended to read as follows:

(1) Each activated county noxious weed control board ~~((shall))~~ consists of five voting members ~~((who shall be))~~ appointed by the county legislative authority. In appointing ~~((such))~~ the voting members, the county legislative authority shall divide the county into five ~~((sections, none of which shall overlap and each of which shall be of the same approximate area))~~ geographical areas that best represent the county's interests, and ~~((shall))~~ appoint a voting member from each ~~((section))~~ geographical area. At least four of the voting members shall be engaged in the primary production of agricultural products. There ~~((shall be))~~ is one nonvoting member on ~~((such))~~ the board who ~~((shall be))~~ is the ~~((chief))~~ chair of the county extension ~~((agent))~~ office or an extension agent appointed by the ~~((chief))~~ chair of the county extension ~~((agent))~~ office. Each voting member of the board ~~((shall))~~ serves a term of four years, except that the county legislative authority shall, when a board is first activated under this chapter, designate two voting members to serve terms of two years. The board members shall not receive a salary but shall be compensated for actual and necessary expenses incurred in the performance of their official duties.

(2) The voting members of the board (~~shall represent the same sections designated by the county legislative authority in appointing members to the board at its inception and shall~~) serve until their replacements are appointed. New members of the board shall be appointed at least thirty days prior to the expiration of any board member's term of office.

Notice of expiration of a term of office shall be published at least twice in a weekly or daily newspaper of general circulation in ~~(said)~~ the section with last publication occurring at least ten days prior to the nomination. All persons interested in appointment to the board and residing in the ~~(section)~~ geographical area with a pending nomination shall make a written application that includes the signatures of at least ten registered voters residing in the ~~(section)~~ geographical area supporting the nomination to the county noxious weed control board. After nominations close, the county noxious weed control board shall, after a hearing, send the applications to the county legislative authority recommending the names of the most qualified candidates, and ~~(shall)~~ post the names of those nominees in the county courthouse and ~~(in three places in the section)~~ publish in at least one newspaper of general circulation in the county. The county legislative authority, within ten days of receiving the list of nominees, shall appoint one of those nominees to the county noxious weed control board to represent that ~~(section)~~ geographical area during that term of office.

(3) Within thirty days after all the members have been appointed, the board shall conduct its first meeting. A majority of the voting members of the board ~~(shall)~~ constitutes a quorum for the transaction of business and ~~(shall be)~~ is necessary for any action taken by the board. The board shall elect from its members a ~~(chairperson)~~ chair and ~~(such)~~ other officers as may be necessary.

(4) In case of a vacancy occurring in any voting position on a county noxious weed control board, the county legislative authority of the county in which ~~(such)~~ the board is located shall appoint a qualified person to fill the vacancy for the unexpired term.

Sec. 7. RCW 17.10.060 and 1987 c 438 s 5 are each amended to read as follows:

(1) Each activated county noxious weed control board ~~(may)~~ shall employ or otherwise provide a weed coordinator whose duties ~~(shall be)~~ are fixed by the board but which shall include inspecting land to determine the presence of noxious weeds, offering technical assistance and education, and developing a program to achieve compliance with the weed law. The weed coordinator may be employed full time, part time, or seasonally by the county noxious weed control board. County weed board employment practices shall comply with county personnel policies. Within sixty days from initial employment the weed coordinator shall obtain a pest control consultant license, a pesticide operator license, and the necessary endorsements on the licenses as required by law. Each board may purchase, rent, or lease ~~(such)~~ equipment, facilities, or products and may hire

~~((such))~~ additional persons as it deems necessary for the administration of the county's noxious weed control program.

(2) Each activated county noxious weed control board ~~((shall have))~~ has the power to adopt ~~((such))~~ rules and regulations, subject to notice and hearing as provided in chapters 42.30 and 42.32 RCW ~~((as now or hereafter amended))~~, as are necessary for an effective county weed control or eradication program.

(3) Each activated county noxious weed control board shall meet with a quorum at least quarterly.

**Sec. 8.** RCW 17.10.070 and 1987 c 438 s 6 are each amended to read as follows:

(1) In addition to the powers conferred on the state noxious weed control board under other provisions of this chapter, it ~~((shall have))~~ has the power to:

(a) Employ a state noxious weed control board executive secretary ~~((who shall))~~, and additional persons as it deems necessary, to disseminate information relating to noxious weeds to county noxious weed control boards and weed districts ~~((and who shall work))~~, to coordinate the educational and weed control efforts of the various county and regional noxious weed control boards and weed districts, and to assist the board in carrying out its responsibilities;

(b) Adopt, amend, ~~((change;))~~ or repeal ~~((such))~~ rules, pursuant to the administrative procedure act, chapter 34.05 RCW, as may be necessary to carry out the duties and authorities assigned to the board by this chapter.

(2) The state noxious weed control board shall provide a written report before January 1 of each odd-numbered year to the governor, the legislature, the county noxious weed control boards, and the weed districts showing the ~~((funds disbursed by the department to each noxious weed control board or district;))~~ expenditure of state funds on noxious weed control; specifically how the funds were spent~~((;))~~; the status of the state, county, and district programs; and recommendations for the continued best use of state funds for noxious weed control. The report shall include recommendations as to the long-term needs regarding weed control.

**Sec. 9.** RCW 17.10.074 and 1987 c 438 s 7 are each amended to read as follows:

(1) In addition to the powers conferred on the director under other provisions of this chapter, the director ~~((shall))~~, with the advice of the state noxious weed control board, ~~((have))~~ has power to:

(a) Require the county legislative authority or the noxious weed control board of any county or any weed district to report to it concerning the presence, absence, or estimated amount of noxious weeds and measures, if any, taken or planned for the control thereof;

(b) Employ ~~((such))~~ staff as may be necessary in the administration of this chapter;

(c) Adopt, amend, ~~((change;))~~ or repeal ~~((such))~~ rules, pursuant to the administrative procedure act, chapter 34.05 RCW, as may be necessary to carry out this chapter;

(d) Do such things as may be necessary and incidental to the administration of its functions pursuant to this chapter including but not limited to surveying for and detecting noxious weed infestations;

(e) Upon receipt of a complaint signed by a majority of the members of an adjacent county noxious weed control board or weed district, or by one hundred registered voters that are land owners within the county, require the county legislative authority or noxious weed control board of the county or weed district that is the subject of the complaint to respond to the complaint within forty-five days with a plan for the control of the noxious weeds cited in the complaint;

(f) If the complaint in ~~((subsection))~~ (e) of this subsection involves a class A or class B noxious weed, order the county legislative authority, noxious weed control board, or weed district to take immediate action to eradicate or control the noxious weed infestation. If the county or the weed district does not take action to control the noxious weed infestation in accordance with the order, the director may control it or cause it to be controlled. The county or weed district ~~((shall be))~~ is liable for payment of the expense of the control work including necessary costs and expenses for attorneys' fees incurred by the director in securing payment from the county or weed district. The director may bring a civil action in a court of competent jurisdiction to collect the expenses of the control work, costs, and attorneys' fees;

(g) In counties ~~((which have not activated their))~~ without an activated noxious weed control board, enter upon any property as provided for in RCW 17.10.160, issue or cause to be issued notices and citations and take the necessary action to control noxious weeds as provided in RCW 17.10.170, hold hearings on any charge or cost of control action taken as provided for in RCW 17.10.180, issue a notice of civil infraction as provided for in RCW 17.10.230(7) and 17.10.310 through 17.10.350, and place a lien on any property pursuant to RCW 17.10.280, 17.10.290, and 17.10.300 with the same authorities and responsibilities imposed by these sections on county noxious weed control boards;

(h) Adopt a list of noxious weed seeds and toxic weeds which shall be controlled in designated articles, products, or feed stuffs as provided for in RCW 17.10.235.

(2) The moneys appropriated for noxious weed control to the department shall be used for administration of the state noxious weed control board ~~((for determining the economic impact of noxious weeds in the state of Washington))~~, the administration of the director's powers under this chapter, the purchase of materials for controlling, containing, or eradicating noxious weeds, the purchase or collection of biological control agents for controlling noxious weeds, and the contracting for services to carry out the purposes of this chapter. In a county with an activated noxious weed control board, the director shall make every effort to contract with that board for the needed services.

(3) If the director determines the need to reallocate funds previously designated for county use, the director shall convene a meeting of the state noxious weed control board to seek its advice concerning any reallocation.

**Sec. 10.** RCW 17.10.080 and 1989 c 175 s 57 are each amended to read as follows:

(1) The state noxious weed control board shall each year or more often, following a hearing, adopt a state noxious weed list.

(2) ~~((At the hearing))~~ Any person may request during a comment period established by the state weed board the inclusion, deletion, or designation change of any plant to the ((lists to be adopted by the state noxious weed control board. Any hearing held pursuant to this section shall conform to the Administrative Procedure Act, chapter 34.05 RCW: PROVIDED, That adding a weed to or deleting a weed from the list shall constitute a substantial change as provided for in RCW 34.05.340)) state noxious weed list.

(3) The state noxious weed control board shall send a copy of the list((s)) to each activated county noxious weed control board, ~~((to each regional noxious weed control board;))~~ to each weed district, and to the county legislative authority of each county with an inactive noxious weed control board.

(4) The record of ~~((hearing shall))~~ rule making must include the written findings of the board for the inclusion of each plant on the list. ~~((Such))~~ The findings shall be made available upon request to any interested person.

**Sec. 11.** RCW 17.10.090 and 1987 c 438 s 9 are each amended to read as follows:

Each county noxious weed control board shall, within ~~((thirty))~~ ninety days of the ~~((receipt))~~ adoption of the state noxious weed list from the state noxious weed control board and following a hearing, select those weeds from the class C list and those weeds from the class B list not designated for control in the noxious weed control region in which the county lies ~~((which))~~ that it finds necessary to be controlled in the county. The weeds thus selected and all class A weeds and those class B weeds that have been designated for control in the noxious weed control region in which the county lies shall be classified within that county as noxious weeds, and those weeds ~~((shall))~~ comprise the county noxious weed list.

**Sec. 12.** RCW 17.10.100 and 1987 c 438 s 10 are each amended to read as follows:

Where any of the following occur, the state noxious weed control board may, following a hearing, order any county noxious weed control board or weed district to include a noxious weed from the state board's list in the county's noxious weed list:

(1) Where the state noxious weed control board receives a petition from at least one hundred registered voters within the county requesting that the weed be listed.

(2) Where the state noxious weed control board receives a request for ~~((such))~~ inclusion from an adjacent county's noxious weed control board or weed district,

which the adjacent board or district has included that weed in ~~((the))~~ its county list, and ~~((which))~~ the adjacent board or weed district alleges that its noxious weed control program is being hampered by the failure to include the weed on the county's noxious weed list.

**Sec. 13.** RCW 17.10.110 and 1987 c 438 s 11 are each amended to read as follows:

A regional noxious weed control board comprising the area of two or more counties may be created as follows:

Either the county legislative authority ~~((and/or))~~, or the noxious weed control board, or both, of two or more counties may, upon a determination that the purpose of this chapter will be served by the creation of a regional noxious weed control board, adopt a resolution providing for a limited merger of the functions of their respective counties noxious weed control boards. ~~((Such))~~ The resolution ~~((shall))~~ becomes effective only when a similar resolution is adopted by the other county or counties comprising the proposed regional board.

**Sec. 14.** RCW 17.10.120 and 1987 c 438 s 12 are each amended to read as follows:

In any case where a regional noxious weed control board is created, the county noxious weed control boards comprising the regional board shall still remain in existence and shall retain all powers and duties provided for ~~((such))~~ the boards under this chapter.

The regional noxious weed control board ~~((shall be))~~ is comprised of the voting members and the nonvoting members of the component counties noxious weed control boards or county legislative authorities who shall, respectively, be the voting and nonvoting members of the regional board: PROVIDED, That each county shall have an equal number of voting members. The board may appoint other nonvoting members as deemed necessary. A majority of the voting members of the board ~~((shall))~~ constitutes a quorum for the transaction of business and ~~((shall be))~~ is necessary for any action taken by the board. The board shall elect a ~~((chairperson))~~ chair from its members and ~~((such))~~ other officers as may be necessary. Members of the regional board ~~((shall))~~ serve without salary but shall be compensated for actual and necessary expenses incurred in the performance of their official duties.

**Sec. 15.** RCW 17.10.130 and 1987 c 438 s 13 are each amended to read as follows:

The powers and duties of a regional noxious weed control board are as follows:

(1) The regional board shall, within ~~((thirty))~~ ninety days of the ~~((receipt))~~ adoption of the state noxious weed list from the state noxious weed control board and following a hearing, select those weeds from the state list ~~((which))~~ that it finds necessary to be controlled on a regional basis. The weeds thus selected shall also be contained in the county noxious weed list of each county in the region.

(2) The regional board shall take ~~((such))~~ action as may be necessary to coordinate the noxious weed control programs of the region and ~~((shall))~~ adopt a regional plan for the control of noxious weeds.

**Sec. 16.** RCW 17.10.134 and 1987 c 438 s 14 are each amended to read as follows:

Obligations or liabilities incurred by any county or regional noxious weed control board or any claims against a county or regional noxious weed control board ~~((shall be))~~ are governed by chapter 4.96 RCW or RCW 4.08.120: PROVIDED, That individual members or employees of a county noxious weed control board ~~((shall be))~~ are personally immune from civil liability for damages arising from actions performed within the scope of their official duties or employment.

**Sec. 17.** RCW 17.10.140 and 1969 ex.s. c 113 s 14 are each amended to read as follows:

(1) Except as is provided under ~~((RCW 17.10.150))~~ subsection (2) of this section, every owner shall perform(;) or cause to be performed ~~((such))~~ those acts as may be necessary to ~~((control and to prevent the spread of noxious weeds from his))~~;

(a) Eradicate all class A noxious weeds;

(b) Control and prevent the spread of all class B noxious weeds designated for control in that region within and from the owner's property; and

(c) Control and prevent the spread of all class B and class C noxious weeds listed on the county weed list as locally mandated control priorities within and from the owner's property.

(2) Forest lands classified under RCW 17.10.240(2), or meeting the definition of forest lands contained in RCW 17.10.240, are subject to the requirements of subsection (1)(a) and (b) of this section at all times. Forest lands are subject to the requirements of subsection (1)(c) of this section only within a one thousand foot buffer strip of adjacent land uses. In addition, forest lands are subject to subsection (1)(c) of this section for a single five-year period following the harvesting of trees for lumber.

**Sec. 18.** RCW 17.10.145 and 1995 c 374 s 75 are each amended to read as follows:

All state agencies shall control noxious weeds on lands they own, lease, or otherwise control through integrated pest management practices. Agencies shall develop plans in cooperation with county noxious weed control boards to control noxious weeds in accordance with standards in this chapter. All state agencies' lands must comply with this chapter, regardless of noxious weed control efforts on adjacent lands. ~~((County noxious weed control boards shall assist landowners to meet and exceed the standards on state lands.))~~

**Sec. 19.** RCW 17.10.154 and 1987 c 438 s 16 are each amended to read as follows:

It is recognized that the prevention, control, and eradication of noxious weeds presents a problem for immediate as well as for future action. It is further recognized that immediate prevention, control, and eradication is practicable on some lands and that prevention, control, and eradication on other lands should be extended over a period of time. Therefore, it is the intent of this chapter that county noxious weed control boards may use their discretion and, by agreement with the owners of land, may propose and accept plans for prevention, control, and eradication ~~((which))~~ that may be extended over a period of years. The county noxious weed control board may make an agreement with the owner of any parcel of land by contract between the landowner and the respective county noxious weed control board, and the board shall enforce the terms of any agreement. The county noxious weed control board may make any terms ~~((which))~~ that will best serve the interests of the owners of the parcel of land and the common welfare ~~((which))~~ that comply with this chapter ~~((and the rules adopted thereunder))~~. Agreements made under this section must include at least a one thousand foot buffer for all adjacent agricultural land uses. Noxious weed control in this buffer must comply with RCW 17.10.140(1).

**Sec. 20.** RCW 17.10.160 and 1987 c 438 s 17 are each amended to read as follows:

Any authorized agent or employee of the county noxious weed control board or of the state noxious weed control board or of the department of agriculture where not otherwise proscribed by law may enter upon any property for the purpose of administering this chapter and any power exercisable pursuant thereto, including the taking of specimens of weeds ~~((or other materials))~~, general inspection, and the performance of eradication or control work. Prior to carrying out the purpose~~(s)~~ for which the entry is made, the official making such entry or someone in his or her behalf, shall ~~((have first made))~~ make a reasonable attempt to notify the owner of the property as to the purpose and need for the entry.

(1) When there is probable cause to believe that there is property within this state not otherwise exempt from process or execution upon which noxious weeds are standing or growing and the owner ~~((thereof))~~ refuses permission to inspect the property, a judge of the superior court or district court in the county in which ~~((such))~~ the property is located may, upon the request of the county noxious weed control board or its agent, issue a warrant directed to ~~((such))~~ the board or agent authorizing the ~~((search for the noxious weeds described in the request for the warrant))~~ taking of specimens of weeds or other materials, general inspection, and the performance of eradication or control work.

(2) Application for issuance and execution and return of the warrant authorized by this section shall be in accordance with the applicable rules of the superior court or the district courts.

(3) Nothing in this section requires the application for and issuance of any warrant not otherwise required by law: PROVIDED, That civil liability for

negligence shall lie in any case in which entry and any of the activities connected therewith are not undertaken with reasonable care.

(4) Any person who improperly prevents or threatens to prevent entry upon land as authorized in this section or any person who interferes with the carrying out of this chapter shall be upon conviction guilty of a misdemeanor.

**Sec. 21.** RCW 17.10.170 and 1987 c 438 s 18 are each amended to read as follows:

(1) Whenever the county noxious weed control board finds that noxious weeds are present on any parcel of land, and that the owner (~~(thereof)~~) is not taking prompt and sufficient action to control the (~~(same)~~) noxious weeds, pursuant to the provisions of RCW 17.10.140 (~~and 17.10.150~~), it shall notify the owner that a violation of this chapter exists. The notice shall be in writing and sent by certified mail, and shall identify the noxious weeds found to be present, order prompt control action, and specify the time, of at least ten days from issuance of the notice, within which the prescribed action must be taken. Upon deposit of the certified letter of notice, the noxious weed control authority shall make an affidavit of mailing (~~(which shall be)~~) that is prima facie evidence that proper notice was given. If seed (~~(dispersion)~~) or other propagule dispersion is imminent, immediate control action may be taken forty-eight hours following the time that notification is reasonably expected to have been received by the owner or agent by certified mail or personal service, instead of ten days. If a landowner received a notice of violation from the county noxious weed control board in a prior growing season, removal or destruction of all above ground plant parts may be required at the most effective point in the growing season, as determined by the county weed board, which may be before or after propagule dispersion.

(2) The county noxious weed control board or its authorized agents may issue a notice of civil infraction as provided for in RCW 17.10.230 (~~(and)~~), 17.10.310 (~~(through)~~), and 17.10.350 to owners who do not take action to control noxious weeds in accordance with the notice.

(3) If the owner does not take action to control the noxious weeds in accordance with the notice, the county board may control them, or cause their being controlled, at the expense of the owner. The amount of (~~(such)~~) the expense (~~(shall)~~) constitutes a lien against the property and may be enforced by proceedings on (~~(such)~~) the lien except as provided for by RCW 79.44.060. The owner (~~(shall be)~~) is liable for payment of the expense, and nothing in this chapter shall be construed to prevent collection of any judgment on account thereof by any means available pursuant to law, in substitution for enforcement of the lien. Necessary costs and expenses including reasonable attorneys' fees incurred by the county noxious weed control board in carrying out this section may be recovered at the same time as a part of the action filed under this section. Funds received in payment for the expense of controlling noxious weeds shall be transferred to the county noxious weed control board to be expended as required to carry out the purposes of this chapter.

(4) The county auditor shall record in his or her office any lien created under this chapter, and any ~~((such))~~ lien shall bear interest at the rate of twelve percent per annum from the date on which the county noxious weed control board approves the amount expended in controlling ~~((such))~~ the weeds.

(5) As an alternative to the enforcement of any lien created under subsection (3) of this section, the county legislative authority may by resolution or ordinance require that each ~~((such))~~ lien created ~~((shall))~~ be collected by the treasurer in the same manner as a delinquent real property tax, if within thirty days from the date the owner is sent notice of the lien, including the amount thereof, the lien remains unpaid and an appeal has not been made pursuant to RCW 17.10.180. Liens treated as delinquent taxes ~~((shall))~~ bear interest at the rate of twelve percent per annum and ~~((such))~~ the interest ~~((shall))~~ accrues as of the date notice of the lien is sent to the owner: PROVIDED, That any collections for ~~((such))~~ the lien shall not be considered as tax.

**Sec. 22.** RCW 17.10.180 and 1987 c 438 s 19 are each amended to read as follows:

Any owner, upon request pursuant to the rules and regulation of the county noxious weed control board, ~~((shall be))~~ is entitled to a hearing before the board on any charge or cost for which the owner is alleged to be liable pursuant to RCW 17.10.170 or 17.10.210. The board shall send notice by certified mail within thirty days, to each owner at the owner's last known address, as to any ~~((such))~~ charge or cost and as to his or her right of a hearing. The hearing shall be scheduled within forty-five days of notification. Any determination or final action by the board ~~((shall be))~~ is subject to judicial review by a proceeding in the superior court in the county in which the property is located, and ~~((such))~~ the court ~~((shall have))~~ has original jurisdiction to determine any suit brought by the owner to recover damages allegedly suffered on account of control work negligently performed: PROVIDED, That no stay or injunction shall lie to delay any ~~((such))~~ control work subsequent to notice given pursuant to RCW 17.10.160 or pursuant to an order under RCW 17.10.210.

**Sec. 23.** RCW 17.10.190 and 1987 c 438 s 20 are each amended to read as follows:

Each activated county noxious weed control board ~~((shall cause to be published))~~ must publish annually, and at ~~((such))~~ other times as may be appropriate, in at least one newspaper of general circulation within its area, a general notice. The notice shall direct attention to the need for noxious weed control and ~~((shall))~~ give ~~((such))~~ other information ~~((with respect thereto))~~ concerning noxious weed control requirements as may be appropriate, or ~~((shall))~~ indicate where such information may be secured. In addition to the general notice required ~~((hereby)),~~ the county noxious weed control board may use any appropriate media for the dissemination of information to the public as may be calculated to bring the need for noxious weed control to the attention of owners. The board may consult with individual owners concerning their problems of

noxious weed control and may provide them with information and advice, including giving specific instructions and methods when and how certain named weeds are to be controlled. ~~((Such))~~ The methods may include ~~((definite systems of tillage, cropping, management, or use of livestock))~~ some combination of physical, mechanical, cultural, chemical, and/or biological methods, including livestock. Publication of a notice as required by this section ~~((shall))~~ is not ~~((be))~~ a condition precedent to the enforcement of this chapter.

**Sec. 24.** RCW 17.10.205 and 1975 1st ex.s. c 13 s 16 are each amended to read as follows:

Open areas subject to the spread of noxious weeds, ~~((other than crop land,))~~ including but not limited to subdivisions, school grounds, playgrounds, parks, and rights of way shall be subject to regulation by activated county noxious weed control boards in the same manner and to the same extent as is provided for ~~((agricultural lands))~~ all terrestrial and aquatic lands of the state.

**Sec. 25.** RCW 17.10.210 and 1987 c 438 s 22 are each amended to read as follows:

(1) Whenever the director ~~((or)),~~ the county noxious weed control board, or a weed district finds that a parcel of land is so seriously infested with class A or class B noxious weeds that control measures cannot be undertaken thereon without quarantining the land and restricting or denying access thereto or use thereof, the director ~~((or)),~~ the county noxious weed control board, or weed district, with the approval of the director of the department of agriculture, may issue an order for ~~((such))~~ the quarantine and restriction or denial of access or use. Upon issuance of the order, the director ~~((or)),~~ the county noxious weed control board, or the weed district shall commence necessary control measures and ~~((shall prosecute them with due diligence))~~ may institute legal action for the collection of costs for control work, which may include attorneys' fees and the costs of other appropriate actions.

(2) An order of quarantine shall be served, by any method sufficient for the service of civil process, on all persons known to qualify as owners of the land within the meaning of this chapter.

(3) The director shall, with the advice of the state noxious weed control board, determine how the expense of control work undertaken pursuant to this section, and the cost of any quarantine in connection therewith, ~~((shall be))~~ is apportioned.

**Sec. 26.** RCW 17.10.235 and 1987 c 438 s 30 are each amended to read as follows:

(1) ~~((Any person who knowingly or negligently sells a product, article, or feed stuff designated under subsection (2) of this section containing noxious weed seeds or toxic weeds designated for control under subsection (2) of this section and in an amount greater than the amount established by the director for the seed or weed under subsection (2) of this section is guilty of a misdemeanor.~~

~~—(2))~~ The director of agriculture shall adopt, with the advice of the state noxious weed control board, rules designating noxious weed seeds ~~((the presence of))~~ ef) which shall be controlled in products, screenings, or articles to prevent the

spread of noxious weeds. The rules shall identify the products, screenings, and articles in which ~~((such))~~ the seeds must be controlled and the maximum amount of ~~((such))~~ the seed to be permitted in the product, screenings, or article to avoid a hazard of spreading the noxious weed by seed from the product, screenings, or article. The director shall also adopt, with the advice of the state board, rules designating toxic weeds ~~((the presence of))~~ which shall be controlled in feed stuffs and screenings to prevent injury to the animal that consumes the feed. The rules shall identify the feed stuffs and screenings in which the toxic weeds must be controlled and the maximum amount of the toxic weed to be permitted in ~~((such))~~ the feed. Rules developed under this section shall identify ways that products, screenings, articles, or feed stuffs containing noxious weed seeds or toxic weeds can be made available for beneficial uses.

(2) Any person who knowingly or negligently sells or otherwise distributes a product, article, screenings, or feed stuff designated by rule containing noxious weed seeds or toxic weeds designated for control by rule and in an amount greater than the amount established by the director for the seed or weed by rule is guilty of a misdemeanor.

(3) The department of agriculture shall, upon request of the buyer, inspect products, screenings, articles, or feed stuffs designated ~~((under subsection (2) of this section))~~ by rule and charge fees, in accordance with chapter 22.09 RCW, to determine the presence of designated noxious weed seeds or toxic weeds.

Sec. 27. RCW 17.10.240 and 1995 c 374 s 77 are each amended to read as follows:

(1) The activated county noxious weed control board of each county shall annually submit a budget to the county legislative authority for the operating cost of the county's weed program for the ensuing fiscal year: PROVIDED, That if the board finds the budget approved by the legislative authority is insufficient for an effective county noxious weed control program it shall petition the county legislative authority to hold a hearing as provided in RCW 17.10.890. Control of weeds is a ~~((special))~~ benefit to the lands within any such section. Funding for the budget ~~((shall be))~~ is derived from any or all of the following:

~~((+))~~ (a) The county legislative authority may, in lieu of a tax, levy an assessment against the land for this purpose. Prior to the levying of an assessment the county noxious weed control board shall hold a public hearing at which it ~~((shall))~~ will gather information to serve as a basis for classification and ~~((shall))~~ then classify the lands into suitable classifications, including but not limited to dry lands, range lands, irrigated lands, nonuse lands, forest lands, or federal lands. The board shall develop and forward to the county legislative authority, as a proposed level of assessment for each class, ~~((such))~~ an amount as ~~((shall))~~ seems just. The assessment rate shall be either uniform per acre in its respective class or a flat rate per parcel rate plus a uniform rate per acre: PROVIDED, That if no ~~((special))~~ benefits ~~((should be))~~ are found to accrue to a class of land, a zero assessment may be levied. The county legislative authority, upon receipt of the proposed levels of

assessment from the board, after a hearing, shall accept~~(;)~~ or modify by resolution, or refer back to the board for its reconsideration all or any portion of the proposed levels of assessment. ~~((The findings by the county legislative authority of such special benefits, when so declared by resolution and spread upon the minutes of said authority shall be conclusive as to whether or not the same constitutes a special benefit to the lands within the section.))~~ The amount of ~~((such))~~ the assessment ~~((shall))~~ constitutes a lien against the property. The county legislative authority may by resolution or ordinance require that notice of the lien be sent to each owner of property for which the assessment has not been paid by the date it was due and that each ~~((such))~~ lien created ~~((shall))~~ be collected by the treasurer in the same manner as delinquent real property tax, if within thirty days from the date the owner is sent notice of the lien, including the amount thereof, the lien remains unpaid and an appeal has not been made pursuant to RCW 17.10.180. Liens treated as delinquent taxes ~~((shall))~~ bear interest at the rate of twelve percent per annum and ~~((such))~~ the interest ~~((shall))~~ accrues as of the date notice of the lien is sent to the owner: PROVIDED FURTHER, That any collections for ~~((such))~~ the lien shall not be considered as tax; or

~~((2))~~ (b) The county legislative authority may appropriate money from the county general fund necessary for the administration of the county noxious weed control program. In addition the county legislative authority may make emergency appropriations as it deems necessary for the implementation of this chapter.

~~((3))~~ (2) Forest lands used solely for the planting, growing, or harvesting of trees and which are typified, except during a single period of five years following clear-cut logging, by canopies so dense as to prohibit growth of an understory may be subject to an annual noxious weed assessment levied by a county legislative authority that ~~((shall))~~ does not exceed one-tenth of the weighted average per acre noxious weed assessment levied on all other lands in unincorporated areas within the county that are subject to the weed assessment. This assessment shall be computed in accordance with the formula in subsection ~~((4))~~ (3) of this section.

~~((4))~~ (3) The calculation of the "weighted average per acre noxious weed assessment" ~~((shall be))~~ is a ratio expressed as follows:

(a) The numerator ~~((shall be))~~ is the total amount of funds estimated to be collected from the per acre assessment on all lands except (i) forest lands as identified in subsection ~~((3))~~ (2) of this section, (ii) lands exempt from the noxious weed assessment, and (iii) lands located in an incorporated area.

(b) The denominator ~~((shall be))~~ is the total acreage from which funds in (a) of this subsection are collected. For lands of less than one acre in size, the denominator calculation may be based on the following assumptions: (i) Unimproved lands ~~((shall be))~~ are calculated as being one-half acre in size on the average, and (ii) improved lands ~~((shall be))~~ are calculated as being one-third acre in size on the average. The county legislative authority may choose to calculate the denominator for lands of less than one acre in size using other assumptions about average parcel size based on local information.

~~((5))~~ (4) For those counties that levy a per parcel assessment to help fund noxious weed control programs, the per parcel assessment on forest lands as defined in subsection ~~((3))~~ (2) of this section shall not exceed one-tenth of the per parcel assessment on nonforest lands.

**Sec. 28.** RCW 17.10.250 and 1987 c 438 s 32 are each amended to read as follows:

The legislative authority of any county with an activated noxious weed control board or the board of any weed district may apply to the director for noxious weed control funds when informed by the director that funds are available. Any ~~((such))~~ applicant must employ adequate administrative personnel to supervise an effective weed control program as determined by the director with advice from the state noxious weed control board. The director with advice from the state noxious weed control board shall adopt rules on the distribution and use of noxious weed control account funds.

**Sec. 29.** RCW 17.10.300 and 1975 1st ex.s. c 13 s 15 are each amended to read as follows:

No lien created by RCW 17.10.280 ~~((shall))~~ exists, and no action to enforce the same shall be maintained, unless within ninety days from the date of cessation of the performance of ~~((such))~~ the labor, furnishing of materials, or the supplying of ~~((such))~~ equipment, a claim for ~~((such))~~ the lien ~~((shall be))~~ is filed for record as ~~((hereinafter))~~ provided in this section, in the office of the county auditor of the county in which the property, or some part ~~((thereof))~~ of the property to be affected ~~((thereby))~~ by the claim for a lien, is situated. ~~((Such))~~ The claim shall state, as nearly as may be, the time of the commencement and cessation of performing the labor, furnishing the material, or supplying the equipment, the name of the county noxious weed control board ~~((which))~~ that performed the labor or caused the labor to be performed, furnished the material, or supplied the equipment, a description of the property to be charged with the lien sufficient for identification, the name of the owner, or reputed owner if known, or his or her agent, and if the owner is not known, that fact shall be mentioned, the amount for which the lien is claimed, and shall be signed by the county noxious weed control board, and be verified by the oath of the county noxious weed control board, to the effect that the affiant believes that claim to be just; and ~~((such))~~ the claim of lien may be amended in case of action brought to foreclose the same, by order of the court, as pleadings may be, insofar as the interest of third parties shall not be affected by such an amendment. ~~((A claim or lien substantially in the same form provided by RCW 60.04.060 and not in conflict with this section shall be sufficient.))~~

**Sec. 30.** RCW 17.10.310 and 1987 c 438 s 24 are each amended to read as follows:

The county noxious weed control board may issue a notice of civil infraction if after investigation it has reasonable cause to believe an infraction has been committed. ~~((It shall be a misdemeanor for any person to refuse to identify himself or herself properly for the purpose of issuance of a notice of infraction. Any~~

~~person wilfully violating a written and signed promise to respond to a notice of infraction shall be guilty of a misdemeanor regardless of the disposition of the notice of infraction.)~~ A civil infraction may be issued pursuant to RCW 7.80.005, 7.80.070 through 7.80.110, 7.80.120 (3) and (4), and 7.80.130 through 7.80.900.

**Sec. 31.** RCW 17.10.350 and 1987 c 438 s 28 are each amended to read as follows:

Any person found to have committed a civil infraction under this chapter shall be assessed a monetary penalty(~~(--No monetary penalty so assessed may))~~ not to exceed one thousand dollars. The state noxious weed control board shall adopt a schedule of monetary penalties for each violation of this chapter classified as a civil infraction and ~~((shall))~~ submit the schedule to the appropriate court. If a monetary penalty is imposed by the court, the penalty is immediately due and payable. The court may, at its discretion, grant an extension of time, not to exceed thirty days, in which the penalty must be paid. Failure to pay any monetary penalties imposed under this chapter ~~((shall be))~~ is punishable as a misdemeanor.

**Sec. 32.** RCW 17.10.890 and 1987 c 438 s 37 are each amended to read as follows:

The following procedures shall be followed to deactivate a county noxious weed control board:

(1) The county legislative authority ~~((shall))~~ holds a hearing to determine whether there continues to be a need for an activated county noxious weed control board if:

(a) A petition is filed by one hundred registered voters within the county;

(b) A petition is filed by a county noxious weed control board as provided in RCW 17.10.240; or

(c) The county legislative authority passes a motion to hold such a hearing.

(2) Except as provided in subsection (4) of this section, the hearing shall be held within sixty days of final action taken under subsection (1) of this section.

(3) If, after a hearing, the county legislative authority determines that no need exists for a county noxious weed control board, due to the absence of class A or class B noxious weeds designated for control in the region, the county legislative authority shall deactivate the board.

(4) The county legislative authority shall not convene a hearing as provided for in subsection (1) of this section more frequently than once a year.

**Sec. 33.** RCW 17.10.900 and 1987 c 438 s 38 are each amended to read as follows:

Any weed district formed under chapter 17.04 or 17.06 RCW prior to the enactment of this chapter, ~~((shall))~~ continues to operate under the provisions of the chapter under which it was formed: **PROVIDED,** That if ten percent of the landowners subject to any such weed district, and the county noxious weed control board upon its own motion, petition the county legislative authority for a dissolution of the weed district, the county legislative authority shall provide for an election to be conducted in the same manner as required for the election of

directors under the provisions of chapter 17.04 RCW, to determine by majority vote of those casting votes, if ~~((such))~~ the weed district ~~((shall))~~ will continue to operate under the ~~((act))~~ chapter it was formed. The land area of any dissolved weed district ~~((shall forthwith))~~ becomes subject to the provisions of this chapter. Any district assessment funds may be transferred after the dissolution election under contract to the county noxious weed control board to fund the noxious weed control program.

NEW SECTION. Sec. 34. A new section is added to chapter 17.10 RCW to read as follows:

(1) The state noxious weed control board shall:

(a) Work with the various federal and tribal land management agencies to coordinate state and federal noxious weed control;

(b) Encourage the various federal and tribal land management agencies to devote more time and resources to noxious weed control; and

(c) Assist the various federal and tribal land management agencies by seeking adequate funding for noxious weed control.

(2) County noxious weed control boards and weed districts shall work with the various federal and tribal land management agencies in each county in order to:

(a) Identify new noxious weed infestations;

(b) Outline and plan necessary noxious weed control actions;

(c) Develop coordinated noxious weed control programs; and

(d) Notify local federal and tribal agency land managers of noxious weed infestations.

(3) The department of agriculture, county noxious weed control boards, and weed districts are authorized to enter federal lands, with the approval of the appropriate federal agency, to survey for and control noxious weeds where control measures of a type and extent required under this chapter have not been taken.

(4) The department of agriculture, county noxious weed control boards, and weed districts may bill the federal land management agency that manages the land for all costs of the noxious weed control performed on federal land. If not paid by the federal agency that manages the land, the cost of the noxious weed control on federal land may be paid from any funds available to the county noxious weed control board or weed district that performed the noxious weed control. Alternatively, the costs of noxious weed control on federal land may be paid from any funds specifically appropriated to the department of agriculture for that purpose.

(5) The department of agriculture, county noxious weed control boards, and weed districts are authorized to enter into any reasonable agreement with the appropriate authorities for the control of noxious weeds on federal or tribal lands.

(6) The department of agriculture, county noxious weed control boards, and weed districts shall consult with state agencies managing federal land concerning noxious weed infestation and control programs.

**NEW SECTION. Sec. 35.** RCW 17.10.905 is recodified as a section between RCW 17.10.005 and 17.10.010.

**NEW SECTION. Sec. 36.** The following acts or parts of acts are each repealed:

- (1) RCW 17.10.005 and 1995 c 374 s 72;
- (2) RCW 17.10.150 and 1987 c 438 s 15, 1975 1st ex.s. c 13 s 7, 1974 ex.s. c 143 s 2, & 1969 ex.s. c 113 s 15;
- (3) RCW 17.10.200 and 1987 c 438 s 21, 1979 c 118 s 3, & 1969 ex.s. c 113 s 20;
- (4) RCW 17.10.320 and 1987 c 438 s 25;
- (5) RCW 17.10.330 and 1987 c 438 s 26; and
- (6) RCW 17.10.340 and 1987 c 438 s 27.

Passed the House April 19, 1997.

Passed the Senate April 14, 1997.

Approved by the Governor May 14, 1997.

Filed in Office of Secretary of State May 14, 1997.

## CHAPTER 354

[Substitute House Bill 1729]

### IRRIGATION DISTRICT ADMINISTRATION

AN ACT Relating to the administration of irrigation districts; amending RCW 87.03.051, 87.03.435, and 87.03.560; and adding a new section to chapter 87.03 RCW.

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

**Sec. 1.** RCW 87.03.051 and 1985 c 66 s 2 are each amended to read as follows:

In districts with less than two hundred thousand acres, a person eighteen years old, being a citizen of the United States and a resident of the state and who holds title or evidence of title to assessable land in the district or proposed district shall be entitled to vote therein, and to be recognized as an elector. A ((domestic)) corporation, general partnership, limited partnership, limited liability company, or other legal entity formed pursuant to the laws of the state of Washington or qualified to do business in the state of Washington owning land in the district shall be recognized as an elector. As used in this section, "entity" means a corporation, general partnership, limited partnership, limited liability company, or other legal entity formed pursuant to the laws of the state of Washington or qualified to do business in the state of Washington. "Ownership" shall mean the aggregate of all assessable acres owned by an elector, individually or jointly, within one district. Voting rights shall be allocated as follows: Two votes for each five acres of assessable land or fraction thereof. No one ownership may accumulate more than forty-nine percent of the votes in one district. If assessments are on the basis of shares instead of acres, an elector shall be entitled to two votes for each five shares or fraction thereof. The ballots cast for each ownership of land or shares shall be

exercised by common agreement between electors or when land is held as community property, the accumulated votes may be divided equally between husband and wife. Except for community property ownership, in the absence of the submission of the common agreement to the secretary of the district at least twenty-four hours before the opening of the polls, the election board shall recognize the first elector to appear on election day as the elector having the authority to cast the ballots for that parcel of land for which there is more than one ownership interest. A majority of the directors shall be residents of the county or counties in which the district is situated and all shall be electors of the district. If more than one elector residing outside the county or counties is voted for as director, only that one who receives the highest number of votes shall be considered in ascertaining the result of the election. An agent of ~~((a domestic corporation))~~ an entity owning land in the district, duly authorized in writing, may vote on behalf of the ~~((corporation))~~ entity by filing with the election officers his or her instrument of authority. An elector resident in the district shall vote in the precinct in which he or she resides, all others shall vote in the precinct nearest their residence. No director shall be qualified to take or retain office unless ~~((he))~~ the director holds title or evidence of title to land within the district.

**NEW SECTION.** Sec. 2. A new section is added to chapter 87.03 RCW to read as follows:

No irrigation district, its directors, officers, employees, or agents operating and maintaining irrigation works for any purpose authorized by law, including the production of food for human consumption and other agricultural and domestic purposes, is liable for damages to persons or property arising from the disposal of sewage and waste discharged by others into the irrigation works pursuant to federal or state statutes, rules, or regulations permitting the discharge.

Sec. 3. RCW 87.03.435 and 1990 c 39 s 1 are each amended to read as follows:

(1) ~~((Any person to whom a contract may have been awarded for the construction of a canal or any of the works of the district, or any portion thereof, or for the furnishing of labor or material, shall enter into a bond with good and sufficient sureties, to be approved by the board of directors, payable to the district for its use, for at least twenty-five percent of the amount of the contract price, conditioned for the faithful performance of said contract, and with such further conditions as may be required by law in the case of contracts for public work, and as may be required by resolution of the board. All works shall be done under the direction and to the satisfaction of the engineer of the district, and be approved by the board.))~~ Except as provided in subsections (2) and (3) of this section and RCW 87.03.436, whenever in the construction of the district canal or canals, or other works, or the furnishing of materials therefor, the board of directors shall determine to let a contract or contracts for the doing of the work or the furnishing of the materials, a notice calling for sealed proposals shall be published. The notice shall be published in a newspaper in the county in which the office of the

board is situated, and in any other newspaper which may be designated by the board, and for such length of time, not less than once each week for two weeks, as may be fixed by the board. At the time and place appointed in the notice for the opening of bids, the sealed proposals shall be opened in public, and as soon as convenient thereafter, the board shall let the work or the contract for the purchase of materials, either in portions or as a whole, to the lowest responsible bidder, or the board may reject any or all bids and readvertise, or may proceed to construct the work under its own superintendence. All work shall be done under the direction and to the satisfaction of the engineer of the district, and be approved by the board. The board of directors may require bidders submitting bids for the construction or maintenance for any of the works of the district, or for the furnishing of labor or material, to accompany their bids by a deposit in cash, certified check, cashier's check, or surety bond in an amount equal to five percent of the amount of the bid and a bid shall not be considered unless the deposit is enclosed with it. If the contract is let, then all the bid deposits shall be returned to the unsuccessful bidders. The bid deposit of the successful bidder shall be retained until a contract is entered into for the purchase of the materials or doing of such work, and a bond given to the district in accordance with chapter 39.08 RCW for the performance of the contract. The performance bond shall be conditioned as may be required by law and as may be required by resolution of the board, with good and sufficient sureties satisfactory to the board, payable to the district for its use, for at least twenty-five percent of the contract price. If the successful bidder fails to enter into a contract and furnish the necessary bond within twenty days from the award, exclusive of the day of the award, the bid deposit shall be forfeited to the district and the contract may then be awarded to the second lowest bidder.

(2) The provisions of this section in regard to public bidding shall not apply in cases where the board is authorized to exchange bonds of the district in payment for labor and material.

(3) The provisions of this section do not apply:

(a) In the case of any contract between the district and the United States;

(b) In the case of an emergency when the public interest or property of the district would suffer material injury or damage by delay, upon resolution of the board of directors or proclamation of an official designated by the board to act for the board during such emergencies. The resolution or proclamation shall declare the existence of the emergency and recite the facts constituting the emergency; or

(c) To purchases which are clearly and legitimately limited to a single source of supply or to purchases involving special facilities, services, or market conditions, in which instances the purchase price may be best established by direct negotiation.

*\*Sec. 4. RCW 87.03.560 and 1889-90 p 694 s 48 are each amended to read as follows:*

*The holder or holders of title, or evidence of title, representing one-half or more of any body of lands ((adjacent to the boundary of an irrigation district,*

*which are contiguous and which, taken together, constitute one tract of land;)) may file with the board of directors of ((said)) an irrigation district a petition in writing, praying that the boundaries of ((said)) the district may be so changed as to include ((therein said)) such lands. The petition shall describe the boundaries of ((said)) the parcel or tract of land, and shall also describe the boundaries of the several parcels owned by the petitioners, if the petitioners be the owners respectively of distinct parcels, but such descriptions need not be more particular than they are required to be when such lands are entered by the county assessor in the assessment book. Such petition must contain the assent of the petitioners to the inclusion within ((said)) the district of the parcels or tracts of land described in the petition, and of which ((said)) the petition alleges they are respectively the owners; and it must be acknowledged in the same manner that conveyances of land are required to be acknowledged.*

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

Passed the House March 11, 1997.

Passed the Senate April 24, 1997.

Approved by the Governor May 14, 1997, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State May 14, 1997.

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. 1729 entitled:

"AN ACT Relating to the administration of irrigation districts;"

Substitute House Bill No. 1729 makes several technical amendments and up-dates to the laws governing irrigation districts. Section 4 of the bill, however would be a substantial change in state water policy. That section would allow irrigation districts to add lands that are not contiguous with the district's boundaries. Such a change could allow irrigation districts to pipe water to isolated parcels of land substantial distances from their primary locations, and could result in "water spreading" and unanticipated expansion of the districts' water rights. Changes such as this should not be dealt with in a piecemeal fashion, but in context with the numerous other factors that must be considered in allocating the state's limited water supply.

For these reasons, I have vetoed section 4 of Substitute House Bill No. 1729.

With the exception of section 4, I am approving Substitute House Bill No. 1729."

## CHAPTER 355

[Second Substitute House Bill 1817]

### RECLAIMED WATER DEMONSTRATION PROJECTS

AN ACT Relating to a reclaimed water demonstration program; amending RCW 90.46.005; and adding a new section to chapter 90.46 RCW.

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

**Sec. 1.** RCW 90.46.005 and 1995 c 342 s 1 are each amended to read as follows:

The legislature finds that by encouraging the use of reclaimed water while assuring the health and safety of all Washington citizens and the protection of its

environment, the state of Washington will continue to use water in the best interests of present and future generations.

To facilitate the use of reclaimed water as soon as is practicable, the legislature encourages the cooperative efforts of the public and private sectors and the use of pilot projects to effectuate the goals of this chapter. The legislature further directs the department of health and the department of ecology to coordinate efforts towards developing an efficient and streamlined process for creating and implementing processes for the use of reclaimed water.

It is hereby declared that the people of the state of Washington have a primary interest in the development of facilities to provide reclaimed water to replace potable water in nonpotable applications, to supplement existing surface and ground water supplies, and to assist in meeting the future water requirements of the state.

The legislature further finds and declares that the utilization of reclaimed water by local communities for domestic, agricultural, industrial, recreational, and fish and wildlife habitat creation and enhancement purposes, including wetland enhancement, will contribute to the peace, health, safety, and welfare of the people of the state of Washington. To the extent reclaimed water is appropriate for beneficial uses, it should be so used to preserve potable water for drinking purposes. Use of reclaimed water constitutes the development of new basic water supplies needed for future generations.

The legislature further finds and declares that the use of reclaimed water is not inconsistent with the policy of antidegradation of state waters announced in other state statutes, including the water pollution control act, chapter 90.48 RCW and the water resources act, chapter 90.54 RCW.

The legislature finds that other states, including California, Florida, and Arizona, have successfully used reclaimed water to supplement existing water supplies without threatening existing resources or public health.

It is the intent of the legislature that the department of ecology and the department of health undertake the necessary steps to encourage the development of water reclamation facilities so that reclaimed water may be made available to help meet the growing water requirements of the state.

The legislature further finds and declares that reclaimed water facilities are water pollution control facilities as defined in chapter 70.146 RCW and are eligible for financial assistance as provided in chapter 70.146 RCW. The legislature finds that funding demonstration projects will ensure the future use of reclaimed water. The demonstration projects in section 2 of this act are varied in nature and will provide the experience necessary to test different facets of the standards and refine a variety of technologies so that water purveyors can begin to use reclaimed water technology in a more cost-effective manner. This is especially critical in smaller cities and communities where the feasibility for such projects is great, but there are scarce resources to develop the necessary facilities.

**NEW SECTION.** Sec. 2. A new section is added to chapter 90.46 RCW to read as follows:

(1) The department of ecology shall establish and administer a reclaimed water demonstration program for the purposes of funding and monitoring the progress of five demonstration projects. The department shall work in cooperation with the department of health.

(2) The five demonstration projects will be:

(a) The city of Ephrata, to use class A reclaimed water for surface spreading that will recharge the groundwater and reduce the nitrate concentrations that currently exceed drinking water standards in domestic wells;

(b) Lincoln county, for a study of the use of reclaimed water to transport twenty-two million gallons a day from Spokane to water sources that will rehydrate and restore long depleted streambeds;

(c) The city of Royal City to replace an interim emergency sprayfield by using one hundred percent of its discharge as class A reclaimed water to enhance local wetlands and lakes in the winter, and potentially irrigate a golf course;

(d) The city of Sequim to implement a tertiary treatment system and reuse one hundred percent of the city's wastewater to reopen an existing shellfish closure area to benefit state and tribal resources, improve streamflows in the Dungeness river, and provide a sustainable water supply for irrigation purposes;

(e) The city of Yelm to use one hundred percent of its wastewater to provide alternative water supply for irrigation and industrial uses in order to offset increased demand for water supply, to protect the Nisqually river chum salmon runs, and to develop experimental artificial wetlands to test low cost treatment options.

(3) By September 30, 1997, the department of ecology shall enter into a grant agreement with the demonstration project jurisdictions that includes reporting requirements, timelines, and a fund disbursement schedule based on the agreed project milestones.

(4) Upon completion of the projects, the department of ecology shall report to the appropriate committees of the legislature on the results of the program.

(5) Demonstration projects which will discharge or otherwise deliver reclaimed water to federal reclamation project facilities or irrigation district facilities shall meet the requirements of the facilities' operating entity for such discharges or deliveries.

(6) No irrigation district, its directors, officers, employees, or agents operating and maintaining irrigation works for any purpose authorized by law, including the production of food for human consumption and other agricultural and domestic purposes, is liable for damages to persons or property arising from the implementation of the demonstration projects in this section.

Passed the House April 21, 1997.

Passed the Senate April 14, 1997.

Approved by the Governor May 14, 1997.

Filed in Office of Secretary of State May 14, 1997.

---

## CHAPTER 356

[Substitute House Bill 2089]

### LIVESTOCK IDENTIFICATION—FEES

AN ACT Relating to identification of livestock; amending RCW 16.57.015, 16.57.220, 16.57.220, 16.58.050, 16.58.050, 16.58.130, 16.58.130, 16.65.037, 16.65.037, 16.65.090, and 16.65.090; providing effective dates; and declaring an emergency.

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

*\*Sec. 1. RCW 16.57.015 and 1993 c 354 s 10 are each amended to read as follows:*

*(1) The director shall establish a livestock identification advisory board. The board shall be composed of six members appointed by the director. One member shall represent each of the following groups: Beef producers, public livestock market operators, horse owners, dairy farmers, cattle feeders, and meat processors. In making appointments, the director shall solicit nominations from organizations representing these groups state-wide.*

*(2) The purpose of the board is to provide oversight of the livestock identification programs and advice to the director regarding livestock identification programs administered under this chapter and regarding brand inspection fees and related licensing fees. The board shall meet at least once every two months to receive a program status briefing from the department, including a financial update and any other financial information requested by the board, in order to provide guidance to the department on the operation of the programs. The director shall consult the board before hiring or dismissing supervisory personnel, adopting, amending, or repealing a rule under this chapter or altering a fee under RCW 16.58.050, 16.58.130, 16.65.030, or 16.65.090. If the director publishes in the state register a proposed rule to be adopted under the authority of this chapter or a proposed rule setting a fee under RCW 16.58.050, 16.58.130, 16.65.030, or 16.65.090 and the rule has not received the approval of the advisory board, the director shall file with the board a written statement setting forth the director's reasons for proposing the rule without the board's approval.*

*(3) The members of the advisory board serve three-year terms. However, the director shall by rule provide shorter initial terms for some of the members of the board to stagger the expiration of the initial terms. The members serve without compensation. The director may authorize the expenses of a member to be reimbursed if the member is selected to attend a regional or national conference or meeting regarding livestock identification. Any such reimbursement shall be in accordance with RCW 43.03.050 and 43.03.060.*

\*Sec. 1 was vetoed. See message at end of chapter.

**Sec. 2.** RCW 16.57.220 and 1995 c 374 s 49 are each amended to read as follows:

The director shall cause a charge to be made for all brand inspection of cattle and horses required under this chapter and rules adopted hereunder. Such charges shall be paid to the department by the owner or person in possession unless requested by the purchaser and then such brand inspection shall be paid by the purchaser requesting such brand inspection. Except as provided by rule, such inspection charges shall be due and payable at the time brand inspection is performed and shall be paid upon billing by the department and if not shall constitute a prior lien on the cattle or cattle hides or horses or horse hides brand inspected until such charge is paid. The director in order to best utilize the services of the department in performing brand inspection may establish schedules by days and hours when a brand inspector will be on duty to perform brand inspection at established inspection points. The fees for brand inspection performed at inspection points according to schedules established by the director shall be ~~((sixty))~~ seventy-five cents per head for cattle and not more than ~~((two))~~ three dollars ~~((and forty cents))~~ per head for horses as prescribed by the director subsequent to a hearing under chapter 34.05 RCW and in conformance with RCW 16.57.015. Fees for brand inspection of cattle and horses at points other than those designated by the director or not in accord with the schedules established by the director shall be based on a fee schedule not to exceed actual net cost to the department of performing the brand inspection service. For the purpose of this section, actual costs shall mean fifteen dollars per hour and the current mileage rate set by the office of financial management.

**Sec. 3.** RCW 16.57.220 and 1997 c . . . s 2 (section 2 of this act) are each amended to read as follows:

The director shall cause a charge to be made for all brand inspection of cattle and horses required under this chapter and rules adopted hereunder. Such charges shall be paid to the department by the owner or person in possession unless requested by the purchaser and then such brand inspection shall be paid by the purchaser requesting such brand inspection. Except as provided by rule, such inspection charges shall be due and payable at the time brand inspection is performed and shall be paid upon billing by the department and if not shall constitute a prior lien on the cattle or cattle hides or horses or horse hides brand inspected until such charge is paid. The director in order to best utilize the services of the department in performing brand inspection may establish schedules by days and hours when a brand inspector will be on duty to perform brand inspection at established inspection points. The fees for brand inspection performed at inspection points according to schedules established by the director shall be ~~((seventy-five))~~ sixty cents per head for cattle and not more than ~~((three))~~ two dollars and forty cents per head for horses as prescribed by the director subsequent to a hearing under chapter 34.05 RCW and in conformance with RCW 16.57.015.

Fees for brand inspection of cattle and horses at points other than those designated by the director or not in accord with the schedules established by the director shall be based on a fee schedule not to exceed actual net cost to the department of performing the brand inspection service. For the purpose of this section, actual costs shall mean fifteen dollars per hour and the current mileage rate set by the office of financial management.

**Sec. 4.** RCW 16.58.050 and 1994 c 46 s 23 are each amended to read as follows:

The application for an annual license to engage in the business of operating one or more certified feed lots shall be accompanied by a license fee of ~~((six\*))~~ seven hundred fifty dollars. Upon approval of the application by the director and compliance with the provisions of this chapter and rules adopted hereunder, the applicant shall be issued a license or a renewal thereof.

**Sec. 5.** RCW 16.58.050 and 1997 c . . . s 4 (section 4 of this act) are each amended to read as follows:

The application for an annual license to engage in the business of operating one or more certified feed lots shall be accompanied by a license fee of ~~((seven))~~ six hundred ~~((fifty))~~ dollars. Upon approval of the application by the director and compliance with the provisions of this chapter and rules adopted hereunder, the applicant shall be issued a license or a renewal thereof.

**Sec. 6.** RCW 16.58.130 and 1994 c 46 s 24 are each amended to read as follows:

Each licensee shall pay to the director a fee of ~~((twelve))~~ fifteen cents for each head of cattle handled through the licensee's feed lot. Payment of such fee shall be made by the licensee on a montbly basis. Failure to pay as required shall be grounds for suspension or revocation of a certified feed lot license. Further, the director shall not renew a certified feed lot license if a licensee has failed to make prompt and timely payments.

**Sec. 7.** RCW 16.58.130 and 1997 c . . . s 6 (section 6 of this act) are each amended to read as follows:

Each licensee shall pay to the director a fee of ~~((fifteen))~~ twelve cents for each head of cattle handled through the licensee's feed lot. Payment of such fee shall be made by the licensee on a monthly basis. Failure to pay as required shall be grounds for suspension or revocation of a certified feed lot license. Further, the director shall not renew a certified feed lot license if a licensee has failed to make prompt and timely payments.

**Sec. 8.** RCW 16.65.037 and 1995 c 374 s 57 are each amended to read as follows:

(1) Upon the approval of the application by the director and compliance with the provisions of this chapter, the applicant shall be issued a license or renewal thereof. Any license issued under the provisions of this chapter shall only be valid at location and for the sales day or days for which the license was issued.

(2) The license fee shall be based on the average gross sales volume per official sales day of that market:

(a) Markets with an average gross sales volume up to and including ten thousand dollars, a one hundred (~~((twenty))~~ fifty dollar fee;

(h) Markets with an average gross sales volume over ten thousand dollars and up to and including fifty thousand dollars, a (~~((two))~~ three hundred (~~((forty))~~ fifty dollar fee; and

(c) Markets with an average gross sales volume over fifty thousand dollars, a (~~((three))~~ four hundred (~~((sixty))~~ fifty dollar fee.

The fees for public market licenses shall be set by the director by rule subsequent to a hearing under chapter 34.05 RCW and in conformance with RCW 16.57.015.

(3) Any applicant operating more than one public livestock market shall make a separate application for a license to operate each such public livestock market, and each such application shall be accompanied by the appropriate application fee.

**Sec. 9.** RCW 16.65.037 and 1997 c . . . s 8 (section 8 of this act) are each amended to read as follows:

(1) Upon the approval of the application by the director and compliance with the provisions of this chapter, the applicant shall be issued a license or renewal thereof. Any license issued under the provisions of this chapter shall only be valid at location and for the sales day or days for which the license was issued.

(2) The license fee shall be based on the average gross sales volume per official sales day of that market:

(a) Markets with an average gross sales volume up to and including ten thousand dollars, a one hundred (~~((fifty))~~ twenty dollar fee;

(b) Markets with an average gross sales volume over ten thousand dollars and up to and including fifty thousand dollars, a (~~((three))~~ two hundred (~~((fifty))~~ forty dollar fee; and

(c) Markets with an average gross sales volume over fifty thousand dollars, a (~~((four))~~ three hundred (~~((fifty))~~ sixty dollar fee.

The fees for public market licenses shall be set by the director by rule subsequent to a hearing under chapter 34.05 RCW and in conformance with RCW 16.57.015.

(3) Any applicant operating more than one public livestock market shall make a separate application for a license to operate each such public livestock market, and each such application shall be accompanied by the appropriate application fee.

**Sec. 10.** RCW 16.65.090 and 1994 c 46 s 22 are each amended to read as follows:

The director shall provide for brand inspection. When such brand inspection is required the licensee shall collect from the consignor and pay to the department, as provided by law, a fee for brand inspection for each animal consigned to the public livestock market or special open consignment horse sale(~~((+PROVIDED; That)).~~ However, if in any one sale day the total fees collected for brand inspection

do not exceed (~~seventy-two~~) ninety dollars, then such licensee shall pay (~~seventy-two~~) ninety dollars for such brand inspection or as much thereof as the director may prescribe.

**Sec. 11.** RCW 16.65.090 and 1997 c . . . s 10 (section 10 of this act) are each amended to read as follows:

The director shall provide for brand inspection. When such brand inspection is required the licensee shall collect from the consignor and pay to the department, as provided by law, a fee for brand inspection for each animal consigned to the public livestock market or special open consignment horse sale. However, if in any one sale day the total fees collected for brand inspection do not exceed (~~ninety~~) seventy-two dollars, then such licensee shall pay (~~ninety~~) seventy-two dollars for such brand inspection or as much thereof as the director may prescribe.

**NEW SECTION. Sec. 12.** (1) Sections 2, 4, 6, 8, and 10 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect July 1, 1997.

(2) Sections 3, 5, 7, 9, and 11 of this act take effect July 1, 1998.

Passed the House April 21, 1997.

Passed the Senate April 16, 1997.

Approved by the Governor May 14, 1997, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State May 14, 1997.

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

"I am returning herewith, without my approval as to section 1, Substitute House Bill No. 2089 entitled:

"AN ACT Relating to identification of livestock;"

Substitute House Bill No. 2089 evolved from an ongoing effort among the Washington State Department of Agriculture ("WSDA") and various sectors of the livestock industry to agree on a combination of fees and responsibilities for operating the Livestock Identification Program.

SHB 2089 maintains fees charged by the Livestock Identification Advisory Board at their current level until July 1, 1998. This will allow the parties to continue efforts to resolve their differences and bring a constructive proposal to the 1998 Legislature.

Section 1 of this bill would amend the responsibilities of the Advisory Board. While I agree with most of the proposed changes, one change is not appropriate. That change is the requirement that the WSDA director consult the Advisory Board before hiring or dismissing supervisory personnel. Personnel actions are the purview of agency managers who are legally responsible for the decisions they make, and who must defend any challenges to those decisions. It is an unwarranted and inappropriate intrusion into agency operations for a citizen advisory board to have a statutory role in such decisions.

For this reason, I have vetoed section 1 of Substitute House Bill 2089.

With the exception of section 1, I am approving Substitute House Bill No. 2089."

## CHAPTER 357

[Substitute Senate Bill 5077]

## INTEGRATED PEST MANAGEMENT

AN ACT Relating to integrated pest management; and adding a new chapter to Title 17 RCW.

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

**NEW SECTION, Sec. 1.** The legislature declares that it is the policy of the state of Washington to require all state agencies that have pest control responsibilities to follow the principles of integrated pest management.

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

(1) "Integrated pest management" means a coordinated decision-making and action process that uses the most appropriate pest control methods and strategy in an environmentally and economically sound manner to meet agency programmatic pest management objectives. The elements of integrated pest management include:

(a) Preventing pest problems;

(b) Monitoring for the presence of pests and pest damage;

(c) Establishing the density of the pest population, that may be set at zero, that can be tolerated or correlated with a damage level sufficient to warrant treatment of the problem based on health, public safety, economic, or aesthetic thresholds;

(d) Treating pest problems to reduce populations below those levels established by damage thresholds using strategies that may include biological, cultural, mechanical, and chemical control methods and that must consider human health, ecological impact, feasibility, and cost-effectiveness; and

(e) Evaluating the effects and efficacy of pest treatments.

(2) "Pest" means, but is not limited to, any insect, rodent, nematode, snail, slug, weed, and any form of plant or animal life or virus, except virus, bacteria, or other microorganisms on or in a living person or other animal or in or on processed food or beverages or pharmaceuticals, which is normally considered to be a pest, or which the director of the department of agriculture may declare to be a pest.

**NEW SECTION, Sec. 3.** Each of the following state agencies or institutions shall implement integrated pest management practices when carrying out the agency's or institution's duties related to pest control:

(1) The department of agriculture;

(2) The state noxious weed control board;

(3) The department of ecology;

(4) The department of fish and wildlife;

(5) The department of transportation;

(6) The parks and recreation commission;

(7) The department of natural resources;

(8) The department of corrections;

(9) The department of general administration; and

(10) Each state institution of higher education, for the institution's own building and grounds maintenance.

**NEW SECTION.** Sec. 4. (1) A state agency or institution listed in section 3 of this act shall provide integrated pest management training for employees responsible for pest management. The training programs shall be developed in cooperation with the interagency integrated pest management coordinating committee created under section 5 of this act.

(2) A state agency or institution listed in section 3 of this act shall designate an integrated pest management coordinator and the department of labor and industries and the office of the superintendent of public instruction shall each designate one representative to serve on the committee established in section 5 of this act.

**NEW SECTION.** Sec. 5. (1) The interagency integrated pest management coordinating committee is created. The committee is composed of the integrated pest management coordinator from each agency or institution listed under section 3 of this act and the representatives designated under section 4 of this act. The coordinator from the department of agriculture shall serve as chair of the committee.

(2) The interagency integrated pest management coordinating committee shall share information among the state agencies and institutions and facilitate interagency coordination.

(3) The interagency integrated pest management coordinating committee shall meet at least two times a year. All meetings of the committee must be open to the public. The committee shall give public notice of each meeting.

(4) By November 30th of each odd-numbered year up to and including November 30th, 2001, the department of agriculture, with the advice of the interagency integrated pest management coordinating committee, shall prepare a report on the progress of integrated pest management programs. The report is to be made available through the state library and placed on the legislative alert list.

**NEW SECTION.** Sec. 6. If specific funding for the purposes of sections 3, 4, and 5 of this act, referencing this act by bill or chapter number, is not provided by June 30, 1997, in the omnibus appropriations act, sections 3, 4, and 5 of this act are null and void.

**NEW SECTION.** Sec. 7. Sections 1 through 5 of this act constitute a new chapter in Title 17 RCW.

Passed the Senate April 21, 1997.

Passed the House April 9, 1997.

Approved by the Governor May 14, 1997.

Filed in Office of Secretary of State May 14, 1997.

---

## CHAPTER 358

[Substitute Senate Bill 5144]

## ADMINISTRATION OF COUNTY CLERKS' OFFICES—MODIFICATIONS

AN ACT Relating to the administration of county clerks' offices; amending RCW 6.36.035, 7.68.290, 4.56.100, 4.64.030, 4.64.060, and 5.44.010; reenacting and amending RCW 4.64.120; and repealing RCW 4.64.070.

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

**Sec. 1.** RCW 6.36.035 and 1994 c 185 s 7 are each amended to read as follows:

(1) At the time of the filing of the foreign judgment, the judgment creditor or the judgment creditor's lawyer shall make and file with the clerk of court an affidavit setting forth the name and last known post office address of the judgment debtor, and the judgment creditor.

(2) Promptly upon the filing of the foreign judgment and the affidavit, the ~~((clerk))~~ judgment creditor shall mail notice of the filing of the foreign judgment to the judgment debtor at the address given ~~((and shall make a note of the mailing in the docket))~~. The notice shall include the name and post office address of the judgment creditor and the judgment creditor's lawyer if any in this state. In addition, the judgment creditor ~~((may mail a notice of the filing of the judgment to the judgment debtor and may))~~ shall file proof of mailing with the clerk. ~~((Lack of notice of filing by the clerk shall not affect the enforcement proceedings if proof of mailing by the judgment creditor has been filed.))~~

(3)(a) No execution or other process for enforcement of a foreign judgment filed in the office of the clerk of a superior court shall ~~((issue until ten days after the date the judgment is filed, or))~~ be allowed until ten days after ~~((mailing the notice of filing, whether mailed by the clerk or))~~ the proof of mailing has been filed with the clerk by the judgment creditor~~((, whichever is later))~~.

(b) No execution or other process for enforcement of a foreign judgment filed in the office of the clerk of a district court shall ~~((issue until fourteen days after the date the judgment is filed, or))~~ be allowed until fourteen days after ~~((mailing the notice of filing, whether mailed by the clerk or))~~ the proof of mailing has been filed with the clerk by the judgment creditor~~((, whichever is later))~~.

**Sec. 2.** RCW 4.64.120 and 1987 c 442 s 1111 and 1987 c 202 s 119 are each reenacted and amended to read as follows:

It shall be the duty of the county clerk to enter in the execution docket any duly certified transcript of a judgment of a district court of this state and any duly certified abstract of any judgment of any court mentioned in RCW 4.56.200, filed in the county clerk's office, and to index the same in the same manner as judgments originally rendered in the superior court for the county of which he or she is clerk. Jurisdiction over the judgment, including modification to or vacation of the original judgment, transfers to the superior court. The superior court may, in its discretion, remand the cause to district court for determination of any motion to vacate or modify the original judgment.

**Sec. 3.** RCW 7.68.290 and 1987 c 281 s 2 are each amended to read as follows:

If a defendant has paid restitution pursuant to court order under RCW 9.92.060, 9.94A.140, 9.94A.142, 9.95.210, or 9A.20.030 and the victim entitled to restitution cannot be found or has died, the clerk of the court shall deposit with the county treasurer the amount of restitution unable to be paid to the victim. The county treasurer shall monthly transmit the money to the state treasurer for deposit as provided in RCW 43.08.250. Moneys deposited under this section shall be used to compensate victims of crimes through the crime victims compensation fund.

**Sec. 4.** RCW 4.56.100 and 1994 c 185 s 1 are each amended to read as follows:

(1) When any judgment for the payment of money only shall have been paid or satisfied, the clerk of the court in which such judgment was rendered shall note upon the record in the execution docket satisfaction thereof giving the date of such satisfaction upon either the payment to such clerk of the amount of such judgment, costs and interest and any accrued costs by reason of the issuance of any execution, or the filing with such clerk of a satisfaction entitled in such action and identifying the same executed by the judgment creditor or his or her attorney of record in such action or his or her assignee acknowledged as deeds are acknowledged. The clerk has the authority to note the satisfaction of judgments for criminal and juvenile legal financial obligations when the clerk's record indicates payment in full or as directed by the court. Every satisfaction of judgment and every partial satisfaction of judgment which provides for the payment of money shall clearly designate the judgment creditor and his or her attorney if any, the judgment debtor, the amount or type of satisfaction, whether the satisfaction is full or partial, the cause number, and the date of entry of the judgment. A certificate by such clerk of the entry of such satisfaction by him or her may be filed in the office of the clerk of any county in which an abstract of such judgment has been filed. When so satisfied by the clerk or the filing of such certificate the lien of such judgment shall be discharged.

(2) The department of social and health services shall file a satisfaction of judgment for welfare fraud conviction if a person does not pay money through the clerk as required under subsection (1) of this section.

(3) The department of corrections shall file a satisfaction of judgment if a person does not pay money through the clerk's office as required under subsection (1) of this section.

**Sec. 5.** RCW 4.64.030 and 1995 c 149 s 1 are each amended to read as follows:

The clerk shall enter all judgments in the execution docket, subject to the direction of the court and shall specify clearly the amount to be recovered, the relief granted, or other determination of the action.

On the first page of each judgment which provides for the payment of money, including judgments in rem, mandates of judgments, and judgments on garnishments, the following shall be succinctly summarized: The judgment

creditor and the name of his or her attorney, the judgment debtor, the amount of the judgment, the interest owed to the date of the judgment, and the total of the taxable costs and attorney fees, if known at the time of the entry of the judgment. If the attorney fees and costs are not included in the judgment, they shall be summarized in the cost bill when filed. ~~((This information is included in the judgment to assist the county clerk in his or her record-keeping function.))~~ The clerk may not ~~((sign or file))~~ enter a judgment, and a judgment does not take effect, until the judgment has a summary in compliance with this section. The clerk is not liable for an incorrect summary.

**Sec. 6.** RCW 4.64.060 and 1987 c 442 s 1105 are each amended to read as follows:

Every county clerk shall keep in the clerk's office a record, to be called the execution docket, which shall be a public record and open during the usual business hours to all persons desirous of inspecting it. The record must be indexed both directly and inversely, and include all judgments, abstracts, and transcripts of judgments in the clerk's office. The index must refer to each party against whom the judgment is rendered or whose property is affected by the judgment.

**Sec. 7.** RCW 5.44.010 and Code 1881 s 430 are each amended to read as follows:

The records and proceedings of any court of the United States, or any state or territory, shall be admissible in evidence in all cases in this state when duly ~~((authenticated))~~ certified by the attestation of the clerk, prothonotary or other officer having charge of the records of such court, with the seal of such court annexed.

**NEW SECTION.** Sec. 8. RCW 4.64.070 and 1987 c 442 s 1106, 1935 c 22 s 1, & 1929 c 60 s 5 are each repealed.

Passed the Senate April 19, 1997.

Passed the House April 14, 1997.

Approved by the Governor May 14, 1997.

Filed in Office of Secretary of State May 14, 1997.

## CHAPTER 359

[Substitute Senate Bill 5270]

### STATE INVESTMENT BOARD—FORMATION OF CORPORATIONS, LIMITED LIABILITY COMPANIES, AND LIMITED PARTNERSHIPS TO HANDLE INVESTMENTS

AN ACT Relating to the operation of the state investment board; and adding new sections to chapter 43.33A RCW.

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

**NEW SECTION.** Sec. 1. A new section is added to chapter 43.33A RCW to read as follows:

(1) The board is authorized to create corporations under Title 23B RCW, limited liability companies under chapter 25.15 RCW, and limited partnerships

under chapter 25.10 RCW, of which it may or may not be the general partner, for the purposes of transferring, acquiring, holding, overseeing, operating, or disposing of real estate or other investment assets that are not publicly traded on a daily basis or on an organized exchange. The liability of each entity created by the board is limited to the assets or properties of that entity. No creditor or other person has any right of action against the board, its members or employees, or the state of Washington on account of any debts, obligations, or liabilities of the entity. Entities created under this section may be authorized by the board to make any investment that the board may make, including but not limited to the acquisition of: Equity interests in operating companies, the indebtedness of operating companies, and real estate.

(2) Directors, officers, and other principals of entities created under this section must be board members, board staff, or principals or employees of an advisor or manager engaged by contract by the board or the entity to manage real estate or other investment assets of the entity. Directors of entities created under this section must be appointed by the board. Officers and other principals of entities created under this section are appointed by the directors.

(3) A public corporation, limited liability company, or limited partnership created under this section has the same immunity or exemption from taxation as that of the state. The entity shall pay an amount equal to the amounts that would be paid for taxes otherwise levied upon real property and personal property to the public official charged with the collection of such real property and personal property taxes as if the property were in private ownership. The proceeds of such payments must be allocated as though the property were in private ownership.

NEW SECTION. **Sec. 2.** A new section is added to chapter 43.33A RCW to read as follows:

Rent and other income from real estate or other investment assets that are not publicly traded on a daily basis or on an organized exchange that are acquired and being held for investment by the board or by an entity created under section 1 of this act by the board, and being managed by an external advisor or other property manager under contract, shall not be deemed income or state funds for the purposes of chapter 39.58 RCW and this title, until distributions are made to the board of such income from the advisor or manager. Bank and other accounts established by the advisor or property manager for the purpose of the management of such investment assets shall not be deemed accounts established by the state for the purpose of chapter 39.58 RCW and this title.

Passed the Senate April 26, 1997.

Passed the House April 25, 1997.

Approved by the Governor May 14, 1997.

Filed in Office of Secretary of State May 14, 1997.

## CHAPTER 360

[Substitute Senate Bill 5276]

## WATER WITHDRAWALS AND DIVERSIONS—ALTERNATIVE MANAGEMENT OF WATER RESOURCES

AN ACT Relating to water withdrawals and diversions; amending RCW 90.03.255 and 90.44.055; adding a new section to chapter 90.03 RCW; adding a new section to chapter 90.44 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 in many basins in the state there is water available on a seasonal basis that is in excess of the needs of either existing water right holders or instream resources. The legislature finds that excess waters often result in significant flooding and damage to public and private resources. Further, it is in the public interest to encourage the impoundment of excess water and other measures that can be used to offset the impact of withdrawals and diversions on existing rights and instream resources. Further, in some areas of the state additional supplies of water are needed to meet the needs of a growing economy and population. The legislature finds there is a range of alternatives that offset the impacts that should be encouraged including the creation, restoration, enhancement, or enlargement of ponds, wetlands, and reservoirs and the artificial recharge of aquifers.

The purpose of this act is to foster the improvement in the water supplies available to meet the needs of the state. It is the goal of this act to strengthen the state's economy while maintaining and improving the overall quality of the state's environment.

**Sec. 2.** RCW 90.03.255 and 1996 c 306 s 1 are each amended to read as follows:

The department shall, when evaluating an application for a water right, transfer, or change filed pursuant to RCW 90.03.250 or 90.03.380 that includes provision for any water impoundment or other resource management technique, take into consideration the benefits and costs, including environmental effects, of ~~((the))~~ any water impoundment or other resource management technique that is included as a component of the application. The department's consideration shall extend to any increased water supply that results from the impoundment or other resource management technique, including~~((:))~~ but not limited to~~((:))~~ any recharge of ground water that may occur, as a means of making water available or otherwise offsetting the impact of the diversion of surface water proposed in the application for the water right, transfer, or change. Provision for an impoundment or other resource management technique in an application shall be made solely at the discretion of the applicant and shall not otherwise be made by the department as a condition for approving an application that does not include such provision ~~((for impoundment))~~.

This section does not lessen, enlarge, or modify the rights of any riparian owner, or any existing water right acquired by appropriation or otherwise.

Sec. 3. RCW 90.44.055 and 1996 c 306 s 2 are each amended to read as follows:

The department shall, when evaluating an application for a water right or an amendment filed pursuant to RCW 90.44.050 or 90.44.100 that includes provision for any water impoundment or other resource management technique, take into consideration the benefits and costs, including environmental effects, of ~~((the))~~ any water impoundment or other resource management technique that is included as a component of the application. The department's consideration shall extend to any increased water supply that results from the impoundment or other resource management technique, including~~((;))~~ but not limited to~~((;))~~ any recharge of ground water that may occur, as a means of making water available or otherwise offsetting the impact of the withdrawal of ground water proposed in the application for the water right or amendment in the same water resource inventory area. Provision for an impoundment or other resource management technique in an application shall be made solely at the discretion of the applicant and shall not be made by the department as a condition for approving an application that does not include such provision ~~((for impoundment))~~.

This section does not lessen, enlarge, or modify the rights of any riparian owner, or any existing water right acquired by appropriation or otherwise.

***\*NEW SECTION. Sec. 4. A new section is added to chapter 90.03 RCW to read as follows:***

*Upon the request of the applicant, the department shall, when evaluating an application for a water right, transfer, or change filed pursuant to RCW 90.03.250 or 90.03.380, take into account the recharge of ground water from septic tanks or other on-site wastewater treatment facilities in an amount not to exceed the proposed use of water for indoor purposes. The department shall, based upon hydrogeologic data for the area in which the application is located, determine the amount of recharge to the aquifer that is likely to occur and factor that amount into the decision it makes on the application. Any water right permit, transfer, or change that is authorized under this section shall be conditioned to state that the water right permit, transfer, or change shall remain in effect only so long as the water use, including the discharge of water used for indoor purposes through a septic tank or other wastewater treatment facility, remains unchanged from that proposed in the original application.*

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

***\*NEW SECTION. Sec. 5. A new section is added to chapter 90.44 RCW to read as follows:***

*Upon the request of the applicant, the department shall, when evaluating an application for a water right or an amendment to a water right or permit filed pursuant to RCW 90.44.050 or 90.44.100, take into account the recharge of ground water from septic tanks or other on-site wastewater treatment facilities in an amount not to exceed the proposed use of water for indoor purposes. The department shall, based upon hydrogeologic data for the area in which the*

*application is located, determine the amount of recharge to the aquifer that is likely to occur and factor that amount into the decision it makes on the application. Any water right permit or amendment that is authorized under this section shall be conditioned to state that the water right permit or amendment shall remain in effect only so long as the water use, including the discharge of water used for indoor purposes through a septic tank or other wastewater treatment facility, remains unchanged from that proposed in the original application.*

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

Passed the Senate April 23, 1997.

Passed the House April 16, 1997.

Approved by the Governor May 14, 1997, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State May 14, 1997.

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

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

"AN ACT Relating to water withdrawals and diversions;"

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

Sections 4 and 5 of SSB 5276 contain provisions that would require the termination of water rights if the right holder were to stop using a septic system or other wastewater treatment facility that was recharging the water supply. It would create an impractical expectation that the water right would be terminated if sewers eventually replace the septic systems or other wastewater treatment facilities involved. These sections also create a disincentive to convert from septic systems to sewers, contrary to state policy.

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

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

## CHAPTER 361

[Substitute Senate Bill 5336]

### CITIES AND TOWNS—CLARIFICATION AND HARMONIZATION OF PROVISIONS

AN ACT Relating to clarifying and harmonizing provisions affecting cities and towns; amending RCW 19.16.500, 39.30.010, 35.27.070, 35.07.040, 9.41.050, 35A.12.010, 35.27.080, 35.01.020, 35.01.040, 35.02.130, 35.22.010, 35.23.051, 35.33.020, 35.34.020, 35.86.010, 35A.06.020, 35.13.005, 35A.14.005, 35.13.180, and 36.70A.110; adding a new section to chapter 35.23 RCW; recodifying RCW 35.21.620; repealing RCW 35.07.030, 35.17.160, 35.23.390, 35.23.400, 35.21.600, 35.21.610, and 35A.61.010; and declaring an emergency.

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

\*Sec. 1. RCW 19.16.500 and 1982 c 65 s 1 are each amended to read as follows:

(1) Agencies, departments, taxing districts, political subdivisions of the state, counties, and incorporated cities may retain, by written contract, collection

*agencies licensed under this chapter for the purpose of collecting public debts owed by any person.*

*(2) No debt may be assigned to a collection agency unless (a) there has been an attempt to advise the debtor (i) of the existence of the debt and (ii) that the debt may be assigned to a collection agency for collection if the debt is not paid, and (b) at least thirty days have elapsed from the time the notice was sent.*

*(3) Collection agencies assigned debts under this section shall have only those remedies and powers which would be available to them as assignees of private creditors.*

*(4) For purposes of this section, the term debt shall include fines, fees, penalties, reasonable costs, assessments, and other debts.*

*(5) The reasonable costs involved in the collection of the debts through the use of a collection agency are reasonable costs that may be added to and included in the debt to be paid by the debtor.*

\*Sec. 1 was vetoed. See message at end of chapter.

Sec. 2. RCW 39.30.010 and 1970 ex.s. c 42 s 26 are each amended to read as follows:

Any city or town or metropolitan park district or county or library district may execute an executory conditional sales contract with a county or counties, the state or any of its political subdivisions, the government of the United States, or any private party for the purchase of any real or personal property, or property rights in connection with the exercise of any powers or duties which they now or hereafter are authorized to exercise, if the entire amount of the purchase price specified in such contract does not result in a total indebtedness in excess of three-fourths of one percent of the value of the taxable property in such ~~((city or town or metropolitan park district or county or))~~ library district ~~((~~PROVIDED, That~~))~~ or the maximum amount of nonvoter-approved indebtedness authorized in such county, city, town, or metropolitan park district. If such a proposed contract would result in a total indebtedness in excess of ~~((three-fourths of one percent of the value of the taxable property of such city or town or metropolitan park district or county or library district, as the case may be))~~ this amount, a proposition in regard to whether or not such a contract may be executed shall be submitted to the voters for approval or rejection in the same manner that bond issues for capital purposes are submitted to the voters ~~((~~PROVIDED FURTHER, That~~))~~. Any city or town or metropolitan park district or county or library district may jointly execute contracts authorized by this section, if the entire amount of the purchase price does not result in a joint total indebtedness in excess of ~~((three-fourths of one percent of the value of the taxable property in such))~~ the nonvoter-approved indebtedness limitation of any city ((or)), town ((or)), metropolitan park district ((or)), county, or library district that participates in the jointly executed contract. The term "value of the taxable property" shall have the meaning set forth in RCW 39.36.015.

Sec. 3. RCW 35.27.070 and 1993 c 47 s 2 are each amended to read as follows:

The government of a town shall be vested in a mayor and a council consisting of five members and a treasurer, all elective; the mayor shall appoint a clerk and a marshal; and may appoint a town attorney, pound master, street superintendent, a civil engineer, and such police and other subordinate officers and employees as may be provided for by ordinance. All appointive officers and employees shall hold office at the pleasure of the mayor, subject to any applicable law, rule, or regulation relating to civil service, and shall not be subject to confirmation by the town council.

**Sec. 4.** RCW 35.07.040 and 1965 c 7 s 35.07.040 are each amended to read as follows:

~~(If the applicable census shows a population of less than four thousand,)~~ The council shall cause an election to be called upon the proposition of disincorporation. If the city or town has any indebtedness or outstanding liabilities, it shall order the election of a receiver at the same time.

**\*Sec. 5.** RCW 9.41.050 and 1996 c 295 s 4 are each amended to read as follows:

**(1)(a)** *Except in the person's place of abode or fixed place of business, a person shall not carry a pistol concealed on his or her person without a license to carry a concealed pistol.*

**(b)** *Every licensee shall have his or her concealed pistol license in his or her immediate possession at all times that he or she is required by this section to have a concealed pistol license and shall display the same upon demand to any police officer or to any other person when and if required by law to do so. Any violation of this subsection (1)(b) shall be a class 1 civil infraction under chapter ~~((7-84))~~ 7.80 RCW and shall be punished accordingly pursuant to chapter ~~((7-84))~~ 7.80 RCW and the infraction rules for courts of limited jurisdiction.*

**(2)** *A person shall not carry or place a loaded pistol in any vehicle unless the person has a license to carry a concealed pistol and: (a) The pistol is on the licensee's person, (b) the licensee is within the vehicle at all times that the pistol is there, or (c) the licensee is away from the vehicle and the pistol is locked within the vehicle and concealed from view from outside the vehicle.*

**(3)** *A person at least eighteen years of age who is in possession of an unloaded pistol shall not leave the unloaded pistol in a vehicle unless the unloaded pistol is locked within the vehicle and concealed from view from outside the vehicle.*

**(4)** *Except as otherwise provided in this chapter, no person may carry a firearm unless it is unloaded and enclosed in an opaque case or secure wrapper or the person is:*

- (a)** *Licensed under RCW 9.41.070 to carry a concealed pistol;*
- (b)** *In attendance at a hunter's safety course or a firearms safety course;*
- (c)** *Engaging in practice in the use of a firearm or target shooting at an established range authorized by the governing body of the jurisdiction in which*

*such range is located or any other area where the discharge of a firearm is not prohibited;*

*(d) Engaging in an organized competition involving the use of a firearm, or participating in or practicing for a performance by an organized group that uses firearms as a part of the performance;*

*(e) Engaging in a lawful outdoor recreational activity such as hunting, fishing, camping, hiking, or horseback riding, only if, considering all of the attendant circumstances, including but not limited to whether the person has a valid hunting or fishing license, it is reasonable to conclude that the person is participating in lawful outdoor activities or is traveling to or from a legitimate outdoor recreation area;*

*(f) In an area where the discharge of a firearm is permitted, and is not trespassing;*

*(g) Traveling with any unloaded firearm in the person's possession to or from any activity described in (b), (c), (d), (e), or (f) of this subsection, except as provided in (h) of this subsection;*

*(h) Traveling in a motor vehicle with a firearm, other than a pistol, that is unloaded and locked in the trunk or other compartment of the vehicle, placed in a gun rack, or otherwise secured in place in a vehicle, provided that this subsection (4)(h) does not apply to motor homes if the firearms are not within the driver's compartment of the motor home while the vehicle is in operation. Notwithstanding (a) of this subsection, and subject to federal and state park regulations regarding firearm possession therein, a motor home shall be considered a residence when parked at a recreational park, campground, or other temporary residential setting for the purposes of enforcement of this chapter;*

*(i) On real property under the control of the person or a relative of the person;*

*(j) At his or her residence;*

*(k) Is a member of the armed forces of the United States, national guard, or organized reserves, when on duty;*

*(l) Is a law enforcement officer;*

*(m) Carrying a firearm from or to a vehicle for the purpose of taking or removing the firearm to or from a place of business for repair; or*

*(n) An armed private security guard or armed private detective licensed by the department of licensing, while on duty or enroute to and from employment.*

*(5) Violation of any of the prohibitions of subsections (2) through (4) of this section is a misdemeanor.*

*(6) Nothing in this section permits the possession of firearms illegal to possess under state or federal law.*

*(7) Any city, town, or county may enact an ordinance to exempt itself from the prohibition of subsection (4) of this section.*

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

**Sec. 6.** RCW 35A.12.010 and 1994 c 223 s 30 are each amended to read as follows:

The government of any noncharter code city or charter code city electing to adopt the mayor-council plan of government authorized by this chapter shall be vested in an elected mayor and an elected council. The council of a noncharter code city having less than twenty-five hundred inhabitants shall consist of five members; when there are twenty-five hundred or more inhabitants, the council shall consist of seven members(~~(- PROVIDED, That))~~). A city with a population of less than twenty-five hundred at the time of reclassification as an optional municipal code city may choose to maintain a seven-member council. The decision concerning the number of councilmembers shall be made by the council and be incorporated as a section of the ordinance adopting for the city the classification of noncharter code city. If the population of a city after having become a code city decreases from twenty-five hundred or more to less than twenty-five hundred, it shall continue to have a seven member council. If, after a city has become a mayor-council code city, its population increases to twenty-five hundred or more inhabitants, the number of councilmanic offices in such city may increase from five to seven members upon the affirmative vote of a majority of the existing council to increase the number of councilmanic offices in the city. When the population of a mayor-council code city having five councilmanic offices increases to five thousand or more inhabitants, the number of councilmanic offices in the city shall increase from five to seven members. In the event of an increase in the number of councilmanic offices, the city council shall, by majority vote, pursuant to RCW 35A.12.050, appoint two persons to serve in these offices until the next municipal general election, at which election one person shall be elected for a two-year term and one person shall be elected for a four-year term. The number of inhabitants shall be determined by the most recent official state or federal census or determination by the state office of financial management. A charter adopted under the provisions of this title, incorporating the mayor-council plan of government set forth in this chapter, may provide for an uneven number of councilmembers not exceeding eleven.

A noncharter code city of less than five thousand inhabitants which has elected the mayor-council plan of government and which has seven councilmanic offices may establish a five-member council in accordance with the following procedure. At least six months prior to a municipal general election, the city council shall adopt an ordinance providing for reduction in the number of councilmanic offices to five. The ordinance shall specify which two councilmanic offices, the terms of which expire at the next general election, are to be terminated. The ordinance shall provide for the renumbering of council positions and shall also provide for a two-year extension of the term of office of a retained councilmanic office, if necessary, in order to comply with RCW 35A.12.040.

However, a noncharter code city that has retained its old mayor-council plan of government, as provided in RCW 35A.02.130, is subject to the laws applicable to that old plan of government.

**NEW SECTION.** Sec. 7. A new section is added to chapter 35.23 RCW to read as follows:

No person is eligible to hold an elective office in a second class city unless the person is a resident and registered voter in the city.

Sec. 8. RCW 35.27.080 and 1965 c 7 s 35.27.080 are each amended to read as follows:

No person shall be eligible to or hold an elective office in a town unless he or she is a resident and (~~(elector therein))~~ registered voter in the town.

Sec. 9. RCW 35.01.020 and 1994 c 81 s 4 are each amended to read as follows:

A second class city is a city with a population of (~~(more than))~~ or more at the time of its organization or reorganization that does not have a charter adopted under Article XI, section 10, of the state Constitution, and does not operate under Title 35A RCW.

Sec. 10. RCW 35.01.040 and 1994 c 81 s 5 are each amended to read as follows:

A town has a population of less than fifteen hundred (~~(or less))~~ at the time of its organization and does not operate under Title 35A RCW.

Sec. 11. RCW 35.02.130 and 1994 c 154 s 308 are each amended to read as follows:

The city or town officially shall become incorporated at a date from one hundred eighty days to three hundred sixty days after the date of the election on the question of incorporation. An interim period shall exist between the time the newly elected officials have been elected and qualified and this official date of incorporation. During this interim period, the newly elected officials are authorized to adopt ordinances and resolutions which shall become effective on or after the official date of incorporation, and to enter into contracts and agreements to facilitate the transition to becoming a city or town and to ensure a continuation of governmental services after the official date of incorporation. Periods of time that would be required to elapse between the enactment and effective date of such ordinances, including but not limited to times for publication or for filing referendums, shall commence upon the date of such enactment as though the city or town were officially incorporated.

During this interim period, the city or town governing body may adopt rules establishing policies and procedures under the state environmental policy act, chapter 43.21C RCW, and may use these rules and procedures in making determinations under the state environmental policy act, chapter 43.21C RCW.

During this interim period, the newly formed city or town and its governing body shall be subject to the following as though the city or town were officially

incorporated: RCW 4.24.470 relating to immunity; chapter 42.17 RCW relating to open government; chapter 40.14 RCW relating to the preservation and disposition of public records; chapters 42.20 and 42.23 RCW relating to ethics and conflicts of interest; chapters 42.30 and 42.32 RCW relating to open public meetings and minutes; RCW 35.22.288, (~~35.23.310, 35.24.220~~) 35.23.221, 35.27.300, 35A.12.160, as appropriate, and chapter 35A.65 RCW relating to the publication of notices and ordinances; RCW 35.21.875 and 35A.21.230 relating to the designation of an official newspaper; RCW 36.16.138 relating to liability insurance; RCW 35.22.620, 35.23.352, and 35A.40.210, as appropriate, and statutes referenced therein relating to public contracts and bidding; and chapter 39.34 RCW relating to interlocal cooperation. Tax anticipation or revenue anticipation notes or warrants and other short-term obligations may be issued and funds may be borrowed on the security of these instruments during this interim period, as provided in chapter 39.50 RCW. Funds also may be borrowed from federal, state, and other governmental agencies in the same manner as if the city or town were officially incorporated.

RCW 84.52.020 and 84.52.070 shall apply to the extent that they may be applicable, and the governing body of such city or town may take appropriate action by ordinance during the interim period to adopt the property tax levy for its first full calendar year following the interim period.

The governing body of the new city or town may acquire needed facilities, supplies, equipment, insurance, and staff during this interim period as if the city or town were in existence. An interim city manager or administrator, who shall have such administrative powers and duties as are delegated by the governing body, may be appointed to serve only until the official date of incorporation. After the official date of incorporation the governing body of such a new city organized under the council manager form of government may extend the appointment of such an interim manager or administrator with such limited powers as the governing body determines, for up to ninety days. This governing body may submit ballot propositions to the voters of the city or town to authorize taxes to be collected on or after the official date of incorporation, or authorize an annexation of the city or town by a fire protection district or library district to be effective immediately upon the effective date of the incorporation as a city or town.

The boundaries of a newly incorporated city or town shall be deemed to be established for purposes of RCW 84.09.030 on the date that the results of the initial election on the question of incorporation are certified or the first day of January following the date of this election if the newly incorporated city or town does not impose property taxes in the same year that the voters approve the incorporation.

The newly elected officials shall take office immediately upon their election and qualification with limited powers during this interim period as provided in this section. They shall acquire their full powers as of the official date of incorporation and shall continue in office until their successors are elected and qualified at the next general municipal election after the official date of incorporation:

PROVIDED, That if the date of the next general municipal election is less than twelve months after the date of the first election of councilmembers, those initially elected councilmembers shall serve until their successors are elected and qualified at the next following general municipal election as provided in RCW 29.04.170. For purposes of this section, the general municipal election shall be the date on which city and town general elections are held throughout the state of Washington, pursuant to RCW 29.13.020.

In any newly incorporated city that has adopted the council-manager form of government, the term of office of the mayor, during the interim period only, shall be set by the council, and thereafter shall be as provided by law.

The official date of incorporation shall be on a date from one hundred eighty to three hundred sixty days after the date of the election on the question of incorporation, as specified in a resolution adopted by the governing body during this interim period. A copy of the resolution shall be filed with the county legislative authority of the county in which all or the major portion of the newly incorporated city or town is located. If the governing body fails to adopt such a resolution, the official date of incorporation shall be three hundred sixty days after the date of the election on the question of incorporation. The county legislative authority of the county in which all or the major portion of the newly incorporated city or town is located shall file a notice with the county assessor that the city or town has been authorized to be incorporated immediately after the favorable results of the election on the question of incorporation have been certified. The county legislative authority shall file a notice with the secretary of state that the city or town is incorporated as of the official date of incorporation.

**Sec. 12.** RCW 35.22.010 and 1965 c 7 s 35.22.010 are each amended to read as follows:

Cities of the first class shall be organized and governed according to the law providing for the government of cities having a population of ~~((twenty))~~ ten thousand or more inhabitants that have adopted a charter in accordance with Article ~~((++))~~ XI, section 10 of the state Constitution.

**Sec. 13.** RCW 35.23.051 and 1995 c 134 s 8 are each amended to read as follows:

General municipal elections in second class cities ~~((not operating under the commission form of government))~~ shall be held biennially in the odd-numbered years and shall be subject to general election law.

The terms of office of the mayor, city attorney, clerk, and treasurer shall be four years and until their successors are elected and qualified and assume office in accordance with RCW 29.04.170: PROVIDED, That if the offices of city attorney, clerk, and treasurer are made appointive, the city attorney, clerk, and treasurer shall not be appointed for a definite term: PROVIDED FURTHER, That the term of the elected treasurer shall not commence in the same biennium in which the term of the mayor commences, nor in which the terms of the city attorney and clerk commence if they are elected.

Council positions shall be numbered in each second class city so that council position seven has a two-year term of office and council positions one through six shall each have four-year terms of office. Each councilmember shall remain in office until a successor is elected and qualified and assumes office in accordance with RCW 29.04.170.

In its discretion the council of a second class city may divide the city by ordinance, into a convenient number of wards, not exceeding six, fix the boundaries of the wards, and change the ward boundaries from time to time and as provided in RCW 29.70.100. No change in the boundaries of any ward shall be made within one hundred twenty days next before the date of a general municipal election, nor within twenty months after the wards have been established or altered. However, if a boundary change results in one ward being represented by more councilmembers than the number to which it is entitled, those having the shortest unexpired terms shall be assigned by the council to wards where there is a vacancy, and the councilmembers so assigned shall be deemed to be residents of the wards to which they are assigned for purposes of determining whether those positions are vacant.

Whenever such city is so divided into wards, the city council shall designate by ordinance the number of councilmembers to be elected from each ward, apportioning the same in proportion to the population of the wards. Thereafter the councilmembers so designated shall be elected by the voters resident in such ward, or by general vote of the whole city as may be designated in such ordinance. Council position seven shall not be associated with a ward and the person elected to that position may reside anywhere in the city and voters throughout the city may vote at a primary to nominate candidates for position seven, when a primary is necessary, and at a general election to elect the person to council position seven. ~~((When))~~ Additional territory that is added to the city ((it may)) shall, by act of the council, be annexed to contiguous wards without affecting the right to redistrict at the expiration of twenty months after last previous division. The removal of a councilmember from the ward for which he or she was elected shall create a vacancy in such office.

Wards shall be redrawn as provided in chapter 29.70 RCW. Wards shall be used as follows: (1) Only a resident of the ward may be a candidate for, or hold office as, a councilmember of the ward; and (2) only voters of the ward may vote at a primary to nominate candidates for a councilmember of the ward. Voters of the entire city may vote at the general election to elect a councilmember of a ward, unless the city had prior to January 1, 1994, limited the voting in the general election for any or all council positions to only voters residing within the ward associated with the council positions. If a city had so limited the voting in the general election to only voters residing within the ward, then the city shall be authorized to continue to do so. The elections for the remaining council position or council positions that are not associated with a ward shall be conducted as if the wards did not exist.

Sec. 14. RCW 35.33.020 and 1985 c 175 s 4 are each amended to read as follows:

The provisions of this chapter apply to all cities of the first class (~~(which)~~) that have a population of less than three hundred thousand, to all cities of the second (~~(and third classes)~~) class, and to all towns, except those cities and towns (~~(which)~~) that have adopted an ordinance under RCW 35.34.040 providing for a biennial budget.

Sec. 15. RCW 35.34.020 and 1985 c 175 s 5 are each amended to read as follows:

This chapter applies to all cities of the first(~~(;)~~) and second(~~(- and third)~~) classes and to all towns (~~(which)~~), that have by ordinance adopted this chapter authorizing the adoption of a fiscal biennium budget.

Sec. 16. RCW 35.86.010 and 1975 1st ex.s. c 221 s 1 are each amended to read as follows:

Cities of the first(~~(;)~~) and second(~~(- and third)~~) classes are authorized to provide off-street parking space and facilities located on land dedicated for park or civic center purposes, or on other municipally-owned land where the primary purpose of such off-street parking facility is to provide parking for persons who use such park or civic center facilities. In addition a city may own other off-street parking facilities and operate them in accordance with RCW 35.86A.120.

Sec. 17. RCW 35A.06.020 and 1995 c 134 s 11 are each amended to read as follows:

The classifications of municipalities (~~(which existed prior to the time this title goes into effect--)~~) as first class cities, second class cities, unclassified cities, and towns(~~(--)~~), and the restrictions, limitations, duties, and obligations specifically imposed by law upon such classes of cities and towns, shall have no application to noncharter code cities, but every noncharter code city, by adopting such classification, has elected to be governed by the provisions of this title, with the powers granted hereby. However, any code city that retains its old plan of government is subject to the laws applicable to that old plan of government until the city abandons its old plan of government and reorganizes and adopts a plan of government under chapter 35A.12 or 35A.13 RCW.

*\*Sec. 18. RCW 35.13.005 and 1990 1st ex.s. c 17 s 30 are each amended to read as follows:*

*((No)) A city or town may not annex territory located in a county in which urban growth areas have been designated under RCW 36.70A.110 ((may annex territory)) that is located beyond an urban growth area unless the territory is annexed under RCW 35.13.180.*

*\*Sec. 18 was vetoed. See message at end of chapter.*

*\*Sec. 19. RCW 35A.14.005 and 1990 1st ex.s. c 17 s 31 are each amended to read as follows:*

~~((No))~~ A code city may not annex territory located in a county in which urban growth areas have been designated under RCW 36.70A.110 ((may annex territory)) that is located beyond an urban growth area unless the territory is annexed under RCW 35A.14.300.

\*Sec. 19 was vetoed. See message at end of chapter.

*\*Sec. 20. RCW 35.13.180 and 1994 c 81 s 11 are each amended to read as follows:*

*City and town councils ~~((of second class cities and towns))~~ may by a majority vote annex new unincorporated territory outside the city or town limits, whether contiguous or noncontiguous for park, cemetery, or other municipal purposes when such territory is owned by the city or town ~~((or all of the owners of the real property in the territory give their written consent to the annexation)).~~*

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

*\*Sec. 21. RCW 36.70A.110 and 1995 c 400 s 2 are each amended to read as follows:*

*(1) Each county that is required or chooses to plan under RCW 36.70A.040 shall designate an urban growth area or areas within which urban growth shall be encouraged and outside of which growth can occur only if it is not urban in nature. Each city that is located in such a county shall be included within an urban growth area, except that an area owned by a city or town that was annexed to the city or town under RCW 35.13.180 or 35A.14.300 may be located outside of 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 urban growth areas in the county shall include areas and densities sufficient to permit the urban growth that is projected to occur in the county for the succeeding twenty-year period. Each urban growth area shall permit urban densities and shall include greenbelt and open space areas. 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.*

*\*Sec. 21 was vetoed. See message at end of chapter.*

**NEW SECTION.** Sec. 22. RCW 35.21.620 shall be recodified as a section in chapter 35.22 RCW.

**NEW SECTION.** Sec. 23. The following acts or parts of acts are each repealed:

- (1) RCW 35.07.030 and 1965 c 7 s 35.07.030;
- (2) RCW 35.17.160 and 1965 c 7 s 35.17.160;
- (3) RCW 35.23.390 and 1965 c 7 s 35.23.390;
- (4) RCW 35.23.400 and 1965 c 7 s 35.23.400;
- (5) RCW 35.21.600 and 1979 c 151 s 27, 1965 ex.s. c 47 s 6, & 1965 c 7 s 35.21.600;
- (6) RCW 35.21.610 and 1965 ex.s. c 47 s 1; and
- (7) RCW 35A.61.010 and 1967 ex.s. c 119 s 35A.61.010.

***\*NEW SECTION. Sec. 24. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.***

***\*Sec. 24 was vetoed. See message at end of chapter.***

Passed the Senate April 26, 1997.

Passed the House April 25, 1997.

Approved by the Governor May 14, 1997, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State May 14, 1997.

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

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

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

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

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

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

Sections 19 through 21 of this bill would allow cities, code cities, and towns to unilaterally annex territory located in a county, beyond the urban growth area, if the area to be annexed is owned by the city or town and the annexation is for a municipal purpose. The authority that would be granted by these sections goes well beyond the changes to annexation laws recommended by the Land Use Study Commission.

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

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

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

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

**CHAPTER 362**

[Senate Bill 5530]

**DEFINING AGRICULTURE FOR WASHINGTON INDUSTRIAL SAFETY AND HEALTH ACT PURPOSES**

AN ACT Relating to defining agriculture; amending RCW 49.17.020; and creating a new section.

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

NEW SECTION. **Sec. 1.** The legislature finds that the state's farms are diverse in their nature and the owners, managers, and their employees continually find new ways to plant, raise, harvest, process, store, market, and distribute their products. The legislature further finds that the department of labor and industries needs guidance in determining when activities related to agricultural products are to be regulated as agricultural activities and when they should be regulated as other activities. It is the intent of the legislature that activities performed by a farmer as incident to or in conjunction with his or her farming activities be regulated as agricultural activities. For this purpose, an agricultural activity is to be interpreted broadly, based on the definition of "agriculture" in RCW 49.17.020.

**Sec. 2.** RCW 49.17.020 and 1973 c 80 s 2 are each amended to read as follows:

For the purposes of this chapter:

(1) The term "agriculture" means farming and includes, but is not limited to:

(a) The cultivation and tillage of the soil;

(b) Dairying;

(c) The production, cultivation, growing, and harvesting of any agricultural or horticultural commodity;

(d) The raising of livestock, bees, fur-bearing animals, or poultry; and

(e) Any practices performed by a farmer or on a farm, incident to or in connection with such farming operations, including but not limited to preparation for market and delivery to:

(i) Storage;

(ii) Market; or

(iii) Carriers for transportation to market.

The term "agriculture" does not mean a farmer's processing for sale or handling for sale a commodity or product grown or produced by a person other than the farmer or the farmer's employees.

(2) The term "director" means the director of the department of labor and industries, or his designated representative.

((2)) (3) The term "department" means the department of labor and industries.

~~((3))~~ (4) The term "employer" means any person, firm, corporation, partnership, business trust, legal representative, or other business entity which engages in any business, industry, profession, or activity in this state and employs one or more employees or who contracts with one or more persons, the essence of which is the personal labor of such person or persons and includes the state, counties, cities, and all municipal corporations, public corporations, political subdivisions of the state, and charitable organizations: PROVIDED, That any person, partnership, or business entity not having employees, and who is covered by the industrial insurance act shall be considered both an employer and an employee.

~~((4))~~ (5) The term "employee" means an employee of an employer who is employed in the business of his employer whether by way of manual labor or otherwise and every person in this state who is engaged in the employment of or who is working under an independent contract the essence of which is his personal labor for an employer under this chapter whether by way of manual labor or otherwise.

~~((5))~~ (6) The term "person" means one or more individuals, partnerships, associations, corporations, business trusts, legal representatives, or any organized group of persons.

~~((6))~~ (7) The term "safety and health standard" means a standard which requires the adoption or use of one or more practices, means, methods, operations, or processes reasonably necessary or appropriate to provide safe or healthful employment and places of employment.

~~((7))~~ (8) The term "work place" means any plant, yard, premises, room, or other place where an employee or employees are employed for the performance of labor or service over which the employer has the right of access or control, and includes, but is not limited to, all work places covered by industrial insurance under Title 51 RCW, as now or hereafter amended.

~~((8))~~ (9) The term "working day" means a calendar day, except Saturdays, Sundays, and all legal holidays as set forth in RCW 1.16.050, as now or hereafter amended, and for the purposes of the computation of time within which an act is to be done under the provisions of this chapter, shall be computed by excluding the first working day and including the last working day.

Passed the Senate April 21, 1997.

Passed the House April 8, 1997.

Approved by the Governor May 14, 1997.

Filed in Office of Secretary of State May 14, 1997.

---

## CHAPTER 363

[Senate Bill 5659]

WASHINGTON STATE BEEF COMMISSION—MEMBERSHIP AND PROCEDURES

AN ACT Relating to the beef commission; and amending RCW 16.67.040 and 16.67.051.

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

**Sec. 1.** RCW 16.67.040 and 1993 c 40 s 1 are each amended to read as follows:

There is hereby created a Washington state beef commission to be thus known and designated. The commission shall be composed of ~~((one))~~ two beef producers, ~~((one))~~ two dairy (beef) producers, ~~((one))~~ two feeders, one livestock salesyard operator, and one meat packer. If an otherwise voting member is elected as the chair of the commission, the member may, during the member's term as chair of the commission, cast a vote as a member of the commission only to break a tie vote. In addition there will be one ex officio member without the right to vote from the department of agriculture to be designated by the director thereof.

A majority of voting members shall constitute a quorum for the transaction of any business.

All appointed members as stated in RCW 16.67.060 shall be citizens and residents of this state, over the age of twenty-five years, each of whom is and has been actually engaged in that phase of the cattle industry he or she represents for a period of five years, and has during that period derived a substantial portion of his or her income therefrom, or have a substantial investment in cattle as an owner, lessee, partner, or a stockholder owning at least ten percent of the voting stock in a corporation engaged in the production of cattle or dressed beef, or a manager or executive officer of such corporation. Producer members of the commission shall not be directly engaged in the business of being a meat packer, or as a feeder, feeding cattle other than their own. Said qualifications must continue throughout each member's term of office.

**Sec. 2.** RCW 16.67.051 and 1993 c 40 s 3 are each amended to read as follows:

Commencing on July 1, 1993, the appointive positions on the commission shall be designated as follows: The beef producers shall be designated position one and position six; the dairy (beef) producers shall be designated position two and position seven; the feeders shall be designated position three and position eight; the livestock salesyard operator shall be designated position four; and the meat packer shall be designated position five.

The initial terms of positions one and four shall terminate July 1, 1994; positions two and five shall terminate July 1, 1995; and position three shall terminate July 1, 1996. The initial terms of position six shall terminate July 1, 1998; position seven shall terminate July 1, 1999; and position eight shall terminate July 1, 2000. The regular term of office of subsequent appointees shall be three years from the date of appointment and until their successors are appointed.

Passed the Senate April 21, 1997.

Passed the House April 8, 1997.

Approved by the Governor May 14, 1997.

Filed in Office of Secretary of State May 14, 1997.

## CHAPTER 364

[Engrossed Substitute Senate Bill 5759]

## SEX OFFENDERS—RISK LEVEL CLASSIFICATION—PUBLIC NOTICE PROCEDURES

AN ACT Relating to sex offender risk level classification and public notification procedures; amending RCW 4.24.550, 13.40.217, 70.48.470, and 9.95.145; adding a new section to chapter 72.09 RCW; and creating new sections.

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

**Sec. 1.** RCW 4.24.550 and 1996 c 215 s 1 are each amended to read as follows:

(1) Public agencies are authorized to release ~~((relevant and necessary))~~ information to the public regarding sex offenders ~~((to the public when the release of the information is necessary for public protection))~~ when the agency determines that disclosure of the information is relevant and necessary to protect the public and counteract the danger created by the particular offender. This authorization applies to information regarding: (a) Any person adjudicated or convicted of a sex offense as defined in RCW 9.94A.030; (b) any person under the jurisdiction of the indeterminate sentence review board as the result of a sex offense; (c) any person committed as a sexually violent predator under chapter 71.09 RCW or as a sexual psychopath under chapter 71.06 RCW; (d) any person found not guilty of a sex offense by reason of insanity under chapter 10.77 RCW; and (e) any person found incompetent to stand trial for a sex offense and subsequently committed under chapter 71.05 or 71.34 RCW.

(2) The extent of the public disclosure of relevant and necessary information shall be rationally related to: (a) The level of risk posed by the offender to the community; (b) the locations where the offender resides, expects to reside, or is regularly found; and (c) the needs of the affected community members for information to enhance their individual and collective safety.

(3) Local law enforcement agencies shall consider the following guidelines in determining the extent of a public disclosure made under this section: (a) For offenders classified as risk level I, the agency shall share information with other appropriate law enforcement agencies and may disclose, upon request, relevant, necessary, and accurate information to any victim or witness to the offense and to any individual community member who lives near the residence where the offender resides, expects to reside, or is regularly found; (b) for offenders classified as risk level II, the agency may also disclose relevant, necessary, and accurate information to public and private schools, child day care centers, family day care providers, businesses and organizations that serve primarily children, women, or vulnerable adults, and neighbors and community groups near the residence where the offender resides, expects to reside, or is regularly found; and (c) for offenders classified as risk level III, the agency may also disclose relevant, necessary, and accurate information to the public at large.

(4) Local law enforcement agencies ~~((and officials who decide to release))~~ that disseminate information pursuant to this section shall: (a) Review available risk

level classifications made by the department of corrections, the department of social and health services, and the indeterminate sentence review board; (b) assign risk level classifications to all sex offenders about whom information will be disseminated; and (c) make a good faith effort to notify the public and residents at least fourteen days before the sex offender is released from confinement or, where an offender moves from another jurisdiction, as soon as possible after the agency learns of the offender's move, except that in no case may this notification provision be construed to require an extension of an offender's release date. ((If a change occurs in the release plan, this notification provision will not require an extension of the release date. The department of corrections and the department of social and health services shall provide local law enforcement officials with all relevant information on sex offenders about to be released or placed into the community in a timely manner. When a sex offender under county jurisdiction will be released from jail and will reside in a county other than the county of incarceration, the chief law enforcement officer of the jail, or his or her designee, shall notify the sheriff in the county where the offender will reside of the offender's release as provided in RCW 70.48.470.

~~---~~(3)) (5) An appointed or elected public official, public employee, or public agency as defined in RCW 4.24.470 is immune from civil liability for damages for any discretionary ((decision to release)) risk level classification decisions ((and the)) or release of relevant and necessary information, unless it is shown that the official, employee, or agency acted with gross negligence or in bad faith. The ((authorization and)) immunity in this section applies to risk level classification decisions and the release of relevant and necessary information regarding((--(a) A person convicted of, or juvenile found to have committed, a sex offense as defined by RCW 9.94A.030; (b) a person found not guilty of a sex offense by reason of insanity under chapter 10.77 RCW; (c) a person found incompetent to stand trial for a sex offense and subsequently committed under chapter 71.05 or 71.34 RCW; (d) a person committed as a sexual psychopath under chapter 71.06 RCW; or (e) a person committed as a sexually violent predator under chapter 71.09 RCW)) any individual for whom disclosure is authorized. The decision of a local law enforcement agency or official to classify a sex offender to a risk level other than the one assigned by the department of corrections, the department of social and health services, or the indeterminate sentence review board, or the release of any relevant and necessary information based on that different classification shall not, by itself, be considered gross negligence or bad faith. The immunity provided under this section applies to the release of relevant and necessary information to other public officials, public employees ((or officials)), or public agencies, and to the general public.

((4)) (6) Except as may otherwise be provided by ((statute)) law, nothing in this section shall impose any liability upon a public official, public employee, or public agency for failing to release information ((as provided in subsections (2) and (3) of)) authorized under this section.

~~((5))~~ (7) Nothing in this section implies that information regarding persons designated in subsection ~~((s-2) and (3))~~ (1) of this section is confidential except as may otherwise be provided by (statute) law.

(8) When a local law enforcement agency or official classifies a sex offender differently than the offender is classified by the department of corrections, the department of social and health services, or the indeterminate sentence review board, the law enforcement agency or official shall notify the appropriate department or the board and submit its reasons supporting the change in classification.

Sec. 2. RCW 13.40.217 and 1990 c 3 s 102 are each amended to read as follows:

(1) In addition to any other information required to be released under this chapter, the department is authorized, pursuant to RCW 4.24.550, to release relevant information that is necessary to protect the public concerning juveniles adjudicated of sex offenses.

(2) In order for public agencies to have the information necessary for notifying the public about sex offenders as authorized in RCW 4.24.550, the secretary shall issue to appropriate law enforcement agencies narrative notices regarding the pending release of sex offenders from the department's juvenile rehabilitation facilities. The narrative notices shall, at a minimum, describe the identity and criminal history behavior of the offender and shall include the department's risk level classification for the offender. For sex offenders classified as either risk level II or III, the narrative notices shall also include the reasons underlying the classification.

(3) For the purposes of this section, the department shall classify as risk level I those offenders whose risk assessments indicate a low risk of reoffense within the community at large. The department shall classify as risk level II those offenders whose risk assessments indicate a moderate risk of reoffense within the community at large. The department shall classify as risk level III those offenders whose risk assessments indicate a high risk of reoffense within the community at large.

Sec. 3. RCW 70.48.470 and 1996 c 215 s 2 are each amended to read as follows:

(1) A person having charge of a jail shall notify in writing any confined person who is in the custody of the jail for a conviction of a ~~((sexual{sex})~~ sex offense as defined in RCW 9.94A.030 of the registration requirements of RCW 9A.44.130 at the time of the inmate's release from confinement, and shall obtain written acknowledgment of such notification. The person shall also obtain from the inmate the county of the inmate's residence upon release from jail and, where applicable, the city.

~~(2) (If an inmate convicted of a sexual offense will reside in a county other than the county of incarceration upon release, the chief law enforcement officer, or his or her designee, shall notify the sheriff of the county where the inmate will reside of the inmate's impending release. Notice shall be provided at least fourteen~~

~~days prior to the inmate's release, or if the release date is not known at least fourteen days prior to release, notice shall be provided not later than the day after the inmate's release))~~ When a sex offender under local government jurisdiction will reside in a county other than the county of conviction upon discharge or release, the chief law enforcement officer of the jail or his or her designee shall give notice of the inmate's discharge or release to the sheriff of the county and, where applicable, to the police chief of the city where the offender will reside.

NEW SECTION. Sec. 4. A new section is added to chapter 72.09 RCW to read as follows:

(1) In addition to any other information required to be released under this chapter, the department is authorized, pursuant to RCW 4.24.550, to release relevant information that is necessary to protect the public concerning offenders convicted of sex offenses.

(2) In order for public agencies to have the information necessary to notify the public as authorized in RCW 4.24.550, the secretary shall establish and administer an end-of-sentence review committee for the purposes of assigning risk levels, reviewing available release plans, and making appropriate referrals for sex offenders. The committee shall assess, on a case-by-case basis, the public risk posed by sex offenders who are: (a) Preparing for their release from confinement for sex offenses committed on or after July 1, 1984; and (b) accepted from another state under a reciprocal agreement under the interstate compact authorized in chapter 72.74 RCW.

(3) Notwithstanding any other provision of law, the committee shall have access to all relevant records and information in the possession of public agencies relating to the offenders under review, including police reports; prosecutors' statements of probable cause; presentence investigations and reports; complete judgments and sentences; current classification referrals; criminal history summaries; violation and disciplinary reports; all psychological evaluations and psychiatric hospital reports; sex offender treatment program reports; and juvenile records. Records and information obtained under this subsection shall not be disclosed outside the committee unless otherwise authorized by law.

(4) The committee shall review each sex offender under its authority before the offender's release from confinement or start of the offender's term of community placement or community custody in order to: (a) Classify the offender into a risk level for the purposes of public notification under RCW 4.24.550; (b) where available, review the offender's proposed release plan in accordance with the requirements of RCW 72.09.340; and (c) make appropriate referrals.

(5) The committee shall classify as risk level I those sex offenders whose risk assessments indicate a low risk of reoffense within the community at large. The committee shall classify as risk level II those offenders whose risk assessments indicate a moderate risk of reoffense within the community at large. The committee shall classify as risk level III those offenders whose risk assessments indicate a high risk of reoffense within the community at large.

(6) The committee shall issue to appropriate law enforcement agencies, for their use in making public notifications under RCW 4.24.550, narrative notices regarding the pending release of sex offenders from the department's facilities. The narrative notices shall, at a minimum, describe the identity and criminal history behavior of the offender and shall include the department's risk level classification for the offender. For sex offenders classified as either risk level II or III, the narrative notices shall also include the reasons underlying the classification.

Sec. 5. RCW 9.95.145 and 1990 c 3 s 127 are each amended to read as follows:

(1) In addition to any other information required to be released under this chapter, the indeterminate sentence review board may, pursuant to RCW 4.24.550, release information concerning inmates under the jurisdiction of the indeterminate sentence review board who are convicted of sex offenses as defined in RCW 9.94A.030.

(2) In order for public agencies to have the information necessary for notifying the public about sex offenders as authorized in RCW 4.24.550, the board shall issue to appropriate law enforcement agencies narrative notices regarding the pending release from confinement of sex offenders under the board's jurisdiction. The narrative notices shall, at a minimum, describe the identity and criminal history behavior of the offender. For sex offenders being discharged from custody on serving the maximum punishment provided by law or fixed by the court, the narrative notices shall also include the board's risk level classification for the offender and the reasons underlying the classification.

(3) For the purposes of this section, the board shall classify as risk level I those offenders whose risk assessments indicate a low risk of reoffense within the community at large. The board shall classify as risk level II those offenders whose risk assessments indicate a moderate risk of reoffense within the community at large. The board shall classify as risk level III those offenders whose risk assessments indicate a high risk of reoffense within the community at large.

NEW SECTION. Sec. 6. (1) By December 1, 1997, the Washington association of sheriffs and police chiefs shall develop a model policy for law enforcement agencies to follow when they disclose information about sex offenders to the public under RCW 4.24.550. The model policy shall be designed to further the objectives of providing adequate notice to the community concerning sex offenders who are or will be residing in the community and of assisting community members in developing constructive plans to prepare themselves and their children for residing near released sex offenders.

(2) In developing the policy, the association shall consult with representatives of the following agencies and professions: (a) The department of corrections; (b) the department of social and health services; (c) the indeterminate sentence review board; (d) the Washington state council of police officers; (e) local correctional agencies; (f) the Washington association of prosecuting attorneys; (g) the Washington public defender association; (h) the Washington association for the treatment of sexual abusers; and (i) victim advocates.

(3) The model policy shall, at a minimum, include recommendations to address the following issues: (a) Procedures for local agencies or officials to accomplish the notifications required under RCW 4.24.550(8); (b) contents and form of community notification documents, including procedures for ensuring the accuracy of factual information contained in the notification documents, and ways of protecting the privacy of victims of the offenders' crimes; (c) methods of distributing community notification documents; (d) methods of providing follow-up notifications to community residents at specified intervals and of disclosing information about offenders to law enforcement agencies in other jurisdictions if necessary to protect the public; (e) methods of educating community residents at public meetings on how they can use the information in the notification document in a reasonable manner to enhance their individual and collective safety; (f) procedures for educating community members regarding the right of sex offenders not to be the subject of harassment or criminal acts as a result of the notification process; and (g) other matters the Washington association of sheriffs and police chiefs deems necessary to ensure the effective and fair administration of RCW 4.24.550.

**NEW SECTION. Sec. 7.** (1) The department of corrections, the department of social and health services, and the indeterminate sentence review board shall jointly develop, by September 1, 1997, a consistent approach to risk assessment for the purposes of implementing this act, including consistent standards for classifying sex offenders into risk levels I, II, and III.

(2) The department of social and health services, the department of corrections, and the indeterminate sentence review board shall each prepare and deliver to the legislature, by December 1, 1998, a report indicating the number of sex offenders released after the effective date of this section and classified in each level of risk category. The reports shall also include information on the number, jurisdictions, and circumstances where the risk level classification made by a local law enforcement agency or official for specific sex offenders differed from the risk level classification made by the department or the indeterminate sentence review board for the same offender.

**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, 1997, in the omnibus appropriations act, this act is null and void.

**NEW SECTION. Sec. 9.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed the Senate April 22, 1997.

Passed the House April 10, 1997.

Approved by the Governor May 14, 1997.

Filed in Office of Secretary of State May 14, 1997.

**CHAPTER 365**

[Senate Bill 5938]

**SENTENCING—MANSLAUGHTER, MURDER IN THE SECOND DEGREE REVISIONS**

AN ACT Relating to sentencing; amending RCW 9.94A.040, 9.94A.310, 9A.32.060, and 9A.32.070; reenacting and amending RCW 9.94A.030 and 9.94A.320; and prescribing penalties.

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

**Sec. 1.** RCW 9.94A.030 and 1996 c 289 s 1 and 1996 c 275 s 5 are each reenacted and amended to read as follows:

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

(1) "Collect," or any derivative thereof, "collect and remit," or "collect and deliver," when used with reference to the department of corrections, means that the department is responsible for monitoring and enforcing the offender's sentence with regard to the legal financial obligation, receiving payment thereof from the offender, and, consistent with current law, delivering daily the entire payment to the superior court clerk without depositing it in a departmental account.

(2) "Commission" means the sentencing guidelines commission.

(3) "Community corrections officer" means an employee of the department who is responsible for carrying out specific duties in supervision of sentenced offenders and monitoring of sentence conditions.

(4) "Community custody" means that portion of an inmate's sentence of confinement in lieu of earned early release time or imposed pursuant to RCW 9.94A.120 (6), (8), or (10) served in the community subject to controls placed on the inmate's movement and activities by the department of corrections.

(5) "Community placement" means that period during which the offender is subject to the conditions of community custody and/or postrelease supervision, which begins either upon completion of the term of confinement (postrelease supervision) or at such time as the offender is transferred to community custody in lieu of earned early release. Community placement may consist of entirely community custody, entirely postrelease supervision, or a combination of the two.

(6) "Community service" means compulsory service, without compensation, performed for the benefit of the community by the offender.

(7) "Community supervision" means a period of time during which a convicted offender is subject to crime-related prohibitions and other sentence conditions imposed by a court pursuant to this chapter or RCW 16.52.200(6) or 46.61.524. For first-time offenders, the supervision may include crime-related prohibitions and other conditions imposed pursuant to RCW 9.94A.120(5). For purposes of the interstate compact for out-of-state supervision of parolees and probationers, RCW 9.95.270, community supervision is the functional equivalent of probation and should be considered the same as probation by other states.

(8) "Confinement" means total or partial confinement as defined in this section.

(9) "Conviction" means an adjudication of guilt pursuant to Titles 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and acceptance of a plea of guilty.

(10) "Court-ordered legal financial obligation" means a sum of money that is ordered by a superior court of the state of Washington for legal financial obligations which may include restitution to the victim, statutorily imposed crime victims' compensation fees as assessed pursuant to RCW 7.68.035, court costs, county or interlocal drug funds, court-appointed attorneys' fees, and costs of defense, fines, and any other financial obligation that is assessed to the offender as a result of a felony conviction. Upon conviction for vehicular assault while under the influence of intoxicating liquor or any drug, RCW 46.61.522(1)(b), or vehicular homicide while under the influence of intoxicating liquor or any drug, RCW 46.61.520(1)(a), legal financial obligations may also include payment to a public agency of the expense of an emergency response to the incident resulting in the conviction, subject to the provisions in RCW 38.52.430.

(11) "Crime-related prohibition" means an order of a court prohibiting conduct that directly relates to the circumstances of the crime for which the offender has been convicted, and shall not be construed to mean orders directing an offender affirmatively to participate in rehabilitative programs or to otherwise perform affirmative conduct.

(12)(a) "Criminal history" means the list of a defendant's prior convictions, whether in this state, in federal court, or elsewhere. The history shall include, where known, for each conviction (i) whether the defendant has been placed on probation and the length and terms thereof; and (ii) whether the defendant has been incarcerated and the length of incarceration.

(b) "Criminal history" shall always include juvenile convictions for sex offenses and serious violent offenses and shall also include a defendant's other prior convictions in juvenile court if: (i) The conviction was for an offense which is a felony or a serious traffic offense and is criminal history as defined in RCW 13.40.020(9); (ii) the defendant was fifteen years of age or older at the time the offense was committed; and (iii) with respect to prior juvenile class B and C felonies or serious traffic offenses, the defendant was less than twenty-three years of age at the time the offense for which he or she is being sentenced was committed.

(13) "Day fine" means a fine imposed by the sentencing judge that equals the difference between the offender's net daily income and the reasonable obligations that the offender has for the support of the offender and any dependents.

(14) "Day reporting" means a program of enhanced supervision designed to monitor the defendant's daily activities and compliance with sentence conditions, and in which the defendant is required to report daily to a specific location designated by the department or the sentencing judge.

(15) "Department" means the department of corrections.

(16) "Determinate sentence" means a sentence that states with exactitude the number of actual years, months, or days of total confinement, of partial confinement, of community supervision, the number of actual hours or days of community service work, or dollars or terms of a legal financial obligation. The fact that an offender through "earned early release" can reduce the actual period of confinement shall not affect the classification of the sentence as a determinate sentence.

(17) "Disposable earnings" means that part of the earnings of an individual remaining after the deduction from those earnings of any amount required by law to be withheld. For the purposes of this definition, "earnings" means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonuses, or otherwise, and, notwithstanding any other provision of law making the payments exempt from garnishment, attachment, or other process to satisfy a court-ordered legal financial obligation, specifically includes periodic payments pursuant to pension or retirement programs, or insurance policies of any type, but does not include payments made under Title 50 RCW, except as provided in RCW 50.40.020 and 50.40.050, or Title 74 RCW.

(18) "Drug offense" means:

(a) Any felony violation of chapter 69.50 RCW except possession of a controlled substance (RCW 69.50.401(d)) or forged prescription for a controlled substance (RCW 69.50.403);

(b) Any offense defined as a felony under federal law that relates to the possession, manufacture, distribution, or transportation of a controlled substance; or

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

(19) "Escape" means:

(a) Escape in the first degree (RCW 9A.76.110), escape in the second degree (RCW 9A.76.120), willful failure to return from furlough (RCW 72.66.060), willful failure to return from work release (RCW 72.65.070), or willful failure to be available for supervision by the department while in community custody (RCW 72.09.310); or

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

(20) "Felony traffic offense" means:

(a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW 46.61.522), eluding a police officer (RCW 46.61.024), or felony hit-and-run injury-accident (RCW 46.52.020(4)); or

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

(21) "Fines" means the requirement that the offender pay a specific sum of money over a specific period of time to the court.

(22)(a) "First-time offender" means any person who is convicted of a felony (i) not classified as a violent offense or a sex offense under this chapter, or (ii) that is not the manufacture, delivery, or possession with intent to manufacture or deliver a controlled substance classified in schedule I or II that is a narcotic drug, nor the manufacture, delivery, or possession with intent to deliver methamphetamine, its salts, isomers, and salts of its isomers as defined in RCW 69.50.206(d)(2), nor the selling for profit of any controlled substance or counterfeit substance classified in schedule I, RCW 69.50.204, except leaves and flowering tops of marijuana, and except as provided in (b) of this subsection, who previously has never been convicted of a felony in this state, federal court, or another state, and who has never participated in a program of deferred prosecution for a felony offense.

(b) For purposes of (a) of this subsection, a juvenile adjudication for an offense committed before the age of fifteen years is not a previous felony conviction except for adjudications of sex offenses and serious violent offenses.

(23) "Most serious offense" means any of the following felonies or a felony attempt to commit any of the following felonies, as now existing or hereafter amended:

(a) Any felony defined under any law as a class A felony or criminal solicitation of or criminal conspiracy to commit a class A felony;

(b) Assault in the second degree;

(c) Assault of a child in the second degree;

(d) Child molestation in the second degree;

(e) Controlled substance homicide;

(f) Extortion in the first degree;

(g) Incest when committed against a child under age fourteen;

(h) Indecent liberties;

(i) Kidnapping in the second degree;

(j) Leading organized crime;

(k) Manslaughter in the first degree;

(l) Manslaughter in the second degree;

(m) Promoting prostitution in the first degree;

(n) Rape in the third degree;

(o) Robbery in the second degree;

(p) Sexual exploitation;

(q) Vehicular assault;

(r) Vehicular homicide, when proximately caused by the driving of any vehicle by any person while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.502, or by the operation of any vehicle in a reckless manner;

(s) Any other class B felony offense with a finding of sexual motivation, as "sexual motivation" is defined under this section;

(t) Any other felony with a deadly weapon verdict under RCW 9.94A.125;

(u) Any felony offense in effect at any time prior to December 2, 1993, that is comparable to a most serious offense under this subsection, or any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a most serious offense under this subsection.

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

(25) "Offender" means a person who has committed a felony established by state law and is eighteen years of age or older or is less than eighteen years of age but whose case has been transferred by the appropriate juvenile court to a criminal court pursuant to RCW 13.40.110. Throughout this chapter, the terms "offender" and "defendant" are used interchangeably.

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

(27) "Persistent offender" is an offender who:

(a)(i) Has been convicted in this state of any felony considered a most serious offense; and

(ii) Has, before the commission of the offense under (a) of this subsection, been convicted as an offender on at least two separate occasions, whether in this state or elsewhere, of felonies that under the laws of this state would be considered most serious offenses and would be included in the offender score under RCW 9.94A.360; provided that of the two or more previous convictions, at least one conviction must have occurred before the commission of any of the other most serious offenses for which the offender was previously convicted; or

(b)(i) Has been convicted of (A) rape in the first degree, rape in the second degree, or indecent liberties by forcible compulsion; (B) murder in the first degree, murder in the second degree, kidnapping in the first degree, kidnapping in the second degree, assault in the first degree, assault in the second degree, or burglary in the first degree, with a finding of sexual motivation; or (C) an attempt to commit any crime listed in this subsection (27)(b)(i); and

(ii) Has, before the commission of the offense under (b)(i) of this subsection, been convicted as an offender on at least one occasion, whether in this state or elsewhere, of an offense listed in (b)(i) of this subsection.

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

(29) "Restitution" means the requirement that the offender pay a specific sum of money over a specific period of time to the court as payment of damages. The sum may include both public and private costs. The imposition of a restitution order does not preclude civil redress.

(30) "Serious traffic offense" means:

(a) Driving while under the influence of intoxicating liquor or any drug (RCW 46.61.502), actual physical control while under the influence of intoxicating liquor or any drug (RCW 46.61.504), reckless driving (RCW 46.61.500), or hit-and-run an attended vehicle (RCW 46.52.020(5)); or

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

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

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

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

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

(33) "Sex offense" means:

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

(b) A felony with a finding of sexual motivation under RCW 9.94A.127 or 13.40.135; or

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

(34) "Sexual motivation" means that one of the purposes for which the defendant committed the crime was for the purpose of his or her sexual gratification.

(35) "Total confinement" means confinement inside the physical boundaries of a facility or institution operated or utilized under contract by the state or any other unit of government for twenty-four hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

(36) "Transition training" means written and verbal instructions and assistance provided by the department to the offender during the two weeks prior to the offender's successful completion of the work ethic camp program. The transition training shall include instructions in the offender's requirements and obligations during the offender's period of community custody.

(37) "Victim" means any person who has sustained emotional, psychological, physical, or financial injury to person or property as a direct result of the crime charged.

(38) "Violent offense" means:

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

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

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

(39) "Work crew" means a program of partial confinement consisting of civic improvement tasks for the benefit of the community of not less than thirty-five hours per week that complies with RCW 9.94A.135. The civic improvement tasks shall have minimal negative impact on existing private industries or the labor force in the county where the service or labor is performed. The civic improvement tasks shall not affect employment opportunities for people with developmental disabilities contracted through sheltered workshops as defined in RCW 82.04.385. Only those offenders sentenced to a facility operated or utilized under contract by a county or the state are eligible to participate on a work crew. Offenders sentenced for a sex offense as defined in subsection (33) of this section are not eligible for the work crew program.

(40) "Work ethic camp" means an alternative incarceration program designed to reduce recidivism and lower the cost of corrections by requiring offenders to complete a comprehensive array of real-world job and vocational experiences, character-building work ethics training, life management skills development, substance abuse rehabilitation, counseling, literacy training, and basic adult education.

(41) "Work release" means a program of partial confinement available to offenders who are employed or engaged as a student in a regular course of study at school. Participation in work release shall be conditioned upon the offender attending work or school at regularly defined hours and abiding by the rules of the work release facility.

(42) "Home detention" means a program of partial confinement available to offender wherein the offender is confined in a private residence subject to electronic surveillance.

**Sec. 2.** RCW 9.94A.040 and 1996 c 232 s 1 are each amended to read as follows:

(1) A sentencing guidelines commission is established as an agency of state government.

(2) The legislature finds that the commission, having accomplished its original statutory directive to implement this chapter, and having expertise in sentencing practice and policies, shall:

(a) Evaluate state sentencing policy, to include whether the sentencing ranges and standards are consistent with and further:

(i) The purposes of this chapter as defined in RCW 9.94A.010; and

(ii) The intent of the legislature to emphasize confinement for the violent offender and alternatives to confinement for the nonviolent offender.

The commission shall provide the governor and the legislature with its evaluation and recommendations under this subsection not later than December 1, 1996, and every two years thereafter;

(b) Recommend to the legislature revisions or modifications to the standard sentence ranges, state sentencing policy, prosecuting standards, and other standards. If implementation of the revisions or modifications would result in exceeding the capacity of correctional facilities, then the commission shall accompany its recommendation with an additional list of standard sentence ranges which are consistent with correction capacity;

(c) Study the existing criminal code and from time to time make recommendations to the legislature for modification;

(d)(i) Serve as a clearinghouse and information center for the collection, preparation, analysis, and dissemination of information on state and local adult and juvenile sentencing practices; (ii) develop and maintain a computerized adult and juvenile sentencing information system by individual superior court judge consisting of offender, offense, history, and sentence information entered from judgment and sentence forms for all adult felons; and (iii) conduct ongoing research regarding adult and juvenile sentencing guidelines, use of total confinement and alternatives to total confinement, plea bargaining, and other matters relating to the improvement of the adult criminal justice system and the juvenile justice system;

(e) Assume the powers and duties of the juvenile disposition standards commission after June 30, 1996;

(f) Evaluate the effectiveness of existing disposition standards and related statutes in implementing policies set forth in RCW 13.40.010 generally, specifically review the guidelines relating to the confinement of minor and first offenders as well as the use of diversion, and review the application of current and proposed juvenile sentencing standards and guidelines for potential adverse impacts on the sentencing outcomes of racial and ethnic minority youth;

(g) Solicit the comments and suggestions of the juvenile justice community concerning disposition standards, and make recommendations to the legislature

regarding revisions or modifications of the standards in accordance with RCW 9.94A.045. The evaluations shall be submitted to the legislature on December 1 of each odd-numbered year. The department of social and health services shall provide the commission with available data concerning the implementation of the disposition standards and related statutes and their effect on the performance of the department's responsibilities relating to juvenile offenders, and with recommendations for modification of the disposition standards. The office of the administrator for the courts shall provide the commission with available data on diversion and dispositions of juvenile offenders under chapter 13.40 RCW; and

(h) Not later than December 1, 1997, and at least every two years thereafter, based on available information, report to the governor and the legislature on:

(i) Racial disproportionality in juvenile and adult sentencing;

(ii) The capacity of state and local juvenile and adult facilities and resources;

and

(iii) Recidivism information on adult and juvenile offenders.

(3) Each of the commission's recommended standard sentence ranges shall include one or more of the following: Total confinement, partial confinement, community supervision, community service, and a fine.

(4) The standard sentence ranges of total and partial confinement under this chapter are subject to the following limitations:

(a) If the maximum term in the range is one year or less, the minimum term in the range shall be no less than one-third of the maximum term in the range, except that if the maximum term in the range is ninety days or less, the minimum term may be less than one-third of the maximum;

(b) If the maximum term in the range is greater than one year, the minimum term in the range shall be no less than seventy-five percent of the maximum term in the range, except that for murder in the second degree in seriousness category XIII under RCW 9.94A.310, the minimum term in the range shall be no less than fifty percent of the maximum term in the range; and

(c) The maximum term of confinement in a range may not exceed the statutory maximum for the crime as provided in RCW 9A.20.021.

(5) The commission shall exercise its duties under this section in conformity with chapter 34.05 RCW.

**Sec. 3.** RCW 9.94A.310 and 1996 c 205 s 5 are each amended to read as follows:

(1) TABLE 1  
Sentencing Grid

SERIOUSNESS SCORE	OFFENDER SCORE									
	0	1	2	3	4	5	6	7	8	9 or more
XV	Life Sentence without Parole/Death Penalty									
XIV	23y4m 240- 320	24y4m 250- 333	25y4m 261- 347	26y4m 271- 361	27y4m 281- 374	28y4m 291- 388	30y4m 312- 416	32y10m 338- 450	36y 370- 493	40y 411- 548
XIII	<del>((12y 123 164 14y4m 123- 220</del>	<del>13y 134 178 15y4m 134- 234</del>	<del>14y 144 192 16y2m 144- 244</del>	<del>15y 154 205 17y 154- 254</del>	<del>16y 165 219 17y11m 165- 265</del>	<del>17y 175 233 18y9m 175- 275</del>	<del>19y 195 260 20y5m 195- 295</del>	<del>21y 216 288 22y2m 216- 316</del>	<del>25y 257 342 25y7m 257- 357</del>	<del>29y 298- 397)) 29y 298- 397</del>
XII	9y 93- 123	9y11m 102- 136	10y9m 111- 147	11y8m 120- 160	12y6m 129- 171	13y5m 138- 184	15y9m 162- 216	17y3m 178- 236	20y3m 209- 277	23y3m 240- 318
XI	7y6m 78- 102	8y4m 86- 114	9y2m 95- 125	9y11m 102- 136	10y9m 111- 147	11y7m 120- 158	14y2m 146- 194	15y5m 159- 211	17y11m 185- 245	20y5m 210- 280
X	5y 51- 68	5y6m 57- 75	6y 62- 82	6y6m 67- 89	7y 72- 96	7y6m 77- 102	9y6m 98- 130	10y6m 108- 144	12y6m 129- 171	14y6m 149- 198
IX	3y 31- 41	3y6m 36- 48	4y 41- 54	4y6m 46- 61	5y 51- 68	5y6m 57- 75	7y6m 77- 102	8y6m 87- 116	10y6m 108- 144	12y6m 129- 171
VIII	2y 21- 27	2y6m 26- 34	3y 31- 41	3y6m 36- 48	4y 41- 54	4y6m 46- 61	6y6m 67- 89	7y6m 77- 102	8y6m 87- 116	10y6m 108- 144
VII	18m 15- 20	2y 21- 27	2y6m 26- 34	3y 31- 41	3y6m 36- 48	4y 41- 54	5y6m 57- 75	6y6m 67- 89	7y6m 77- 102	8y6m 87- 116
VI	13m 12+- 14	18m 15- 20	2y 21- 27	2y6m 26- 34	3y 31- 41	3y6m 36- 48	4y6m 46- 61	5y6m 57- 75	6y6m 67- 89	7y6m 77- 102
V	9m 6- 12	13m 12+- 14	15m 13- 17	18m 15- 20	2y2m 22- 29	3y2m 33- 43	4y 41- 54	5y 51- 68	6y 62- 82	7y 72- 96
IV	6m 3- 9	9m 6- 12	13m 12+- 14	15m 13- 17	18m 15- 20	2y2m 22- 29	3y2m 33- 43	4y2m 43- 57	5y2m 53- 70	6y2m 63- 84

III	2m	5m	8m	11m	14m	20m	2y2m	3y2m	4y2m	5y
	1-	3-	4-	9-	12+	17-	22-	33-	43-	51-
	3	8	12	12	16	22	29	43	57	68
II		4m	6m	8m	13m	16m	20m	2y2m	3y2m	4y2m
	0-90	2-	3-	4-	12+	14-	17-	22-	33-	43-
	Days	6	9	12	14	18	22	29	43	57
I			3m	4m	5m	8m	13m	16m	20m	2y2m
	0-60	0-90	2-	2-	3-	4-	12+	14-	17-	22-
	Days	Days	5	6	8	12	14	18	22	29

NOTE: Numbers in the first horizontal row of each seriousness category represent sentencing midpoints in years(y) and months(m). Numbers in the second and third rows represent presumptive sentencing ranges in months, or in days if so designated. 12+ equals one year and one day.

(2) For persons convicted of the anticipatory offenses of criminal attempt, solicitation, or conspiracy under chapter 9A.28 RCW, the presumptive sentence is determined by locating the sentencing grid sentence range defined by the appropriate offender score and the seriousness level of the completed crime, and multiplying the range by 75 percent.

(3) The following additional times shall be added to the presumptive sentence for felony crimes committed after July 23, 1995, if the offender or an accomplice was armed with a firearm as defined in RCW 9A.1010 and the offender is being sentenced for one of the crimes listed in this subsection as eligible for any firearm enhancements based on the classification of the completed felony crime. If the offender or an accomplice was armed with a firearm as defined in RCW 9A.1010 and the offender is being sentenced for an anticipatory offense under chapter 9A.28 RCW to commit one of the crimes listed in this subsection as eligible for any firearm enhancements, the following additional times shall be added to the presumptive sentence determined under subsection (2) of this section based on the felony crime of conviction as classified under RCW 9A.28.020:

(a) Five years for any felony defined under any law as a class A felony or with a maximum sentence of at least twenty years, or both, and not covered under (f) of this subsection.

(b) Three years for any felony defined under any law as a class B felony or with a maximum sentence of ten years, or both, and not covered under (f) of this subsection.

(c) Eighteen months for any felony defined under any law as a class C felony or with a maximum sentence of five years, or both, and not covered under (f) of this subsection.

(d) If the offender is being sentenced for any firearm enhancements under (a), (b), and/or (c) of this subsection and the offender has previously been sentenced for any deadly weapon enhancements after July 23, 1995, under (a), (b), and/or (c) of this subsection or subsection (4) (a), (b), and/or (c) of this section, or both, any

and all firearm enhancements under this subsection shall be twice the amount of the enhancement listed.

(e) Notwithstanding any other provision of law, any and all firearm enhancements under this section are mandatory, shall be served in total confinement, and shall not run concurrently with any other sentencing provisions.

(f) The firearm enhancements in this section shall apply to all felony crimes except the following: Possession of a machine gun, possessing a stolen firearm, reckless endangerment in the first degree, theft of a firearm, unlawful possession of a firearm in the first and second degree, and use of a machine gun in a felony.

(g) If the presumptive sentence under this section exceeds the statutory maximum for the offense, the statutory maximum sentence shall be the presumptive sentence unless the offender is a persistent offender as defined in RCW 9.94A.030.

(4) The following additional times shall be added to the presumptive sentence for felony crimes committed after July 23, 1995, if the offender or an accomplice was armed with a deadly weapon as defined in this chapter other than a firearm as defined in RCW 9.41.010 and the offender is being sentenced for one of the crimes listed in this subsection as eligible for any deadly weapon enhancements based on the classification of the completed felony crime. If the offender or an accomplice was armed with a deadly weapon other than a firearm as defined in RCW 9.41.010 and the offender is being sentenced for an anticipatory offense under chapter 9A.28 RCW to commit one of the crimes listed in this subsection as eligible for any deadly weapon enhancements, the following additional times shall be added to the presumptive sentence determined under subsection (2) of this section based on the felony crime of conviction as classified under RCW 9A.28.020:

(a) Two years for any felony defined under any law as a class A felony or with a maximum sentence of at least twenty years, or both, and not covered under (f) of this subsection.

(b) One year for any felony defined under any law as a class B felony or with a maximum sentence of ten years, or both, and not covered under (f) of this subsection.

(c) Six months for any felony defined under any law as a class C felony or with a maximum sentence of five years, or both, and not covered under (f) of this subsection.

(d) If the offender is being sentenced under (a), (b), and/or (c) of this subsection for any deadly weapon enhancements and the offender has previously been sentenced for any deadly weapon enhancements after July 23, 1995, under (a), (b), and/or (c) of this subsection or subsection (3) (a), (b), and/or (c) of this section, or both, any and all deadly weapon enhancements under this subsection shall be twice the amount of the enhancement listed.

(e) Notwithstanding any other provision of law, any and all deadly weapon enhancements under this section are mandatory, shall be served in total confinement, and shall not run concurrently with any other sentencing provisions.

(f) The deadly weapon enhancements in this section shall apply to all felony crimes except the following: Possession of a machine gun, possessing a stolen firearm, reckless endangerment in the first degree, theft of a firearm, unlawful possession of a firearm in the first and second degree, and use of a machine gun in a felony.

(g) If the presumptive sentence under this section exceeds the statutory maximum for the offense, the statutory maximum sentence shall be the presumptive sentence unless the offender is a persistent offender as defined in RCW 9.94A.030.

(5) The following additional times shall be added to the presumptive sentence if the offender or an accomplice committed the offense while in a county jail or state correctional facility as that term is defined in this chapter and the offender is being sentenced for one of the crimes listed in this subsection. If the offender or an accomplice committed one of the crimes listed in this subsection while in a county jail or state correctional facility as that term is defined in this chapter, and the offender is being sentenced for an anticipatory offense under chapter 9A.28 RCW to commit one of the crimes listed in this subsection, the following additional times shall be added to the presumptive sentence determined under subsection (2) of this section:

(a) Eighteen months for offenses committed under RCW 69.50.401(a)(1) (i) or (ii) or 69.50.410;

(b) Fifteen months for offenses committed under RCW 69.50.401(a)(1) (iii), (iv), and (v);

(c) Twelve months for offenses committed under RCW 69.50.401(d).

For the purposes of this subsection, all of the real property of a state correctional facility or county jail shall be deemed to be part of that facility or county jail.

(6) An additional twenty-four months shall be added to the presumptive sentence for any ranked offense involving a violation of chapter 69.50 RCW if the offense was also a violation of RCW 69.50.435.

Sec. 4. RCW 9.94A.320 and 1996 c 302 s 6, 1996 c 205 s 3, and 1996 c 36 s 2 are each reenacted and amended to read as follows:

TABLE 2

CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

XV	Aggravated Murder 1 (RCW 10.95.020)
XIV	Murder 1 (RCW 9A.32.030) Homicide by abuse (RCW 9A.32.055)
XIII	Murder 2 (RCW 9A.32.050)
XII	Assault 1 (RCW 9A.36.011) Assault of a Child I (RCW 9A.36.120)

- XI Rape 1 (RCW 9A.44.040)  
 Rape of a Child 1 (RCW 9A.44.073)  
Manslaughter 1 (RCW 9A.32.060)
- X Kidnapping 1 (RCW 9A.40.020)  
 Rape 2 (RCW 9A.44.050)  
 Rape of a Child 2 (RCW 9A.44.076)  
 Child Molestation 1 (RCW 9A.44.083)  
 Damaging building, etc., by explosion with  
 threat to human being (RCW 70.74.280  
 (1))  
 Over 18 and deliver heroin or narcotic from  
 Schedule I or II to someone under 18  
 (RCW 69.50.406)  
 Leading Organized Crime (RCW 9A.82.060  
 (1)(a))
- IX Assault of a Child 2 (RCW 9A.36.130)  
 Robbery 1 (RCW 9A.56.200)  
 (~~Manslaughter 1 (RCW 9A.32.060)~~)  
 Explosive devices prohibited (RCW 70.74.180)  
 Indecent Liberties (with forcible compulsion)  
 (RCW 9A.44.100(1)(a))  
 Endangering life and property by explosives  
 with threat to human being (RCW  
 70.74.270)  
 Over 18 and deliver narcotic from Schedule III,  
 IV, or V or a nonnarcotic from Schedule  
 I-V to someone under 18 and 3 years  
 junior (RCW 69.50.406)  
 Controlled Substance Homicide (RCW  
 69.50.415)  
 Sexual Exploitation (RCW 9.68A.040)  
 Inciting Criminal Profiteering (RCW  
 9A.82.060(1)(b))  
 Vehicular Homicide, by being under the  
 influence of intoxicating liquor or any  
 drug (RCW 46.61.520)
- VIII Arson 1 (RCW 9A.48.020)  
 Promoting Prostitution 1 (RCW 9A.88.070)  
 Selling for profit (controlled or counterfeit) any  
 controlled substance (RCW 69.50.410)  
 Manufacture, deliver, or possess with intent to  
 deliver heroin or cocaine (RCW  
 69.50.401(a)(1)(i))

- Manufacture, deliver, or possess with intent to deliver methamphetamine (RCW 69.50.401(a)(1)(ii))
- Possession of ephedrine or pseudoephedrine with intent to manufacture methamphetamine (RCW 69.50.440)
- Vehicular Homicide, by the operation of any vehicle in a reckless manner (RCW 46.61.520)
- Manslaughter 2 (RCW 9A.32.070)
- VII Burglary 1 (RCW 9A.52.020)
- Vehicular Homicide, by disregard for the safety of others (RCW 46.61.520)
- Introducing Contraband 1 (RCW 9A.76.140)
- Indecent Liberties (without forcible compulsion) (RCW 9A.44.100(1) (b) and (c))
- Child Molestation 2 (RCW 9A.44.086)
- Dealing in depictions of minor engaged in sexually explicit conduct (RCW 9.68A.050)
- Sending, bringing into state depictions of minor engaged in sexually explicit conduct (RCW 9.68A.060)
- Involving a minor in drug dealing (RCW 69.50.401(f))
- Reckless Endangerment 1 (RCW 9A.36.045)
- Unlawful Possession of a Firearm in the first degree (RCW 9.41.040(1)(a))
- VI Bribery (RCW 9A.68.010)
- ~~((Manslaughter 2 (RCW 9A.32.070)))~~
- Rape of a Child 3 (RCW 9A.44.079)
- Intimidating a Juror/Witness (RCW 9A.72.110, 9A.72.130)
- Damaging building, etc., by explosion with no threat to human being (RCW 70.74.280 (2))
- Endangering life and property by explosives with no threat to human being (RCW 70.74.270)
- Incest 1 (RCW 9A.64.020(1))
- Manufacture, deliver, or possess with intent to deliver narcotics from Schedule I or II

- (except heroin or cocaine) (RCW 69.50.401(a)(1)(i))
- Intimidating a Judge (RCW 9A.72.160)
- Bail Jumping with Murder 1 (RCW 9A.76.170(2)(a))
- Theft of a Firearm (RCW 9A.56.300)
- V Persistent prison misbehavior (RCW 9.94.070)
- Criminal Mistreatment 1 (RCW 9A.42.020)
- Abandonment of dependent person 1 (RCW 9A.42.060)
- Rape 3 (RCW 9A.44.060)
- Sexual Misconduct with a Minor 1 (RCW 9A.44.093)
- Child Molestation 3 (RCW 9A.44.089)
- Kidnapping 2 (RCW 9A.40.030)
- Extortion 1 (RCW 9A.56.120)
- Incest 2 (RCW 9A.64.020(2))
- Perjury 1 (RCW 9A.72.020)
- Extortionate Extension of Credit (RCW 9A.82.020)
- Advancing money or property for extortionate extension of credit (RCW 9A.82.030)
- Extortionate Means to Collect Extensions of Credit (RCW 9A.82.040)
- Rendering Criminal Assistance 1 (RCW 9A.76.070)
- Bail Jumping with class A Felony (RCW 9A.76.170(2)(b))
- Sexually Violating Human Remains (RCW 9A.44.105)
- Delivery of imitation controlled substance by person eighteen or over to person under eighteen (RCW 69.52.030(2))
- Possession of a Stolen Firearm (RCW 9A.56.310)
- IV Residential Burglary (RCW 9A.52.025)
- Theft of Livestock 1 (RCW 9A.56.080)
- Robbery 2 (RCW 9A.56.210)
- Assault 2 (RCW 9A.36.021)
- Escape 1 (RCW 9A.76.110)
- Arson 2 (RCW 9A.48.030)
- Commercial Bribery (RCW 9A.68.060)

- Bribing a Witness/Bribe Received by Witness (RCW 9A.72.090, 9A.72.100)
- Malicious Harassment (RCW 9A.36.080)
- Threats to Bomb (RCW 9.61.160)
- Willful Failure to Return from Furlough (RCW 72.66.060)
- Hit and Run — Injury Accident (RCW 46.52.020(4))
- Hit and Run with Vessel — Injury Accident (RCW 88.12.155(3))
- Vehicular Assault (RCW 46.61.522)
- Manufacture, deliver, or possess with intent to deliver narcotics from Schedule III, IV, or V or nonnarcotics from Schedule I-V (except marijuana or methamphetamines) (RCW 69.50.401(a)(1) (iii) through (v))
- Influencing Outcome of Sporting Event (RCW 9A.82.070)
- Use of Proceeds of Criminal Profiteering (RCW 9A.82.080 (1) and (2))
- Knowingly Trafficking in Stolen Property (RCW 9A.82.050(2))
- III Criminal Mistreatment 2 (RCW 9A.42.030)
- Abandonment of dependent person 2 (RCW 9A.42.070)
- Extortion 2 (RCW 9A.56.130)
- Unlawful Imprisonment (RCW 9A.40.040)
- Assault 3 (RCW 9A.36.031)
- Assault of a Child 3 (RCW 9A.36.140)
- Custodial Assault (RCW 9A.36.100)
- Unlawful possession of firearm in the second degree (RCW 9.41.040(1)(b))
- Harassment (RCW 9A.46.020)
- Promoting Prostitution 2 (RCW 9A.88.080)
- Willful Failure to Return from Work Release (RCW 72.65.070)
- Burglary 2 (RCW 9A.52.030)
- Introducing Contraband 2 (RCW 9A.76.150)
- Communication with a Minor for Immoral Purposes (RCW 9.68A.090)
- Patronizing a Juvenile Prostitute (RCW 9.68A.100)
- Escape 2 (RCW 9A.76.120)

- Perjury 2 (RCW 9A.72.030)
- Bail Jumping with class B or C Felony (RCW 9A.76.170(2)(c))
- Intimidating a Public Servant (RCW 9A.76.180)
- Tampering with a Witness (RCW 9A.72.120)
- Manufacture, deliver, or possess with intent to deliver marijuana (RCW 69.50.401 (a)(1)(iii))
- Delivery of a material in lieu of a controlled substance (RCW 69.50.401(c))
- Manufacture, distribute, or possess with intent to distribute an imitation controlled substance (RCW 69.52.030(1))
- Recklessly Trafficking in Stolen Property (RCW 9A.82.050(1))
- Theft of livestock 2 (RCW 9A.56.080)
- Securities Act violation (RCW 21.20.400)
- II Unlawful Practice of Law (RCW 2.48.180)
- Malicious Mischief 1 (RCW 9A.48.070)
- Possession of Stolen Property 1 (RCW 9A.56.150)
- Theft 1 (RCW 9A.56.030)
- Trafficking in Insurance Claims (RCW 48.30A.015)
- Unlicensed Practice of a Profession or Business (RCW 18.130.190(7))
- Health Care False Claims (RCW 48.80.030)
- Possession of controlled substance that is either heroin or narcotics from Schedule I or II (RCW 69.50.401(d))
- Possession of phencyclidine (PCP) (RCW 69.50.401(d))
- Create, deliver, or possess a counterfeit controlled substance (RCW 69.50.401(b))
- Computer Trespass 1 (RCW 9A.52.110)
- Escape from Community Custody (RCW 72.09.310)
- I Theft 2 (RCW 9A.56.040)
- Possession of Stolen Property 2 (RCW 9A.56.160)
- Forgery (RCW 9A.60.020)

Taking Motor Vehicle Without Permission  
(RCW 9A.56.070)

Vehicle Prowl 1 (RCW 9A.52.095)

Attempting to Elude a Pursuing Police Vehicle  
(RCW 46.61.024)

Malicious Mischief 2 (RCW 9A.48.080)

Reckless Burning 1 (RCW 9A.48.040)

Unlawful Issuance of Checks or Drafts (RCW  
9A.56.060)

Unlawful Use of Food Stamps (RCW 9.91.140  
(2) and (3))

False Verification for Welfare (RCW  
74.08.055)

Forged Prescription (RCW 69.41.020)

Forged Prescription for a Controlled Substance  
(RCW 69.50.403)

Possess Controlled Substance that is a Narcotic  
from Schedule III, IV, or V or Non-  
narcotic from Schedule I-V (except  
phencyclidine) (RCW 69.50.401(d))

**Sec. 5.** RCW 9A.32.060 and 1975 1st ex.s. c 260 s 9A.32.060 are each amended to read as follows:

(1) A person is guilty of manslaughter in the first degree when:

(a) He recklessly causes the death of another person; or

(b) He intentionally and unlawfully kills an unborn quick child by inflicting any injury upon the mother of such child.

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

**Sec. 6.** RCW 9A.32.070 and 1975 1st ex.s. c 260 s 9A.32.070 are each amended to read as follows:

(1) A person is guilty of manslaughter in the second degree when, with criminal negligence, he causes the death of another person.

(2) Manslaughter in the second degree is a class ((C)) B felony.

Passed the Senate March 17, 1997.

Passed the House April 18, 1997.

Approved by the Governor May 14, 1997.

Filed in Office of Secretary of State May 14, 1997.

## CHAPTER 366

[Second Substitute Senate Bill 5740]

### ASSISTANCE FOR RURAL DISTRESSED AREAS

AN ACT Relating to the rural area marketing plan; amending RCW 82.62.010 and 82.62.030; adding a new section to chapter 82.14 RCW; adding a new section to chapter 43.63A RCW; creating new sections; and repealing RCW 82.62.040.

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

**PART I  
LEGISLATIVE INTENT**

**NEW SECTION. Sec. 1. LEGISLATIVE RECOGNITION AND INTENT.** The legislature recognizes the economic hardship that rural distressed areas throughout the state have undergone in recent years. Numerous rural distressed areas across the state have encountered serious economic downturns resulting in significant job loss and business failure. In 1991 the legislature enacted two major pieces of legislation to promote economic development and job creation, with particular emphasis on worker training, income, and emergency services support, along with community revitalization through planning services and infrastructure assistance. However even though these programs have been of assistance, rural distressed areas still face serious economic problems including: Above-average unemployment rates from job losses and below-average employment growth; low rate of business start-ups; and persistent erosion of vitally important resource-driven industries.

The legislature also recognizes that rural distressed areas in Washington have an abiding ability and consistent will to overcome these economic obstacles by building upon their historic foundations of business enterprise, local leadership, and outstanding work ethic.

The legislature intends to assist rural distressed areas in their ongoing efforts to address these difficult economic problems by providing a comprehensive and significant array of economic tools, necessary to harness the persistent and undaunted spirit of enterprise that resides in the citizens of rural distressed areas throughout the state.

The further intent of this act is to provide:

(1) A strategically designed plan of assistance, emphasizing state, local, and private sector leadership and partnership;

(2) A comprehensive and significant array of business assistance, services, and tax incentives that are accountable and performance driven;

(3) An array of community assistance including infrastructure development and business retention, attraction, and expansion programs that will provide a competitive advantage to rural distressed areas throughout Washington; and

(4) Regulatory relief to reduce and streamline zoning, permitting, and regulatory requirements in order to enhance the capability of businesses to grow and prosper in rural distressed areas.

**NEW SECTION. Sec. 2. GOALS.** The primary goals of chapter . . . , Laws of 1997 (this act) are to:

(1) Promote the ongoing operation of business in rural distressed areas;

(2) Promote the expansion of existing businesses in rural distressed areas;

(3) Attract new businesses to rural distressed areas;

- (4) Assist in the development of new businesses from within rural distressed areas;
- (5) Provide family wage jobs to the citizens of rural distressed areas; and
- (6) Promote the development of communities of excellence in rural distressed areas.

## PART II TAX INCENTIVES

**NEW SECTION. Sec. 3.** A new section is added to chapter 82.14 RCW to read as follows:

(1) The legislative authority of a distressed county may impose a sales and use tax in accordance with the terms of this chapter. The tax is in addition to other taxes authorized by law and shall be collected from those persons who are taxable by the state under chapters 82.08 and 82.12 RCW upon the occurrence of any taxable event within the county. The rate of tax shall not exceed 0.04 percent of the selling price in the case of a sales tax or value of the article used in the case of a use tax.

(2) The tax imposed under subsection (1) of this section shall be deducted from the amount of tax otherwise required to be collected or paid over to the department of revenue under chapter 82.08 or 82.12 RCW. The department of revenue shall perform the collection of such taxes on behalf of the county at no cost to the county.

(3) Moneys collected under this section shall only be used for the purpose of financing public facilities in rural counties.

(4) No tax may be collected under this section before July 1, 1998. No tax may be collected under this section by a county more than twenty-five years after the date that a tax is first imposed under this section.

(5) For purposes of this section, "distressed county" means a county in which the average level of unemployment for the three years before the year in which a tax is first imposed under this section exceeds the average state employment for those years by twenty percent.

*\*Sec. 4. RCW 82.62.010 and 1996 c 290 s 5 are each amended to read as follows:*

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

*(1) "Applicant" means a person applying for a tax credit under this chapter.*

*(2) "Department" means the department of revenue.*

*(3) "Eligible area" means: (a) A county in which the average level of unemployment for the three years before the year in which an application is filed under this chapter exceeds the average state unemployment for those years by twenty percent; (b) a county that has a median household income that is less than seventy-five percent of the state median household income for the previous three years; (c) a metropolitan statistical area, as defined by the office of federal statistical policy and standards, United States department of commerce, in which*

*the average level of unemployment for the calendar year immediately preceding the year in which an application is filed under this chapter exceeds the average state unemployment for such calendar year by twenty percent; (d) a designated community empowerment zone approved under RCW 43.63A.700; or (e) subcounty areas in those counties that are not covered under (a) of this subsection that are timber impact areas as defined in RCW 43.31.601.*

*(4)(a) "Eligible business project" means manufacturing or research and development activities which are conducted by an applicant in an eligible area at a specific facility, provided the applicant's average full-time qualified employment positions at the specific facility will be ((at least fifteen percent)) greater in the year for which the credit is being sought than the applicant's average full-time qualified employment positions at the same facility in the immediately preceding year.*

*(b) "Eligible business project" does not include any portion of a business project undertaken by a light and power business as defined in RCW 82.16.010(5) or that portion of a business project creating qualified full-time employment positions outside an eligible area or those recipients of a sales tax deferral under chapter 82.61 RCW.*

*(5) "Manufacturing" means all activities of a commercial or industrial nature wherein labor or skill is applied, by hand or machinery, to materials so that as a result thereof a new, different, or useful substance or article of tangible personal property is produced for sale or commercial or industrial use and shall include the production or fabrication of specially made or custom made articles. "Manufacturing" also includes computer programming, the production of computer software, and other computer-related services, and the activities performed by research and development laboratories and commercial testing laboratories.*

*(6) "Person" has the meaning given in RCW 82.04.030.*

*(7) "Qualified employment position" means a permanent full-time employee employed in the eligible business project during the entire tax year.*

*(8) "Tax year" means the calendar year in which taxes are due.*

*(9) "Recipient" means a person receiving tax credits under this chapter.*

*(10) "Research and development" means the development, refinement, testing, marketing, and commercialization of a product, service, or process before commercial sales have begun. As used in this subsection, "commercial sales" excludes sales of prototypes or sales for market testing if the total gross receipts from such sales of the product, service, or process do not exceed one million dollars.*

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

**Sec. 5.** RCW 82.62.030 and 1996 c 1 s 3 are each amended to read as follows:

(1) A person shall be allowed a credit against the tax due under chapter 82.04 RCW as provided in this section. For an application approved before January 1, 1996, the credit shall equal one thousand dollars for each qualified employment

position directly created in an eligible business project. For an application approved on or after January 1, 1996, the credit shall equal two thousand dollars for each qualified employment position directly created in an eligible business project. For an application approved on or after July 1, 1997, the credit shall equal four thousand dollars for each qualified employment position with wages and benefits greater than forty thousand dollars annually that is directly created in an eligible business. For an application approved on or after July 1, 1997, the credit shall equal two thousand dollars for each qualified employment position with wages and benefits less than or equal to forty thousand dollars annually that is directly created in an eligible business.

(2) The department shall keep a running total of all credits granted under this chapter during each fiscal ~~((biennium))~~ year. The department shall not allow any credits which would cause the tabulation ~~((for a biennium))~~ to exceed ~~((fifteen))~~ five million five hundred thousand dollars in fiscal year 1998 or 1999 or seven million five hundred thousand dollars in any fiscal year thereafter. If all or part of an application for credit is disallowed under this subsection, the disallowed portion shall be carried over for approval the next ~~((biennium))~~ fiscal year. However, the applicant's carryover into the next ~~((biennium))~~ fiscal year is only permitted if the tabulation for the next ~~((biennium))~~ fiscal year does not exceed ~~((fifteen-million dollars))~~ the cap for that fiscal year as of the date on which the department has disallowed the application.

(3) ~~((No recipient is eligible for tax credits in excess of three hundred thousand dollars:~~

~~—((4)))~~ No recipient may use the tax credits to decertify a union or to displace existing jobs in any community in the state.

~~((5)))~~ (4) No recipient may receive a tax credit on taxes which have not been paid during the taxable year.

NEW SECTION. Sec. 6. RCW 82.62.040 and 1993 sp.s. c 25 s 411, 1988 c 41 s 4, & 1986 c 116 s 22 are each repealed.

### PART III BUSINESS ASSISTANCE

***\*NEW SECTION. Sec. 7. BUSINESS ASSISTANCE AND RECRUITMENT FOR RURAL DISTRESSED AREAS. The department of community, trade, and economic development is directed to emphasize business assistance and recruitment for rural distressed areas within its trade and economic sectors, and local development assistance. The primary goal of the rural initiative is to coordinate and administer a comprehensive and effective set of business assistance programs and services including:***

***(1) Business recruitment. The department of community, trade, and economic development shall: Provide a comprehensive and aggressive program to attract viable businesses to rural distressed areas; work with local communities to identify select industry sectors that have a competitive advantage in specific rural distressed areas; collaborate with state and local officials to***

*modify their infrastructure plans and priorities to facilitate business growth; and assist rural distressed areas in developing strategic business recruitment plans.*

*(2) Business permitting and zoning one-stop shop. The department of community, trade, and economic development shall: Provide a streamlined and customer driven siting service to businesses in order to promote their attraction and expansion in rural distressed areas; provide preliminary permit application and zoning information and services for businesses in order to attract firms and facilitate business growth in rural distressed areas.*

*(3) Business regulatory assistance and ombudsman services. The department of community, trade, and economic development shall: Provide comprehensive business regulatory services to assist businesses in addressing and responding to local, state, and federal regulations; and provide recommendations on streamlining and modifying government regulations.*

*(a) The department of community, trade, and economic development is authorized to review state zoning, permitting, or regulatory requirements that pose difficulty for businesses wishing or likely to site in a rural enterprise area. In situations where the department of community, trade, and economic development considers the zoning, permitting, or regulatory requirements placed on a business in a rural enterprise area unfairly burdensome the director may petition the regulatory agency or agencies for regulatory relief. In addition the director may petition the agency or agencies for relief under the regulatory fairness act, chapter 19.85 RCW.*

*(b) In situations where a business or entity in a rural enterprise area is encountering regulatory oversight from more than one state agency and is experiencing conflicting direction or confusing process, the business or entity may petition the director to intercede. The director upon review of the circumstances involved is authorized to designate a lead agency to collaborate with other state agencies in order to streamline and reduce the regulatory difficulties.*

*(c) Businesses or entities in a rural enterprise zone may petition the director for an accelerated zoning, permitting, or regulatory process. The director upon reviewing the petition and the circumstances involved may make a finding of regulatory unfairness and may direct the state agency or agencies to process the business or entities application in an expeditious manner with a maximum timeline of six months from the director's receipt of the petition.*

*The director shall establish a pilot process in cooperation with other state agencies to implement this subsection (3) during 1997 and 1998 and report annually to the legislature on the impact of the program.*

*(4) "Brown Fields" Program. The department of community, trade, and economic development shall develop with the department of ecology and recommend to the legislature a streamlined and cost-effective process to redevelop hazardous industrial sites in order to promote business growth in rural distressed areas.*

*(5) Rural enterprise zone development and foreign trade zone. The department of community, trade, and economic development is authorized to provide technical assistance to local governments in rural distressed areas to establish rural enterprise zones and foreign trade zones. The department of community, trade, and economic development shall target rural enterprise zones and foreign trade zones in the delivery of its services in order to maximize the impact of its economic development assistance to businesses and rural distressed areas.*

\*Sec. 7 was vetoed. See message at end of chapter.

**\*NEW SECTION.** *Sec. 8. RURAL INITIATIVE ADMINISTRATION. The rural initiative shall be administered by a director appointed by the director of community, trade, and economic development, in consultation with the rural distressed areas economic recovery coordination board. The rural initiative director shall coordinate activities with the rural community assistance team and report on the activities and performance of the rural initiative to the legislature on a quarterly basis.*

\*Sec. 8 was vetoed. See message at end of chapter.

#### PART IV RURAL ENTERPRISE ZONES

**NEW SECTION.** *Sec. 9. A new section is added to chapter 43.63A RCW to read as follows:*

**RURAL ENTERPRISE ZONES.** The legislature recognizes the unique difficulties encountered by communities in rural distressed areas wishing to promote business development, increase employment opportunities, and provide a high quality of life for its citizens. In response the legislature authorizes the establishment of rural enterprise zones that will allow the targeting of state services and resources in the form of business, industry recruitment, regulatory relief, and infrastructure development. It is the intent of the legislature to provide the critical level of resources and services to businesses and entities located in these rural enterprise zones that they will be the catalyst for economic prosperity and diversity throughout rural distressed areas in Washington.

(1) The department in cooperation with the department of revenue and other state agencies shall approve applications submitted by local governments in rural distressed areas. The application shall be in the form and manner and contain the necessary information designated by the department. The application shall:

(a) Be submitted on behalf of the local government by the chief elected official or, if none, by the governing body of the local government;

(b) Outline the purpose for the economic development enterprise zone and the process in which the application was developed;

(c) Demonstrate the level of government and community support for the enterprise zone;

(d) Outline the manner in which the enterprise zone will be governed and report its activities to the local government and the department; and

- (e) Designate the geographic area in which the rural enterprise zone will exist.
- (2) Rural enterprise zones are authorized to:
  - (a) Hire a director or designate an individual to oversee operations;
  - (b) Seek federal, state, and local government support in its efforts to target, develop, and attract viable businesses;
  - (c) Work with the office of business assistance and recruitment for rural distressed areas in the pursuit of its economic development activities;
  - (d) Provide a local one-stop shop for businesses intending to locate, retain, expand, or start their businesses within its zone; and
  - (e) Provide comprehensive permitting, zoning, and regulatory assistance to businesses or entities within the zone.
- (3) Rural enterprise zones are authorized to receive the services and funding resources as provided under the rural area marketing plan and other resources assisting rural distressed areas.
- (4) Rural enterprise zones may be established in conjunction with a foreign trade zone.

**PART V  
EVALUATION**

NEW SECTION. **Sec. 10. REVIEW AND EVALUATION.** The joint legislative audit and review committee shall design an evaluation mechanism for economically distressed counties under this act and undertake an evaluation of the act's effectiveness by November 1, 1999. The agencies implementing the programs under this act shall assist the joint legislative audit and review committee evaluation.

**PART VI  
MISCELLANEOUS**

NEW SECTION. **Sec. 11.** 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. 12.** Section captions and part headings used in this act are not any part of the law.

Passed the Senate April 27, 1997.

Passed the House April 26, 1997.

Approved by the Governor May 15, 1997, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State May 15, 1997.

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

"I am returning herewith, without my approval as to sections 4, 7 and 8, Second Substitute Senate Bill No. 5740 entitled:

"AN ACT Relating to the rural area marketing plan;"

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

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

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

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

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

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

## CHAPTER 367

[Second Substitute House Bill 1201]

### ASSISTANCE TO AREAS IMPACTED BY NATURAL RESOURCES HARVEST VARIATION

AN ACT Relating to economic and employment impact of natural resources harvest variation in rural communities; amending RCW 43.31.601, 43.31.611, 43.31.621, 43.63A.021, 43.31.641, 43.63A.440, 43.160.020, 43.160.076, 28B.50.030, 28B.80.570, 28B.80.580, 50.12.270, 43.131.385, and 43.131.386; amending 1995 c 226 s 7 (uncodified); amending 1995 c 226 s 8 (uncodified); amending 1995 c 226 s 9 (uncodified); reenacting and amending RCW 50.22.090 and 43.20A.750; creating a new section; repealing RCW 43.31.651; providing an effective date; providing expiration dates; and declaring an emergency.

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

**Sec. 1.** RCW 43.31.601 and 1995 c 226 s 1 are each amended to read as follows:

For the purposes of RCW 43.31.601 through ~~((43.31.661))~~ 43.31.641:

(1) "Timber impact area" means a county having a population of less than five hundred thousand, or a city or town located within a county having a population of less than five hundred thousand, and meeting two of the following three criteria, as determined by the employment security department, for the most recent year such data is available: (a) A lumber and wood products employment location quotient at or above the state average; (b) projected or actual direct lumber and wood products job losses of one hundred positions or more, except counties having a population greater than two hundred thousand but less than five hundred thousand must have direct lumber and wood products job losses of one thousand positions or more; or (c) an annual unemployment rate twenty percent or more above the state average.

(2)(a) "Rural natural resources impact area" means:

(i) A nonmetropolitan county, as defined by the 1990 decennial census, that meets ~~((two))~~ three of the five criteria set forth in (b) of this subsection; ~~((or))~~

(ii) 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 (b) of this subsection; or

(iii) A nonurbanized area, as defined by the 1990 decennial census, that is located in a metropolitan county that meets ~~((two))~~ three of the five criteria set forth in (b) of this subsection.

(b) For the purposes of designating rural natural resources impact areas, the following criteria shall be considered:

(i) A lumber and wood products employment location quotient at or above the state average;

(ii) A commercial salmon fishing employment location quotient at or above the state average;

(iii) Projected or actual direct lumber and wood products job losses of one hundred positions or more;

(iv) Projected or actual direct commercial salmon fishing job losses of one hundred positions or more; and

(v) 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 ~~((that is located wholly or partially in an urbanized area or within two))~~ of which any part is ten miles ((of)) 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 43.31.611 and 1995 c 226 s 2 are each amended to read as follows:

(1) The governor shall appoint a rural community assistance coordinator. The coordinator shall coordinate the state and federal economic and social programs targeted to rural natural resources impact areas.

(2) The coordinator's responsibilities shall include but not be limited to:

(a) Chairing the agency rural community assistance task force and directing staff associated with the task force.

(b) Coordinating and maximizing the impact of state and federal assistance to rural natural resources impact areas.

(c) Coordinating and expediting programs to assist rural natural resources impact areas.

(d) Providing the legislature with a status and impact report on the rural community assistance program in January ~~((1996))~~ 1998.

(3) To assist in carrying out the duties set out under this section, the coordinator shall consult with the Washington state rural development council and may appoint an advisory body that has representation from local governments and natural resources interest groups representing impacted rural communities.

(4) This section shall expire June 30, ~~((1997))~~ 2000.

**Sec. 3.** RCW 43.31.621 and 1996 c 186 s 508 are each amended to read as follows:

(1) There is established the agency rural community assistance task force. The task force shall be chaired by the rural community assistance coordinator. It shall be the responsibility of the coordinator that all directives of chapter 314, Laws of 1991, and chapter 226, Laws of 1995 are carried out expeditiously by the agencies represented in the task force. The task force shall consist of the directors, or representatives of the directors, of the following agencies: The department of community, trade, and economic development, employment security department, department of social and health services, state board for community and technical colleges, work force training and education coordinating board, department of natural resources, department of transportation, department of fish and wildlife, University of Washington center for international trade in forest products, department of agriculture, and department of ecology. The task force shall solicit and consider input from the rural development council in coordinating agency programs targeted to rural natural resources impacted communities. The task force may consult and enlist the assistance of the following: The higher education coordinating board, University of Washington college of forest resources, University of Washington school of fisheries, Washington State University school of forestry, Northwest policy center, state superintendent of public instruction, Washington state labor council, the Evergreen partnership, Washington state association of counties, and others as needed.

~~(2) ((The task force, in conjunction with the rural development council, shall undertake a study to determine whether additional communities and industries are impacted, or are likely to be impacted, by salmon preservation and recovery efforts. The task force shall consider possible impacts in the following industries and associated communities: Barge transportation, irrigation dependent agriculture, food processing, aluminum, charter recreational fishing, boatbuilding, and other sectors suggested by the task force. The task force shall report its findings and recommendations to the legislature by January 1996))~~ Recognizing that some rural natural resources areas have greater economic distress than others, the task force will consider the severity of the impact as a significant project selection criteria, both at the county and subcounty level.

(3) This section shall expire June 30, ~~((1997))~~ 2000.

**Sec. 4.** RCW 50.22.090 and 1995 c 226 s 5 and 1995 c 57 s 2 are each reenacted and amended to read as follows:

(1) An additional benefit period is established for rural natural resources impact areas, defined in ~~((RCW 43.31.601))~~ this section, and determined by the office of financial management and the employment security department. Benefits shall be paid as provided in subsection (3) of this section to exhaustees eligible under subsection (4) of this section.

(2) The additional benefit period for a county may end no sooner than fifty-two weeks after the additional benefit period begins.

(3) Additional benefits shall be paid as follows:

(a) No new claims for additional benefits shall be accepted for weeks beginning after July 1, ~~((1997))~~ 1999, but for claims established on or before July 1, ~~((1997))~~ 1999, weeks of unemployment occurring after July 1, ~~((1997))~~ 1999, shall be compensated as provided in this section.

(b) The total additional benefit amount shall be one hundred four times the individual's weekly benefit amount, reduced by the total amount of regular benefits and extended benefits paid, or deemed paid, with respect to the benefit year. Additional benefits shall not be payable for weeks more than two years beyond the end of the benefit year of the regular claim for an individual whose benefit year ends on or after July 27, 1991, and shall not be payable for weeks ending on or after two years after March 26, 1992, for individuals who become eligible as a result of chapter 47, Laws of 1992.

(c) Notwithstanding the provisions of (b) of this subsection, individuals will be entitled to up to five additional weeks of benefits following the completion or termination of training.

(d) Notwithstanding the provisions of (b) of this subsection, individuals enrolled in prerequisite remedial education for a training program expected to last at least one year will be entitled to up to thirteen additional weeks of benefits which shall not count toward the total in (b) of this subsection.

(e) The weekly benefit amount shall be calculated as specified in RCW 50.22.040.

(f) Benefits paid under this section shall be paid under the same terms and conditions as regular benefits. The additional benefit period shall be suspended with the start of an extended benefit period, or any totally federally funded benefit program, with eligibility criteria and benefits comparable to the program established by this section, and shall resume the first week following the end of the federal program.

(g) The amendments in chapter 316, Laws of 1993 affecting subsection (3)(b) and (c) of this section shall apply in the case of all individuals determined to be monetarily eligible under this section without regard to the date eligibility was determined.

(4) An additional benefit eligibility period is established for any exhaustee who:

(a)(i) At the time of last separation from employment ~~((, resided in or was employed in a rural natural resources impact area defined in RCW 43.31.601 and~~

determined by the office of financial management and the employment security department)) resides in a county with an unemployment rate for 1996 at least twenty percent or more above the state average and at least fifteen percent above their own county unemployment rate in 1988 and the county meets one of the following two criteria:

(A) It is a county with a lumber and woods products employment quotient at least three times the state average and has experienced actual job losses in these industries since 1988 of one hundred jobs or more or fifty or more jobs in a county with a population of forty thousand or less; or

(B) It is a county with a commercial salmon fishing employment quotient at least three times the state average and has experienced actual job losses in this industry since 1988 of one hundred jobs or more or fifty or more jobs in a county with a population of forty thousand or less; and

(I) The exhaustee has during his or her base year earned wages of at least one thousand hours; and

(II) The exhaustee is determined by the employment security department in consultation with its labor market and economic analysis division to be a displaced worker; or

(ii) During his or her base year, earned wages in at least ~~((six hundred eighty))~~ one thousand hours in either the forest products industry, which shall be determined by the department but shall include the industries assigned the major group standard industrial classification codes "24" and "26" and the industries involved in the harvesting and management of logs, transportation of logs and wood products, processing of wood products, and the manufacturing and distribution of wood processing and logging equipment or the fishing industry assigned the standard industrial classification code "0912". The commissioner may adopt rules further interpreting the industries covered under this subsection. For the purposes of this subsection, "standard industrial classification code" means the code identified in RCW 50.29.025(6)(c); and

(b)(i) Has received notice of termination or layoff; and

(ii) Is unlikely, in the determination of the employment security department in consultation with its labor market and economic analysis division, to return to employment in his or her principal occupation or previous industry because of a diminishing demand within his or her labor market for his or her skills in the occupation or industry; and

(c)(i) Is notified by the department of the requirements of this section and develops an individual training program that is submitted to the commissioner for approval not later than sixty days after the individual is notified of the requirements of this section, and enters the approved training program not later than ninety days after the date of the individual's termination or layoff, or ninety days after July 1, 1991, whichever is later, unless the department determines that the training is not available during the ninety-day period, in which case the individual shall enter training as soon as it is available; or

(ii) Is enrolled in training approved under this section on a full-time basis and maintains satisfactory progress in the training. By April 1, 1998, the employment security department must redetermine a new list of eligible and ineligible counties based on a comparison of 1988 and 1997 employment rates. Any changed eligibility status will apply only to new claims for regular unemployment insurance effective after April 1, 1998.

(5) For the purposes of this section:

(a) "Training program" means:

(i) A remedial education program determined to be necessary after counseling at the educational institution in which the individual enrolls pursuant to his or her approved training program; or

(ii) A vocational training program at an educational institution that:

(A) Is training for a labor demand occupation; and

(B) Is likely to facilitate a substantial enhancement of the individual's marketable skills and earning power.

(b) "Educational institution" means an institution of higher education as defined in RCW 28B.10.016 or an educational institution as defined in RCW 28C.04.410(3).

(c) "Training allowance or stipend" means discretionary use, cash-in-hand payments available to the individual to be used as the individual sees fit, but does not mean direct or indirect compensation for training costs, such as tuition or books and supplies.

(6) The commissioner shall adopt rules as necessary to implement this section.

(7) The provisions of RCW 50.22.010(10) shall not apply to anyone who establishes eligibility for additional benefits under this section and whose benefit year ends after January 1, 1994. These individuals will have the option of remaining on the original claim or filing a new claim.

**Sec. 5.** RCW 43.63A.021 and 1995 c 226 s 11 are each amended to read as follows:

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

(1) "Dislocated forest products worker" means a forest products worker who: (a)(i) Has been terminated or received notice of termination from employment and is unlikely to return to employment in the individual's principal occupation or previous industry because of a diminishing demand for his or her skills in that occupation or industry; or (ii) is self-employed and has been displaced from his or her business because of the diminishing demand for the business's services or goods; and (b) at the time of last separation from employment, resided in or was employed in a rural natural resources impact area.

(2) "Forest products worker" means a worker in the forest products industries affected by the reduction of forest fiber enhancement, transportation, or production. The workers included within this definition shall be determined by the employment security department, but shall include workers employed in the industries assigned

the major group standard industrial classification codes "24" and "26" and the industries involved in the harvesting and management of logs, transportation of logs and wood products, processing of wood products, and the manufacturing and distribution of wood processing and logging equipment. The commissioner may adopt rules further interpreting these definitions. For the purposes of this subsection, "standard industrial classification code" means the code identified in RCW 50.29.025(6)(c).

(3) "Dislocated salmon fishing worker" means a ((salmon)) finfish products worker who: (a)(i) Has been terminated or received notice of termination from employment and is unlikely to return to employment in the individual's principal occupation or previous industry because of a diminishing demand for his or her skills in that occupation or industry; or (ii) is self-employed and has been displaced from his or her business because of the diminishing demand for the business's services or goods; and (b) at the time of last separation from employment, resided in or was employed in a rural natural resources impact area.

(4) "Salmon fishing worker" means a worker in the ((salmon)) finfish industry affected by 1994 or future salmon disasters. The workers included within this definition shall be determined by the employment security department, but shall include workers employed in the industries involved in the commercial and recreational harvesting of ((salmon)) finfish including buying and processing ((salmon)) finfish. The commissioner may adopt rules further interpreting these definitions.

Sec. 6. RCW 43.31.641 and 1995 c 226 s 4 are each amended to read as follows:

The department of community, trade, and economic development, as a member of the agency rural community assistance task force, shall:

~~(1) ((Implement an expanded value-added forest products development industrial extension program. The department shall provide technical assistance to small and medium-sized forest products companies to include:~~

- ~~—(a) Secondary manufacturing product development;~~
- ~~—(b) Plant and equipment maintenance;~~
- ~~—(c) Identification and development of domestic market opportunities;~~
- ~~—(d) Building products export development assistance;~~
- ~~—(e) At-risk business development assistance;~~
- ~~—(f) Business network development; and~~
- ~~—(g) Timber impact area industrial diversification.~~

~~(2) Provide local contracts for small and medium-sized forest product companies, start-ups, and business organizations for business feasibility, market development, and business network contracts that will benefit value-added production efforts in the industry.~~

~~(3) Contract with local business organizations in timber impact areas for development of programs to promote industrial diversification. The department shall provide local capacity-building grants to local governments and community-~~

~~based organizations in timber impact areas, which may include long-range planning and needs assessments.~~

~~— For the 1991-93 biennium, the department of community, trade, and economic development shall use funds appropriated for this section for contracts and for no more than two additional staff positions)) Administer available federal grant funds to support strategic diversification needs and opportunities of timber-dependent communities, value-added forest products firms, and the value-added forest products industry in Washington state.~~

(2) Provide value-added wood products companies with building products export development assistance.

**Sec. 7.** RCW 43.63A.440 and 1995 c 226 s 13 are each amended to read as follows:

The department of community, trade, and economic development shall provide technical and financial assistance to communities adversely impacted by reductions in timber harvested from federal, state, and private lands and reduction of salmon fishing caused by efforts to maintain the long-term viability of salmon stocks. ~~((This assistance shall include the formation and implementation of community economic development plans. The department of community, trade, and economic development shall utilize existing state technical and financial assistance programs, and shall aid communities in seeking private and federal financial assistance for the purposes of this section. The department may contract for services provided for under this section))~~ The department shall use existing technical and financial assistance resources to aid communities in planning, implementing, and assembling financing for high priority community economic development projects.

**Sec. 8.** RCW 43.160.020 and 1996 c 51 s 2 are each amended to read as follows:

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

(1) "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 bridges, roads, domestic and industrial water, sanitary sewer, storm sewer, railroad, electricity, natural gas, buildings or structures, and port facilities.

(12) "Rural natural resources impact area" means:

(a) A nonmetropolitan county, as defined by the 1990 decennial census, that meets ~~((two))~~ three of the five criteria set forth in subsection (13) of this section; ~~((or))~~

(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 (13) of this section; or

(c) A nonurbanized area, as defined by the 1990 decennial census, that is located in a metropolitan county that meets ~~((two))~~ three of the five criteria set forth in subsection (13) of this section.

(13) 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 ~~((that is located wholly or partially in an urbanized area or within two))~~ of which any part is ten miles ((of)) 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. 9.** RCW 43.160.076 and 1996 c 51 s 7 are each amended to read as follows:

(1) Except as authorized to the contrary under subsection (2) of this section, from all funds available to the board for financial assistance in a biennium, the board shall spend at least ~~((fifty))~~ seventy-five percent for financial assistance for projects in distressed counties or rural natural resources impact areas. For purposes of this section, the term "distressed counties" includes any county, in which the average level of unemployment for the three years before the year in which an application for financial assistance is filed, exceeds the average state employment for those years by twenty percent.

(2) If at any time during the last six months of a biennium the board finds that the actual and anticipated applications for qualified projects in distressed counties or rural natural resources impact areas are clearly insufficient to use up the ~~((fifty))~~ seventy-five percent allocation, then the board shall estimate the amount of the insufficiency and during the remainder of the biennium may use that amount of the allocation for financial assistance to projects not located in distressed counties or rural natural resources impact areas.

**Sec. 10.** 1995 c 226 s 7 (uncodified) is amended to read as follows:

RCW 43.160.076 and 1991 c 314 s 24 & 1985 c 446 s 6 are each repealed effective June 30, ~~((+1997))~~ 2000.

**Sec. 11.** 1995 c 226 s 8 (uncodified) is amended to read as follows:

RCW 43.160.200 expires June 30, ~~((+1997))~~ 2000.

**Sec. 12.** 1995 c 226 s 9 (uncodified) is amended to read as follows:

RCW 43.160.210 shall take effect June 30, ~~((+1997))~~ 2000.

**Sec. 13.** RCW 28B.50.030 and 1995 c 226 s 17 are each amended to read as follows:

As used in this chapter, unless the context requires otherwise, the term:

(1) "System" shall mean the state system of community and technical colleges, which shall be a system of higher education.

(2) "Board" shall mean the work force training, and education coordinating board.

(3) "College board" shall mean the state board for community and technical colleges created by this chapter.

(4) "Director" shall mean the administrative director for the state system of community and technical colleges.

(5) "District" shall mean any one of the community and technical college districts created by this chapter.

(6) "Board of trustees" shall mean the local community and technical college board of trustees established for each college district within the state.

(7) "Occupational education" shall mean that education or training that will prepare a student for employment that does not require a baccalaureate degree.

(8) "K-12 system" shall mean the public school program including kindergarten through the twelfth grade.

(9) "Common school board" shall mean a public school district board of directors.

(10) "Community college" shall include those higher education institutions that conduct education programs under RCW 28B.50.020.

(11) "Technical college" shall include those higher education institutions with the sole mission of conducting occupational education, basic skills, literacy programs, and offering on short notice, when appropriate, programs that meet specific industry needs. The programs of technical colleges shall include, but not be limited to, continuous enrollment, competency-based instruction, industry-experienced faculty, curriculum integrating vocational and basic skills education, and curriculum approved by representatives of employers and labor. For purposes of this chapter, technical colleges shall include Lake Washington Vocational-Technical Institute, Renton Vocational-Technical Institute, Bates Vocational-Technical Institute, Clover Park Vocational Institute, and Bellingham Vocational-Technical Institute.

(12) "Adult education" shall mean all education or instruction, including academic, vocational education or training, basic skills and literacy training, and "occupational education" provided by public educational institutions, including common school districts for persons who are eighteen years of age and over or who hold a high school diploma or certificate. However, "adult education" shall not include academic education or instruction for persons under twenty-one years of age who do not hold a high school degree or diploma and who are attending a public high school for the sole purpose of obtaining a high school diploma or certificate, nor shall "adult education" include education or instruction provided by any four year public institution of higher education.

(13) "Dislocated forest product worker" shall mean a forest products worker who: (a)(i) Has been terminated or received notice of termination from employment and is unlikely to return to employment in the individual's principal occupation or previous industry because of a diminishing demand for his or her skills in that occupation or industry; or (ii) is self-employed and has been displaced from his or her business because of the diminishing demand for the business's services or goods; and (b) at the time of last separation from employment, resided in or was employed in a rural natural resources impact area.

(14) "Forest products worker" shall mean a worker in the forest products industries affected by the reduction of forest fiber enhancement, transportation, or

production. The workers included within this definition shall be determined by the employment security department, but shall include workers employed in the industries assigned the major group standard industrial classification codes "24" and "26" and the industries involved in the harvesting and management of logs, transportation of logs and wood products, processing of wood products, and the manufacturing and distribution of wood processing and logging equipment. The commissioner may adopt rules further interpreting these definitions. For the purposes of this subsection, "standard industrial classification code" means the code identified in RCW 50.29.025(6)(c).

(15) "Dislocated salmon fishing worker" means a (~~salmon~~) finfish products worker who: (a)(i) Has been terminated or received notice of termination from employment and is unlikely to return to employment in the individual's principal occupation or previous industry because of a diminishing demand for his or her skills in that occupation or industry; or (ii) is self-employed and has been displaced from his or her business because of the diminishing demand for the business's services or goods; and (b) at the time of last separation from employment, resided in or was employed in a rural natural resources impact area.

(16) "Salmon fishing worker" means a worker in the (~~salmon~~) finfish industry affected by 1994 or future salmon disasters. The workers included within this definition shall be determined by the employment security department, but shall include workers employed in the industries involved in the commercial and recreational harvesting of (~~salmon~~) finfish including buying and processing (~~salmon~~) finfish. The commissioner may adopt rules further interpreting these definitions.

(17) "Rural natural resources impact area" means:

(a) A nonmetropolitan county, as defined by the 1990 decennial census, that meets (~~two~~) three of the five criteria set forth in subsection (18) of this section; (~~or~~)

(b) A nonmetropolitan county with a population of less than forty thousand in the 1990 decennial census, that meets two of the five criteria as set forth in subsection (18) of this section; or

(c) A nonurbanized area, as defined by the 1990 decennial census, that is located in a metropolitan county that meets (~~two~~) three of the five criteria set forth in subsection (18) of this section.

(18) For the purposes of designating rural natural resources impact areas, the following criteria shall be considered:

(a) A lumber and wood products employment location quotient at or above the state average;

(b) A commercial salmon fishing employment location quotient at or above the state average;

(c) Projected or actual direct lumber and wood products job losses of one hundred positions or more;

(d) Projected or actual direct commercial salmon fishing job losses of one hundred positions or more; and

(e) An unemployment rate twenty percent or more above the state average. The counties that meet these criteria shall be determined by the employment security department for the most recent year for which data is available. For the purposes of administration of programs under this chapter, the United States post office five-digit zip code delivery areas will be used to determine residence status for eligibility purposes. For the purpose of this definition, a zip code delivery area ~~((that is located wholly or partially in an urbanized area or within two))~~ of which any part is ten miles ((of)) 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. 14.** RCW 28B.80.570 and 1995 c 226 s 20 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 28B.80.575 through 28B.80.585.

(1) "Board" means the higher education coordinating board.

(2) "Dislocated forest products worker" means a forest products worker who: (a)(i) Has been terminated or received notice of termination from employment and is unlikely to return to employment in the individual's principal occupation or previous industry because of a diminishing demand for his or her skills in that occupation or industry; or (ii) is self-employed and has been displaced from his or her business because of the diminishing demand for the business's services or goods; and (b) at the time of last separation from employment, resided in or was employed in a rural natural resources impact area.

(3) "Forest products worker" means a worker in the forest products industries affected by the reduction of forest fiber enhancement, transportation, or production. The workers included within this definition shall be determined by the employment security department, but shall include workers employed in the industries assigned the major group standard industrial classification codes "24" and "26" and the industries involved in the harvesting and management of logs, transportation of logs and wood products, processing of wood products, and the manufacturing and distribution of wood processing and logging equipment. The commissioner may adopt rules further interpreting these definitions. For the purposes of this subsection, "standard industrial classification code" means the code identified in RCW 50.29.025(6)(c).

(4) "Dislocated salmon fishing worker" means a ~~((salmon))~~ finfish products worker who: (a)(i) Has been terminated or received notice of termination from employment and is unlikely to return to employment in the individual's principal occupation or previous industry because of a diminishing demand for his or her skills in that occupation or industry; or (ii) is self-employed and has been displaced

from his or her business because of the diminishing demand for the business's services or goods; and (b) at the time of last separation from employment, resided in or was employed in a rural natural resources impact area.

(5) "Salmon fishing worker" means a worker in the ~~((salmon))~~ finfish industry affected by 1994 or future salmon disasters. The workers included within this definition shall be determined by the employment security department, but shall include workers employed in the industries involved in the commercial and recreational harvesting of ~~((salmon))~~ finfish including buying and processing ~~((salmon))~~ finfish. The commissioner may adopt rules further interpreting these definitions.

(6) "Rural natural resources impact area" means:

(a) A nonmetropolitan county, as defined by the 1990 decennial census, that meets ~~((two))~~ three of the five criteria set forth in subsection (7) of this section; ~~((or))~~

(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 (7) of this section; or

(c) A nonurbanized area, as defined by the 1990 decennial census, that is located in a metropolitan county that meets ~~((two))~~ three of the five criteria set forth in subsection (7) of this section.

(7) 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 ~~((that is located wholly or partially in an urbanized area or within two))~~ of which any part is ten miles ~~((of))~~ 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. 15.** RCW 28B.80.580 and 1995 c 226 s 22 are each amended to read as follows:

(1) The board shall contract with institutions of higher education to provide upper division classes to serve additional placebound students in the rural natural resources impact areas meeting the following criteria, as determined by the employment security department: (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) a direct lumber and wood products job loss 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 annual unemployment rate twenty percent above the state average; and which are not served by an existing state-funded upper division degree program. The number of full-time equivalent students served in this manner shall be determined by the applicable omnibus appropriations act. The board may direct that all the full-time equivalent enrollments be served in one of the eligible rural natural resources impact areas if it should determine that this would be the most viable manner of establishing the program and using available resources. The institutions shall utilize telecommunication technology, if available, to carry out the purposes of this section. Subject to the limitations of RCW 28B.15.910, the institutions providing the service may waive all or a portion of the tuition, and service and activities fees for dislocated forest products workers and dislocated salmon fishing workers or their unemployed spouses enrolled as one of the full-time equivalent students allocated to the college under this section.

(2) Unemployed spouses of eligible dislocated forest products workers and dislocated salmon fishing workers may participate in the program, but tuition and fees may be waived under the program only for the worker or the spouse and not both.

(3) Subject to the limitations of RCW 28B.15.910, for any eligible participant, all or a portion of tuition may be waived for a maximum of (~~four semesters or six quarters within a two-year time period~~) ninety quarter credit hours or sixty semester credit hours earned within four years. The participant must be enrolled for a minimum of (~~ten credits per semester or quarter~~) five credit hours per quarter or three credit hours per semester.

**Sec. 16.** RCW 43.20A.750 and 1995 c 269 s 1901 and 1995 c 226 s 25 are each reenacted and amended to read as follows:

(1) The department of social and health services shall help families and workers in rural natural resources impact areas make the transition through economic difficulties and shall provide services to assist workers to gain marketable skills. The department, as a member of the agency rural community assistance task force and, where appropriate, under an interagency agreement with the department of community, trade, and economic development, shall provide grants through the office of the secretary for services to the unemployed in rural natural resources impact areas and to dislocated salmon fishing workers as defined

in RCW 43.63A.021 who live in urban areas of qualifying rural natural resource impact counties, including providing direct or referral services, establishing and operating service delivery programs, and coordinating delivery programs and delivery of services. These grants may be awarded for family support centers, reemployment centers, or other local service agencies.

(2) The services provided through the grants may include, but need not be limited to: Credit counseling; social services including marital counseling; psychotherapy or psychological counseling; mortgage foreclosures and utilities problems counseling; drug and alcohol abuse services; medical services; and residential heating and food acquisition.

(3) Funding for these services shall be coordinated through the agency rural community assistance task force which will establish a fund to provide child care assistance, mortgage assistance, and counseling which cannot be met through current programs. No funds shall be used for additional full-time equivalents for administering this section.

(4)(a) Grants for family support centers are intended to provide support to families by responding to needs identified by the families and communities served by the centers. Services provided by family support centers may include parenting education, child development assessments, health and nutrition education, counseling, and information and referral services. Such services may be provided directly by the center or through referral to other agencies participating in the interagency team.

(b) The department shall consult with the council on child abuse or neglect regarding grants for family support centers.

(5) "Rural natural resources impact area" means:

(a) A nonmetropolitan county, as defined by the 1990 decennial census, that meets ~~((two))~~ three of the five criteria set forth in subsection (6) of this section; ~~((or))~~

(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 (6) of this section; or

(c) A nonurbanized area, as defined by the 1990 decennial census, that is located in a metropolitan county that meets ~~((two))~~ three of the five criteria set forth in subsection (6) of this section.

(6) 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 ~~((that is located wholly or partially in an urbanized area or within two))~~ of which any part is ten miles ((of) 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. 17.** RCW 50.12.270 and 1995 c 226 s 30 are each amended to read as follows:

(1) Subject to the availability of state or federal funds, the employment security department, as a member of the agency rural community assistance task force, shall consult with and may subcontract with local educational institutions, local businesses, local labor organizations, local associate development organizations, local private industry councils, local social service organizations, and local governments in carrying out a program of training and services, including training through the entrepreneurial training program, for dislocated workers in rural natural resources impact areas.

(2) The department shall conduct a survey to determine the actual future employment needs and jobs skills in rural natural resources impact areas.

(3) The department shall coordinate the services provided in this section with all other services provided by the department and with the other economic recovery efforts undertaken by state and local government agencies on behalf of the rural natural resources impact areas.

(4) The department shall make every effort to procure additional federal and other moneys for the efforts enumerated in this section.

(5) For the purposes of this section, "rural natural resources impact area" means:

(a) A nonmetropolitan county, as defined by the 1990 decennial census, that meets ~~((two))~~ three of the five criteria set forth in subsection (6) of this section; ~~((or))~~

(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 (6) of this section; or

(c) A nonurbanized area, as defined by the 1990 decennial census, that is located in a metropolitan county that meets ~~((two))~~ three of the five criteria set forth in subsection (6) of this section.

(6) 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 ~~((that is located wholly or partially in an urbanized area or within two))~~ of which any part is ten miles ((of) 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. 18.** RCW 43.131.385 and 1995 c 226 s 34 are each amended to read as follows:

The rural natural resources impact area programs shall be terminated on June 30, ~~((1998)) 2000~~, as provided in RCW 43.131.386.

**Sec. 19.** RCW 43.131.386 and 1996 c 168 s 5 are each amended to read as follows:

The following acts or parts of acts are each repealed, effective June 30, ~~((1999)) 2001~~:

(1) RCW 43.31.601 and 1995 c 226 s 1, 1992 c 21 s 2, & 1991 c 314 s 2;

(2) RCW 43.31.641 and 1995 c 226 s 4, 1993 c 280 s 50, & 1991 c 314 s 7;

(3) RCW 50.22.090 and 1995 c 226 s 5, 1993 c 316 s 10, 1992 c 47 s 2, & 1991 c 315 s 4;

(4) RCW 43.160.212 and 1996 c 168 s 4, 1995 c 226 s 6, & 1993 c 316 s 5;

(5) ~~((RCW 43.31.651 and 1995 c 226 s 10, 1993 c 280 s 51, & 1991 c 314 s 9;~~

~~—((6)) RCW 43.63A.021 and 1995 c 226 s 11;~~

~~(((7)))~~ (6) RCW 43.63A.600 and 1995 c 226 s 12, 1994 c 114 s 1, 1993 c 280 s 77, & 1991 c 315 s 23;

~~(((8)))~~ (7) RCW 43.63A.440 and 1995 c 226 s 13, 1993 c 280 s 74, & 1989 c 424 s 7;

~~((9))~~ (8) RCW 43.160.200 and 1995 c 226 s 16, 1993 c 320 s 7, 1993 c 316 s 4, & 1991 c 314 s 23;

~~((10))~~ (9) RCW 28B.50.258 and 1995 c 226 s 18 & 1991 c 315 s 16;

~~((11))~~ (10) RCW 28B.50.262 and 1995 c 226 s 19 & 1994 c 282 s 3;

~~((12))~~ (11) RCW 28B.80.570 and 1995 c 226 s 20, 1992 c 21 s 6, & 1991 c 315 s 18;

~~((13))~~ (12) RCW 28B.80.575 and 1995 c 226 s 21 & 1991 c 315 s 19;

~~((14))~~ (13) RCW 28B.80.580 and 1995 c 226 s 22, 1993 sp.s. c 18 s 34, 1992 c 231 s 31, & 1991 c 315 s 20;

~~((15))~~ (14) RCW 28B.80.585 and 1995 c 226 s 23 & 1991 c 315 s 21;

~~((16))~~ (15) RCW 43.17.065 and 1995 c 226 s 24, 1993 c 280 s 37, 1991 c 314 s 28, & 1990 1st ex.s. c 17 s 77;

~~((17))~~ (16) RCW 43.20A.750 and 1995 c 226 s 25, 1993 c 280 s 38, 1992 c 21 s 4, & 1991 c 153 s 28;

~~((18))~~ (17) RCW 43.168.140 and 1995 c 226 s 28 & 1991 c 314 s 20;

~~((19))~~ (18) RCW 50.12.270 and 1995 c 226 s 30 & 1991 c 315 s 3;

~~((20))~~ (19) RCW 50.70.010 and 1995 c 226 s 31, 1992 c 21 s 1, & 1991 c 315 s 5; and

~~((21))~~ (20) RCW 50.70.020 and 1995 c 226 s 32 & 1991 c 315 s 6.

NEW SECTION. **Sec. 20.** RCW 43.31.651 and 1995 c 226 s 10, 1993 c 280 s 51, & 1991 c 314 s 9 are each repealed.

NEW SECTION. **Sec. 21.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. **Sec. 22.** If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state, the conflicting part of this act is inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and this finding does not affect the operation of the remainder of this act in its application to the agencies concerned. The rules under this act shall meet federal requirements that are a necessary condition to the receipt of federal funds by the state.

NEW SECTION. **Sec. 23.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 1997.

Passed the House April 27, 1997.

Passed the Senate April 18, 1997.

Approved by the Governor May 15, 1997.

Filed in Office of Secretary of State May 15, 1997.

**CHAPTER 368**

[Substitute House Bill 1257]

**COAL-FIRED THERMAL ELECTRICAL GENERATION FACILITIES—ASSISTANCE FOR POLLUTION CONTROL AND ABATEMENT**

AN ACT Relating to the taxation of coal-fired thermal electric generating facilities placed in operation before July 1, 1975; amending RCW 43.79A.040 and 80.04.130; adding new sections to chapter 82.08 RCW; adding new sections to chapter 82.12 RCW; adding new sections to chapter 82.32 RCW; adding a new section to chapter 70.94 RCW; adding a new section to chapter 84.36 RCW; adding a new section to chapter 50.12 RCW; creating new sections; providing an expiration date; and declaring an emergency.

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

**NEW SECTION.** Sec. 1. (1) The legislature finds that:

(a) Thermal electric generation facilities play an important role in providing jobs for residents of the communities where such plants are located; and

(b) Taxes paid by thermal electric generation facilities help to support schools and local and state government operations.

(2) It is the intent of the legislature to assist thermal electric generation facilities placed in operation after December 31, 1969, and before July 1, 1975, to update their air pollution control equipment and abate pollution by extending certain tax exemptions and credits so that such plants may continue to play a long-term vital economic role in the communities where they are located.

**NEW SECTION.** Sec. 2. A new section is added to chapter 82.08 RCW to read as follows:

(1) For the purposes of this section, "air pollution control facilities" mean any treatment works, control devices and disposal systems, machinery, equipment, structures, property, property improvements, and accessories, that are installed or acquired for the primary purpose of reducing, controlling, or disposing of industrial waste that, if released to the outdoor atmosphere, could cause air pollution, or that are required to meet regulatory requirements applicable to their construction, installation, or operation.

(2) The tax levied by RCW 82.08.020 does not apply to:

(a) Sales of tangible personal property to a light and power business, as defined in RCW 82.16.010, for construction or installation of air pollution control facilities at a thermal electric generation facility; or

(b) Sales of, cost of, or charges made for labor and services performed in respect to the construction or installation of air pollution control facilities.

(3) The exemption provided under this section applies only to sales, costs, or charges:

(a) Incurred for air pollution control facilities constructed or installed after the effective date of this act and used in a thermal electric generation facility placed in operation after December 31, 1969, and before July 1, 1975;

(b) If the air pollution control facilities are constructed or installed to meet applicable regulatory requirements established under state or federal law, including the Washington clean air act, chapter 70.94 RCW; and

(c) For which the purchaser provides the seller with an exemption certificate, signed by the purchaser or purchaser's agent, that includes a description of items or services for which payment is made, the amount of the payment, and such additional information as the department reasonably may require.

(4) This section does not apply to sales of tangible personal property purchased or to sales of, costs of, or charges made for labor and services used for maintenance or repairs of pollution control equipment.

(5) If production of electricity at a thermal electric generation facility for any calendar year after 2002 and before 2023 falls below a twenty percent annual capacity factor for the generation facility, all or a portion of the tax previously exempted under this section in respect to construction or installation of air pollution control facilities at the generation facility shall be due as follows:

Year event occurs	Portion of previously exempted tax due
2003	100%
2004	95%
2005	90%
2006	85%
2007	80%
2008	75%
2009	70%
2010	65%
2011	60%
2012	55%
2013	50%
2014	45%
2015	40%
2016	35%
2017	30%
2018	25%
2019	20%
2020	15%
2021	10%
2022	5%
2023	0%

(6) Section 12 of this act applies to this section.

**NEW SECTION. Sec. 3.** A new section is added to chapter 82.12 RCW to read as follows:

(1) For the purposes of this section, "air pollution control facilities" mean any treatment works, control devices and disposal systems, machinery, equipment,

structures, property, property improvements, and accessories, that are installed or acquired for the primary purpose of reducing, controlling, or disposing of industrial waste that, if released to the outdoor atmosphere, could cause air pollution, or that are required to meet regulatory requirements applicable to their construction, installation, or operation.

(2) The provisions of this chapter do not apply in respect to the use of air pollution control facilities installed and used by a light and power business, as defined in RCW 82.16.010, in generating electric power.

(3) The exemption provided under this section applies only to air pollution control facilities that are:

(a) Constructed or installed after the effective date of this act and used in a thermal electric generation facility placed in operation after December 31, 1969, and before July 1, 1975; and

(b) Constructed or installed to meet applicable regulatory requirements established under state or federal law, including the Washington clean air act, chapter 70.94 RCW.

(4) This section does not apply to the use of tangible personal property for maintenance or repairs of the pollution control equipment.

(5) If production of electricity at a thermal electric generation facility for any calendar year after 2002 and before 2023 falls below a twenty percent annual capacity factor for the generation facility, all or a portion of the tax previously exempted under this section in respect to construction or installation of air pollution control facilities at the generation facility shall be due according to the schedule provided in section 2(5) of this act.

(6) Section 12 of this act applies to this section.

**NEW SECTION.** Sec. 4. A new section is added to chapter 82.08 RCW to read as follows:

(1) For the purposes of this section:

(a) "Air pollution control facilities" means any treatment works, control devices and disposal systems, machinery, equipment, structure, property, property improvements, and accessories, that are installed or acquired for the primary purpose of reducing, controlling, or disposing of industrial waste that, if released to the outdoor atmosphere, could cause air pollution, or that are required to meet regulatory requirements applicable to their construction, installation, or operation; and

(b) "Generation facility" means a coal-fired thermal electric generation facility placed in operation after December 3, 1969, and before July 1, 1975.

(2) Beginning January 1, 1999, the tax levied by RCW 82.08.020 does not apply to sales of coal used to generate electric power at a generation facility operated by a business if the following conditions are met:

(a) The owners must make an application to the department of revenue for a tax exemption;

(b) The owners must make a demonstration to the department of ecology that the owners have made reasonable initial progress to install air pollution control facilities to meet applicable regulatory requirements established under state or federal law, including the Washington clean air act, chapter 70.94 RCW;

(c) Continued progress must be made on the development of air pollution control facilities to meet the requirements of the permit; and

(d) The generation facility must emit no more than ten thousand tons of sulfur dioxide during a previous consecutive twelve-month period.

(3) During a consecutive twelve-month period, if the generation facility is found to be in violation of excessive sulfur dioxide emissions from a regional air pollution control authority or the department of ecology, the department of ecology shall notify the department of revenue and the owners of the generation facility shall lose their tax exemption under this section. The owners of a generation facility may reapply for the tax exemption when they have once again met the conditions of subsection (2)(d) of this section.

(4) Section 12 of this act applies to this section.

**NEW SECTION.** Sec. 5. A new section is added to chapter 82.08 RCW to read as follows:

Any business that has received a tax exemption under section 4 of this act forfeits the exemption if, except for reasons or factors beyond the control of the owners or operator of the thermal electric generation facility, less than seventy percent of the coal consumed at the thermal electric generation facility during the previous calendar year was produced by a mine located in the same county as the facility or in a county contiguous to the county. The department of revenue may reinstate the exemption under section 4 of this act when the owners provide documentation that the seventy-percent requirement has been met during a subsequent calendar year. The definitions in section 4 of this act apply to this section.

**NEW SECTION.** Sec. 6. A new section is added to chapter 82.12 RCW to read as follows:

(1) For the purposes of this section:

(a) "Air pollution control facilities" means any treatment works, control devices and disposal systems, machinery, equipment, structure, property, property improvements, and accessories, that are installed or acquired for the primary purpose of reducing, controlling, or disposing of industrial waste that, if released to the outdoor atmosphere, could cause air pollution, or that are required to meet regulatory requirements applicable to their construction, installation, or operation; and

(b) "Generation facility" means a coal-fired thermal electric generation facility placed in operation after December 3, 1969, and before July 1, 1975.

(2) Beginning January 1, 1999, the provisions of this chapter do not apply in respect to the use of coal to generate electric power at a generation facility operated by a business if the following conditions are met:

(a) The owners must make an application to the department of revenue for a tax exemption;

(b) The owners must make a demonstration to the department of ecology that the owners have made reasonable initial progress to install air pollution control facilities to meet applicable regulatory requirements established under state or federal law, including the Washington clean air act, chapter 70.94 RCW;

(c) Continued progress must be made on the development of air pollution control facilities to meet the requirements of the permit; and

(d) The generation facility must emit no more than ten thousand tons of sulfur dioxide during a previous consecutive twelve-month period.

(3) During a consecutive twelve-month period, if the generation facility is found to be in violation of excessive sulfur dioxide emissions from a regional air pollution control authority or the department of ecology, the department of ecology shall notify the department of revenue and the owners of the generation facility shall lose their tax exemption under this section. The owners of a generation facility may reapply for the tax exemption when they have once again met the conditions of subsection (2)(d) of this section.

(4) Section 12 of this act applies to this section.

**NEW SECTION.** Sec. 7. A new section is added to chapter 82.12 RCW to read as follows:

Any business that has received a tax exemption under section 6 of this act forfeits the exemption if, except for reasons or factors beyond the control of the owners or operator of the thermal electric generation facility, less than seventy percent of the coal consumed at the thermal electric generation facility during the previous calendar year was produced by a mine located in the same county as the facility or in a county contiguous to the county. The department of revenue may reinstate the exemption under section 6 of this act when the owners provide documentation that the seventy-percent requirement has been met during a subsequent calendar year. The definitions in section 6 of this act apply to this section.

**Sec. 8.** RCW 43.79A.040 and 1996 c 253 s 409 are each 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 agricultural local fund, the American Indian scholarship endowment fund, the Washington international exchange scholarship endowment fund, the energy account, the fair fund, the game farm alternative account, the grain inspection revolving fund, the rural rehabilitation account, ~~((and))~~ the self-insurance revolving fund, and the sulfur dioxide abatement 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 federal narcotics asset forfeitures account, the high occupancy vehicle account, and the local rail service assistance 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.** A new section is added to chapter 82.32 RCW to read as follows:

An amount equal to all sales and use taxes paid under chapters 82.08, 82.12, and 82.14 RCW, that were obtained from the sales of coal to, or use of coal by, a business for use at a generation facility, and that meet the requirements of section 10 of this act, shall be deposited in the sulfur dioxide abatement account under section 10 of this act.

NEW SECTION. **Sec. 10.** A new section is added to chapter 70.94 RCW to read as follows:

(1) The sulfur dioxide abatement account is created. All receipts from subsection (2) of this section must be deposited in the account. Expenditures in the account may be used only for the purposes of subsection (3) of this section. Only the director of revenue 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) Upon application by the owners of a generation facility, the department of ecology shall make a determination of whether the owners are making initial progress in the construction of air pollution control facilities. Evidence of initial progress may include, but is not limited to, engineering work, agreements to proceed with construction, contracts to purchase, or contracts for construction of air pollution control facilities. However, if the owners' progress is impeded due to

actions caused by regulatory delays or by defensive litigation, certification of initial progress may not be withheld.

Upon certification of initial progress by the department of ecology and after January 1, 1999, an amount equal to all sales and use taxes paid under chapters 82.08, 82.12, and 82.14 RCW, that were obtained from the sales of coal to, or use of coal by, a business for use at a generation facility shall be deposited in the account under section 9 of this act.

By June 1st of each year during construction of the air pollution control facilities and during the verification period required in sections 4(2)(d) and 6(2)(d) of this act, the department of ecology shall make an assessment regarding the continued progress of the pollution control facilities. Evidence of continued progress may include, but is not limited to, acquisition of construction material, visible progress on construction, or other actions that have occurred that would verify progress under general construction time tables. The treasurer shall continue to deposit an amount equal to the tax revenues to the sulfur dioxide abatement account unless the department of ecology fails to certify that reasonable progress has been made during the previous year. The operator of a generation facility shall file documentation accompanying its combined monthly excise tax return that identifies all sales and use tax payments made by the owners for coal used at the generation facility during the reporting period.

(3) When a generation facility emits no more than ten thousand tons of sulfur dioxide during a consecutive twelve-month period, the department of ecology shall certify this to the department of revenue and the state treasurer by the end of the following month. Within thirty days of receipt of certification under this subsection, the department of revenue shall approve the tax exemption application and the director or the director's designee shall authorize the release of any moneys in the sulfur dioxide abatement account to the operator of the generation facility. The operator shall disburse the payment among the owners of record according to the terms of their contractual agreement.

(4)(a) If the department of revenue has not approved a tax exemption under sections 4 and 6 of this act by March 1, 2005, any moneys in the sulfur dioxide abatement account shall be transferred to the general fund and the appropriate local governments in accordance with chapter 82.14 RCW, and the sulfur dioxide abatement account shall cease to exist after March 1, 2005.

(b) The dates in (a) of this subsection must be extended if the owners of a generation facility have experienced difficulties in complying with this section, or sections 4 through 7 and 9 of this act, due to actions caused by regulatory delays or by defensive litigation.

(5) For the purposes of this section:

(a) "Air pollution control facilities" means any treatment works, control devices and disposal systems, machinery, equipment, structure, property, property improvements and accessories, that are installed or acquired for the primary purpose of reducing, controlling, or disposing of industrial waste that, if released

to the outdoor atmosphere, could cause air pollution, or that are required to meet regulatory requirements applicable to their construction, installation, or operation; and

(b) "Generation facility" means a coal-fired thermal electric generation facility placed in operation after December 3, 1969, and before July 1, 1975.

**NEW SECTION. Sec. 11.** A new section is added to chapter 84.36 RCW to read as follows:

(1) Air pollution control equipment constructed or installed after the effective date of this act, by businesses engaged in the generation of electric energy at thermal electric generation facilities first placed in operation after December 31, 1969, and before July 1, 1975, shall be exempt from property taxation. The owners shall maintain the records in such a manner that the annual beginning and ending asset balance of the pollution control facilities and depreciation method can be identified.

(2) For the purposes of this section, "air pollution control equipment" means any treatment works, control devices and disposal systems, machinery, equipment, structures, property, property improvements, and accessories, that are installed or acquired for the primary purpose of reducing, controlling, or disposing of industrial waste that, if released to the outdoor atmosphere, could cause air pollution, or that are required to meet regulatory requirements applicable to their construction, installation, or operation.

(3) Section 12 of this act applies to this section.

**NEW SECTION. Sec. 12.** A new section is added to chapter 82.32 RCW to read as follows:

If a business is allowed an exemption under section 2, 3, 4, 6, or 11 of this act, and the business ceases operation of the facility for which the exemption is allowed, the business shall deposit into the displaced workers account established in section 13 of this act an amount equal to the fair market value of one-quarter of the total sulfur dioxide allowances authorized by federal law available to the facility at the time of cessation of operation of the generation facility as if the allowances were sold for a period of ten years following the time of cessation of operation of the generation facility. This section expires December 31, 2015.

**NEW SECTION. Sec. 13.** A new section is added to chapter 50.12 RCW to read as follows:

The displaced workers account is established. All moneys from section 12 of this act must be deposited into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only to provide for compensation and retraining of displaced workers of the thermal electric generation facility and of the coal mine that supplied coal to the facility. The benefits from the account are in addition to all other compensation and retraining benefits to which the displaced workers are entitled under existing state law. The employment security department shall administer the distribution of moneys from the account.

**Sec. 14.** RCW 80.04.130 and 1993 c 311 s 1 are each amended to read as follows:

(1) Whenever any public service company shall file with the commission any schedule, classification, rule or regulation, the effect of which is to change any rate, charge, rental or toll theretofore charged, the commission shall have power, either upon its own motion or upon complaint, upon notice, to enter upon a hearing concerning such proposed change and the reasonableness and justness thereof, and pending such hearing and the decision thereon the commission may suspend the operation of such rate, charge, rental or toll for a period not exceeding ten months from the time the same would otherwise go into effect, and after a full hearing the commission may make such order in reference thereto as would be provided in a hearing initiated after the same had become effective. The commission shall not suspend a tariff that makes a decrease in a rate, charge, rental, or toll filed by a telecommunications company pending investigation of the fairness, justness, and reasonableness of the decrease when the filing does not contain any offsetting increase to another rate, charge, rental, or toll and the filing company agrees to not file for an increase to any rate, charge, rental, or toll to recover the revenue deficit that results from the decrease for a period of one year. The filing company shall file with any decrease sufficient information as the commission by rule may require to demonstrate the decreased rate, charge, rental, or toll is above the long run incremental cost of the service. A tariff decrease that results in a rate that is below long run incremental cost, or is contrary to commission rule or order, or the requirements of this chapter, shall be rejected for filing and returned to the company. The commission may prescribe a different rate to be effective on the prospective date stated in its final order after its investigation, if it concludes based on the record that the originally filed and effective rate is unjust, unfair, or unreasonable.

For the purposes of this section, tariffs for the following telecommunications services, that temporarily waive or reduce charges for existing or new subscribers for a period not to exceed sixty days in order to promote the use of the services shall be considered tariffs that decrease rates, charges, rentals, or tolls:

- (a) Custom calling service;
- (b) Second access lines; or
- (c) Other services the commission specifies by rule.

The commission may suspend any promotional tariff other than those listed in (a) through (c) of this subsection.

The commission may suspend the initial tariff filing of any water company removed from and later subject to commission jurisdiction because of the number of customers or the average annual gross revenue per customer provisions of RCW 80.04.010. The commission may allow temporary rates during the suspension period. These rates shall not exceed the rates charged when the company was last regulated. Upon a showing of good cause by the company, the commission may establish a different level of temporary rates.

(2) At any hearing involving any change in any schedule, classification, rule or regulation the effect of which is to increase any rate, charge, rental or toll theretofore charged, the burden of proof to show that such increase is just and reasonable shall be upon the public service company.

(3) The implementation of mandatory local measured telecommunications service is a major policy change in available telecommunications service. The commission shall not accept for filing or approve, prior to June 1, 1998, a tariff filed by a telecommunications company which imposes mandatory local measured service on any customer or class of customers, except that, upon finding that it is in the public interest, the commission may accept for filing and approve a tariff that imposes mandatory measured service for a telecommunications company's extended area service or foreign exchange service. This subsection does not apply to land, air, or marine mobile service, or to pay telephone service, or to any service which has been traditionally offered on a measured service basis.

(4) The implementation of Washington telephone assistance program service is a major policy change in available telecommunications service. The implementation of Washington telephone assistance program service will aid in achieving the stated goal of universal telephone service.

(5) If a utility claims a sales or use tax exemption on the pollution control equipment for an electrical generation facility and abandons the generation facility before the pollution control equipment is fully depreciated, any tariff filing for a rate increase to recover abandonment costs for the pollution control equipment shall be considered unjust and unreasonable for the purposes of this section.

**NEW SECTION. Sec. 15.** The department of revenue and the department of ecology may adopt rules to implement this act.

**NEW SECTION. Sec. 16.** 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. 17.** 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 the House April 19, 1997.

Passed the Senate April 11, 1997.

Approved by the Governor May 15, 1997.

Filed in Office of Secretary of State May 15, 1997.

---

## CHAPTER 369

[Engrossed Substitute House Bill 2170]

### EXPEDITING DEVELOPMENT OF INDUSTRIAL INVESTMENTS AND PROJECTS OF STATE-WIDE SIGNIFICANCE

AN ACT Relating to industrial investments and projects of state-wide significance; amending RCW 28C.18.080, 43.21A.350, 90.58.100, 47.06.030, 28A.525.166, and 28B.80.330; and adding a

new chapter to Title 43 RCW.

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

**NEW SECTION.** **Sec. 1.** The legislature declares that certain industrial investments merit special designation and treatment by governmental bodies when they are proposed. Such investments bolster the economies of their locale and impact the economy of the state as a whole. It is the intention of the legislature to recognize industrial projects of state-wide significance and to encourage local governments and state agencies to expedite their completion.

**NEW SECTION.** **Sec. 2.** (1) For purposes of this chapter and RCW 28A.525.166, 28B.80.330, 28C.18.080, 43.21A.350, 47.06.030, and 90.58.100 and industrial project of state-wide 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 state-wide significance, the project must be completed after January 1, 1997, and have:

(a) In counties with a population of less than or equal to twenty thousand, a capital investment of twenty million dollars;

(b) In counties with a population of greater than twenty thousand but no more than fifty thousand, a capital investment of fifty million dollars;

(c) 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;

(d) 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;

(e) 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;

(f) 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;

(g) In counties with a population of greater than one million, a capital investment of one billion dollars; or

(h) Been designated by the director of community, trade, and economic development as an industrial project of state-wide significance either: (i) 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 (ii) 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.

**NEW SECTION.** Sec. 3. Counties and cities planning under the planning enabling act, chapter 36.70 RCW, or the requirements of the growth management act, chapter 36.70A RCW, shall include a process, to be followed at their discretion for any specific project, for expediting the completion of industrial projects of state-wide significance.

**NEW SECTION.** Sec. 4. The department of community, trade, and economic development shall assign an ombudsman to each industrial project of state-wide significance. The ombudsman shall be responsible for assembling a team of state and local government and private officials to help meet the planning and development needs of each project. The ombudsman shall strive to include in the teams those responsible for planning, permitting and licensing, infrastructure development, work force development services including higher education, transportation services, and the provision of utilities. The ombudsman shall encourage each team member to expedite their actions in furtherance of the project.

Sec. 5. RCW 28C.18.080 and 1995 c 130 s 2 are each amended to read as follows:

(1) The state comprehensive plan for work force training and education shall be updated every two years and presented to the governor and the appropriate legislative policy committees. Following public hearings, the legislature shall, by concurrent resolution, approve or recommend changes to the initial plan and the updates. The plan shall then become the state's work force training policy unless legislation is enacted to alter the policies set forth in the plan.

(2) The comprehensive plan shall include work force training role and mission statements for the work force development programs of operating agencies represented on the board and sufficient specificity regarding expected actions by the operating agencies to allow them to carry out actions consistent with the comprehensive plan.

(3) Operating agencies represented on the board shall have operating plans for their work force development efforts that are consistent with the comprehensive plan and that provide detail on implementation steps they will take to carry out their responsibilities under the plan. Each operating agency represented on the board shall provide an annual progress report to the board.

(4) The comprehensive plan shall include recommendations to the legislature and the governor on the modification, consolidation, initiation, or elimination of work force training and education programs in the state.

(5) The comprehensive plan shall address how the state's work force development system will meet the needs of employers hiring for industrial projects of state-wide significance.

(6) The board shall report to the appropriate legislative policy committees by December 1 of each year on its progress in implementing the comprehensive plan and on the progress of the operating agencies in meeting their obligations under the plan.

Sec. 6. RCW 43.21A.350 and 1987 c 109 s 29 are each amended to read as follows:

The department of ecology shall prepare and perfect from time to time a state master plan for flood control, state public reservations, financed in whole or in part from moneys collected by the state, sites for state public buildings and for the orderly development of the natural and agricultural resources of the state. The plan shall address how the department will expedite the completion of industrial projects of state-wide significance. The plan shall be a guide in making recommendations to the officers, boards, commissions, and departments of the state.

Whenever an improvement is proposed to be established by the state, the state agency having charge of the establishment thereof shall request of the director a report thereon, which shall be furnished within a reasonable time thereafter. In case an improvement is not established in conformity with the report, the state agency having charge of the establishment thereof shall file in its office and with the department a statement setting forth its reasons for rejecting or varying from such report which shall be open to public inspection.

The department shall insofar as possible secure the cooperation of adjacent states, and of counties and municipalities within the state in the coordination of their proposed improvements with such master plan.

Sec. 7. RCW 90.58.100 and 1995 c 347 s 307 are each amended to read as follows:

(1) The master programs provided for in this chapter, when adopted or approved by the department shall constitute use regulations for the various shorelines of the state. In preparing the master programs, and any amendments thereto, the department and local governments shall to the extent feasible:

(a) Utilize a systematic interdisciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts;

(b) Consult with and obtain the comments of any federal, state, regional, or local agency having any special expertise with respect to any environmental impact;

(c) Consider all plans, studies, surveys, inventories, and systems of classification made or being made by federal, state, regional, or local agencies, by private individuals, or by organizations dealing with pertinent shorelines of the state;

(d) Conduct or support such further research, studies, surveys, and interviews as are deemed necessary;

(e) Utilize all available information regarding hydrology, geography, topography, ecology, economics, and other pertinent data;

(f) Employ, when feasible, all appropriate, modern scientific data processing and computer techniques to store, index, analyze, and manage the information gathered.

(2) The master programs shall include, when appropriate, the following:

(a) An economic development element for the location and design of industries, industrial projects of state-wide significance, transportation facilities, port facilities, tourist facilities, commerce and other developments that are particularly dependent on their location on or use of the shorelines of the state;

(b) A public access element making provision for public access to publicly owned areas;

(c) A recreational element for the preservation and enlargement of recreational opportunities, including but not limited to parks, tidelands, beaches, and recreational areas;

(d) A circulation element consisting of the general location and extent of existing and proposed major thoroughfares, transportation routes, terminals, and other public utilities and facilities, all correlated with the shoreline use element;

(e) A use element which considers the proposed general distribution and general location and extent of the use on shorelines and adjacent land areas for housing, business, industry, transportation, agriculture, natural resources, recreation, education, public buildings and grounds, and other categories of public and private uses of the land;

(f) A conservation element for the preservation of natural resources, including but not limited to scenic vistas, aesthetics, and vital estuarine areas for fisheries and wildlife protection;

(g) An historic, cultural, scientific, and educational element for the protection and restoration of buildings, sites, and areas having historic, cultural, scientific, or educational values;

(h) An element that gives consideration to the state-wide interest in the prevention and minimization of flood damages; and

(i) Any other element deemed appropriate or necessary to effectuate the policy of this chapter.

(3) The master programs shall include such map or maps, descriptive text, diagrams and charts, or other descriptive material as are necessary to provide for ease of understanding.

(4) Master programs will reflect that state-owned shorelines of the state are particularly adapted to providing wilderness beaches, ecological study areas, and other recreational activities for the public and will give appropriate special consideration to same.

(5) Each master program shall contain provisions to allow for the varying of the application of use regulations of the program, including provisions for permits for conditional uses and variances, to insure that strict implementation of a program will not create unnecessary hardships or thwart the policy enumerated in RCW 90.58.020. Any such varying shall be allowed only if extraordinary circumstances are shown and the public interest suffers no substantial detrimental effect. The concept of this subsection shall be incorporated in the rules adopted by the department relating to the establishment of a permit system as provided in RCW 90.58.140(3).

(6) Each master program shall contain standards governing the protection of single family residences and appurtenant structures against damage or loss due to shoreline erosion. The standards shall govern the issuance of substantial development permits for shoreline protection, including structural methods such as construction of bulkheads, and nonstructural methods of protection. The standards shall provide for methods which achieve effective and timely protection against loss or damage to single family residences and appurtenant structures due to shoreline erosion. The standards shall provide a preference for permit issuance for measures to protect single family residences occupied prior to January 1, 1992, where the proposed measure is designed to minimize harm to the shoreline natural environment.

Sec. 8. RCW 47.06.030 and 1993 c 446 s 3 are each amended to read as follows:

The commission shall develop a state transportation policy plan that (1) establishes a vision and goals for the development of the state-wide transportation system consistent with the state's growth management goals, (2) identifies significant state-wide transportation policy issues, and (3) recommends state-wide transportation policies and strategies to the legislature to fulfill the requirements of RCW 47.01.071(1). The state transportation policy plan shall be the product of an ongoing process that involves representatives of significant transportation interests and the general public from across the state. The plan shall address how the department of transportation will meet the transportation needs and expedite the completion of industrial projects of state-wide significance.

Sec. 9. RCW 28A.525.166 and 1990 c 33 s 457 are each amended to read as follows:

Allocations to school districts of state funds provided by RCW 28A.525.160 through 28A.525.182 shall be made by the state board of education and the amount of state assistance to a school district in financing a school plant project shall be determined in the following manner:

(1) The boards of directors of the districts shall determine the total cost of the proposed project, which cost may include the cost of acquiring and preparing the site, the cost of constructing the building or of acquiring a building and preparing the same for school use, the cost of necessary equipment, taxes chargeable to the project, necessary architects' fees, and a reasonable amount for contingencies and for other necessary incidental expenses: PROVIDED, That the total cost of the project shall be subject to review and approval by the state board of education.

(2) The state matching percentage for a school district shall be computed by the following formula:

The ratio of the school district's adjusted valuation per pupil divided by the ratio of the total state adjusted valuation per pupil shall be subtracted from three, and then the result of the foregoing shall be divided by three plus (the ratio of the school district's adjusted valuation per pupil divided by the ratio of the total state adjusted valuation per pupil).

$$\begin{array}{rcccl}
 & \text{District adjusted} & & \text{Total state ad-} & \\
 & \text{3-valuation per} & & \text{justed valuation} & \\
 & \text{pupil} & \div & \text{per pupil} & \\
 \text{Computed} & & & & \text{State} \\
 \text{State} = & \text{-----} & & & \text{Assist-} \\
 \text{Ratio} & & & & \text{ance} \\
 & \text{District adjusted} & & \text{Total state ad-} & \\
 & \text{3+valuation per} & \div & \text{justed valuation} & \\
 & \text{pupil} & & \text{per pupil} & 
 \end{array}$$

PROVIDED, That in the event the percentage of state assistance to any school district based on the above formula is less than twenty percent and such school district is otherwise eligible for state assistance under RCW 28A.525.160 through 28A.525.182, the state board of education may establish for such district a percentage of state assistance not in excess of twenty percent of the approved cost of the project, if the state board finds that such additional assistance is necessary to provide minimum facilities for housing the pupils of the district.

(3) In addition to the computed percent of state assistance developed in (2) above, a school district shall be entitled to additional percentage points determined by the average percentage of growth for the past three years. One percent shall be added to the computed percent of state assistance for each percent of growth, with a maximum of twenty percent.

(4) The approved cost of the project determined in the manner herein prescribed times the percentage of state assistance derived as provided for herein shall be the amount of state assistance to the district for the financing of the project: PROVIDED, That need therefor has been established to the satisfaction of the state board of education: PROVIDED, FURTHER, That additional state assistance may be allowed if it is found by the state board of education that such assistance is necessary in order to meet (a) a school housing emergency resulting from the destruction of a school building by fire, the condemnation of a school building by properly constituted authorities, a sudden excessive and clearly foreseeable future increase in school population, or other conditions similarly emergent in nature; or (b) a special school housing burden resulting from industrial projects of state-wide significance or imposed by virtue of the admission of nonresident students into educational programs established, maintained and operated in conformity with the requirements of law; or (c) a deficiency in the capital funds of the district resulting from financing, subsequent to April 1, 1969, and without benefit of the state assistance provided by prior state assistance programs, the construction of a needed school building project or projects approved in conformity with the requirements of such programs, after having first applied for and been denied state assistance because of the inadequacy of state funds available for the purpose, or (d) a condition created by the fact that an excessive number of students live in state owned housing, or (e) a need for the construction of a school building to provide for improved school district organization or racial balance, or (f) conditions similar to those defined under (a), (b), (c), (d) and (e) hereinabove, creating a like emergency.

**Sec. 10.** RCW 28B.80.330 and 1996 c 174 s 1 are each amended to read as follows:

The board shall perform the following planning duties in consultation with the four-year institutions, 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) Develop and establish role and mission statements for each of the four-year institutions and for the community and technical college system;

(2) Identify the state's higher education goals, objectives, and priorities;

(3) Prepare a comprehensive master plan which includes but is not limited to:

(a) Assessments of the state's higher education needs. These assessments may include, but are not limited to: The basic and continuing needs of various age groups; business and industrial needs for a skilled work force; analyses of demographic, social, and economic trends; consideration of the changing ethnic composition of the population and the special needs arising from such trends; college attendance, retention, and dropout rates, and the needs of recent high school graduates and placebound adults. The board should consider the needs of residents of all geographic regions, but its initial priorities should be applied to heavily populated areas underserved by public institutions;

(b) Recommendations on enrollment and other policies and actions to meet those needs;

(c) Guidelines for continuing education, adult education, public service, and other higher education programs;

(d) Mechanisms through which the state's higher education system can meet the needs of employers hiring for industrial projects of state-wide significance.

The initial plan shall be submitted to the governor and the legislature by December 1, 1987. Comments on the plan from the board's advisory committees and the institutions shall be submitted with the plan.

The plan shall be updated every four years, and presented to the governor and the appropriate legislative policy committees. Following public hearings, the legislature shall, by concurrent resolution, approve or recommend changes to the initial plan, and the updates. The plan shall then become state higher education policy unless legislation is enacted to alter the policies set forth in the plan;

(4) Review, evaluate, and make recommendations on operating and capital budget requests from four-year institutions and the community and technical college system, based on the elements outlined in subsections (1), (2), and (3) of this section, and on guidelines which outline the board's fiscal priorities. These guidelines shall be distributed to the institutions and the community college board by December of each odd-numbered year. The institutions and the community college board shall submit an outline of their proposed budgets, identifying major components, to the board no later than August 1 of each even-numbered year. 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 1 of each odd-numbered year;

(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;

(6) Recommend legislation affecting higher education;

(7) Recommend tuition and fees policies and levels based on comparisons with peer institutions;

(8) Establish priorities and develop recommendations on financial aid based on comparisons with peer institutions;

(9) Prepare recommendations on merging or closing institutions; and

(10) Develop criteria for identifying the need for new baccalaureate institutions.

**NEW SECTION. Sec. 11.** Sections 1 through 4 of this act constitute a new chapter in Title 43 RCW.

Passed the House April 21, 1997.

Passed the Senate April 8, 1997.

Approved by the Governor May 15, 1997.

Filed in Office of Secretary of State May 15, 1997.

## CHAPTER 370

[House Bill 1945]

### EXPENDITURES OF REVENUES GENERATED BY FOREST BOARD LANDS BY COUNTIES WITH POPULATIONS OF LESS THAN SIXTEEN THOUSAND

AN ACT Relating to county expenditures of revenues generated by forest board lands; and amending RCW 76.12.030.

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

**Sec. 1.** RCW 76.12.030 and 1991 c 363 s 151 are each amended to read as follows:

If any land acquired by a county through foreclosure of tax liens, or otherwise, comes within the classification of land described in RCW 76.12.020 and can be used as state forest land and if the department deems such land necessary for the purposes of this chapter, the county shall, upon demand by the department, deed such land to the department and the land shall become a part of the state forest lands.

Such land shall be held in trust and administered and protected by the department as other state forest lands. Any moneys derived from the lease of such

land or from the sale of forest products, oils, gases, coal, minerals, or fossils therefrom, shall be distributed as follows:

(1) The expense incurred by the state for administration, reforestation, and protection, not to exceed twenty-five percent, which rate of percentage shall be determined by the board of natural resources, shall be returned to the forest development account in the state general fund.

(2) Any balance remaining shall be paid to the county in which the land is located to be paid, distributed, and prorated, except as hereinafter provided, to the various funds in the same manner as general taxes are paid and distributed during the year of payment: PROVIDED, That any such balance remaining paid to a county with a population of less than ~~((nine))~~ sixteen thousand shall first be applied to the reduction of any indebtedness existing in the current expense fund of such county during the year of payment.

Passed the House March 11, 1997.

Passed the Senate April 8, 1997.

Approved by the Governor May 15, 1997.

Filed in Office of Secretary of State May 15, 1997.

---

## CHAPTER 371

[Engrossed Substitute House Bill 1056]

### ELK RIVER NATURAL AREA PRESERVE—MANAGEMENT

AN ACT Relating to natural area preserves; and adding a new section to chapter 79.71 RCW.

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

**NEW SECTION.** Sec. 1. A new section is added to chapter 79.71 RCW to read as follows:

The property currently designated as the Elk river natural area preserve is transferred from management under chapter 79.70 RCW as a natural area preserve to management under chapter 79.71 RCW as a natural resources conservation area. The legislature finds that hunting is a suitable low-impact public use within the Elk river natural resources conservation area. The department of natural resources shall incorporate this legislative direction into the management plan developed for the Elk river natural resources conservation area. The department shall work with the department of fish and wildlife to identify hunting opportunities compatible with the area's conservation purposes.

Passed the House April 21, 1997.

Passed the Senate April 14, 1997.

Approved by the Governor May 15, 1997.

Filed in Office of Secretary of State May 15, 1997.

---

## CHAPTER 372

[Substitute House Bill 1190]

PERFORMANCE AUDITS OF AGENCIES BY THE JOINT LEGISLATIVE AUDIT AND  
REVIEW COMMITTEE—COMPLIANCE WITH FINDINGS

AN ACT Relating to performance audits; and amending RCW 43.88.090 and 44.28.091.

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

**Sec. 1.** RCW 43.88.090 and 1996 c 317 s 10 are each amended to read as follows:

(1) For purposes of developing budget proposals to the legislature, the governor shall have the power, and it shall be the governor's duty, to require from proper agency officials such detailed estimates and other information in such form and at such times as the governor shall direct. The estimates for the legislature and the judiciary shall be transmitted to the governor and shall be included in the budget without revision. The estimates for state pension contributions shall be based on the rates provided in chapter 41.45 RCW. Copies of all such estimates shall be transmitted to the standing committees on ways and means of the house and senate at the same time as they are filed with the governor and the office of financial management.

The estimates shall include statements or tables which indicate, by agency, the state funds which are required for the receipt of federal matching revenues. The estimates shall be revised as necessary to reflect legislative enactments and adopted appropriations and shall be included with the initial biennial allotment submitted under RCW 43.88.110. The estimates must reflect that the agency considered any alternatives to reduce costs or improve service delivery identified in the findings of a performance audit of the agency by the joint legislative audit and review committee. Nothing in this subsection requires performance audit findings to be published as part of the budget.

(2) Each state agency shall define its mission and establish measurable goals for achieving desirable results for those who receive its services and the taxpayers who pay for those services. Each agency shall also develop clear strategies and timelines to achieve its goals. This section does not require an agency to develop a new mission or goals in place of identifiable missions or goals that meet the intent of this section. The mission and goals of each agency must conform to statutory direction and limitations.

(3) For the purpose of assessing program performance, each state agency shall establish program objectives for each major program in its budget. The objectives must be consistent with the missions and goals developed under this section. The objectives must be expressed to the extent practicable in outcome-based, objective, and measurable form unless an exception to adopt a different standard is granted by the office of financial management and approved by the legislative committee on performance review. The office of financial management shall provide necessary professional and technical assistance to assist state agencies in the

development of strategic plans that include the mission of the agency and its programs, measurable goals, strategies, and performance measurement systems.

(4) Each state agency shall adopt procedures for continuous self-assessment of each program and activity, using the mission, goals, objectives, and measurements required under subsections (2) and (3) of this section.

(5) It is the policy of the legislature that each agency's budget proposals must be directly linked to the agency's stated mission and program goals and objectives. Consistent with this policy, agency budget proposals must include integration of performance measures that allow objective determination of a program's success in achieving its goals. The office of financial management shall develop a plan to merge the budget development process with agency performance assessment procedures. The plan must include a schedule to integrate agency strategic plans and performance measures into agency budget requests and the governor's budget proposal over three fiscal biennia. The plan must identify those agencies that will implement the revised budget process in the 1997-1999 biennium, the 1999-2001 biennium, and the 2001-2003 biennium. In consultation with the legislative fiscal committees, the office of financial management shall recommend statutory and procedural modifications to the state's budget, accounting, and reporting systems to facilitate the performance assessment procedures and the merger of those procedures with the state budget process. The plan and recommended statutory and procedural modifications must be submitted to the legislative fiscal committees by September 30, 1996.

(6) In the year of the gubernatorial election, the governor shall invite the governor-elect or the governor-elect's designee to attend all hearings provided in RCW 43.88.100; and the governor shall furnish the governor-elect or the governor-elect's designee with such information as will enable the governor-elect or the governor-elect's designee to gain an understanding of the state's budget requirements. The governor-elect or the governor-elect's designee may ask such questions during the hearings and require such information as the governor-elect or the governor-elect's designee deems necessary and may make recommendations in connection with any item of the budget which, with the governor-elect's reasons therefor, shall be presented to the legislature in writing with the budget document. Copies of all such estimates and other required information shall also be submitted to the standing committees on ways and means of the house and senate.

*\*Sec. 2. RCW 44.28.091 and 1996 c 288 s 14 are each amended to read as follows:*

*(1) No later than nine months after the final performance audit has been transmitted by the joint committee to the appropriate standing committees of the house of representatives and the senate, the ~~((joint committee in consultation with the standing committees may))~~ agency or local government shall produce a preliminary compliance report on ((the agency's or local government's)) its compliance with the final performance audit recommendations and submit it to the joint committee. ~~((The agency or local government may attach its comments~~*

*to the joint committee's preliminary compliance report as a separate addendum.))*  
*At the request of the joint committee, the agency or local government shall periodically provide updates to the preliminary compliance report until the joint committee determines that the agency or local government has complied with the final performance audit recommendations to the joint committee's satisfaction.*

*(2) ((Within three months after the issuance of the preliminary compliance report;))* *The joint committee may hold ((at least one)) public hearings and receive public testimony ((regarding the findings and recommendations contained in the preliminary compliance report. The joint committee may waive the public hearing requirement if the preliminary compliance report demonstrates that the agency or local government is in compliance with the audit recommendations)) if the agency or local government is not making satisfactory progress in achieving compliance. The joint committee shall issue any final compliance report ((within four weeks after the public hearing or hearings)) after an agency or local government has satisfactorily complied with the final audit recommendations. The legislative auditor shall transmit the final compliance report in the same manner as a final performance audit is transmitted under RCW 44.28.088.*

\*Sec. 2 was vetoed. See message at end of chapter.

Passed the House April 19, 1997.

Passed the Senate April 17, 1997.

Approved by the Governor May 15, 1997, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State May 15, 1997.

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

"I am returning herewith, without my approval as to section 2, Substitute House Bill No. 1190 entitled:

"AN ACT Relating to performance audits;"

Section 1 of this bill requires state agencies to provide in their biennial budget submittals information about the disposition of performance audit findings. This information is valuable to the budgeting process; including it with the budget documentation provided by agencies will help strengthen the linkage between performance auditing and budgeting.

Section 2, however, would place an open-ended obligation on all state agencies and local governments to provide periodic reports on their compliance with performance audit findings. Current law and practices of the Joint Legislative Audit and Review Committee already provide adequately for tracking and reporting on state agency and local government responses to significant audit recommendations. I, therefore, see no need to place additional reporting requirements on agencies and local governments.

For this reason, I have vetoed section 2 of Substitute House Bill No. 1190.

With the exception of section 2, Substitute House Bill No. 1190 is approved."

## CHAPTER 373

[Substitute House Bill 1235]

OWNERSHIP OF DATA DEVELOPED UNDER AGENCY PERSONAL SERVICE CONTRACTS

AN ACT Relating to personal service contracts; and adding a new section to chapter 39.29 RCW.

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

**NEW SECTION.** Sec. 1. A new section is added to chapter 39.29 RCW to read as follows:

A state agency may not enter into a personal services contract with a consultant under which the consultant could charge additional costs to the agency, the joint legislative audit and review committee, or the state auditor for access to data generated under the contract. A consultant under such contract shall provide access to data generated under the contract to the contracting agency, the joint legislative audit and review committee, and the state auditor. For purposes of this section, "data" includes all information that supports the findings, conclusions, and recommendations of the consultant's reports, including computer models and the methodology for those models.

Passed the House April 19, 1997.

Passed the Senate April 8, 1997.

Approved by the Governor May 15, 1997.

Filed in Office of Secretary of State May 15, 1997.

## CHAPTER 374

[Substitute House Bill 1325]

### DEVELOPMENT OF CAPITAL PROJECTS FOR SOCIAL SERVICE ORGANIZATIONS

AN ACT Relating to capital projects for social service organizations; adding a new section to chapter 43.63A RCW; adding a new section to chapter 43.88 RCW; and creating a new section.

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

**NEW SECTION.** Sec. 1. The legislature finds that nonprofit organizations provide a variety of social services that serve the needs of the citizens of Washington, including many services implemented under contract with state agencies. The legislature also finds that the efficiency and quality of these services may be enhanced by the provision of safe, reliable, and sound facilities, and that, in certain cases, it may be appropriate for the state to assist in the development of these facilities.

**NEW SECTION.** Sec. 2. A new section is added to chapter 43.63A RCW to read as follows:

If the legislature provides an appropriation to assist nonprofit organizations in acquiring, constructing, or rehabilitating facilities used for the delivery of nonresidential social services, the legislature may direct the department of community, trade, and economic development to establish a competitive process to prioritize applications for the assistance as follows:

(1) The department shall conduct a state-wide solicitation of project applications from local governments, nonprofit organizations, and other entities, as determined by the department. The department shall evaluate and rank applications in consultation with a citizen advisory committee using objective criteria. At a minimum, applicants must demonstrate that the requested assistance

will increase the efficiency or quality of the social services it provides to citizens. The evaluation and ranking process shall also include an examination of existing assets that applicants may apply to projects. Grant assistance under this section shall not exceed twenty-five percent of the total cost of the project. The nonstate portion of the total project cost may include, but is not limited to, land, facilities, and in-kind contributions.

(2) The department shall submit a prioritized list of recommended projects to the legislature by November 1st following the effective date of the appropriation. The list shall include a description of each project, the amount of recommended state funding, and documentation of nonstate funds to be used for the project. The department shall not sign contracts or otherwise financially obligate funds under this section until the legislature has approved a specific list of projects.

(3) In contracts for grants authorized under this section the department shall include provisions which require that capital improvements shall be held by the grantee for a specified period of time appropriate to the amount of the grant and that facilities shall be used for the express purpose of the grant. If the grantee is found to be out of compliance with provisions of the contract, the grantee shall repay to the state general fund the principal amount of the grant plus interest calculated at the rate of interest on state of Washington general obligation bonds issued most closely to the date of authorization of the grant.

(4) The department shall develop model contract provisions for compliance with subsection (3) of this section and shall distribute its recommendations to the appropriate legislative committees, the office of financial management, and to all state agencies which provide capital grants to nonstate entities.

**NEW SECTION.** Sec. 3. A new section is added to chapter 43.88 RCW to read as follows:

(1) Each state agency shall submit a report to the office of the state auditor listing each nongovernment entity that received over three hundred thousand dollars in state moneys during the previous fiscal year under contract with the agency for purposes related to the provision of social services. The report must be submitted by September 1 each year, and must be in a form prescribed by the office of the state auditor.

(2) The office of the state auditor shall select two groups of entities from the reports for audit as follows:

(a) The first group shall be selected at random using a procedure prescribed by the office of the state auditor. The office of the state auditor shall ensure that the number of entities selected under this subsection (2)(a) each year is sufficient to ensure a statistically representative sample of all reported entities.

(b) The second group shall be selected based on a risk assessment of entities conducted by the office of the state auditor in consultation with state agencies. The office of the state auditor shall consider, at a minimum, the following factors when conducting risk assessments: Findings from previous audits; decentralization of decision making and controls; turnover in officials and key personnel; changes in

management structure or operations; and the presence of new programs, technologies, or funding sources.

(3) Each entity selected under subsection (2) of this section shall be required to complete a comprehensive entity-wide audit in accordance with generally accepted government auditing standards. The audit shall determine, at a minimum, whether:

(a) The financial statements of the entity are presented fairly in all material respects in conformity with generally accepted accounting principles;

(b) The schedule of expenditures of state moneys is presented fairly in all material respects in relation to the financial statements taken as a whole;

(c) Internal accounting controls exist and are effective; and

(d) The entity has complied with laws, regulations, and contract and grant provisions that have a direct and material effect on performance of the contract and the expenditure of state moneys.

(4) The office of the state auditor shall prescribe policies and procedures for the conduct of audits under this section. The office of the state auditor shall deem single audits completed in compliance with federal requirements to be in fulfillment of the requirements of this section if the audit meets the requirements of subsection (3)(a) through (d) of this section.

(5) Completed audits must be delivered to the office of the state auditor and the state agency by April 1 in the year following the selection of the entity for audit. Entities must resolve any findings contained in the audit within six months of the delivery of the audit. Entities may not enter into new contracts with state agencies until all major audit findings are resolved.

(6) Nothing in this section limits the authority of the state auditor to carry out statutorily and contractually prescribed powers and duties.

Passed the House April 19, 1997.

Passed the Senate April 15, 1997.

Approved by the Governor May 15, 1997.

Filed in Office of Secretary of State May 15, 1997.

## CHAPTER 375

[Engrossed Substitute House Bill 1360]

### PRIVATE EMPLOYMENT OF WASHINGTON STATE PATROL OFFICERS

AN ACT Relating to private employment for Washington state patrol officers; adding a new section to chapter 43.43 RCW; and adding a new section to chapter 4.92 RCW.

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

**NEW SECTION.** Sec. 1. A new section is added to chapter 43.43 RCW to read as follows:

Washington state patrol officers may engage in private law enforcement off-duty employment in uniform for private benefit, subject to guidelines adopted by the chief of the Washington state patrol. These guidelines must ensure that the

integrity and professionalism of the Washington state patrol is preserved. Use of Washington state patrol officer's uniforms shall be considered de minimis use of state property.

**NEW SECTION.** Sec. 2. A new section is added to chapter 4.92 RCW to read as follows:

(1) The state of Washington is not liable for tortious conduct by Washington state patrol officers that occurs while such officers are engaged in private law enforcement off-duty employment.

(2) Upon petition of the state any suit, for which immunity is granted to the state under subsection (1) of this section, shall be dismissed.

(3) Washington state patrol officers engaged in private law enforcement off-duty employment shall notify, in writing, prior to such employment, anyone who employs Washington state patrol officers in private off-duty employment of the specific provisions of subsections (1) and (2) of this section.

Passed the House April 17, 1997.

Passed the Senate April 8, 1997.

Approved by the Governor May 15, 1997.

Filed in Office of Secretary of State May 15, 1997.

## CHAPTER 376

[Substitute House Bill 1425]

### ALTERNATIVE PUBLIC WORKS CONTRACTING PROCEDURES

AN ACT Relating to alternative public works contracting procedures; amending RCW 39.10.020, 39.10.030, 39.10.050, 39.10.060, 39.10.110, 39.10.120, and 39.10.902; adding a new section to chapter 39.10 RCW; repealing 1996 c 18 s 17 (uncodified); providing an effective date; and declaring an emergency.

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

**Sec. 1.** RCW 39.10.020 and 1994 c 132 s 2 are each amended to read as follows:

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

(1) "Alternative public works contracting procedure" means the design-build and the general contractor/construction manager contracting procedures authorized in RCW 39.10.050 and 39.10.060, respectively.

(2) "Public body" means the state department of general administration; the University of Washington; Washington State University; every city with a population greater than one hundred fifty thousand; every city authorized to use the design-build procedure for a water system demonstration project under section 5(3) of this act; every county with a population greater than four hundred fifty thousand; and every port district with a population greater than five hundred thousand.

(3) "Public works project" means any work for a public body within the definition of the term public work in RCW 39.04.010.

**Sec. 2.** RCW 39.10.030 and 1994 c 132 s 3 are each amended to read as follows:

(1) An alternative public works contracting procedure authorized under this chapter may be used for a specific public works project only after a public body determines that use of the alternative procedure will serve the public interest by providing a substantial fiscal benefit, or that use of the traditional method of awarding contracts in lump sum to the low responsive bidder is not practical for meeting desired quality standards or delivery schedules.

(2) Whenever a public body determines to use one of the alternative public works contracting procedures authorized under this chapter for a public works project, it shall first ensure adequate public notification and opportunity for public review and comment ~~((as follows:))~~ by implementing the public hearing procedure under (a) of this subsection or the written public comment procedure under (b) of this subsection.

(a) Public hearing procedure:

(i) The public body shall conduct a public hearing to receive public comment on its preliminary determination to use the alternative public works contracting procedure. At least twenty days before the public hearing, the public body shall cause notice of such hearing to be published at least once in a legal newspaper of general circulation published in or as near as possible to that part of the county in which the public work will be done. The notice shall clearly describe the proposed project and the preliminary determination to use the alternative public works contracting procedure. The notice shall also indicate when, where, and how persons may present their comments on the preliminary determination, and where persons may obtain additional written information describing the project.

~~((b))~~ (ii) The public body shall summarize in a written statement its reasons for using the alternative public works contracting procedure. This statement, along with other relevant information describing the project, shall be made available upon request to interested parties at least twenty days before the public hearing.

~~((c))~~ (iii) The public body shall receive and record both written and oral comments concerning the preliminary determination at the public hearing.

(b) Written public comment procedure:

(i) The public body shall establish a thirty-day public comment period to receive public comment on its preliminary determination to use the alternative public works contracting procedure. At least seven days before the beginning of the public comment period, the public body shall cause notice of the public comment period to be published at least once in a legal newspaper of general circulation published in or as near as possible to that part of the county in which the public work will be done. The notice shall clearly describe the proposed project and the preliminary determination to use the alternative public works contracting procedure. The notice shall also indicate when, where, and how persons may submit their written comments on the preliminary determination, where persons may obtain additional written information describing the project.

and the date, time, and location of the public hearing that shall be conducted under (b)(iv) of this subsection if significant adverse written comments are received by the public body.

(i) The public body shall summarize in a written statement its reasons for using the alternative public works contracting procedure. This statement, along with other relevant information describing the project, shall be made available upon request to interested parties at least seven days before the beginning of the public comment period.

(ii) The public body shall receive written comments concerning the preliminary determination during the public comment period.

(iv) If the public body finds that it has received significant adverse comments relating to the use of the alternative public works contracting procedure, the public body shall conduct a public hearing to receive additional oral and written public comments on its preliminary determination to use the alternative public works contracting procedure. The public hearing shall be held on the date and at the time and location specified in the public notice published under (b)(i) of this subsection. At least seven days before the public hearing, the public body shall provide notice of the hearing to each person who has submitted written comments, and cause a notice of the hearing to be published at least once in a legal newspaper of general circulation published in or as near as possible to that part of the county in which the public work will be done.

(v) The public body shall receive and record written and oral comments concerning the preliminary determination at the public hearing.

(3) Final determinations to use an alternative public works contracting procedure may be made only by the legislative or governing authority of the public body, or, in the case of state agencies, by the agency director or chief administrative officer. Final determinations shall be accompanied by a concise statement of the principal reasons for overruling any considerations urged against the determination. Final determinations are subject to appeal to superior court within thirty days of the determination, provided that notice of such appeal shall be provided to the public body within seven days of the determination. The court may award reasonable attorneys' fees to the prevailing party.

(4) Following completion of a public works project using one of the alternative public works contracting procedures under this chapter, a report shall be submitted to the legislative or governing authority of the public body reviewing the utilization and performance of the alternative public works contracting procedure. Such report shall be made available to the public.

**Sec. 3.** RCW 39.10.050 and 1994 c 132 s 5 are each amended to read as follows:

(1) Notwithstanding any other provision of law, and after complying with RCW 39.10.030, the following public bodies may utilize the design-build procedure of public works contracting for public works projects authorized under this section: The state department of general administration; the University of

Washington; Washington State University; every city with a population greater than one hundred fifty thousand; ~~((and)) every county with a population greater than four hundred fifty thousand; and every port district with a population greater than five hundred thousand. The authority granted to port districts in this section is in addition to and does not affect existing contracting authority under RCW 53.08.120 and 53.08.130.~~ For the purposes of this section, "design-build procedure" means a contract between a public body and another party in which the party agrees to both design and build the ~~((structure,))~~ facility, portion of the facility, or other item specified in the contract.

(2) Public bodies authorized under this section may utilize the design-build procedure for public works projects valued over ten million dollars where:

(a) The construction activities or technologies to be used are highly specialized and a design-build approach is critical in developing the construction methodology or implementing the proposed technology;

(b) The project design is repetitive in nature and is an incidental part of the installation or construction; or

(c) ~~((The program elements of the project design are simple and do not involve complex functional interrelationships))~~ Regular interaction with and feedback from facilities users and operators during design is not critical to an effective facility design.

(3) ~~((The state department of general administration may use the design-build procedure authorized in subsection (2)(c) of this section for one project))~~ Public bodies authorized under this section may also use the design-build procedure for the following projects that meet the criteria in subsection (2)(b) and (c) of this section:

(a) The construction or erection of preengineered metal buildings or prefabricated modular buildings, regardless of cost; or

(b) The construction of new student housing projects valued over five million dollars.

(4) Contracts for design-build services shall be awarded through a competitive process utilizing public solicitation of proposals for design-build services. The public body shall publish at least once in a legal newspaper of general circulation published in or as near as possible to that part of the county in which the public work will be done, a notice of its request for proposals for design-build services and the availability and location of the request for proposal documents. The request for proposal documents shall include:

(a) A detailed description of the project including programmatic, performance, and technical requirements and specifications, functional and operational elements, ~~((and))~~ minimum and maximum net and gross areas of any building, and, at the discretion of the public body, preliminary engineering and architectural drawings;

(b) The reasons for using the design-build procedure;

(c) A description of the qualifications ~~((, if any,))~~ to be required of the proposer including, but not limited to, submission of the proposer's accident prevention program;

(d) A description of the process the public body will use to evaluate qualifications and proposals, including evaluation factors and the relative weight of factors. Evaluation factors shall include, but not be limited to: Proposal price; ability of professional personnel; past performance on similar projects; ability to meet time and budget requirements; ability to provide a performance and payment bond for the project; recent, current, and projected work loads of the firm; location; and the concept of the proposal;

(e) The form of the contract to be awarded;

(f) The maximum allowable construction cost and minority and women enterprise total project goals;

(g) The amount to be paid to finalists submitting best and final proposals who are not awarded a design-build contract; and

(h) Other information relevant to the project.

(5) The public body shall establish a committee to evaluate the proposals based on the factors, weighting, and process identified in the request for proposals. Based on its evaluation, the public body shall select not fewer than three nor more than five finalists to submit best and final proposals. The public body may, in its sole discretion, reject all proposals. Design-build contracts shall be awarded using the procedures in (a) or (b) of this subsection.

(a) Best and final proposals shall be evaluated and scored based on the factors, weighting, and process identified in the initial request for proposals. The public body may score the proposals using a system that measures the quality and technical merits of the proposal on a unit price basis. Final proposals may not be considered if the proposal cost is greater than the maximum allowable construction cost identified in the initial request for proposals. ~~((6))~~ The public body shall initiate negotiations with the firm submitting the highest scored best and final proposal. If the public body is unable to execute a contract with ~~((that))~~ the firm submitting the highest scored best and final proposal, negotiations with that firm may be suspended or terminated and the public body may proceed to negotiate with the next highest scored firm. Public bodies shall continue in accordance with this procedure until a contract agreement is reached or the selection process is terminated. ~~((The public body may, in its sole discretion, reject all proposals:))~~

(b) If the public body determines that all finalists are capable of producing plans and specifications that adequately meet project requirements, the public body may award the contract to the firm that submits the responsive best and final proposal with the lowest price.

(6) The ~~((finalist))~~ firm awarded the contract shall provide a performance and payment bond for the contracted amount. The public body shall provide appropriate honorarium payments to finalists submitting best and final proposals who are not awarded a design-build contract. Honorarium payments shall be

sufficient to generate meaningful competition among potential proposers on design-build projects.

**Sec. 4.** RCW 39.10.060 and 1996 c 18 s 6 are each amended to read as follows:

(1) Notwithstanding any other provision of law, and after complying with RCW 39.10.030, the following public bodies may utilize the general contractor/construction manager procedure of public works contracting for public works projects authorized under subsection (2) of this section: The state department of general administration; the University of Washington; Washington State University; every city with a population greater than one hundred fifty thousand; every county with a population greater than four hundred fifty thousand; and every port district with a population greater than five hundred thousand. For the purposes of this section, "general contractor/construction manager" means a firm with which a public body has selected and negotiated a maximum allowable construction cost to be guaranteed by the firm, after competitive selection through formal advertisement and competitive bids, to provide services during the design phase that may include life-cycle cost design considerations, value engineering, scheduling, cost estimating, constructability, alternative construction options for cost savings, and sequencing of work, and to act as the construction manager and general contractor during the construction phase.

(2) Public bodies authorized under this section may utilize the general contractor/construction manager procedure for public works projects valued over ten million dollars where:

(a) Implementation of the project involves complex scheduling requirements;

(b) The project involves construction at an existing facility which must continue to operate during construction; or

(c) The involvement of the general contractor/construction manager during the design stage is critical to the success of the project.

(3) Public bodies should select general contractor/construction managers early in the life of public works projects, and in most situations no later than the completion of schematic design.

(4) Contracts for the services of a general contractor/construction manager under this section shall be awarded through a competitive process requiring the public solicitation of proposals for general contractor/construction manager services. ~~((Minority and women business enterprise total project goals shall be specified in))~~ The public solicitation of proposals shall include: A description of the project, including programmatic, performance, and technical requirements and specifications when available; the reasons for using the general contractor/construction manager procedure; a description of the qualifications to be required of the proposer, including submission of the proposer's accident prevention program; a description of the process the public body will use to evaluate qualifications and proposals, including evaluation factors and the relative weight of factors; the form of the contract to be awarded; the estimated maximum

allowable construction cost; minority and women business enterprise total project goals, where applicable; and the bid instructions to be used by the general contractor/construction manager finalists. ((A public body is authorized to include an incentive clause in any contract awarded under this section for savings of either time or cost or both from that originally negotiated. No incentives granted shall exceed five percent of the maximum allowable construction cost.)) Evaluation factors shall include, but not be limited to: Ability of professional personnel, past performance in negotiated and complex projects, and ability to meet time and budget requirements; location; recent, current, and projected work loads of the firm; and the concept of their proposal. A public body shall establish a committee to evaluate the proposals ((considering such factors as: Ability of professional personnel; past performance in negotiated and complex projects; ability to meet time and budget requirements; location; recent, current, and projected work loads of the firm; and the concept of their proposal)). After the committee has selected the most qualified finalists, these finalists shall submit final proposals, including sealed bids for the percent fee, which is the percentage amount to be earned by the general contractor/construction manager as overhead and profit, on the estimated maximum allowable construction cost and the fixed amount for the detailed specified general conditions work. The public body shall select the firm submitting the highest scored final proposal using the evaluation factors and the relative weight of factors published in the public solicitation of proposals.

(5) The maximum allowable construction cost may be negotiated between the public body and the selected firm after the scope of the project is adequately determined to establish a guaranteed contract cost for which the general contractor/construction manager will provide a performance and payment bond. The guaranteed contract cost includes the fixed amount for the detailed specified general conditions work, the negotiated maximum allowable construction cost, the percent fee on the negotiated maximum allowable construction cost, and sales tax. If the public body is unable to negotiate a satisfactory maximum allowable construction cost with the firm selected that the public body determines to be fair, reasonable, and within the available funds, negotiations with that firm shall be formally terminated and the public body shall negotiate with the next (~~low bidder~~) highest scored firm and continue until an agreement is reached or the process is terminated. If the maximum allowable construction cost varies more than fifteen percent from the bid estimated maximum allowable construction cost due to requested and approved changes in the scope by the public body, the percent fee shall be renegotiated.

(6) All subcontract work shall be competitively bid with public bid openings. ~~((Specific contract requirements for women and minority enterprise participation shall be specified in each subcontract bid package that exceeds ten percent of the public body's estimated project cost.))~~ Subcontract work shall not be issued for bid until the public body has approved, in consultation with the office of minority and women's business enterprises or the equivalent local agency, a plan prepared by the

general contractor/construction manager for attaining applicable minority and women business enterprise total project goals that equitably spreads women and minority enterprise opportunities to as many firms in as many bid packages as is practicable. When critical to the successful completion of a subcontractor bid package the owner and general contractor/construction manager may evaluate for bidding eligibility a subcontractor's ability, time, budget, and specification requirements based on the subcontractor's performance of those items on previous projects. Subcontract bid packages shall be awarded to the responsible bidder submitting the low responsive bid. The requirements of RCW 39.30.060 apply to each subcontract bid package. All subcontractors who bid work over ~~((two))~~ three hundred thousand dollars shall post a bid bond and all subcontractors who are awarded a contract over ~~((two))~~ three hundred thousand dollars shall provide a performance and payment bond for their contract amount. All other subcontractors shall provide a performance and payment bond if required by the general contractor/construction manager. A low bidder who claims error and fails to enter into a contract is prohibited from bidding on the same project if a second or subsequent call for bids is made for the project. ~~((All other subcontractors shall provide a performance and payment bond if required by the general contractor/construction manager.))~~ Except as provided for under subsection (7) of this section, bidding on subcontract work by the general contractor/construction manager or its subsidiaries is prohibited. The general contractor/construction manager may negotiate with the low-responsive bidder in accordance with RCW 39.10.080 or, if unsuccessful in such negotiations, rebid.

~~((4))~~ (7) The general contractor/construction manager, or its subsidiaries, may bid on subcontract work on projects valued over twenty million dollars if:

(a) The work within the subcontract bid package is customarily performed by the general contractor/construction manager;

(b) The bid opening is managed by the public body; and

(c) Notification of the general contractor/construction manager's intention to bid is included in the public solicitation of bids for the bid package.

In no event may the value of subcontract work performed by the general contractor/construction manager exceed twenty percent of the negotiated maximum allowable construction cost.

(8) A public body may include an incentive clause in any contract awarded under this section for savings of either time or cost or both from that originally negotiated. No incentives granted may exceed five percent of the maximum allowable construction cost. If the project is completed for less than the agreed upon maximum allowable construction cost, any savings not otherwise negotiated as part of an incentive clause shall accrue to the public body. If the project is completed for more than the agreed upon maximum allowable construction cost, excepting increases due to any contract change orders approved by the public body, the additional cost shall be the responsibility of the general contractor/construction manager.

**NEW SECTION.** Sec. 5. A new section is added to chapter 39.10 RCW to read as follows:

(1) In addition to the projects authorized in RCW 39.10.050 and 39.10.060, public bodies may use the general contractor/construction manager or design-build procedure for demonstration projects valued between three million dollars and ten million dollars as follows:

(a) Three demonstration projects by the department of general administration; and

(b) One demonstration project by each of the public bodies authorized in RCW 39.10.020(2) other than the department of general administration.

(2) Public bodies shall give weight to proposers' experience working on projects valued between three million dollars and ten million dollars in the evaluation process for the selection of a general contractor/construction manager or design-build firm for demonstration projects authorized in subsection (1) of this section.

(3) Cities which supply water to over three hundred fifty thousand people may use the design-build procedure for one water system demonstration project valued over ten million dollars. Use of the design-build procedure shall be deemed to effect compliance with the requirement for competitive bids under RCW 43.155.060.

(4) All contracts authorized under this section must be entered into before July 1, 1999.

(5) In the event that a public body determines not to perform a demonstration project using its authority under this section, it may transfer its authority to another public body.

**Sec. 6.** RCW 39.10.110 and 1994 c 132 s 11 are each amended to read as follows:

(1) There is established a temporary independent oversight committee to review the utilization of the alternative public works contracting procedures authorized under this chapter ~~((and)),~~ to evaluate potential future utilization of other alternative contracting procedures, including, but not limited to, contractor prequalification, and, if desired by the committee, to review traditional public works contracting procedures used by state agencies and municipalities. The committee shall also pursue the development of a mentoring program for expansion of the authorities in this chapter to other public bodies. The membership of the committee shall include: Two members of the house of representatives, one from each major caucus, appointed by the speaker of the house of representatives; two members of the senate, one from each major caucus, appointed by the president of the senate; representatives from the appropriate segments of the construction, contracting, subcontracting, and design industries, appointed by the governor; representatives from appropriate labor organizations, appointed by the governor; representatives from public bodies authorized to use the alternative public works contracting procedures under this chapter, appointed by the governor;

a representative from the office of minority and women's business enterprises, appointed by the governor; and a representative from the office of financial management, appointed by the governor. The governor shall maintain a balance between representatives from public agencies and the private sector when appointing members to the committee, and shall consider the recommendations of the established organizations representing the construction, contracting, subcontracting, and design industries and organized labor in making the industry and labor appointments (~~(to the committee)~~).

(2) The committee shall meet (~~(quarterly)~~) beginning after July 1, 1994. (~~(At the first meeting of the committee;)~~) A chair or cochairs shall be selected from among the committee's membership. Staff support for the committee shall be provided by the agencies and organizations represented on the committee.

(3) Public bodies utilizing the alternative contracting procedures authorized under this chapter shall provide any requested information concerning implementation of projects under this chapter to the committee in a timely manner, excepting any trade secrets or proprietary information.

(4) The committee shall report to the appropriate standing committees of the legislature by December 10, (~~(1996)~~) 2000, concerning its findings and recommendations.

**Sec. 7.** RCW 39.10.120 and 1995 3rd sp.s. c 1 s 305 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, the alternative public works contracting procedures authorized under this chapter are limited to public works contracts signed before July 1, (~~(1997)~~) 2001. Methods of public works contracting authorized by RCW 39.10.050 and 39.10.060 shall remain in full force and effect until completion of contracts signed before July 1, (~~(1997)~~) 2001.

(2) For the purposes of a baseball stadium as defined in RCW 82.14.0485, the design-build contracting procedures under RCW 39.10.050 shall remain in full force and effect until completion of contracts signed before December 31, 1997.

**Sec. 8.** RCW 39.10.902 and 1995 3rd sp.s. c 1 s 306 are each amended to read as follows:

The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective July 1, (~~(1997)~~) 2001:

- (1) RCW 39.10.010 and 1994 c 132 s 1;
- (2) RCW 39.10.020 and 1994 c 132 s 2;
- (3) RCW 39.10.030 and 1994 c 132 s 3;
- (4) RCW 39.10.040 and 1994 c 132 s 4;
- (5) RCW 39.10.050 and 1994 c 132 s 5;
- (6) RCW 39.10.060 and 1994 c 132 s 6;
- (7) RCW 39.10.--- and 1997 c . . . s 5 (section 5 of this act);
- (8) RCW 39.10.070 and 1994 c 132 s 7;
- (~~((8))~~) (9) RCW 39.10.080 and 1994 c 132 s 8;
- (~~((9))~~) (10) RCW 39.10.090 and 1994 c 132 s 9;

~~((10))~~ (11) RCW 39.10.100 and 1994 c 132 s 10;  
~~((11))~~ (12) RCW 39.10.110 and 1994 c 132 s 11;  
~~((12))~~ (13) RCW 39.10.900 and 1994 c 132 s 13;  
~~((13))~~ (14) RCW 39.10.901 and 1994 c 132 s 14; and  
~~((14))~~ (15) RCW 39.10.902 and 1994 c 132 s 15.

NEW SECTION, Sec. 9. 1996 c 18 s 17 (uncodified) is repealed.

NEW SECTION, Sec. 10. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 1997.

Passed the House April 22, 1997.

Passed the Senate April 10, 1997.

Approved by the Governor May 15, 1997.

Filed in Office of Secretary of State May 15, 1997.

## CHAPTER 377

[Substitute House Bill 1499]

### WASHINGTON STATE RURAL DEVELOPMENT COUNCIL

AN ACT Relating to a rural development council; adding new sections to chapter 43.31 RCW; and providing an expiration date.

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

NEW SECTION, Sec. 1. A new section is added to chapter 43.31 RCW to read as follows:

(1) The Washington state rural development council is established and governed by an executive committee consisting of eleven members, appointed by the governor. The members will include representatives from the following categories: Business; natural resources; agriculture; environment; economic development; education; health; human services; counties; cities; and tribal governments.

(2) New members of the executive committee are appointed for terms of three years from the current membership list of the rural development council, as much as possible. Committee members should be people who either live, work, or provide direct services in rural areas. Committee membership must consist of no less than ninety percent of the members living in a rural area. As a transition strategy for the council, four representatives (business, counties, health, agriculture) will be appointed in 1997, four (human services, natural resources, cities, environment) in 1998, and three (economic development, tribal government, education) in 1999. The new council will be fully formed in 1999.

(3) The governor may make appointments from a list of candidates generated by the executive committee. The executive committee shall generate a list of at least three but not more than six candidates from recommendations from state-wide associations. The list of candidates for the county representative shall be generated by the Washington state association of counties. The list of candidates for the city

representative shall be generated by the association of Washington cities. In making appointments, the governor shall consider an equitable geographic distribution.

(4) Members of the Washington state rural development council shall receive no compensation for their services, but shall be eligible to receive reimbursement for travel expenses as provided in RCW 43.03.050 and 43.03.060.

(5) The department of community, trade, and economic development may provide staff support, administrative assistance, and office space to the council as available.

(6) The Washington state rural development council executive committee is authorized to establish operating procedures, policies, and bylaws, and appoint committees. In addition, the executive committee is responsible for hiring, evaluating, and if necessary, firing the executive director according to state policies and rules.

(7) The Washington state rural development council is directed to: Inform legislators, the governor's office, state agencies, and federal agencies about the rural perspective on community development issues; identify and in some cases develop recommended improvements to existing resource delivery systems; and serve as a liaison or intermediary between rural communities and public and private resource providers. The council's mission is to improve the delivery and accessibility of public and private resources to meet the needs of rural communities.

**NEW SECTION.** Sec. 2. A new section is added to chapter 43.31 RCW to read as follows:

The legislature encourages state agencies to contribute financially to the rural development council. In addition to the United States department of agriculture and the state department of community, trade, and economic development, all state agencies, federal agencies, and state-wide associations that make a significant financial contribution to the rural development council shall be ex officio members. In particular, state agencies serving rural areas, including the departments of agriculture, fish and wildlife, ecology, employment security, health, natural resources, social and health services, and transportation, and the utilities and transportation commission, are encouraged to contribute financially. Financial contributions from state agencies along with those from the private sector and state-wide associations will enable the rural development council to leverage federal funds at a three-to-one ratio annually.

**NEW SECTION.** Sec. 3. Sections 1 and 2 of this act expire June 30, 2003.

Passed the House April 19, 1997.

Passed the Senate April 15, 1997.

Approved by the Governor May 15, 1997.

Filed in Office of Secretary of State May 15, 1997.

**CHAPTER 378**

[Substitute House Bill 1632]

**STATE INVESTIGATORS—STUDY TO DEVELOP TRAINING, POLICIES, AND PROCEDURES**

AN ACT Relating to training for state investigators; creating a new section; 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 there is a need for more coordinated and uniform training and protocols for state investigators. State investigators are employed by numerous state agencies and separately elected offices. Currently there is minimal training on policies and procedures for investigations, enforcement, and scope of duties and responsibilities. It is the intent of the legislature to commission a study group to develop mandatory training, policies, and procedures for state investigators.

(2) The study group shall focus on state investigators in the following agencies: Attorney general's office; auditor's office; department of corrections; department of health; department of ecology; department of fish and wildlife; department of labor and industries; department of licensing; department of revenue; liquor control board; public disclosure commission; department of social and health services; and Washington state patrol.

(3) The study group shall consist of: The attorney general; chief of the state patrol; state auditor; one legislator from each caucus of the senate and house of representatives, as appointed by leaders of the caucuses; a representative from the governor's office; two representatives of state agencies appointed by the governor; a representative appointed by the Washington association of prosecuting attorneys; a representative appointed by the Washington association of sheriffs and police chiefs; and a representative appointed by the criminal justice program at Washington State University. The study group shall be cochaired by the attorney general and the chief of the state patrol.

(4) The study group shall:

(a) Develop minimum ongoing training requirements for state investigators. Training must include education in civil investigations and recognition of crimes for transfer to appropriate law enforcement agencies;

(b) Evaluate current training requirements, policies, and procedures for state investigators;

(c) Recommend who will provide training, how it will be done, and minimal training requirements;

(d) Recommend basic policies and procedures for state investigators;

(e) Develop cost estimates for mandatory training;

(f) Make recommendations on the scope of duties and responsibilities for state investigators; and

(g) Include other issues related to state investigators, as desired by the study group.

(5) The office of the attorney general shall provide staff and administrative support for the study group.

(6) The study group shall deliver its recommendations to the legislature by December 1, 1997.

(7) This section shall expire June 1, 1998.

Passed the House April 19, 1997.

Passed the Senate April 11, 1997.

Approved by the Governor May 15, 1997.

Filed in Office of Secretary of State May 15, 1997.

**CHAPTER 379**

[Substitute House Bill 1693]

**CREDITS FOR REINSURED CEDED RISKS**

AN ACT Relating to credit for reinsured ceded risks; amending RCW 48.12.160; adding new sections to chapter 48.12 RCW; creating a new section; and repealing RCW 48.05.300.

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

**NEW SECTION. Sec. 1.** (1) The purpose of this act is to protect the interest of insureds, claimants, ceding insurers, assuming insurers, and the public generally.

(2) It is the intent of the legislature to ensure adequate regulation of insurers and reinsurers and adequate protection for those to whom they owe obligations.

(3) It is also the intent of the legislature to declare that the matters contained in this act are fundamental to the business of insurance and to exercise its powers and privileges under 15 U.S.C. Secs. 1011 and 1012.

**NEW SECTION. Sec. 2.** For purposes of this act, a "qualified United States financial institution" means an institution that complies with all of the following:

(1) Is organized or, in the case of a United States office of a foreign banking organization, licensed under the laws of the United States or any state thereof;

(2) Is regulated, supervised, and examined by United States federal or state authorities having regulatory authority over banks and trust companies;

(3) Has been determined by the commissioner, or, in the discretion of the commissioner, the securities valuation office of the national association of insurance commissioners, to meet such standards of financial condition and standing as are considered necessary and appropriate to regulate the quality of financial institutions whose letters of credit will be acceptable to the commissioner; and

(4) Is not affiliated with the assuming company.

**NEW SECTION. Sec. 3.** Upon insolvency of a non-United States insurer or reinsurer that provides security to fund its United States obligations in accordance with this act, the assets representing the security must be maintained in the United States and claims must be filed with and valued by the state insurance commissioner with regulatory oversight, and the assets distributed, in accordance

with the insurance laws of the state in which the trust is domiciled that are applicable to the liquidation of domestic United States insurance companies.

**NEW SECTION. Sec. 4.** (1) Credit for reinsurance in a reinsurance contract entered into after December 31, 1996, is allowed a domestic ceding insurer as either an asset or a deduction from liability in accordance with RCW 48.12.160 only if the reinsurance contract contains provisions that provide, in substance, as follows:

(a) The reinsurer shall indemnify the ceding insurer against all or a portion of the risk it assumed according to the terms and conditions contained in the reinsurance contract.

(b) In the event of insolvency and the appointment of a conservator, liquidator, or statutory successor of the ceding company, the portion of risk or obligation assumed by the reinsurer is payable to the conservator, liquidator, or statutory successor on the basis of claims allowed against the insolvent company by a court of competent jurisdiction or by a conservator, liquidator, or statutory successor of the company having authority to allow such claims, without diminution because of that insolvency, or because the conservator, liquidator, or statutory successor failed to pay all or a portion of any claims. Payments by the reinsurer as provided in this subsection are made directly to the ceding insurer or to its conservator, liquidator, or statutory successor, except where the contract of insurance, reinsurance, or other written agreement specifically provides another payee of such reinsurance in the event of the insolvency of the ceding insurer.

(2) Payment under a reinsurance contract must be made within a reasonable time with reasonable provision for verification in accordance with the terms of the reinsurance agreement. However, in no event shall the payments be beyond the period required by the national association of insurance commissioners accounting practices and procedures manual.

(3) The original insured or policyholder may not have any rights against the reinsurer that are not specifically set forth in the contract of reinsurance, or in a specific agreement between the reinsurer and the original insured or policyholder.

**NEW SECTION. Sec. 5.** Credit for reinsurance, as either an asset or a deduction, is prohibited in an accounting or financial statement of the ceding insurer in respect to the reinsurance contract unless, in such contract, the reinsurer undertakes to indemnify the ceding insurer against all or a part of the loss or liability arising out of the original insurance. This section only applies to those reinsurance contracts entered into after December 31, 1996.

**Sec. 6.** RCW 48.12.160 and 1996 c 297 s 1 are each amended to read as follows:

(1) Any insurance company organized under the laws of this state may take credit as an asset or as a deduction from loss or claim, unearned premium, or life policy or contract reserves on risks ceded to a reinsurer to the extent reinsured by an insurer or insurers holding a certificate of authority to transact that kind of business in this state, unless the assuming insurer is the subject of a regulatory

order or regulatory oversight by a state in which it is licensed based upon a commissioner's determination that the assuming insurer is in a hazardous financial condition. The credit on ceded risks reinsured by any insurer which is not authorized to transact business in this state may be taken:

(a) Where the reinsurer is a group including incorporated and unincorporated underwriters, and the group maintains a trust fund in a (~~United States bank that is determined by the national association of insurance commissioners to meet credit standards for issuing letters of credit in connection with reinsurance;~~) qualified United States financial institution which trust fund must be in an amount equal to (~~the group's liabilities attributable to business written in the United States, and~~);

(i) For reinsurance ceded under reinsurance agreements with an inception, amendment, or renewal date on or after August 1, 1995, funds in trust in an amount not less than the group's several liabilities attributable to business ceded by United States domiciled insurers to any member of the group; or

(ii) For reinsurance ceded under reinsurance agreements with an inception date on or before July 31, 1995, and not amended or renewed after that date, notwithstanding the other provisions of this act, funds in trust in an amount not less than the group's several insurance and reinsurance liabilities attributable to business written in the United States.

In addition, the group shall maintain a trustee surplus of which one hundred million dollars shall be held jointly and exclusively for the benefit of United States ceding insurers of any member of the group(†).

The incorporated members of the group shall not be engaged in any business other than underwriting as a member of the group and shall be subject to the same level of solvency regulation and control by the group's domiciliary regulator as are the unincorporated members; and the group shall make available to the commissioner an annual certification of the solvency of each underwriter by the group's domiciliary regulator and its independent public accountants;

(b) Where the reinsurer does not meet the definition of (a) of this subsection, the single assuming alien reinsurer that, as of the date of the ceding insurer's statutory financial statement, maintains a trust fund in a (~~United States bank that is determined by the national association of insurance commissioners to meet credit standards for issuing letters of credit in connection with reinsurance~~) qualified United States financial institution, which trust fund must be in an amount (~~equal to~~) not less than the assuming alien reinsurer's liabilities attributable to reinsurance ceded by United States domiciled insurers, and in addition, the assuming insurer shall maintain a trustee surplus of not less than twenty million dollars, and the assuming alien reinsurer maintaining the trust fund must have received a registration from the commissioner under section 7 of this act. The assuming alien reinsurer shall report on or before February 28th to the commissioner substantially the same information as that required to be reported on the national association of insurance commissioners annual statement form by licensed insurers, to enable the commissioner to determine the sufficiency of the trust fund; (~~or~~)

(c) In an amount not exceeding:

(i) The amount of deposits by and funds withheld from the assuming insurer pursuant to express provision therefor in the reinsurance contract, as security for the payment of the obligations thereunder, if the deposits or funds are assets of the types and amounts that are authorized under chapter 48.13 RCW and are held subject to withdrawal by and under the control of the ceding insurer or if the deposits or funds are placed in trust for these purposes in a bank which is a member of the federal reserve system and withdrawals from the trust cannot be made without the consent of the ceding company; or

(ii) The amount of a clean, irrevocable, and unconditional letter of credit issued by a United States bank that is determined by the national association of insurance commissioners to meet credit standards for issuing letters of credit in connection with reinsurance, and issued for a term of at least one year with provisions that it must be renewed unless the bank gives notice of nonrenewal at least thirty days before the expiration issued under arrangements satisfactory to the commissioner of insurance as constituting security to the ceding insurer substantially equal to that of a deposit under (c)(i) of this subsection.

(2) Credit for reinsurance may not be granted under subsection (1)(a), (b), and (c)(i) of this section unless:

(a) The form of the trust and amendments to the trust have been approved by the insurance commissioner of the state where the trust is located, or the insurance commissioner of another state who, pursuant to the terms of the trust agreement, has accepted principal regulatory oversight of the trust;

(b) The trust and trust amendments are filed with the commissioner of every state in which the ceding insurer beneficiaries of the trust are domiciled;

(c) The trust instrument provides that contested claims are valid, enforceable, and payable out of funds in trust to the extent remaining unsatisfied thirty days after entry of the final order of a court of competent jurisdiction in the United States;

(d) The trust vests legal title to its assets in the trustees of the trust for the benefit of the grantor's United States ceding insurers, their assigns, and successors in interest;

(e) The trust and the assuming insurer are subject to examination as determined by the commissioner;

(f) The trust shall remain in effect for as long as the assuming insurer, member, or former member of a group of insurers has outstanding obligations due under the reinsurance agreements subject to the trust; and

(g) No later than February 28th of each year, the trustees of the trust report to the commissioner in writing setting forth the balance of the trust and listing the trust's investments at the preceding year end. In addition, the trustees of the trust shall certify the date of termination of the trust, if so planned, or certify that the trust shall not expire within the next twelve months.

(3) Any reinsurance ceded by a company organized under the laws of this state or ceded by any company not organized under the laws of this state and transacting business in this state must be payable by the assuming insurer on the basis of liability of the ceding company under the contract or contracts reinsured without diminution because of the insolvency of the ceding company, and any such reinsurance agreement which may be canceled on less than ninety days notice must provide for a run-off of the reinsurance in force at the date of cancellation.

~~((3) A reinsurance agreement may provide that the)~~ (4) The domiciliary conservator, liquidator (or), receiver, or statutory successor of an insolvent ceding insurer shall give written notice to the assuming insurer of the pendency of a claim against the insolvent ceding insurer on the policy or bond reinsured within a reasonable time after such claim is filed in the insolvency proceeding and that during the pendency of such claim any assuming insurer may investigate such claim and interpose, at its own expense, in the proceeding where such claim is to be adjudicated, any defense or defenses which it may deem available to the ceding insurer or its liquidator or receiver or statutory successor.

The expense thus incurred by the assuming insurer shall be chargeable subject to court approval against the insolvent ceding insurer as a part of the expense of liquidation to the extent of a proportionate share of the benefit which may accrue to the ceding insurer solely as a result of the defense undertaken by the assuming insurer.

~~((4))~~ (5) Where two or more assuming insurers are involved in the same claim and a majority in interest elect to interpose to such claim, the expense shall be apportioned in accordance with the terms of the reinsurance agreement as though such expense had been incurred by the ceding insurer.

(6) The credit permitted by subsection (1)(b) of this section is prohibited unless the assuming alien insurer agrees in the trust agreement, notwithstanding other provisions in the trust instrument, if the trust fund is inadequate because it contains an amount less than the amount required by subsection (1)(b) of this section or if the grantor of the trust has been declared insolvent or placed into receivership, rehabilitation, liquidation, or similar proceedings under the laws of its state or country of domicile;

(a) To comply with an order of the commissioner with regulatory oversight over the trust or with an order of a court of competent jurisdiction directing the trustee to transfer to the commissioner with regulatory oversight all of the assets of the trust fund;

(b) That assets be distributed by, and insurance claims of United States trust beneficiaries be filed with and valued by, the commissioner with regulatory oversight in accordance with the laws of the state in which the trust is domiciled that are applicable to the liquidation of domestic insurance companies;

(c) That if the commissioner with regulatory oversight determines that the assets of the trust fund or a part thereof are not necessary to satisfy the claims of the United States ceding insurers, which are United States trust beneficiaries, the

assets or part thereof shall be returned by the commissioner with regulatory oversight to the trustee for distribution in accordance with the trust agreement; and

(d) That the grantor waives any right otherwise available to it under United States law that is inconsistent with this provision.

**NEW SECTION. Sec. 7.** (1) The assuming alien reinsurer must register with the commissioner and must:

(a) File with the commissioner evidence of its submission to this state's jurisdiction and to this state's authority to examine its books and records under chapter 48.03 RCW;

(b) Designate the commissioner as its lawful attorney upon whom service of all papers may be made for an action, suit, or proceeding instituted by or on behalf of the ceding insurer;

(c) File with the commissioner a certified copy of a letter or a certificate of authority or a certificate of compliance issued by the assuming alien insurer's domiciliary jurisdiction and the domiciliary jurisdiction of its United States reinsurance trust;

(d) Submit a statement, signed and verified by an officer of the assuming alien insurer to be true and correct, that discloses whether the assuming alien insurer or an affiliated person who owns or has a controlling interest in the assuming alien insurer is currently known to be the subject of one or more of the following:

(i) An order or proceeding regarding conservation, liquidation, or receivership;

(ii) An order or proceeding regarding the revocation or suspension of a license or accreditation to transact insurance or reinsurance in any jurisdiction; or

(iii) An order or proceeding brought by an insurance regulator in any jurisdiction seeking to restrict or stop the assuming alien insurer from transacting insurance or reinsurance based upon a hazardous financial condition.

The assuming alien insurer shall provide the commissioner with copies of all orders or other documents initiating proceedings subject to disclosure under this subsection. The statement must affirm that no actions, proceedings, or orders subject to this subsection are outstanding against the assuming alien insurer or an affiliated person who owns or has a controlling interest in the assuming alien insurer, except as disclosed in the statement;

(e) File other information, financial or otherwise, which the commissioner reasonably requests.

(2) A registration continues in force until suspended, revoked, or not renewed. A registration is subject to renewal annually on the first day of July upon application of the assuming alien insurer and payment of the fee in the same amount as an insurer pays for renewal of a certificate of authority.

(3) The commissioner shall give an assuming alien insurer notice of his or her intention to revoke or refuse to renew its registration at least ten days before the order of revocation or refusal is to become effective.

(4) The commissioner shall, consistent with chapters 48.04 and 34.05 RCW, deny or revoke an assuming alien insurer's registration if the assuming alien insurer no longer qualifies or meets the requirements for registration.

(5) The commissioner may, consistent with chapters 48.04 and 34.05 RCW, deny or revoke an assuming alien insurer's registration if the assuming alien insurer:

(a) Fails to comply with a provision of this chapter or fails to comply with an order or regulation of the commissioner;

(b) Is found by the commissioner to be in such a condition that its further transaction of reinsurance would be hazardous to ceding insurers, policyholders, or the people in this state;

(c) Refuses to remove or discharge a trustee, director, or officer who has been convicted of a crime involving fraud, dishonesty, or moral turpitude;

(d) Usually compels policy-holding claimants either to accept less than the amount due them or to bring suit against the assuming alien insurer to secure full payment of the amount due;

(e) Refuses to be examined, or its trustees, directors, officers, employees, or representatives refuse to submit to examination or to produce its accounts, records, and files for examination by the commissioner when required, or refuse to perform a legal obligation relative to the examination;

(f) Refuses to submit to the jurisdiction of the United States courts;

(g) Fails to pay a final judgment rendered against it:

(i) Within thirty days after the judgment became final;

(ii) Within thirty days after time for taking an appeal has expired; or

(iii) Within thirty days after dismissal of an appeal before final determination; whichever date is later.

(h) Is found by the commissioner, after investigation or upon receipt of reliable information:

(i) To be managed by persons, whether by its trustees, directors, officers, or by other means, who are incompetent or untrustworthy or so lacking in insurance company management experience as to make proposed operation hazardous to the insurance-buying public; or

(ii) That there is good reason to believe it is affiliated directly or indirectly through ownership, control, or business relations, with a person or persons whose business operations are, or have been found to be, in violation of any law or rule, to the detriment of policyholders, stockholders, investors, creditors, or of the public, by bad faith or by manipulation of the assets, accounts, or reinsurance;

(i) Does business through reinsurance intermediaries or other representatives in this state or in any other state, who are not properly licensed under applicable laws and rules; or

(j) Fails to pay, by the date due, any amounts required by this code.

(6) A domestic ceding insurer is not allowed credit with respect to reinsurance ceded, if the assuming alien insurer's registration has been revoked by the commissioner.

(7) The actual costs and expenses incurred by the commissioner for an examination of a registered alien insurer must be charged to and collected from the alien reinsurer.

(8) A registered alien reinsurer is included as a "class one" organization for the purposes of RCW 48.02.190.

**NEW SECTION. Sec. 8.** (1) Unless credit for reinsurance or deduction from liability is prohibited under section 5 of this act, a foreign ceding insurer is allowed credit for reinsurance or deduction from liability to the extent credit has been allowed by the ceding insurer's state of domicile if:

(a) The state of domicile is accredited by the national association of insurance commissioners; or

(b) Credit or deduction from liability would be allowed under this act if the foreign ceding insurer were domiciled in this state.

(2) Notwithstanding subsection (1) of this section, credit for reinsurance or deduction from liability may be disallowed upon a finding by the commissioner that either the condition of the reinsurer, or the collateral or other security provided by the reinsurer, does not satisfy the credit for reinsurance requirements applicable to ceding insurers domiciled in this state.

**NEW SECTION. Sec. 9.** The commissioner may adopt rules to implement and administer this act.

**NEW SECTION. Sec. 10.** RCW 48.05.300 and 1993 c 91 s 1, 1977 ex.s. c 180 s 1, & 1947 c 79 s .05.30 are each repealed.

**NEW SECTION. Sec. 11.** Sections 2 through 5 and 7 through 9 of this act are each added to chapter 48.12 RCW.

Passed the House April 16, 1997.

Passed the Senate April 11, 1997.

Approved by the Governor May 15, 1997.

Filed in Office of Secretary of State May 15, 1997.

---

## CHAPTER 380

[Substitute House Bill 1780]

### SERVICE OF PROCESS—MODIFICATIONS

AN ACT Relating to service of process; and amending RCW 4.28.080.

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

**Sec. 1.** RCW 4.28.080 and 1996 c 223 s 1 are each amended to read as follows:

Service made in the modes provided in this section shall be taken and held to be personal service. The summons shall be served by delivering a copy thereof, as follows:

(1) If the action be against any county in this state, to the county auditor or, during normal office hours, to the deputy auditor, or in the case of a charter county, summons may be served upon the agent, if any, designated by the legislative authority.

(2) If against any town or incorporated city in the state, to the mayor, city manager, or, during normal office hours, to the mayor's or city manager's designated agent or the city clerk thereof.

(3) If against a school or fire district, to the superintendent or commissioner thereof or by leaving the same in his or her office with an assistant superintendent, deputy commissioner, or business manager during normal business hours.

(4) If against a railroad corporation, to any station, freight, ticket or other agent thereof within this state.

(5) If against a corporation owning or operating sleeping cars, or hotel cars, to any person having charge of any of its cars or any agent found within the state.

(6) If against a domestic insurance company, to any agent authorized by such company to solicit insurance within this state.

(7) If against a foreign or alien insurance company, as provided in chapter 48.05 RCW.

(8) If against a company or corporation doing any express business, to any agent authorized by said company or corporation to receive and deliver express matters and collect pay therefor within this state.

(9) If the suit be against a company or corporation other than those designated in the preceding subdivisions of this section, to the president or other head of the company or corporation, the registered agent, secretary, cashier or managing agent thereof or to the secretary, stenographer or office assistant of the president or other head of the company or corporation, registered agent, secretary, cashier or managing agent.

(10) If the suit be against a foreign corporation or nonresident joint stock company, partnership or association doing business within this state, to any agent, cashier or secretary thereof.

(11) If against a minor under the age of fourteen years, to such minor personally, and also to his or her father, mother, guardian, or if there be none within this state, then to any person having the care or control of such minor, or with whom he or she resides, or in whose service he or she is employed, if such there be.

(12) If against any person for whom a guardian has been appointed for any cause, then to such guardian.

(13) If against a foreign or alien steamship company or steamship charterer, to any agent authorized by such company or charterer to solicit cargo or passengers for transportation to or from ports in the state of Washington.

(14) If against a self-insurance program regulated by chapter 48.62 RCW, as provided in chapter 48.62 RCW.

(15) In all other cases, to the defendant personally, or by leaving a copy of the summons at the house of his or her usual abode with some person of suitable age and discretion then resident therein.

(16) In lieu of service under subsection (15) of this section, where the person cannot with reasonable diligence be served as described, the summons may be served as provided in this subsection, and shall be deemed complete on the tenth day after the required mailing:

~~((a))~~ By leaving a copy at his or her usual mailing address ~~((other than a United States postal service post office box))~~ with a person of suitable age and discretion ~~((then resident therein or, if the address is a place of business, with the secretary, office manager, vice president, president, or other head of the company, or with the secretary or office assistant to such secretary, office manager, vice president, president, or other head of the company, and by))~~ who is a resident, proprietor, or agent thereof, and by thereafter mailing a copy by first class mail, postage prepaid, to the person to be served at his or her usual mailing address ~~((other than a United States postal service post office box, or~~

~~—(b) By leaving a copy at his or her place of employment, during usual business hours, with the secretary, office manager, vice president, president, or other head of the company, or with the secretary or office assistant to such secretary, office manager, vice president, president, or other head of the company, and by thereafter mailing a copy by first class mail, postage prepaid, to the person to be served at his or her place of employment)).~~ For the purposes of this subsection, "usual mailing address" shall not include a United States postal service post office box or the person's place of employment.

Passed the House April 21, 1997.

Passed the Senate April 16, 1997.

Approved by the Governor May 15, 1997.

Filed in Office of Secretary of State May 15, 1997.

## CHAPTER 381

[Engrossed Second Substitute House Bill 1866]

### ENVIRONMENTAL EXCELLENCE PROGRAM AGREEMENTS

AN ACT Relating to the establishment of voluntary programs creating environmental excellence program agreements; amending RCW 90.54.020; adding a new section to chapter 43.21A RCW; adding a new section to chapter 70.94 RCW; adding a new section to chapter 70.95 RCW; adding a new section to chapter 70.105 RCW; adding a new section to chapter 70.119A RCW; adding a new section to chapter 75.20 RCW; adding a new section to chapter 90.48 RCW; adding a new section to chapter 90.52 RCW; adding a new section to chapter 90.58 RCW; adding a new section to chapter 90.64 RCW; adding a new section to chapter 90.71 RCW; adding a new chapter to Title 43 RCW; and creating new sections.

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

**NEW SECTION, Sec. 1.** The purpose of this act is to create a voluntary program authorizing environmental excellence program agreements with persons regulated under the environmental laws of the state of Washington, and to direct agencies of the state of Washington to solicit and support the development of agreements that use innovative environmental measures or strategies to achieve environmental results more effectively or efficiently.

Agencies shall encourage environmental excellence program agreements that favor or promote pollution prevention, source reduction, or improvements in practices that are transferable to other interested entities or that can achieve better overall environmental results than required by otherwise applicable rules and requirements.

In enacting this act it is not the intent of the legislature that state environmental standards be applied in a manner that could result in these state standards being waived under section 121 of the federal comprehensive environmental response, compensation, and liability act (42 U.S.C. Sec. 9261).

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

(1) "State, regional, or local agency" means an agency, board, department, authority, or commission that administers environmental laws.

(2) "Coordinating agency" means the state, regional, or local agency with the primary regulatory responsibility for the proposed environmental excellence program agreement. If multiple agencies have jurisdiction to administer state environmental laws affected by an environmental excellence agreement, the department of ecology shall designate or act as the coordinating agency.

(3) "Director" means the individual or body of individuals in whom the ultimate legal authority of an agency is vested by any provision of law. If the agency head is a body of individuals, a majority of those individuals constitutes the director.

(4) "Environmental laws" means chapters 43.21A, 70.94, 70.95, 70.105, 70.119A, 75.20, 90.48, 90.52, 90.58, 90.64, and 90.71 RCW, and RCW 90.54.020(3)(b) and rules adopted under those chapters and section. The term environmental laws as used in this chapter does not include any provision of the Revised Code of Washington, or of any municipal ordinance or enactment, that regulates the selection of a location for a new facility.

(5) "Facility" means a site or activity that is regulated under any of the provisions of the environmental laws.

(6) "Legal requirement" includes any provision of an environmental law, rule, order, or permit.

(7) "Sponsor" means the owner or operator of a facility, including a municipal corporation, subject to regulation under the environmental laws of the state of Washington, or an authorized representative of the owner or operator, that submits a proposal for an environmental excellence program agreement.

(8) "Stakeholder" means a person who has a direct interest in the proposed environmental excellence program agreement or who represents a public interest in the proposed environmental excellence program agreement. Stakeholders may include communities near the project, local or state governments, permittees, businesses, environmental and other public interest groups, employees or employee representatives, or other persons.

**NEW SECTION.** Sec. 3. An environmental excellence program agreement entered into under this chapter must achieve more effective or efficient environmental results than the results that would be otherwise achieved. The basis for comparison shall be a reasonable estimate of the overall impact of the participating facility on the environment in the absence of an environmental excellence program agreement. More effective environmental results are results that are better overall than those that would be achieved under the legal requirements superseded or replaced by the agreement. More efficient environmental results are results that are achieved at reduced cost but do not decrease the overall environmental results achieved by the participating facility. An environmental excellence program agreement may not authorize either (1) the release of water pollutants that will cause to be exceeded, at points of compliance in the ambient environment established pursuant to law, numeric surface water or ground water quality criteria or numeric sediment quality criteria adopted as rules under chapter 90.48 RCW; or (2) the emission of any air contaminants that will cause to be exceeded any air quality standard as defined in RCW 70.94.030(3); or (3) a decrease in the overall environmental results achieved by the participating facility compared with results achieved over a representative period before the date on which the agreement is proposed by the sponsor. However, an environmental excellence program agreement may authorize reasonable increases in the release of pollutants to permit increases in facility production or facility expansion and modification.

**NEW SECTION.** Sec. 4. (1) The director of a state, regional, or local agency may enter into an environmental excellence program agreement with any sponsor, even if one or more of the terms of the environmental excellence program agreement would be inconsistent with an otherwise applicable legal requirement. An environmental excellence program agreement must meet the requirements of section 3 of this act. Otherwise applicable legal requirements identified according to section 7(1) of this act shall be superseded and replaced in accordance with section 9 of this act.

(2) The director of a state, regional, or local agency may enter into an environmental excellence program agreement only to the extent the state, regional, or local agency has jurisdiction to administer state environmental laws either directly or indirectly through the adoption of rules.

(3) Where a sponsor proposes an environmental excellence program agreement that would affect legal requirements applicable to the covered facility that are administered by more than one state, regional, or local agency, the

coordinating agency shall take the lead in developing the environmental excellence program agreement with the sponsor and other agencies administering legal requirements applicable to the covered facility and affected by the agreement. The environmental excellence program agreement does not become effective until the agreement is approved by the director of each agency administering legal requirements identified according to section 7(1) of this act.

(4) No director may enter into an environmental excellence program agreement applicable to a remedial action conducted under the Washington model toxics control act, chapter 70.105D RCW, or the federal comprehensive environmental response, compensation and liability act (42 U.S.C. Sec. 9601 et seq.). No action taken under this chapter shall be deemed a waiver of any applicable, relevant, or appropriate requirements for any remedial action conducted under the Washington model toxics control act or the federal comprehensive environmental response, compensation and liability act.

(5) The directors of state, regional, or local agencies shall not enter into an environmental excellence program agreement or a modification of an environmental excellence program agreement containing terms affecting legal requirements adopted to comply with provisions of a federal regulatory program and to which the responsible federal agency objects after notice under the terms of section 8(4) of this act.

(6) The directors of regional or local governments may not enter into an environmental excellence program agreement or a modification of an environmental excellence program agreement containing terms affecting legal requirements that are subject to review or appeal by a state agency, including but not limited to chapters 70.94, 70.95, and 90.58 RCW, and to which the responsible state agency objects after notice is given under the terms of section 8(4) of this act.

**NEW SECTION.** Sec. 5. (1) A sponsor may propose an environmental excellence program agreement. A trade association or other authorized representative of a sponsor or sponsors may propose a programmatic environmental excellence program agreement for multiple facilities.

(2) A sponsor must submit, at a minimum, the following information and other information that may be requested by the director or directors required to sign the agreement:

(a) A statement that describes how the proposal is consistent with the purpose of this chapter and the project approval criteria in section 3 of this act;

(b)(i) For a site-specific proposal, a comprehensive description of the proposed environmental excellence project that includes the nature of the facility and the operations that will be affected, how the facility or operations will achieve results more effectively or efficiently, and the nature of the results anticipated; or

(ii) For a programmatic proposal, a comprehensive description of the proposed environmental excellence project that identifies the facilities and the operations that are expected to participate, how participating facilities or operations will achieve environmental results more effectively or efficiently, the nature of the results

anticipated, and the method to identify and document the commitments made by individual participants;

(c) An environmental checklist, containing sufficient information to reasonably inform the public of the nature of the proposed environmental excellence program agreement and describing probable significant adverse environmental impacts and environmental benefits expected from implementation of the proposal;

(d) A draft environmental excellence program agreement;

(e) A description of the stakeholder process as provided in section 6 of this act;

(f) A preliminary identification of the permit amendments or modifications that may be necessary to implement the proposed environmental excellence program agreement.

NEW SECTION. Sec. 6. (1) Stakeholder participation in and support for an environmental excellence program agreement is vital to the integrity of the environmental excellence program agreement and helps to inform the decision whether an environmental excellence program agreement can be approved.

(2) A proposal for an environmental excellence program agreement shall include the sponsor's plan to identify and contact stakeholders, to advise stakeholders of the facts and nature of the project, and to request stakeholder participation and review. Stakeholder participation and review shall occur during the development, consideration, and implementation stages of the proposed environmental excellence program agreement. The plan shall include notice to the employees of the facility to be covered by the proposed environmental excellence program agreement and public notice in the area of the covered facility.

(3) The coordinating agency shall extend an invitation to participate in the development of the proposal to a broad and representative sector of the public likely to be affected by the environmental excellence program agreement, including representatives of local community, labor, environmental, and neighborhood advocacy groups. The coordinating agency shall select participants to be included in the stakeholder process that are representative of the diverse sectors of the public that are interested in the agreement. The stakeholder process shall include the opportunity for discussion and comment at multiple stages of the process and access to the information relied upon by the directors in approving the agreement.

(4) The coordinating agency will identify any additional provisions for the stakeholder process that the director of the coordinating agency, in the director's sole discretion, considers appropriate to the success of the stakeholder process, and provide for notice to the United States environmental protection agency or other responsible federal agency of each proposed environmental excellence program agreement that may affect legal requirements of any program administered by that agency.

NEW SECTION. Sec. 7. An environmental excellence program agreement must contain the following terms and conditions:

(1) An identification of all legal requirements that are superseded or replaced by the environmental excellence program agreement;

(2) A description of all legal requirements that are enforceable as provided in section 13(1) of this act that are different from those legal requirements applicable in the absence of the environmental excellence program agreement;

(3) A description of the voluntary goals that are or will be pursued by the sponsor;

(4) A statement describing how the environmental excellence program agreement will achieve the purposes of this chapter;

(5) A statement describing how the environmental excellence program agreement will be implemented, including a list of steps and an implementation schedule;

(6) A statement that the proposed environmental excellence program agreement will not increase overall worker safety risks or cause an unjust or disproportionate and inequitable distribution of environmental risks among diverse economic and cultural communities;

(7) A summary of the stakeholder process that was followed in the development of the environmental excellence program agreement;

(8) A statement describing how any participating facility shall measure and demonstrate its compliance with the environmental excellence program agreement including, without limitation, a description of the methods to be used to monitor performance, criteria that represent acceptable performance, and the method of reporting performance to the public and local communities. The facility's compliance with the agreement must be independently verifiable;

(9) A description of and plan for public participation in the implementation of the environmental excellence program agreement and for public access to information needed to assess the benefits of the environmental excellence program agreement and the sponsor's compliance with the environmental excellence program agreement;

(10) A schedule of periodic performance review of the environmental excellence program agreement by the directors that signed the agreement;

(11) Provisions for voluntary and involuntary termination of the agreement;

(12) The duration of the environmental excellence program agreement and provisions for renewal;

(13) Statements approving the environmental excellence program agreement made by the sponsor and by or on behalf of directors of each state, regional, or local agency administering legal requirements that are identified according to section 7(1) of this act;

(14) Additional terms as requested by the directors signing the environmental excellence program agreement and consistent with this chapter;

(15) Draft permits or permit modifications as needed to implement the environmental excellence program agreement;

(16) With respect to a programmatic environmental excellence program agreement, a statement of the method with which to identify and document the specific commitments to be made by individual participants.

**NEW SECTION.** Sec. 8. (1) The coordinating agency shall provide at least thirty days after notice has been published in a newspaper under subsection (2) of this section for public comment on a proposal to enter into or modify an environmental excellence program agreement. The coordinating agency may provide for an additional period of public comment if required by the complexity of the proposed environmental excellence program agreement and the degree of public interest. Before the start of the comment period, the coordinating agency shall prepare a proposed agreement, a public notice and a fact sheet. The fact sheet shall: (a) Briefly describe the principal facts and the significant factual, legal, methodological and policy questions considered by the directors signing the agreement, and the directors' proposed decisions; and (b) briefly describe how the proposed action meets the requirements of section 3 of this act.

(2) The coordinating agency shall publish notice of the proposed agreement in the Washington State Register and in a newspaper of general circulation in the vicinity of the facility or facilities covered by the proposed environmental excellence program agreement. The notice shall generally describe the agreement or modification; the facilities to be covered; summarize the changes in legal requirements that will result from the agreement; summarize the reasons for approving the agreement or modifications; identify an agency person to contact for additional information; state that the proposed agreement or modification and fact sheet are available on request; and state that comments may be submitted to the agency during the comment period. The coordinating agency shall order a public informational meeting or a public hearing to receive oral comments if the written comments during the comment period demonstrate considerable public interest in the proposed agreement.

(3) The coordinating agency shall prepare and make available a responsiveness summary indicating the agencies' actions taken in response to comments and the reasons for those actions.

(4) With respect to an environmental excellence program agreement that affects legal requirements adopted to comply with provisions of a federal regulatory program, the coordinating agency shall provide a copy of the environmental excellence program agreement, and a copy of the notice required by subsection (1) of this section, to the federal agency that is responsible for administering that program at least thirty days before entering into or modifying the environmental excellence program agreement, and shall afford the federal agency the opportunity to object to those terms of the environmental excellence program agreement or modification of an environmental excellence program agreement affecting the legal requirements. The coordinating agency shall provide similar notice to state agencies that have statutory review or appeal responsibilities regarding provisions of the environmental excellence program agreement.

**NEW SECTION. Sec. 9.** (1) Notwithstanding any other provision of law, any legal requirement identified under section 7(1) of this act shall be superseded or replaced in accordance with the terms of the environmental excellence program agreement. Legal requirements contained in a permit that are affected by an environmental excellence program agreement will continue to be enforceable until such time as the permit is revised in accordance with subsection (2) of this section. With respect to any other legal requirements, the legal requirements contained in the environmental excellence program agreement are effective as provided by the environmental excellence program agreement, and the facility or facilities covered by an environmental excellence program agreement shall comply with the terms of the environmental excellence program agreement in lieu of the legal requirements that are superseded and replaced by the approved environmental excellence program agreement.

(2) Any permits affected by an environmental excellence program agreement shall be revised to conform to the environmental excellence program agreement by the agency with jurisdiction. The permit revisions will be completed within one hundred twenty days of the effective date of the agreement in accordance with otherwise applicable procedural requirements, including, where applicable, public notice and the opportunity for comment, and the opportunity for review and objection by federal agencies.

(3) Other than as superseded or replaced as provided in an approved environmental excellence program agreement, any existing permit requirements remain in effect and are enforceable.

(4) A programmatic environmental excellence program agreement shall become applicable to an individual facility when all directors entering into the programmatic agreement approve the owner or operator's commitment to comply with the agreement. A programmatic agreement may not take effect, however, until notice and an opportunity to comment for the individual facility has been provided in accordance with the requirements of section 8 (1) through (3) of this act.

**NEW SECTION. Sec. 10.** (1) A decision by the directors of state, regional, or local agencies to approve a proposed environmental excellence program agreement, or to terminate or modify an approved environmental excellence program agreement, is subject to judicial review in superior court. For purposes of judicial review, the court may grant relief from the decision to approve or modify an environmental excellence program agreement only if it determines that the action: (a) Violates constitutional provisions; (b) exceeds the statutory authority of the agency; (c) was arbitrary and capricious; or (d) was taken without compliance with the procedures provided by this chapter. However, the decision of the director or directors shall be accorded substantial deference by the court. A decision not to enter into or modify an environmental excellence program agreement and a decision not to accept a commitment under section 9(4) of this act to comply with the terms of a programmatic environmental excellence agreement

are within the sole discretion of the directors of the state, regional, or local agencies and are not subject to review.

(2) An appeal from a decision to approve or modify a facility specific or a programmatic environmental excellence program agreement is not timely unless filed with the superior court and served on the parties to the environmental excellence program agreement within thirty days of the date on which the agreement or modification is signed by the director. For an environmental excellence program agreement or modification signed by more than one director, there is only one appeal, and the time for appeal shall run from the last date on which the agreement or modification is signed by a director.

(3) A decision to accept the commitment of a specific facility to comply with the terms of a programmatic environmental excellence program agreement, or to modify the application of an agreement to a specific facility, is subject to judicial review as described in subsection (1) of this section. An appeal is not timely unless filed with the superior court and served on the directors signing the agreement, the sponsor, and the owner or operator of the specific facility within thirty days of the date the director or directors that signed the programmatic agreement approve the owner or operator's commitment to comply with the agreement. For a programmatic environmental excellence program agreement or modification signed by more than one director, there shall be only one appeal and the time for appeal shall run from the last date on which a director approves the commitment.

(4) The issuance of permits and permit modifications is subject to review under otherwise applicable law.

(5) An appeal of a decision by a director under section 11 of this act to terminate in whole or in part a facility specific or programmatic environmental excellence program agreement is not timely unless filed with the superior court and served on the director within thirty days of the date on which notice of the termination is issued under section 11(2) of this act.

***\*NEW SECTION. Sec. 11. (1) In addition to any termination provisions contained in an environmental excellence program agreement, a director of an agency may terminate an environmental excellence program agreement in whole or in part with respect to a legal requirement administered by that agency, if the director finds: (a) That after notice and a reasonable opportunity to cure, the covered facility is in violation of a material requirement of the agreement; (b) that the facility has repeatedly violated any requirements of the agreement; (c) that the operation of the facility under the agreement has caused endangerment to public health or the environment that cannot be remedied by modification of the agreement; or (d) the facility has failed to make substantial progress in achieving the voluntary goals identified under section 6(4) of this act, and these goals are material to the overall objectives of the agreement.***

***(2) A director of an agency terminating an environmental excellence program agreement in any respect shall provide each of the parties to the***

*agreement with a written notice of that action specifying the extent to which the environmental excellence program agreement is to be terminated, the factual and legal basis for termination, and a description of the opportunity for judicial review of the decision to terminate the environmental excellence program agreement.*

*(3) If a director terminates less than the entire environmental excellence program agreement, the owner or operator of the covered facility may elect to terminate the entire agreement as it applies to the facility.*

*(4) If a director decides to terminate an environmental excellence program agreement because the facility has not been able to meet the legal requirements established under the agreement, or because operation of the facility under the agreement has caused endangerment to public health or the environment, as provided in subsection (1)(c) of this section, the director may establish in the notice of termination: (a) Practical interim requirements for the facility that are no less stringent than the legal requirements that would apply to the facility in the absence of the agreement; and (b) a practical schedule of compliance for meeting the interim requirements. The interim requirements and schedule of compliance shall be subject to judicial review under the provisions of section 10(5) of this act. The facility shall comply with the interim requirements established under this subsection after they are final and no longer subject to judicial review until applicable permits or permit modifications have been issued under section 12 of this act.*

*\*Sec. 11 was vetoed. See message at end of chapter.*

**NEW SECTION. Sec. 12.** After a termination under section 11 of this act is final and no longer subject to judicial review, the sponsor has sixty days in which to apply for any permit or approval affected by any terminated portion of the environmental excellence program agreement. An application filed during the sixty-day period shall be deemed a timely application for renewal of a permit under the terms of any applicable law. Except as provided in section 11(4) of this act, the terms and conditions of the environmental excellence program agreement and of permits issued will continue in effect until a final permit or approval is issued. If the sponsor fails to submit a timely or complete application, any affected permit or approval may be modified at any time that is consistent with applicable law.

**NEW SECTION. Sec. 13.** (1) The legal requirements contained in the environmental excellence program agreement in accordance with section 7(2) of this act are enforceable commitments of the facility covered by the agreement. Any violation of these legal requirements is subject to penalties and remedies to the same extent as the legal requirements that they superseded or replaced.

(2) The voluntary goals stated in the environmental excellence program agreement in accordance with section 7(3) of this act are voluntary commitments of the facility covered by the agreement. If the facility fails to meet these goals, it shall not be subject to any form of enforcement action, including penalties, orders, or any form of injunctive relief. The failure to make substantial progress in

meeting these goals may be a basis on which to terminate the environmental excellence program agreement under section 11 of this act.

(3) Nothing in this chapter limits the authority of an agency, the attorney general, or a prosecuting attorney to initiate an enforcement action for violation of any applicable legal requirement. However, no civil, criminal, or administrative action may be brought with respect to any legal requirement that is superseded or replaced under the terms of an environmental excellence program agreement.

(4) This chapter does not create any new authority for citizen suits, and does not alter or amend other statutory provisions authorizing citizen suits.

**NEW SECTION.** Sec. 14. An environmental excellence program agreement may contain a reduced fee schedule with respect to a program applicable to the covered facility or facilities.

***\*NEW SECTION.*** Sec. 15. *A decision to approve an environmental excellence program agreement is not subject to the requirements of the state environmental policy act, chapter 43.21C RCW, including the requirement to prepare an environmental impact statement under RCW 43.21C.031. However, the consideration of a proposed environmental excellence program agreement will integrate an assessment of environmental impacts.*

\*Sec. 15 was vetoed. See message at end of chapter.

**NEW SECTION.** Sec. 16. Any state, regional, or local agency administering programs under an environmental law may adopt rules or ordinances to implement this chapter. However, it is not necessary that an agency adopt rules or ordinances in order to consider or enter into environmental excellence program agreements.

**NEW SECTION.** Sec. 17. The director of the department of ecology shall appoint an advisory committee to review the effectiveness of the environmental excellence program agreement program and to make a recommendation to the legislature concerning the continuation, termination, or modification of the program. The committee also may make recommendations it considers appropriate for revision of any regulatory program that is affected by an environmental excellence program agreement. The committee shall be composed of one representative each from two state agencies, two representatives of the regulated community, and two representatives of environmental organizations or other public interest groups. The committee must submit a report and its recommendation to the legislature not later than October 31, 2001. The department of ecology shall provide the advisory committee with such support as they may require.

**NEW SECTION.** Sec. 18. (1) Agencies authorized to enter into environmental excellence program agreements may assess and collect a fee to recover the costs of processing environmental excellence program agreement proposals. The amount of the fee may not exceed the direct and indirect costs of processing the environmental excellence program agreement proposal. Processing includes, but is not limited to: Working with the sponsor to develop the agreement, meeting with stakeholder groups, conducting public meetings and hearings,

preparing a record of the decision to enter into or modify an agreement, and defending any appeal from a decision to enter into or modify an agreement. Fees also may include, to the extent specified by the agreement, the agencies' direct costs of monitoring compliance with those specific terms of an agreement not covered by permits issued to the participating facility.

(2) Agencies assessing fees may graduate the initial fees for processing an environmental excellence program agreement proposal to account for the size of the sponsor and to make the environmental excellence program agreement program more available to small businesses. An agency may exercise its discretion to waive all or any part of the fees.

(3) Sponsors may voluntarily contribute funds to the administration of an agency's environmental excellence program agreement program.

**NEW SECTION.** Sec. 19. The authority of a director to enter into a new environmental excellence program agreement program shall be terminated June 30, 2002. Environmental excellence program agreements entered into before June 30, 2002, shall remain in force and effect subject to the provisions of this chapter.

**NEW SECTION.** Sec. 20. A new section is added to chapter 43.21A RCW to read as follows:

Notwithstanding any other provision of law, any legal requirement under this chapter, including any standard, limitation, rule, or order is superseded and replaced in accordance with the terms and provisions of an environmental excellence program agreement, entered into under chapter 43.-- RCW (sections 2 through 19 of this act).

**NEW SECTION.** Sec. 21. A new section is added to chapter 70.94 RCW to read as follows:

Notwithstanding any other provision of law, any legal requirement under this chapter, including any standard, limitation, rule, or order is superseded and replaced in accordance with the terms and provisions of an environmental excellence program agreement, entered into under chapter 43.-- RCW (sections 2 through 19 of this act).

**NEW SECTION.** Sec. 22. A new section is added to chapter 70.95 RCW to read as follows:

Notwithstanding any other provision of law, any legal requirement under this chapter, including any standard, limitation, rule, or order is superseded and replaced in accordance with the terms and provisions of an environmental excellence program agreement, entered into under chapter 43.-- RCW (sections 2 through 19 of this act).

**NEW SECTION.** Sec. 23. A new section is added to chapter 70.105 RCW to read as follows:

Notwithstanding any other provision of law, any legal requirement under this chapter, including any standard, limitation, rule, or order is superseded and replaced in accordance with the terms and provisions of an environmental

excellence program agreement, entered into under chapter 43.-- RCW (sections 2 through 19 of this act).

**NEW SECTION. Sec. 24.** A new section is added to chapter 70.119A RCW to read as follows:

Notwithstanding any other provision of law, any legal requirement under this chapter, including any standard, limitation, rule, or order is superseded and replaced in accordance with the terms and provisions of an environmental excellence program agreement, entered into under chapter 43.-- RCW (sections 2 through 19 of this act).

**NEW SECTION. Sec. 25.** A new section is added to chapter 75.20 RCW to read as follows:

Notwithstanding any other provision of law, any legal requirement under this chapter, including any standard, limitation, rule, or order is superseded and replaced in accordance with the terms and provisions of an environmental excellence program agreement, entered into under chapter 43.-- RCW (sections 2 through 19 of this act).

**NEW SECTION. Sec. 26.** A new section is added to chapter 90.48 RCW to read as follows:

Notwithstanding any other provision of law, any legal requirement under this chapter, including any standard, limitation, rule, or order is superseded and replaced in accordance with the terms and provisions of an environmental excellence program agreement, entered into under chapter 43.-- RCW (sections 2 through 19 of this act).

**NEW SECTION. Sec. 27.** A new section is added to chapter 90.52 RCW to read as follows:

Notwithstanding any other provision of law, any legal requirement under this chapter, including any standard, limitation, rule, or order is superseded and replaced in accordance with the terms and provisions of an environmental excellence program agreement, entered into under chapter 43.-- RCW (sections 2 through 19 of this act).

**NEW SECTION. Sec. 28.** A new section is added to chapter 90.58 RCW to read as follows:

Notwithstanding any other provision of law, any legal requirement under this chapter, including any standard, limitation, rule, or order is superseded and replaced in accordance with the terms and provisions of an environmental excellence program agreement, entered into under chapter 43.-- RCW (sections 2 through 19 of this act).

**NEW SECTION. Sec. 29.** A new section is added to chapter 90.64 RCW to read as follows:

Notwithstanding any other provision of law, any legal requirement under this chapter, including any standard, limitation, rule, or order is superseded and replaced in accordance with the terms and provisions of an environmental

excellence program agreement, entered into under chapter 43.-- RCW (sections 2 through 19 of this act).

**NEW SECTION.** Sec. 30. A new section is added to chapter 90.71 RCW to read as follows:

Notwithstanding any other provision of law, any legal requirement under this chapter, including any standard, limitation, rule, or order is superseded and replaced in accordance with the terms and provisions of an environmental excellence program agreement, entered into under chapter 43.-- RCW (sections 2 through 19 of this act).

*\*Sec. 31. RCW 90.54.020 and 1989 c 348 s 1 are each amended to read as follows:*

*Utilization and management of the waters of the state shall be guided by the following general declaration of fundamentals:*

*(1) Uses of water for domestic, stock watering, industrial, commercial, agricultural, irrigation, hydroelectric power production, mining, fish and wildlife maintenance and enhancement, recreational, and thermal power production purposes, and preservation of environmental and aesthetic values, and all other uses compatible with the enjoyment of the public waters of the state, are declared to be beneficial.*

*(2) Allocation of waters among potential uses and users shall be based generally on the securing of the maximum net benefits for the people of the state. Maximum net benefits shall constitute total benefits less costs including opportunities lost.*

*(3) The quality of the natural environment shall be protected and, where possible, enhanced as follows:*

*(a) Perennial rivers and streams of the state shall be retained with base flows necessary to provide for preservation of wildlife, fish, scenic, aesthetic and other environmental values, and navigational values. Lakes and ponds shall be retained substantially in their natural condition. Withdrawals of water which would conflict therewith shall be authorized only in those situations where it is clear that overriding considerations of the public interest will be served.*

*(b) Waters of the state shall be of high quality. Regardless of the quality of the waters of the state, all wastes and other materials and substances proposed for entry into said waters shall be provided with all known, available, and reasonable methods of treatment prior to entry. Notwithstanding that standards of quality established for the waters of the state would not be violated, wastes and other materials and substances shall not be allowed to enter such waters which will reduce the existing quality thereof, except in those situations where it is clear that overriding considerations of the public interest will be served. Technology-based effluent limitations or standards for discharges for municipal water treatment plants located on the Chehalis, Columbia, Cowlitz, Lewis, or Skagit river shall be adjusted to reflect credit for substances removed from the plant intake water if:*

(i) *The municipality demonstrates that the intake water is drawn from the same body of water into which the discharge is made; and*

(ii) *The municipality demonstrates that no violation of receiving water quality standards or appreciable environmental degradation will result.*

(4) *Adequate and safe supplies of water shall be preserved and protected in potable condition to satisfy human domestic needs.*

(5) *Multiple-purpose impoundment structures are to be preferred over single-purpose structures. Due regard shall be given to means and methods for protection of fishery resources in the planning for and construction of water impoundment structures and other artificial obstructions.*

(6) *Federal, state, and local governments, individuals, corporations, groups and other entities shall be encouraged to carry out practices of conservation as they relate to the use of the waters of the state. In addition to traditional development approaches, improved water use efficiency and conservation shall be emphasized in the management of the state's water resources and in some cases will be a potential new source of water with which to meet future needs throughout the state.*

(7) *Development of water supply systems, whether publicly or privately owned, which provide water to the public generally in regional areas within the state shall be encouraged. Development of water supply systems for multiple domestic use which will not serve the public generally shall be discouraged where water supplies are available from water systems serving the public.*

(8) *Full recognition shall be given in the administration of water allocation and use programs to the natural interrelationships of surface and ground waters.*

(9) *Expressions of the public interest will be sought at all stages of water planning and allocation discussions.*

(10) *Water management programs, including but not limited to, water quality, flood control, drainage, erosion control and storm runoff are deemed to be in the public interest.*

(11) *Notwithstanding any other provision of law, any legal requirement under subsection (3)(b) of this section is superseded and replaced in accordance with the terms and provisions of an environmental excellence program agreement, entered into under chapter 43,-- RCW (sections 2 through 19 of this act).*

\*Sec. 31 was vetoed. See message at end of chapter.

**NEW SECTION.** Sec. 32. The environmental excellence account is hereby created in the state treasury. All fees and voluntary contributions collected by state agencies under section 18 of this act shall be deposited into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for purposes consistent with the environmental excellence program created under sections 2 through 19 of this act. Moneys in the

account may be appropriated to each agency in an amount equal to the amount each agency collects and deposits into the account.

**NEW SECTION. Sec. 33.** Sections 2 through 19 of this act constitute a new chapter in Title 43 RCW.

Passed the House April 22, 1997.

Passed the Senate April 18, 1997.

Approved by the Governor May 15, 1997, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State May 15, 1997.

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

"I am returning herewith, without my approval as to sections 11, 15, and 31, Engrossed Second Substitute House Bill No. 1866 entitled:

"AN ACT Relating to the establishment of voluntary programs creating environmental excellence program agreements;"

Since I assumed office, I have emphasized the importance of effective and efficient government. The two Executive Orders that I have signed dealt with improving government service by working smarter and finding ways to reduce costs.

One element of better performance is a willingness to be innovative and creative in the pursuit of objectives. Engrossed Second Substitute House Bill No. 1866 reflects just such an approach. It promotes a more efficient and results-oriented regulatory system for state, local and regional agencies that administer a host of environmental and resource protection laws. The bill allows agencies - after careful consultation with all affected stakeholders - to sign agreements with those they regulate that contain conditions different from those that would be imposed under existing statutes.

I am well aware that there is concern about this legislation and that it is perceived to hold the potential for our losing ground in our decades-long effort to protect Washington's precious environment. However, I think there is substantial merit in this bill as adopted by the 1997 Legislature. I am well aware of the tremendous effort that went into amending it throughout the session to accommodate many of the concerns expressed about the early versions.

At the same time as I act on this bill, I am charging the director of the Department of Ecology with the difficult task of rebuilding some of the trust that may have been lost during the course of the debate over House Bill No. 1866. I have tremendous confidence in his ability to bring together parties with strongly felt opposing views, and seek common ground. I have asked the Director and his staff to initiate a process of developing guidance for implementation of the Environmental Excellence Program - guidance that can fill some gaps in the legislation and help create confidence that the bill will not become a path toward lower standards of resource protection.

While I have signed the majority of Engrossed Second Substitute House Bill No. 1866, there are three provisions that necessitate a veto. These are sections 11, 15, and 31.

Section 11 addresses termination of Environmental Excellence Program Agreements. It specifies that one of the bases for such termination decisions is that "the operation of the facility under the agreement has caused endangerment to public health or the environment that cannot be remedied by modification of the agreement...." It then goes on to state that if an Agreement is terminated, the regulatory agency can impose interim requirements no less stringent than those which would apply in the absence of an agreement. However, the facility is not obligated to comply with these interim requirements until they have exhausted all judicial review.

This is simply unacceptable. If the operation of a facility is endangering the public health or our environment, it cannot be allowed to continue unchecked while an agency tries to modify the agreement to remedy the problem, terminates the agreement and responds to possibly years of legal challenges. A provision must be made for imposing alternate regulatory requirements on a much shorter timetable than specified in section 11.

This is one of the issues I have asked Director Fitzsimmons to explore in developing guidance for this program.

Section 15 exempts Environmental Excellence Program Agreements from the State Environmental Policy Act. SEPA allows the public and decision-makers to become aware of the environmental consequences of their decisions and to look at alternate ways of achieving the same objective. If Agreements under this statute are to achieve equal or better environmental performance, nothing that would be revealed through the SEPA process should hamper completion of an agreement. The added opportunity for public consultation should assuage some of the fears expressed that agencies and project sponsors will reach decisions without adequate consideration of the concerns of neighbors, employees, or citizen groups.

Section 31 amends the 1971 Water Resources Act. For 26 years, Washington has had one of the strongest laws in the nation to prevent degradation of our water quality. Under this law, no discharges into state waters are allowed if they would reduce existing water quality. This seems a minimal standard to impose on any waste discharger. But section 31 would allow an Environmental Excellence Program Agreement to supersede this requirement. This is unacceptable and unnecessary in light of section 3 of the bill. Under that section, every agreement to be signed must produce results equal to or better than what would be produced under current standards and requirements. Thus, no agreement could ever arise that would result in a degradation of the state's water quality. For this reason, I have vetoed section 31.

I have today sent a letter to the Director of the Department of Ecology spelling out the issues and approach to be used in developing guidance for implementing Engrossed Second Substitute House Bill No. 1866. This should address many of the concerns that have been raised by opponents of the bill without undermining its objectives.

I emphasize to all those who have been involved with this legislation that it is a 5-year trial. No new agreements can be made after July 2002 unless the Legislature extends the program. Thus we have a window of opportunity to change the way we do business and to demonstrate that new ways are not necessarily worse than the old ways. I urge those on all sides to keep in mind a shared objective of environmental excellence for all of Washington's citizens in a healthy economic climate where business and government operate with the greatest possible efficiency.

For these reasons, I have vetoed sections 11, 15, and 31 of Engrossed Second Substitute House Bill No. 1866.

With the exception of sections 11, 15, and 31, I am approving Engrossed Second Substitute House Bill No. 1866."

---

## CHAPTER 382

[Substitute House Bill 2083]

### MASTER PLANNED RESORTS—AUTHORIZATION OF EXISTING RESORTS— ALLOCATION OF POPULATION PROJECTIONS

AN ACT Relating to authorized uses for master planned resorts; and adding a new section to chapter 36.70A RCW.

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

**NEW SECTION.** Sec. 1. A new section is added to chapter 36.70A RCW to read as follows:

Counties that are required or choose to plan under RCW 36.70A.040 may include existing resorts as master planned resorts which may constitute urban growth outside of urban growth areas as limited by this section. An existing resort means a resort in existence on July 1, 1990, and developed, in whole or in part, as a significantly self-contained and integrated development that includes short-term

visitor accommodations associated with a range of indoor and outdoor recreational facilities within the property boundaries in a setting of significant natural amenities. An existing resort may include other permanent residential uses, conference facilities, and commercial activities supporting the resort, but only if these other uses are integrated into and consistent with the on-site recreational nature of the resort.

An existing resort may be authorized by a county only if:

(1) The comprehensive plan specifically identifies policies to guide the development of the existing resort;

(2) The comprehensive plan and development regulations include restrictions that preclude new urban or suburban land uses in the vicinity of the existing resort, except in areas otherwise designated for urban growth under RCW 36.70A.110 and 36.70A.360(1);

(3) The county includes a finding as a part of the approval process that the land is better suited, and has more long-term importance, for the existing resort than for the commercial harvesting of timber or agricultural production, if located on land that otherwise would be designated as forest land or agricultural land under RCW 36.70A.170;

(4) The county finds that the resort plan is consistent with the development regulations established for critical areas; and

(5) On-site and off-site infrastructure impacts are fully considered and mitigated.

A county may allocate a portion of its twenty-year population projection, prepared by the office of financial management, to the master planned resort corresponding to the projected number of permanent residents within the master planned resort.

Passed the House April 21, 1997.

Passed the Senate April 17, 1997.

Approved by the Governor May 15, 1997.

Filed in Office of Secretary of State May 15, 1997.

## CHAPTER 383

[Substitute House Bill 2189]

### LOW-INCOME SENIOR HOUSING DEVELOPMENT—STUDY

AN ACT Relating to financing needs for senior housing; creating new sections; and providing an expiration date.

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

**NEW SECTION.** Sec. 1. The legislature finds that the availability of safe and affordable housing is vital to low-income senior citizens and persons with disabilities. The legislature further finds that the availability of low-cost financing is necessary for the development or preservation of housing for seniors and persons with disabilities. The legislature further finds that many existing housing

developments for seniors and persons with disabilities are in need of renovation. The legislature further finds that there is a need to explore alternative financing techniques to cover the cost of development or renovation of housing for seniors and persons with disabilities. It is the intent of the legislature to create the task force on financing housing for seniors and persons with disabilities to explore alternative financing techniques for the development and renovation of housing developments in Washington for low-income seniors and persons with disabilities.

**NEW SECTION. Sec. 2.** (1) There is created the task force on financing senior housing and housing for persons with disabilities to consist of thirteen members. The task force consists of the following members:

(a) The director of the department of community, trade, and economic development or the director's designee, who serves as an ex officio member and as chair;

(b) The executive director of the Washington state investment board or the director's designee, who serves as an ex officio member;

(c) The executive director of the Washington state housing finance commission or the director's designee, who serves as an ex officio member;

(d) Four representatives from organizations involved in the management of senior housing developments, one of which must be from an organization involved in the ownership of senior housing developments;

(e) Three representatives from financial institutions involved in financing senior housing developments, one of which must be from an investment and banking firm involved in financing federally insured senior housing developments;

(f) One representative from a mobile home owners association that represents seniors;

(g) One representative from a mobile home park owners association; and

(h) One representative from a public housing authority.

(2) The director of the department of community, trade, and economic development shall appoint all nonex officio members to the task force on financing senior housing and housing for persons with disabilities. The vice-chair of the task force is selected by majority vote of the task force members. The members of the task force on financing senior housing and housing for persons with disabilities serve without compensation.

(3) The department of community, trade, and economic development, the Washington state investment board, and the Washington state housing finance commission shall supply such information and assistance as is necessary for the task force on financing senior housing and housing for persons with disabilities to carry out its duties under section 3 of this act.

(4) The department of community, trade, and economic development, the Washington state investment board, and the Washington state housing finance commission shall provide administrative and clerical assistance to the task force on financing senior housing and housing for persons with disabilities.

**NEW SECTION.** Sec. 3. The task force on financing senior housing and housing for persons with disabilities shall:

(1) Review financing needs for housing for low-income seniors and persons with disabilities in the state of Washington;

(2) Review existing federal and state programs and incentives designed to assist in the construction of new facilities or renovation of existing housing facilities for seniors and persons with disabilities;

(3) Review programs and techniques designed to assist in the construction of new facilities or renovation of existing housing facilities for seniors and persons with disabilities in other states and countries;

(4) Make recommendations on possible financing techniques that could be developed at the state level to assist in meeting financing needs for construction of new facilities or renovation of existing housing facilities for seniors and persons with disabilities;

(5) By December 15, 1997, prepare and submit to the house of representatives committee on trade and economic development, and the senate committee on financial institutions, insurance and housing, a report detailing its findings and recommendations regarding financing techniques designed to assist in the construction of new facilities or renovation of existing housing facilities for seniors and persons with disabilities.

**NEW SECTION.** Sec. 4. This act expires February 1, 1998.

Passed the House April 21, 1997.

Passed the Senate April 10, 1997.

Approved by the Governor May 15, 1997.

Filed in Office of Secretary of State May 15, 1997.

## CHAPTER 384

[Substitute Senate Bill 5175]

### CUBING OF HAY OR ALFALFA—BUSINESS AND OCCUPATION TAX REVISIONS

AN ACT Relating to business and occupation tax on the handling of hay, alfalfa, and seed; amending RCW 82.04.120; reenacting and amending RCW 82.04.260; providing an effective date; and declaring an emergency.

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

**Sec. 1.** RCW 82.04.120 and 1989 c 302 s 201 are each amended to read as follows:

"To manufacture" embraces all activities of a commercial or industrial nature wherein labor or skill is applied, by hand or machinery, to materials so that as a result thereof a new, different or useful substance or article of tangible personal property is produced for sale or commercial or industrial use, and shall include the production or fabrication of special made or custom made articles.

"To manufacture" shall not include: Conditioning of seed for use in planting; cubing hay or alfalfa; or activities which consist of cutting, grading, or ice glazing seafood which has been cooked, frozen, or canned outside this state.

*\*Sec. 2. RCW 82.04.260 and 1996 c 148 s 2 and 1996 c 115 s 1 are each reenacted and amended to read as follows:*

*(1) Upon every person engaging within this state in the business of buying wheat, oats, dry peas, dry beans, lentils, triticale, canola, corn, rye and barley, but not including any manufactured or processed products thereof, and selling the same at wholesale; the tax imposed shall be equal to the gross proceeds derived from such sales multiplied by the rate of 0.011 percent.*

*(2) Upon every person engaging within this state in the business of manufacturing wheat into flour, barley into pearl barley, soybeans into soybean oil, canola into canola oil, canola meal, or canola byproducts, or sunflower seeds into sunflower oil; as to such persons the amount of tax with respect to such business shall be equal to the value of the flour, pearl barley, oil, canola meal, or canola byproduct manufactured, multiplied by the rate of 0.138 percent.*

*(3) Upon every person engaging within this state in the business of splitting or processing dried peas; as to such persons the amount of tax with respect to such business shall be equal to the value of the peas split or processed, multiplied by the rate of 0.275 percent.*

*(4) Upon every person engaging within this state in the business of manufacturing seafood products which remain in a raw, raw frozen, or raw salted state at the completion of the manufacturing by that person; as to such persons the amount of tax with respect to such business shall be equal to the value of the products manufactured, multiplied by the rate of 0.138 percent.*

*(5) Upon every person engaging within this state in the business of manufacturing by canning, preserving, freezing, processing, or dehydrating fresh fruits and vegetables, or selling at wholesale fresh fruits and vegetables canned, preserved, frozen, processed, or dehydrated by the seller and sold to purchasers who transport in the ordinary course of business the goods out of this state; as to such persons the amount of tax with respect to such business shall be equal to the value of the products canned, preserved, frozen, processed, or dehydrated multiplied by the rate of 0.33 percent. As proof of sale to a person who transports in the ordinary course of business goods out of this state, the seller shall annually provide a statement in a form prescribed by the department and retain the statement as a business record.*

*(6) Upon every nonprofit corporation and nonprofit association engaging within this state in research and development, as to such corporations and associations, the amount of tax with respect to such activities shall be equal to the gross income derived from such activities multiplied by the rate of 0.484 percent.*

*(7) Upon every person engaging within this state in the business of slaughtering, breaking and/or processing perishable meat products and/or*

*selling the same at wholesale only and not at retail; as to such persons the tax imposed shall be equal to the gross proceeds derived from such sales multiplied by the rate of 0.138 percent.*

*(8) Upon every person engaging within this state in the business of making sales, at retail or wholesale, of nuclear fuel assemblies manufactured by that person, as to such persons the amount of tax with respect to such business shall be equal to the gross proceeds of sales of the assemblies multiplied by the rate of 0.275 percent.*

*(9) Upon every person engaging within this state in the business of manufacturing nuclear fuel assemblies, as to such persons the amount of tax with respect to such business shall be equal to the value of the products manufactured multiplied by the rate of 0.275 percent.*

*(10) Upon every person engaging within this state in the business of acting as a travel agent or tour operator; as to such persons the amount of the tax with respect to such activities shall be equal to the gross income derived from such activities multiplied by the rate of 0.275 percent.*

*(11) Upon every person engaging within this state in business as an international steamship agent, international customs house broker, international freight forwarder, vessel and/or cargo charter broker in foreign commerce, and/or international air cargo agent; as to such persons the amount of the tax with respect to only international activities shall be equal to the gross income derived from such activities multiplied by the rate of 0.363 percent.*

*(12) Upon every person engaging within this state in the business of stevedoring and associated activities pertinent to the movement of goods and commodities in waterborne interstate or foreign commerce; as to such persons the amount of tax with respect to such business shall be equal to the gross proceeds derived from such activities multiplied by the rate of 0.363 percent. Persons subject to taxation under this subsection shall be exempt from payment of taxes imposed by chapter 82.16 RCW for that portion of their business subject to taxation under this subsection. Stevedoring and associated activities pertinent to the conduct of goods and commodities in waterborne interstate or foreign commerce are defined as all activities of a labor, service or transportation nature whereby cargo may be loaded or unloaded to or from vessels or barges, passing over, onto or under a wharf, pier, or similar structure; cargo may be moved to a warehouse or similar holding or storage yard or area to await further movement in import or export or may move to a consolidation freight station and be stuffed, unstuffed, containerized, separated or otherwise segregated or aggregated for delivery or loaded on any mode of transportation for delivery to its consignee. Specific activities included in this definition are: Wharfage, handling, loading, unloading, moving of cargo to a convenient place of delivery to the consignee or a convenient place for further movement to export mode; documentation services in connection with the receipt, delivery, checking, care, custody and control of cargo required in the transfer of cargo; imported*

*automobile handling prior to delivery to consignee; terminal stevedoring and incidental vessel services, including but not limited to plugging and unplugging refrigerator service to containers, trailers, and other refrigerated cargo receptacles, and securing ship hatch covers.*

*(13) Upon every person engaging within this state in the business of disposing of low-level waste, as defined in RCW 43.145.010; as to such persons the amount of the tax with respect to such business shall be equal to the gross income of the business, excluding any fees imposed under chapter 43.200 RCW, multiplied by the rate of 3.3 percent.*

*If the gross income of the taxpayer is attributable to activities both within and without this state, the gross income attributable to this state shall be determined in accordance with the methods of apportionment required under RCW 82.04.460.*

*(14) Upon every person engaging within this state as an insurance agent, insurance broker, or insurance solicitor licensed under chapter 48.17 RCW; as to such persons, the amount of the tax with respect to such licensed activities shall be equal to the gross income of such business multiplied by the rate of 0.55 percent.*

*(15) Upon every person engaging within this state in business as a hospital, as defined in chapter 70.41 RCW, that is operated as a nonprofit corporation or by the state or any of its political subdivisions, as to such persons, the amount of tax with respect to such activities shall be equal to the gross income of the business multiplied by the rate of 0.75 percent through June 30, 1995, and 1.5 percent thereafter. The moneys collected under this subsection shall be deposited in the health services account created under RCW 43.72.900.*

*(16) Upon every person engaging within this state in the business of making sales at wholesale of seed conditioned for use in planting; the tax imposed shall be equal to the gross proceeds derived from such sale multiplied by the rate of 0.011 percent.*

*(17) Upon every person engaging within this state in the business of making sales at wholesale of cubed alfalfa or hay; as to such persons the amount of the tax with respect to such business shall be equal to the gross income derived from such sales multiplied by the rate of 0.011 percent.*

\*Sec. 2 was vetoed. See message at end of chapter.

**NEW SECTION.** Sec. 3. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 1997.

Passed the Senate April 8, 1997.

Passed the House April 22, 1997.

Approved by the Governor May 15, 1997, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State May 15, 1997.

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. 5175 entitled:

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

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

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

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

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

## CHAPTER 385

[Second Substitute Senate Bill 5442]

### EXPEDITING REPAIRS DURING FLOODING EMERGENCIES

AN ACT Relating to flood damage reduction; and amending RCW 75.20.100.

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

**Sec. 1.** RCW 75.20.100 and 1993 sp.s. c 2 s 30 are each amended to read as follows:

(1) In the event that any person or government agency desires to construct any form of hydraulic project or perform other work that will use, divert, obstruct, or change the natural flow or bed of any of the salt or fresh waters of the state, such person or government agency shall, before commencing construction or work thereon and to ensure the proper protection of fish life, secure the ~~((written))~~ approval of the department as to the adequacy of the means proposed for the protection of fish life. This approval shall not be unreasonably withheld.

(2)(a) Except as provided in RCW 75.20.1001 ~~((and 75.20.1002))~~, the department shall grant or deny approval of a standard permit within forty-five calendar days of the receipt of a complete application and notice of compliance with any applicable requirements of the state environmental policy act, made in the manner prescribed in this section.

(b) The applicant may document receipt of application by filing in person or by registered mail. A complete application for approval shall contain general plans for the overall project, complete plans and specifications of the proposed construction or work within the mean higher high water line in salt water or within the ordinary high water line in fresh water, and complete plans and specifications for the proper protection of fish life.

(c) The forty-five day requirement shall be suspended if ~~((+))~~;

(i) After ten working days of receipt of the application, the applicant remains unavailable or unable to arrange for a timely field evaluation of the proposed project;  
 ((2)) (ii) The site is physically inaccessible for inspection; or  
 ((3)) (iii) The applicant requests delay. Immediately upon determination that the forty-five day period is suspended, the department shall notify the applicant in writing of the reasons for the delay.

(d) For purposes of this section, "standard permit" means a written permit issued by the department when the conditions under subsections (3) and (6)(b) of this section are not met.

(3)(a) The department may issue an expedited written permit in those instances where normal permit processing would result in significant hardship for the applicant or unacceptable damage to the environment. In cases of imminent danger, the department shall issue an expedited written permit, upon request, for work to repair existing structures, move obstructions, restore banks, protect property, or protect fish resources. Expedited permit requests require a complete written application as provided in subsection (2)(b) of this section and shall be issued within fifteen calendar days of the receipt of a complete written application. Approval of an expedited permit is valid for up to sixty days from the date of issuance.

(b) For the purposes of this subsection, "imminent danger" means a threat by weather, water flow, or other natural conditions that is likely to occur within sixty days of a request for a permit application.

(c) The department may not require the provisions of the state environmental policy act, chapter 43.21C RCW, to be met as a condition of issuing a permit under this subsection.

(d) The department or the county legislative authority may determine if an imminent danger exists. The county legislative authority shall notify the department, in writing, if it determines that an imminent danger exists.

(4) Approval of a standard permit is valid for a period of up to five years from date of issuance. The permittee must demonstrate substantial progress on construction of that portion of the project relating to the approval within two years of the date of issuance. If the department denies approval, the department shall provide the applicant, in writing, a statement of the specific reasons why and how the proposed project would adversely affect fish life. Protection of fish life shall be the only ground upon which approval may be denied or conditioned. Chapter 34.05 RCW applies to any denial of project approval, conditional approval, or requirements for project modification upon which approval may be contingent.

(5) If any person or government agency commences construction on any hydraulic works or projects subject to this section without first having obtained ((written)) approval of the department as to the adequacy of the means proposed for the protection of fish life, or if any person or government agency fails to follow or carry out any of the requirements or conditions as are made a part of such approval, the person or director of the agency is guilty of a gross misdemeanor.

If any such person or government agency is convicted of violating any of the provisions of this section and continues construction on any such works or projects without fully complying with the provisions hereof, such works or projects are hereby declared a public nuisance and shall be subject to abatement as such.

~~((For the purposes of this section and RCW 75.20.103, "bed" shall mean the land below the ordinary high water lines of state waters. This definition shall not include irrigation ditches, canals, storm water run-off devices, or other artificial watercourses except where they exist in a natural watercourse that has been altered by man.~~

~~The phrase "to construct any form of hydraulic project or perform other work" shall not include the act of driving across an established ford. Driving across streams or on wetted stream beds at areas other than established fords requires approval. Work within the ordinary high water line of state waters to construct or repair a ford or crossing requires approval.))~~

(6)(a) In case of an emergency arising from weather or stream flow conditions or other natural conditions, the department, through its authorized representatives, shall issue immediately, upon request, oral approval for removing any obstructions, repairing existing structures, restoring stream banks, or to protect property threatened by the stream or a change in the stream flow without the necessity of obtaining a written approval prior to commencing work. Conditions of an oral approval to protect fish life shall be established by the department and reduced to writing within thirty days and complied with as provided for in this section. Oral approval shall be granted immediately, upon request, for a stream crossing during an emergency situation.

(b) For purposes of this section and RCW 75.20.103, "emergency" means an immediate threat to life, the public, property, or of environmental degradation.

(c) The department or the county legislative authority may declare and continue an emergency when one or more of the criteria under (b) of this subsection are met. The county legislative authority shall immediately notify the department if it declares an emergency under this subsection.

(7) The department shall, at the request of a county, develop five-year maintenance approval agreements, consistent with comprehensive flood control management plans adopted under the authority of RCW 86.12.200, or other watershed plan approved by a county legislative authority, to allow for work on public and private property for bank stabilization, bridge repair, removal of sand bars and debris, channel maintenance, and other flood damage repair and reduction activity under agreed-upon conditions and times without obtaining permits for specific projects.

(8) This section shall not apply to the construction of any form of hydraulic project or other work which diverts water for agricultural irrigation or stock watering purposes authorized under or recognized as being valid by the state's water codes, or when such hydraulic project or other work is associated with streambank stabilization to protect farm and agricultural land as defined in RCW

84.34.020. These irrigation or stock watering diversion and streambank stabilization projects shall be governed by RCW 75.20.103.

(9) For the purposes of this section and RCW 75.20.103, "bed" means the land below the ordinary high water lines of state waters. This definition does not include irrigation ditches, canals, storm water run-off devices, or other artificial watercourses except where they exist in a natural watercourse that has been altered by man.

(10) The phrase "to construct any form of hydraulic project or perform other work" does not include the act of driving across an established ford. Driving across streams or on wetted stream beds at areas other than established fords requires approval. Work within the ordinary high water line of state waters to construct or repair a ford or crossing requires approval.

Passed the Senate April 23, 1997.

Passed the House April 9, 1997.

Approved by the Governor May 15, 1997.

Filed in Office of Secretary of State May 15, 1997.

---

## CHAPTER 386

[Engrossed Second Substitute Senate Bill 5710]

### JUVENILE CARE AND TREATMENT—REVISIONS

AN ACT Relating to reform of social and health services; amending RCW 41.06.076, 13.34.030, 13.34.245, 13.50.010, 13.50.100, 26.44.015, 26.44.020, 26.44.030, 26.44.035, 26.44.040, 26.44.053, 26.44.060, 70.124.040, 70.129.030, 74.13.031, 74.15.030, 74.34.050, 74.34.070, 13.34.090, 13.34.120, 43.43.700, 43.20A.050, 41.64.100, 26.44.020, 13.40.460, 82.08.02915, 82.12.02915, and 13.32A.080; reenacting and amending RCW 13.34.130, 13.04.030, 13.34.180, and 43.43.840; adding a new section to chapter 41.06 RCW; adding new sections to chapter 43.20A RCW; adding new sections to chapter 74.13 RCW; adding a new section to chapter 13.34 RCW; adding a new section to chapter 71A.10 RCW; adding a new section to chapter 26.44 RCW; adding a new section to chapter 13.40 RCW; adding a new chapter to Title 74 RCW; adding a new chapter to Title 26 RCW; creating new sections; repealing RCW 43.06A.040; providing effective dates; providing expiration dates; and declaring an emergency.

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

**Sec. 1.** RCW 41.06.076 and 1993 c 281 s 22 are each amended to read as follows:

In addition to the exemptions set forth in RCW 41.06.070, the provisions of this chapter shall not apply in the department of social and health services to the secretary; the secretary's executive assistant, if any; not to exceed six assistant secretaries, thirteen division directors, six regional directors; one confidential secretary for each of the above-named officers; not to exceed six bureau chiefs; all social worker V positions; and all superintendents of institutions of which the average daily population equals or exceeds one hundred residents: **PROVIDED**, That each such confidential secretary must meet the minimum qualifications for the class of secretary II as determined by the Washington personnel resources board.

This section expires June 30, 2005.

**\*NEW SECTION.** Sec. 2. A new section is added to chapter 41.06 RCW to read as follows:

*The salary and fringe benefits of all social worker V positions created under RCW 41.06.076 shall be determined by the Washington personnel resources board. In establishing the salary and fringe benefits the board shall consider: (1) The consequences of extended travel and out of home living; (2) the importance to the department of caseload reduction and increased efficiencies; (3) the requirements of and qualifications involved in caseworker training; (4) the complexity of the work requirements; and (5) the desirability of avoiding employee turnover in these positions.*

*The salary and fringe benefits shall exceed that of the highest position in the social worker classification on the effective date of this section.*

\*Sec. 2 was vetoed. See message at end of chapter.

**\*NEW SECTION.** Sec. 3. A new section is added to chapter 43.20A RCW to read as follows:

*There is created in the department the classification of social worker V. Employees who are appointed to fill the position shall have: (1) An employment history that demonstrates significant and successful experience in the efficient investigation and resolution of high-risk or complex cases involving child abuse and neglect, including child sex abuse cases; (2) advanced education and training; (3) supervisory experience; (4) a demonstrated commitment to professional improvement and advancement; and (5) capacity to successfully provide support and mentoring to coworkers. Social worker V positions shall not be included in the Washington management service. This classification shall not have more than twenty-one positions. The department shall perform the duties assigned under sections 3 through 5 of this act and RCW 41.06.076 within existing personnel resources.*

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

**\*NEW SECTION.** Sec. 4. A new section is added to chapter 43.20A RCW to read as follows:

*The secretary shall establish the most cost-effective and efficient administrative structure for use of the social worker V positions, consistent with the requirements of this section. The social worker V employees shall be assigned by the secretary to regions where the average child protective services' caseloads exceed the state-wide average, with consideration also given to the number of high-risk or complex cases in a region, for the purpose of assisting in the reduction of the caseload, training and mentoring other caseworkers, and providing hands-on training and assistance in high-risk, complex, or large cases. The social worker V employees shall be assigned high-risk and complex cases consistent with their qualifications and the goal of caseload reduction. They shall carry no more than one-third the average number of cases for social workers in the region to which they are assigned.*

*The social worker V employees shall be assigned to region as a task force consisting of no less than seven employees. The assignment shall be time-limited and in no event shall exceed two years in duration in any one region. Upon completion of the work in the region the task force members shall continue to remain in contact with the coworkers from the previous assignment for a period of twelve months to perform additional follow-up and mentoring. The department shall perform the duties assigned under sections 3 through 5 of this act and RCW 41.06.076 within existing personnel resources.*

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

**NEW SECTION.** Sec. 5. A new section is added to chapter 43.20A RCW to read as follows:

The secretary shall develop a plan for implementation for the social worker V employees. The implementation plan shall be submitted to the governor and the legislature by December 1, 1997. The department shall begin implementation of the plan beginning April 1, 1998. The department shall perform the duties assigned under sections 3 through 5 of this act and RCW 41.06.076 within existing personnel resources.

**\*NEW SECTION.** Sec. 6. A new section is added to chapter 43.20A RCW to read as follows:

*Sections 2 through 5 of this act expire June 30, 2005.*

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

Sec. 7. RCW 13.34.030 and 1995 c 311 s 23 are each amended to read as follows:

For purposes of this chapter:

(1) "Child" and "juvenile" means any individual under the age of eighteen years.

(2) "Current placement episode" means the period of time that begins with the most recent date that the child was removed from the home of the parent, guardian, or legal custodian for purposes of placement in out-of-home care and continues until the child returns home, an adoption decree or guardianship order is entered, or the dependency is dismissed, whichever occurs soonest. If the most recent date of removal occurred prior to the filing of a dependency petition under this chapter or after filing but prior to entry of a disposition order, such time periods shall be included when calculating the length of a child's current placement episode.

(3) "Dependency guardian" means the person, nonprofit corporation, or Indian tribe appointed by the court pursuant to RCW 13.34.232 for the limited purpose of assisting the court in the supervision of the dependency.

(4) "Dependent child" means any child:

(a) Who has been abandoned; that is, where the child's parent, guardian, or other custodian has expressed either by statement or conduct, an intent to forego, for an extended period, parental rights or parental responsibilities despite an ability to do so. If the court finds that the petitioner has exercised due diligence in attempting to locate the parent, no contact between the child and the child's parent,

guardian, or other custodian for a period of three months creates a rebuttable presumption of abandonment, even if there is no expressed intent to abandon;

(b) Who is abused or neglected as defined in chapter 26.44 RCW by a person legally responsible for the care of the child; or

(c) Who has no parent, guardian, or custodian capable of adequately caring for the child, such that the child is in circumstances which constitute a danger of substantial damage to the child's psychological or physical development((~~or~~

~~—(d) Who has a developmental disability, as defined in RCW 71A.10.020 and whose parent, guardian, or legal custodian together with the department determines that services appropriate to the child's needs can not be provided in the home. However, (a), (b), and (c) of this subsection may still be applied if other reasons for removal of the child from the home exist).~~

(5) "Guardian" means the person or agency that: (a) Has been appointed as the guardian of a child in a legal proceeding other than a proceeding under this chapter; and (b) has the legal right to custody of the child pursuant to such appointment. The term "guardian" shall not include a "dependency guardian" appointed pursuant to a proceeding under this chapter.

(6) "Guardian ad litem" means a person, appointed by the court to represent the best interest of a child in a proceeding under this chapter, or in any matter which may be consolidated with a proceeding under this chapter. A "court-appointed special advocate" appointed by the court to be the guardian ad litem for the child, or to perform substantially the same duties and functions as a guardian ad litem, shall be deemed to be guardian ad litem for all purposes and uses of this chapter.

(7) "Guardian ad litem program" means a court-authorized volunteer program, which is or may be established by the superior court of the county in which such proceeding is filed, to manage all aspects of volunteer guardian ad litem representation for children alleged or found to be dependent. Such management shall include but is not limited to: Recruitment, screening, training, supervision, assignment, and discharge of volunteers.

(8) "Out-of-home care" means placement in a foster family home or group care facility licensed pursuant to chapter 74.15 RCW or placement in a home, other than that of the child's parent, guardian, or legal custodian, not required to be licensed pursuant to chapter 74.15 RCW.

(9) "Preventive services" means preservation services, as defined in chapter 74.14C RCW, and other reasonably available services capable of preventing the need for out-of-home placement while protecting the child.

**\*Sec. 8. RCW 13.34.130 and 1995 c 313 s 2, 1995 c 311 s 19, and 1995 c 53 s 1 are each reenacted and amended to read as follows:**

***If, after a fact-finding hearing pursuant to RCW 13.34.110, it has been proven by a preponderance of the evidence that the child is dependent within the meaning of RCW 13.34.030; after consideration of the predisposition report prepared pursuant to RCW 13.34.110 and after a disposition hearing has been***

*held pursuant to RCW 13.34.110, the court shall enter an order of disposition pursuant to this section.*

*(1) The court shall order one of the following dispositions of the case:*

*(a) Order a disposition other than removal of the child from his or her home, which shall provide a program designed to alleviate the immediate danger to the child, to mitigate or cure any damage the child has already suffered, and to aid the parents so that the child will not be endangered in the future. In selecting a program, the court should choose those services that least interfere with family autonomy, provided that the services are adequate to protect the child.*

*(b) Order that the child be removed from his or her home and ordered into the custody, control, and care of a relative or the department of social and health services or a licensed child placing agency for placement in a foster family home or group care facility licensed pursuant to chapter 74.15 RCW or in a home not required to be licensed pursuant to chapter 74.15 RCW. Unless there is reasonable cause to believe that the safety or welfare of the child would be jeopardized or that efforts to reunite the parent and child will be hindered, such child shall be placed with a person who is related to the child as defined in RCW 74.15.020(4)(a) and with whom the child has a relationship and is comfortable, and who is willing and available to care for the child. Placement of the child with a relative under this subsection shall be given preference by the court. An order for out-of-home placement may be made only if the court finds that reasonable efforts have been made to prevent or eliminate the need for removal of the child from the child's home and to make it possible for the child to return home, specifying the services that have been provided to the child and the child's parent, guardian, or legal custodian, and that preventive services have been offered or provided and have failed to prevent the need for out-of-home placement, unless the health, safety, and welfare of the child cannot be protected adequately in the home, and that:*

*(i) There is no parent or guardian available to care for such child;*

*(ii) The parent, guardian, or legal custodian is not willing to take custody of the child;*

*(iii) The court finds, by clear and convincing evidence, a manifest danger exists that the child will suffer serious abuse or neglect if the child is not removed from the home and an order under RCW 26.44.063 would not protect the child from danger; or*

*(iv) The extent of the child's disability is such that the parent, guardian, or legal custodian is unable to provide the necessary care for the child and the parent, guardian, or legal custodian has determined that the child would benefit from placement outside of the home.*

*(2) If the court has ordered a child removed from his or her home pursuant to subsection (1)(b) of this section, the court may order that a petition seeking termination of the parent and child relationship be filed if the court finds it is*

*recommended by the supervising agency, that it is in the best interests of the child and that it is not reasonable to provide further services to reunify the family because the existence of aggravated circumstances make it unlikely that services will effectuate the return of the child to the child's parents in the near future. In determining whether aggravated circumstances exist, the court shall consider one or more of the following:*

*(a) Conviction of the parent of rape of the child in the first, second, or third degree as defined in RCW 9A.44.073, 9A.44.076, and 9A.44.079;*

*(b) Conviction of the parent of criminal mistreatment of the child in the first or second degree as defined in RCW 9A.42.020 and 9A.42.030;*

*(c) Conviction of the parent of one of the following assault crimes, when the child is the victim: Assault in the first or second degree as defined in RCW 9A.36.011 and 9A.36.021 or assault of a child in the first or second degree as defined in RCW 9A.36.120 or 9A.36.130;*

*(d) Conviction of the parent of murder, manslaughter, or homicide by abuse of the child's other parent, sibling, or another child;*

*(e) A finding by a court that a parent is a sexually violent predator as defined in RCW 71.09.020;*

*(f) Failure of the parent to complete available treatment ordered under this chapter or the equivalent laws of another state, where such failure has resulted in a prior termination of parental rights to another child and the parent has failed to effect significant change in the interim.*

*(3) Whenever a child is ordered removed from the child's home, the agency charged with his or her care shall provide the court with:*

*(a) A permanency plan of care that shall identify one of the following outcomes as a primary goal and may identify additional outcomes as alternative goals: Return of the child to the home of the child's parent, guardian, or legal custodian; adoption; guardianship; or long-term relative or foster care, until the child is age eighteen, with a written agreement between the parties and the care provider; and independent living, if appropriate and if the child is age sixteen or older. Whenever a permanency plan identifies independent living as a goal, the plan shall also specifically identify the services that will be provided to assist the child to make a successful transition from foster care to independent living. Before the court approves independent living as a permanency plan of care, the court shall make a finding that the provision of services to assist the child in making a transition from foster care to independent living will allow the child to manage his or her financial affairs and to manage his or her personal, social, educational, and nonfinancial affairs. The department shall not discharge a child to an independent living situation before the child is eighteen years of age unless the child becomes emancipated pursuant to chapter 13.64 RCW.*

*(b) Unless the court has ordered, pursuant to subsection (2) of this section, that a termination petition be filed, a specific plan as to where the child will be placed, what steps will be taken to return the child home, and what actions the*

*agency will take to maintain parent-child ties. All aspects of the plan shall include the goal of achieving permanence for the child.*

*(i) The agency plan shall specify what services the parents will be offered in order to enable them to resume custody, what requirements the parents must meet in order to resume custody, and a time limit for each service plan and parental requirement.*

*(ii) The agency shall be required to encourage the maximum parent-child contact possible, including regular visitation and participation by the parents in the care of the child while the child is in placement. Visitation may be limited or denied only if the court determines that such limitation or denial is necessary to protect the child's health, safety, or welfare.*

*(iii) A child shall be placed as close to the child's home as possible, preferably in the child's own neighborhood, unless the court finds that placement at a greater distance is necessary to promote the child's or parents' well-being.*

*(iv) The agency charged with supervising a child in placement shall provide all reasonable services that are available within the agency, or within the community, or those services which the department of social and health services has existing contracts to purchase. It shall report to the court if it is unable to provide such services.*

*(c) If the court has ordered, pursuant to subsection (2) of this section, that a termination petition be filed, a specific plan as to where the child will be placed, what steps will be taken to achieve permanency for the child, services to be offered or provided to the child, and, if visitation would be in the best interests of the child, a recommendation to the court regarding visitation between parent and child pending a fact-finding hearing on the termination petition. The agency shall not be required to develop a plan of services for the parents or provide services to the parents.*

*(4) If there is insufficient information at the time of the disposition hearing upon which to base a determination regarding the suitability of a proposed placement with a relative, the child shall remain in foster care and the court shall direct the supervising agency to conduct necessary background investigations as provided in chapter 74.15 RCW and report the results of such investigation to the court within thirty days. However, if such relative appears otherwise suitable and competent to provide care and treatment, the criminal history background check need not be completed before placement, but as soon as possible after placement. Any placements with relatives, pursuant to this section, shall be contingent upon cooperation by the relative with the agency case plan and compliance with court orders related to the care and supervision of the child including, but not limited to, court orders regarding parent-child contacts and any other conditions imposed by the court. Noncompliance with the case plan or court order shall be grounds for removal of the child from the relative's home, subject to review by the court.*

*(5) Except for children whose cases are reviewed by a citizen review board under chapter 13.70 RCW, the status of all children found to be dependent shall be reviewed by the court at least every six months from the beginning date of the placement episode or the date dependency is established, whichever is first, at a hearing in which it shall be determined whether court supervision should continue. The review shall include findings regarding the agency and parental completion of disposition plan requirements, and if necessary, revised permanency time limits.*

*(a) A child shall not be returned home at the review hearing unless the court finds that a reason for removal as set forth in this section no longer exists. The parents, guardian, or legal custodian shall report to the court the efforts they have made to correct the conditions which led to removal. If a child is returned, casework supervision shall continue for a period of six months, at which time there shall be a hearing on the need for continued intervention.*

*(b) If the child is not returned home, the court shall establish in writing:*

*(i) Whether reasonable services have been provided to or offered to the parties to facilitate reunion, specifying the services provided or offered;*

*(ii) Whether the child has been placed in the least-restrictive setting appropriate to the child's needs, including whether consideration and preference has been given to placement with the child's relatives;*

*(iii) Whether there is a continuing need for placement and whether the placement is appropriate;*

*(iv) Whether there has been compliance with the case plan by the child, the child's parents, and the agency supervising the placement;*

*(v) Whether progress has been made toward correcting the problems that necessitated the child's placement in out-of-home care;*

*(vi) Whether the parents have visited the child and any reasons why visitation has not occurred or has been infrequent;*

*(vii) Whether additional services are needed to facilitate the return of the child to the child's parents; if so, the court shall order that reasonable services be offered specifying such services; and*

*(viii) The projected date by which the child will be returned home or other permanent plan of care will be implemented.*

*(c) The court at the review hearing may order that a petition seeking termination of the parent and child relationship be filed.*

*\*Sec. 8 was vetoed. See message at end of chapter.*

**NEW SECTION.** Sec. 9. As used in this chapter, "alternative response system" means voluntary family-centered services that are: (1) Provided by an entity with which the department contracts; and (2) intended to increase the strengths and cohesiveness of families that the department determines present a low risk of child abuse or neglect.

**NEW SECTION.** Sec. 10. (1) The department shall contract for delivery of services for at least two but not more than three models of alternative response

systems. The services shall be reasonably available throughout the state but need not be sited in every county in the state, subject to such conditions and limitations as may be specified in the omnibus appropriations act.

(2) The systems shall provide delivery of services in the least intrusive manner reasonably likely to achieve improved family cohesiveness, prevention of rereferrals of the family for alleged abuse or neglect, and improvement in the health and safety of children.

(3) The department shall identify and prioritize risk and protective factors associated with the type of abuse or neglect referrals that are appropriate for services delivered by alternative response systems. Contractors who provide services through an alternative response system shall use the factors in determining which services to deliver, consistent with the provisions of subsection (2) of this section.

(4) Consistent with the provisions of chapter 26.44 RCW, the providers of services under the alternative response system shall recognize the due process rights of families that receive such services and recognize that these services are not intended to be investigative for purposes of chapter 13.34 RCW.

**NEW SECTION.** **Sec. 11.** The department shall identify appropriate data to determine and evaluate outcomes of the services delivered by the alternative response systems. All contracts for delivery of alternative response system services shall include provisions and funding for data collection.

**NEW SECTION.** **Sec. 12.** (1) The court may, upon the entry of an order under this chapter, order the delivery of services through any appropriate public or private provider.

(2) This section may not be construed as allowing the court to require the department to pay for the cost of any services provided under this section.

**NEW SECTION.** **Sec. 13.** This chapter expires July 1, 2005.

***\*NEW SECTION. Sec. 14. The legislature intends to consolidate all services provided to children with developmental disabilities through the department of social and health services in the division of developmental disabilities. The legislature also intends to provide a discrete, separate process for children with developmental disabilities who require home-based or out-of-home care that complies with the federal requirements for receipt of federal funds for services under Title IV-B and Title IV-E of the social security act. The legislature intends by this act to minimize the embarrassment and inconvenience of children with developmental disabilities and their families caused by complying with these federal requirements.***

**\*Sec. 14 was vetoed. See message at end of chapter.**

**NEW SECTION.** **Sec. 15.** A new section is added to chapter 74.13 RCW to read as follows:

As used in this chapter, "developmentally disabled dependent child" is a child who has a developmental disability as defined in RCW 71A.10.020 and whose

parent, guardian, or legal custodian and with the department mutually agree that services appropriate to the child's needs can not be provided in the home.

**NEW SECTION.** Sec. 16. A new section is added to chapter 74.13 RCW to read as follows:

It is the intent of the legislature that parents are responsible for the care and support of children with developmental disabilities. The legislature recognizes that, because of the intense support required to care for a child with developmental disabilities, the help of an out-of-home placement may be needed. It is the intent of the legislature that, when the sole reason for the out-of-home placement is the child's developmental disability, such services be offered by the department to these children and their families through a voluntary placement agreement. In these cases, the parents shall retain legal custody of the child.

As used in this section, "voluntary placement agreement" means a written agreement between the department and a child's parent or legal guardian authorizing the department to place the child in a licensed facility. Under the terms of this agreement, the parent or legal guardian shall retain legal custody and the department shall be responsible for the child's placement and care. The agreement shall at a minimum specify the legal status of the child and the rights and obligations of the parent or legal guardian, the child, and the department while the child is in placement. The agreement must be signed by the child's parent or legal guardian and the department to be in effect, except that an agreement regarding an Indian child shall not be valid unless executed in writing before the court and filed with the court as provided in RCW 13.34.245. Any party to a voluntary placement agreement may terminate the agreement at any time. Upon termination of the agreement, the child shall be returned to the care of the child's parent or legal guardian unless the child has been taken into custody pursuant to RCW 13.34.050 or 26.44.050, placed in shelter care pursuant to RCW 13.34.060, or placed in foster care pursuant to RCW 13.34.130.

As used in this section, "out-of-home placement" and "out-of-home care" mean the placement of a child in a foster family home or group care facility licensed under chapter 74.15 RCW.

Whenever the department places a child in out-of-home care under a voluntary placement pursuant to this section, the department shall have the responsibility for the child's placement and care. The department shall develop a permanency plan of care for the child no later than sixty days from the date that the department assumes responsibility for the child's placement and care. Within the first one hundred eighty days of the placement, the department shall obtain a judicial determination pursuant to RCW 13.04.030(1)(j) and section 19 of this act that the placement is in the best interests of the child. The permanency planning hearings shall review whether the child's best interests are served by continued out-of-home placement and determine the future legal status of the child.

The department shall provide for periodic administrative reviews as required by federal law. A review may be called at any time by either the department, the parent, or the legal guardian.

Nothing in this section shall prevent the department from filing a dependency petition if there is reason to believe that the child is a dependent child as defined in RCW 13.34.030.

The department shall adopt rules providing for the implementation of this act and the transfer of responsibility for out-of-home placements from the dependency process under chapter 13.34 RCW to the process under this chapter.

**See. 17.** RCW 13.04.030 and 1995 c 312 s 39 and 1995 c 311 s 15 are each reenacted and amended to read as follows:

(1) Except as provided in subsection (2) of this section, the juvenile courts in the several counties of this state(;) shall have exclusive original jurisdiction over all proceedings:

(a) Under the interstate compact on placement of children as provided in chapter 26.34 RCW;

(b) Relating to children alleged or found to be dependent as provided in chapter 26.44 RCW and in RCW 13.34.030 through 13.34.170;

(c) Relating to the termination of a parent and child relationship as provided in RCW 13.34.180 through 13.34.210;

(d) To approve or disapprove out-of-home placement as provided in RCW 13.32A.170;

(e) Relating to juveniles alleged or found to have committed offenses, traffic infractions, or violations as provided in RCW 13.40.020 through 13.40.230, unless:

(i) The juvenile court transfers jurisdiction of a particular juvenile to adult criminal court pursuant to RCW 13.40.110; or

(ii) The statute of limitations applicable to adult prosecution for the offense, traffic infraction, or violation has expired; or

(iii) The alleged offense or infraction is a traffic, fish, boating, or game offense or traffic infraction committed by a juvenile sixteen years of age or older and would, if committed by an adult, be tried or heard in a court of limited jurisdiction, in which instance the appropriate court of limited jurisdiction shall have jurisdiction over the alleged offense or infraction: **PROVIDED**, That if such an alleged offense or infraction and an alleged offense or infraction subject to juvenile court jurisdiction arise out of the same event or incident, the juvenile court may have jurisdiction of both matters: **PROVIDED FURTHER**, That the jurisdiction under this subsection does not constitute "transfer" or a "decline" for purposes of RCW 13.40.110(1) or (e)(i) of this subsection: **PROVIDED FURTHER**, That courts of limited jurisdiction which confine juveniles for an alleged offense or infraction may place juveniles in juvenile detention facilities under an agreement with the officials responsible for the administration of the juvenile detention facility in RCW 13.04.035 and 13.20.060; or

(iv) The juvenile is sixteen or seventeen years old and the alleged offense is: (A) A serious violent offense as defined in RCW 9.94A.030 committed on or after June 13, 1994; or (B) a violent offense as defined in RCW 9.94A.030 committed on or after June 13, 1994, and the juvenile has a criminal history consisting of: (I) One or more prior serious violent offenses; (II) two or more prior violent offenses; or (III) three or more of any combination of the following offenses: Any class A felony, any class B felony, vehicular assault, or manslaughter in the second degree, all of which must have been committed after the juvenile's thirteenth birthday and prosecuted separately. In such a case the adult criminal court shall have exclusive original jurisdiction.

If the juvenile challenges the state's determination of the juvenile's criminal history, the state may establish the offender's criminal history by a preponderance of the evidence. If the criminal history consists of adjudications entered upon a plea of guilty, the state shall not bear a burden of establishing the knowing and voluntariness of the plea;

(f) Under the interstate compact on juveniles as provided in chapter 13.24 RCW;

(g) Relating to termination of a diversion agreement under RCW 13.40.080, including a proceeding in which the diveree has attained eighteen years of age;

(h) Relating to court validation of a voluntary consent to an out-of-home placement under chapter 13.34 RCW, by the parent or Indian custodian of an Indian child, except if the parent or Indian custodian and child are residents of or domiciled within the boundaries of a federally recognized Indian reservation over which the tribe exercises exclusive jurisdiction; ~~((and))~~

(i) Relating to petitions to compel disclosure of information filed by the department of social and health services pursuant to RCW 74.13.042; and

(j) Relating to judicial determinations and permanency planning hearings involving developmentally disabled children who have been placed in out-of-home care pursuant to a voluntary placement agreement between the child's parent, guardian, or legal custodian and the department of social and health services.

(2) The family court shall have concurrent original jurisdiction with the juvenile court over all proceedings under this section if the superior court judges of a county authorize concurrent jurisdiction as provided in RCW 26.12.010.

(3) A juvenile subject to adult superior court jurisdiction under subsection (1)(e) (i) through (iv) of this section, who is detained pending trial, may be detained in a county detention facility as defined in RCW 13.40.020 pending sentencing or a dismissal.

**Sec. 18.** RCW 13.34.245 and 1987 c 170 s 2 are each amended to read as follows:

(1) Where any parent or Indian custodian voluntarily consents to foster care placement of an Indian child and a petition for dependency has not been filed regarding the child, such consent shall not be valid unless executed in writing before the court and filed with the court. The consent shall be accompanied by the

written certification of the court that the terms and consequences of the consent were fully explained in detail to the parent or Indian custodian during the court proceeding and were fully understood by the parent or Indian custodian. The court shall also certify in writing either that the parent or Indian custodian fully understood the explanation in English or that it was interpreted into a language that the parent or Indian custodian understood. Any consent given prior to, or within ten days after, the birth of the Indian child shall not be valid.

(2) To obtain court validation of a voluntary consent to foster care placement, any person may file a petition for validation alleging that there is located or residing within the county an Indian child whose parent or Indian custodian wishes to voluntarily consent to foster care placement of the child and requesting that the court validate the consent as provided in this section. The petition shall contain the name, date of birth, and residence of the child, the names and residences of the consenting parent or Indian custodian, and the name and location of the Indian tribe in which the child is a member or eligible for membership. The petition shall state whether the placement preferences of 25 U.S.C. Sec. 1915 (b) or (c) will be followed. Reasonable attempts shall be made by the petitioner to ascertain and set forth in the petition the identity, location, and custodial status of any parent or Indian custodian who has not consented to foster care placement and why that parent or Indian custodian cannot assume custody of the child.

(3) Upon filing of the petition for validation, the clerk of the court shall schedule the petition for a hearing on the court validation of the voluntary consent no later than forty-eight hours after the petition has been filed, excluding Saturdays, Sundays, and holidays. Notification of time, date, location, and purpose of the validation hearing shall be provided as soon as possible to the consenting parent or Indian custodian, the department or other child-placing agency which is to assume ~~((custody of the child))~~ responsibility for the child's placement and care pursuant to the consent to foster care placement, and the Indian tribe in which the child is enrolled or eligible for enrollment as a member. If the identity and location of any nonconsenting parent or Indian custodian is known, reasonable attempts shall be made to notify the parent or Indian custodian of the consent to placement and the validation hearing. Notification under this subsection may be given by the most expedient means, including, but not limited to, mail, personal service, telephone, and telegraph.

(4) Any parent or Indian custodian may withdraw consent to a voluntary foster care placement, made under this section, at any time. Unless the Indian child has been taken in custody pursuant to RCW 13.34.050 or 26.44.050, placed in shelter care pursuant to RCW 13.34.060, or placed in foster care pursuant to RCW 13.34.130, the Indian child shall be returned to the parent or Indian custodian upon withdrawal of consent to foster care placement of the child.

(5) Upon termination of the voluntary foster care placement and return of the child to the parent or Indian custodian, the department or other child-placing agency which had assumed ~~((custody of the child))~~ responsibility for the child's

placement and care pursuant to the consent to foster care placement shall file with the court written notification of the child's return and shall also send such notification to the Indian tribe in which the child is enrolled or eligible for enrollment as a member and to any other party to the validation proceeding including any noncustodial parent.

**NEW SECTION.** Sec. 19. A new section is added to chapter 13.34 RCW to read as follows:

(1) Whenever the department of social and health services places a developmentally disabled child in out-of-home care pursuant to section 16 of this act, the department shall obtain a judicial determination within one hundred eighty days of the placement that continued placement is in the best interests of the child.

(2) To obtain the judicial determination, the department shall file a petition alleging that there is located or residing within the county a child who has a developmental disability, as defined in RCW 71A.10.020, and that the child has been placed in out-of-home care pursuant to section 16 of this act. The petition shall request that the court review the child's placement, make a determination that continued placement is in the best interests of the child, and take other necessary action as provided in this section. The petition shall contain the name, date of birth, and residence of the child and the names and residences of the child's parent or legal guardian who has agreed to the child's placement in out-of-home care. Reasonable attempts shall be made by the department to ascertain and set forth in the petition the identity, location, and custodial status of any parent who is not a party to the placement agreement and why that parent cannot assume custody of the child.

(3) Upon filing of the petition, the clerk of the court shall schedule the petition for a hearing to be held no later than fourteen calendar days after the petition has been filed. The department shall provide notification of the time, date, and purpose of the hearing to the parent or legal guardian who has agreed to the child's placement in out-of-home care. The department shall also make reasonable attempts to notify any parent who is not a party to the placement agreement, if the parent's identity and location is known. Notification under this section may be given by the most expedient means, including but not limited to, mail, personal service, telephone, and telegraph.

(4) The court shall appoint a guardian ad litem for the child as provided in RCW 13.34.100, unless the court for good cause finds the appointment unnecessary.

(5) Permanency planning hearings shall be held as provided in this subsection. At the hearing, the court shall review whether the child's best interests are served by continued out-of-home placement and determine the future legal status of the child.

(a) For children age ten and under, a permanency planning hearing shall be held in all cases where the child has remained in out-of-home care for at least nine months and an adoption decree or guardianship order has not previously been

entered. The hearing shall take place no later than twelve months following commencement of the child's current placement episode.

(b) For children over age ten, a permanency planning hearing shall be held in all cases where the child has remained in out-of-home care for at least fifteen months and an adoption decree or guardianship order has not previously been entered. The hearing shall take place no later than eighteen months following commencement of the current placement episode.

(c) No later than ten working days before the permanency planning hearing, the department shall submit a written permanency plan to the court and shall mail a copy of the plan to all parties. The plan shall be directed toward securing a safe, stable, and permanent home for the child as soon as possible. The plan shall identify one of the following outcomes as the primary goal and may also identify additional outcomes as alternative goals: Return of the child to the home of the child's parent or legal guardian; adoption; guardianship; or long-term out-of-home care, until the child is age eighteen, with a written agreement between the parties and the child's care provider.

(d) If a goal of long-term out-of-home care has been achieved before the permanency planning hearing, the court shall review the child's status to determine whether the placement and the plan for the child's care remains appropriate. In cases where the primary permanency planning goal has not been achieved, the court shall inquire regarding the reasons why the primary goal has not been achieved and determine what needs to be done to make it possible to achieve the primary goal.

(e) Following the first permanency planning hearing, the court shall hold a further permanency planning hearing in accordance with this section at least once every twelve months until a permanency planning goal is achieved or the voluntary placement agreement is terminated.

(6) Any party to the voluntary placement agreement may terminate the agreement at any time. Upon termination of the agreement, the child shall be returned to the care of the child's parent or legal guardian, unless the child has been taken into custody pursuant to RCW 13.34.050 or 26.44.050, placed in shelter care pursuant to RCW 13.34.060, or placed in foster care pursuant to RCW 13.34.130. The department shall notify the court upon termination of the voluntary placement agreement and return of the child to the care of the child's parent or legal guardian. Whenever a voluntary placement agreement is terminated, an action under this section shall be dismissed.

(7) This section does not prevent the department from filing a dependency petition if there is reason to believe that the child is a dependent child as defined in RCW 13.34.030. An action filed under this section shall be dismissed upon the filing of a dependency petition regarding a child who is the subject of the action under this section.

***\*NEW SECTION. Sec. 20. A new section is added to chapter 71A.10 RCW to read as follows:***

*The department shall consolidate all services provided through the department to children with developmental disabilities in the division of developmental disabilities. The department shall provide for an orderly transfer of staff, equipment, and related responsibilities from the division of children and family services to the division of developmental disabilities. The division of developmental disabilities shall assume responsibilities for children with developmental disabilities under this section no later than April 1, 1998. Any disputes between the division of children and family services and the division of developmental disabilities regarding the transfer of responsibilities under this section shall be resolved by the secretary of the department of social and health services.*

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

**Sec. 21.** RCW 13.50.010 and 1996 c 232 s 6 are each amended to read as follows:

(1) For purposes of this chapter:

(a) "Juvenile justice or care agency" means any of the following: Police, diversion units, court, prosecuting attorney, defense attorney, detention center, attorney general, the legislative children's oversight committee, the office of family and children's ombudsman, the department of social and health services and its contracting agencies, schools; and, in addition, persons or public or private agencies having children committed to their custody;

(b) "Official juvenile court file" means the legal file of the juvenile court containing the petition or information, motions, memorandums, briefs, findings of the court, and court orders;

(c) "Social file" means the juvenile court file containing the records and reports of the probation counselor;

(d) "Records" means the official juvenile court file, the social file, and records of any other juvenile justice or care agency in the case.

(2) Each petition or information filed with the court may include only one juvenile and each petition or information shall be filed under a separate docket number. The social file shall be filed separately from the official juvenile court file.

(3) It is the duty of any juvenile justice or care agency to maintain accurate records. To this end:

(a) The agency may never knowingly record inaccurate information. Any information in records maintained by the department of social and health services relating to a petition filed pursuant to chapter 13.34 RCW that is found by the court, upon proof presented, to be false or inaccurate shall be corrected or expunged from such records by the agency;

(b) An agency shall take reasonable steps to assure the security of its records and prevent tampering with them; and

(c) An agency shall make reasonable efforts to insure the completeness of its records, including action taken by other agencies with respect to matters in its files.

(4) Each juvenile justice or care agency shall implement procedures consistent with the provisions of this chapter to facilitate inquiries concerning records.

(5) Any person who has reasonable cause to believe information concerning that person is included in the records of a juvenile justice or care agency and who has been denied access to those records by the agency may make a motion to the court for an order authorizing that person to inspect the juvenile justice or care agency record concerning that person. The court shall grant the motion to examine records unless it finds that in the interests of justice or in the best interests of the juvenile the records or parts of them should remain confidential.

(6) A juvenile, or his or her parents, or any person who has reasonable cause to believe information concerning that person is included in the records of a juvenile justice or care agency may make a motion to the court challenging the accuracy of any information concerning the moving party in the record or challenging the continued possession of the record by the agency. If the court grants the motion, it shall order the record or information to be corrected or destroyed.

(7) The person making a motion under subsection (5) or (6) of this section shall give reasonable notice of the motion to all parties to the original action and to any agency whose records will be affected by the motion.

(8) The court may permit inspection of records by, or release of information to, any clinic, hospital, or agency which has the subject person under care or treatment. The court may also permit inspection by or release to individuals or agencies, including juvenile justice advisory committees of county law and justice councils, engaged in legitimate research for educational, scientific, or public purposes. The court may also permit inspection of, or release of information from, records which have been sealed pursuant to RCW 13.50.050(11). The court shall release to the sentencing guidelines commission records needed for its research and data-gathering functions under RCW 9.94A.040 and other statutes. Access to records or information for research purposes shall be permitted only if the anonymity of all persons mentioned in the records or information will be preserved. Each person granted permission to inspect juvenile justice or care agency records for research purposes shall present a notarized statement to the court stating that the names of juveniles and parents will remain confidential.

(9) Juvenile detention facilities shall release records to the sentencing guidelines commission under RCW 13.40.025 and 9.94A.040 upon request. The commission shall not disclose the names of any juveniles or parents mentioned in the records without the named individual's written permission.

(10) Requirements in this chapter relating to the court's authority to compel disclosure shall not apply to the legislative children's oversight committee or the office of the family and children's ombudsman.

**Sec. 22.** RCW 13.50.100 and 1995 c 311 s 16 are each amended to read as follows:

(1) This section governs records not covered by RCW 13.50.050.

(2) Records covered by this section shall be confidential and shall be released only pursuant to this section and RCW 13.50.010.

(3) Records retained or produced by any juvenile justice or care agency may be released to other participants in the juvenile justice or care system only when an investigation or case involving the juvenile in question is being pursued by the other participant or when that other participant is assigned the responsibility of supervising the juvenile. Records covered under this section and maintained by the juvenile courts which relate to the official actions of the agency may be entered in the state-wide juvenile court information system.

(4) A juvenile, his or her parents, the juvenile's attorney and the juvenile's parent's attorney, shall, upon request, be given access to all records and information collected or retained by a juvenile justice or care agency which pertain to the juvenile except:

(a) If it is determined by the agency that release of this information is likely to cause severe psychological or physical harm to the juvenile or his or her parents the agency may withhold the information subject to other order of the court: PROVIDED, That if the court determines that limited release of the information is appropriate, the court may specify terms and conditions for the release of the information; or

(b) If the information or record has been obtained by a juvenile justice or care agency in connection with the provision of counseling, psychological, psychiatric, or medical services to the juvenile, when the services have been sought voluntarily by the juvenile, and the juvenile has a legal right to receive those services without the consent of any person or agency, then the information or record may not be disclosed to the juvenile's parents without the informed consent of the juvenile unless otherwise authorized by law; or

(c) That the department of social and health services may delete the name and identifying information regarding persons or organizations who have reported ((suspected)) alleged child abuse or neglect.

(5) A juvenile or his or her parent denied access to any records following an agency determination under subsection (4) of this section may file a motion in juvenile court requesting access to the records. The court shall grant the motion unless it finds access may not be permitted according to the standards found in subsections (4) (a) and (b) of this section.

(6) The person making a motion under subsection (5) of this section shall give reasonable notice of the motion to all parties to the original action and to any agency whose records will be affected by the motion.

(7) Subject to the rules of discovery in civil cases, any party to a proceeding seeking a declaration of dependency or a termination of the parent-child relationship and any party's counsel and the guardian ad litem of any party, shall have access to the records of any natural or adoptive child of the parent, subject to the limitations in subsection (4) of this section. A party denied access to records may request judicial review of the denial. If the party prevails, he or she shall be

awarded attorneys' fees, costs, and an amount not less than five dollars and not more than one hundred dollars for each day the records were wrongfully denied.

**Sec. 23.** RCW 26.44.015 and 1993 c 412 s 11 are each amended to read as follows:

(1) This chapter shall not be construed to authorize interference with child-raising practices, including reasonable parental discipline, which are not injurious to the child's health, welfare, and safety.

(2) Nothing in this chapter may be used to prohibit the reasonable use of corporal punishment as a means of discipline.

(3) No parent or guardian may be deemed abusive or neglectful solely by reason of the parent's or child's blindness, deafness, developmental disability, or other handicap.

(4) A person reporting alleged injury, abuse, or neglect to an adult dependent person shall not suffer negative consequences if the person reporting believes in good faith that the adult dependent person has been found legally incompetent or disabled.

**Sec. 24.** RCW 26.44.020 and 1996 c 178 s 10 are each amended to read as follows:

For the purpose of and as used in this chapter:

(1) "Court" means the superior court of the state of Washington, juvenile department.

(2) "Law enforcement agency" means the police department, the prosecuting attorney, the state patrol, the director of public safety, or the office of the sheriff.

(3) "Practitioner of the healing arts" or "practitioner" means a person licensed by this state to practice podiatric medicine and surgery, optometry, chiropractic, nursing, dentistry, osteopathic medicine and surgery, or medicine and surgery or to provide other health services. The term "practitioner" shall include a duly accredited Christian Science practitioner: PROVIDED, HOWEVER, That a person who is being furnished Christian Science treatment by a duly accredited Christian Science practitioner shall not be considered, for that reason alone, a neglected person for the purposes of this chapter.

(4) "Institution" means a private or public hospital or any other facility providing medical diagnosis, treatment or care.

(5) "Department" means the state department of social and health services.

(6) "Child" or "children" means any person under the age of eighteen years of age.

(7) "Professional school personnel" shall include, but not be limited to, teachers, counselors, administrators, child care facility personnel, and school nurses.

(8) "Social service counselor" shall mean anyone engaged in a professional capacity during the regular course of employment in encouraging or promoting the health, welfare, support or education of children, or providing social services to adults or families, including mental health, drug and alcohol treatment, and

domestic violence programs, whether in an individual capacity, or as an employee or agent of any public or private organization or institution.

(9) "Psychologist" shall mean any person licensed to practice psychology under chapter 18.83 RCW, whether acting in an individual capacity or as an employee or agent of any public or private organization or institution.

(10) "Pharmacist" shall mean any registered pharmacist under the provisions of chapter 18.64 RCW, whether acting in an individual capacity or as an employee or agent of any public or private organization or institution.

(11) "Clergy" shall mean any regularly licensed or ordained minister, priest or rabbi of any church or religious denomination, whether acting in an individual capacity or as an employee or agent of any public or private organization or institution.

(12) "Abuse or neglect" shall mean the injury, sexual abuse, sexual exploitation, negligent treatment, or maltreatment of a child, adult dependent, or developmentally disabled person by any person under circumstances which indicate that the child's or adult's health, welfare, and safety is harmed, excluding conduct permitted under RCW 9A.16.100. An abused child is a child who has been subjected to child abuse or neglect as defined herein.

(13) "Child protective services section" shall mean the child protective services section of the department.

(14) "Adult dependent persons" shall be defined as those persons over the age of eighteen years who have been found to be legally incompetent or disabled pursuant to chapter 11.88 RCW.

(15) "Sexual exploitation" includes: (a) Allowing, permitting, or encouraging a child to engage in prostitution by any person; or (b) allowing, permitting, encouraging, or engaging in the obscene or pornographic photographing, filming, or depicting of a child by any person.

(16) "Negligent treatment or maltreatment" means an act or omission which evidences a serious disregard of consequences of such magnitude as to constitute a clear and present danger to the child's health, welfare, and safety.

(17) "Developmentally disabled person" means a person who has a disability defined in RCW 71A.10.020.

(18) "Child protective services" means those services provided by the department designed to protect children from child abuse and neglect and safeguard the general welfare of such children and shall include investigations of child abuse and neglect reports, including reports regarding child care centers and family child care homes, and the development, management, and provision of or referral to services to ameliorate conditions which endanger the welfare of children, the coordination of necessary programs and services relevant to the prevention, intervention, and treatment of child abuse and neglect, and services to children to ensure that each child has a permanent home. In determining whether protective services should be provided, the department shall not decline to provide

such services solely because of the child's unwillingness or developmental inability to describe the nature and severity of the abuse or neglect.

(19) "Malice" or "maliciously" means an evil intent, wish, or design to vex, annoy, or injure another person. Such malice may be inferred from an act done in wilful disregard of the rights of another, or an act wrongfully done without just cause or excuse, or an act or omission of duty betraying a wilful disregard of social duty.

(20) "Sexually aggressive youth" means a child who is defined in RCW 74.13.075(1)(b) as being a "sexually aggressive youth."

**Sec. 25.** RCW 26.44.030 and 1996 c 278 s 2 are each amended to read as follows:

(1)(a) When any practitioner, county coroner or medical examiner, law enforcement officer, professional school personnel, registered or licensed nurse, social service counselor, psychologist, pharmacist, licensed or certified child care providers or their employees, employee of the department, ~~((or))~~ juvenile probation officer, or state family and children's ombudsman or any volunteer in the ombudsman's office has reasonable cause to believe that a child or adult dependent or developmentally disabled person, has suffered abuse or neglect, he or she shall report such incident, or cause a report to be made, to the proper law enforcement agency or to the department as provided in RCW 26.44.040.

(b) The reporting requirement shall also apply to department of corrections personnel who, in the course of their employment, observe offenders or the children with whom the offenders are in contact. If, as a result of observations or information received in the course of his or her employment, any department of corrections personnel has reasonable cause to believe that a child or adult dependent or developmentally disabled person has suffered abuse or neglect, he or she shall report the incident, or cause a report to be made, to the proper law enforcement agency or to the department as provided in RCW 26.44.040.

(c) The reporting requirement shall also apply to any adult who has reasonable cause to believe that a child or adult dependent or developmentally disabled person, who resides with them, has suffered severe abuse, and is able or capable of making a report. For the purposes of this subsection, "severe abuse" means any of the following: Any single act of abuse that causes physical trauma of sufficient severity that, if left untreated, could cause death; any single act of sexual abuse that causes significant bleeding, deep bruising, or significant external or internal swelling; or more than one act of physical abuse, each of which causes bleeding, deep bruising, significant external or internal swelling, bone fracture, or unconsciousness.

(d) The report shall be made at the first opportunity, but in no case longer than forty-eight hours after there is reasonable cause to believe that the child or adult has suffered abuse or neglect. The report shall include the identity of the accused if known.

(2) The reporting requirement of subsection (1) of this section does not apply to the discovery of abuse or neglect that occurred during childhood if it is discovered after the child has become an adult. However, if there is reasonable cause to believe other children, dependent adults, or developmentally disabled persons are or may be at risk of abuse or neglect by the accused, the reporting requirement of subsection (1) of this section shall apply.

(3) Any other person who has reasonable cause to believe that a child or adult dependent or developmentally disabled person has suffered abuse or neglect may report such incident to the proper law enforcement agency or to the department of social and health services as provided in RCW 26.44.040.

(4) The department, upon receiving a report of an incident of alleged abuse or neglect pursuant to this chapter, involving a child or adult dependent or developmentally disabled person who has died or has had physical injury or injuries inflicted upon him or her other than by accidental means or who has been subjected to alleged sexual abuse, shall report such incident to the proper law enforcement agency. In emergency cases, where the child, adult dependent, or developmentally disabled person's welfare is endangered, the department shall notify the proper law enforcement agency within twenty-four hours after a report is received by the department. In all other cases, the department shall notify the law enforcement agency within seventy-two hours after a report is received by the department. If the department makes an oral report, a written report shall also be made to the proper law enforcement agency within five days thereafter.

(5) Any law enforcement agency receiving a report of an incident of alleged abuse or neglect pursuant to this chapter, involving a child or adult dependent or developmentally disabled person who has died or has had physical injury or injuries inflicted upon him or her other than by accidental means, or who has been subjected to alleged sexual abuse, shall report such incident in writing as provided in RCW 26.44.040 to the proper county prosecutor or city attorney for appropriate action whenever the law enforcement agency's investigation reveals that a crime may have been committed. The law enforcement agency shall also notify the department of all reports received and the law enforcement agency's disposition of them. In emergency cases, where the child, adult dependent, or developmentally disabled person's welfare is endangered, the law enforcement agency shall notify the department within twenty-four hours. In all other cases, the law enforcement agency shall notify the department within seventy-two hours after a report is received by the law enforcement agency.

(6) Any county prosecutor or city attorney receiving a report under subsection (5) of this section shall notify the victim, any persons the victim requests, and the local office of the department, of the decision to charge or decline to charge a crime, within five days of making the decision.

(7) The department may conduct ongoing case planning and consultation with those persons or agencies required to report under this section, with consultants designated by the department, and with designated representatives of Washington

Indian tribes if the client information exchanged is pertinent to cases currently receiving child protective services or department case services for the developmentally disabled. Upon request, the department shall conduct such planning and consultation with those persons required to report under this section if the department determines it is in the best interests of the child or developmentally disabled person. Information considered privileged by statute and not directly related to reports required by this section shall not be divulged without a valid written waiver of the privilege.

(8) Any case referred to the department by a physician licensed under chapter 18.57 or 18.71 RCW on the basis of an expert medical opinion that child abuse, neglect, or sexual assault has occurred and that the child's safety will be seriously endangered if returned home, the department shall file a dependency petition unless a second licensed physician of the parents' choice believes that such expert medical opinion is incorrect. If the parents fail to designate a second physician, the department may make the selection. If a physician finds that a child has suffered abuse or neglect but that such abuse or neglect does not constitute imminent danger to the child's health or safety, and the department agrees with the physician's assessment, the child may be left in the parents' home while the department proceeds with reasonable efforts to remedy parenting deficiencies.

(9) Persons or agencies exchanging information under subsection (7) of this section shall not further disseminate or release the information except as authorized by state or federal statute. Violation of this subsection is a misdemeanor.

(10) Upon receiving reports of alleged abuse or neglect, the department or law enforcement agency may interview children. The interviews may be conducted on school premises, at day-care facilities, at the child's home, or at other suitable locations outside of the presence of parents. Parental notification of the interview shall occur at the earliest possible point in the investigation that will not jeopardize the safety or protection of the child or the course of the investigation. Prior to commencing the interview the department or law enforcement agency shall determine whether the child wishes a third party to be present for the interview and, if so, shall make reasonable efforts to accommodate the child's wishes. Unless the child objects, the department or law enforcement agency shall make reasonable efforts to include a third party in any interview so long as the presence of the third party will not jeopardize the course of the investigation.

(11) Upon receiving a report of alleged child abuse and neglect, the department or investigating law enforcement agency shall have access to all relevant records of the child in the possession of mandated reporters and their employees.

(12) The department shall maintain investigation records and conduct timely and periodic reviews of all cases constituting abuse and neglect. The department shall maintain a log of screened-out nonabusive cases.

(13) The department shall use a risk assessment process when investigating alleged child abuse and neglect referrals. The department shall present the risk

factors at all hearings in which the placement of a dependent child is an issue. The department shall, within funds appropriated for this purpose, offer enhanced community-based services to persons who are determined not to require further state intervention.

The department shall provide annual reports to the legislature on the effectiveness of the risk assessment process.

(14) Upon receipt of a report of alleged abuse or neglect the law enforcement agency may arrange to interview the person making the report and any collateral sources to determine if any malice is involved in the reporting.

(15) The department shall make reasonable efforts to learn the name, address, and telephone number of each person making a report of abuse or neglect under this section. The department shall provide assurances of appropriate confidentiality of the identification of persons reporting under this section. If the department is unable to learn the information required under this subsection, the department shall only investigate cases in which: (a) The department believes there is a serious threat of substantial harm to the child; (b) the report indicates conduct involving a criminal offense that has, or is about to occur, in which the child is the victim; or (c) the department has, after investigation, a report of abuse or neglect that has been founded with regard to a member of the household within three years of receipt of the referral.

Sec. 26. RCW 26.44.035 and 1985 c 259 s 3 are each amended to read as follows:

If the department or a law enforcement agency responds to a complaint of alleged child abuse or neglect and discovers that another agency has also responded to the complaint, the agency shall notify the other agency of their presence, and the agencies shall coordinate the investigation and keep each other apprised of progress.

The department, each law enforcement agency, each county prosecuting attorney, each city attorney, and each court shall make as soon as practicable a written record and shall maintain records of all incidents of suspected child abuse reported to that person or agency. Records kept under this section shall be identifiable by means of an agency code for child abuse.

Sec. 27. RCW 26.44.040 and 1993 c 412 s 14 are each amended to read as follows:

An immediate oral report shall be made by telephone or otherwise to the proper law enforcement agency or the department of social and health services and, upon request, shall be followed by a report in writing. Such reports shall contain the following information, if known:

(1) The name, address, and age of the child or adult dependent or developmentally disabled person;

(2) The name and address of the child's parents, stepparents, guardians, or other persons having custody of the child or the residence of the adult dependent or developmentally disabled person;

- (3) The nature and extent of the alleged injury or injuries;
- (4) The nature and extent of the alleged neglect;
- (5) The nature and extent of the alleged sexual abuse;
- (6) Any evidence of previous injuries, including their nature and extent; and
- (7) Any other information which may be helpful in establishing the cause of the child's or adult dependent or developmentally disabled person's death, injury, or injuries and the identity of the alleged perpetrator or perpetrators.

**Sec. 28.** RCW 26.44.053 and 1996 c 249 s 16 are each amended to read as follows:

(1) In any judicial proceeding under this chapter or chapter 13.34 RCW in which it is alleged that a child has been subjected to child abuse or neglect, the court shall appoint a guardian ad litem for the child as provided in chapter 13.34 RCW. The requirement of a guardian ad litem may be deemed satisfied if the child is represented by counsel in the proceedings.

(2) At any time prior to or during a hearing in such a case, the court may, on its own motion, or the motion of the guardian ad litem, or other parties, order the examination by a physician, psychologist, or psychiatrist, of any parent or child or other person having custody of the child at the time of the alleged child abuse or neglect, if the court finds such an examination is necessary to the proper determination of the case. The hearing may be continued pending the completion of such examination. The physician, psychologist, or psychiatrist conducting such an examination may be required to testify concerning the results of such examination and may be asked to give his or her opinion as to whether the protection of the child requires that he or she not be returned to the custody of his or her parents or other persons having custody of him or her at the time of the alleged child abuse or neglect. Persons so testifying shall be subject to cross-examination as are other witnesses. No information given at any such examination of the parent or any other person having custody of the child may be used against such person in any subsequent criminal proceedings against such person or custodian concerning the alleged abuse or neglect of the child.

(3) A parent or other person having legal custody of a child alleged to be abused or neglected shall be a party to any proceeding that may impair or impede such person's interest in and custody or control of the child.

**Sec. 29.** RCW 26.44.060 and 1988 c 142 s 3 are each amended to read as follows:

(1)(a) Except as provided in (b) of this subsection, any person participating in good faith in the making of a report pursuant to this chapter or testifying as to alleged child abuse or neglect in a judicial proceeding shall in so doing be immune from any liability arising out of such reporting or testifying under any law of this state or its political subdivisions.

(b) A person convicted of a violation of subsection (4) of this section shall not be immune from liability under (a) of this subsection.

(2) An administrator of a hospital or similar institution or any physician licensed pursuant to chapters 18.71 or 18.57 RCW taking a child into custody pursuant to RCW 26.44.056 shall not be subject to criminal or civil liability for such taking into custody.

(3) Conduct conforming with the reporting requirements of this chapter shall not be deemed a violation of the confidential communication privilege of RCW 5.60.060 (3) and (4), 18.53.200 and 18.83.110. Nothing in this chapter shall be construed as to supersede or abridge remedies provided in chapter 4.92 RCW.

(4) A person who, intentionally and in bad faith or maliciously, knowingly makes a false report of alleged abuse or neglect shall be guilty of a misdemeanor punishable in accordance with RCW 9A.20.021.

**Sec. 30.** RCW 70.124.040 and 1981 c 174 s 4 are each amended to read as follows:

(1) Where a report is deemed warranted under RCW 70.124.030, an immediate oral report shall be made by telephone or otherwise to either a law enforcement agency or to the department and, upon request, shall be followed by a report in writing. The reports shall contain the following information, if known:

- (a) The name and address of the person making the report;
- (b) The name and address of the nursing home or state hospital patient;
- (c) The name and address of the patient's relatives having responsibility for the patient;
- (d) The nature and extent of the alleged injury or injuries;
- (e) The nature and extent of the alleged neglect;
- (f) The nature and extent of the alleged sexual abuse;
- (g) Any evidence of previous injuries, including their nature and extent; and
- (h) Any other information which may be helpful in establishing the cause of the patient's death, injury, or injuries, and the identity of the perpetrator or perpetrators.

(2) Each law enforcement agency receiving such a report shall, in addition to taking the action required by RCW 70.124.050, immediately relay the report to the department and to other law enforcement agencies, as appropriate. For any report it receives, the department shall likewise take the required action and in addition relay the report to the appropriate law enforcement agency or agencies. The appropriate law enforcement agency or agencies shall receive immediate notification when the department, upon receipt of such report, has reasonable cause to believe that a criminal act has been committed.

**Sec. 31.** RCW 70.129.030 and 1994 c 214 s 4 are each amended to read as follows:

(1) The facility must inform the resident both orally and in writing in a language that the resident understands of his or her rights and all rules and regulations governing resident conduct and responsibilities during the stay in the facility. The notification must be made prior to or upon admission. Receipt of the information must be acknowledged in writing.

(2) The resident or his or her legal representative has the right:

(a) Upon an oral or written request, to access all records pertaining to himself or herself including clinical records within twenty-four hours; and

(b) After receipt of his or her records for inspection, to purchase at a cost not to exceed the community standard photocopies of the records or portions of them upon request and two working days' advance notice to the facility.

(3) The facility must inform each resident in writing before, or at the time of admission, and at least once every twenty-four months thereafter of: (a) Services available in the facility; (b) charges for those services including charges for services not covered by the facility's per diem rate or applicable public benefit programs; and (c) the rules of operations required under RCW 70.129.140(2).

(4) The facility must furnish a written description of residents rights that includes:

(a) A description of the manner of protecting personal funds, under RCW 70.129.040;

(b) A posting of names, addresses, and telephone numbers of the state survey and certification agency, the state licensure office, the state ombudsmen program, and the protection and advocacy systems; and

(c) A statement that the resident may file a complaint with the appropriate state licensing agency concerning alleged resident abuse, neglect, and misappropriation of resident property in the facility.

(5) Notification of changes.

(a) A facility must immediately consult with the resident's physician, and if known, make reasonable efforts to notify the resident's legal representative or an interested family member when there is:

(i) An accident involving the resident which requires or has the potential for requiring physician intervention;

(ii) A significant change in the resident's physical, mental, or psychosocial status (i.e., a deterioration in health, mental, or psychosocial status in either life-threatening conditions or clinical complications).

(b) The facility must promptly notify the resident or the resident's representative shall make reasonable efforts to notify an interested family member, if known, when there is:

(i) A change in room or roommate assignment; or

(ii) A decision to transfer or discharge the resident from the facility.

(c) The facility must record and update the address and phone number of the resident's representative or interested family member, upon receipt of notice from them.

**See. 32.** RCW 74.13.031 and 1995 c 191 s 1 are each amended to read as follows:

The department shall have the duty to provide child welfare services as defined in RCW 74.13.020, and shall:

(1) Develop, administer, supervise, and monitor a coordinated and comprehensive plan that establishes, aids, and strengthens services for the protection and care of homeless, runaway, dependent, or neglected children.

(2) Develop a recruiting plan for recruiting an adequate number of prospective adoptive and foster homes, both regular and specialized, i.e. homes for children of ethnic minority, including Indian homes for Indian children, sibling groups, handicapped and emotionally disturbed, and annually submit the plan for review to the house and senate committees on social and health services. The plan shall include a section entitled "Foster Home Turn-Over, Causes and Recommendations."

(3) Investigate complaints of alleged neglect, abuse, or abandonment of children, and on the basis of the findings of such investigation, offer child welfare services in relation to the problem to such parents, legal custodians, or persons serving in loco parentis, and/or bring the situation to the attention of an appropriate court, or another community agency: PROVIDED, That an investigation is not required of nonaccidental injuries which are clearly not the result of a lack of care or supervision by the child's parents, legal custodians, or persons serving in loco parentis. If the investigation reveals that a crime may have been committed, the department shall notify the appropriate law enforcement agency.

(4) Offer, on a voluntary basis, family reconciliation services to families who are in conflict.

(5) Monitor out-of-home placements, on a timely and routine basis, to assure the safety, well-being, and quality of care being provided is within the scope of the intent of the legislature as defined in RCW 74.13.010 and 74.15.010, and annually submit a report delineating the results to the house and senate committees on social and health services.

(6) Have authority to accept custody of children from parents and to accept custody of children from juvenile courts, where authorized to do so under law, to provide child welfare services including placement for adoption, and to provide for the physical care of such children and make payment of maintenance costs if needed. Except where required by Public Law 95-608 (25 U.S.C. Sec. 1915), no private adoption agency which receives children for adoption from the department shall discriminate on the basis of race, creed, or color when considering applications in their placement for adoption.

(7) Have authority to provide temporary shelter to children who have run away from home and who are admitted to crisis residential centers.

(8) Have authority to purchase care for children; and shall follow in general the policy of using properly approved private agency services for the actual care and supervision of such children insofar as they are available, paying for care of such children as are accepted by the department as eligible for support at reasonable rates established by the department.

(9) Establish a children's services advisory committee which shall assist the secretary in the development of a partnership plan for utilizing resources of the

public and private sectors, and advise on all matters pertaining to child welfare, licensing of child care agencies, adoption, and services related thereto. At least one member shall represent the adoption community.

(10) Have authority to provide continued foster care or group care for individuals from eighteen through twenty years of age to enable them to complete their high school or vocational school program.

(11) Have authority within funds appropriated for foster care services to purchase care for Indian children who are in the custody of a federally recognized Indian tribe or tribally licensed child-placing agency pursuant to parental consent, tribal court order, or state juvenile court order; and the purchase of such care shall be subject to the same eligibility standards and rates of support applicable to other children for whom the department purchases care.

Notwithstanding any other provision of RCW 13.32A.170 through 13.32A.200 and 74.13.032 through 74.13.036, or of this section all services to be provided by the department of social and health services under subsections (4), (6), and (7) of this section, subject to the limitations of these subsections, may be provided by any program offering such services funded pursuant to Titles II and III of the federal juvenile justice and delinquency prevention act of 1974.

**Sec. 33.** RCW 74.15.030 and 1995 c 302 s 4 are each amended to read as follows:

The secretary shall have the power and it shall be the secretary's duty:

(1) In consultation with the children's services advisory committee, and with the advice and assistance of persons representative of the various type agencies to be licensed, to designate categories of facilities for which separate or different requirements shall be developed as may be appropriate whether because of variations in the ages, sex and other characteristics of persons served, variations in the purposes and services offered or size or structure of the agencies to be licensed hereunder, or because of any other factor relevant thereto;

(2) In consultation with the children's services advisory committee, and with the advice and assistance of persons representative of the various type agencies to be licensed, to adopt and publish minimum requirements for licensing applicable to each of the various categories of agencies to be licensed.

The minimum requirements shall be limited to:

(a) The size and suitability of a facility and the plan of operation for carrying out the purpose for which an applicant seeks a license;

(b) The character, suitability and competence of an agency and other persons associated with an agency directly responsible for the care and treatment of children, expectant mothers or developmentally disabled persons. In consultation with law enforcement personnel, the secretary shall investigate the conviction record or pending charges and dependency record information under chapter 43.43 RCW of each agency and its staff seeking licensure or relicensure. In order to determine the suitability of applicants for an agency license, licensees, their employees, and other persons who have unsupervised access to children in care,

and who have not resided in the state of Washington during the three-year period before being authorized to care for children shall be fingerprinted. The fingerprints shall be forwarded to the Washington state patrol and federal bureau of investigation for a criminal history records check. The fingerprint criminal history records checks will be at the expense of the licensee except that in the case of a foster family home, if this expense would work a hardship on the licensee, the department shall pay the expense. The licensee may not pass this cost on to the employee or prospective employee, unless the employee is determined to be unsuitable due to his or her criminal history record. The secretary shall use the information solely for the purpose of determining eligibility for a license and for determining the character, suitability, and competence of those persons or agencies, excluding parents, not required to be licensed who are authorized to care for children, expectant mothers, and developmentally disabled persons. Criminal justice agencies shall provide the secretary such information as they may have and that the secretary may require for such purpose;

(c) The number of qualified persons required to render the type of care and treatment for which an agency seeks a license;

(d) The safety, cleanliness, and general adequacy of the premises to provide for the comfort, care and well-being of children, expectant mothers or developmentally disabled persons;

(e) The provision of necessary care, including food, clothing, supervision and discipline; physical, mental and social well-being; and educational, recreational and spiritual opportunities for those served;

(f) The financial ability of an agency to comply with minimum requirements established pursuant to chapter 74.15 RCW and RCW 74.13.031; and

(g) The maintenance of records pertaining to the admission, progress, health and discharge of persons served;

(3) To investigate any person, including relatives by blood or marriage except for parents, for character, suitability, and competence in the care and treatment of children, expectant mothers, and developmentally disabled persons prior to authorizing that person to care for children, expectant mothers, and developmentally disabled persons. However, if a child is placed with a relative under RCW 13.34.060 or 13.34.130, and if such relative appears otherwise suitable and competent to provide care and treatment the criminal history background check required by this section need not be completed before placement, but shall be completed as soon as possible after placement;

(4) On reports of alleged child abuse and neglect, to investigate agencies in accordance with chapter 26.44 RCW, including child day-care centers and family day-care homes, to determine whether the alleged abuse or neglect has occurred, and whether child protective services or referral to a law enforcement agency is appropriate;

(5) To issue, revoke, or deny licenses to agencies pursuant to chapter 74.15 RCW and RCW 74.13.031. Licenses shall specify the category of care which an

agency is authorized to render and the ages, sex and number of persons to be served;

(6) To prescribe the procedures and the form and contents of reports necessary for the administration of chapter 74.15 RCW and RCW 74.13.031 and to require regular reports from each licensee;

(7) To inspect agencies periodically to determine whether or not there is compliance with chapter 74.15 RCW and RCW 74.13.031 and the requirements adopted hereunder;

(8) To review requirements adopted hereunder at least every two years and to adopt appropriate changes after consultation with the child care coordinating committee and other affected groups for child day-care requirements and with the children's services advisory committee for requirements for other agencies; and

(9) To consult with public and private agencies in order to help them improve their methods and facilities for the care of children, expectant mothers and developmentally disabled persons.

**Sec. 34.** RCW 74.34.050 and 1986 c 187 s 3 are each amended to read as follows:

(1) A person participating in good faith in making a report under this chapter or testifying about ~~((the))~~ alleged abuse, neglect, abandonment, or exploitation of a vulnerable adult in a judicial proceeding under this chapter is immune from liability resulting from the report or testimony. The making of permissive reports as allowed in RCW 74.34.030 does not create any duty to report and no civil liability shall attach for any failure to make a permissive report under RCW 74.34.030.

(2) Conduct conforming with the reporting and testifying provisions of this chapter shall not be deemed a violation of any confidential communication privilege. Nothing in this chapter shall be construed as superseding or abridging remedies provided in chapter 4.92 RCW.

**Sec. 35.** RCW 74.34.070 and 1995 1st sp.s. c 18 s 87 are each amended to read as follows:

In responding to reports of alleged abuse, exploitation, neglect, or abandonment under this chapter, the department shall provide information to the frail elder or vulnerable adult on protective services available to the person and inform the person of the right to refuse such services. The department shall develop cooperative agreements with community-based agencies servicing the abused elderly and vulnerable adults. The agreements shall cover such subjects as the appropriate roles and responsibilities of the department and community-based agencies in identifying and responding to reports of alleged abuse, the provision of case-management services, standardized data collection procedures, and related coordination activities.

*\*Sec. 36. RCW 13.34.090 and 1990 c 246 s 4 are each amended to read as follows:*

*(1) Any party has a right to be represented by an attorney in all proceedings under this chapter, to introduce evidence, to be heard in his or her own behalf, to examine witnesses, to receive a decision based solely on the evidence adduced at the hearing, and to an unbiased fact-finder.*

*(2) At all stages of a proceeding in which a child is alleged to be dependent pursuant to RCW 13.34.030((2)) (6), the child's parent, guardian, or legal custodian has the right to be represented by counsel, and if indigent, to have counsel appointed for him or her by the court. Unless waived in court, counsel shall be provided to the child's parent, guardian, or legal custodian, if such person (a) has appeared in the proceeding or requested the court to appoint counsel and (b) is financially unable to obtain counsel because of indigency as defined in chapter 10.101 RCW.*

*(3) If a party to an action under this chapter is represented by counsel, no order shall be provided to that party for his or her signature without prior notice and provision of the order to counsel.*

*(4) Copies of department of social and health services or supervising agency records to which parents have legal access pursuant to chapter 13.50 RCW shall be given to the child's parent, guardian, legal custodian, or his or her legal counsel, within twenty days after the department or supervising agency receives a written request for such records from the parent, guardian, legal custodian, or his or her legal counsel. These records shall be provided to the child's parents, guardian, legal custodian, or legal counsel prior to the shelter care hearing in order to allow an opportunity to review the records prior to the hearing. These records shall be legible and shall be provided at no expense to the parents, guardian, legal custodian, or his or her counsel.*

*\*Sec. 36 was vetoed. See message at end of chapter.*

*\*Sec. 37. RCW 13.34.120 and 1996 c 249 s 14 are each amended to read as follows:*

*(1) To aid the court in its decision on disposition, a social study, consisting of a written evaluation of matters relevant to the disposition of the case, shall be made by the person or agency filing the petition. The study shall include all social records and may also include facts relating to the child's cultural heritage, and shall be made available to the court. The court shall consider the social file, social study, guardian ad litem report, the court-appointed special advocate's report, if any, and any reports filed by a party at the disposition hearing in addition to evidence produced at the fact-finding hearing. At least ten working days before the disposition hearing, the department shall mail to the parent and his or her attorney a copy of the agency's social study and proposed service plan, which shall be in writing or in a form understandable to the parents or custodians. In addition, the department shall provide an opportunity for parents to review and comment on the plan at the community service office. If the parents disagree with the agency's plan or any part thereof, the parents shall submit to the court at least twenty-four hours before the hearing, in writing, or*

*signed oral statement, an alternative plan to correct the problems which led to the finding of dependency. This section shall not interfere with the right of the parents or custodians to submit oral arguments regarding the disposition plan at the hearing.*

*(2) In addition to the requirements set forth in subsection (1) of this section, a predisposition study to the court in cases of dependency alleged pursuant to RCW 13.34.030(~~((4))~~) (6) (b) or (c) shall contain the following information:*

*(a) A statement of the specific harm or harms to the child that intervention is designed to alleviate;*

*(b) A description of the specific programs, for both the parents and child, that are needed in order to prevent serious harm to the child; the reasons why such programs are likely to be useful; the availability of any proposed services; and the agency's overall plan for ensuring that the services will be delivered;*

*(c) If removal is recommended, a full description of the reasons why the child cannot be protected adequately in the home, including a description of any previous efforts to work with the parents and the child in the home; the in-home treatment programs which have been considered and rejected; the preventive services that have been offered or provided and have failed to prevent the need for out-of-home placement, unless the health, safety, and welfare of the child cannot be protected adequately in the home; and the parents' attitude toward placement of the child;*

*(d) A statement of the likely harms the child will suffer as a result of removal. This section should include an exploration of the nature of the parent-child attachment and the meaning of separation and loss to both the parents and the child;*

*(e) A description of the steps that will be taken to minimize harm to the child that may result if separation occurs; and*

*(f) Behavior that will be expected before determination that supervision of the family or placement is no longer necessary.*

*\*Sec. 37 was vetoed. See message at end of chapter.*

*\*Sec. 38. RCW 13.34.180 and 1993 c 412 s 2 and 1993 c 358 s 3 are each reenacted and amended to read as follows:*

*A petition seeking termination of a parent and child relationship may be filed in juvenile court by any party to the dependency proceedings concerning that child. Such petition shall conform to the requirements of RCW 13.34.040, shall be served upon the parties as provided in RCW 13.34.070(8), and shall allege:*

*(1) That the child has been found to be a dependent child under RCW 13.34.030(~~((2))~~) (6); and*

*(2) That the court has entered a dispositional order pursuant to RCW 13.34.130; and*

*(3) That the child has been removed or will, at the time of the hearing, have been removed from the custody of the parent for a period of at least six months pursuant to a finding of dependency under RCW 13.34.030(((2))) (6); and*

*(4) That the services ordered under RCW 13.34.130 have been offered or provided and all necessary services, reasonably available, capable of correcting the parental deficiencies within the foreseeable future have been offered or provided; and*

*(5) That there is little likelihood that conditions will be remedied so that the child can be returned to the parent in the near future. In determining whether the conditions will be remedied the court may consider, but is not limited to, the following factors:*

*(a) Use of intoxicating or controlled substances so as to render the parent incapable of providing proper care for the child for extended periods of time and documented unwillingness of the parent to receive and complete treatment or documented multiple failed treatment attempts; or*

*(b) Psychological incapacity or mental deficiency of the parent that is so severe and chronic as to render the parent incapable of providing proper care for the child for extended periods of time, and documented unwillingness of the parent to receive and complete treatment or documentation that there is no treatment that can render the parent capable of providing proper care for the child in the near future; and*

*(6) That continuation of the parent and child relationship clearly diminishes the child's prospects for early integration into a stable and permanent home; or*

*(7) In lieu of the allegations in subsections (1) through (6) of this section, the petition may allege that the child was found under such circumstances that the whereabouts of the child's parent are unknown and no person has acknowledged paternity or maternity and requested custody of the child within two months after the child was found.*

*A parent's failure to substantially improve parental deficiencies within twelve months following entry of the dispositional order shall give rise to a rebuttable presumption that there is little likelihood that conditions will be remedied so that the child can be returned to the parent in the near future. The presumption shall not arise unless the petitioner makes a showing that all necessary services reasonably capable of correcting the parental deficiencies within the foreseeable future have been offered or provided.*

*Notice of rights shall be served upon the parent, guardian, or legal custodian with the petition and shall be in substantially the following form:*

#### **"NOTICE**

***A petition for termination of parental rights has been filed against you. You have important legal rights and you must take steps to protect your interests. This petition could result in permanent loss of your parental rights.***

***I. You have the right to a fact-finding hearing before a judge.***

2. *You have the right to have a lawyer represent you at the hearing. A lawyer can look at the files in your case, talk to the department of social and health services and other agencies, tell you about the law, help you understand your rights, and help you at hearings. If you cannot afford a lawyer, the court will appoint one to represent you. To get a court-appointed lawyer you must contact: (explain local procedure).*

3. *At the hearing, you have the right to speak on your own behalf, to introduce evidence, to examine witnesses, and to receive a decision based solely on the evidence presented to the judge.*

*You should be present at this hearing.*

*You may call (insert agency) for more information about your child. The agency's name and telephone number are (insert name and telephone number)."*

\*Sec. 38 was vetoed. See message at end of chapter.

*\*Sec. 39. RCW 43.43.700 and 1989 c 334 s 6 are each amended to read as follows:*

*There is hereby established within the Washington state patrol a section on identification, child abuse, vulnerable adult abuse, and criminal history hereafter referred to as the section.*

*In order to aid the administration of justice the section shall install systems for the identification of individuals, including the fingerprint system and such other systems as the chief deems necessary. The section shall keep a complete record and index of all information received in convenient form for consultation and comparison.*

*The section shall obtain from whatever source available and file for record the fingerprints, palmprints, photographs, or such other identification data as it deems necessary, of persons who have been or shall hereafter be lawfully arrested and charged with, or convicted of any criminal offense. The section may obtain like information concerning persons arrested for or convicted of crimes under the laws of another state or government.*

*The section shall also contain like information concerning persons, over the age of eighteen years, who have been found, pursuant to a dependency proceeding under RCW 13.34.030(~~((2))~~) ~~(6)(b)~~ to have physically abused or sexually abused or exploited a child or, pursuant to a protection proceeding under chapter 74.34 RCW, to have abused or financially exploited a vulnerable adult.*

\*Sec. 39 was vetoed. See message at end of chapter.

*Sec. 40. RCW 43.43.840 and 1989 c 334 s 5 and 1989 c 90 s 5 are each reenacted and amended to read as follows:*

(1) *The supreme court shall by rule require the courts of the state to notify the state patrol of any dependency action under RCW (~~(13.34.030(2)(b))~~) 13.34.040, domestic relations action under Title 26 RCW, or protection action under chapter*

74.34 RCW, in which the court makes specific findings of physical abuse or sexual abuse or exploitation of a child or abuse or financial exploitation of a vulnerable adult.

(2) The department of licensing shall notify the state patrol of any disciplinary board final decision that includes specific findings of physical abuse or sexual abuse or exploitation of a child or abuse or financial exploitation of a vulnerable adult.

(3) When a business or an organization terminates, fires, dismisses, fails to renew the contract, or permits the resignation of an employee because of crimes against children or other persons or because of crimes relating to the financial exploitation of a vulnerable adult, and if that employee is employed in a position requiring a certificate or license issued by a licensing agency such as the state board of education, the business or organization shall notify the licensing agency of such termination of employment.

**Sec. 41.** RCW 43.20A.050 and 1979 c 141 s 63 are each amended to read as follows:

It is the intent of the legislature wherever possible to place the internal affairs of the department under the control of the secretary ~~((in order that he may))~~ to institute ~~((therein))~~ the flexible, alert and intelligent management of its business that changing contemporary circumstances require. Therefore, whenever ~~((his))~~ the secretary's authority is not specifically limited by law, he or she shall have complete charge and supervisory powers over the department. ~~((He))~~ The secretary is authorized to create such administrative structures as ~~((he may deem))~~ deemed appropriate, except as otherwise specified by law. The secretary shall have the power to employ such assistants and personnel as may be necessary for the general administration of the department ~~((--PROVIDED, That;)),~~ Except as elsewhere specified, such employment ((is)) shall be in accordance with the rules of the state civil service law, chapter 41.06 RCW.

**NEW SECTION.** **Sec. 42.** It is the intent of the legislature, in enacting the chapter . . . , Laws of 1997 changes to RCW 41.64.100 (section 43 of this act), to provide a prompt and efficient method of expediting employee appeals regarding alleged misconduct that may have placed children at serious risk of harm. The legislature recognizes that children are at risk of harm in cases of abuse or neglect and intends to provide a method of reducing such risk as well as mitigating the potential liability to the state associated with employee misconduct involving children. The legislature does not intend to impair any existing rights of appeals held by employees, nor does it intend to restrict consideration of any appropriate evidence or facts by the personnel appeals board.

**Sec. 43.** RCW 41.64.100 and 1981 c 311 s 11 are each amended to read as follows:

(1) In all appeals over which the board has jurisdiction involving reduction, dismissal, suspension, or demotion, the board shall set the case for hearing, and the final decision, including an appeal to the board from the hearing examiner, if any,

shall be rendered within ninety days from the date the appeal was first received(~~(+ PROVIDED, That)~~). An extension may be permitted if agreed to by the employee and the employing agency. The board shall furnish the agency with a copy of the appeal in advance of the hearing.

(2) Notwithstanding subsection (1) of this section, in a case involving misconduct that has placed a child at serious risk of harm as a result of actions taken or not taken under chapter 13.32A, 13.34, 13.40, 26.44, 74.13, 74.14A, 74.14B, 74.14C, or 74.15 RCW, the board shall hear the case before all unscheduled cases. The board shall issue its order within forty-five days of hearing the case unless there are extraordinary circumstances, in which case, an additional thirty days may elapse until the case is decided.

(3) In all appeals made pursuant to RCW 41.06.170(~~((3))~~) (4), as now or hereafter amended, the decision of the board is final and not appealable to court.

NEW SECTION. Sec. 44. Section 43 of this act shall not be construed to alter an existing collective bargaining unit or the provisions of any existing bargaining agreement in place on the effective date of this section before the expiration of such agreement.

**Sec. 45.** RCW 26.44.020 and 1996 c 178 s 10 are each amended to read as follows:

For the purpose of and as used in this chapter:

(1) "Court" means the superior court of the state of Washington, juvenile department.

(2) "Law enforcement agency" means the police department, the prosecuting attorney, the state patrol, the director of public safety, or the office of the sheriff.

(3) "Practitioner of the healing arts" or "practitioner" means a person licensed by this state to practice podiatric medicine and surgery, optometry, chiropractic, nursing, dentistry, osteopathic medicine and surgery, or medicine and surgery or to provide other health services. The term "practitioner" shall include a duly accredited Christian Science practitioner: PROVIDED, HOWEVER, That a person who is being furnished Christian Science treatment by a duly accredited Christian Science practitioner shall not be considered, for that reason alone, a neglected person for the purposes of this chapter.

(4) "Institution" means a private or public hospital or any other facility providing medical diagnosis, treatment or care.

(5) "Department" means the state department of social and health services.

(6) "Child" or "children" means any person under the age of eighteen years of age.

(7) "Professional school personnel" shall include, but not be limited to, teachers, counselors, administrators, child care facility personnel, and school nurses.

(8) "Social service counselor" shall mean anyone engaged in a professional capacity during the regular course of employment in encouraging or promoting the health, welfare, support or education of children, or providing social services to

adults or families, including mental health, drug and alcohol treatment, and domestic violence programs, whether in an individual capacity, or as an employee or agent of any public or private organization or institution.

(9) "Psychologist" shall mean any person licensed to practice psychology under chapter 18.83 RCW, whether acting in an individual capacity or as an employee or agent of any public or private organization or institution.

(10) "Pharmacist" shall mean any registered pharmacist under the provisions of chapter 18.64 RCW, whether acting in an individual capacity or as an employee or agent of any public or private organization or institution.

(11) "Clergy" shall mean any regularly licensed or ordained minister, priest or rabbi of any church or religious denomination, whether acting in an individual capacity or as an employee or agent of any public or private organization or institution.

(12) "Abuse or neglect" shall mean the injury, sexual abuse, sexual exploitation, negligent treatment, or maltreatment of a child, adult dependent, or developmentally disabled person by any person under circumstances which indicate that the child's or adult's health, welfare, and safety is harmed. An abused child is a child who has been subjected to child abuse or neglect as defined herein.

(13) "Child protective services section" shall mean the child protective services section of the department.

(14) "Adult dependent persons" shall be defined as those persons over the age of eighteen years who have been found to be legally incompetent or disabled pursuant to chapter 11.88 RCW.

(15) "Sexual exploitation" includes: (a) Allowing, permitting, or encouraging a child to engage in prostitution by any person; or (b) allowing, permitting, encouraging, or engaging in the obscene or pornographic photographing, filming, or depicting of a child by any person.

(16) "Negligent treatment or maltreatment" means an act or omission which evidences a serious disregard of consequences of such magnitude as to constitute a clear and present danger to the child's health, welfare, and safety.

(17) "Developmentally disabled person" means a person who has a disability defined in RCW 71A.10.020.

(18) "Child protective services" means those services provided by the department designed to protect children from child abuse and neglect and safeguard ~~((the general welfare of))~~ such children ~~((and shall include))~~ from future abuse and neglect, and conduct investigations of child abuse and neglect reports~~((; including reports regarding child care centers and family child care homes, and the development, management, and provision of or))~~. Investigations may be conducted regardless of the location of the alleged abuse or neglect. Child protective services includes referral to services to ameliorate conditions which endanger the welfare of children, the coordination of necessary programs and services relevant to the prevention, intervention, and treatment of child abuse and neglect, and services to children to ensure that each child has a permanent home. In determining whether

protective services should be provided, the department shall not decline to provide such services solely because of the child's unwillingness or developmental inability to describe the nature and severity of the abuse or neglect.

(19) "Malice" or "maliciously" means an evil intent, wish, or design to vex, annoy, or injure another person. Such malice may be inferred from an act done in wilful disregard of the rights of another, or an act wrongfully done without just cause or excuse, or an act or omission of duty betraying a wilful disregard of social duty.

(20) "Sexually aggressive youth" means a child who is defined in RCW 74.13.075(1)(b) as being a "sexually aggressive youth."

**\*NEW SECTION.** *Sec. 46. A new section is added to chapter 43.20A RCW to read as follows:*

*(1) Notwithstanding the provisions of RCW 26.44.020 and chapter 74.13 RCW, the secretary may exercise his or her discretion to permit employees of the department to provide child protective services and child welfare services under the following circumstances:*

*(a) The number of employees in an office or the location of an office makes it administratively impractical to require a strict segregation between the delivery of both types of services; or*

*(b) There are exceptional circumstances, including such things as a disproportionately large number of vacant positions in an office; or*

*(2) The changes required to implement RCW 26.44.020 and this section shall not be made until the expiration of any collective bargaining agreement in effect on the effective date of this section, unless the parties to the agreement determine such changes can be made before that time.*

*\*Sec. 46 was vetoed. See message at end of chapter.*

**NEW SECTION.** *Sec. 47. A new section is added to chapter 43.20A RCW to read as follows:*

The department shall prepare an annual quality assurance report that shall include but is not limited to: (1) Performance outcomes regarding health and safety of children in the children's services system; (2) children's length of stay in out-of-home placement from each date of referral; (3) adherence to permanency planning timelines; and (4) the response time on child protective services investigations differentiated by risk level determined at intake. The report shall be provided to the governor and legislature not later than July 1.

**NEW SECTION.** *Sec. 48. A new section is added to chapter 26.44 RCW to read as follows:*

(1) When, as a result of a report of alleged child abuse or neglect, an investigation is made that includes an in-person contact with the person who is alleged to have committed the abuse or neglect, there shall be a determination of whether it is probable that the use of alcohol or controlled substances is a contributing factor to the alleged abuse or neglect.

(2) The department shall provide appropriate training for persons who conduct the investigations under subsection (1) of this section. The training shall include methods of identifying indicators of abuse of alcohol or controlled substances.

(3) If a determination is made under subsection (1) of this section that there is probable cause to believe abuse of alcohol or controlled substances has contributed to the child abuse or neglect, the department shall, within available funds, cause a comprehensive chemical dependency evaluation to be made of the person or persons so identified. The evaluation shall be conducted by a physician or persons certified under rules adopted by the department to make such evaluation. The department shall perform the duties assigned under this section within existing personnel resources.

**NEW SECTION. Sec. 49.** The legislature finds that the placement of children and youth in state-operated or state-funded residential facilities must be done in such a manner as to protect children who are vulnerable to sexual victimization from youth who are sexually aggressive. To achieve this purpose, the legislature intends the department of social and health services to develop a policy for assessing sexual aggressiveness and vulnerability to sexual victimization of children and youth who are placed in state-operated or state-funded residential facilities.

**NEW SECTION. Sec. 50.** A new section is added to chapter 13.40 RCW to read as follows:

(1) The department shall implement a policy for protecting youth committed to state-operated or state-funded residential facilities under this chapter who are vulnerable to sexual victimization by other youth committed to those facilities who are sexually aggressive. The policy shall include, at a minimum, the following elements:

(a) Development and use of an assessment process for identifying youth, within thirty days of commitment to the department, who present a moderate or high risk of sexually aggressive behavior for the purposes of this section. The assessment process need not require that every youth who is adjudicated or convicted of a sex offense as defined in RCW 9.94A.030 be determined to be sexually aggressive, nor shall a sex offense adjudication or conviction be required in order to determine a youth is sexually aggressive. Instead, the assessment process shall consider the individual circumstances of the youth, including his or her age, physical size, sexual abuse history, mental and emotional condition, and other factors relevant to sexual aggressiveness. The definition of "sexually aggressive youth" in RCW 74.13.075 does not apply to this section to the extent that it conflicts with this section;

(b) Development and use of an assessment process for identifying youth, within thirty days of commitment to the department, who may be vulnerable to victimization by youth identified under (a) of this subsection as presenting a moderate or high risk of sexually aggressive behavior. The assessment process shall consider the individual circumstances of the youth, including his or her age,

physical size, sexual abuse history, mental and emotional condition, and other factors relevant to vulnerability;

(c) Development and use of placement criteria to avoid assigning youth who present a moderate or high risk of sexually aggressive behavior to the same sleeping quarters as youth assessed as vulnerable to sexual victimization, except that they may be assigned to the same multiple-person sleeping quarters if those sleeping quarters are regularly monitored by visual surveillance equipment or staff checks;

(d) Development and use of procedures for minimizing, within available funds, unsupervised contact in state-operated or state-funded residential facilities between youth presenting moderate to high risk of sexually aggressive behavior and youth assessed as vulnerable to sexual victimization. The procedures shall include taking reasonable steps to prohibit any youth committed under this chapter who present a moderate to high risk of sexually aggressive behavior from entering any sleeping quarters other than the one to which they are assigned, unless accompanied by an authorized adult.

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

(a) "Sleeping quarters" means the bedrooms or other rooms within a residential facility where youth are assigned to sleep.

(b) "Unsupervised contact" means contact occurring outside the sight or hearing of a responsible adult for more than a reasonable period of time under the circumstances.

**NEW SECTION. Sec. 51.** The department of social and health services shall report to the legislature by December 1, 1997, on the following: (1) Development of the assessment process for identifying youth who present a moderate to high risk of sexually aggressive behavior for the purposes of sections 49 through 55 of this act; (2) development of the assessment process for determining when a youth may be vulnerable to victimization by youth who present a moderate to high risk of sexually aggressive behavior for the purposes of sections 49 through 55 of this act; and (3) development of the placement criteria and procedures required under section 50(1) (c) and (d) of this act.

**NEW SECTION. Sec. 52.** The policy developed under section 50 of this act shall be implemented within the juvenile rehabilitation administration by January 1, 1998.

**NEW SECTION. Sec. 53.** The department of social and health services shall provide an evaluation of the implementation of sections 49 through 55 of this act to the legislature by December 1, 1998. The evaluation shall identify: (1) The number of youth assessed as presenting a moderate to high risk of sexually aggressive behavior; (2) the number of youth assessed as being vulnerable to victimization; (3) the effectiveness of avoiding assigning youth who present a moderate or high risk of sexually aggressive behavior to the same sleeping quarters as youth assessed as being vulnerable to sexual victimization by utilizing the

assessment and placement process set forth in section 50 of this act; (4) the effectiveness of minimizing, within available funds, unsupervised contact between youth who present a moderate or high risk of sexually aggressive behavior and youth assessed as being vulnerable to sexual victimization utilizing the procedures set forth in section 50 of this act; and (5) the number of youth identified as moderate to high risk of sexually aggressive behavior who were placed in department of social and health services community residential settings during their period of parole with a youth who is not a juvenile offender and is found to be dependent under chapter 13.34 RCW or an at-risk youth or child in need of services under chapter 13.32A RCW. The department shall identify the resources necessary to provide separate placements for youth identified in this subsection and shall identify alternative administrative processes for managing the placement of these youth.

**Sec. 54.** RCW 13.40.460 and 1994 sp.s. c 7 s 516 are each amended to read as follows:

The secretary, assistant secretary, or the secretary's designee shall manage and administer the department's juvenile rehabilitation responsibilities, including but not limited to the operation of all state institutions or facilities used for juvenile rehabilitation.

The secretary or assistant secretary shall:

(1) Prepare a biennial budget request sufficient to meet the confinement and rehabilitative needs of the juvenile rehabilitation program, as forecast by the office of financial management;

(2) Create by rule a formal system for inmate classification. This classification system shall consider:

(a) Public safety;

(b) Internal security and staff safety; ~~((and))~~

(c) Rehabilitative resources both within and outside the department;

(d) An assessment of each offender's risk of sexually aggressive behavior as provided in section 50 of this act; and

(e) An assessment of each offender's vulnerability to sexually aggressive behavior as provided in section 50 of this act;

(3) Develop agreements with local jurisdictions to develop regional facilities with a variety of custody levels;

(4) Adopt rules establishing effective disciplinary policies to maintain order within institutions;

(5) Develop a comprehensive diagnostic evaluation process to be used at intake, including but not limited to evaluation for substance addiction or abuse, literacy, learning disabilities, fetal alcohol syndrome or effect, attention deficit disorder, and mental health;

(6) Develop placement criteria;

(a) To avoid assigning youth who present a moderate or high risk of sexually aggressive behavior to the same sleeping quarters as youth assessed as vulnerable to sexual victimization under section 50(1)(c) of this act; and

(b) To avoid placing a juvenile offender on parole status who has been assessed as a moderate to high risk for sexually aggressive behavior in a department community residential program with another child who is: (i) Dependent under chapter 13.34 RCW, or an at-risk youth or child in need of services under chapter 13.32A RCW; and (ii) not also a juvenile offender on parole status;

(7) Develop a plan to implement, by July 1, 1995:

(a) Substance abuse treatment programs for all state juvenile rehabilitation facilities and institutions;

(b) Vocational education and instruction programs at all state juvenile rehabilitation facilities and institutions; and

(c) An educational program to establish self-worth and responsibility in juvenile offenders. This educational program shall emphasize instruction in character-building principles such as: Respect for self, others, and authority; victim awareness; accountability; work ethics; good citizenship; and life skills; and

~~((7))~~ (8) Study, in conjunction with the superintendent of public instruction, educators, and superintendents of state facilities for juvenile offenders, the feasibility and value of consolidating within a single entity the provision of educational services to juvenile offenders committed to state facilities. The assistant secretary shall report his or her findings to the legislature by December 1, 1995.

**NEW SECTION. Sec. 55.** The policy developed under RCW 13.40.460(6)(b) shall be implemented within the juvenile rehabilitation administration and the division of children and family services by July 1, 1998.

**Sec. 56.** RCW 82.08.02915 and 1995 c 346 s 1 are each amended to read as follows:

The tax levied by RCW 82.08.020 shall not apply to sales to health or social welfare organizations, as defined in RCW 82.04.431, of items necessary for new construction of alternative housing for youth in crisis, so long as the facility will be a licensed agency under chapter 74.15 RCW, upon completion. This section shall expire July 1, ~~((1997))~~ 1999.

**Sec. 57.** RCW 82.12.02915 and 1995 c 346 s 2 are each amended to read as follows:

The provisions of this chapter shall not apply in respect to the use of any item acquired by a health or social welfare organization, as defined in RCW 82.04.431, of items necessary for new construction of alternative housing for youth in crisis, so long as the facility will be a licensed agency under chapter 74.15 RCW, upon completion. This section shall expire July 1, ~~((1997))~~ 1999.

**\*NEW SECTION.** *Sec. 58. It is the intent of section 59 of this act to protect runaway children from predatory individuals, such as drug dealers, sexual marauders, and panderers. Since it is in the interests of these individuals to keep children who have left home on the street and unlocated, this act punishes predatory individuals who provide shelter to at-risk youth as a means of preying upon them. The legislature also recognizes that preventing at-risk youth from coming into contact with these individuals is equally important to their protection. Since prevention and reconciliation can only begin once a child is located, section 59 of this act increases the incentives for individuals to report the children's whereabouts.*

*\*Sec. 58 was vetoed. See message at end of chapter.*

*\*Sec. 59. RCW 13.32A.080 and 1994 sp.s. c 7 s 507 are each amended to read as follows:*

*(1)(a) A person commits the crime of unlawful harboring of a minor if the person provides shelter to a minor without the consent of a parent of the minor and after the person knows that the minor is away from the home of the parent, without the parent's permission, and if the person intentionally:*

*(i) Fails to release the minor to a law enforcement officer after being requested to do so by the officer; or*

*(ii) Fails to disclose the location of the minor to a law enforcement officer after being requested to do so by the officer, if the person knows the location of the minor and had either taken the minor to that location or had assisted the minor in reaching that location; or*

*(iii) Obstructs a law enforcement officer from taking the minor into custody; or*

*(iv) Assists the minor in avoiding or attempting to avoid the custody of the law enforcement officer; or*

*(v) Engages the child in a crime; or*

*(vi) Engages in a clear course of conduct that demonstrates an intent to contribute to the delinquency of a minor or the involvement of a minor in a sex offense as defined in RCW 9.94A.030.*

*(b) It is a defense to a prosecution under this section that the defendant had custody of the minor pursuant to a court order.*

*(2) Harboring a minor is punishable as a gross misdemeanor.*

*(3) Any person who provides shelter to a child, absent from home, may notify the department's local community service office of the child's presence.*

*(4) An adult responsible for involving a child in the commission of an offense may be prosecuted under existing criminal statutes including, but not limited to:*

*(a) Distribution of a controlled substance to a minor, as defined in RCW 69.50.406;*

*(b) Promoting prostitution as defined in chapter 9A.88 RCW; and*

*(c) Complicity of the adult in the crime of a minor, under RCW 9A.08.020.*

\*Sec. 59 was vetoed. See message at end of chapter.

**NEW SECTION. Sec. 60.** The legislature recognizes that Indian tribes are sovereign nations and the relationship between the state and the tribe is sovereign-to-sovereign.

The federal government acknowledged the importance of including Indian tribes in child support systems established by the federal government and the states. The personal responsibility and work opportunity reconciliation act of 1996, P.L. 104-193, provides Indian tribes the option of developing their own tribal plan and tribal child support enforcement program to receive funds directly from the federal government for their own Title IV-D program similar to that of other states. The act also expressly authorizes the states and Indian tribe or tribal organization to enter into cooperative agreements to provide for the delivery of child support enforcement services.

It is the purpose of this chapter to encourage the department of social and health services, division of child support, and the Indian tribes within the state's borders to enter into cooperative agreements that will assist the state and tribal governments in carrying out their respective responsibilities. The legislature recognizes that the state and the tribes each possess resources that are sometimes distinct to that government. The legislature intends that the state and the tribes work together to make the most efficient and productive use of all resources and authorities.

Cooperative agreements will enable the state and the tribes to better provide child support services to Indian children and to establish and enforce child support obligations, orders, and judgments. Under cooperative agreements, the state and the tribes can work as partners to provide culturally relevant child support services, consistent with state and federal laws, that are based on tribal laws and customs. The legislature recognizes that the preferred method for handling cases where all or some of the parties are enrolled tribal members living on the tribal reservation is to develop an agreement so that appropriate cases are referred to the tribe to be processed in the tribal court. The legislature recognizes that cooperative agreements serve the best interests of the children.

**NEW SECTION. Sec. 61.** (1) The department of social and health services may enter into an agreement with an Indian tribe or tribal organization, which is within the state's borders and recognized by the federal government, for joint or cooperative action on child support services and child support enforcement.

(2) In determining the scope and terms of the agreement, the department and the tribe should consider, among other factors, whether the tribe has an established tribal court system with the authority to establish, modify, or enforce support orders, establish paternity, or enter support orders in accordance with child support guidelines established by the tribe.

**NEW SECTION. Sec. 62.** An agreement established under this section may, but is not required to, address the following:

(1) Recognizing the state's and tribe's authority to address child support matters with the development of a process designed to determine how tribal member cases may be handled;

(2) The authority, procedures, and guidelines for all aspects of establishing, entering, modifying, and enforcing child support orders in the tribal court and the state court;

(3) The authority, procedures, and guidelines the department and tribe will follow for the establishment of paternity;

(4) The establishment and agreement of culturally relevant factors that may be considered in child support enforcement;

(5) The authority, procedures, and guidelines for the garnishing of wages of tribal members or employees of a tribe, tribally owned enterprise, or an Indian-owned business located on the reservation;

(6) The department's and tribe's responsibilities to each other;

(7) The ability for the department and the tribe to address the fiscal responsibilities between each other;

(8) Requirements for alternative dispute resolution procedures;

(9) The necessary procedures for notice and the continual sharing of information; and

(10) The duration of the agreement, under what circumstances the parties may terminate the agreement, and the consequences of breaching the provisions in the agreement.

**NEW SECTION.** Sec. 63. The department of social and health services may adopt rules to implement this chapter.

**NEW SECTION.** Sec. 64. RCW 43.06A.040 and 1996 c 131 s 5 are each repealed.

**NEW SECTION.** Sec. 65. Sections 9 through 13 of this act constitute a new chapter in Title 74 RCW.

**NEW SECTION.** Sec. 66. Sections 60 through 63 of this act constitute a new chapter in Title 26 RCW.

**NEW SECTION.** Sec. 67. Sections 8 through 14 and 17 through 34 of this act apply only to incidents occurring on or after January 1, 1998.

**NEW SECTION.** Sec. 68. Sections 8 through 13 and 21 through 34 of this act take effect January 1, 1998.

***\*NEW SECTION.*** Sec. 69. *Sections 14 through 19 of this act take effect April 1, 1998.*

*\*Sec. 69 was vetoed. See message at end of chapter.*

***\*NEW SECTION.*** Sec. 70. *Sections 7 and 20 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect July 1, 1997.*

\*Sec. 70 was vetoed. See message at end of chapter.

**NEW SECTION. Sec. 71.** Sections 56 and 57 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect July 1, 1997.

Passed the Senate April 26, 1997.

Passed the House April 26, 1997.

Approved by the Governor May 15, 1997, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State May 15, 1997.

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

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

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

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

Within the portions of E2SSB 5710 that I have signed, the bill provides the authority to create the position of "Social Worker V" in the Division of Children and Family Services ("DCFS"); further develops an alternative response system of services for families where there has been an indication of child abuse or neglect, but where the risk of danger to the children is regarded as low; provides for a voluntary placement agreement, instead of a termination of parental rights, for families of developmentally disabled children receiving intensive support services; requires the Department of Social and Health Services ("DSHS") to segregate sexually aggressive youth from other populations under the authority of Juvenile Rehabilitation Administration and DCFS; and, extends a tax credit for the construction of facilities for youth in crisis.

Sections 2, 3, 4, and 6

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

Section 8

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

Sections 14 and 20

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

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

Sections 36 through 39

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

Section 46

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

Sections 58 and 59

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

Sections 69 and 70

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

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

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

## CHAPTER 387

[Substitute Senate Bill 5827]

### COLLECTION OF GOVERNMENTAL DEBT BY COLLECTION AGENCIES—CRIME VICTIM RESTITUTION—RECOVERY OF COSTS

AN ACT Relating to fees for judicial and nonjudicial collection of governmental debt by collection agencies; and amending RCW 19.16.500.

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

**Sec. 1.** RCW 19.16.500 and 1982 c 65 s 1 are each amended to read as follows:

(1)(a) Agencies, departments, taxing districts, political subdivisions of the state, counties, and ((incorporated)) cities may retain, by written contract, collection agencies licensed under this chapter for the purpose of collecting public debts owed by any person, including any restitution that is being collected on behalf of a crime victim.

(b) Any governmental entity as described in (a) of this subsection using a collection agency may add a reasonable fee, payable by the debtor, to the outstanding debt for the collection agency fee incurred or to be incurred. The amount to be paid for collection services shall be left to the agreement of the governmental entity and its collection agency or agencies, but a contingent fee of up to fifty percent of the first one hundred thousand dollars of the unpaid debt per account and up to thirty-five percent of the unpaid debt over one hundred thousand dollars per account is reasonable, and a minimum fee of the full amount of the debt up to one hundred dollars per account is reasonable. Any fee agreement entered into by a governmental entity is presumptively reasonable.

(2) No debt may be assigned to a collection agency unless (a) there has been an attempt to advise the debtor (i) of the existence of the debt and (ii) that the debt may be assigned to a collection agency for collection if the debt is not paid, and (b) at least thirty days have elapsed from the time ~~((the))~~ notice was ~~((sent))~~ attempted.

(3) Collection agencies assigned debts under this section shall have only those remedies and powers which would be available to them as assignees of private creditors.

(4) For purposes of this section, the term debt shall include fines and other debts, including the fee required under subsection (1)(b) of this section.

Passed the Senate April 22, 1997.

Passed the House April 10, 1997.

Approved by the Governor May 15, 1997.

Filed in Office of Secretary of State May 15, 1997.

## CHAPTER 388

[Senate Bill 5402]

### TAX EXEMPTIONS FOR NONPROFIT CAMPS AND CONFERENCE CENTERS

AN ACT Relating to tax exemptions for nonprofit camps and nonprofit conference centers; adding a new section to chapter 82.04 RCW; adding a new section to chapter 82.08 RCW; and providing an effective date.

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

NEW SECTION. **Sec. 1.** A new section is added to chapter 82.04 RCW to read as follows:

This chapter does not apply to amounts received by a nonprofit organization from the sale or furnishing of the following items at a camp or conference center conducted on property exempt from property tax under RCW 84.36.030 (1), (2), or (3):

(1) Lodging, conference and meeting rooms, camping facilities, parking, and similar licenses to use real property;

(2) Food and meals;

(3) Books, tapes, and other products that are available exclusively to the participants at the camp, conference, or meeting and are not available to the public at large.

NEW SECTION. **Sec. 2.** A new section is added to chapter 82.08 RCW to read as follows:

The tax levied by RCW 82.08.020 shall not apply to a sale made at a camp or conference center if the gross income from the sale is exempt under section 1 of this act.

NEW SECTION. **Sec. 3.** This act takes effect October 1, 1997.

Passed the Senate April 11, 1997.  
Passed the House April 18, 1997.  
Approved by the Governor May 15, 1997.  
Filed in Office of Secretary of State May 15, 1997.

---

**CHAPTER 389**

[Second Substitute Senate Bill 5886]

**FISHERIES ENHANCEMENT AND HABITAT RESTORATION**

AN ACT Relating to the regional fisheries enhancement program; amending RCW 75.50.080 and 75.50.160; adding new sections to chapter 75.50 RCW; and creating new sections.

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

**NEW SECTION. Sec. 1.** (1) The legislature finds that:

(a) Currently, many of the salmon stocks on the Washington coast and in Puget Sound are severely depressed and may soon be listed under the federal endangered species act.

(b) Immediate action is needed to reverse the severe decline of this resource and ensure its very survival.

(c) The cooperation and participation of private landowners is crucial in efforts to restore and enhance salmon populations.

(d) Regional fisheries enhancement groups have been exceptionally successful in their efforts to work with private landowners to restore and enhance salmon habitat on private lands.

(e) State funding for regional fisheries enhancement groups has been declining and is a significant limitation to current fisheries enhancement and habitat restoration efforts.

(f) Therefore, a stable funding source is essential to the success of the regional enhancement groups and their efforts to work cooperatively with private landowners to restore salmon resources.

(2) The legislature further finds that:

(a) The increasing population and continued development throughout the state, and the transportation system needed to serve this growth, have exacerbated problems associated with culverts, creating barriers to fish passage.

(b) These barriers obstruct habitat and have resulted in reduced production and survival of anadromous and resident fish at a time when salmonid stocks continue to decline.

(c) Current state laws do not appropriately direct resources for the correction of fish passage obstructions related to transportation facilities.

(d) Current fish passage management efforts related to transportation projects lack necessary coordination on a watershed, regional, and state-wide basis, have inadequate funding, and fail to maximize use of available resources.

(e) Therefore, the legislature finds that the department of transportation and the department of fish and wildlife should work with state, tribal, local

government, and volunteer entities to develop a coordinated, watershed-based fish passage barrier removal program.

**NEW SECTION.** **Sec. 2.** A new section is added to chapter 75.50 RCW to read as follows:

The department may provide start-up funds to regional fisheries enhancement groups for costs associated with any enhancement project. The regional fisheries enhancement group advisory board and the department shall develop guidelines for providing funds to the regional fisheries enhancement groups.

**NEW SECTION.** **Sec. 3.** A new section is added to chapter 75.50 RCW to read as follows:

The regional fisheries enhancement salmonid recovery account is created in the state treasury. All receipts from federal sources and moneys from state sources specified by law must be deposited into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used for the sole purpose of fisheries enhancement and habitat restoration by regional fisheries enhancement groups.

**NEW SECTION.** **Sec. 4.** The regional fisheries enhancement group advisory board shall conduct a study of federal, state, and local permitting requirements for fisheries enhancement and habitat restoration projects. The study shall identify redundant, conflicting, or duplicative permitting requirements and rules, and shall make recommendations for streamlining and improving the permitting process. The results of the study shall be reported to the senate natural resources and parks committee and the house of representatives natural resources committee by November 1, 1997.

**Sec. 5.** RCW 75.50.080 and 1993 sp.s. c 2 s 47 are each amended to read as follows:

Regional fisheries enhancement groups, consistent with the long-term regional policy statements developed under RCW 75.50.020, shall seek to:

- (1) Enhance the salmon and steelhead resources of the state;
- (2) Maximize volunteer efforts and private donations to improve the salmon and steelhead resources for all citizens;
- (3) Assist the department in achieving the goal to double the state-wide salmon and steelhead catch by the year 2000 (~~(under chapter 214, Laws of 1988)~~); and
- (4) Develop projects designed to supplement the fishery enhancement capability of the department.

**Sec. 6.** RCW 75.50.160 and 1995 c 367 s 2 are each amended to read as follows:

~~The ((department's habitat division shall work with)) department and the department of transportation shall convene a fish passage barrier removal task force. The task force shall consist of one representative each from the department, the department of transportation, the department of ecology, tribes, cities, counties,~~

~~((and)) a business organization, an environmental organization, regional fisheries enhancement groups, and other interested entities as deemed appropriate by the cochairs. The persons representing the department and the department of transportation shall serve as cochairs of the task force and shall appoint members to the task force. The task force shall make recommendations to ((develop a)) expand the program in RCW 75.50.170 to identify and expedite the removal of human-made or caused impediments to anadromous fish passage in the most efficient manner practical. Program recommendations shall include a funding mechanism and other necessary mechanisms to coordinate and prioritize state, tribal, local, and volunteer efforts within each water resource inventory area. A priority shall be given to projects that immediately increase access to available and improved spawning and rearing habitat for depressed, threatened, and endangered stocks. The department or the department of transportation may contract with cities and counties to assist in the identification and removal of impediments to anadromous fish passage.~~

~~A report on the ((progress of impediment identification and removal and the need for)) recommendations to develop a program to identify and remove fish passage barriers and any additional legislative action needed to implement the program shall be submitted to the ((senate and the house of representatives natural resources)) appropriate standing committees of the legislature no later than ((January 1, 1996)) December 1, 1997.~~

Passed the Senate April 26, 1997.

Passed the House April 25, 1997.

Approved by the Governor May 15, 1997.

Filed in Office of Secretary of State May 15, 1997.

## CHAPTER 390

[Substitute House Bill 1620]

### CORPORATE PRACTICE OF MEDICINE

AN ACT Relating to abrogating the corporate practice of medicine doctrine; amending RCW 18.100.040, 18.100.050, and 25.04.720; reenacting and amending RCW 25.15.045; creating new sections; and declaring an emergency.

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

***\*NEW SECTION. Sec. 1. The legislature finds that the corporate practice of medicine doctrine, as most recently articulated in the case of Morelli v. Ehsan, is an impediment to innovative practice arrangements necessary for the health care reform process to move forward as to physicians licensed pursuant to chapter 18.71 RCW and osteopathic physicians licensed pursuant to chapter 18.57 RCW. The doctrine restricts, at a minimum, who can employ physicians, who can own a physician practice office, and who can derive profits from physician practice. The legislature intends to abrogate the doctrine as to all those elements and as to any other elements of the doctrine as recognized by the courts in the past, currently, or in the future.***

\*Sec. 1 was vetoed. See message at end of chapter.

*\*Sec. 2. RCW 18.100.040 and 1969 c 122 s 4 are each amended to read as follows:*

*(1) This chapter shall not apply to any individuals or groups of individuals within this state who prior to the passage of this chapter were permitted to organize a corporation and perform personal services to the public by means of a corporation, and this chapter shall not apply to any corporation organized by such individual or group of individuals prior to the passage of this chapter: PROVIDED, That any such individual or group of individuals or any such corporation may bring themselves and such corporation within the provisions of this chapter by amending the articles of incorporation in such a manner so as to be consistent with all the provisions of this chapter and by affirmatively stating in the amended articles of incorporation that the shareholders have elected to bring the corporation within the provisions of this chapter.*

*(2) The corporate practice of medicine doctrine as it applies to health care practitioners, other than dentists and veterinarians licensed pursuant to chapters 18.32 and 18.92 RCW respectively, is hereby abrogated in whole, although nothing in this section is meant to affect the ethical obligations of health care practitioners. This abrogation shall not be construed to authorize anyone to require health care practitioners to violate federal, state, or local law. In construing this abrogation, courts shall not apply rules of legislative interpretation that result in narrowly construing this abrogation because it is in derogation of common law.*

*(3) Except for dentists and veterinarians licensed pursuant to chapters 18.32 and 18.92 RCW respectively, any person, including a health care practitioner, may use any otherwise lawful type of business organization to provide health care professional services. Health care practitioners may elect to use the professional form of a business organization to provide professional services as otherwise permitted by law.*

*(4) A professional corporation, professional limited liability company, or professional limited liability partnership may convert to a business corporation, limited liability company, or limited liability partnership by so amending its articles of incorporation, certificate of formation, or other basic business organization document as the case may be and filing the amendment with the state.*

\*Sec. 2 was vetoed. See message at end of chapter.

*Sec. 3. RCW 18.100.050 and 1996 c 22 s 1 are each amended to read as follows:*

*(1) An individual or group of individuals duly licensed or otherwise legally authorized to render the same professional services within this state may organize and become a shareholder or shareholders of a professional corporation for pecuniary profit under the provisions of Title 23B RCW for the purpose of*

rendering professional service. One or more of the legally authorized individuals shall be the incorporators of the professional corporation.

(2) Notwithstanding any other provision of this chapter, registered architects and registered engineers may own stock in and render their individual professional services through one professional service corporation.

(3) Licensed health care professionals, providing services to enrolled participants either directly or through arrangements with a health maintenance organization registered under chapter 48.46 RCW or federally qualified health maintenance organization, may own stock in and render their individual professional services through one professional service corporation.

(4) Professionals may organize a nonprofit nonstock corporation under this chapter and chapter 24.03 RCW to provide professional services, and the provisions of this chapter relating to stock and referring to Title 23B RCW shall not apply to any such corporation.

(5)(a) Notwithstanding any other provision of this chapter, health care professionals who are licensed or certified pursuant to chapters 18.06, 18.19, 18.22, 18.25, 18.29, 18.34, 18.35, 18.36A, 18.50, 18.53, 18.55, 18.57, 18.57A, 18.64, 18.71, 18.71A, 18.79, 18.83, 18.89, 18.108, and 18.138 RCW may own stock in and render their individual professional services through one professional service corporation and are to be considered, for the purpose of forming a professional service corporation, as rendering the "same specific professional services" or "same professional services" or similar terms.

~~(b) ((Notwithstanding any other provision of this chapter, health care professionals who are licensed pursuant to chapters 18.57 and 18.71 RCW may own stock in and render their individual professional services through one professional service corporation and are to be considered, for the purpose of forming a professional service corporation, as rendering the "same specific professional services" or "same professional services" or similar terms.~~

~~—(e))~~ Formation of a professional service corporation under this subsection does not restrict the application of the uniform disciplinary act under chapter 18.130 RCW, or applicable health care professional statutes under Title 18 RCW, including but not limited to restrictions on persons practicing a health profession without being appropriately credentialed and persons practicing beyond the scope of their credential.

**Sec. 4.** RCW 25.15.045 and 1996 c 231 s 7 and 1996 c 22 s 2 are each reenacted and amended to read as follows:

(1) A person or group of persons licensed or otherwise legally authorized to render professional services within this state may organize and become a member or members of a professional limited liability company under the provisions of this chapter for the purposes of rendering professional service. A "professional limited liability company" is subject to all the provisions of chapter 18.100 RCW that apply to a professional corporation, and its managers, members, agents, and employees shall be subject to all the provisions of chapter 18.100 RCW that apply

to the directors, officers, shareholders, agents, or employees of a professional corporation, except as provided otherwise in this section. Nothing in this section prohibits a person duly licensed or otherwise legally authorized to render professional services in any jurisdiction other than this state from becoming a member of a professional limited liability company organized for the purpose of rendering the same professional services. Nothing in this section prohibits a professional limited liability company from rendering professional services outside this state through individuals who are not duly licensed or otherwise legally authorized to render such professional services within this state. Notwithstanding RCW 18.100.065, persons engaged in a profession and otherwise meeting the requirements of this chapter may operate under this chapter as a professional limited liability company so long as each member personally engaged in the practice of the profession in this state is duly licensed or otherwise legally authorized to practice the profession in this state and:

(a) At least one manager of the company is duly licensed or otherwise legally authorized to practice the profession in this state; or

(b) Each member in charge of an office of the company in this state is duly licensed or otherwise legally authorized to practice the profession in this state.

(2) If the company's members are required to be licensed to practice such profession, and the company fails to maintain for itself and for its members practicing in this state a policy of professional liability insurance, bond, or other evidence of financial responsibility of a kind designated by rule by the state insurance commissioner and in the amount of at least one million dollars or a greater amount as the state insurance commissioner may establish by rule for a licensed profession or for any specialty within a profession, taking into account the nature and size of the business, then the company's members are personally liable to the extent that, had the insurance, bond, or other evidence of responsibility been maintained, it would have covered the liability in question.

(3) For purposes of applying the provisions of chapter 18.100 RCW to a professional limited liability company, the terms "director" or "officer" means manager, "shareholder" means member, "corporation" means professional limited liability company, "articles of incorporation" means certificate of formation, "shares" or "capital stock" means a limited liability company interest, "incorporator" means the person who executes the certificate of formation, and "bylaws" means the limited liability company agreement.

(4) The name of a professional limited liability company must contain either the words "Professional Limited Liability Company," or the words "Professional Limited Liability" and the abbreviation "Co.," or the abbreviation "P.L.L.C." or "PLLC" provided that the name of a professional limited liability company organized to render dental services shall contain the full names or surnames of all members and no other word than "chartered" or the words "professional services" or the abbreviation "P.L.L.C." or "PLLC."

(5) Subject to the provisions in article VII of this chapter, the following may be a member of a professional limited liability company and may be the transferee of the interest of an ineligible person or deceased member of the professional limited liability company:

(a) A professional corporation, if its shareholders, directors, and its officers other than the secretary and the treasurer, are licensed or otherwise legally authorized to render the same specific professional services as the professional limited liability company; and

(b) Another professional limited liability company, if the managers and members of both professional limited liability companies are licensed or otherwise legally authorized to render the same specific professional services.

(6)(a) Notwithstanding any other provision of this chapter, health care professionals who are licensed or certified pursuant to chapters 18.06, 18.19, 18.22, 18.25, 18.29, 18.34, 18.35, 18.36A, 18.50, 18.53, 18.55, 18.57, 18.57A, 18.64, 18.71, 18.71A, 18.79, 18.83, 18.89, 18.108, and 18.138 RCW may own membership interests in and render their individual professional services through one limited liability company and are to be considered, for the purpose of forming a limited liability company, as rendering the "same specific professional services" or "same professional services" or similar terms.

(b) ~~((Notwithstanding any other provision of this chapter, health care professionals who are licensed pursuant to chapters 18.57 and 18.71 RCW may own membership interests in and render their individual professional services through one limited liability company and are to be considered, for the purpose of forming a limited liability company, as rendering the "same specific professional services" or "same professional services" or similar terms.~~

—(e)) Formation of a limited liability company under this subsection does not restrict the application of the uniform disciplinary act under chapter 18.130 RCW, or any applicable health care professional statutes under Title 18 RCW, including but not limited to restrictions on persons practicing a health profession without being appropriately credentialed and persons practicing beyond the scope of their credential.

Sec. 5. RCW 25.04.720 and 1996 c 231 s 4 are each amended to read as follows:

(1) A person or group of persons licensed or otherwise legally authorized to render professional services, as defined in RCW 18.100.030, within this state may organize and become a member or members of a limited liability partnership under the provisions of this chapter for the purposes of rendering professional service. Nothing in this section prohibits a person duly licensed or otherwise legally authorized to render professional services in any jurisdiction other than this state from becoming a member of a limited liability partnership organized for the purpose of rendering the same professional services. Nothing in this section prohibits a limited liability partnership from rendering professional services outside

this state through individuals who are not duly licensed or otherwise legally authorized to render such professional services within this state.

(2)(a) Notwithstanding any other provision of this chapter, health care professionals who are licensed or certified pursuant to chapters 18.06, 18.19, 18.22, 18.25, 18.29, 18.34, 18.35, 18.36A, 18.50, 18.53, 18.55, 18.57, 18.57A, 18.64, 18.71, 18.71A, 18.79, 18.83, 18.89, 18.108, and 18.138 RCW may join and render their individual professional services through one limited liability partnership and are to be considered, for the purpose of forming a limited liability partnership, as rendering the "same specific professional services" or "same professional services" or similar terms.

~~(b) ((Notwithstanding any other provision of this chapter, health care professionals who are licensed pursuant to chapters 18.57 and 18.71 RCW may join and render their individual professional services through one limited liability partnership and are to be considered, for the purpose of forming a limited liability partnership, as rendering the "same specific professional services" or "same professional services" or similar terms:~~

~~—(e))~~ Formation of a limited liability partnership under this subsection does not restrict the application of the uniform disciplinary act under chapter 18.130 RCW, or any applicable health care professional statutes under Title 18 RCW, including but not limited to restrictions on persons practicing a health profession without being appropriately credentialed and persons practicing beyond the scope of their credential.

***\*NEW SECTION. Sec. 6. This act applies retroactively to January 1, 1997.***

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

***\*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.***

\*Sec. 7 was vetoed. See message at end of chapter.

Passed the House April 19, 1997.

Passed the Senate April 15, 1997.

Approved by the Governor May 15, 1997, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State May 15, 1997.

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

"I am returning herewith, without my approval as to sections 1, 2, 6 and 7, Substitute House Bill No. 1620 entitled:

"AN ACT Relating to abrogating the corporate practice of medicine doctrine;"

Sections 1 and 2 of Substitute House Bill No. 1620 would have abrogated the corporate practice of medicine doctrine, as most recently articulated in Morelli v. Ehsan, 110 Wn.2d 555, 756 P.2d 129 (1988), on the basis that the doctrine is an impediment to the development of health care reform.

The corporate practice of medicine doctrine states that a corporation cannot engage in the practice of a learned profession through licensed employees unless legislatively authorized. (Morelli at 561) In essence, the doctrine prevents non-doctors from being

shareholders in corporations, partners in partnerships, or members of limited liability companies formed to practice medicine.

While I completely agree that the law should not inhibit the development of corporations and other entities to enhance business opportunities in the medical field, abrogation of the doctrine could have unintended consequences. Abrogation would make it far easier for unscrupulous individuals to engage in insurance fraud, a growing problem in this state and nationally.

I urge insurance companies and other interested parties work with the legislature to develop legislation that would adequately address the problems the corporate practice of medicine doctrine is designed to prevent, yet also make Washington law more accommodating to modern forms of medical business entities.

Sections 6 and 7 would make the bill effective retroactively, to January 1, 1997. Retroactive application of this bill is unnecessary.

For these reasons, I have vetoed sections 1, 2, 6 and 7 of Substitute House Bill No. 1620.

With the exception of sections 1, 2, 6 and 7, Substitute House Bill No. 1620 is approved."

## CHAPTER 39I

[Substitute Senate Bill 5483]

### WHITEWATER RIVER OUTFITTERS—LICENSING

AN ACT Relating to licensing whitewater river outfitters; amending RCW 88.12.010, 88.12.235, 88.12.245, 88.12.255, 88.12.265, 88.12.275, and 19.02.050; adding new sections to chapter 88.12 RCW; prescribing penalties; and providing an effective date.

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

**Sec. 1.** RCW 88.12.010 and 1993 c 244 s 5 are each amended to read as follows:

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

(1) "Boat wastes" includes, but is not limited to, sewage, garbage, marine debris, plastics, contaminated bilge water, cleaning solvents, paint scrapings, or discarded petroleum products associated with the use of vessels.

(2) "Boater" means any person on a vessel on waters of the state of Washington.

(3) "Carrying passengers for hire" means carrying passengers in a vessel on waters of the state for valuable consideration, whether given directly or indirectly or received by the owner, agent, operator, or other person having an interest in the vessel. This shall not include trips where expenses for food, transportation, or incidentals are shared by participants on an even basis. Anyone receiving compensation for skills or money for amortization of equipment and carrying passengers shall be considered to be carrying passengers for hire on waters of the state.

(4) "Commission" means the state parks and recreation commission.

(5) "Darkness" means that period between sunset and sunrise.

(6) "Environmentally sensitive area" means a restricted body of water where discharge of untreated sewage from boats is especially detrimental because of

limited flushing, shallow water, commercial or recreational shellfish, swimming areas, diversity of species, the absence of other pollution sources, or other characteristics.

(7) "Guide" means any individual, including but not limited to subcontractors and independent contractors, engaged for compensation or other consideration by a whitewater river outfitter for the purpose of operating vessels. A person licensed under RCW 77.32.211 or 75.28.780 and acting as a fishing guide is not considered a guide for the purposes of this chapter.

(8) "Marina" means a facility providing boat moorage space, fuel, or commercial services. Commercial services include but are not limited to overnight or live-aboard boating accommodations.

~~((8))~~ (9) "Motor driven boats and vessels" means all boats and vessels which are self propelled.

~~((9))~~ (10) "Muffler" or "muffler system" means a sound suppression device or system, including an underwater exhaust system, designed and installed to abate the sound of exhaust gases emitted from an internal combustion engine and that prevents excessive or unusual noise.

~~((10))~~ (11) "Operate" means to steer, direct, or otherwise have physical control of a vessel that is underway.

~~((11))~~ (12) "Operator" means an individual who steers, directs, or otherwise has physical control of a vessel that is underway or exercises actual authority to control the person at the helm.

~~((12))~~ (13) "Observer" means the individual riding in a vessel who is responsible for observing a water skier at all times.

~~((13))~~ (14) "Owner" means a person who has a lawful right to possession of a vessel by purchase, exchange, gift, lease, inheritance, or legal action whether or not the vessel is subject to a security interest.

~~((14))~~ (15) "Person" means any individual, sole proprietorship, partnership, corporation, nonprofit corporation or organization, limited liability company, firm, association, or other legal entity located within or outside this state.

(16) "Personal flotation device" means a buoyancy device, life preserver, buoyant vest, ring buoy, or buoy cushion that is designed to float a person in the water and that is approved by the commission.

~~((15))~~ (17) "Personal watercraft" means a vessel of less than sixteen feet that uses a motor powering a water jet pump, as its primary source of motive power and that is designed to be operated by a person sitting, standing, or kneeling on, or being towed behind the vessel, rather than in the conventional manner of sitting or standing inside the vessel.

~~((16))~~ (18) "Polluted area" means a body of water used by boaters that is contaminated by boat wastes at unacceptable levels, based on applicable water quality and shellfish standards.

~~((17))~~ (19) "Public entities" means all elected or appointed bodies, including tribal governments, responsible for collecting and spending public funds.

~~((18))~~ (20) "Reckless" or "recklessly" means acting carelessly and heedlessly in a willful and wanton disregard of the rights, safety, or property of another.

~~((19))~~ (21) "Sewage pumpout or dump unit" means:

(a) A receiving chamber or tank designed to receive vessel sewage from a "porta-potty" or a portable container; and

(b) A stationary or portable mechanical device on land, a dock, pier, float, barge, vessel, or other location convenient to boaters, designed to remove sewage waste from holding tanks on vessels.

~~((20))~~ (22) "Underway" means that a vessel is not at anchor, or made fast to the shore, or aground.

~~((21))~~ (23) "Vessel" includes every description of watercraft on the water, other than a seaplane, used or capable of being used as a means of transportation on the water. However, it does not include inner tubes, air mattresses, and small rafts or flotation devices or toys customarily used by swimmers.

~~((22))~~ (24) "Water skiing" means the physical act of being towed behind a vessel on, but not limited to, any skis, aquaplane, kneeboard, tube, or any other similar device.

~~((23))~~ (25) "Waters of the state" means any waters within the territorial limits of Washington state.

~~((24))~~ (26) "Whitewater river outfitter" means any person who is advertising to carry or carries passengers for hire on any whitewater river of the state, but does not include any person whose only service on a given trip is providing instruction in canoeing or kayaking skills.

(27) "Whitewater rivers of the state" means those rivers and streams, or parts thereof, within the boundaries of the state as listed in RCW 88.12.265 or as designated by the commission under section 10 of this act.

**NEW SECTION.** Sec. 2. A new section is added to chapter 88.12 RCW to read as follows:

(1) No person shall act in the capacity of a paid whitewater river outfitter, or advertise in any newspaper or magazine or any other trade publication, or represent himself or herself as a whitewater river outfitter in the state, without first obtaining a whitewater river outfitter's license from the department of licensing in accordance with RCW 88.12.275.

(2) Every whitewater river outfitter's license must, at all times, be conspicuously placed on the premises set forth in the license.

Sec. 3. RCW 88.12.235 and 1993 c 244 s 27 are each amended to read as follows:

Except as provided in RCW 88.12.275~~((3))~~, the commission of a prohibited act or the omission of a required act under RCW ~~((88.12.250))~~ 88.12.245 through 88.12.275 constitutes a misdemeanor, punishable as provided under RCW 9.92.030.

Sec. 4. RCW 88.12.245 and 1993 c 244 s 30 are each amended to read as follows:

(1) While carrying passengers for hire on whitewater rivers in this state, the ~~((operator and owner of the vessel))~~ licensed whitewater river outfitter shall comply with the following requirements at the beginning of every trip:

(a) If using inflatable vessels, use only vessels with three or more separate air chambers;

(b) Ensure that all passengers ~~((and operators))~~ are wearing a securely fastened United States coast guard-approved type V personal flotation device of the proper size, and that all guides are wearing a securely fastened United States coast guard-approved type III or type V personal flotation device;

(c) Ensure that ~~((each vessel has accessible))~~ a spare United States coast guard-approved type III or type V personal flotation device in good repair is accessible to all vessels on each trip;

(d) Ensure that each vessel has on it a bagged throwable line with a floating line and bag;

(e) Ensure that each vessel has accessible an adequate first-aid kit;

(f) Ensure that each vessel has a spare propelling device;

(g) Ensure that a repair kit and air pump are accessible to inflatable vessel;  
~~((and))~~

(h) Ensure that equipment to prevent and treat hypothermia is accessible to all vessels on a trip; and

(i) Ensure that each vessel is operated by a guide who has complied with the requirements of subsection (2) of this section.

(2) No person may ~~((operate on the whitewater rivers of this state a vessel carrying passengers for hire unless the person))~~ act as a guide unless the individual is at least eighteen years of age and has:

(a) Successfully completed a lifesaving training course meeting standards adopted by the commission;

(b) Completed a program of guide training on whitewater rivers, conducted by a guide instructor, which program must run for a minimum of fifty hours on a whitewater river and must include at least the following elements:

(i) Equipment preparation and boat rigging;

(ii) Reading river characteristics including currents, eddies, rapids, and hazards;

(iii) Methods of scouting and running rapids;

(iv) River rescue techniques, including emergency procedures and equipment recovery; and

(v) Communications with clients, including paddling and safety instruction;  
and

(c) Completed at least one trip on an entire section of whitewater river before carrying passengers for hire in a vessel on any such section of whitewater river.

(3) A guide instructor must have traveled at least one thousand five hundred river miles, seven hundred fifty of which must have been while acting as a guide.

(4) Any person conducting guide training on whitewater rivers shall, upon request of a guide trainee, issue proof of completion to the guide completing the required training program.

Sec. 5. RCW 88.12.255 and 1993 c 244 s 31 are each amended to read as follows:

(1) ~~((Vessel operators and passengers))~~ Whitewater river outfitters and guides on any trip carrying passengers for hire on whitewater rivers of the state shall not allow the use of alcohol during the course of a trip on a whitewater river section in this state.

(2) Any vessel carrying passengers for hire on any whitewater river section in this state must be accompanied by at least one other vessel ~~((under the supervision of the same operator or owner or))~~ being operated by a ~~((person registered under RCW 88.12.275))~~ licensed whitewater river outfitter or ~~((an operator))~~ a guide under the direction or control of a ~~((person registered under RCW 88.12.275))~~ licensed whitewater river outfitter.

Sec. 6. RCW 88.12.265 and 1986 c 217 s 8 are each amended to read as follows:

Whitewater river sections include but are not limited to:

- (1) Green river above Flaming Geyser state park;
- (2) Klickitat river above the confluence with Summit creek;
- (3) Methow river below the town of Carlton;
- (4) Sauk river above the town of Darrington;
- (5) Skagit river above Bacon creek;
- (6) Suiattle river;
- (7) Tieton river below Rimrock dam;
- (8) Skykomish river below Sunset Falls and above the Highway 2 bridge one mile east of the town of Gold Bar;
- (9) Wenatchee river above the Wenatchee county park at the town of Monitor;
- (10) White Salmon river; and
- (11) Any other section of river designated a "whitewater river section" by the ~~((interagency committee for outdoor recreation. Such river sections shall be class two or greater difficulty under the international scale of whitewater difficulty))~~ commission under section 10 of this act.

Sec. 7. RCW 88.12.275 and 1995 c 399 s 216 are each amended to read as follows:

(1) ~~((Any person carrying passengers for hire on whitewater river sections in this state may register with the department of licensing. Each registration application shall be submitted annually on a form provided by the department of licensing))~~ The department of licensing shall issue a whitewater river outfitter's license to an applicant who submits a completed application, pays the required fee, and complies with the requirements of this section.

(2) An applicant for a whitewater river outfitter's license shall make application upon a form provided by the department of licensing. The form must be submitted annually and ((shall)) include the following information:

(a) The name, residence address, and residence telephone number, and the business name, address, and telephone number of the ((registrant)) applicant;

(b) Certification that all employees, subcontractors, or independent contractors hired as guides meet training standards under RCW 88.12.245(2) before carrying any passengers for hire;

(c) Proof that the ((registrant)) applicant has liability insurance for a minimum of three hundred thousand dollars per claim for occurrences by the ((registrant)) applicant and the ((registrant's)) applicant's employees that result in bodily injury or property damage. All guides must be covered by the applicant's insurance policy; ((and

—(e))) (d) Certification that the ((registrant)) applicant will maintain the insurance for a period of not less than one year from the date of ((registration)) issuance of the license; and

(e) Certification by the applicant that for a period of not less than twenty-four months immediately preceding the application the applicant:

(i) Has not had a license, permit, or certificate to carry passengers for hire on a river revoked by another state or by an agency of the government of the United States due to a conviction for a violation of safety or insurance coverage requirements no more stringent than the requirements of this chapter; and

(ii) Has not been denied the right to apply for a license, permit, or certificate to carry passengers for hire on a river by another state.

((2)) (3) The department of licensing shall charge a fee for each application, to be set in accordance with RCW 43.24.086.

((3)) (4) Any person advertising or representing ((themselves)) himself or herself as ((having registered under this section)) a whitewater river outfitter who is not currently ((registered)) licensed is guilty of a gross misdemeanor.

((4)) (5) The department of licensing shall submit annually a list of ((registered)) licensed persons and companies to the department of community, trade, and economic development, tourism promotion division.

((5)) (6) If an insurance company cancels or refuses to renew insurance for a ((registrant during the period of registration)) licensee, the insurance company shall notify the department of licensing in writing of the termination of coverage and its effective date not less than thirty days before the effective date of termination.

(a) Upon receipt of an insurance company termination notice, the department of licensing shall send written notice to the ((registrant)) licensee that on the effective date of termination the department of licensing will suspend the ((registration)) license unless proof of insurance as required by this section is filed with the department of licensing before the effective date of the termination.

(b) If an insurance company fails to give notice of coverage termination, this failure shall not have the effect of continuing the coverage.

(c) The department of licensing may suspend ~~((or revoke registration))~~ a license under this section if the ~~((registrant))~~ licensee fails to maintain in full force and effect the insurance required by this section.

~~((6))~~ (7) The state of Washington shall be immune from any civil action arising from ~~((a registration))~~ the issuance of a license under this section.

NEW SECTION. Sec. 8. A new section is added to chapter 88.12 RCW to read as follows:

Within five days after conviction for any of the provisions of RCW 88.12.245 through 88.12.275, the court shall forward a copy of the judgment to the department of licensing. After receiving proof of conviction, the department of licensing may suspend the license of any whitewater river outfitter for a period not to exceed one year or until proof of compliance with all licensing requirements and correction of the violation under which the whitewater river outfitter was convicted.

NEW SECTION. Sec. 9. A new section is added to chapter 88.12 RCW to read as follows:

The department of licensing may adopt and enforce such rules, including the setting of fees, as may be consistent with and necessary to implement RCW 88.12.275. The fees must approximate the cost of administration. The fees must be deposited in the master license account.

NEW SECTION. Sec. 10. A new section is added to chapter 88.12 RCW to read as follows:

The commission shall adopt rules that designate as whitewater rivers all sections of rivers with at least one class III rapid or greater, as described in the American Whitewater Affiliation's whitewater safety code. The commission is authorized to consider the imposition of a schedule of fines for minor violations.

Sec. 11. RCW 19.02.050 and 1994 c 264 s 8 are each amended to read as follows:

~~((H))~~ The legislature hereby directs the full participation by the following agencies in the implementation of this chapter:

- ~~((a))~~ (1) Department of agriculture;
- ~~((b))~~ (2) Secretary of state;
- ~~((c))~~ (3) Department of social and health services;
- ~~((d))~~ (4) Department of revenue;
- ~~((e))~~ (5) Department of fish and wildlife;
- ~~((f))~~ (6) Department of employment security;
- ~~((g))~~ (7) Department of labor and industries;
- ~~((h))~~ (8) Department of community, trade, and economic development;
- ~~((i))~~ (9) Liquor control board;
- ~~((j))~~ (10) Department of health;

- ~~((\*)~~) (1) Department of licensing;  
~~((#))~~ (12) Parks and recreation commission;  
 (13) Utilities and transportation commission; and  
~~((m))~~ (14) Other agencies as determined by the governor.

NEW SECTION. Sec. 12. Sections 2, 4, 5, 7, and 8 of this act take effect January 1, 1998.

Passed the Senate April 21, 1997.

Passed the House April 9, 1997.

Approved by the Governor May 16, 1997.

Filed in Office of Secretary of State May 16, 1997.

## CHAPTER 392

[Engrossed Second Substitute House Bill 1850]

### LONG-TERM CARE REORGANIZATION AND STANDARDS OF CARE REFORM ACT

AN ACT Relating to the long-term care reorganization and standards of care reform act; amending RCW 70.129.010, 70.129.030, 70.129.110, 70.129.150, 74.39A.030, 74.39A.040, 74.39A.050, 74.39A.060, 70.129.105, 74.42.030, 74.42.450, 43.20B.080, 74.34.010, 74.39A.170, 70.128.175, 9A.42.010, 9A.42.050, 9A.42.020, 9A.42.030, 9A.44.010, 9A.44.050, 9A.44.100, 18.130.200, 43.43.842, 70.124.020, 70.124.040, 70.124.070, 74.34.020, 43.43.832, 43.20A.710, 18.52C.010, 18.52C.020, and 18.52C.040; reenacting and amending RCW 18.130.040; adding a new section to chapter 74.39A RCW; adding a new section to chapter 70.124 RCW; adding new sections to chapter 74.34 RCW; adding new sections to chapter 18.20 RCW; adding a new section to chapter 43.20B RCW; adding a new section to chapter 43.70 RCW; adding a new section to chapter 18.51 RCW; adding new sections to chapter 9A.42 RCW; adding a new section to chapter 43.43 RCW; creating new sections; repealing RCW 74.39.030, 74.39.040, 74.39A.005, and 74.39A.008; and declaring an emergency.

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

### PART I

NEW SECTION. Sec. 101. This act shall be known and may be cited as the Clara act.

NEW SECTION. Sec. 102. FINDINGS AND INTENT. The legislature finds and declares that the state's current fragmented categorical system for administering services to persons with disabilities and the elderly is not client and family-centered and has created significant organizational barriers to providing high quality, safe, and effective care and support. The present fragmented system results in uncoordinated enforcement of regulations designed to protect the health and safety of disabled persons, lacks accountability due to the absence of management information systems' client tracking data, and perpetuates difficulty in matching client needs and services to multiple categorical funding sources.

The legislature further finds that Washington's chronically functionally disabled population of all ages is growing at a rapid pace due to a population of the very old and increased incidence of disability due in large measure to technological improvements in acute care causing people to live longer. Further, to meet the significant and growing long-term care needs into the near future, rapid,

fundamental changes must take place in the way we finance, organize, and provide long-term care services to the chronically functionally disabled.

The legislature further finds that the public demands that long-term care services be safe, client and family-centered, and designed to encourage individual dignity, autonomy, and development of the fullest human potential at home or in other residential settings, whenever practicable.

**NEW SECTION. Sec. 103.** A new section is added to chapter 74.39A RCW to read as follows:

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

(1) "Adult family home" means a home licensed under chapter 70.128 RCW.

(2) "Adult residential care" means services provided by a boarding home that is licensed under chapter 18.20 RCW and that has a contract with the department under RCW 74.39A.020.

(3) "Assisted living services" means services provided by a boarding home that has a contract with the department under RCW 74.39A.010 and the resident is housed in a private apartment-like unit.

(4) "Boarding home" means a facility licensed under chapter 18.20 RCW.

(5) "Cost-effective care" means care provided in a setting of an individual's choice that is necessary to promote the most appropriate level of physical, mental, and psychosocial well-being consistent with client choice, in an environment that is appropriate to the care and safety needs of the individual, and such care cannot be provided at a lower cost in any other setting. But this in no way precludes an individual from choosing a different residential setting to achieve his or her desired quality of life.

(6) "Department" means the department of social and health services.

(7) "Enhanced adult residential care" means services provided by a boarding home that is licensed under chapter 18.20 RCW and that has a contract with the department under RCW 74.39A.010.

(8) "Functionally disabled person" is synonymous with chronic functionally disabled and means a person who because of a recognized chronic physical or mental condition or disease, including chemical dependency, is impaired to the extent of being dependent upon others for direct care, support, supervision, or monitoring to perform activities of daily living. "Activities of daily living", in this context, means self-care abilities related to personal care such as bathing, eating, using the toilet, dressing, and transfer. Instrumental activities of daily living may also be used to assess a person's functional abilities as they are related to the mental capacity to perform activities in the home and the community such as cooking, shopping, house cleaning, doing laundry, working, and managing personal finances.

(9) "Home and community services" means adult family homes, in-home services, and other services administered or provided by contract by the department

directly or through contract with area agencies on aging or similar services provided by facilities and agencies licensed by the department.

(10) "Long-term care" is synonymous with chronic care and means care and supports delivered indefinitely, intermittently, or over a sustained time to persons of any age disabled by chronic mental or physical illness, disease, chemical dependency, or a medical condition that is permanent, not reversible or curable, or is long-lasting and severely limits their mental or physical capacity for self-care. The use of this definition is not intended to expand the scope of services, care, or assistance by any individuals, groups, residential care settings, or professions unless otherwise expressed by law.

(11) "Nursing home" means a facility licensed under chapter 18.51 RCW.

(12) "Secretary" means the secretary of social and health services.

(13) "Tribally licensed boarding home" means a boarding home licensed by a federally recognized Indian tribe which home provides services similar to boarding homes licensed under chapter 18.20 RCW.

**\*NEW SECTION. Sec. 104. JOINT LEGISLATIVE COMMITTEE ON LONG-TERM CARE OVERSIGHT.** *(1) There is created a joint legislative committee on long-term care oversight. The committee shall consist of: (a) Four members of the senate appointed by the president of the senate, two of whom shall be members of the majority party and two of whom shall be members of the minority party; and (b) four members of the house of representatives, two of whom shall be members of the majority party and two of whom shall be members of the minority party.*

*(2) The committee shall elect a chair and vice-chair. The chair shall be a member of the senate in even-numbered years and a member of the house of representatives in odd-numbered years. The vice-chair shall be a member of the senate in odd-numbered years and a member of the house of representatives in even-numbered years.*

*(3) The committee shall:*

*(a) Review the need for reorganization and reform of long-term care administration and service delivery;*

*(b) Review all quality standards developed, revised, and enforced by the department;*

*(c) In cooperation with the department of social and health services, develop suggestions to simplify, reduce, or eliminate unnecessary rules, procedures, and burdensome paperwork that prove to be barriers to providing effective coordination or high quality direct services;*

*(d) Suggest methods of cost-efficiencies that can be used to reallocate funds to unmet needs in direct services;*

*(e) List all nonmeans tested programs and activities funded by the federal older Americans act and state funded senior citizens act or other such state funded programs and recommend how to integrate such services into existing long-term care programs for the functionally disabled;*

*(f) Suggest methods to establish a single point of entry for service eligibility and delivery for functionally disabled persons;*

*(g) Evaluate the need for long-term care training and review all long-term care training and education programs conducted by the department and suggest modifications to improve the training system;*

*(h) Describe current facilities and services that provide long-term care to all types of chronically disabled individuals in the state including Revised Code of Washington requirements, Washington Administrative Code rules, allowable occupancy, typical clientele, discharge practices, agency oversight, rates, eligibility requirements, entry process, social and health services and other services provided, staffing standards, and physical plant standards;*

*(i) Determine the extent to which the current long-term care system meets the health and safety needs of the state's long-term care population and is appropriate for the specific and identified needs of the residents in all settings;*

*(j) Assess the adequacy of the discharge and referral process in protecting the health and safety of long-term care clients;*

*(k) Determine the extent to which training and supervision of direct care staff are adequate to ensure safety and appropriate care;*

*(l) Identify opportunities for consolidation between categories of care; and*

*(m) Determine if payment rates are adequate to cover the varying costs of clients with different levels of need.*

\*Sec. 104 was vetoed. See message at end of chapter.

## PART II

### QUALITY STANDARDS AND COMPLAINT ENFORCEMENT

NEW SECTION. Sec. 201. A new section is added to chapter 70.124 RCW to read as follows:

(1) An employee who is a whistleblower and who as a result of being a whistleblower has been subjected to workplace reprisal or retaliatory action, has the remedies provided under chapter 49.60 RCW. RCW 4.24.500 through 4.24.520, providing certain protection to persons who communicate to government agencies, apply to complaints made under this section. The identity of a whistleblower who complains, in good faith, to the department about suspected abuse, neglect, financial exploitation, or abandonment by any person in a nursing home, state hospital, or adult family home may remain confidential if requested. The identity of the whistleblower shall subsequently remain confidential unless the department determines that the complaint was not made in good faith.

(2)(a) An attempt to discharge a resident from a nursing home, state hospital, adult family home, or any type of discriminatory treatment of a resident by whom, or upon whose behalf, a complaint substantiated by the department has been submitted to the department or any proceeding instituted under or related to this chapter within one year of the filing of the complaint or the institution of the action, raises a rebuttable presumption that the action was in retaliation for the filing of the complaint.

(b) The presumption is rebutted by credible evidence establishing the alleged retaliatory action was initiated prior to the complaint.

(c) The presumption is rebutted by a functional assessment conducted by the department that shows that the resident's needs cannot be met by the reasonable accommodations of the facility due to the increased needs of the resident.

(3) For the purposes of this section:

(a) "Whistleblower" means a resident or employee of a nursing home, state hospital, or adult family home, or any person licensed under Title 18 RCW, who in good faith reports alleged abuse, neglect, exploitation, or abandonment to the department or to a law enforcement agency;

(b) "Workplace reprisal or retaliatory action" means, but is not limited to: Denial of adequate staff to perform duties; frequent staff changes; frequent and undesirable office changes; refusal to assign meaningful work; unwarranted and unsubstantiated report of misconduct under Title 18 RCW; letters of reprimand or unsatisfactory performance evaluations; demotion; denial of employment; or a supervisor or superior encouraging coworkers to behave in a hostile manner toward the whistleblower; and

(c) "Reasonable accommodation" by a facility to the needs of a prospective or current resident has the meaning given to this term under the federal Americans with disabilities act of 1990, 42 U.S.C. Sec. 12101 et seq. and other applicable federal or state antidiscrimination laws and regulations.

(4) This section does not prohibit a nursing home, state hospital, or adult family home from exercising its authority to terminate, suspend, or discipline an employee who engages in workplace reprisal or retaliatory action against a whistleblower. The protections provided to whistleblowers under this chapter shall not prevent a nursing home, state hospital, or adult family home from: (a) Terminating, suspending, or disciplining a whistleblower for other lawful purposes; or (b) for facilities with six or fewer residents, reducing the hours of employment or terminating employment as a result of the demonstrated inability to meet payroll requirements. The department shall determine if the facility cannot meet payroll in cases where a whistleblower has been terminated or had hours of employment reduced due to the inability of a facility to meet payroll.

(5) The department shall adopt rules to implement procedures for filing, investigation, and resolution of whistleblower complaints that are integrated with complaint procedures under this chapter.

(6) No frail elder or vulnerable person who relies upon and is being provided spiritual treatment in lieu of medical treatment in accordance with the tenets and practices of a well-recognized religious denomination shall for that reason alone be considered abandoned, abused, or neglected, nor shall anything in this chapter be construed to authorize, permit, or require medical treatment contrary to the stated or clearly implied objection of such a person.

(7) The department shall adopt rules designed to discourage whistleblower complaints made in bad faith or for retaliatory purposes.

**NEW SECTION. Sec. 202.** A new section is added to chapter 74.34 RCW to read as follows:

(1) An employee or contractor who is a whistleblower and who as a result of being a whistleblower has been subjected to workplace reprisal or retaliatory action, has the remedies provided under chapter 49.60 RCW. RCW 4.24.500 through 4.24.520, providing certain protection to persons who communicate to government agencies, apply to complaints made under this section. The identity of a whistleblower who complains, in good faith, to the department about suspected abuse, neglect, exploitation, or abandonment by any person in a boarding home licensed or required to be licensed pursuant to chapter 18.20 RCW or a veterans' home pursuant to chapter 72.36 RCW or care provided in a boarding home or a veterans' home by any person associated with a hospice, home care, or home health agency licensed under chapter 70.127 RCW or other in-home provider may remain confidential if requested. The identity of the whistleblower shall subsequently remain confidential unless the department determines that the complaint was not made in good faith.

(2)(a) An attempt to expel a resident from a boarding home or veterans' home, or any type of discriminatory treatment of a resident who is a consumer of hospice, home health, home care services, or other in-home services by whom, or upon whose behalf, a complaint substantiated by the department or the department of health has been submitted to the department or any proceeding instituted under or related to this chapter within one year of the filing of the complaint or the institution of the action, raises a rebuttable presumption that the action was in retaliation for the filing of the complaint.

(b) The presumption is rebutted by credible evidence establishing the alleged retaliatory action was initiated prior to the complaint.

(c) The presumption is rebutted by a functional assessment conducted by the department that shows that the resident or consumer's needs cannot be met by the reasonable accommodations of the facility due to the increased needs of the resident.

(3) For the purposes of this section:

(a) "Whistleblower" means a resident or a person with a mandatory duty to report under this chapter, or any person licensed under Title 18 RCW, who in good faith reports alleged abuse, neglect, exploitation, or abandonment to the department, or the department of health, or to a law enforcement agency;

(b) "Workplace reprisal or retaliatory action" means, but is not limited to: Denial of adequate staff to perform duties; frequent staff changes; frequent and undesirable office changes; refusal to assign meaningful work; unwarranted and unsubstantiated report of misconduct under Title 18 RCW; letters of reprimand or unsatisfactory performance evaluations; demotion; denial of employment; or a supervisor or superior encouraging coworkers to behave in a hostile manner toward the whistleblower. The protections provided to whistleblowers under this chapter shall not prevent a nursing home, state hospital, boarding home, or adult family

home from: (i) Terminating, suspending, or disciplining a whistleblower for other lawful purposes; or (ii) for facilities licensed under chapter 70.128 RCW, reducing the hours of employment or terminating employment as a result of the demonstrated inability to meet payroll requirements. The department shall determine if the facility cannot meet payroll in cases in which a whistleblower has been terminated or had hours of employment reduced because of the inability of a facility to meet payroll; and

(c) "Reasonable accommodation" by a facility to the needs of a prospective or current resident has the meaning given to this term under the federal Americans with disabilities act of 1990, 42 U.S.C. Sec. 12101 et seq. and other applicable federal or state antidiscrimination laws and regulations.

(4) This section does not prohibit a boarding home or veterans' home from exercising its authority to terminate, suspend, or discipline any employee who engages in workplace reprisal or retaliatory action against a whistleblower.

(5) The department shall adopt rules to implement procedures for filing, investigation, and resolution of whistleblower complaints that are integrated with complaint procedures under this chapter.

(6) No frail elder or vulnerable person who relies upon and is being provided spiritual treatment in lieu of medical treatment in accordance with the tenets and practices of a well-recognized religious denomination shall for that reason alone be considered abandoned, abused, or neglected, nor shall anything in this chapter be construed to authorize, permit, or require medical treatment contrary to the stated or clearly implied objection of such a person.

(7) The department, and the department of health for facilities, agencies, or individuals it regulates, shall adopt rules designed to discourage whistleblower complaints made in bad faith or for retaliatory purposes.

**Sec. 203.** RCW 70.129.010 and 1994 c 214 s 2 are each amended to read as follows:

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

(1) "Department" means the department of state government responsible for licensing the provider in question.

(2) "Facility" means a long-term care facility.

(3) "Long-term care facility" means a facility that is licensed or required to be licensed under chapter 18.20, 72.36, or 70.128 RCW.

(4) "Resident" means the individual receiving services in a long-term care facility, that resident's attorney in fact, guardian, or other legal representative acting within the scope of their authority.

(5) "Physical restraint" means a manual method, obstacle, or physical or mechanical device, material, or equipment attached or adjacent to the resident's body that restricts freedom of movement or access to his or her body((~~+~~)), is used for discipline or convenience((~~+~~)), and not required to treat the resident's medical symptoms.

(6) "Chemical restraint" means a psychopharmacologic drug that is used for discipline or convenience and not required to treat the resident's medical symptoms.

(7) "Representative" means a person appointed under RCW 7.70.065.

(8) "Reasonable accommodation" by a facility to the needs of a prospective or current resident has the meaning given to this term under the federal Americans with disabilities act of 1990, 42 U.S.C. Sec. 12101 et seq. and other applicable federal or state antidiscrimination laws and regulations.

*\*Sec. 204. RCW 70.129.030 and 1994 c 214 s 4 are each amended to read as follows:*

*(1) The facility must inform the resident both orally and in writing in a language that the resident understands of his or her rights and all rules and regulations governing resident conduct and responsibilities during the stay in the facility. The notification must be made prior to or upon admission. Receipt of the information must be acknowledged in writing.*

*(2) The resident or his or her legal representative has the right:*

*(a) Upon an oral or written request, to access all records pertaining to himself or herself including clinical records within twenty-four hours; and*

*(b) After receipt of his or her records for inspection, to purchase at a cost not to exceed the community standard photocopies of the records or portions of them upon request and two working days' advance notice to the facility.*

*(3) The facility shall only admit or retain individuals whose needs it can safely and appropriately serve in the facility with appropriate available staff or through the provision of reasonable accommodations as required by state or federal law. Except in cases of emergency, facilities shall not admit an individual before obtaining a comprehensive assessment of the resident's needs and preferences, unless unavailable despite the best efforts of the facility and other interested parties. The assessment shall contain, within existing department funds, the following information: Recent medical history; necessary and prohibited medications; a medical professional's diagnosis; significant known behaviors or symptoms that may cause concern or require special care; mental illness except where protected by confidentiality laws; level of personal care needs; activities and service preferences; and preferences regarding issues important to the potential resident, such as food and daily routine. The facility must inform each resident in writing in a language the resident or his or her representative understands before(, or at the time of) admission, and at least once every twenty-four months thereafter, of: (a) Services, items, and activities customarily available in the facility or arranged for by the facility; (b) charges for those services, items, and activities including charges for services, items, and activities not covered by the facility's per diem rate or applicable public benefit programs; and (c) the rules of facility operations required under RCW 70.129.140(2). Each resident and his or her representative must be informed in writing in advance of changes in the availability or the charges for services,*

items, or activities, or of changes in the facility's rules. Except in unusual circumstances, thirty days' advance notice must be given prior to the change. However, for facilities licensed for six or fewer residents, if there has been a substantial and continuing change in the resident's condition necessitating substantially greater or lesser services, items, or activities, then the charges for those services, items, or activities may be changed upon fourteen days advance written notice.

(4) The facility must furnish a written description of residents rights that includes:

(a) A description of the manner of protecting personal funds, under RCW 70.129.040;

(b) A posting of names, addresses, and telephone numbers of the state survey and certification agency, the state licensure office, the state ombudsmen program, and the protection and advocacy systems; and

(c) A statement that the resident may file a complaint with the appropriate state licensing agency concerning resident abuse, neglect, and misappropriation of resident property in the facility.

(5) Notification of changes.

(a) A facility must immediately consult with the resident's physician, and if known, make reasonable efforts to notify the resident's legal representative or an interested family member when there is:

(i) An accident involving the resident which requires or has the potential for requiring physician intervention;

(ii) A significant change in the resident's physical, mental, or psychosocial status (i.e., a deterioration in health, mental, or psychosocial status in either life-threatening conditions or clinical complications).

(b) The facility must promptly notify the resident or the resident's representative shall make reasonable efforts to notify an interested family member, if known, when there is:

(i) A change in room or roommate assignment; or

(ii) A decision to transfer or discharge the resident from the facility.

(c) The facility must record and update the address and phone number of the resident's representative or interested family member, upon receipt of notice from them.

(6) This section applies to long-term care facilities covered under this chapter.

\*Sec. 204 was vetoed. See message at end of chapter.

Sec. 205. RCW 70.129.110 and 1994 c 214 s 12 are each amended to read as follows:

(1) The facility must permit each resident to remain in the facility, and not transfer or discharge the resident from the facility unless:

(a) The transfer or discharge is necessary for the resident's welfare and the resident's needs cannot be met in the facility;

- (b) The safety of individuals in the facility is endangered;
- (c) The health of individuals in the facility would otherwise be endangered;
- (d) The resident has failed to make the required payment for his or her stay;

or

- (e) The facility ceases to operate.

(2) All long-term care facilities shall fully disclose to potential residents or their legal representative the service capabilities of the facility prior to admission to the facility. If the care needs of the applicant who is medicaid eligible are in excess of the facility's service capabilities, the department shall identify other care settings or residential care options consistent with federal law.

(3) Before a long-term care facility transfers or discharges a resident, the facility must:

(a) First attempt through reasonable accommodations to avoid the transfer or discharge, unless agreed to by the resident;

(b) Notify the resident and representative and make a reasonable effort to notify, if known, an interested family member of the transfer or discharge and the reasons for the move in writing and in a language and manner they understand;

~~((b))~~ (c) Record the reasons in the resident's record; and

~~((e))~~ (d) Include in the notice the items described in subsection ~~((4))~~ (5) of this section.

~~((3))~~ (4)(a) Except when specified in this subsection, the notice of transfer ~~((of or))~~ or discharge required under subsection ~~((2))~~ (3) of this section must be made by the facility at least thirty days before the resident is transferred or discharged.

(b) Notice may be made as soon as practicable before transfer or discharge when:

(i) The safety of individuals in the facility would be endangered;

(ii) The health of individuals in the facility would be endangered;

(iii) An immediate transfer or discharge is required by the resident's urgent medical needs; or

(iv) A resident has not resided in the facility for thirty days.

~~((4))~~ (5) The written notice specified in subsection ~~((2))~~ (3) of this section must include the following:

(a) The reason for transfer or discharge;

(b) The effective date of transfer or discharge;

(c) The location to which the resident is transferred or discharged;

(d) The name, address, and telephone number of the state long-term care ombudsman;

(e) For residents with developmental disabilities, the mailing address and telephone number of the agency responsible for the protection and advocacy of developmentally disabled individuals established under part C of the developmental disabilities assistance and bill of rights act; and

(f) For residents who are mentally ill, the mailing address and telephone number of the agency responsible for the protection and advocacy of mentally ill individuals established under the protection and advocacy for mentally ill individuals act.

~~((5))~~ (6) A facility must provide sufficient preparation and orientation to residents to ensure safe and orderly transfer or discharge from the facility.

~~((6))~~ (7) A resident discharged in violation of this section has the right to be readmitted immediately upon the first availability of a gender-appropriate bed in the facility.

**Sec. 206.** RCW 70.129.150 and 1994 c 214 s 16 are each amended to read as follows:

(1) Prior to admission, all long-term care facilities or nursing facilities licensed under chapter 18.51 RCW that require payment of an admissions fee, deposit, or a minimum stay fee, by or on behalf of a person seeking ~~((admissions {admission}))~~ admission to the long-term care facility or nursing facility, shall provide the resident, or his or her representative, full disclosure in writing ~~((of the long-term care facility or nursing facility's schedule of charges for items and services provided by the facility and))~~ in a language the resident or his or her representative understands, a statement of the amount of any admissions fees, deposits, prepaid charges, or minimum stay fees. The facility shall also disclose to the person, or his or her representative, the facility's advance notice or transfer requirements, prior to admission. In addition, the long-term care facility or nursing facility shall also fully disclose in writing prior to admission what portion of the deposits, admissions fees, prepaid charges, or minimum stay fees will be refunded to the resident or his or her representative if the resident leaves the long-term care facility or nursing facility. Receipt of the disclosures required under this subsection must be acknowledged in writing. If the facility does not provide these disclosures, the deposits, admissions fees, prepaid charges, or minimum stay fees may not be kept by the facility. If a resident~~((, during the first thirty days of residence;))~~ dies or is hospitalized or is transferred to another facility for more appropriate care and does not return to the original facility, the facility shall refund any deposit or charges already paid less the facility's per diem rate for the days the resident actually resided or reserved or retained a bed in the facility notwithstanding any minimum stay policy or discharge notice requirements, except that the facility may retain an additional amount to cover its reasonable, actual expenses incurred as a result of a private-pay resident's move, not to exceed five days' per diem charges, unless the resident has given advance notice in compliance with the admission agreement. All long-term care facilities or nursing facilities covered under this section are required to refund any and all refunds due the resident or ~~((their))~~ his or her representative within thirty days from the resident's date of discharge from the facility. Nothing in this section applies to provisions in contracts negotiated between a nursing facility or long-term care facility and a

certified health plan, health or disability insurer, health maintenance organization, managed care organization, or similar entities.

(2) Where a long-term care facility or nursing facility requires the execution of an admission contract by or on behalf of an individual seeking admission to the facility, the terms of the contract shall be consistent with the requirements of this section, and the terms of an admission contract by a long-term care facility shall be consistent with the requirements of this chapter.

*\*Sec. 207. RCW 74.39A.030 and 1995 1st sp.s. c 18 s 2 are each amended to read as follows:*

*(1) To the extent of available funding, the department shall expand cost-effective options for home and community services for consumers for whom the state participates in the cost of their care.*

*(2) In expanding home and community services, the department shall: (a) Take full advantage of federal funding available under Title XVIII and Title XIX of the federal social security act, including home health, adult day care, waiver options, and state plan services; and (b) be authorized to use funds available under its community options program entry system waiver granted under section 1915(c) of the federal social security act to expand the availability of in-home, adult residential care, adult family homes, enhanced adult residential care, and assisted living services. By June 30, 1997, the department shall undertake to reduce the nursing home medicaid census by at least one thousand six hundred by assisting individuals who would otherwise require nursing facility services to obtain services of their choice, including assisted living services, enhanced adult residential care, and other home and community services. The department shall make reasonable efforts to contract for at least one hundred eighty state clients who would otherwise be served in nursing facilities or in assisted living to instead be served in enhanced adult residential care settings by June 30, 1999. If a resident, or his or her legal representative, objects to a discharge decision initiated by the department, the resident shall not be discharged if the resident has been assessed and determined to require nursing facility services. In contracting with nursing homes and boarding homes for enhanced adult residential care placements, neither the department nor the department of health shall ((not)) require, by contract or through other means, structural modifications to existing building construction.*

*(3)(a) The department shall by rule establish payment rates for home and community services that support the provision of cost-effective care. In contracting with licensed boarding homes for providing additional enhanced adult residential care services for up to one hundred eighty clients pursuant to subsection (2)(b) of this section, the payment rate shall be established at no less than thirty-five and no greater than forty percent of the average state-wide nursing facility medicaid payment rate.*

*(b) The department may authorize an enhanced adult residential care rate for nursing homes that temporarily or permanently convert their bed use for the*

*purpose of providing enhanced adult residential care under chapter 70.38 RCW, when the department determines that payment of an enhanced rate is cost-effective and necessary to foster expansion of contracted enhanced adult residential care services. As an incentive for nursing homes to permanently convert a portion of its nursing home bed capacity for the purpose of providing enhanced adult residential care, the department may authorize a supplemental add-on to the enhanced adult residential care rate.*

*(c) The department may authorize a supplemental assisted living services or an enhanced adult residential care services rate for up to four years for facilities that convert from nursing home use and do not retain rights to the converted nursing home beds under chapter 70.38 RCW, if the department determines that payment of a supplemental rate is cost-effective and necessary to foster expansion of contracted assisted living or enhanced adult residential care services.*

\*Sec. 207 was vetoed. See message at end of chapter.

\*Sec. 208. RCW 74.39A.040 and 1995 1st sp.s. c 18 s 6 are each amended to read as follows:

*The department shall work in partnership with hospitals, who choose to participate, in assisting patients and their families to find long-term care services of their choice according to subsections (1) through (4) of this section. The department shall not delay hospital discharges but shall assist and support the activities of hospital discharge planners. The department also shall coordinate with home health and hospice agencies whenever appropriate. The role of the department is to assist the hospital and to assist patients and their families in making informed choices by providing information regarding home and community options to individuals who are hospitalized and likely to need long-term care.*

*(1) To the extent of available funds, the department shall assess individuals who:*

*(a) Are medicaid clients, medicaid applicants, or eligible for both medicare and medicaid; and*

*(b) Apply or are likely to apply for admission to a nursing facility.*

*(2) For individuals who are reasonably expected to become medicaid recipients within one hundred eighty days of admission to a nursing facility, the department shall, to the extent of available funds, offer an assessment and information regarding appropriate in-home and community services.*

*(3) When the department finds, based on assessment, that the individual prefers and could live appropriately and cost-effectively at home or in some other community-based setting, the department shall:*

*(a) Advise the individual that an in-home or other community service is appropriate;*

*(b) Develop, with the individual or the individual's representative, a comprehensive community service plan;*

(c) *Inform the individual regarding the availability of services that could meet the applicant's needs as set forth in the community service plan and explain the cost to the applicant of the available in-home and community services relative to nursing facility care; and*

(d) *Discuss and evaluate the need for on-going involvement with the individual or the individual's representative.*

(4) *When the department finds, based on assessment, that the individual prefers and needs nursing facility care, the department shall:*

(a) *Advise the individual that nursing facility care is appropriate and inform the individual of the available nursing facility vacancies;*

(b) *If appropriate, advise the individual that the stay in the nursing facility may be short term; and*

(c) *Describe the role of the department in providing nursing facility case management.*

(5) All hospitals who choose to not participate with the department according to subsections (1) through (4) of this section shall provide their own hospital long-term care discharge services for patients needing long-term care information or services. The hospital shall advise the individual regarding its recommended discharge placement for individuals requiring posthospital care and shall, consistent with the individual's expressed preferences and in accordance with his or her care needs, identify services, including known costs, available in the community and shall develop with the individual and his or her legal representative a comprehensive community service plan, if in-home or other community service is appropriate and preferred.

\*Sec. 208 was vetoed. See message at end of chapter.

Sec. 209. RCW 74.39A.050 and 1995 1st sp.s. c 18 s 12 are each amended to read as follows:

The department's system of quality improvement for long-term care services shall ~~((be guided by))~~ use the following principles, consistent with applicable federal laws and regulations:

(1) The system shall be ~~((consumer))~~ client-centered and promote privacy, independence, dignity, choice, and a home or home-like environment for consumers consistent with chapter . . . Laws of 1997 (this act).

(2) The goal of the system is continuous quality improvement with the focus on consumer satisfaction and outcomes for consumers. This includes that when conducting licensing inspections, the department shall interview an appropriate percentage of residents, family members, resident managers, and advocates in addition to interviewing providers and staff.

(3) Providers should be supported in their efforts to improve quality and address identified problems initially through training, consultation, technical assistance, and case management.

(4) The emphasis should be on problem prevention both in monitoring and in screening potential providers of service.

(5) Monitoring should be outcome based and responsive to consumer complaints and a clear set of health, quality of care, and safety standards that are easily understandable and have been made available to providers.

(6) ~~((Providers generally should be assisted in addressing identified problems initially through consultation and technical assistance.))~~ Prompt and specific enforcement remedies shall also be ((available)) implemented without delay, pursuant to RCW 74.39A.080, RCW 70.128.160, chapter 18.51 RCW, or chapter 74.42 RCW, for providers found to have delivered care or failed to deliver care resulting in problems that are serious, recurring, or ((that have been)) uncorrected, or that create a hazard that is causing or likely to cause death or serious harm to one or more residents. These enforcement remedies may also include, when appropriate, reasonable conditions on a contract or license. In the selection of remedies, the safety, health, and well-being of residents shall be of paramount importance.

(7) To the extent funding is available, all long-term care staff directly responsible for the care, supervision, or treatment of vulnerable persons should be screened through background checks in a uniform and timely manner to ensure that they do not have a criminal history that would disqualify them from working with vulnerable persons. Whenever a state conviction record check is required by state law, persons may be employed or engaged as volunteers or independent contractors on a conditional basis according to law and rules adopted by the department.

(8) No provider or staff, or prospective provider or staff, with a stipulated finding of fact, conclusion of law, an agreed order, or finding of fact, conclusion of law, or final order issued by a disciplining authority, a court of law, or entered into a state registry finding him or her guilty of abuse, neglect, exploitation, or abandonment of a minor or a vulnerable adult as defined in chapter 74.34 RCW shall be employed in the care of and have unsupervised access to vulnerable adults.

(9) Under existing funds the department shall establish internally a quality improvement standards committee to monitor the development of standards and to suggest modifications.

(10) Within existing funds, the department shall design, develop, and implement a long-term care training program that is flexible, relevant, and qualifies towards the requirements for a nursing assistant certificate as established under chapter 18.88A RCW. This subsection does not require completion of the nursing assistant certificate training program by providers or their staff. The long-term care teaching curriculum must consist of a fundamental module, or modules, and a range of other available relevant training modules that provide the caregiver with appropriate options that assist in meeting the resident's care needs. Some of the training modules may include, but are not limited to, specific training on the special care needs of persons with developmental disabilities, dementia, mental illness, and the care needs of the elderly. No less than one training module must be dedicated to workplace violence prevention. The nursing care quality assurance commission shall work together with the department to develop the curriculum modules and

accept some or all of the curriculum modules hour for hour towards meeting the requirements for a nursing assistant certificate as defined in chapter 18.88A RCW. The department may review whether facilities can develop their own related long-term care training programs. The department may develop a review process for determining what previous experience and training may be used to waive some or all of the mandatory training.

Sec. 210. RCW 74.39A.060 and 1995 1st sp.s. c 18 s 13 are each amended to read as follows:

(1) The aging and adult services administration of the department shall establish and maintain a toll-free telephone number for receiving complaints regarding a facility that the administration licenses or with which it contracts for long-term care services.

(2) All facilities that are licensed by, or that contract with the aging and adult services administration to provide chronic long-term care services shall post in a place and manner clearly visible to residents and visitors the department's toll-free complaint telephone number and the toll-free number and program description of the long-term care ombudsman as provided by RCW 43.190.050.

(3) The aging and adult services administration shall investigate complaints if the subject of the complaint is within its authority unless the department determines that: (a) The complaint is intended to willfully harass a licensee or employee of the licensee; or (b) there is no reasonable basis for investigation; or (c) corrective action has been taken as determined by the ombudsman or the department.

(4) The aging and adult services administration shall refer complaints to appropriate state agencies, law enforcement agencies, the attorney general, the long-term care ombudsman, or other entities if the department lacks authority to investigate or if its investigation reveals that a follow-up referral to one or more of these entities is appropriate.

(5) The department shall adopt rules that include the following complaint investigation protocols:

(a) Upon receipt of a complaint, the department shall make a preliminary review of the complaint, assess the severity of the complaint, and assign an appropriate response time. Complaints involving imminent danger to the health, safety, or well-being of a resident must be responded to within two days. When appropriate, the department shall make an on-site investigation within a reasonable time after receipt of the complaint or otherwise ensure that complaints are responded to.

(b) The complainant must be: Promptly contacted by the department, unless anonymous or unavailable despite several attempts by the department, and informed of the right to discuss the alleged violations with the inspector and to provide other information the complainant believes will assist the inspector; informed of the department's course of action; and informed of the right to receive a written copy of the investigation report.

(c) In conducting the investigation, the department shall interview the complainant, unless anonymous, and shall use its best efforts to interview the resident or residents allegedly harmed by the violations, and, in addition to facility staff, any available independent sources of relevant information, including if appropriate the family members of the resident.

(d) Substantiated complaints involving harm to a resident, if an applicable law or regulation has been violated, shall be subject to one or more of the actions provided in RCW 74.39A.080 or 70.128.160. Whenever appropriate, the department shall also give consultation and technical assistance to the provider.

(e) In the best practices of total quality management and continuous quality improvement, after a department finding of a violation that is serious, recurring, or uncorrected following a previous citation, the department shall make an on-site revisit of the facility to ensure correction of the violation, except for license or contract suspensions or revocations.

(f) Substantiated complaints of neglect, abuse, exploitation, or abandonment of residents, or suspected criminal violations, shall also be referred by the department to the appropriate law enforcement agencies, the attorney general, and appropriate professional disciplining authority.

(6) The department may ((not)) provide the substance of the complaint to the licensee or contractor before the completion of the investigation by the department unless such disclosure would reveal the identity of a complainant, witness, or resident who chooses to remain anonymous. Neither the substance of the complaint provided to the licensee or contractor nor any copy of the complaint or related report published, released, or made otherwise available shall disclose, or reasonably lead to the disclosure of, the name, title, or identity of any complainant, or other person mentioned in the complaint, except that the name of the provider and the name or names of any officer, employee, or agent of the department conducting the investigation shall be disclosed after the investigation has been closed and the complaint has been substantiated. The department may disclose the identity of the complainant if such disclosure is requested in writing by the complainant. Nothing in this subsection shall be construed to interfere with the obligation of the long-term care ombudsman program or department staff to monitor the department's licensing, contract, and complaint investigation files for long-term care facilities.

((6)) (7) The resident has the right to be free of interference, coercion, discrimination, and reprisal from a facility in exercising his or her rights, including the right to voice grievances about treatment furnished or not furnished. A facility that provides long-term care services shall not discriminate or retaliate in any manner against a resident, employee, or any other person on the basis or for the reason that such resident or any other person made a complaint to the department, the attorney general, law enforcement agencies, or the long-term care ombudsman, provided information, or otherwise cooperated with the investigation of such a complaint. Any attempt to discharge a resident against the resident's wishes, or any

type of retaliatory treatment of a resident by whom or upon whose behalf a complaint substantiated by the department has been made to the department, the attorney general, law enforcement agencies, or the long-term care ombudsman, within one year of the filing of the complaint, raises a rebuttable presumption that such action was in retaliation for the filing of the complaint. "Retaliatory treatment" means, but is not limited to, monitoring a resident's phone, mail, or visits; involuntary seclusion or isolation; transferring a resident to a different room unless requested or based upon legitimate management reasons; withholding or threatening to withhold food or treatment unless authorized by a terminally ill resident or his or her representative pursuant to law; or persistently delaying responses to a resident's request for service or assistance. A facility that provides long-term care services shall not willfully interfere with the performance of official duties by a long-term care ombudsman. The department shall sanction and may impose a civil penalty of not more than three thousand dollars for a violation of this subsection ((and require the facility to mitigate any damages incurred by the resident)).

Sec. 211. RCW 70.129.105 and 1994 c 214 s 17 are each amended to read as follows:

No long-term care facility or nursing facility licensed under chapter 18.51 RCW shall require or request residents to sign waivers of potential liability for losses of personal property or injury, or to sign waivers of residents' rights set forth in this chapter or in the applicable licensing or certification laws.

Sec. 212. RCW 74.42.030 and 1979 ex.s. c 211 s 3 are each amended to read as follows:

Each resident or guardian or legal representative, if any, shall be fully informed and receive in writing, in a language the resident or his or her representative understands, the following information:

- (1) The resident's rights and responsibilities in the facility;
- (2) Rules governing resident conduct;
- (3) Services, items, and activities available in the facility; and
- (4) Charges for services, items, and activities, including those not included in the facility's basic daily rate or not paid by medicaid.

The facility shall provide this information before admission, or at the time of admission in case of emergency, and as changes occur during the resident's stay. The resident and his or her representative must be informed in writing in advance of changes in the availability or charges for services, items, or activities, or of changes in the facility's rules. Except in unusual circumstances, thirty days' advance notice must be given prior to the change. The resident or legal guardian or representative shall acknowledge in writing receipt of this information ((and any changes in the information)).

The written information provided by the facility pursuant to this section, and the terms of any admission contract executed between the facility and an individual seeking admission to the facility, must be consistent with the requirements of this

chapter and chapter 18.51 RCW and, for facilities certified under medicaid or medicare, with the applicable federal requirements.

**NEW SECTION. Sec. 213.** A new section is added to chapter 18.20 RCW to read as follows:

The department's system of quality improvement for long-term care services shall use the following principles, consistent with applicable federal laws and regulations:

(1) The system shall be resident-centered and promote privacy, independence, dignity, choice, and a home or home-like environment for residents consistent with chapter 70.129 RCW.

(2) The goal of the system is continuous quality improvement with the focus on resident satisfaction and outcomes for residents. This includes that when conducting licensing inspections, the department shall interview an appropriate percentage of residents, family members, and advocates in addition to interviewing appropriate staff.

(3) Facilities should be supported in their efforts to improve quality and address identified problems initially through training, consultation, and technical assistance.

(4) The emphasis should be on problem prevention both in monitoring and in screening potential providers of service.

(5) Monitoring should be outcome based and responsive to resident complaints and a clear set of health, quality of care, and safety standards that are easily understandable and have been made available to facilities.

(6) Prompt and specific enforcement remedies shall also be implemented without delay, consistent with RCW 18.20.190, for facilities found to have delivered care or failed to deliver care resulting in problems that are serious, recurring, or uncorrected, or that create a hazard that is causing or likely to cause death or serious harm to one or more residents. These enforcement remedies may also include, when appropriate, reasonable conditions on a license. In the selection of remedies, the safety, health, and well-being of residents shall be of paramount importance.

(7) To the extent funding is available, the licensee, administrator, and their staff should be screened through background checks in a uniform and timely manner to ensure that they do not have a criminal history that would disqualify them from working with vulnerable adults. Employees may be provisionally hired pending the results of the background check if they have been given three positive references.

(8) The department shall promote the development of a training system that is practical and relevant to the needs of residents and staff. To improve access to training, especially for rural communities, the training system may include, but is not limited to, the use of satellite technology distance learning that is coordinated through community colleges or other appropriate organizations.

(9) No licensee, administrator, or staff, or prospective licensee, administrator, or staff, with a stipulated finding of fact, conclusion of law, and agreed order, or finding of fact, conclusion of law, or final order issued by a disciplining authority, a court of law, or entered into the state registry finding him or her guilty of abuse, neglect, exploitation, or abandonment of a minor or a vulnerable adult as defined in chapter 74.34 RCW shall be employed in the care of and have unsupervised access to vulnerable adults.

**NEW SECTION. Sec. 214.** A new section is added to chapter 18.20 RCW to read as follows:

(1) The department shall establish and maintain a toll-free telephone number for receiving complaints regarding a facility that the department licenses.

(2) All facilities that are licensed under this chapter shall post in a place and manner clearly visible to residents and visitors the department's toll-free complaint telephone number and the toll-free number and program description of the long-term care ombudsman as provided by RCW 43.190.050.

(3) The department shall investigate complaints if the subject of the complaint is within its authority unless the department determines that: (a) The complaint is intended to willfully harass a licensee or employee of the licensee; or (b) there is no reasonable basis for investigation; or (c) corrective action has been taken as determined by the ombudsman or the department.

(4) The department shall refer complaints to appropriate state agencies, law enforcement agencies, the attorney general, the long-term care ombudsman, or other entities if the department lacks authority to investigate or if its investigation reveals that a follow-up referral to one or more of these entities is appropriate.

(5) The department shall adopt rules that include the following complaint investigation protocols:

(a) Upon receipt of a complaint, the department shall make a preliminary review of the complaint, assess the severity of the complaint, and assign an appropriate response time. Complaints involving imminent danger to the health, safety, or well-being of a resident must be responded to within two days. When appropriate, the department shall make an on-site investigation within a reasonable time after receipt of the complaint or otherwise ensure that complaints are responded to.

(b) The complainant must be: Promptly contacted by the department, unless anonymous or unavailable despite several attempts by the department, and informed of the right to discuss alleged violations with the inspector and to provide other information the complainant believes will assist the inspector; informed of the department's course of action; and informed of the right to receive a written copy of the investigation report.

(c) In conducting the investigation, the department shall interview the complainant, unless anonymous, and shall use its best efforts to interview the resident or residents allegedly harmed by the violations, and, in addition to facility

staff, any available independent sources of relevant information, including if appropriate the family members of the resident.

(d) Substantiated complaints involving harm to a resident, if an applicable law or regulation has been violated, shall be subject to one or more of the actions provided in RCW 18.20.190. Whenever appropriate, the department shall also give consultation and technical assistance to the facility.

(e) In the best practices of total quality management and continuous quality improvement, after a department finding of a violation that is serious, recurring, or uncorrected following a previous citation, the department shall make an on-site revisit of the facility to ensure correction of the violation. This subsection does not prevent the department from enforcing license suspensions or revocations.

(f) Substantiated complaints of neglect, abuse, exploitation, or abandonment of residents, or suspected criminal violations, shall also be referred by the department to the appropriate law enforcement agencies, the attorney general, and appropriate professional disciplining authority.

(6) The department may provide the substance of the complaint to the licensee before the completion of the investigation by the department unless such disclosure would reveal the identity of a complainant, witness, or resident who chooses to remain anonymous. Neither the substance of the complaint provided to the licensee or contractor nor any copy of the complaint or related report published, released, or made otherwise available shall disclose, or reasonably lead to the disclosure of, the name, title, or identity of any complainant, or other person mentioned in the complaint, except that the name of the provider and the name or names of any officer, employee, or agent of the department conducting the investigation shall be disclosed after the investigation has been closed and the complaint has been substantiated. The department may disclose the identity of the complainant if such disclosure is requested in writing by the complainant. Nothing in this subsection shall be construed to interfere with the obligation of the long-term care ombudsman program to monitor the department's licensing, contract, and complaint investigation files for long-term care facilities.

(7) The resident has the right to be free of interference, coercion, discrimination, and reprisal from a facility in exercising his or her rights, including the right to voice grievances about treatment furnished or not furnished. A facility licensed under this chapter shall not discriminate or retaliate in any manner against a resident, employee, or any other person on the basis or for the reason that such resident or any other person made a complaint to the department, the attorney general, law enforcement agencies, or the long-term care ombudsman, provided information, or otherwise cooperated with the investigation of such a complaint. Any attempt to discharge a resident against the resident's wishes, or any type of retaliatory treatment of a resident by whom or upon whose behalf a complaint substantiated by the department has been made to the department, the attorney general, law enforcement agencies, or the long-term care ombudsman, within one year of the filing of the complaint, raises a rebuttable presumption that such action

was in retaliation for the filing of the complaint. "Retaliatory treatment" means, but is not limited to, monitoring a resident's phone, mail, or visits; involuntary seclusion or isolation; transferring a resident to a different room unless requested or based upon legitimate management reasons; withholding or threatening to withhold food or treatment unless authorized by a terminally ill resident or his or her representative pursuant to law; or persistently delaying responses to a resident's request for service or assistance. A facility licensed under this chapter shall not willfully interfere with the performance of official duties by a long-term care ombudsman. The department shall sanction and may impose a civil penalty of not more than three thousand dollars for a violation of this subsection.

**NEW SECTION. Sec. 215.** Within existing funds, the long-term care ombudsman shall conduct a follow-up review of the department of health's licensing inspections and complaint investigations of boarding homes and of the department of social and health services' monitoring of boarding homes with contracts under chapter 74.39A RCW. The review must include, but is not limited to, an examination of the enforcement of resident rights and care standards in boarding homes, the timeliness of complaint investigations, and compliance by the departments with the standards set forth in this act. The long-term care ombudsman shall consult with the departments of health and social and health services, long-term care facility organizations, resident groups, and senior and disabled citizen organizations and report to appropriate committees of the house of representatives and the senate concerning its review of the departments' enforcement activities and any applicable recommendations by January 5, 1998.

**Sec. 216.** RCW 74.42.450 and 1995 1st sp.s. c 18 s 64 are each amended to read as follows:

(1) The facility shall admit as residents only those individuals whose needs can be met by:

- (a) The facility;
- (b) The facility cooperating with community resources; or
- (c) The facility cooperating with other providers of care affiliated or under contract with the facility.

(2) The facility shall transfer a resident to a hospital or other appropriate facility when a change occurs in the resident's physical or mental condition that requires care or service that the facility cannot provide. The resident, the resident's guardian, if any, the resident's next of kin, the attending physician, and the department shall be consulted at least fifteen days before a transfer or discharge unless the resident is transferred under emergency circumstances. The department shall use casework services or other means to insure that adequate arrangements are made to meet the resident's needs.

(3) A resident shall be transferred or discharged (3) only for medical reasons, the resident's welfare or request, the welfare of other residents, or nonpayment. A resident may not be discharged for nonpayment if the discharge would be prohibited by the medicaid program.

(4) If a resident chooses to remain in the nursing facility, the department shall respect that choice, provided that if the resident is a medicaid recipient, the resident continues to require a nursing facility level of care.

(5) If the department determines that a resident no longer requires a nursing facility level of care, the resident shall not be discharged from the nursing facility until at least thirty days after written notice is given to the resident, the resident's surrogate decision maker and, if appropriate, a family member or the resident's representative. A form for requesting a hearing to appeal the discharge decision shall be attached to the written notice. The written notice shall include at least the following:

(a) The reason for the discharge;

(b) A statement that the resident has the right to appeal the discharge; and

(c) The name, address, and telephone number of the state long-term care ombudsman.

(6) If the resident appeals a department discharge decision, the resident shall not be discharged without the resident's consent until at least thirty days after a final order is entered upholding the decision to discharge the resident.

(7) Before the facility transfers or discharges a resident, the facility must first attempt through reasonable accommodations to avoid the transfer or discharge unless the transfer or discharge is agreed to by the resident. The facility shall admit or retain only individuals whose needs it can safely and appropriately serve in the facility with available staff or through the provision of reasonable accommodations required by state or federal law. "Reasonable accommodations" has the meaning given to this term under the federal Americans with disabilities act of 1990, 42 U.S.C. Sec. 12101 et seq. and other applicable federal or state antidiscrimination laws and regulations.

### PART III

#### ESTATE RECOVERY CONSUMER DISCLOSURE

NEW SECTION. Sec. 301. A new section is added to chapter 43.20B RCW to read as follows:

(1) It is the intent of the legislature to ensure that needy individuals have access to basic long-term care without requiring them to sell their homes. In the face of rising medical costs and limited funding for social welfare programs, however, the state's medicaid and state-funded long-term care programs have placed an increasing financial burden on the state. By balancing the interests of individuals with immediate and future unmet medical care needs, surviving spouses and dependent children, adult nondependent children, more distant heirs, and the state, the estate recovery provisions of RCW 43.20B.080 and 74.39A.170 provide an equitable and reasonable method of easing the state's financial burden while ensuring the continued viability of the medicaid and state-funded long-term care programs.

(2) It is further the intent of the legislature to confirm that chapter 21, Laws of 1994, effective July 1, 1994, repealed and substantially reenacted the state's

medicaid estate recovery laws and did not eliminate the department's authority to recover the cost of medical assistance paid prior to October 1, 1993, from the estates of deceased recipients regardless of whether they received benefits before, on, or after July 1, 1994.

**Sec. 302.** RCW 43.20B.080 and 1995 1st sp.s. c 18 s 67 are each amended to read as follows:

(1) The department shall file liens, seek adjustment, or otherwise effect recovery for medical assistance correctly paid on behalf of an individual (~~as required by this chapter and~~) consistent with 42 U.S.C. Sec. 1396p.

(2) Liens may be adjusted by foreclosure in accordance with chapter 61.12 RCW.

(3) In the case of an individual who was fifty-five years of age or older when the individual received medical assistance, the department shall seek adjustment or recovery from the individual's estate, and from nonprobate assets of the individual as defined by RCW 11.02.005 (~~except property passing through a community property agreement~~), but only for medical assistance consisting of nursing facility services, home and community-based services, other services that the department determines to be appropriate, and related hospital and prescription drug services. Recovery from the individual's estate, including foreclosure of liens imposed under this section, shall be undertaken as soon as practicable, consistent with (~~the requirements of~~) 42 U.S.C. Sec. 1396p.

(4) The department shall apply the medical assistance estate recovery law as it existed on the date that benefits were received when calculating an estate's liability to reimburse the department for those benefits.

(5)(a) The department shall establish procedures consistent with standards established by the federal department of health and human services and pursuant to 42 U.S.C. Sec. 1396p to waive recovery when such recovery would work an undue hardship.

(b) Recovery of medical assistance from a recipient's estate shall not include property made exempt from claims by federal law or treaty, including exemption for tribal artifacts that may be held by individual Native Americans.

~~((5))~~ (6) A lien authorized under subsections (1) through (5) of this section relates back to attach to any real property that the decedent had an ownership interest in immediately before death and is effective as of that date.

(7) The department is authorized to adopt rules to effect recovery under this section. The department may adopt by rule later enactments of the federal laws referenced in this section.

(8) The office of financial management shall review the cost and feasibility of the department of social and health services collecting the client copayment for long-term care consistent with the terms and conditions of RCW 74.39A.120, and the cost impact to community providers under the current system for collecting the client's copayment in addition to the amount charged to the client for estate recovery, and report to the legislature by December 12, 1997.

**Sec. 303.** RCW 74.34.010 and 1995 1st sp.s. c 18 s 82 are each amended to read as follows:

The legislature finds that frail elders and vulnerable adults may be subjected to abuse, neglect, exploitation, or abandonment. The legislature finds that there are a number of adults sixty years of age or older who lack the ability to perform or obtain those services necessary to maintain or establish their well-being. The legislature finds that many frail elders and vulnerable adults have health problems that place them in a dependent position. The legislature further finds that a significant number of frail elders and vulnerable adults have mental and verbal limitations that leave them vulnerable and incapable of asking for help and protection.

It is the intent of the legislature to prevent or remedy the abuse, neglect, exploitation, or abandonment of persons sixty years of age or older who have a functional, mental, or physical inability to care for or protect themselves.

It is the intent of the legislature to assist frail elders and vulnerable adults by providing these persons with the protection of the courts and with the least-restrictive services, such as home care, and by preventing or reducing inappropriate institutional care. The legislature finds that it is in the interests of the public health, safety, and welfare of the people of the state to provide a procedure for identifying these vulnerable persons and providing the services and remedies necessary for their well-being.

It is further the intent of the legislature that the cost of protective services rendered to a frail elder or vulnerable adult under this chapter that are paid with state funds only not be subject to recovery from the recipient or the recipient's estate, whether by lien, adjustment, or any other means of recovery, regardless of the income or assets of the recipient of the services. In making this exemption the legislature recognizes that receipt of such services is voluntary and incentives to decline services or delay permission must be kept to a minimum. There may be a need to act or intervene quickly to protect the assets; health, or well-being of a frail elder or vulnerable adult; to prevent or halt the exploitation, neglect, abandonment, or abuse of the person or assets of a frail elder or vulnerable adult; or to prevent or limit inappropriate placement or retention in an institution providing long-term care. The delivery of such services is less likely to be impeded, and consent to such services will be more readily obtained, if the cost of these services is not subject to recovery. The legislature recognizes that there will be a cost in not seeking financial recovery for such services, but that this cost may be offset by preventing costly and inappropriate institutional placement.

**NEW SECTION.** Sec. 304. A new section is added to chapter 74.34 RCW to read as follows:

The cost of benefits and services provided to a frail elder or vulnerable adult under this chapter with state funds only does not constitute an obligation or lien and is not recoverable from the recipient of the services or from the recipient's estate, whether by lien, adjustment, or any other means of recovery.

*\*Sec. 305. RCW 74.39A.170 and 1995 1st sp.s. c 18 s 56 are each amended to read as follows:*

*(1) All payments made in state-funded long-term care shall be recoverable as if they were medical assistance payments subject to recovery under 42 U.S.C. Sec. 1396p and chapter 43.20B RCW(~~(-but)~~) without regard to the recipient's age, except the cost of state-funded adult protective services provided under chapter 74.34 RCW to frail elders and vulnerable adults.*

*(2) In determining eligibility for state-funded long-term care services programs, except for protective services provided to frail elders and vulnerable adults, the department shall impose the same rules with respect to the transfer of assets for less than fair market value as are imposed under 42 U.S.C. 1396p with respect to nursing home and home and community services.*

*(3) It is the responsibility of the department to fully disclose in advance verbally and in writing, in easy to understand language, the terms and conditions of estate recovery. The disclosure must include billing and recovery and copayment procedures to all persons offered long-term care services subject to recovery of payments.*

*(4) It is the intent of the legislature that the department collect, to the extent possible, all costs associated with the individual provider program including, but not limited to, training, taxes, and fringe benefits.*

*By November 15, 1997, the secretary shall identify and report to the legislature:*

*(a) The costs of identifying or tracking direct and indirect costs associated with the individual provider program, including any necessary changes to the department's information systems; and*

*(b) Any federal or state laws limiting the department's ability to recover direct or indirect costs of the individual provider program from the estate.*

*(5) To the extent funds are available and in compliance with federal law, the department is responsible for also notifying the client, or his or her advocate, quarterly of the types of services used, charges for services, credit amount of copayment, and the difference (debt) that will be charged against the estate.*

*\*Sec. 305 was vetoed. See message at end of chapter.*

#### PART IV ADULT FAMILY HOMES

**Sec. 401.** RCW 70.128.175 and 1995 1st sp.s. c 18 s 29 are each amended to read as follows:

(1) Unless the context clearly requires otherwise, these definitions shall apply throughout this section and RCW 35.63.140, 35A.63.149, 36.70.755, 35.22.680, and 36.32.560:

(a) "Adult family home" means a regular family abode (~~(of)~~) in which a person or persons (~~(providing)~~) provides personal care, special care, room, and board to more than one but not more than six adults who are not related by blood or marriage to the person or persons providing the services.

(b) "Residential care facility" means a facility that cares for at least five, but not more than fifteen functionally disabled persons, that is not licensed pursuant to chapter 70.128 RCW.

(c) "Department" means the department of social and health services.

(2) An adult family home shall be considered a residential use of property for zoning and public and private utility rate purposes. Adult family homes shall be a permitted use in all areas zoned for residential or commercial purposes, including areas zoned for single family dwellings.

**NEW SECTION. Sec. 402.** The department of social and health services shall implement a limited moratorium on the authorization of adult family home licenses until December 12, 1997, or until the secretary has determined that all adult family home and group home safety and quality of care standards have been reviewed by the department, determined by the secretary to reasonably protect the life, safety, and health of residents, and has notified all adult family home and group home operators of the standards of care or any modifications to the existing standards. This limited moratorium shall in no way prevent a person eligible to receive services from receiving the same or equivalent chronic long-term care services. In the event of a need for such services, the department shall develop a process for determining the availability of chronic long-term care residential services on a case-by-case basis to determine if an adult family home license should be granted to accommodate the needs of a particular geographical or ethnic community. The department may review the cost and feasibility of creating an adult family home advisory committee. The secretary shall make the final determination on individual case licensure until December 12, 1997, or until the moratorium has been removed and determine if an adult family home advisory committee should be developed.

**NEW SECTION. Sec. 403.** The department of social and health services is authorized to adopt rules, including emergency rules, for implementing the provisions of section 402 of this act.

## PART V MISCELLANEOUS PROVISIONS

***\*NEW SECTION. Sec. 501. The department of health in cooperation with the department of social and health services may develop a plan for implementing a pilot program for accrediting boarding homes licensed under RCW 18.20.020 with a recognized national nongovernmental accreditation organization or an organization with experience in developing and implementing accreditation programs in at least two states. The pilot plan, if funded, shall be developed with the input of residents, provider representatives, and other vested interest groups. If funded, the plan shall review the overall feasibility of implementation, cost or savings to the department of health, impact on client health and safety, and financial and other impacts to the boarding industry. If funded, the pilot boarding home accreditation plan shall be presented to the***

*appropriate committees of the house of representatives and the senate by January 5, 1998.*

\*Sec. 501 was vetoed. See message at end of chapter.

**NEW SECTION. Sec. 502.** The department of community, trade, and economic development, in collaboration with the organizations designated by state or federal law to provide protection and advocacy and ombuds services for older Americans and people with disabilities using publicly funded long-term care residential services, may conduct a study, make recommendations, and draft legislation necessary to implement changes that will result in a single coordinating umbrella for ombuds and advocacy services that maximizes efficiency, minimizes duplication, and allows for specialization in target populations such as developmental disabilities, older Americans, and mental illness, and assures that the providers of ombuds services have sufficient expertise and experience with target populations and the systems that serve them. The study, if funded, shall include review of all relevant federal and state laws and regulations, including but not limited to the older Americans act, 42 U.S.C. 3001 as amended, the developmental disabilities assistance and bill of rights act as amended, 42 U.S.C. 6000, the protection and advocacy for persons with mental illness act as amended, 42 U.S.C. 10801, the rehabilitation act of 1973 as amended, 29 U.S.C. 701, the long-term care ombudsman statute chapter 43.190 RCW, developmental disabilities statute, Title 71A RCW, and the community mental health services regulations, chapter 275-57 WAC. If funded, the study shall identify the gaps in current ombuds and advocacy services, and develop a cost assessment for implementation of a comprehensive umbrella of ombuds and advocacy services. If funded, the department of community, trade, and economic development shall report to the appropriate committees of the house of representatives and the senate by January 10, 1998.

**NEW SECTION. Sec. 503.** The department of social and health services may review the cost and feasibility of implementing developmental disabilities certification standards for community residential alternatives to ensure that services are adequate for the health, safety, care, treatment, and support of persons with developmental disabilities. The community residential alternatives shall include, but not be limited to, entities that contract or directly provide services with the division of developmental disabilities such as group homes, agency alternative living, intensive and other tenant support services, adult family homes, or boarding homes. Certification standards shall review at a minimum the following areas. Administrative and financial capabilities of the provider, health and safety practices, the opportunities for the individuals served by the programs to have power and choice in their lives, opportunities to develop friendships and relationships, and opportunities to develop self-respect and to gain respect from others, to participate in the community, and to gain independent living skills. If the review is funded, the department shall also recommend whether adult family homes that choose to provide services only to persons with developmental

disabilities should receive special certification or licensure apart from or in place of the existing adult family home license. The review may also recommend the type and amount of provider training necessary to appropriately support persons with developmental disabilities in community residential alternatives. The department may include the assistance of other departments, vested interest groups, and family members in the development of recommendations. If funded, the department shall report to the appropriate committees of the house of representatives and the senate by January 30, 1998.

**NEW SECTION. Sec. 504.** Any section or provision of this act that may be susceptible to more than one construction shall be interpreted in favor of the construction most likely to comply with federal laws entitling this state to receive federal funds for the various programs of the department of health or the department of social and health services. If any section of this act is found to be in conflict with federal requirements that are a prescribed condition of the allocation of federal funds to the state, or to any departments or agencies thereof, the conflicting part is declared to be inoperative solely to the extent of the conflict. The rules issued under this act shall meet federal requirements that are a necessary condition to the receipt of federal funds by the state.

**\*NEW SECTION. Sec. 505.** *A new section is added to chapter 43.70 RCW to read as follows:*

*The department of health, and the disciplining authorities as agents of the department of social and health services for purposes of this section in cooperation with the department of social and health services, shall implement a nursing home resident protection program in accordance with guidelines established by the federal health care financing administration. The department of social and health services shall retain authority to review and investigate all allegations of nursing home resident neglect, abuse, and misappropriation of resident property. If the department of social and health services makes a preliminary determination, based upon credible evidence and an investigation by the department, that a licensed, certified, or registered health care provider listed in RCW 18.130.040 and used by the nursing home to provide services to a resident, except for a certified or registered nursing assistant, has neglected or abused a resident or misappropriated a resident's property, the department of social and health services shall immediately refer its determination regarding the individual to the appropriate disciplining authority, as defined in chapter 18.130 RCW. The disciplining authority shall pursue administrative adjudicatory or disciplinary proceedings according to federal timelines and requirements, and consistent with the administrative procedure act, chapter 34.05 RCW. Meeting federal requirements for the resident protection program shall not compromise due process protections when state disciplining authorities take actions against health professionals regulated under the uniform disciplinary act, chapter 18.130 RCW. The secretary of social and health services shall have access to all information concerning any complaint referred under the resident protection*

*program to the secretary of health and the other disciplining authorities. If the department of social and health services determines that the disciplining authority has failed to meet the applicable requirements of federal law for the resident protection program, jurisdiction on the individual case shall revert to the secretary of social and health services for actions under the federal law, which shall not interfere with the action under the uniform disciplinary act. The secretary of social and health services and the secretary of health shall enter into an interagency agreement to implement the provisions of this section. A finding of fact, stipulated finding of fact, agreed order, or final order issued by the disciplining authority that finds the individual health care provider guilty of neglect, abuse, or misappropriation of resident property shall be promptly reported to the department of social and health services.*

*\*Sec. 505 was vetoed. See message at end of chapter.*

***\*NEW SECTION.** Sec. 506. A new section is added to chapter 18.51 RCW to read as follows:*

*The department of social and health services shall retain authority to review and investigate all allegations of nursing home resident neglect, abuse, and misappropriation of resident property. The department of social and health services in cooperation with the department of health and disciplining authorities shall implement a nursing home resident protection program according to guidelines established by the federal health care financing administration. The department of social and health services, as the federally responsible state agency, shall conduct or coordinate the conduct of the most appropriate and timely review and investigation of all credible allegations of nursing home resident neglect, abuse, and misappropriation of resident property. If the department of social and health services makes a preliminary determination, based upon credible evidence and an investigation by the department, that a licensed, certified, or registered health care provider listed in RCW 18.130.040 and used by the nursing home to provide services to a resident, except for a certified or registered nursing assistant, has neglected or abused a resident or misappropriated a resident's property, the department of social and health services shall immediately refer its determination regarding the individual to the department of health or disciplining authority, as defined in RCW 18.130.020. The disciplining authority shall pursue administrative adjudicatory or disciplinary proceedings according to federal timelines and requirements, and consistent with the administrative procedure act, chapter 34.05 RCW. When the department of social and health services determines such proceeding does not meet federal timelines and requirements, the department of social and health services shall have the authority to take federally required actions. Other individuals used by a nursing home, including certified and registered nursing assistants, with a preliminary determination of neglect, abuse, or misappropriation of resident property shall receive notice and the right to an administrative fair hearing from the department of social and health services*

*according to federal timelines and requirements. An individual with a finding of fact, stipulated finding of fact, agreed order, or final order issued by the department of social and health services or the disciplining authority that finds the individual guilty of neglect, abuse, or misappropriation of resident property shall not be employed in the care of and have unsupervised access to vulnerable adults, as defined in chapter 74.34 RCW. Upon receipt from the disciplining authority of a finding of fact, stipulated finding of fact, agreed order, or final order that finds the individual health care provider guilty of neglect, abuse, or misappropriation of resident property, the department of social and health services shall report this information to the nursing home where the incident occurred, the long-term care facility where the individual works, if different, and other entities serving vulnerable adults upon request by the entity.*

\*Sec. 506 was vetoed. See message at end of chapter.

**NEW SECTION.** Sec. 507. A new section is added to chapter 9A.42 RCW to read as follows:

The legislature finds that there is a significant need to protect children and dependent persons, including frail elder and vulnerable adults, from abuse and neglect by their parents, by persons entrusted with their physical custody, or by persons employed to provide them with the basic necessities of life. The legislature further finds that such abuse and neglect often takes the forms of either withholding from them the basic necessities of life, including food, water, shelter, clothing, and health care, or abandoning them, or both. Therefore, it is the intent of the legislature that criminal penalties be imposed on those guilty of such abuse or neglect. It is the intent of the legislature that a person who, in good faith, is furnished Christian Science treatment by a duly accredited Christian Science practitioner in lieu of medical care is not considered deprived of medically necessary health care or abandoned. Prosecutions under this chapter shall be consistent with the rules of evidence, including hearsay, under law.

Sec. 508. RCW 9A.42.010 and 1996 c 302 s 1 are each amended to read as follows:

As used in this chapter:

(1) "Basic necessities of life" means food, water, shelter, clothing, and medically necessary health care, including but not limited to health-related treatment or activities, hygiene, oxygen, and medication.

(2)(a) "Bodily injury" means physical pain or injury, illness, or an impairment of physical condition;

(b) "Substantial bodily harm" means bodily injury which involves a temporary but substantial disfigurement, or which causes a temporary but substantial loss or impairment of the function of any bodily part or organ, or which causes a fracture of any bodily part;

(c) "Great bodily harm" means bodily injury which creates a high probability of death, or which causes serious permanent disfigurement, or which causes a

permanent or protracted loss or impairment of the function of any bodily part or organ.

(3) "Child" means a person under eighteen years of age.

(4) "Dependent person" means a person who, because of physical or mental disability, or because of extreme advanced age, is dependent upon another person to provide the basic necessities of life. A resident of a nursing home, as defined in RCW 18.51.010, a resident of an adult family home, as defined in RCW 70.128.010, and a frail elder or vulnerable adult, as defined in RCW 74.34.020(8), is presumed to be a dependent person for purposes of this chapter.

(5) "Employed" means hired by a dependent person, another person acting on behalf of a dependent person, or by an organization or governmental entity, to provide to a dependent person any of the basic necessities of life. A person may be "employed" regardless of whether the person is paid for the services or, if paid, regardless of who pays for the person's services.

(6) "Parent" has its ordinary meaning and also includes a guardian and the authorized agent of a parent or guardian.

(7) "Abandons" means leaving a child or other dependent person without the means or ability to obtain one or more of the basic necessities of life.

**Sec. 509.** RCW 9A.42.050 and 1986 c 250 s 5 are each amended to read as follows:

In any prosecution for criminal mistreatment, it shall be a defense that the withholding of the basic necessities of life is due to financial inability only if the person charged has made a reasonable effort to obtain adequate assistance. This defense is available to a person employed to provide the basic necessities of life only when the agreed-upon payment has not been made.

**Sec. 510.** RCW 9A.42.020 and 1986 c 250 s 2 are each amended to read as follows:

(1) A parent of a child ((or)), the person entrusted with the physical custody of a child or dependent person, or a person employed to provide to the child or dependent person the basic necessities of life is guilty of criminal mistreatment in the first degree if he or she recklessly, as defined in RCW 9A.08.010, causes great bodily harm to a child or dependent person by withholding any of the basic necessities of life.

(2) Criminal mistreatment in the first degree is a class B felony.

**Sec. 511.** RCW 9A.42.030 and 1986 c 250 s 3 are each amended to read as follows:

(1) A parent of a child ((or)), the person entrusted with the physical custody of a child or dependent person, or a person employed to provide to the child or dependent person the basic necessities of life is guilty of criminal mistreatment in the second degree if he or she recklessly, as defined in RCW 9A.08.010, either (a) creates an imminent and substantial risk of death or great bodily harm, or (b) causes substantial bodily harm by withholding any of the basic necessities of life.

(2) Criminal mistreatment in the second degree is a class C felony.

**NEW SECTION. Sec. 512.** A new section is added to chapter 9A.42 RCW to read as follows:

RCW 9A.42.020 and 9A.42.030 do not apply when a terminally ill person or his or her designee requests palliative care and the person receives palliative care from a licensed home health agency, hospice agency, nursing home, or hospital who is providing care under the medical direction of a physician.

**Sec. 513.** RCW 9A.44.010 and 1994 c 271 s 302 are each amended to read as follows:

As used in this chapter:

(1) "Sexual intercourse" (a) has its ordinary meaning and occurs upon any penetration, however slight, and

(b) Also means any penetration of the vagina or anus however slight, by an object, when committed on one person by another, whether such persons are of the same or opposite sex, except when such penetration is accomplished for medically recognized treatment or diagnostic purposes, and

(c) Also means any act of sexual contact between persons involving the sex organs of one person and the mouth or anus of another whether such persons are of the same or opposite sex.

(2) "Sexual contact" means any touching of the sexual or other intimate parts of a person done for the purpose of gratifying sexual desire of either party or a third party.

(3) "Married" means one who is legally married to another, but does not include a person who is living separate and apart from his or her spouse and who has filed in an appropriate court for legal separation or for dissolution of his or her marriage.

(4) "Mental incapacity" is that condition existing at the time of the offense which prevents a person from understanding the nature or consequences of the act of sexual intercourse whether that condition is produced by illness, defect, the influence of a substance or from some other cause.

(5) "Physically helpless" means a person who is unconscious or for any other reason is physically unable to communicate unwillingness to an act.

(6) "Forcible compulsion" means physical force which overcomes resistance, or a threat, express or implied, that places a person in fear of death or physical injury to herself or himself or another person, or in fear that she or he or another person will be kidnapped.

(7) "Consent" means that at the time of the act of sexual intercourse or sexual contact there are actual words or conduct indicating freely given agreement to have sexual intercourse or sexual contact.

(8) "Significant relationship" means a situation in which the perpetrator is:

(a) A person who undertakes the responsibility, professionally or voluntarily, to provide education, health, welfare, or organized recreational activities principally for minors; ((or))

(b) A person who in the course of his or her employment supervises minors;  
or

(c) A person who provides welfare, health or residential assistance, personal care, or organized recreational activities to frail elders or vulnerable adults, including a provider, employee, temporary employee, volunteer, or independent contractor who supplies services to long-term care facilities licensed or required to be licensed under chapter 18.20, 18.51, 72.36, or 70.128 RCW, and home health, hospice, or home care agencies licensed or required to be licensed under chapter 70.127 RCW, but not including a consensual sexual partner.

(9) "Abuse of a supervisory position" means a direct or indirect threat or promise to use authority to the detriment or benefit of a minor.

(10) "Developmentally disabled," for purposes of RCW 9A.44.050(1)(c) and 9A.44.100(1)(c), means a person with a developmental disability as defined in RCW 71A.10.020.

(11) "Person with supervisory authority," for purposes of RCW 9A.44.050(1)(c) or (e) and 9A.44.100(1)(c) or (e), means any proprietor or employee of any public or private care or treatment facility who directly supervises developmentally disabled, mentally disordered, or chemically dependent persons at the facility.

(12) "Mentally disordered person" for the purposes of RCW 9A.44.050(1)(e) and 9A.44.100(1)(e) means a person with a "mental disorder" as defined in RCW 71.05.020(2).

(13) "Chemically dependent person" for purposes of RCW 9A.44.050(1)(e) and 9A.44.100(1)(e) means a person who is "chemically dependent" as defined in RCW 70.96A.020(4).

(14) "Health care provider" for purposes of RCW 9A.44.050 and 9A.44.100 means a person who is, holds himself or herself out to be, or provides services as if he or she were: (a) A member of a health care profession under chapter 18.130 RCW; or (b) registered or certified under chapter 18.19 RCW, regardless of whether the health care provider is licensed, certified, or registered by the state.

(15) "Treatment" for purposes of RCW 9A.44.050 and 9A.44.100 means the active delivery of professional services by a health care provider which the health care provider holds himself or herself out to be qualified to provide.

(16) "Frail elder or vulnerable adult" means a person sixty years of age or older who has the functional, mental, or physical inability to care for himself or herself. "Frail elder or vulnerable adult" also includes a person found incapacitated under chapter 11.88 RCW, a person over eighteen years of age who has a developmental disability under chapter 71A.10 RCW, a person admitted to a long-term care facility that is licensed or required to be licensed under chapter 18.20, 18.51, 72.36, or 70.128 RCW, and a person receiving services from a home health, hospice, or home care agency licensed or required to be licensed under chapter 70.127 RCW.

Sec. 514. RCW 9A.44.050 and 1993 c 477 s 2 are each amended to read as follows:

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

(a) By forcible compulsion;

(b) When the victim is incapable of consent by reason of being physically helpless or mentally incapacitated;

(c) When the victim is developmentally disabled and the perpetrator is a person who is not married to the victim and who has supervisory authority over the victim;

(d) When the perpetrator is a health care provider, the victim is a client or patient, and the sexual intercourse occurs during a treatment session, consultation, interview, or examination. It is an affirmative defense that the defendant must prove by a preponderance of the evidence that the client or patient consented to the sexual intercourse with the knowledge that the sexual intercourse was not for the purpose of treatment; ~~((or))~~

(e) When the victim is a resident of a facility for mentally disordered or chemically dependent persons and the perpetrator is a person who is not married to the victim and has supervisory authority over the victim; or

(f) When the victim is a frail elder or vulnerable adult and the perpetrator is a person who is not married to the victim and who has a significant relationship with the victim.

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

Sec. 515. RCW 9A.44.100 and 1993 c 477 s 3 are each amended to read as follows:

(1) A person is guilty of indecent liberties when he knowingly causes another person who is not his spouse to have sexual contact with him or another:

(a) By forcible compulsion; ~~((or))~~

(b) When the other person is incapable of consent by reason of being mentally defective, mentally incapacitated, or physically helpless;

(c) When the victim is developmentally disabled and the perpetrator is a person who is not married to the victim and who has supervisory authority over the victim;

(d) When the perpetrator is a health care provider, the victim is a client or patient, and the sexual contact occurs during a treatment session, consultation, interview, or examination. It is an affirmative defense that the defendant must prove by a preponderance of the evidence that the client or patient consented to the sexual contact with the knowledge that the sexual contact was not for the purpose of treatment; ~~((or))~~

(e) When the victim is a resident of a facility for mentally disordered or chemically dependent persons and the perpetrator is a person who is not married to the victim and has supervisory authority over the victim; or

(f) When the victim is a frail elder or vulnerable adult and the perpetrator is a person who is not married to the victim and who has a significant relationship with the victim.

(2) Indecent liberties is a class B felony.

**Sec. 516.** RCW 18.130.040 and 1996 c 200 s 32 and 1996 c 81 s 5 are each reenacted and amended to read as follows:

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

(2)(a) The secretary has authority under this chapter in relation to the following professions:

(i) Dispensing opticians licensed under chapter 18.34 RCW;

(ii) Naturopaths licensed under chapter 18.36A RCW;

(iii) Midwives licensed under chapter 18.50 RCW;

(iv) Ocularists licensed under chapter 18.55 RCW;

(v) Massage operators and businesses licensed under chapter 18.108 RCW;

(vi) Dental hygienists licensed under chapter 18.29 RCW;

(vii) Acupuncturists licensed under chapter 18.06 RCW;

(viii) Radiologic technologists certified and X-ray technicians registered under chapter 18.84 RCW;

(ix) Respiratory care practitioners certified under chapter 18.89 RCW;

(x) Persons registered or certified under chapter 18.19 RCW;

(xi) Persons registered as nursing pool operators under chapter 18.52C RCW;

(xii) Nursing assistants registered or certified under chapter ((18.79)) 18.88A RCW;

(xiii) Health care assistants certified under chapter 18.135 RCW;

(xiv) Dietitians and nutritionists certified under chapter 18.138 RCW;

(xv) Sex offender treatment providers certified under chapter 18.155 RCW;

(xvi) Persons licensed and certified under chapter 18.73 RCW or RCW 18.71.205;

(xvii) Persons registered as adult family home providers and resident managers under RCW 18.48.020; and

(xviii) Denturists licensed under chapter 18.30 RCW.

(b) The boards and commissions having authority under this chapter are as follows:

(i) The podiatric medical board as established in chapter 18.22 RCW;

(ii) The chiropractic quality assurance commission as established in chapter 18.25 RCW;

(iii) The dental quality assurance commission as established in chapter 18.32 RCW;

(iv) The board of hearing and speech as established in chapter 18.35 RCW;

(v) The board of examiners for nursing home administrators as established in chapter 18.52 RCW;

(vi) The optometry board as established in chapter 18.54 RCW governing licenses issued under chapter 18.53 RCW;

(vii) The board of osteopathic medicine and surgery as established in chapter 18.57 RCW governing licenses issued under chapters 18.57 and 18.57A RCW;

(viii) The board of pharmacy as established in chapter 18.64 RCW governing licenses issued under chapters 18.64 and 18.64A RCW;

(ix) The medical quality assurance commission as established in chapter 18.71 RCW governing licenses and registrations issued under chapters 18.71 and 18.71A RCW;

(x) The board of physical therapy as established in chapter 18.74 RCW;

(xi) The board of occupational therapy practice as established in chapter 18.59 RCW;

(xii) The nursing care quality assurance commission as established in chapter 18.79 RCW governing licenses issued under that chapter;

(xiii) The examining board of psychology and its disciplinary committee as established in chapter 18.83 RCW; and

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

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

(4) All disciplining authorities shall adopt procedures to ensure substantially consistent application of this chapter, the Uniform Disciplinary Act, among the disciplining authorities listed in subsection (2) of this section.

**Sec. 517.** RCW 18.130.200 and 1986 c 259 s 12 are each amended to read as follows:

A person who attempts to obtain ~~((or))~~, obtains, or attempts to maintain a license by willful misrepresentation or fraudulent representation is guilty of a gross misdemeanor.

**Sec. 518.** RCW 43.43.842 and 1992 c 104 s 1 are each amended to read as follows:

(1)(a) The secretary of social and health services and the secretary of health shall adopt additional requirements for the licensure or relicensure of agencies ~~((or))~~, facilities ~~((which))~~, and licensed individuals who provide care and treatment to vulnerable adults, including nursing pools registered under chapter 18.52C RCW. These additional requirements shall ensure that any person associated with a licensed agency or facility having ~~((direct contact))~~ unsupervised access with a vulnerable adult shall not have been: ~~((a))~~ (i) Convicted of a crime against

persons as defined in RCW 43.43.830, except as provided in this section; ~~((b))~~ (ii) convicted of crimes relating to financial exploitation as defined in RCW 43.43.830, except as provided in this section; ~~((c))~~ (iii) found in any disciplinary board final decision to have abused a vulnerable adult under RCW 43.43.830; or ~~((d))~~ (iv) the subject in a protective proceeding under chapter 74.34 RCW.

(b) A person associated with a licensed agency or facility who has unsupervised access with a vulnerable adult shall make the disclosures specified in RCW 43.43.834(2). The person shall make the disclosures in writing, sign, and swear to the contents under penalty of perjury. The person shall, in the disclosures, specify all crimes against children or other persons, and all crimes relating to financial exploitation as defined in RCW 43.43.830, committed by the person.

(2) The rules adopted under this section shall permit the licensee to consider the criminal history of an applicant for employment in a licensed facility when the applicant has one or more convictions for a past offense and:

(a) The offense was simple assault, assault in the fourth degree, or the same offense as it may be renamed, and three or more years have passed between the most recent conviction and the date of application for employment;

(b) The offense was prostitution, or the same offense as it may be renamed, and three or more years have passed between the most recent conviction and the date of application for employment;

(c) The offense was theft in the third degree, or the same offense as it may be renamed, and three or more years have passed between the most recent conviction and the date of application for employment;

(d) The offense was theft in the second degree, or the same offense as it may be renamed, and five or more years have passed between the most recent conviction and the date of application for employment;

(e) The offense was forgery, or the same offense as it may be renamed, and five or more years have passed between the most recent conviction and the date of application for employment.

The offenses set forth in (a) through (e) of this subsection do not automatically disqualify an applicant from employment by a licensee. Nothing in this section may be construed to require the employment of any person against a licensee's judgment.

(3) In consultation with law enforcement personnel, the secretary of social and health services and the secretary of health shall investigate, or cause to be investigated, the conviction record and the protection proceeding record information under this chapter (~~43.43 RCW of each agency or facility and its~~) of the staff of each agency or facility under their respective jurisdictions seeking licensure or relicensure. An individual responding to a criminal background inquiry request from his or her employer or potential employer shall disclose the information about his or her criminal history under penalty of perjury. The secretaries shall use the information solely for the purpose of determining eligibility for licensure or relicensure. Criminal justice agencies shall provide the

secretaries such information as they may have and that the secretaries may require for such purpose.

**Sec. 519.** RCW 70.124.020 and 1996 c 178 s 24 are each amended to read as follows:

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

- (1) "Court" means the superior court of the state of Washington.
- (2) "Law enforcement agency" means the police department, the director of public safety, or the office of the sheriff.
- (3) "Practitioner of the healing arts" or "practitioner" means a person licensed by this state to practice podiatric medicine and surgery, optometry, pharmacy, physical therapy, chiropractic, nursing, dentistry, osteopathic medicine and surgery, or medicine and surgery. The term "practitioner" shall include a nurses aide, a nursing home administrator licensed under chapter 18.52 RCW, and a duly accredited Christian Science practitioner: PROVIDED, HOWEVER, That a nursing home patient who is being furnished Christian Science treatment by a duly accredited Christian Science practitioner shall not be considered, for that reason alone, a neglected patient for the purposes of this chapter.
- (4) "Department" means the state department of social and health services.
- (5) "Nursing home" has the meaning prescribed by RCW 18.51.010.
- (6) "Social worker" means anyone engaged in a professional capacity during the regular course of employment in encouraging or promoting the health, welfare, support, or education of nursing home patients, or providing social services to nursing home patients, whether in an individual capacity or as an employee or agent of any public or private organization or institution.
- (7) "Psychologist" means any person licensed to practice psychology under chapter 18.83 RCW, whether acting in an individual capacity or as an employee or agent of any public or private organization or institution.
- (8) "Pharmacist" means any registered pharmacist under chapter 18.64 RCW, whether acting in an individual capacity or as an employee or agent of any public or private organization or institution.
- (9) "Abuse or neglect" or "patient abuse or neglect" means the nonaccidental physical injury or condition, sexual abuse, or negligent treatment of a nursing home or state hospital patient under circumstances which indicate that the patient's health, welfare, ~~((and))~~ or safety is harmed thereby.
- (10) "Negligent treatment" means an act or omission which evinces a serious disregard of consequences of such magnitude as to constitute a clear and present danger to the patient's health, welfare, ~~((and))~~ or safety.
- (11) "State hospital" means any hospital operated and maintained by the state for the care of the mentally ill under chapter 72.23 RCW.

**Sec. 520.** RCW 70.124.040 and 1981 c 174 s 4 are each amended to read as follows:

(1) Where a report is (~~deemed warranted~~) required under RCW 70.124.030, an immediate oral report shall be made by telephone or otherwise to either a law enforcement agency or to the department and, upon request, shall be followed by a report in writing. The reports shall contain the following information, if known:

- (a) The name and address of the person making the report;
- (b) The name and address of the nursing home or state hospital patient;
- (c) The name and address of the patient's relatives having responsibility for the patient;
- (d) The nature and extent of the injury or injuries;
- (e) The nature and extent of the neglect;
- (f) The nature and extent of the sexual abuse;
- (g) Any evidence of previous injuries, including their nature and extent; and
- (h) Any other information which may be helpful in establishing the cause of the patient's death, injury, or injuries, and the identity of the perpetrator or perpetrators.

(2) Each law enforcement agency receiving such a report shall, in addition to taking the action required by RCW 70.124.050, immediately relay the report to the department, and to other law enforcement agencies, including the medicaid fraud control unit of the office of the attorney general, as appropriate. For any report it receives, the department shall likewise take the required action and in addition relay the report to the appropriate law enforcement agency or agencies. The appropriate law enforcement agency or agencies shall receive immediate notification when the department, upon receipt of such report, has reasonable cause to believe that a criminal act has been committed.

**Sec. 521.** RCW 70.124.070 and 1979 ex.s. c 228 s 7 are each amended to read as follows:

A person who is required to make or to cause to be made a report pursuant to RCW 70.124.030 or 70.124.040 and who knowingly fails to make such report or fails to cause such report to be made is guilty of a gross misdemeanor.

**NEW SECTION.** **Sec. 522.** A new section is added to chapter 74.34 RCW to read as follows:

A person who is required to make or cause to be made a report under RCW 74.34.030 or 74.34.040 and who knowingly fails to make the report or fails to cause the report to be made is guilty of a gross misdemeanor.

**Sec. 523.** RCW 74.34.020 and 1995 1st sp.s. c 18 s 84 are each amended to read as follows:

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

(1) "Abandonment" means action or inaction by a person or entity with a duty of care for a frail elder or a vulnerable adult that leaves the vulnerable person without the means or ability to obtain necessary food, clothing, shelter, or health care.

(2) "Abuse" means a nonaccidental act of physical or mental mistreatment or injury, or sexual mistreatment, which harms a person through action or inaction by another individual

(3) "Consent" means express written consent granted after the person has been fully informed of the nature of the services to be offered and that the receipt of services is voluntary.

(4) "Department" means the department of social and health services.

(5) "Exploitation" means the illegal or improper use of a frail elder or vulnerable adult or that person's income or resources, including trust funds, for another person's profit or advantage.

(6) "Neglect" means a pattern of conduct or inaction by a person or entity with a duty of care for a frail elder or vulnerable adult that results in the deprivation of care necessary to maintain the vulnerable person's physical or mental health.

(7) "Secretary" means the secretary of social and health services.

(8) "Frail elder or vulnerable adult" means a person sixty years of age or older who has the functional, mental, or physical inability to care for himself or herself. "Frail elder or vulnerable adult" shall include persons found incapacitated under chapter 11.88 RCW, or a person who has a developmental disability under chapter 71A.10 RCW, and persons admitted to any long-term care facility that is licensed or required to be licensed under chapter 18.20, 18.51, 72.36, or 70.128 RCW, or persons receiving services from home health, hospice, or home care agencies licensed or required to be licensed under chapter 70.127 RCW.

(9) No frail elder or vulnerable person who relies upon and is being provided spiritual treatment in lieu of medical treatment in accordance with the tenets and practices of a well-recognized religious denomination shall for that reason alone be considered abandoned, abused, or neglected.

**Sec. 524.** RCW 43.43.832 and 1995 c 250 s 2 are each amended to read as follows:

(1) The legislature finds that businesses and organizations providing services to children, developmentally disabled persons, and vulnerable adults need adequate information to determine which employees or licensees to hire or engage. The legislature further finds that many developmentally disabled individuals and vulnerable adults desire to hire their own employees directly and also need adequate information to determine which employees or licensees to hire or engage. Therefore, the Washington state patrol criminal identification system (~~(may)~~) shall disclose, upon the request of a business or organization as defined in RCW 43.43.830, a developmentally disabled person, or a vulnerable adult as defined in RCW 43.43.830 or his or her guardian, an applicant's record for convictions of offenses against children or other persons, convictions for crimes relating to financial exploitation, but only if the victim was a vulnerable adult, adjudications of child abuse in a civil action, the issuance of a protection order against the respondent under chapter 74.34 RCW, and disciplinary board final decisions and any subsequent criminal charges associated with the conduct that is the subject of

the disciplinary board final decision. ~~((When necessary, applicants may be employed on a conditional basis pending completion of such a background investigation.))~~

(2) The legislature also finds that the state board of education may request of the Washington state patrol criminal identification system information regarding a certificate applicant's record for convictions under subsection (1) of this section.

(3) The legislature also finds that law enforcement agencies, the office of the attorney general, prosecuting authorities, and the department of social and health services may request this same information to aid in the investigation and prosecution of child, developmentally disabled person, and vulnerable adult abuse cases and to protect children and adults from further incidents of abuse.

(4) The legislature further finds that the department of social and health services ~~((:))~~ must consider the information listed in subsection (1) of this section in the following circumstances:

(a) When considering persons for state positions directly responsible for the care, supervision, or treatment of children, developmentally disabled persons, or vulnerable adults ~~((or))~~:

(b) When licensing ~~((or authorizing such persons or))~~ agencies ~~((pursuant to its authority))~~ or facilities with individuals in positions directly responsible for the care, supervision, or treatment of children, developmentally disabled persons, or vulnerable adults, including but not limited to agencies or facilities licensed under chapter 74.15~~((:))~~ or 18.51~~((,-18.20, or 72.23))~~ RCW~~((,- or any later enacted statute which purpose is to license or regulate a facility which handles vulnerable adults, must consider the information listed in subsection (1) of this section))~~:

(c) When contracting with individuals or businesses or organizations for the care, supervision, or treatment of children, developmentally disabled persons, or vulnerable adults, including but not limited to services contracted for under chapter 18.20, 18.48, 70.127, 70.128, 72.36, or 74.39A RCW or Title 71A RCW. ~~((However, when necessary))~~

(5) Whenever a state conviction record check is required by state law, persons may be employed or engaged as volunteers or independent contractors on a conditional basis pending completion of the state background investigation. Whenever a national criminal record check through the federal bureau of investigation is required by state law, a person may be employed or engaged as a volunteer or independent contractor on a conditional basis pending completion of the national check. The Washington personnel resources board shall adopt rules to accomplish the purposes of this subsection as it applies to state employees.

(6)(a) For purposes of facilitating timely access to criminal background information and to reasonably minimize the number of requests made under this section, recognizing that certain health care providers change employment frequently, health care facilities may, upon request from another health care facility, share copies of completed criminal background inquiry information.

(b) Completed criminal background inquiry information may be shared by a willing health care facility only if the following conditions are satisfied: The licensed health care facility sharing the criminal background inquiry information is reasonably known to be the person's most recent employer, no more than twelve months has elapsed from the date the person was last employed at a licensed health care facility to the date of their current employment application, and the criminal background information is no more than two years old.

(c) If criminal background inquiry information is shared, the health care facility employing the subject of the inquiry must require the applicant to sign a disclosure statement indicating that there has been no conviction or finding as described in RCW 43.43.842 since the completion date of the most recent criminal background inquiry.

(d) Any health care facility that knows or has reason to believe that an applicant has or may have a disqualifying conviction or finding as described in RCW 43.43.842, subsequent to the completion date of their most recent criminal background inquiry, shall be prohibited from relying on the applicant's previous employer's criminal background inquiry information. A new criminal background inquiry shall be requested pursuant to RCW 43.43.830 through 43.43.842.

(e) Health care facilities that share criminal background inquiry information shall be immune from any claim of defamation, invasion of privacy, negligence, or any other claim in connection with any dissemination of this information in accordance with this subsection.

(f) Health care facilities shall transmit and receive the criminal background inquiry information in a manner that reasonably protects the subject's rights to privacy and confidentiality.

(g) For the purposes of this subsection, "health care facility" means a nursing home licensed under chapter 18.51 RCW, a boarding home licensed under chapter 18.20 RCW, or an adult family home licensed under chapter 70.128 RCW.

**Sec. 525.** RCW 43.20A.710 and 1993 c 210 s 1 are each amended to read as follows:

(1) The secretary shall investigate the conviction records, pending charges or disciplinary board final decisions of:

((+)) (a) Persons being considered for state employment in positions directly responsible for the supervision, care, or treatment of children or individuals with mental illness or developmental disabilities; and ((2))

(b) Individual providers who are paid by the state for in-home services and hired by individuals with physical disabilities, developmental disabilities, mental illness, or mental impairment, including but not limited to services provided under chapter 74.39A RCW.

(2) The investigation may include an examination of state and national criminal identification data ~~((and the child abuse and neglect register established under chapter 26.44 RCW. The secretary shall provide the results of the state background check on individual providers to the individuals with physical~~

~~disabilities, developmental disabilities, mental illness, or mental impairment who hired them and to their legal guardians, if any)). The secretary shall use the information solely for the purpose of determining the character, suitability, and competence of these applicants ((except that in the case of individuals with physical disabilities, developmental disabilities, mental illness, or mental impairment who employ individual providers, the)),~~

(3) The secretary shall provide the results of the state background check on individual providers to the individuals with physical disabilities, developmental disabilities, mental illness, or mental impairment or to their legal guardians, if any, for their determination of the character, suitability, and competence of the applicants ((shall be made by the individual with a physical disability, developmental disability, mental illness, or mental impairment)). If an individual elects to hire or retain an individual provider after receiving notice from the department that the applicant has a conviction for an offense that would disqualify the applicant from employment with the department, then the secretary may deny payment for any subsequent services rendered by the disqualified individual provider.

(4) Criminal justice agencies shall provide the secretary such information as they may have and that the secretary may require for such purpose. ((If necessary, persons may be employed on a conditional basis pending completion of the background investigation.))

**Sec. 526.** RCW 18.52C.010 and 1988 c 243 s 1 are each amended to read as follows:

The legislature intends to protect the public's right to high quality health care by assuring that nursing pools employ, procure or refer competent and qualified ~~((nursing))~~ health care or long-term care personnel, and that such ~~((nursing))~~ personnel are provided to health care facilities, agencies, or individuals in a way to meet the needs of residents and patients.

**Sec. 527.** RCW 18.52C.020 and 1991 c 3 s 130 are each amended to read as follows:

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

(1) "Secretary" means the secretary of the department of health.

(2) "Health care facility" means a nursing home, hospital, hospice care facility, home health care agency, hospice agency, boarding home, adult family home, group home, or other entity for the delivery of health care or long-term care services, including chore services provided under chapter 74.39A RCW.

(3) "Nursing home" means any nursing home facility licensed pursuant to chapter 18.52 RCW.

(4) "Nursing pool" means any person engaged in the business of providing, procuring, or referring health care or long-term care personnel for temporary employment in health care facilities, such as licensed nurses or practical nurses,

~~((and))~~ nursing assistants, and chore service providers. "Nursing pool" does not include an individual who only engages in providing his or her own services.

(5) "Person" includes an individual, firm, corporation, partnership, or association.

**Sec. 528.** RCW 18.52C.040 and 1991 c 3 s 132 are each amended to read as follows:

(1) The nursing pool shall document that each temporary employee or referred independent contractor provided or referred to health care facilities currently meets the applicable minimum state credentialing requirements.

(2) The nursing pool shall not require, as a condition of employment or referral, that employees or independent contractors of the nursing pool recruit new employees or independent contractors for the nursing pool from among the permanent employees of the health care facility to which the nursing pool employee or independent contractor has been assigned or referred.

(3) The nursing pool shall carry professional and general liability insurance to insure against any loss or damage occurring, whether professional or otherwise, as the result of the negligence of its employees, agents or independent contractors for acts committed in the course of their employment with the nursing pool: PROVIDED, That a nursing pool that only refers self-employed, independent contractors to health care facilities shall carry professional and general liability insurance to cover its own liability as a nursing pool which refers self-employed, independent contractors to health care facilities: AND PROVIDED FURTHER, That it shall require, as a condition of referral, that self-employed, independent contractors carry professional and general liability insurance to insure against loss or damage resulting from their own acts committed in the course of their own employment by a health care facility.

(4) The uniform disciplinary act, chapter 18.130 RCW, shall govern the issuance and denial of registration and the discipline of persons registered under this chapter. The secretary shall be the disciplinary authority under this chapter.

(5) The nursing pool shall conduct a criminal background check on all employees and independent contractors as required under RCW 43.43.842 prior to employment or referral of the employee or independent contractor.

**NEW SECTION.** Sec. 529. A new section is added to chapter 43.43 RCW to read as follows:

If information is released under this chapter by the state of Washington, the state and its employees: (1) Make no representation that the subject of the inquiry has no criminal record or adverse civil or administrative decisions; (2) make no determination that the subject of the inquiry is suitable for involvement with a business or organization; and (3) are not liable for defamation, invasion of privacy, negligence, or any other claim in connection with any lawful dissemination of information.

**\*NEW SECTION.** Sec. 530. The following acts or parts of acts are each repealed:

- (1) RCW 74.39.030 and 1989 c 427 s 11;
- (2) RCW 74.39.040 and 1989 c 427 s 13;
- (3) RCW 74.39A.005 and 1993 c 508 s 1; and
- (4) RCW 74.39A.008 and 1995 1st sp.s. c 18 s 1.

\*Sec. 530 was partially vetoed. See message at end of chapter.

NEW SECTION. Sec. 531. Part headings and captions used in this act are not part of the law.

NEW SECTION. Sec. 532. Section 403 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed the House April 27, 1997.

Passed the Senate April 27, 1997.

Approved by the Governor May 16, 1997, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State May 16, 1997.

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

"I am returning herewith, without my approval as to sections 104, 204, 207, 208, 305, 501, 505, 506, 530(1) and 530(3), Engrossed Second Substitute House Bill No. 1850 entitled:

"AN ACT Relating to the long-term care reorganization and standards of care reform act;"

Section 104

Section 104 creates a joint legislative committee on long-term care oversight with no termination date. The legislature has always established joint committees by resolution, not by statute. A resolution is the appropriate vehicle to create such a committee. For that reason, I have vetoed section 104.

Section 204

Section 204 directs the Department of Social and Health Services ("DSHS") to perform, within available funds, comprehensive assessments of the needs and preferences (including all medical history information, level of personal care needs, and service preferences) of all potential residents of long-term care facilities, whether funded by the state or privately. I have vetoed section 204 because no funding was provided for DSHS to perform assessments on privately funded clients.

Section 207

Section 207 would direct DSHS to make reasonable efforts to contract for at least 180 clients, who would otherwise be served in nursing or assisted living facilities, to instead be served in enhanced adult residential care settings. The section would also tie the payment rate for these enhanced adult residential care clients to a percentage of the statewide average nursing home rate. The 1997-99 budget anticipates the Community Options Program Entry System (COPES) adult residential care program will exceed 800 cases. All of these cases could arguably meet the definition of "enhanced adult residential care", and would thus be eligible for the enhanced rate required under this section. The budget does not provide funds to pay a rate equivalent of 35-40 percent of the nursing home rate for this population.

Additionally, tying the payment rate of one community service to the Medicaid nursing home payment rate would create a situation where one community option would receive rate increases in excess of other equally important community services. For these reasons I have vetoed section 207.

Section 208

Section 208 would allow hospitals the choice not to participate with DSHS in discharge planning. This section weakens the department's ability to comply with the objectives contained in the 1997-99 budget to reduce the Medicaid nursing facility caseload by 480 residents. In cooperating with all hospital discharge planners, department staff are able to initiate financial eligibility determinations and expedite long-term care service authorization and payment. The current partnership between DSHS and hospitals has maximized consumer opportunity to choose the most appropriate long-term care setting. For these reasons I have vetoed section 208.

#### Section 305

Section 305 would direct DSHS to report quarterly to all clients on the types of services used, and charges for the services that would be charged against their estates. I have vetoed this section because no funding was provided and it would not be fair to create an expectation for clients that such reports would be issued.

#### Section 501

Section 501 would permit the Department of Health ("DOH") to develop a plan for a pilot program for accrediting boarding homes through a nationally recognized private accreditation organization. I know of no recognized accreditation organization that provides accreditation for boarding homes, or intends to begin doing so. Since DOH would be unable to develop the plan, I have vetoed this section.

#### Sections 505 and 506

Sections 505 and 506 deal with the nursing home Resident Protection Program operated by DSHS that is part of the Medicaid and Medicare Survey and Certification program. These provisions would require DSHS to refer complaints against licensed, certified or registered health care providers to the appropriate disciplining authority, such as the Nursing Commission or the Medical Quality Assurance Commission, to pursue disciplinary proceedings according to federal timelines and requirements.

DSHS has been operating since September 1995 under a corrective action plan with the Health Care Financing Administration ("HCFA") because of the failure of a previous program that was much like the proposal in Sections 505 and 506. That previous program was deemed out of compliance with federal requirements. HCFA would have to approve the changes made to the program by this legislation and has indicated concern about returning to the old system. These sections would not result in improved services to the residents in nursing homes, would require inefficient and duplicative systems, and would be more costly than current service delivery.

DSHS and DOH are working together to design a system that enhances the opportunity for swift processing and fair adjudication of complaints of abuse, neglect and misappropriation of resident property. I support this effort and believe it will bring about a more coherent system. For the above reasons, I have vetoed sections 505 and 506.

#### Section 530

I have vetoed subsections one and three of Section 530, which are repealers. Subsection 1 repeals the statutory authority for respite care, a valued community care option. Subsection 3 repeals the legislative policy framework that promotes expansion and continuous improvement of home and community services. This is an important part of the overall strategy to provide choices to clients needing long-term care services, and should remain in place.

For these reasons, I have vetoed sections 104, 204, 207, 208, 305, 501, 505, 506, 530(1) and 530(3) of Engrossed Second Substitute House Bill No. 1850.

Sections 213 and 214 of E2SHB 1850 provide for more vigorous inspection of boarding homes and more stringent enforcement once violations are identified. I strongly support these measures to protect the health and safety of boarding home residents. DOH has been authorized in the budget to raise fees to implement this expanded program, and there will need to be expanded appropriation authority in the supplemental budget. I am directing DOH to submit an implementation plan no later than July 1, 1997, outlining how it will phase in the expanded program.

With the exception of sections 104, 204, 207, 208, 305, 501, 505, 506, 530(1) and 530(3), Engrossed Second Substitute House Bill No. 1850 is approved."

## CHAPTER 393

[Substitute Senate Bill 5028]

### COUNTY TREASURY MANAGEMENT—MODIFICATIONS

AN ACT Relating to county treasury management; amending RCW 35.50.030, 35.50.040, 35.50.260, 36.29.020, 36.34.090, 36.36.045, 36.88.220, 36.88.230, 36.94.150, 53.36.050, 58.08.040, 84.38.020, 84.38.020, 84.56.240, 84.56.300, 84.56.340, 84.69.020, 36.29.190, and 84.55.005; adding a new section to chapter 84.40 RCW; repealing RCW 36.29.150 and 36.33.180; providing effective dates; providing an expiration date; and declaring an emergency.

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

**Sec. 1.** RCW 35.50.030 and 1983 c 303 s 18 are each amended to read as follows:

If on the first day of January in any year, two installments of any local improvement assessment are delinquent, or if the final installment thereof has been delinquent for more than one year, the city or town shall proceed with the foreclosure of the delinquent assessment or delinquent installments thereof by proceedings brought in its own name in the superior court of the county in which the city or town is situate.

The proceedings shall be commenced on or before March 1st of that year or on or before such other date in such year as may be fixed by general ordinance, but not before the city or town treasurer has notified by certified mail the persons whose names appear on the assessment roll as owners of the property charged with the assessments or installments which are delinquent, at the address last known to the treasurer, a notice thirty days before the commencement of the proceedings. If the person whose name appears on the tax rolls of the county assessor as owner of the property, or the address shown for the owner, differs from that appearing on the city or town assessment roll, then the treasurer shall also mail a copy of the notice to that person or that address.

The notice shall state the amount due, including foreclosure costs, upon each separate lot, tract, or parcel of land and the date after which the proceedings will be commenced. The city or town treasurer shall file with the clerk of the superior court at the time of commencement of the foreclosure proceeding the affidavit of the person who mailed the notices. This affidavit shall be conclusive proof of compliance with the requirements of this section.

**Sec. 2.** RCW 35.50.040 and 1965 c 7 s 35.50.040 are each amended to read as follows:

When the local improvement assessment is payable in installments, the enforcement of the lien of any installment shall not prevent the enforcement of the lien of any subsequent installment.

A city or town may by general ordinance provide that upon failure to pay any installment due the entire assessment shall become due and payable and the collection thereof enforced by foreclosure: PROVIDED, That the payment of all

delinquent installments together with interest, penalty, and administrative costs at any time before entry of judgment in foreclosure shall extend the time of payment on the remainder of the assessments as if there had been no delinquency or foreclosure. Where foreclosure of two installments of the same assessment on any lot, tract, or parcel is sought, the city or town treasurer shall cause such lot, tract, or parcel to be dismissed from the action, if the installment first delinquent together with interest, penalty, administrative costs, and charges is paid at any time before sale.

**Sec. 3.** RCW 35.50.260 and 1983 c 303 s 21 are each amended to read as follows:

In foreclosing local improvement assessments the action shall be tried to the court without a jury. If the parties interested in any particular lot, tract, or parcel default, the court may enter judgment of foreclosure and sale as to such parties and lots, tracts, or parcels and the action may proceed as to the remaining defendants and lots, tracts, or parcels. Judgment and order of sale may be entered as to any one or more separate lots, tracts, or parcels involved in the action and the court shall retain jurisdiction to others.

The judgment shall specify separately the amount of the installments with interest, penalty, and all reasonable administrative costs, including, but not limited to, the title searches, chargeable to each lot, tract, or parcel. The judgment shall have the effect of a separate judgment as to each lot, tract, or parcel described in the judgment, and any appeal shall not invalidate or delay the judgment except as to the property concerning which the appeal is taken. In the judgment the court shall order the lots, tracts, or parcels therein described sold by the city or town treasurer or by the county sheriff and an order of sale shall issue pursuant thereto for the enforcement of the judgment.

In all other respects, the trial, judgment, and appeals to the supreme court or the court of appeals shall be governed by the statutes governing the foreclosure of mortgages on real property.

Prior to the sale of the property, if the property is shown on the property tax rolls under unknown owner or if the property contains a residential structure having an assessed value of two thousand dollars or more, the treasurer shall order or conduct a title search of the property to determine the record title holders and all persons claiming a mortgage, deed of trust, or mechanic's, laborer's, materialmen's, or vendor's lien on the property.

At least thirty days prior to the sale of the property, a copy of the notice of sale shall be mailed by certified and regular mail to all defendants in the foreclosure action as to that parcel, lot, or tract and, if the owner is unknown or the property contains a residential structure having an assessed value of two thousand dollars or more, a copy of the notice of sale shall be mailed by regular and certified mail to any additional record title holders and persons claiming a mortgage, deed of trust, or mechanic's, laborer's, materialmen's, or vendor's lien on the property.

In all other respects the procedure for sale shall be conducted in the same manner as property tax sales described in RCW 84.64.080.

**Sec. 4.** RCW 36.29.020 and 1991 c 245 s 5 are each amended to read as follows:

The county treasurer shall keep all moneys belonging to the state, or to any county, in his or her own possession until disbursed according to law. The county treasurer shall not place the same in the possession of any person to be used for any purpose; nor shall he or she loan or in any manner use or permit any person to use the same; but it shall be lawful for a county treasurer to deposit any such moneys in any regularly designated qualified public depository. Any municipal corporation may by action of its governing body authorize any of its funds which are not required for immediate expenditure, and which are in the custody of the county treasurer or other municipal corporation treasurer, to be invested by such treasurer. The county treasurer may invest in savings or time accounts in designated qualified public depositories or in certificates, notes, or bonds of the United States, or other obligations of the United States or its agencies, or of any corporation wholly owned by the government of the United States; in bankers' acceptances purchased on the secondary market, in federal home loan bank notes and bonds, federal land bank bonds and federal national mortgage association notes, debentures and guaranteed certificates of participation, or the obligations of any other government sponsored corporation whose obligations are or may become eligible as collateral for advances to member banks as determined by the board of governors of the federal reserve system or deposit such funds or any portion thereof in investment deposits as defined in RCW 39.58.010 secured by collateral in accordance with the provisions of chapters 39.58 and 39.59 RCW: **PROVIDED**, Five percent of the earnings, with an annual maximum of fifty dollars, on each transaction authorized by the governing body shall be paid as an investment service fee to the office of the county treasurer or other municipal corporation treasurer when the earnings become available to the governing body: **PROVIDED FURTHER**, That if such investment service fee amounts to five dollars or less the county treasurer or other municipal corporation treasurer may waive such fee.

Whenever the funds of any municipal corporation which are not required for immediate expenditure are in the custody or control of the county treasurer, and the governing body of such municipal corporation has not taken any action pertaining to the investment of any such funds, the county finance committee shall direct the county treasurer, under the investment policy of the county finance committee, to invest, to the maximum prudent extent, such funds or any portion thereof in savings or time accounts in designated qualified public depositories or in certificates, notes, or bonds of the United States, or other obligations of the United States or its agencies, or of any corporation wholly owned by the government of the United States, in bankers' acceptances purchased on the secondary market, in federal home loan bank notes and bonds, federal land bank bonds and federal national mortgage association notes, debentures and guaranteed certificates of

participation, or the obligations of any other government sponsored corporation whose obligations are or may become eligible as collateral for advances to member banks as determined by the board of governors of the federal reserve system or deposit such funds or any portion thereof in investment deposits as defined in RCW 39.58.010 secured by collateral in accordance with the provisions of chapters 39.58 and 39.59 RCW: PROVIDED, That the county treasurer shall have the power to select the specific qualified financial institution in which the funds may be invested. The interest or other earnings from such investments or deposits shall be deposited in the current expense fund of the county and may be used for general county purposes. The investment or deposit and disposition of the interest or other earnings therefrom authorized by this paragraph shall not apply to such funds as may be prohibited by the state Constitution from being so invested or deposited.

Sec. 5. RCW 36.34.090 and 1991 c 363 s 69 are each amended to read as follows:

Whenever county property is to be sold at public auction, consignment auction, or sealed bid, the county (~~auditor~~) treasurer or the county treasurer's designee shall publish notice thereof once during each of two successive calendar weeks in a newspaper of general circulation in the county. Notice thereof must also be posted in a conspicuous place in the courthouse. The posting and date of first publication must be at least ten days before the day fixed for the sale.

Sec. 6. RCW 36.36.045 and 1987 c 381 s 2 are each amended to read as follows:

The county shall have a lien for any delinquent fees imposed for the withdrawal of subterranean water or on-site sewage disposal, which shall attach to the property to which the fees were imposed, if the following conditions are met:

(1) At least eighteen months have passed since the first billing for a delinquent fee installment; and

(2) At least three billing notices and a letter have been mailed to the property owner, within the period specified in subsection (1) of this section, explaining that a lien may be imposed for any delinquent fee installment that has not been paid in that period.

The lien shall otherwise be subject to the provisions of chapter 36.94 RCW related to liens for delinquent charges. The county shall record liens for any delinquent fees in the office of the county auditor. Failure on the part of the county to record the lien does not affect the validity of the lien.

Sec. 7. RCW 36.88.220 and 1967 ex.s. c 145 s 63 are each amended to read as follows:

All counties may establish a fund for the purpose of guaranteeing to the extent of such fund and in the manner hereinafter provided, the payment of its road improvement district bonds and warrants issued to pay for any road improvement ordered under this chapter. If the (~~board of county commissioners~~) county legislative authority shall determine to establish such fund it shall be designated ". . . . county road improvement guaranty fund" and from moneys available for

road purposes such county shall deposit annually in said guaranty fund such sums as may be necessary to establish and maintain a balance therein equal to at least five percent of the outstanding obligations guaranteed thereby and to make necessary provision in its annual budget therefor. The moneys held in the guaranty fund may be invested in ~~((obligations of the government of the United States or of this state))~~ accordance with the laws relating to county investments.

Sec. 8. RCW 36.88.230 and 1983 c 167 s 96 are each amended to read as follows:

Whenever there shall be paid out of a guaranty fund any sum on account of principal or interest of a road improvement district bond or warrant, the county, as trustee for the fund, shall be subrogated to all the rights of the owner of the bond or any interest coupon or warrant so paid, and the proceeds thereof, or of the assessment underlying the same, shall become part of the guaranty fund. There shall also be paid into each guaranty fund the interest received from ~~((bank deposits or government securities))~~ investment of the fund, as well as any surplus remaining in any local improvement fund guaranteed hereunder after the payment of all outstanding bonds or warrants payable primarily out of such road improvement fund. Warrants drawing interest at a rate or rates not to exceed the rate determined by the county legislative authority shall be issued, as other warrants are issued by the county, against a guaranty fund to meet any liability accruing against it, and at the time of making its annual budget and tax levy the county shall provide from funds available for road purposes for the deposit in the guaranty fund of a sum sufficient with other resources of such fund to pay warrants so issued during the preceding fiscal year. As among the several issues of bonds or warrants guaranteed by the fund no preference shall exist, but defaulted bonds, interest payments, and warrants shall be purchased out of the fund in the order of their presentation.

Every county establishing a guaranty fund for road improvement district bonds or warrants shall prescribe by resolution appropriate rules and regulations for the maintenance and operation of the guaranty fund not inconsistent herewith. So much of the money of a guaranty fund as is necessary may be used to purchase underlying bonds or warrants guaranteed by the fund, or to purchase certificates of delinquency for general taxes on property subject to local improvement assessments, or to purchase such property at tax foreclosures, for the purpose of protecting the guaranty fund. Said fund shall be subrogated to the rights of the county, and the county, acting on behalf of said fund, may foreclose the lien of general tax certificates of delinquency and purchase the property at the foreclosure sale for the account of said fund. Whenever the legislative authority of any county shall so cause a lien of general tax certificates of delinquency to be foreclosed and the property to be so purchased at a foreclosure sale, the court costs and costs of publication and expenses for clerical work and/or other expense incidental thereto, shall be chargeable to and payable from the guaranty fund. After so acquiring title to real property, a county may lease or sell and convey the same at public or private

sale for such price and on such terms as may be determined by resolution of the county legislative body, and all proceeds resulting from such sales shall belong to and be paid into the guaranty fund.

**Sec. 9.** RCW 36.94.150 and 1975 1st ex.s. c 188 s 3 are each amended to read as follows:

All counties operating a system of sewerage and/or water shall have a lien for delinquent connection charges and charges for the availability of sewerage and/or water service, together with interest fixed by resolution at eight percent per annum from the date due until paid. Penalties of not more than ten percent of the amount due may be imposed in case of failure to pay the charges at times fixed by resolution. The lien shall be for all charges, interest, and penalties and shall attach to the premises to which the services were available. The lien shall be superior to all other liens and encumbrances, except general taxes and local and special assessments of the county.

The county department established in RCW 36.94.120 shall certify periodically the delinquencies to the ~~((treasurer))~~ auditor of the county at which time the lien shall attach.

Upon the expiration of sixty days after the attachment of the lien, the county may bring suit in foreclosure by civil action in the superior court of the county where the property is located. Costs associated with the foreclosure of the lien, including but not limited to advertising, title report, and personnel costs, shall be added to the lien upon filing of the foreclosure action. In addition to the costs and disbursements provided by statute, the court may allow the county a reasonable attorney's fee. The lien shall be foreclosed in the same manner as the foreclosure of real property tax liens.

**Sec. 10.** RCW 53.36.050 and 1959 c 52 s 2 are each amended to read as follows:

The county treasurer acting as port treasurer shall create a fund to be known as the "Port of . . . . . Fund," into which shall be paid all money received by him from the collection of taxes in behalf of such port district, and shall also maintain such other special funds as may be created by the port commission into which shall be placed such moneys as the port commission may by its resolution direct. All such port funds shall be deposited with the county depositories under the same restrictions, contracts and security as is provided by statute for county depositories and all interest collected on such port funds shall belong to such port district and shall be deposited to its credit in the proper port funds: PROVIDED, That any portion of such port moneys determined by the port commission to be in excess of the current needs of the port district may be invested ~~((in certificates, notes, bonds, or other obligations of the United States of America, or any agency or instrumentality thereof))~~ by the county treasurer in accordance with RCW 36.29.020, RCW 36.29.022, and chapter 39.59 RCW, and all interest collected thereon shall likewise belong to such port district and shall be deposited to its credit in the proper port funds.

Sec. 11. RCW 58.08.040 and 1994 c 301 s 16 are each amended to read as follows:

Prior to any person ((filing)) recording a plat, replat, altered plat, or binding site plan subsequent to May 31st in any year and prior to the date of the collection of taxes in the ensuing year, the person shall deposit with the county treasurer a sum equal to the product of the county assessor's latest valuation on the property less improvements in such subdivision multiplied by the current year's dollar rate increased by twenty-five percent on the property platted. The treasurer's receipt shall be evidence of the payment. The treasurer shall appropriate so much of the deposit as will pay the taxes and assessments on the property when the levy rates are certified by the assessor using the value of the property at the time of filing a plat, replat, altered plat, or binding site plan, and in case the sum deposited is in excess of the amount necessary for the payment of the taxes and assessments, the treasurer shall return, to the party depositing, the amount of excess.

*\*Sec. 12. RCW 84.38.020 and 1995 c 329 s 1 are each amended to read as follows:*

*Unless a different meaning is plainly required by the context, the following words and phrases as hereinafter used in this chapter shall have the following meanings:*

*(1) "Claimant" means a person who either elects or is required under RCW 84.64.050 to defer payment of the special assessments and/or real property taxes accrued on the claimant's residence by filing a declaration to defer as provided by this chapter.*

*When two or more individuals of a household file or seek to file a declaration to defer, they may determine between them as to who the claimant shall be.*

*(2) "Department" means the state department of revenue.*

*(3) "Equity value" means the amount by which the fair market value of a residence as determined from the records of the county assessor exceeds the total amount of any liens or other obligations against the property.*

*(4) "Local government" means any city, town, county, water-sewer district, public utility district, port district, irrigation district, flood control district, or any other municipal corporation, quasi municipal corporation, or other political subdivision authorized to levy special assessments.*

*(5) "Real property taxes" means ad valorem property taxes levied on a residence in this state in the preceding calendar year.*

*((5)) (6) "Residence" has the meaning given in RCW 84.36.383, except that a residence includes any additional property up to a total of five acres that comprises the residential parcel if this larger parcel size is required under land use regulations.*

*((6)) (7) "Special assessment" means the charge or obligation imposed by a ((city, town, county, or other municipal corporation)) local government upon property specially benefited ((by a local improvement, including assessments*

~~under chapters 35.44, 36.88, 36.94, 53.08, 54.16, 56.20, 57.16, 86.09, and 87.03 RCW and any other relevant chapter).~~

\*Sec. 12 was vetoed. See message at end of chapter.

\*Sec. 13. RCW 84.38.020 and 1996 c 230 s 1614 are each amended to read as follows:

Unless a different meaning is plainly required by the context, the following words and phrases as hereinafter used in this chapter shall have the following meanings:

(1) "Claimant" means a person who either elects or is required under RCW 84.64.050 to defer payment of the special assessments and/or real property taxes accrued on the claimant's residence by filing a declaration to defer as provided by this chapter.

When two or more individuals of a household file or seek to file a declaration to defer, they may determine between them as to who the claimant shall be.

(2) "Department" means the state department of revenue.

(3) "Equity value" means the amount by which the fair market value of a residence as determined from the records of the county assessor exceeds the total amount of any liens or other obligations against the property.

(4) "Local government" means any city, town, county, water-sewer district, public utility district, port district, irrigation district, flood control district, or any other municipal corporation, quasi municipal corporation, or other political subdivision authorized to levy special assessments.

(5) "Real property taxes" means ad valorem property taxes levied on a residence in this state in the preceding calendar year.

~~((5))~~ (6) "Residence" has the meaning given in RCW 84.36.383, except that a residence includes any additional property up to a total of five acres that comprises the residential parcel if this larger parcel size is required under land use regulations.

~~((6))~~ (7) "Special assessment" means the charge or obligation imposed by a ~~((city, town, county, or other municipal corporation))~~ local government upon property specially benefited ~~((by a local improvement, including assessments under chapters 35.44, 36.88, 36.94, 53.08, 54.16, 57.16, 86.09, and 87.03 RCW and any other relevant chapter)).~~

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

Sec. 14. RCW 84.56.240 and 1961 c 15 s 84.56.240 are each amended to read as follows:

If the county treasurer is unable, for the want of goods or chattels whereupon to levy, to collect by distress or otherwise, the taxes, or any part thereof, which may have been assessed upon the personal property of any person or corporation, or an executor or administrator, guardian, receiver, accounting officer, agent or factor, ~~((such))~~ the treasurer shall file with the county ~~((auditor))~~ legislative authority, on the first day of ~~((January))~~ February following, a list of such taxes,

with an affidavit of ~~((himself))~~ the treasurer or of the deputy treasurer entrusted with the collection of ~~((said))~~ the taxes, stating that ~~((he))~~ the treasurer had made diligent search and inquiry for goods and chattels wherewith to make such taxes, and was unable to make or collect the same. The county ~~((auditor shall deliver such list and affidavit to the board of county commissioners at their first session thereafter, and they))~~ legislative authority shall cancel such taxes as ~~((they are))~~ the county legislative authority is satisfied cannot be collected.

**Sec. 15.** RCW 84.56.300 and 1973 1st ex.s. c 45 s 1 are each amended to read as follows:

On the first Monday of ~~((January))~~ February of each year the county treasurer shall balance up the tax rolls as of December 31 of the prior year in ~~((his))~~ the treasurer's hands and with which ~~((he))~~ the treasurer stands charged on the roll accounts of the county auditor. ~~((He))~~ The treasurer shall then report to the county auditor in full the amount of taxes ~~((he has))~~ collected and specify the amount collected on each fund. ~~((He))~~ The treasurer shall also report the amount of taxes that remain uncollected and delinquent upon the tax rolls, which, with ~~((his))~~ collections and credits on account of errors and double assessments, should balance ~~((his))~~ the tax rolls ~~((accounts))~~ as ~~((he))~~ the treasurer stands charged. ~~((He))~~ The treasurer shall then report the amount of collections on account of interest since the taxes became delinquent, and as added ~~((by him))~~ to the original amounts when making such collections, and with which ~~((he))~~ the treasurer is now to be charged by the auditor, such reports to be duly verified by affidavit.

**Sec. 16.** RCW 84.56.340 and 1996 c 153 s 2 are each amended to read as follows:

Any person desiring to pay taxes upon any part or parts of real property heretofore or hereafter assessed as one parcel, or tract, or upon such person's undivided fractional interest in such a property, may do so by applying to the county assessor, who must carefully investigate and ascertain the relative or proportionate value said part or part interest bears to the whole tract assessed, on which basis the assessment must be divided, and the assessor shall forthwith certify such proportionate value to the county treasurer: **PROVIDED,** That excepting when property is being acquired for public use, or where a person or financial institution desires to pay the taxes and any penalties and interest on a mobile home upon which they have a lien by mortgage or otherwise, no segregation of property for tax purposes shall be made under this section unless all ~~((current year and))~~ delinquent taxes and assessments on the entire tract have been paid in full. ~~((The county assessor shall duly certify the proportionate value to the county treasurer.))~~ The county treasurer, upon receipt of certification, shall duly accept payment and issue receipt on the apportionment certified by the county assessor. In cases where protest is filed to said division appeal shall be made to the county legislative authority at its next regular session for final division, and the county treasurer shall accept and receipt for said taxes as determined and ordered by the county legislative authority. Any person desiring to pay on an undivided interest in any

real property may do so by paying to the county treasurer a sum equal to such proportion of the entire taxes charged on the entire tract as interest paid on bears to the whole.

**NEW SECTION. Sec. 17.** A new section is added to chapter 84.40 RCW to read as follows:

(1) When real property is divided in accordance with chapter 58.17 RCW, the assessor shall carefully investigate and ascertain the true and fair value of each lot and assess each lot on that same basis, unless specifically provided otherwise by law. For purposes of this section, "lot" has the same definition as in RCW 58.17.020.

(a) For each lot on which an advance tax deposit has been paid in accordance with RCW 58.08.040, the assessor shall establish the true and fair value by October 30 of the year following the recording of the plat, replat, altered plat, or binding site plan. The value established shall be the value of the lot as of January 1 of the year the original parcel of real property was last revalued. An additional property tax shall not be due on the land until the calendar year following the year for which the advance tax deposit was paid if the deposit was sufficient to pay the full amount of the taxes due on the property.

(b) For each lot on which an advance tax deposit has not been paid, the assessor shall establish the true and fair value not later than the calendar year following the recording of the plat, map, subdivision, or replat. For purposes of this section, "subdivision" means a division of land into two or more lots.

(c) For each subdivision, all current year and delinquent taxes and assessments on the entire tract must be paid in full in accordance with RCW 58.17.160 and 58.08.030. For purposes of this section, "current year taxes" means taxes that are collectable under RCW 84.56.010 subsequent to February 14.

(2) When the assessor is required by law to segregate any part or parts of real property, assessed before or after the effective date of this section as one parcel or when the assessor is required by law to combine parcels of real property assessed before or after the effective date of this section as two or more parcels, the assessor shall carefully investigate and ascertain the true and fair value of each part or parts of the real property and each combined parcel and assess each part or parts or each combined parcel on that same basis.

**Sec. 18.** RCW 84.69.020 and 1996 c 296 s 2 are each amended to read as follows:

On the order of the county treasurer, ad valorem taxes paid before or after delinquency shall be refunded if they were:

- (1) Paid more than once; or
- (2) Paid as a result of manifest error in description; or
- (3) Paid as a result of a clerical error in extending the tax rolls; or
- (4) Paid as a result of other clerical errors in listing property; or
- (5) Paid with respect to improvements which did not exist on assessment date;

or

(6) Paid under levies or statutes adjudicated to be illegal or unconstitutional;  
or

(7) Paid as a result of mistake, inadvertence, or lack of knowledge by any person exempted from paying real property taxes or a portion thereof pursuant to RCW 84.36.381 through 84.36.389, as now or hereafter amended; or

(8) Paid as a result of mistake, inadvertence, or lack of knowledge by either a public official or employee or by any person with respect to real property in which the person paying the same has no legal interest; or

(9) Paid on the basis of an assessed valuation which was appealed to the county board of equalization and ordered reduced by the board; or

(10) Paid on the basis of an assessed valuation which was appealed to the state board of tax appeals and ordered reduced by the board: PROVIDED, That the amount refunded under subsections (9) and (10) of this section shall only be for the difference between the tax paid on the basis of the appealed valuation and the tax payable on the valuation adjusted in accordance with the board's order; or

(11) Paid as a state property tax levied upon property, the assessed value of which has been established by the state board of tax appeals for the year of such levy: PROVIDED, HOWEVER, That the amount refunded shall only be for the difference between the state property tax paid and the amount of state property tax which would, when added to all other property taxes within the one percent limitation of Article VII, section 2 of the state Constitution equal one percent of the assessed value established by the board;

(12) Paid on the basis of an assessed valuation which was adjudicated to be unlawful or excessive: PROVIDED, That the amount refunded shall be for the difference between the amount of tax which was paid on the basis of the valuation adjudged unlawful or excessive and the amount of tax payable on the basis of the assessed valuation determined as a result of the proceeding; or

(13) Paid on property acquired under RCW 84.60.050, and canceled under RCW 84.60.050(2); or

(14) Paid on the basis of an assessed valuation that was reduced under RCW 84.48.065.

No refunds under the provisions of this section shall be made because of any error in determining the valuation of property, except as authorized in subsections (9), (10), (11), and (12) of this section nor may any refunds be made if a bona fide purchaser has acquired rights that would preclude the assessment and collection of the refunded tax from the property that should properly have been charged with the tax. Any refunds made on delinquent taxes shall include the proportionate amount of interest and penalties paid. The county treasurer may deduct from moneys collected for the benefit of the state's levy, refunds of the state levy including interest on the levy as provided by this section and chapter 84.68 RCW.

The county treasurer of each county shall make all refunds determined to be authorized by this section, and by the first Monday in (~~January~~) February of each year, report to the county legislative authority a list of all refunds made under this

section during the previous year. The list is to include the name of the person receiving the refund, the amount of the refund, and the reason for the refund.

**Sec. 19.** RCW 36.29.190 and 1996 c 153 s 3 are each amended to read as follows:

County treasurers are authorized to 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, taxes, fines, interest, penalties, special assessments, fees, rates, charges, or moneys due counties. 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 county legislative authority finds that it is in the best interests of the county to not charge transaction processing costs for all payment transactions made for a specific category of nontax payments due the county, including, but not limited to, fines, interest not associated with taxes, penalties not associated with taxes, special assessments, fees, rates, and charges. ~~((Such))~~ The treasurer's cost determination shall be based upon costs incurred by the treasurer ((including handling, collecting, discount, disbursing, and accounting for the transaction)) and may not, in any event, exceed the additional direct costs incurred by the county to accept the specific form of payment utilized by the payer.

**Sec. 20.** RCW 84.55.005 and 1994 c 301 s 49 are each amended to read as follows:

As used in this chapter, the term "regular property taxes" has the meaning given it in RCW 84.04.140(~~(, and also includes amounts received in lieu of regular property taxes)~~).

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

- (1) RCW 36.29.150 and 1963 c 4 s 36.29.150; and
- (2) RCW 36.33.180 and 1963 c 4 s 36.33.180.

***\*NEW SECTION.*** **Sec. 22.** *(1) Section 12 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.*

*(2) Section 13 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 1997.*

\*Sec. 22 was vetoed. See message at end of chapter.

***\*NEW SECTION.*** **Sec. 23.** *Section 12 of this act expires July 1, 1997.*

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

Passed the Senate April 21, 1997.

Passed the House April 8, 1997.

Approved by the Governor May 16, 1997, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State May 16, 1997.

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

"I am returning herewith, without my approval as to sections 12, 13, 22, and 23, Substitute Senate Bill No. 5028 entitled:

"AN ACT Relating to county treasury management;"

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

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

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

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

## CHAPTER 394

{Senate Bill 5034}

### GAMBLING—MANAGEMENT AND OPERATION OF ACTIVITIES OF CHARITABLE AND NONPROFIT ORGANIZATIONS—PUNCH BOARDS AND PULL-TABS

AN ACT Relating to gambling; and amending RCW 9.46.0209, 9.46.0205, 9.46.120, and 9.46.110.

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

**\*Sec. 1. RCW 9.46.0209 and 1987 c 4 s 4 are each amended to read as follows:**

**"Bona fide charitable or nonprofit organization," as used in this chapter, means: (1) Any organization duly existing under the provisions of chapters 24.12, 24.20, or 24.28 RCW, any agricultural fair authorized under the provisions of chapters 15.76 or 36.37 RCW, or any nonprofit corporation duly existing under the provisions of chapter 24.03 RCW for charitable, benevolent, eleemosynary, educational, civic, patriotic, political, social, fraternal, athletic or agricultural purposes only, or any nonprofit organization, whether incorporated or otherwise, when found by the commission to be organized and operating for one or more of the aforesaid purposes only, all of which in the opinion of the commission have been organized and are operated primarily for purposes other than the operation of gambling activities authorized under this chapter; or (2) any corporation which has been incorporated under Title 36 U.S.C. and whose principal purposes are to furnish volunteer aid to members of the armed forces of the United States and also to carry on a system of national and international relief and to apply the same in mitigating the sufferings caused by pestilence, famine, fire, floods, and other national calamities and to devise and carry on measures for preventing the same. Such an organization must have been**

*organized and continuously operating for at least twelve calendar months immediately preceding making application for any license to operate a gambling activity, or the operation of any gambling activity authorized by this chapter for which no license is required. It must have not less than ~~((fifteen))~~ seven bona fide active members each with the right to an equal vote in the election of the officers, or board members, if any, who determine the policies of the organization in order to receive a gambling license. An organization must demonstrate to the commission that it has made significant progress toward the accomplishment of the purposes of the organization during the twelve consecutive month period preceding the date of application for a license or license renewal. The fact that contributions to an organization do not qualify for charitable contribution deduction purposes or that the organization is not otherwise exempt from payment of federal income taxes pursuant to the internal revenue code of 1954, as amended, shall constitute prima facie evidence that the organization is not a bona fide charitable or nonprofit organization for the purposes of this section.*

*Any person, association or organization which pays its employees, including members, compensation other than is reasonable therefor under the local prevailing wage scale shall be deemed paying compensation based in part or whole upon receipts relating to gambling activities authorized under this chapter and shall not be a bona fide charitable or nonprofit organization for the purposes of this chapter.*

*\*Sec. 1 was vetoed. See message at end of chapter.*

*\*Sec. 2. RCW 9.46.0205 and 1987 c 4 s 3 are each amended to read as follows:*

*(1) "Bingo," as used in this chapter, means a game (~~((conducted only in the county within which the organization is principally located))~~) in which prizes are awarded on the basis of designated numbers or symbols on a card conforming to numbers or symbols selected at random and in which no cards are sold except at the time and place of ~~((said))~~ the game, ~~((when said))~~ except as authorized by the commission for joint bingo games.*

*(2) The game ~~((is))~~ shall be conducted only by:*

*(a) A bona fide charitable or nonprofit organization which does not conduct or allow its premises to be used for conducting bingo on more than three occasions per week and which does not conduct bingo in any location which is used for conducting bingo on more than three occasions per week~~((;))~~; or ~~((if))~~*

*(b) An agricultural fair authorized under chapters 15.76 and 36.37 RCW, which does not conduct bingo on more than twelve consecutive days in any calendar year~~((; and))~~.*

*(3) Except in the case of any agricultural fair as authorized under chapters 15.76 and 36.37 RCW, no person other than a bona fide member or an employee of ~~((said))~~ the organization ~~((takes))~~ may take any part in the management or operation of ~~((said))~~ the game unless approved by the commission, and no*

person who takes any part in the management or operation of ~~((said))~~ the game ~~((takes))~~ may take any part in the management or operation of any game conducted by any other organization or any other branch of the same organization~~((;))~~ unless approved by the commission~~((, and))~~.

(4) No part of the proceeds ~~((thereof))~~ from a bingo game may inure to the benefit of any person other than the organization conducting ~~((said))~~ the game.

(5) A bingo game must be conducted only in the county where the sponsoring organization is principally located, except as authorized by the commission for joint bingo games. For the purposes of this section, the organization shall be deemed to be principally located in the county within which it has its primary business office. If the organization has no business office, the organization shall be deemed to be located in the county of principal residence of its chief executive officer~~((; PROVIDED, That))~~. Any organization which is conducting any licensed and established bingo game in any locale as of January 1, 1981, shall be exempt from the requirement that such game be conducted in the county in which the organization is principally located.

(6) The commission may authorize joint bingo games conducted by two or more bona fide charitable or nonprofit organizations if the prizes are pooled and the games are conducted during each organization's normal period of operation. The commission may adopt rules for the operation, management, and location of the games.

\*Sec. 2 was vetoed. See message at end of chapter.

Sec. 3. RCW 9.46.120 and 1987 c 4 s 40 are each amended to read as follows:

(1) Except in the case of an agricultural fair as authorized under chapters 15.76 and 36.37 RCW, no person other than a member of a bona fide charitable or nonprofit organization (and their employees) or any other person, association or organization (and their employees) approved by the commission, shall take any part in the management or operation of any gambling activity authorized under this chapter~~((, and))~~ unless approved by the commission. No person who takes any part in the management or operation of any such gambling activity shall take any part in the management or operation of any gambling activity conducted by any other organization or any other branch of the same organization~~((;))~~ unless approved by the commission~~((, and))~~. No part of the proceeds ~~((thereof))~~ of the activity shall inure to the benefit of any person other than the organization conducting such gambling activities or if such gambling activities be for the charitable benefit of any specific persons designated in the application for a license, then only for such specific persons as so designated.

(2) No bona fide charitable or nonprofit organization or any other person, association or organization shall conduct any gambling activity authorized under this chapter in any leased premises if rental for such premises is unreasonable or to be paid, wholly or partly, on the basis of a percentage of the receipts or profits derived from such gambling activity.

Sec. 4. RCW 9.46.110 and 1994 c 301 s 2 are each amended to read as follows:

(1) The legislative authority of any county, city-county, city, or town, by local law and ordinance, and in accordance with the provisions of this chapter and rules ~~((and regulations promulgated hereunder))~~ adopted under this chapter, may provide for the taxing of any gambling activity authorized by this chapter within its jurisdiction, the tax receipts to go to the county, city-county, city, or town so taxing the ~~((same: PROVIDED, That))~~ activity. Any such tax imposed by a county alone shall not apply to any gambling activity within a city or town located ~~((therein))~~ in the county but the tax rate established by a county, if any, shall constitute the tax rate throughout the unincorporated areas of such county ~~((:—PROVIDED FURTHER, That (1) punch boards and pull-tabs, chances on which shall)),~~

(2) The operation of punch boards and pull-tabs are subject to the following conditions:

(a) Chances may only be sold to adults~~((, which shall have a fifty-cent limit on a single chance thereon, shall be taxed on a basis which shall reflect only the gross receipts from such punch boards and pull-tabs; and (2)))~~;

(b) The price of a single chance may not exceed one dollar;

(c) No punch board or pull-tab license may award as a prize upon a winning number or symbol being drawn the opportunity of taking a chance upon any other punch board or pull-tab; ~~((and (3)))~~

(d) All prizes ~~((for punch boards and pull-tabs))~~ available to be won must be described on an information flare. All merchandise prizes must be on display within the immediate area of the premises ~~((wherein))~~ in which any such punch board or pull-tab is located ~~((and)),~~ Upon a winning number or symbol being drawn, (such) a merchandise prize must be immediately removed ~~((therefrom))~~ from the display and awarded to the winner. All references to cash or merchandise prizes, with a value over twenty dollars, must be removed immediately from the information flare when won, or such omission shall be deemed a fraud for the purposes of this chapter; and ~~((4))~~

(e) When any person ~~((shall win over twenty dollars in))~~ wins money or merchandise from any punch board or pull-tab over an amount determined by the commission, every licensee ~~((hereunder))~~ shall keep a public record ~~((thereof))~~ of the award for at least ninety days ~~((thereafter))~~ containing such information as the commission shall deem necessary ~~((:—AND PROVIDED FURTHER, That)),~~

(3)(a) Taxation of bingo and raffles shall never be in an amount greater than ten percent of the gross ~~((revenue received therefrom))~~ receipts from a bingo game or raffle less the amount ~~((paid for or))~~ awarded as cash or merchandise prizes.

(b) Taxation of amusement games shall only be in an amount sufficient to pay the actual costs of enforcement of the provisions of this chapter by the county, city or town law enforcement agency and in no event shall such taxation exceed two percent of the gross ~~((revenue therefrom))~~ receipts from the amusement game less the amount ~~((paid for))~~ awarded as prizes ~~((:—PROVIDED FURTHER, That)),~~

(c) No tax shall be imposed under the authority of this chapter on bingo or amusement games when such activities or any combination thereof are conducted by any bona fide charitable or nonprofit organization as defined in this chapter, which organization has no paid operating or management personnel and has gross ((income)) receipts from bingo or amusement games, or a combination thereof, not exceeding five thousand dollars per year, less the amount ((paid for)) awarded as cash or merchandise prizes.

(d) No tax shall be imposed on the first ten thousand dollars of ((net proceeds)) gross receipts less the amount awarded as cash or merchandise prizes from raffles conducted by any bona fide charitable or nonprofit organization as defined in this chapter.

(e) Taxation of punch boards and pull-tabs for bona fide charitable or nonprofit organizations is based on gross receipts from the operation of the games less the amount awarded as cash or merchandise prizes, and shall not exceed ((five)) a rate of ten percent ((of gross receipts, nor shall)). At the option of the county, city-county, city, or town, the taxation of punch boards and pull-tabs for commercial stimulant operators may be based on gross receipts from the operation of the games, and may not exceed a rate of five percent, or may be based on gross receipts from the operation of the games less the amount awarded as cash or merchandise prizes, and may not exceed a rate of ten percent.

(f) Taxation of social card games may not exceed twenty percent of the gross revenue from such games.

(4) Taxes imposed under this chapter become a lien upon personal and real property used in the gambling activity in the same manner as provided for under RCW 84.60.010. The lien shall attach on the date the tax becomes due and shall relate back and have priority against real and personal property to the same extent as ad valorem taxes.

Passed the Senate April 27, 1997.

Passed the House April 27, 1997.

Approved by the Governor May 16, 1997, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State May 16, 1997.

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

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

"AN ACT Relating to gambling;"

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

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

Section 2 would authorize charitable or nonprofit organizations to operate joint bingo games in which the prizes are pooled during their normal days of operation. Despite agreements that have been reached between the association representing charitable gaming licensees and the Washington State Gambling Commission regarding limitations that could be placed on joint bingo operations to ensure better control, I am concerned that this change in the law would make high stakes gambling even more accessible to the public than it already is. Although I sympathize with the difficulty sometimes encountered by charitable organizations in raising funds for very important causes, this concern does not justify an expansion of authorized gambling in this state.

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

---

## CHAPTER 395

[Senate Bill 5253]

### FISHING LICENSES FOR NONRESIDENTS UNDER FIFTEEN YEARS OF AGE

AN ACT Relating to nonresident juvenile fishing licenses; and amending RCW 77.32.101.

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

**Sec. 1.** RCW 77.32.101 and 1994 c 255 s 11 are each amended to read as follows:

(1) A combination hunting and fishing license allows a resident holder to hunt, and to fish for game fish throughout the state. The fee for this license is twenty-nine dollars.

(2) A hunting license allows the holder to hunt throughout the state. The fee for this license is fifteen dollars for residents and one hundred fifty dollars for nonresidents.

(3) A fishing license allows the holder to fish for game fish throughout the state. The fee for this license is seventeen dollars for residents fifteen years of age or older and under seventy years of age, three dollars for residents seventy years of age or older, (~~twenty dollars for nonresidents under fifteen years of age,~~) and forty-eight dollars for nonresidents fifteen years of age or older.

The license fee for a nonresident juvenile under fifteen years of age is twenty dollars unless the juvenile is fishing with an adult who holds a current game fish license, in which case there is no license fee.

(4) A steelhead fishing license allows the holder of a combination hunting and fishing license or a fishing license issued under this section to fish for steelhead throughout the state. The fee for this license is eighteen dollars.

(5) A juvenile steelhead license allows residents under fifteen years of age and nonresidents under fifteen years of age who hold a fishing license to fish for steelhead throughout the state. The fee for this license is six dollars and entitles the holder to take up to five steelhead at which time another juvenile steelhead license may be purchased. Any person who purchases a juvenile steelhead license is prohibited from purchasing a steelhead license for the same calendar year.

Passed the Senate April 26, 1997.

Passed the House April 26, 1997.

Approved by the Governor May 16, 1997.

Filed in Office of Secretary of State May 16, 1997.

## CHAPTER 396

[Substitute Senate Bill 5462]

### LOCAL PROJECT REVIEW PERMIT TIMELINES—COMBINATION OF NOTICES

AN ACT Relating to local government permit timelines; and amending RCW 36.70B.110.

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

**Sec. 1.** RCW 36.70B.110 and 1995 c 347 s 415 are each amended to read as follows:

(1) Not later than April 1, 1996, a local government planning under RCW 36.70A.040 shall provide a notice of application to the public and the departments and agencies with jurisdiction as provided in this section. If a local government has made a threshold determination (~~(of significance)~~) under chapter 43.21C RCW concurrently with the notice of application, the notice of application (~~(shall)~~) may be combined with the threshold determination (~~(of significance)~~) and the scoping notice for a determination of significance. Nothing in this section prevents a determination of significance and scoping notice from being issued prior to the notice of application.

(2) The notice of application shall be provided within fourteen days after the determination of completeness as provided in RCW 36.70B.070 and include the following in whatever sequence or format the local government deems appropriate:

(a) The date of application, the date of the notice of completion for the application, and the date of the notice of application;

(b) A description of the proposed project action and a list of the project permits included in the application and, if applicable, a list of any studies requested under RCW 36.70B.070 or 36.70B.090;

(c) The identification of other permits not included in the application to the extent known by the local government;

(d) The identification of existing environmental documents that evaluate the proposed project, and, if not otherwise stated on the document providing the notice of application, such as a city land use bulletin, the location where the application and any studies can be reviewed;

(e) A statement of the public comment period, which shall be not less than fourteen nor more than thirty days following the date of notice of application, and statements of the right of any person to comment on the application, receive notice of and participate in any hearings, request a copy of the decision once made, and any appeal rights. A local government may accept public comments at any time prior to the closing of the record of an open record predecision hearing, if any, or, if no open record predecision hearing is provided, prior to the decision on the project permit;

(f) The date, time, place, and type of hearing, if applicable and scheduled at the date of notice of the application;

(g) A statement of the preliminary determination, if one has been made at the time of notice, of those development regulations that will be used for project mitigation and of consistency as provided in RCW 36.70B.040; and

(h) Any other information determined appropriate by the local government.

(3) If an open record predecision hearing is required for the requested project permits, the notice of application shall be provided at least fifteen days prior to the open record hearing.

(4) A local government shall use reasonable methods to give the notice of application to the public and agencies with jurisdiction and may use its existing notice procedures. A local government may use different types of notice for different categories of project permits or types of project actions. If a local government by resolution or ordinance does not specify its method of public notice, the local government shall use the methods provided for in (a) and (b) of this subsection. Examples of reasonable methods to inform the public are:

(a) Posting the property for site-specific proposals;

(b) Publishing notice, including at least the project location, description, type of permit(s) required, comment period dates, and location where the complete application may be reviewed, in the newspaper of general circulation in the general area where the proposal is located or in a local land use newsletter published by the local government;

(c) Notifying public or private groups with known interest in a certain proposal or in the type of proposal being considered;

(d) Notifying the news media;

(e) Placing notices in appropriate regional or neighborhood newspapers or trade journals;

(f) Publishing notice in agency newsletters or sending notice to agency mailing lists, either general lists or lists for specific proposals or subject areas; and

(g) Mailing to neighboring property owners.

(5) A notice of application shall not be required for project permits that are categorically exempt under chapter 43.21C RCW, unless a public comment period or an open record predecision hearing is required.

(6) A local government shall integrate the permit procedures in this section with environmental review under chapter 43.21C RCW as follows:

(a) Except for a threshold determination (~~(of significance)~~), the local government may not issue (~~(its threshold determination, or issue)~~) a decision or a recommendation on a project permit until the expiration of the public comment period on the notice of application.

(b) If an open record predecision hearing is required and the local government's threshold determination requires public notice under chapter 43.21C RCW, the local government shall issue its threshold determination at least fifteen days prior to the open record predecision hearing.

(c) Comments shall be as specific as possible.

(7) A local government may combine any hearing on a project permit with any hearing that may be held by another local, state, regional, federal, or other agency provided that the hearing is held within the geographic boundary of the local government. Hearings shall be combined if requested by an applicant, as long as the joint hearing can be held within the time periods specified in RCW 36.70B.090 or the applicant agrees to the schedule in the event that additional time is needed in order to combine the hearings. All agencies of the state of Washington, including municipal corporations and counties participating in a combined hearing, are hereby authorized to issue joint hearing notices and develop a joint format, select a mutually acceptable hearing body or officer, and take such other actions as may be necessary to hold joint hearings consistent with each of their respective statutory obligations.

(8) All state and local agencies shall cooperate to the fullest extent possible with the local government in holding a joint hearing if requested to do so, as long as:

(a) The agency is not expressly prohibited by statute from doing so;

(b) Sufficient notice of the hearing is given to meet each of the agencies' adopted notice requirements as set forth in statute, ordinance, or rule; and

(c) The agency has received the necessary information about the proposed project from the applicant to hold its hearing at the same time as the local government hearing.

(9) A local government is not required to provide for administrative appeals. If provided, an administrative appeal of the project decision, combined with any environmental determinations, shall be filed within fourteen days after the notice of the decision or after other notice that the decision has been made and is appealable. The local government shall extend the appeal period for an additional seven days, if state or local rules adopted pursuant to chapter 43.21C RCW allow public comment on a determination of nonsignificance issued as part of the appealable project permit decision.

(10) The applicant for a project permit is deemed to be a participant in any comment period, open record hearing, or closed record appeal.

(11) Each local government planning under RCW 36.70A.040 shall adopt procedures for administrative interpretation of its development regulations.

Passed the Senate March 11, 1997.

Passed the House April 23, 1997.

Approved by the Governor May 16, 1997.

Filed in Office of Secretary of State May 16, 1997.

---

## CHAPTER 397

[Substitute Senate Bill 5563]

## WASHINGTON STATE CREDIT UNION ACT—MODERNIZATION, CLARIFICATION, AND SIMPLIFICATION

AN ACT Relating to modernizing, clarifying, and simplifying the Washington state credit union act; amending RCW 31.12.025, 31.12.035, 31.12.075, 31.12.085, 31.12.105, 31.12.185, 31.12.225, 31.12.235, 31.12.246, 31.12.255, 31.12.265, 31.12.275, 31.12.285, 31.12.326, 31.12.345, 31.12.365, 31.12.306, 31.12.145, 31.12.155, 31.12.295, 31.12.485, 31.12.317, 31.12.445, 31.12.465, 31.12.705, 31.12.715, 31.12.725, 31.12.516, 31.12.545, 31.12.215, 31.12.575, 31.12.585, 31.12.595, 31.12.605, 31.12.625, 31.12.655, 31.12.665, 31.12.675, 31.12.685, and 31.12.635; reenacting and amending RCW 31.12.005, 31.12.015, 31.12.055, 31.12.065, 31.12.115, 31.12.195, 31.12.335, 31.12.125, 31.12.136, 31.12.385, 31.12.406, 31.12.425, 31.12.435, 31.12.695, 31.12.526, 31.12.555, and 31.12.565; adding new sections to chapter 31.12 RCW; creating a new section; recodifying RCW 31.12.005, 31.12.015, 31.12.025, 31.12.035, 31.12.055, 31.12.065, 31.12.075, 31.12.085, 31.12.105, 31.12.115, 31.12.185, 31.12.195, 31.12.225, 31.12.235, 31.12.246, 31.12.255, 31.12.265, 31.12.275, 31.12.285, 31.12.326, 31.12.335, 31.12.345, 31.12.365, 31.12.306, 31.12.045, 31.12.145, 31.12.155, 31.12.295, 31.12.125, 31.12.136, 31.12.037, 31.12.039, 31.12.385, 31.12.485, 31.12.406, 31.12.317, 31.12.425, 31.12.435, 31.12.445, 31.12.465, 31.12.695, 31.12.705, 31.12.715, 31.12.526, 31.12.725, 31.12.516, 31.12.545, 31.12.555, 31.12.565, 31.12.215, 31.12.575, 31.12.585, 31.12.595, 31.12.605, 31.12.615, 31.12.625, 31.12.655, 31.12.665, 31.12.675, 31.12.685, 31.12.720, 31.12.740, 31.12.735, 31.12.635, and 31.12.902; repealing RCW 31.12.095, 31.12.165, 31.12.206, 31.12.315, 31.12.355, 31.12.376, 31.12.395, 31.12.415, 31.12.455, 31.12.475, 31.12.495, 31.12.506, 31.12.535, 31.12.645, 31.12.903, 31.12.904, 31.12.905, and 43.320.125; prescribing penalties; and providing effective dates.

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

**NEW SECTION. Sec. 1.** The legislature finds that credit unions provide many valuable services to the consumers of this state and will be better prepared to continue providing these services if the Washington state credit union act is modernized, clarified, and reorganized.

Furthermore, the legislature finds that credit unions and credit union members will benefit by enacting provisions clearly specifying the director of financial institution's authority to enforce statutory provisions.

Revisions to this act reflect the legislature's intent to modernize, clarify, and reorganize the existing act, and specify the director's enforcement authority. By enacting the revisions to this act, it is not the intent of the legislature to affect the scope of credit unions' field of membership or tax status, or impact federal parity provisions.

**Sec. 2.** RCW 31.12.005 and 1994 c 256 s 68 and 1994 c 92 s 175 are each reenacted and amended to read as follows:

Unless the context clearly requires otherwise, as used in this chapter:

- (1) "Board" means the board of directors of a credit union.
- (2) "Board officer" means an officer of the board elected under RCW 31.12.265(1) (as recodified by this act).
- (3) ~~"Branch" means any (office, other than the principal place of business, maintained by a credit union, alone or together with other credit unions, for the purpose of accepting deposits or making loans to its members. "Branch" does not include a facility that is limited to an electronic funds transferring machine or a similar service facility that does not involve the approval of loans.~~

~~—(3) "Credit union" means a credit union organized and operating under this chapter.~~

~~—(4) "Director" means the director of financial institutions.~~

~~—(5) "Employees" means the principal operating officer and other operating personnel of a credit union.~~

~~—(6) "Federal credit union" means a credit union organized and operating under the laws of the United States.~~

~~—(7) "Officers" means the officers of the board of a credit union who are elected under RCW 31.12.265.~~

~~—(8) "Shares" and "deposits" are synonymous and interchangeable. Shares and deposits of a credit union shall be subject to such terms and conditions as established by the board of the credit union.~~

~~—(9) "Supervisory committee" means a committee having the powers and duties set forth in RCW 31.12.326 through 31.12.345. Supervisory committees are the statutory successors of auditing committees.) physical facility where shares and deposits are taken. The term does not include an automated teller machine or a machine permitting members to communicate with credit union employees who are not located at the site of the machine, unless employees of the credit union at the site of the machine take shares and deposits on a regular basis. A facility is not deemed to be a branch of a credit union, regardless of any affiliation, accommodation arrangement, or other relationship between the organization owning or leasing the facility and the credit union, unless the facility is owned or leased in whole or part, directly or indirectly, by the credit union.~~

(4) "Business loan" means a loan for business, investment, commercial, or agricultural purposes.

(5) "Capital" means a credit union's reserves, undivided earnings, and allowances for loan loss.

(6) "Consumer loan" means a loan for consumer, family, or household purposes.

(7) "Credit union" means a credit union organized and operating under this chapter.

(8) "Credit union service organization" means an organization that a credit union has invested in pursuant to RCW 31.12.425(8) (as recodified by this act), or a credit union service organization invested in by an out-of-state credit union or federal credit union.

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

(10) "Federal credit union" means a credit union organized and operating under the laws of the United States.

(11) "Financial institution" means any commercial bank, trust company, savings bank, or savings and loan association, whether state or federally chartered, and any credit union, out-of-state credit union, or federal credit union.

(12) "Foreign credit union" means a credit union organized and operating under the laws of another country or other jurisdiction.

(13) "Insolvency" means:

(a) If, under generally accepted accounting principles, the recorded value of the credit union's assets are less than its obligations to its share account holders, depositors, creditors, and others; or

(b) If it is likely that the credit union will be unable to pay its obligations or meet its share account holders' and depositors' demands in the normal course of business.

(14) "Loan" means any loan, overdraft line of credit, extension of credit, or lease, in whole or in part.

(15) "Material violation of law" means:

(a) If the credit union or person has violated a material provision of:

(i) Law;

(ii) Any cease and desist order issued by the director;

(iii) Any condition imposed in writing by the director in connection with the approval of any application or other request of the credit union; or

(iv) Any written agreement entered into with the director;

(b) If the credit union or person has concealed any of the credit union's books, papers, records, or assets, or refused to submit the credit union's books, papers, records, or affairs for inspection to any examiner of the state or, as appropriate, to any examiner of the national credit union administration; or

(c) If the person has breached his or her fiduciary duty to the credit union.

(16) "Membership share" means an initial share required to be purchased in order to establish and maintain membership in a credit union.

(17) "Net capital" means a credit union's capital, less the allowance for loan loss.

(18) "Operating officer" means an officer of a credit union designated under RCW 31.12.265(2) (as recodified by this act).

(19) "Organization" means a corporation, partnership, association, limited liability company, trust, or other organization or entity.

(20) "Out-of-state credit union" means a credit union organized and operating under the laws of another state or United States territory.

(21) "Person" means an organization or a natural person including, but not limited to, a sole proprietorship.

(22) "Principally" or "primarily" means more than one-half.

(23) "Unsafe or unsound condition" means, but is not limited to:

(a) If the credit union is insolvent;

(b) If the credit union has incurred or is likely to incur losses that will deplete all or substantially all of its capital; or

(c) If the credit union is in imminent danger of losing its share and deposit insurance or guarantee.

(24) "Unsafe or unsound practice" means any action, or lack of action, which is contrary to generally accepted standards of prudent operation, the likely consequences of which, if continued, would be abnormal risk of loss or danger to

a credit union, its members, or an organization insuring or guaranteeing its shares and deposits.

Sec. 3. RCW 31.12.015 and 1994 c 256 s 69 and 1994 c 92 s 176 are each reenacted and amended to read as follows:

A credit union is a cooperative society organized under this chapter as a nonprofit corporation for the purposes of promoting thrift among its members and creating a source of credit for them at fair and reasonable rates of interest.

The director is the state's credit union regulatory authority whose purpose is to protect ~~((the))~~ members' financial interests, the integrity of credit unions as cooperative institutions, and the interests of the general public, and to ensure that ~~((state-chartered))~~ credit unions remain viable and competitive in this state.

Sec. 4. RCW 31.12.025 and 1994 c 256 s 70 are each amended to read as follows:

(1) A credit union shall include ~~((in its name))~~ the words "credit ~~((union-))~~ union" in its name.

(2) No person ~~((, partnership, association, corporation, or other organization))~~ may ~~((transact))~~ conduct business or engage in any other activity under a name or title containing the words "credit union", or represent itself as a credit union, unless it is:

(a) A credit union, out-of-state credit union, or a foreign credit union;

(b) An organization ~~((comprised of corporations organized under state or federal credit union laws))~~ whose membership or ownership is limited to credit unions, out-of-state credit unions, federal credit unions, or their trade organizations;

(c) A ~~((sole proprietorship, partnership, or corporation))~~ person that is primarily in the business of managing one or more credit unions, out-of-state credit unions, or federal credit unions; or

(d) ~~((An organization specifically authorized under the laws of this state or under federal law to use the words "credit union" in its name:))~~ A credit union service organization.

Sec. 5. RCW 31.12.035 and 1994 c 92 s 177 are each amended to read as follows:

Seven or more natural persons who reside in this state may apply to the director for permission to organize a credit union. ~~((The director shall approve the application if it is in compliance with this chapter.))~~ The application must include copies of the proposed articles of incorporation and bylaws, and such other information as may be required by the director. The director shall approve or deny a complete application within sixty days of receipt.

Sec. 6. RCW 31.12.055 and 1994 c 256 s 71 and 1994 c 92 s 179 are each reenacted and amended to read as follows:

(1) Persons applying for the organization of a credit union shall execute articles of incorporation stating:

(a) The initial name and location of the ~~((proposed))~~ credit union ~~((and its location))~~;

(b) That the duration of the credit union is perpetual;

(c) That the purpose of the credit union is to engage in the business of a credit union and any other lawful activities permitted to a credit union by applicable law~~((s and rules))~~;

(d) The number of its directors, which ~~((shall))~~ must not be less than five ~~((nor))~~ or greater than fifteen, and the names~~((, occupations, and addresses))~~ of the persons who are to serve as the initial directors;

(e) The names~~((, occupations, and addresses))~~ of the ~~((subscribers to the articles of incorporation, and a statement of the number of shares which each has agreed to take))~~ incorporators;

(f) The initial par value, if any, of the shares of the credit union;

(g) ~~((Any provision the applicants elect to so set forth which is permitted by RCW 23B.17.030; and))~~ The extent, if any, to which personal liability of directors is limited;

(h) The extent, if any, to which directors, supervisory committee members, officers, employees, and others will be indemnified by the credit union; and

(i) Any other provision ~~((the applicants elect to so set forth))~~ which is not inconsistent with this chapter.

(2) Applicants shall submit the articles of incorporation in triplicate to the director.

**Sec. 7.** RCW 31.12.065 and 1994 c 256 s 72 and 1994 c 92 s 180 are each reenacted and amended to read as follows:

(1) Persons applying for the organization of a credit union shall adopt bylaws that ~~((are consistent with this chapter and that))~~ prescribe the manner in which the business of the credit union shall be conducted. The bylaws shall include:

(a) The name of the credit union;

(b) The ~~((purposes))~~ field of membership of the credit union;

(c) ~~((The))~~ Reasonable qualifications for membership in the credit union, including, but not limited to, the minimum number of shares, and the payment of a membership fee, if any, required for membership ~~((status))~~, and the ~~((standards and))~~ procedures for expelling a member ~~((who has failed to maintain the minimum number of shares))~~;

(d) The number of directors and supervisory committee members, and the length of terms they serve and the permissible term length of any interim director or supervisory committee member;

(e) Any qualification for eligibility to serve on the credit union's board, or supervisory committee;

(f) The number of credit union employees that may serve on the board, if any;

(g) The frequency of regular meetings of the board and the supervisory committee, and the manner in which members of the board or supervisory committee are to be notified of meetings;

~~((f))~~ (h) The powers and duties of ~~((the))~~ board officers ~~((elected by the board))~~;

~~((g))~~ (i) The timing of the annual membership meeting ~~((and))~~;

(j) The manner in which members may call a special membership meeting;

(k) The manner in which members are to be notified of membership meetings~~((including special membership meetings))~~;

~~((h))~~ (l) The number of members constituting a quorum at a membership meeting; ~~((and~~

~~((i) Other matters considered appropriate by the applicants to be included in the bylaws))~~

(m) Provisions, if any, for the indemnification of directors, supervisory committee members, officers, employees, and others by the credit union, if not included in the articles of incorporation; and

(n) Any other provision which is not inconsistent with this chapter.

(2) Applicants shall submit the bylaws in duplicate to the director~~((if requested))~~.

**Sec. 8.** RCW 31.12.075 and 1994 c 92 s 181 are each amended to read as follows:

(1) When the proposed articles of incorporation and bylaws complying with the requirements of RCW 31.12.055 and 31.12.065 (as recodified by this act) have been filed with the director, the director shall:

(a) Determine whether the articles of incorporation and bylaws are consistent with ~~((the purposes and requirements of))~~ this chapter; and

(b) Determine the feasibility of the credit union, taking into account surrounding facts and circumstances ~~((pertaining to a))~~ influencing the successful operation of ~~((a))~~ the credit union.

~~((The director may establish by rule, as a prerequisite to approval of a proposed credit union, specific criteria consistent with the purposes and policies of this chapter.))~~

(2) If the director is satisfied with the determinations made under subsection (1)(a) and (b) of this section, the director shall endorse each of the articles of incorporation "approved" ~~((and))~~, indicate the date the approval ~~((is))~~ was granted, and return two sets of articles and one set of bylaws to the applicants.

(3) If the director is not satisfied with the determinations made under subsection (1)(a) and (b) of this section, the director shall endorse each of the articles of incorporation "~~((refused))~~ denied," indicate the date of, and reasons for, the ~~((refusal))~~ denial, and return two copies of the articles of incorporation with one copy of the bylaws to the person from whom they were received. The director shall at the time of returning the copies of the articles of incorporation and bylaws, also provide notice to the applicant of the applicant's right to appeal the ~~((refusal))~~ denial under chapter 34.05 RCW. The ~~((refusal))~~ denial is conclusive unless the applicant requests a hearing under chapter 34.05 RCW.

~~((4) The director shall accept or refuse the articles of incorporation within sixty days of receipt.)~~

Sec. 9. RCW 31.12.085 and 1994 c 92 s 182 are each amended to read as follows:

(1) Upon ~~((the))~~ approval ~~((of the director))~~ under RCW 31.12.075(2) (as recodified by this act), the ~~((applicants))~~ director shall ~~((file))~~ deliver a copy of the articles of incorporation ~~((with))~~ to the secretary of state for filing. Upon receipt of the approved articles of incorporation and a twenty dollar filing fee ~~((to be))~~ provided by the applicants, the secretary of state shall file ~~((and record))~~ the articles of incorporation. ~~((The applicants shall in writing promptly notify the director of the exact date of the filing.))~~

(2) Upon ~~((the))~~ filing ~~((and recording of))~~ the approved articles of incorporation ~~((with))~~ by the secretary of state, the persons named in the articles of incorporation and their successors may ~~((operate))~~ conduct business as a credit union, ~~((which shall have))~~ having the powers ~~((and be subject to the)),~~ duties, and obligations ~~((of))~~ set forth in this chapter. A credit union ~~((shall))~~ may not conduct business until the articles have been ~~((recorded))~~ filed by the secretary of state.

(3) A credit union shall organize and begin conducting business within six months of the date that its articles of incorporation are filed ~~((and recorded with))~~ by the secretary of state or its charter ~~((shall become))~~ is void ~~((, unless)),~~ However, the director ~~((for cause))~~ may grant ~~((s))~~ an extension of the six-month period. The director ~~((shall))~~ may not grant a single extension exceeding three months, but may grant as many extensions to a credit union as circumstances require.

Sec. 10. RCW 31.12.105 and 1994 c 92 s 184 are each amended to read as follows:

~~((The))~~ A credit union's articles of incorporation ~~((of a credit union))~~ may be amended ~~((;))~~ by the board with the approval of the director ~~((, by a resolution of the board. Amendments to the articles of incorporation shall be filed with the director and)).~~ Complete applications for amendments to the articles must be approved or denied by the director within sixty days of receipt. Upon approval, the director shall promptly deliver the amendments, including any necessary filing fees paid by the applicant, to the secretary of state for filing. Amendments to a credit union's articles of incorporation must conform with RCW 31.12.055 (as recodified by this act).

Sec. 11. RCW 31.12.115 and 1994 c 256 s 73 and 1994 c 92 s 185 are each reenacted and amended to read as follows:

~~((Except to the extent approval of the director may be required by rule, the bylaws of))~~ (1) A credit (union) union's field of membership bylaws may be amended by the board ~~((of directors at any regular meeting or at a special meeting called for that purpose. An amendment of the bylaws requires the affirmative vote of two-thirds of the total members of the board. At least seven days before a meeting at which an amendment to the bylaws is to be voted upon, a copy of the~~

~~proposed amendment, together with a written notice of the meeting as provided in the bylaws, shall be served upon each member of the board either personally or by mail to the director's last known post office address))~~ with approval of the director. All complete applications to amend a credit union's field of membership bylaws must be approved or denied by the director within sixty days of receipt.

(2) Bylaw amendments, other than those requiring the approval of the director under subsection (1) of this section, may be approved at any regular board meeting, or any special board meeting called for the purpose of amending the credit union's bylaws.

(3) Amendments to a credit union's bylaws must conform with RCW 31.12.065 (as recodified by this act).

**Sec. 12.** RCW 31.12.185 and 1987 c 338 s 2 are each amended to read as follows:

~~(1) ((The regular))~~ A credit union's annual membership meeting ((of a credit union)) shall be held ~~((annually,))~~ at such time and place as the bylaws prescribe, and shall be conducted according to the ~~((customary))~~ rules of ~~((parliamentary))~~ procedure approved by the board.

~~(2) Notice of ((regular))~~ the annual membership meetings of a credit union shall be given as provided in the bylaws of the credit union.

~~(((3) No member may have more than one vote regardless of the number of shares held by the member. A fraternal organization, voluntary association, partnership, or corporation having a membership in a credit union may cast one vote by its authorized agent, who shall be an officer of the organization, association, partnership, or corporation. Voting by mail ballot may be authorized by the board as prescribed in the bylaws.))~~

**Sec. 13.** RCW 31.12.195 and 1994 c 256 s 77 and 1994 c 92 s 188 are each reenacted and amended to read as follows:

(1) A special membership meeting of a credit union may be called by a majority of the board, a majority vote of the supervisory committee, or upon written application of at least ten percent or two thousand~~((, whichever is less, of the voting))~~ of the members of a credit union, whichever is less.

(2) A request for a special membership meeting of a credit union shall be in writing and shall state specifically the purpose or purposes for which the meeting is called. At this meeting, only those agenda items detailed in the written request may be considered. If the special membership meeting is being called for the removal of ~~((a))~~ one or more directors, the ~~((notice))~~ request shall state the name of the director or directors whose removal is sought.

~~(((2)))~~ (3) Upon receipt of a request for a special membership meeting, the secretary of the credit union shall designate the time and place at which the special membership meeting will be held. The designated place of the meeting ~~((shall))~~ must be a reasonable location within the county in which the principal ~~((office))~~ place of business of the credit union is located, unless provided otherwise by the bylaws. The designated time of the membership meeting ~~((shall))~~ must be no

sooner than twenty ~~((not))~~, and no later than thirty days after the request is received by the secretary.

The secretary shall give notice of the meeting within ten days of receipt of the request ~~((give notice of the meeting, including))~~ or within such other reasonable time period as may be provided by the bylaws. The notice must include the purpose or purposes for which the meeting is called, as provided in the bylaws. ~~((A wilful violation of this section constitutes a violation of this chapter and constitutes grounds sufficient for the suspension and removal of the secretary under RCW 31.12.575.))~~ If the special membership meeting is being called for the removal of one or more directors, the notice must state the name of the director or directors whose removal is sought.

~~((3))~~ (4) Except as provided in this subsection, the ~~((chairman or president))~~ chairperson of the board shall preside over special membership meetings. If the purpose of the special meeting includes the proposed removal of the ~~((chairman or president from the board))~~ chairperson, the next highest ranking board officer ~~((of the board))~~ whose removal is not sought shall preside over the special meeting. If the removal of all ~~((of the))~~ board officers ~~((of the board))~~ is sought, the ~~((chairman))~~ chairperson of the supervisory committee shall preside over the special meeting. ~~((After every special meeting, the chairman of the supervisory committee shall report to the director the results of the special meeting and whether the special meeting was conducted in a fair manner in accordance with the bylaws of the credit union and with customary rules of parliamentary procedure.))~~

(5) Special membership meetings shall be conducted according to the rules of procedure approved by the board.

Sec. I4. RCW 31.12.225 and 1984 c 31 s 24 are each amended to read as follows:

(1) The business and affairs of a credit union shall be managed by a board of not less than five ~~((not))~~ and not greater than fifteen directors.

(2) The directors ~~((shall))~~ must be elected at the credit union's annual membership meeting~~((s)).~~ ~~((The directors, as well as the principal operating officer and committee members of the credit union, shall be sworn to the faithful performance of their duties. The directors))~~ They shall hold their offices~~((, unless sooner removed as provided in this chapter,))~~ until their successors are qualified ~~((under RCW 31.12.235))~~ and elected or appointed.

(3) Directors shall be elected to terms of between one and three years, as provided in the bylaws. If the terms are longer than one year, the ~~((terms shall))~~ directors must be divided into classes, and an equal number of ~~((terms))~~ directors, as near as possible, ~~((shall))~~ must be elected each year.

(4) Any vacancies on the board must be filled by interim directors appointed by the board, unless the interim director would serve a term of fewer than ninety days. Interim directors will serve out the unexpired term of the former director, unless provided otherwise in the credit union's bylaws.

(5) The board will meet as often as necessary, but not less frequently than once each month.

Sec. 15. RCW 31.12.235 and 1994 c 256 s 78 are each amended to read as follows:

(1) A director ~~((shall be))~~ must be a natural person and a member of the credit union. If a director ceases to be a member of the credit union, the director shall no longer serve as a director.

(2) Unless reasonably excused by the board, a director shall no longer serve as a director if the director is absent from more than thirty-three percent of the regular board meetings in any twelve-month period ~~((is absent from more than thirty-three percent of the regular board meetings required by this chapter))~~.

(3) ~~((The remainder of the term of a director's office that becomes vacant under subsection (1) or (2) of this section shall be served by an interim director appointed by the board.))~~ A director must meet any qualification requirements set forth in the credit union's bylaws. If a director fails to meet these requirements, the director shall no longer serve as a director.

(4) The officers and employees of the credit union may serve as directors of the credit union, but only as permitted by the credit union's bylaws.

Sec. 16. RCW 31.12.246 and 1984 c 31 s 26 are each amended to read as follows:

The members of a credit union may remove a director of the credit union at a special membership meeting held in accordance with RCW 31.12.195 (as recodified by this act) and called for that purpose. If the members remove a director, the members may at the same special membership meeting elect an interim director to complete the remainder of the former director's term of office or ~~((may elect to))~~ authorize the board to appoint an interim director as provided in RCW ~~((31.12.235))~~ 31.12.225 (as recodified by this act).

Sec. 17. RCW 31.12.255 and 1994 c 256 s 79 are each amended to read as follows:

~~((The board shall have the general direction of the affairs of the credit union. The board shall meet as often as necessary, but not less than once each month.))~~ The business and affairs of a credit union shall be managed by the board of the credit union. The duties of the board include, but are not limited to, the duties enumerated in this section. The duties listed in subsection (1) of this section may not be delegated by the credit union's board of directors. The duties listed in subsection (2) of this section may be delegated to a committee, officer, or employee, with appropriate reporting to the board.

(1) The board shall:

~~((1) Act upon applications for membership with the credit union;~~

~~— (2) Expel members for cause as provided in this chapter;~~

~~— (3) Borrow and invest money on behalf of the credit union as provided by this chapter;~~

- (4) Determine the maximum amount of shares and deposits that a member may hold in the credit union;
  - (5) Declare dividends on shares and set the rate of interest on deposits;
  - (6) Determine the amount which may be loaned to a member and the finance charges, including interest, to be charged on the loans;
  - (7) Prescribe the conditions and terms under which a loan officer or credit committee may approve loans;
  - (8) Set the minimum number of shares, if any, required for active member status;
  - (9) Fill vacancies on all committees except the supervisory committee;
  - (10) Set the par value of shares, if any, of the credit union;
  - (11) Set the fees, if any, to be charged by the credit union to its members for the right to be a member of the credit union and for services rendered by the credit union;
  - (12) Approve the charge-off of credit union losses; or
  - (13) Perform such other acts as are required by this chapter. ~~The board may authorize a committee, officer, or employee to take the actions referenced in subsections (1), (3), (5), and (6) of this section.:~~
    - (a) Set the par value of shares, if any, of the credit union;
    - (b) Set the minimum number of shares, if any, required for membership;
    - (c) Establish the loan policies under which loans may be approved, including policies on any automated loan approval programs;
    - (d) Establish the conditions under which a member may be expelled for cause;
    - (e) Fill vacancies on all committees except the supervisory committee;
    - (f) Approve an annual operating budget or financial plan for the credit union;
    - (g) Designate those persons or positions authorized to execute or certify documents or records on behalf of the credit union;
    - (h) Review the supervisory committee's annual report; and
    - (i) Perform such other duties as the members may direct.
- (2) In addition, the board shall:
- (a) Act upon applications for membership in the credit union;
  - (b) Determine the maximum amount of shares and deposits that a member may hold in the credit union;
  - (c) Declare dividends on shares and set the rate of interest on deposits;
  - (d) Set the fees, if any, to be charged by the credit union to its members for the right to be a member of the credit union and for services rendered by the credit union;
  - (e) Determine the amount which may be loaned to a member together with the terms and conditions of loans;
  - (f) Establish policies under which the credit union may borrow and invest; and
  - (g) Approve the charge-off of credit union losses.

Sec. 18. RCW 31.12.265 and 1994 c 256 s 80 are each amended to read as follows:

(1) The board at its first meeting after the annual membership meeting ~~((of the members))~~ shall elect ~~((a chairman or president, and one or more vice chairmen or vice presidents, a secretary, a treasurer, and other officers that may be))~~ board officers from among its members, as provided in the credit union's bylaws. The board will elect as many board officers as it deems necessary for transacting the business of the board of the credit union. The board officers ~~((of the board of the credit union))~~ shall hold office until their successors are qualified and elected ~~((and qualified))~~, unless sooner removed as provided ~~((by))~~ in this chapter. ~~((The offices of secretary and treasurer may be held by the same person:))~~ All board officers ~~((of the board of a credit union shall))~~ must be elected members of the board. However, the office of board treasurer and ((the)) board secretary may be held by the same person and need not be elected members of the board. ~~((The board may designate such employees, including a principal operating officer who shall not share the title chosen for the chairman or president of the board and who need not be a member of the board, as are necessary for the operation of the credit union:))~~

(2) The board may designate as many operating officers as it deems necessary for conducting the business of the credit union, including, but not limited to, a principal operating officer. Individuals serving as operating officers may also serve as board officers in accordance with subsection (1) of this section and subject to RCW 31.12.235(4) (as recodified by this act).

NEW SECTION. Sec. 19. A new section is added to chapter 31.12 RCW to read as follows:

Directors and board officers are deemed to stand in a fiduciary relationship to the credit union, and must discharge the duties of their respective positions:

- (1) In good faith;
- (2) With the care an ordinarily prudent person in a like position would exercise under similar circumstances; and
- (3) In a manner the director or board officer reasonably believes to be in the best interests of the credit union.

Sec. 20. RCW 31.12.275 and 1984 c 31 s 29 are each amended to read as follows:

The board may, for cause, remove ~~((an))~~ a board officer from office or a committee member from a committee, other than the supervisory committee. For the purpose of this section "cause" includes demonstrated financial irresponsibility, a breach of fiduciary duty to the credit union, or activities which, in the judgment of the board, are detrimental to the credit union.

Sec. 21. RCW 31.12.285 and 1984 c 31 s 30 are each amended to read as follows:

The board may~~((, by a two-thirds vote,))~~ suspend for cause a member of the board or a member of the supervisory committee until a membership meeting is held. The membership meeting ~~((shall))~~ must be held within thirty days after the suspension. The members attending ~~((that))~~ the meeting shall vote whether to remove ~~((the))~~ a suspended party. For purposes of this section, "cause" includes

demonstrated financial irresponsibility, a breach of fiduciary duty to the credit union, or activities which, in the judgment of the board, threaten the safety and soundness of the credit union.

Sec. 22. RCW 31.12.326 and 1984 c 31 s 34 are each amended to read as follows:

(1) A supervisory committee of at least three members ~~((shall))~~ must be elected at the annual membership meeting of the credit union. ~~((A member))~~ Members of the supervisory committee shall serve a term of three years, unless sooner removed under this chapter or until ~~((a))~~ their successors ~~((commences the performance of the member's duties))~~ are qualified and elected or appointed. The members of the supervisory committee shall be divided into classes so that as equal a number as is possible is elected each year.

(2) If a member of the supervisory committee ceases to be a member of the credit union, the member's office ~~((shall))~~ becomes vacant. ~~((The supervisory committee shall fill vacancies in its membership until successors are elected; except that))~~ Any vacancy on the committee must be filled by an interim member appointed by the committee, unless the interim member would serve a term of fewer than ninety days. Interim members may serve out the unexpired term of the former member, unless provided otherwise by the credit union's bylaws. However, if all positions on the committee are vacant at the same time, the board may ~~((fill the vacancies))~~ appoint interim members to serve until the next annual membership meeting.

(3) No operating officer or employee of a credit union may serve on the credit union's supervisory committee ~~((of that credit union))~~. No more than one director may be a member of the supervisory committee at the same time, unless provided otherwise by the credit union's bylaws. No member of the supervisory committee may serve on the credit committee or investment committee of the credit union while serving on the supervisory committee.

Sec. 23. RCW 31.12.335 and 1994 c 256 s 82 and 1994 c 92 s 192 are each reenacted and amended to read as follows:

The supervisory committee of a credit union shall:

- (1) Meet as often as necessary and at least quarterly;
- (2) Keep fully informed as to the financial condition of the credit union and the decisions of the credit union's board;
- (3) ~~((Cause to be made))~~ Annually perform or arrange for a complete ~~((examination))~~ audit of ~~((the))~~ internal controls, loans, investments, cash, ~~((the credit union))~~ general ledger accounts, including, but not limited to, income and expense, and the members' share and deposit accounts ~~((in accordance with rules adopted by the director))~~; and

(4) Report its findings and recommendations to the board and make an annual report to ~~((the))~~ members at ~~((the))~~ each annual membership meeting.

At least one supervisory committee member may attend each regular board meeting.

Sec. 24. RCW 31.12.345 and 1984 c 31 s 36 are each amended to read as follows:

(1) The supervisory committee may, by unanimous vote ((the supervisory committee of a credit union may suspend for cause an officer of the credit union)), for cause, suspend a member of ((a committee)) the board, ((or a member of the board)) until a membership meeting is held. The membership meeting ((shall)) must be held within thirty days after the suspension. The members attending that meeting shall vote whether to remove the suspended party or parties. The supervisory committee may, by unanimous vote, for cause, suspend members of other committees until a membership meeting is held. The meeting must be held within thirty days after the suspension. The members attending that meeting shall vote whether to remove the suspended party or parties.

(2) For purposes of this section, "cause" includes demonstrated financial irresponsibility, a breach of fiduciary duty to the credit union, or activities which, in the judgment of the supervisory committee, threaten the safety and soundness of the credit union.

Sec. 25. RCW 31.12.365 and 1984 c 31 s 38 are each amended to read as follows:

(1) Directors and members of committees shall not receive compensation for their service((s, except to the extent that an officer serving as principal operating officer may receive compensation)) as directors and committee members. However, this subsection does not prohibit directors or committee members from receiving incidental services available to employees generally, and gifts of minimal value.

(2) Directors and members of committees may receive reimbursement for reasonable expenses incurred ((in the performance of their duties-)) on behalf of themselves and their spouses in the performance of the directors' and committee members' duties.

(3) Loans to directors and committee members ((shall)) may not be made under ((no)) more favorable terms and conditions ((and terms)) than those ((under which loans to general)) made to members ((are made)) generally.

Sec. 26. RCW 31.12.306 and 1994 c 92 s 191 are each amended to read as follows:

(1) Each director, officer, committee member, and employee of a credit union ((shall)) must be bonded in an amount and ((with surety and)) in accordance with conditions established by the director.

(2) When the bond coverage under subsection (1) of this section is suspended or terminated, the board of the affected credit union shall notify the director in writing within five days of ((having received)) receipt of the notice of ((the)) suspension or termination.

Sec. 27. RCW 31.12.145 and 1984 c 31 s 16 are each amended to read as follows:

(1) A credit union may admit to membership those persons qualified for membership as set forth in its bylaws (~~(upon the payment of a membership fee, if any, or the purchase of one or more shares, as provided in the bylaws)~~). (~~A fraternal~~)

(2) ~~An organization~~(~~, partnership, or corporation having a usual place of business in this state and~~) whose membership, ownership, or employees are comprised principally of persons who are eligible for membership in the credit union may become a member of the credit union.

Sec. 28. RCW 31.12.155 and 1994 c 256 s 76 are each amended to read as follows:

~~((A minor under age eighteen does not have the right to vote as a member.))~~

(1) No member may have more than one vote regardless of the number of shares held by the member. An organization having membership in a credit union may cast one vote through its agent duly authorized in writing.

(2) Members may vote, as prescribed in the credit union's bylaws, by mail ballot, absentee ballot, or other method. However, no member may vote by proxy.

(3) A member who is not at least eighteen years of age is not eligible to vote as a member unless otherwise provided in the credit union's bylaws.

Sec. 29. RCW 31.12.295 and 1984 c 31 s 31 are each amended to read as follows:

(1) ~~((The board may, by a two-thirds vote, expel a member for cause. The board shall notify the member))~~ Members expelled from the credit union will be notified of the expulsion and the reasons upon which it is based. The ~~((board shall))~~ credit union will, upon request of the expelled member, allow the member to challenge the expulsion and seek reinstatement as a member.

(2) The amounts ~~((paid))~~ in ~~((on shares or deposited by a member who has been expelled shall))~~ an expelled member's share and deposit accounts must be promptly paid to the ((member)) person following expulsion, and after deducting amounts due from the member(s) to the credit union, including, but not limited to, any applicable penalties for early withdrawal. Expulsion ~~((shall))~~ will not operate to relieve ~~((a member))~~ the person from outstanding liabilities owed to the credit union.

Sec. 30. RCW 31.12.125 and 1994 c 256 s 74 and 1994 c 92 s 186 are each reenacted and amended to read as follows:

A credit union may:

(1) Issue shares to and receive deposits from its members ~~((as provided in this chapter))~~ in accordance with RCW 31.12.385 (as recodified by this act);

(2) Make loans to its members ~~((as provided in this chapter))~~ in accordance with RCW 31.12.317 and 31.12.406 (as recodified by this act);

(3) Pay dividends or interest to its members in accordance with RCW 31.12.485 (as recodified by this act);

(4) Impose reasonable charges for the services it provides to its members;

(5) Impose financing charges and reasonable late charges in the event of default on loans, subject to applicable law, and recover reasonable costs and expenses, including, but not limited to, collection costs, and reasonable attorneys' fees incurred both before and after judgment, incurred in the collection of sums due ~~((it)), if provided for in the note or agreement signed by the borrower;~~

(6) Acquire, lease, hold, assign, pledge, ~~((hypothecate;))~~ sell, or otherwise dispose of ~~((a possessory))~~ interests in personal property and ~~((, subject to RCW 31.12.435;))~~ in real property ~~((, so long as the property is necessary or incidental to the operation of the credit union))~~ in accordance with RCW 31.12.435 (as recodified by this act);

(7) Deposit and invest funds ~~((in excess of the amount approved for loans to members as provided in this chapter))~~ in accordance with RCW 31.12.425 (as recodified by this act);

(8) Borrow money, up to a maximum of fifty percent of its ~~((paid-in and unimpaired))~~ total shares, deposits, and net capital ~~((and surplus));~~

(9) Discount or sell any of its assets, or purchase any or all of the assets of another credit union, out-of-state credit union, or federal credit union. However, a credit union may not discount or sell ~~((more than ten percent))~~ all, or substantially all, of its assets without the ~~((prior written))~~ approval of the director;

(10) Accept deposits of deferred compensation of its members ~~((under the terms and conditions of RCW 28A.400.240 and 41.04.250(2)));~~

(11) Act as fiscal agent for and receive payments on shares and deposits from the federal government or this state, and any agency or political subdivision thereof;

(12) Engage in activities and programs as requested by the federal government, this state, and any agency or political subdivision thereof, when the activities or programs are not inconsistent with this chapter;

(13) Hold membership in ~~((other))~~ credit unions ~~((organized under this chapter or other laws)),~~ out-of-state credit unions, or federal credit unions and in ~~((associations))~~ organizations controlled by or fostering the interests of credit unions, including, but not limited to, a central liquidity facility organized under state or federal law; ~~((and))~~

(14) Pay additional dividends or interest to members, or an interest rate refund to borrowers;

(15) Enter into lease agreements, lease contracts, and lease-purchase agreements with members;

(16) Procure for, or sell to its members group life, accident, health, and credit life and disability insurance;

(17) Impose a reasonable service charge for the administration and processing of accounts that remain dormant for a period of time specified by the board;

(18) Establish and operate on-premises or off-premises electronic facilities;

(19) Enter into formal or informal agreements with another credit union for the purpose of fostering the development of the other credit union;

(20) Work with community leaders to develop and prioritize efforts to improve the areas where their members reside by making investments in the community through contributions to organizations that primarily serve either a charitable, social, welfare, or educational purpose, or are exempt from taxation pursuant to section 501(c)(3) of the Internal Revenue Code;

(21) Limit the personal liability of its directors in accordance with provisions of its articles of incorporation that conform with RCW 23B.08.320;

(22) Indemnify its directors, supervisory committee members, officers, employees, and others in accordance with provisions of its articles of incorporation or bylaws that conform with RCW 23B.08.500 through 23B.08.600; and

(23) Exercise such incidental powers as are necessary or ((requisite)) convenient to enable it to ((~~carry on effectively~~)) conduct the business ((~~for which it is incorporated~~)) of a credit union.

Sec. 31. RCW 31.12.136 and 1994 c 256 s 75 and 1994 c 92 s 187 are each reenacted and amended to read as follows:

(1) Notwithstanding any other provision of law, a credit union may exercise any of the powers and authorities conferred as of December 31, 1993, upon ((a)) federal credit unions ~~((doing business in this state))~~.

(2) Notwithstanding any other provision of law, and in addition to the powers and authorities conferred under subsection (1) of this section, the director may, by rule, authorize credit unions to exercise any of the powers and authorities conferred at the time of the adoption of the rule upon ((a)) federal credit unions ~~((doing business in this state))~~, if the director finds that the exercise of the power and authority serves the convenience and advantage of ~~((depositors and borrowers))~~ members of ~~((state-chartered))~~ credit unions, and maintains the fairness of competition and parity between ~~((state-chartered))~~ credit unions and federal~~((-chartered))~~ credit unions.

(3) The restrictions, limitations, and requirements applicable to specific powers or authorities of federal credit unions ~~((shall))~~ apply to credit unions exercising those powers or authorities permitted under this section but only insofar as the restrictions, limitations, and requirements relate to ~~((exercising))~~ the specific exercise of the powers or authorities granted credit unions solely under this section.

(4) As used in this section, "powers and authorities" include without limitation, powers and authorities in corporate governance matters.

Sec. 32. RCW 31.12.385 and 1994 c 256 s 83 and 1994 c 92 s 194 are each reenacted and amended to read as follows:

(1) Shares ~~((purchased))~~ held and deposits made in a credit union by ~~((an individual))~~ a natural person are governed by chapter 30.22 RCW. ~~((A member may purchase shares and make deposits in a credit union in an amount that does not exceed such amounts as may be established by the board from time to time.))~~

(2) A credit union may require ~~((from a member))~~ ninety days notice of ~~((the))~~ a member's intention to withdraw shares or deposits. The notice requirement may be extended with the written consent of the director.

(3) A credit union will have a lien on all shares and deposits, including, but not limited to, dividends, interest, and any other earnings and accumulations thereon, of any share account holder or depositor, to the extent of any obligation owed to the credit union by the share account holder or depositor.

Sec. 33. RCW 31.12.485 and 1984 c 31 s 50 are each amended to read as follows:

~~((1) At each annual, semiannual, quarterly, or monthly period the board may declare a dividend from net earnings. The dividends shall be paid on all eligible shares outstanding at the time of declaration and may be paid to members on shares withdrawn during the period. Shares which became paid-up during the dividend period shall be entitled only to a proportional part of the dividend in accordance with a formula adopted by the board:~~

~~—(2)) Dividends may be declared from the credit union's earnings which remain after the deduction of expenses, interest on deposits, and the amounts required for ((regular, liquidity, and special)) reserves, or the dividends may be declared in whole or in part from the undivided earnings that remain from preceding periods.~~

~~((3) A member shall be given the option to receive declared dividends either by cash payment or by a credit to the member's account in either shares or deposits:))~~

Sec. 34. RCW 31.12.406 and 1994 c 256 s 84 and 1994 c 92 s 195 are each reenacted and amended to read as follows:

(1) A credit union may make secured and unsecured loans to its members ~~((with the approval of a credit committee or loan officer))~~ under policies established by the board, subject to the loans to one borrower limits provided for in RCW 31.12.317 (as recodified by this act). ~~((All loans shall be documented in writing. Loans may be made for (a) consumer, family, or household purposes; referred to in this section as "consumer loans", or (b) business, investment, commercial, or agricultural purposes which are))~~ Each loan must be evidenced by records adequate to support enforcement or collection of the loan and review of the loan by the director. Business loans must be in compliance with rules adopted by the director.

(2) ~~((A credit union may make to members:~~

~~—(a) Loans secured by the note of the member or other adequate security, including, but not limited to, equity interests in real estate, automobiles, boats, motorhomes, and travel trailers;~~

~~—(b) Student loans under student loan programs of this state or the United States;~~

~~—(c) Loans for the acquisition of a modular home or mobile home as defined by RCW 82.50.010, secured by a security interest in that modular home or mobile home, owned by the member. A loan under this subsection and any prior indebtedness secured by the home shall not exceed eighty-five percent of the~~

purchase price or of the appraised value of the modular home or mobile home, whichever is less;

~~—(d) Residential real estate loans under RCW 31.12.415;~~

~~—(e) Loans to its members under an act of congress known as the "FHA Title I, National Housing Act of 1934," June 27, 1934 (12 U.S.C. Sec. 1701 to 1750, inc.); and~~

~~—(f) Loans to credit union members in participation with other credit unions, credit union organizations, or financial organizations. The credit union which originates a loan under this subsection shall retain an interest of at least ten percent of the face amount of the loan unless the loan is a real estate loan in which case there is no retention requirement.)~~ A credit union may obligate itself to purchase loans in accordance with RCW 31.12.425(1) (as recodified by this act), if the credit union's underwriting policies would have permitted it to originate the loans.

(3) Consumer loans ~~((shall))~~ must be given preference, and in the event there are not sufficient funds available to satisfy all approved consumer loan ~~((applicants))~~ applications, further preference ~~((shall))~~ must be given to small loans.

~~((4) The director may by rule establish guidelines addressing the issue of unsafe and unsound concentrations of credit and such other related safety and soundness issues.)~~

**Sec. 35.** RCW 31.12.317 and 1994 c 256 s 92 are each amended to read as follows:

(1) No loan may be made to any ~~((member))~~ borrower if ~~((such))~~ the loan would cause ~~((that member))~~ the borrower to be indebted to the credit union upon consumer and business loans ~~((made to the member))~~ in an aggregated amount exceeding ten thousand dollars or ~~((two and one-half))~~ twenty-five percent of the ~~((assets))~~ capital of the credit union, whichever is greater, without the approval of the director.

(2) The director by rule may establish limits on business loans ~~((for business, investment, commercial, or agricultural purposes))~~ to one ~~((member))~~ borrower.

**Sec. 36.** RCW 31.12.425 and 1994 c 256 s 86 and 1994 c 92 s 197 are each reenacted and amended to read as follows:

~~((1) The capital or surplus funds in excess of the amount for which loans are approved may be deposited or invested in any of the following ways, so long as the investment has not been in default as to principal or interest within five years prior to the date of purchase))~~ A credit union may invest its funds in excess of loans in any of the following, as long as they are deemed prudent by the board:

~~((a) Accounts in banks or trust companies, including national banks located in this state, or other states, the accounts of which are insured by the federal deposit insurance corporation. The deposits made by a credit union under this subsection may exceed the insurance limits established by the federal deposit insurance corporation;~~

~~((b))~~ (1) Loans held by credit unions, out-of-state credit unions, or federal credit unions; loans to members held by other lenders; and loans to nonmembers held by other lenders, with the approval of the director;

(2) Bonds, securities, or other investments that are fully guaranteed as to principal and interest by the United States government, and general obligations of this state and its political subdivisions;

~~((c))~~ (3) Obligations issued by corporations designated under ~~((Section 9101 of Title))~~ 31 U.S.C. Sec. 9101, or obligations, participations or other instruments issued and guaranteed by the federal national mortgage association, federal home loan mortgage corporation, government national mortgage association, or other government-sponsored enterprise;

~~((d))~~ (4) Participations or obligations which have been subjected by one or more government agencies to a trust or trusts for which an executive department, agency, or instrumentality of the United States has been named to act as trustee;

~~((e))~~ (5) Share~~(s, share certificates,)~~ or ~~((share))~~ deposit~~(s)~~ accounts of other ~~((credit unions or savings and loan associations organized or authorized to do business under the laws of this state, other states, or the United States))~~ financial institutions, the accounts of which are federally insured or insured or guaranteed by ~~((the federal savings and loan insurance corporation, the national credit union administration, the Washington credit union share guaranty association, or))~~ another insurer or guarantor approved by the director. The shares and deposits made by a credit union under this subsection may exceed the insurance or guarantee limits established by the organization insuring or guaranteeing the institution into which the shares or deposits are made;

~~((f))~~ (6) Common trust or mutual funds whose investment portfolios consist of securities issued or guaranteed by the federal government or an agency of the government;

~~((g))~~ (7) Up to ~~((two))~~ five percent of ~~((a corporation))~~ the capital of the credit union, in debt or equity issued by an organization owned by the Washington credit union league;

~~((h))~~ (8) Shares, stocks, loans, or other obligations of an organization ~~((of which the membership or ownership is confined primarily to credit unions and the))~~ whose primary purpose ~~((of which))~~ is to strengthen, advance, or provide services to the credit union industry and credit union members. Other than investment in an organization that is wholly owned by the credit union and whose activities are limited exclusively to those ~~((determined by the director to be))~~ authorized by RCW 31.12.125 ~~((2) through (9) and (12) through (14))~~ (as recodified by this act), an investment under this subsection ~~((1)(h) of this section)~~ shall be limited to one percent of the ~~((total paid-in and unimpaired capital and surplus))~~ assets of the credit union, but a credit union may, in addition to the investment, lend to the organization an amount not exceeding an additional one percent of the ~~((total paid-in and unimpaired capital and surplus))~~ assets of the credit union;

~~((+))~~ (9) Loans to (other) credit unions (organized or authorized to do business under the laws of this state, other states, or the United States), out-of-state credit unions, or federal credit unions. The aggregate of loans issued under this subsection ~~((shall be))~~ is limited to twenty-five percent of the ~~((paid-in and unimpaired capital))~~ total shares and deposits of the lending credit union; ~~((or —(j)))~~ (10) Key person insurance policies, the proceeds of which inure exclusively to the benefit of the credit union; or

(11) Other investments (authorized in accordance with rules adopted) approved by the director (consistent with this chapter) upon written application.

~~((2) The board may appoint an investment committee to make and manage the investments under this section. An investment committee shall remain subject to the supervision of the board.))~~

**Sec. 37.** RCW 31.12.435 and 1994 c 256 s 87 and 1994 c 92 s 198 are each reenacted and amended to read as follows:

(1) ~~((Unless otherwise approved by the director.))~~ A credit union may invest ((a reasonable amount of its funds)) in real property or leasehold interests primarily for its own use in conducting business, including, but not limited to, structures and fixtures attached to real property, subject to the following limitations:

(a) ~~((The aggregate of its regular reserve and its undivided earnings equals))~~ The credit union's net capital equals at least five percent of the total of its share and deposit accounts;

(b) ~~The board approves the investment ((in real property for its own use in conducting business by a two-thirds majority vote of the total number of directors)); and~~

(c) ~~The ((total)) aggregate of all such investments ((in the property)) does not exceed seven and one-half percent of the ((aggregate)) total of its share and deposit accounts.~~

(2) If the real property or leasehold interest is acquired for future expansion, the credit union must satisfy the use requirement in subsection (1) of this section within three years after the credit union makes the investment.

(3) The director may, upon written application, waive any of the limitations listed in subsection (1) or (2) of this section.

**Sec. 38.** RCW 31.12.445 and 1994 c 92 s 199 are each amended to read as follows:

This section applies to all nonfederally insured credit unions.

(1) At the end of each accounting period and before the payment of dividends to members, a credit union shall set apart as a regular reserve an amount in accordance with subsection (2) of this section.

(2)(a) If a credit union has been in operation for four or more years and has assets of at least five hundred thousand dollars, it shall reserve ten percent of gross income until the regular reserve together with the allowance for loan loss equals four percent of outstanding loans and then shall reserve five percent of gross

income until the regular reserve together with the allowance for loan loss equals six percent of outstanding loans.

(b) If a credit union has been in operation for less than four years or has assets of less than five hundred thousand dollars, it shall reserve ten percent of gross income until the regular reserve together with the allowance for loan loss equals seven and one-half percent of outstanding loans and then shall reserve five percent of gross income until the regular reserve together with the allowance for loan loss equals ten percent of outstanding loans.

(c) The director may authorize a credit union falling under subsection (2)(b) of this section to follow the reserving requirements for credit unions falling under subsection (2)(a) of this section.

(d) In computing outstanding loans for purposes of reserving, a credit union may exclude loans secured by shares and loans insured or guaranteed by the federal government or the government of this state to the extent of the security, insurance, or guarantee.

(3) When the regular reserve falls below the percentage of outstanding loans required under subsection (2) of this section, a credit union shall replenish the regular reserve by again reserving a portion of gross income as set forth in subsection (2) of this section.

(4) The regular reserve and the investment~~((s))~~ thereof ~~((shall))~~ must be held to meet contingencies or losses in the business of the credit union and ~~((shall))~~ may not be distributed to its members except in the case of ~~((dissolution))~~ liquidation or with the permission of the director.

**Sec. 39.** RCW 31.12.465 and 1994 c 92 s 201 are each amended to read as follows:

(1) The director may~~((if deemed necessary,))~~ require a credit union to establish a liquidity reserve of up to five percent of ~~((unimpaired capital))~~ total shares, deposits, and capital. The liquidity reserve ~~((shall))~~ must be in cash or investments with maturities of one year or less.

(2) The director may require a credit union to charge off or set up a special reserve fund for delinquent loans or other assets.

**Sec. 40.** RCW 31.12.695 and 1994 c 256 s 91 and 1994 c 92 s 220 are each reenacted and amended to read as follows:

(1) For purposes of this section, the merging credit union is the credit union whose charter ceases to exist upon ~~((merging))~~ merger with the continuing credit union. The continuing credit union is the credit union whose charter continues upon ~~((merging))~~ merger with the merging credit union.

(2) A credit union may be merged with another credit union with the approval of the director and in accordance with requirements the director may prescribe. The merger ~~((shall))~~ must be approved by a two-thirds majority vote of the board of each credit union and a two-thirds majority vote of those members of the merging credit union voting on the merger at a ~~((special))~~ membership meeting ~~((called by the merging credit union board or by mail ballot))~~. The requirement of

approval by the members of the merging credit union may be waived by the director if ~~((in the director's opinion))~~ the merging credit union is in imminent danger of insolvency.

(3) The property, rights, and interests of the merging credit union transfer to and vest in the continuing credit union without deed, endorsement, or instrument of transfer, although instruments of transfer may be used if their use is deemed appropriate. The debts and obligations of the merging credit union that are known or reasonably should be known are assumed by the continuing credit union. The continuing credit union shall cause to be published notice of merger once a week for three consecutive weeks in a newspaper of general circulation in the county in which the principal place of business of the merging credit union is located. The notice of merger ~~((shall))~~ must also inform creditors of the merging credit union how to make a claim on the continuing credit union, and that if a claim is not made upon the continuing credit union within thirty days of the last date of publication, creditors' claims that are not known by the continuing credit union may be barred. Unless a claim is filed as requested by the notice, or unless the debt or obligation is known or reasonably should be known by the continuing credit union, the debts and obligations of the merging credit union are discharged. Upon merger, the charter of the merging credit union ceases to exist.

Sec. 41. RCW 31.12.705 and 1994 c 92 s 221 are each amended to read as follows:

(1) A credit union ~~((chartered under the laws of this state))~~ may convert ~~((itself))~~ into a federal credit union ~~((chartered under the laws of the United States))~~ as authorized by the federal credit union act. The conversion ~~((shall))~~ must be approved by a two-thirds majority vote of ~~((the))~~ those members ~~((present))~~ voting at ~~((any regular or special))~~ a membership meeting ~~((called for that purpose by the board. The meeting shall be held within thirty days of being called and the secretary shall notify the members and the director of the meeting and its purpose as provided by the bylaws at least twenty days prior to the meeting)).~~

(2) If the conversion is approved by the members, a copy of the resolution certified by the board ~~((shall))~~ must be filed with the director within ten days of approval. The board may effect the conversion ~~((from a state chartered credit union to a federal chartered credit union))~~ upon terms agreed by the board and the ~~((proper))~~ federal ~~((authorities as provided by federal laws, rules, and regulations))~~ regulator.

(3) A certified copy of the federal credit union charter or authorization issued ~~((to the credit union))~~ by the ~~((proper))~~ federal ~~((authority shall))~~ regulator must be filed ~~((in))~~ with the ~~((director's office))~~ director and thereupon the ~~((state-chartered))~~ credit union ceases to exist except for the purpose of winding up its affairs and prosecuting or defending any litigation by or against the ~~((state-chartered))~~ credit union. For all other purposes, the credit union is converted into a ~~((federal chartered))~~ federal credit union and the ~~((state-chartered))~~ credit union may execute, acknowledge, and deliver to the successor federal credit union the

instruments of transfer, conveyance, and assignment that are necessary or desirable to complete the conversion, and the property, tangible or intangible, and all rights, titles, and interests that are agreed to by the board and the ~~((proper))~~ federal ~~((authorities))~~ regulator.

(4) Procedures, similar to those contained in subsections (1) through (3) of this section, prescribed by the director ~~((shall))~~ must be followed when a credit union ~~((chartered under the laws of this state))~~ merges ~~((with))~~ or converts ~~((to a credit union chartered under the laws of another state))~~ into an out-of-state or foreign credit union.

Sec. 42. RCW 31.12.715 and 1994 c 92 s 222 are each amended to read as follows:

(1) A federal credit union located and conducting business in this state ~~((which becomes inoperative because of a change in the laws under which it is chartered or which is authorized to dissolve or convert to a state-chartered credit union in accordance with federal law))~~ may convert into a ~~((state-chartered))~~ credit union organized and operating under this chapter.

(2) The board of the federal credit union shall file with the director proposed articles of incorporation and ~~((proposed))~~ bylaws, as provided by this chapter for organizing a new ~~((state-chartered))~~ credit union. If approved by the director, the ~~((federal-chartered))~~ federal credit union ~~((shall))~~ become a ~~((state-chartered))~~ credit union under the laws of this state, and the assets and liabilities of the federal credit union will vest in and become the property of the successor ~~((state-chartered))~~ credit union subject to all existing liabilities against the ~~((federal-chartered))~~ federal credit union. ~~((Shareholders and))~~ Members of the federal credit union may become ~~((shareholders and))~~ members of the successor ~~((state-chartered))~~ credit union.

(3) Procedures, similar to those contained in subsections (1) and (2) of this section, prescribed by the director ~~((shall))~~ must be followed when ~~((a))~~ an out-of-state or foreign credit union ~~((chartered under the laws of another state))~~ wishes to merge ~~((with))~~ or convert ~~((to))~~ into a credit union ~~((chartered under the laws of this state))~~ organized and operating under this chapter.

Sec. 43. RCW 31.12.526 and 1994 c 256 s 88 and 1994 c 92 s 205 are each reenacted and amended to read as follows:

(1) ~~((A))~~ An out-of-state or foreign credit union ~~((organized and qualified as a credit union in another state which has not had its authority to operate in another state suspended or revoked may operate as a credit union under this chapter if))~~ may not operate a branch in Washington unless:

(a) The director has approved ~~((an))~~ its application to do business in this state;

(b) A credit union ~~((organized under the laws of this state))~~ is permitted to do business in the state or jurisdiction in which the ~~((credit union))~~ applicant is organized;

(c) The interest rate charged by the ~~((credit union))~~ applicant on loans made to members residing in this state does not exceed the maximum interest rate

permitted in the state or jurisdiction in which the ~~((credit union))~~ applicant is organized, or exceed the maximum interest rate ~~((which))~~ that a credit union ~~((organized in this state))~~ organized and operating under this chapter is permitted to charge on similar loans, whichever is lower;

(d) The ~~((credit union))~~ applicant has secured surety bond and fidelity bond coverages satisfactory to the director;

(e) The ~~((credit union has secured for the))~~ applicant's share and deposit accounts ~~((of its members insurance or other surety satisfactory to the director))~~ are insured under the federal share insurance program or an equivalent share insurance program in compliance with RCW 31.12.039 (as recodified by this act);

(f) The ~~((credit union))~~ applicant submits to the director an annual ~~((audit or))~~ examination report of its most recently completed fiscal year; ~~((and))~~

(g) The applicant has not had its authority to operate in another state or jurisdiction suspended or revoked;

(h) If the applicant is a foreign credit union;

(i) A treaty or agreement between the United States and the jurisdiction where the applicant is organized requires the director to permit the applicant to operate a branch in Washington; and

(ii) The director determines that the applicant has substantially the same characteristics as a credit union organized and operating under this chapter; and

(i) The ~~((credit union))~~ applicant complies with all other ~~((applicable))~~ provisions of this chapter and rules adopted by the director, except as otherwise permitted by this section.

(2) The director shall ~~((disapprove))~~ deny an application filed under this section or, upon ~~((reasonable))~~ notice and an opportunity for hearing, suspend or revoke the approval of an application, if the director finds that the standards of organization, operation, and regulation of the ~~((credit union))~~ applicant do not reasonably conform with the standards under this chapter ~~((or that at least fifty percent of the members of the credit union are, or are reasonably expected to be, residents of this state))~~. In considering the standards of organization, operation, and regulation of the ~~((credit union))~~ applicant, the director may consider the laws ~~((and regulations))~~ of the state or jurisdiction in which the ~~((credit union))~~ applicant is organized. A decision under this subsection may be appealed under chapter 34.05 RCW.

(3) In implementing this section, the director may cooperate with ~~((the administrators of the))~~ credit union ~~((laws))~~ regulators in other states or jurisdictions and may share with the ~~((administrators))~~ regulators the information received in the administration of this chapter.

(4) The director may enter into supervisory agreements with out-of-state and foreign credit unions and their regulators to prescribe the applicable laws governing the powers and authorities of Washington branches of the out-of-state or foreign credit unions. The director may also enter into supervisory agreements with the credit union regulators in other states or jurisdictions to prescribe the

applicable laws governing the powers and authorities of out-of-state or foreign branches and other facilities of credit unions.

The agreements may address, but are not limited to, corporate governance and operational matters. The agreements may resolve any conflict of laws, and specify the manner in which the examination, supervision, and application processes must be coordinated with the regulators.

The director ~~((shall))~~ may adopt rules for the periodic examination and investigation of the affairs of an out-of-state or foreign credit union operating in this state. The costs of examination and supervision ~~((shall))~~ must be fully borne by the out-of-state or foreign credit union.

Sec. 44. RCW 31.12.725 and 1994 c 92 s 223 are each amended to read as follows:

(1) At a special board meeting ~~((specially))~~ called for the purpose of liquidation, and upon the recommendation of at least two-thirds of the total members of the board of a credit union, the members of a credit union may elect to liquidate the credit union by a two-thirds majority vote of ~~((the))~~ those members ~~((present elect to liquidate the credit union))~~ voting.

(2) Upon a vote to liquidate under subsection (1) of this section, a three-person liquidating committee ~~((of three shall))~~ must be elected to liquidate the assets of the credit union. The committee shall act ~~((under the direction))~~ in accordance with any requirements of the director and may be reasonably compensated by the board of the credit union. Each share ~~((of))~~ account holder and depositor at the credit union ~~((shall be))~~ is entitled to his, her, or its proportionate part of the assets in liquidation after all shares, deposits, and debts have been paid. The proportionate allocation shall be based on account balances as of a date determined by the board. For the purposes of liquidation, shares and deposits are equivalent. The assets of the liquidating credit union ~~((shall))~~ are not ~~((be))~~ subject to contingent liabilities. Upon distribution of the assets, the credit union ~~((shall))~~ ceases to exist except for the purpose of discharging existing liabilities and obligations.

(3) Funds representing unclaimed dividends in liquidation and remaining in the hands of the liquidating committee for six months after the date of the final dividend ~~((shall))~~ must be deposited, together with all the books and papers of the credit union, with the director. The director may, one year after receipt, destroy such records, books, and papers as, in the director's judgment, are obsolete or unnecessary for future reference. The funds may be deposited in one or more ~~((trust companies, mutual savings banks, savings and loan associations, or national or state banks))~~ financial institutions to the credit of the director, in trust for the members of the ~~((liquidating))~~ credit union entitled to the funds. The director may pay ~~((to))~~ a ~~((person entitled to it that person's))~~ portion of the funds to a person upon ~~((the))~~ receipt of satisfactory evidence that the person is entitled to ~~((a portion of))~~ the funds. In case of doubt or ~~((of))~~ conflicting claims, the director may require an order of the superior court of the county in which the principal place of business of the credit union was located, authorizing and directing the payment of

the funds. The director may apply the interest earned by the funds toward defraying the expenses incurred in the holding and paying of the funds. Five years after the receipt of the funds, the funds still remaining with the director ~~((shall))~~ must be ((eseheated)) remitted to the state as unclaimed property.

Sec. 45. RCW 31.12.516 and 1994 c 92 s 204 are each amended to read as follows:

(1) The powers of supervision and examination of credit unions and other persons subject to this chapter and chapters 31.12A and 31.13 RCW are vested in the director. The director shall require each credit union to conduct business in compliance with this chapter and other laws that apply to credit unions, and has the power to commence and prosecute actions and proceedings, to enjoin violations, and to collect sums due the state of Washington from a credit union ~~((authorized to conduct business under this chapter)).~~

(2) The director may adopt such rules as are reasonable or necessary to carry out the purposes of this chapter and chapters 31.12A and 31.13 RCW. Chapter 34.05 RCW will, whenever applicable, govern the rights, remedies, and procedures respecting the administration of this chapter.

(3) The director shall have the power and broad administrative discretion to administer and interpret the provisions of this chapter and chapters 31.12A and 31.13 RCW, to facilitate the delivery of financial services to the members of a credit union.

(4) The director may charge fees to credit unions and other persons subject to this chapter and chapters 31.12A and 31.13 RCW, in order to cover the costs of the operation of the division of credit unions, and to establish a reasonable reserve for the division. The director may waive all or a portion of such fees.

Sec. 46. RCW 31.12.545 and 1994 c 92 s 207 are each amended to read as follows:

(1) The director shall make an examination and ~~((full))~~ investigation into the affairs of each credit union at least once every eighteen months, unless the director determines with respect to a credit union, that a less frequent examination schedule will satisfactorily protect the financial stability of the credit union and will satisfactorily assure compliance with the provisions of this chapter. ~~((The actual cost of examination and supervision shall be paid by the credit union examined. The director may waive all or a portion of the examination costs payable by the credit union, in light of the time and expense of the examination and the ability of the credit union to pay the costs. The examination costs with respect to the first examination of a credit union with assets under two hundred thousand dollars shall not be payable by that credit union.))~~

(2) The director may accept in lieu of an examination under subsection (1) of this section the report of an examiner authorized to examine ~~((a))~~ an out-of-state, federal, or foreign credit union ~~((under the laws of the United States or another state)),~~ or the report of an accountant, satisfactory to the director, who has made and submitted a report of the condition of the affairs of a credit union ~~((and, if~~

approved)). The director may accept such a report in lieu of part or all of an examination. If accepted, the report ((shall have)) has the same force and effect as an examination under subsection (1) of this section.

~~((3) Communications from the director to the board of a credit union regarding an examination or report shall be read before the board at its first meeting following the receipt of the communication and the fact that the communication was read before the board shall be noted in the minutes of the meeting. The board shall promptly respond to the director either by stating that steps have been taken to comply with the communication or by stating that the board objects to the communication and stating the reasons for the objection.))~~

Sec. 47. RCW 31.12.555 and 1994 c 256 s 89 and 1994 c 92 s 208 are each reenacted and amended to read as follows:

(1) The director may examine the affairs of;

(a) A credit union service organization in which a credit union has an interest((-);

(b) A person ((or an entity)) that is not a credit union, out-of-state credit union, federal credit union, or foreign credit union, and that has an interest in a credit union service organization in which a credit union has an interest ((is deemed to have consented to the examination. For the purposes of this section and RCW 31.12.565, a sole proprietorship, partnership, or corporation that is primarily in the business of managing one or more credit unions shall be considered to be a credit union service organization.)); and

(c) A sole proprietorship or organization primarily in the business of managing one or more credit unions.

(2) Persons subject to examination under this section are deemed to have consented to the examination.

(3) The director will establish the appropriate frequency of regular examinations under this section, but no more frequently than once every eighteen months. The cost of the examinations will be borne fully by the person examined.

Sec. 48. RCW 31.12.565 and 1994 c 256 s 90 and 1994 c 92 s 209 are each reenacted and amended to read as follows:

(1) The following are confidential and privileged and not subject to public disclosure under chapter 42.17 RCW:

(a) Examination reports and information obtained by the ((director's staff)) director in conducting examinations ((of credit unions and credit union service organizations are confidential and privileged information and not subject to public disclosure under chapter 42.17 RCW)) and investigations under this chapter and chapters 31.12A and 31.13 RCW;

(b) Examination reports and related information from other financial institution regulators obtained by the director; and

(c) Business plans and other proprietary information obtained by the director in connection with a credit union's application or notice to the director.

(2) Notwithstanding subsection (1) of this section, the director may furnish examination reports prepared by the ~~((director's office))~~ director to:

(a) Federal agencies empowered to examine ~~((state-chartered))~~ credit unions;

(b) Officials empowered to investigate criminal charges. The director may furnish only that part of the report which is necessary and pertinent to the investigation, and only after notifying the affected credit union and members of the credit union who are named in that part of the examination report, or other person examined, that the report is being furnished to the officials, unless the officials requesting the report obtain a waiver of the notice requirement for good cause from a court of competent jurisdiction;

(c) The examined credit union or other person examined, solely for its confidential use;

(d) The attorney general in his or her role as legal advisor to the director;

(e) Prospective merger partners or conservators, receivers, or liquidating agents of a distressed credit union;

(f) Credit union ~~((administrators))~~ regulators in other states or jurisdictions regarding an out-of-state ~~((chartered))~~ or foreign credit union ~~((doing))~~ conducting business in this state under this chapter, or regarding a credit union ~~((chartered under this chapter doing))~~ conducting business in ~~((another))~~ the other state or jurisdiction;

(g) A person ~~((or organization))~~ officially connected with the credit union or other person examined, as officer, director, supervisory committee member, attorney, auditor, accountant, independent attorney, independent auditor, or independent accountant;

(h) ~~((Companies))~~ Organizations that have bonded the credit union to the extent that information is relevant to the renewal of the bond coverage or to a claim under the bond coverage;

(i) ~~((Companies, associations, or agencies))~~ Organizations insuring or guaranteeing the shares of, or deposits in, the credit union; or

(j) Other persons ~~((or organizations))~~ as the director may determine necessary to protect the public interest and confidence.

(3) Examination reports furnished under subsection (2) of this section remain the property of the ~~((director's office))~~ director and no person ~~((, agency, or authority))~~ to whom reports are furnished or any officer, director, or employee thereof may disclose or make public the reports or information contained in the reports except in published statistical information that does not disclose the affairs of ~~((an individual or corporation))~~ a person, except that nothing prevents the use in a criminal prosecution of reports furnished under subsection (2)(b) of this section.

(4) In a civil action in which the reports or information are sought to be discovered or used as evidence, a party upon notice to the director, may petition the court for an in-camera review of the reports or information. The court may permit discovery and introduction of only those portions of the report or information

which are relevant and otherwise unobtainable by the requesting party. This subsection does not apply to an action brought or defended by the director.

(5) This section does not apply to investigation reports prepared by the director ~~((and the director's staff))~~ concerning an application for a new credit union or a notice of intent to establish or relocate a branch of a credit union, except that the director may adopt rules making ~~((confidential))~~ portions of the reports confidential, if in the director's opinion the public disclosure of that portion of the report would impair the ability to obtain information the director considers necessary to fully evaluate the application.

(6) Any person who knowingly violates a provision of this section is guilty of a gross misdemeanor.

NEW SECTION. Sec. 49. A new section is added to chapter 31.12 RCW to read as follows:

A credit union shall make at least two regular reports each year to the director showing the assets and liabilities of the credit union. Each report must be certified by the principal operating officer of the credit union. The director shall designate the form, the due dates of, and the period covered by the reports.

NEW SECTION. Sec. 50. A new section is added to chapter 31.12 RCW to read as follows:

Credit unions will comply with the provisions of generally accepted accounting principles as identified by rule of the director. In adopting rules to implement this section, the director shall consider, among other relevant factors, whether to transition small credit unions to generally accepted accounting principles over a period of time.

Sec. 51. RCW 31.12.215 and 1994 c 92 s 190 are each amended to read as follows:

A credit union desiring to establish a branch shall submit to the director a notice of intent to establish a branch ~~((on a form provided by the director))~~ at least thirty days before conducting business at the branch.

Sec. 52. RCW 31.12.575 and 1994 c 92 s 210 are each amended to read as follows:

~~(1) ((The director may suspend a director or the principal operating officer of a credit union if, in the opinion of the director, the director or principal operating officer is dishonest, inefficient, incompetent, is willfully disobeying orders of the director, or is in any way violating this chapter or the bylaws of the credit union. The director shall give prompt notice of and the reasons for the suspension to the board of the affected credit union.~~

~~— (2) Unless the director specifically provides otherwise in the order of suspension, an order of suspension shall take effect immediately. The suspended person shall be prohibited from all aspects of the operation of the credit union. The suspended person shall be barred from the credit union premises and shall surrender the possession of all property and records of the credit union. A person~~

~~who knowingly violates an order of suspension or who knowingly aids in the violation of an order of suspension shall be guilty of a gross misdemeanor.~~

~~— (3) Upon receipt of the notice of suspension, the board shall within twenty days call a meeting of its members to consider the causes of the suspension. The board shall give at least seven days' notice of the time and place of the meeting to the director unless the director agrees to accept shorter notice. If the board finds the director's objection to be well founded, the board shall remove the suspended person immediately.~~

~~— (4) If the board fails to remove the suspended person as provided in subsection (3) of this section, the director may remove that person after reasonable notice and an opportunity to be heard under chapter 34.05 RCW. The suspension shall remain in effect for twenty days after the board meeting at which the board considers the suspension, during which time the director may call a hearing under this subsection. If the director calls a hearing, the suspension shall remain in effect until the time of the hearing.)~~ The director may serve a credit union director, supervisory committee member, officer, or employee with written notice of the director's intent to remove the person from office or to prohibit the person from participating in the conduct of the affairs of the credit union whenever, in the opinion of the director:

(a) The person has committed a material violation of law or an unsafe or unsound practice;

(b)(i) The credit union has suffered or is likely to suffer substantial financial loss or other damage; or

(ii) The interests of the credit union's share account holders and depositors could be seriously prejudiced by reason of the violation or practice; and

(c) The violation or practice involves personal dishonesty, recklessness, or incompetence.

(2) The notice must contain a statement of the facts constituting the alleged violation or practice and must fix a time and place at which a hearing will be held to determine whether a removal or prohibition order should be issued against the person. The hearing must be set not earlier than ten days nor later than thirty days after service of the notice, unless a later date is set by the director at the request of any of the parties.

Unless the person appears at the hearing, the person will be deemed to have consented to the issuance of the removal or prohibition order. In the event of this consent, or if upon the record made at the hearing the director finds that any violation or practice specified in the notice of intention has been established, the director may issue and serve upon the person an order removing the person from office at the credit union or an order prohibiting the person from participating in the conduct of the affairs of the credit union.

(3) A removal order or prohibition order becomes effective at the expiration of ten days after the service of the order upon the person, except that a removal order or prohibition order issued upon consent becomes effective at the time

specified in the order. An order remains effective unless it is stayed, modified, terminated, or set aside by action of the director or a reviewing court.

Sec. 53. RCW 31.12.585 and 1994 c 92 s 211 are each amended to read as follows:

(1) The director may issue and serve ~~((upon))~~ a credit union with a notice of charges if, in the opinion of the director, the credit union has committed or is about to commit:

(a) ~~((Is engaging or has engaged in an unsafe or unsound practice in conducting the business of the credit union;))~~ A material violation of law; or

(b) ~~((Is violating or has violated a material provision of any law, rule, or any condition imposed in writing by the director in connection with the granting of any application or other request by the credit union or any written agreement made with the director; or~~

~~—(c) Is about to do the acts prohibited in (a) or (b) of this subsection if the opinion that the threat exists is based upon reasonable cause))~~ An unsafe or unsound practice.

(2) The notice ~~((shall))~~ must contain a statement of the facts constituting the alleged violation or the practice and ~~((shall))~~ must fix a time and place at which a hearing will be held to determine whether an order to cease and desist should issue against the credit union. The hearing ~~((shall))~~ must be set not earlier than ten days nor later than thirty days after service of the notice, unless a later date is set by the director at the request of ~~((the credit union))~~ any of the parties.

Unless the credit union appears at the hearing by a duly authorized representative, it shall be deemed to have consented to the issuance of the cease and desist order. In the event of this consent, or if upon the record made at the hearing the director finds that any violation or practice specified in the notice of charges has been established, the director may issue and serve upon the credit union an order to cease and desist from the violation or practice. The order may require the credit union and its directors, supervisory committee members, officers, employees, and agents to cease and desist from the violation or practice and may require the credit union to take affirmative action to correct the conditions resulting from the violation or practice.

(3) A cease and desist order ~~((shall))~~ becomes effective at the expiration of ten days after the service of the order upon the credit union ~~((concerned)),~~ except that a cease and desist order issued upon consent ~~((shall))~~ becomes effective at the time specified in the order ~~((and shall)),~~ The order remains effective ~~((as provided therein))~~ unless it is stayed, modified, terminated, or set aside by action of the director or a reviewing court.

Sec. 54. RCW 31.12.595 and 1994 c 92 s 212 are each amended to read as follows:

If the director determines that the ~~((aet))~~ violation or practice specified in RCW 31.12.585 (as recodified by this act) is likely to cause ~~((insolvency or substantial dissipation of assets or earnings of the credit union or to otherwise~~

~~seriously prejudice the interests of its depositors, members, or shareholders)) an unsafe or unsound condition at the credit union, the director may issue a temporary order requiring the credit union to cease and desist from the violation or practice. The order (~~shall~~) becomes effective upon service on the credit union and (~~shall~~) remains effective unless set aside, limited, or suspended by a court in proceedings under RCW 31.12.605 (as recodified by this act) pending the completion of the administrative proceedings under the notice, and until the director dismisses the charges specified in the notice or until the effective date of a cease and desist order issued against the credit union under RCW 31.12.585 (as recodified by this act).~~

Sec. 55. RCW 31.12.605 and 1984 c 31 s 62 are each amended to read as follows:

Within ten days after a credit union has been served with a temporary cease and desist order, the credit union may apply to the superior court in the county of its principal place of business for an injunction setting aside, limiting, or suspending the order pending the completion of the administrative proceedings under RCW 31.12.585 (as recodified by this act). The superior court (~~shall have~~) has jurisdiction to issue the injunction.

Sec. 56. RCW 31.12.625 and 1994 c 92 s 214 are each amended to read as follows:

(1) An administrative hearing provided for in RCW 31.12.575 or 31.12.585 (~~shall~~) (as recodified by this act) may be held at such place as is designated by the director and must be conducted in accordance with chapter 34.05 RCW. The hearing shall be private unless the director determines that a public hearing is necessary to protect the public interest after fully considering the views of the party afforded the hearing.

(2) Within sixty days after the hearing, the director shall render a decision which (~~shall~~) includes findings of fact upon which the decision is based (~~and~~), The director shall issue and serve upon each party to the proceeding an order or orders consistent with RCW 31.12.575 or 31.12.585 (as recodified by this act).

(3) Unless a petition for review is timely filed in the superior court of the county in which the principal place of business of the credit union is located, and until the record in the proceeding has been filed as provided therein, the director may at any time modify, terminate, or set aside any order upon such notice and in such manner as the director may deem proper. Upon filing the record, the director may modify, terminate, or set aside an order only with the permission of the court or the party or parties to the proceeding.

The judicial review provided in this section will be exclusive for orders issued under RCW 31.12.575 and 31.12.585 (as recodified by this act).

(4) Any party to the proceeding, or any person subject to an order, temporary order, or injunction issued under RCW 31.12.575, 31.12.585, 31.12.595, or 31.12.615 (as recodified by this act), may obtain a review of any order issued and served under subsection (1) of this section, other than an order issued upon consent, by filing a written petition requesting that the order be modified,

terminated, or set aside, in the superior court of the county in which the principal place of business of the affected credit union is located. The petition must be filed within ten days after the date of service of the order. A copy of the petition must be immediately served upon the director and the director must then file the record of the proceeding in court. The court has jurisdiction, upon the filing of the petition, to affirm, modify, terminate, or set aside, in whole or in part, the order of the director. The jurisdiction of the court becomes exclusive upon the filing of the record. However, the director may modify, terminate, or set aside the order with the permission of the court. The judgment and decree of the court is final subject to appellate review under the rules of the court.

(5) The commencement of proceedings for judicial review under subsection (4) of this section may not operate as a stay of any order issued by the director unless specifically ordered by the court.

(6) Service of any notice or order required to be served under RCW 31.12.575, 31.12.585, or 31.12.595 (as recodified by this act), must be accomplished in the same manner as required for the service of process in civil actions in superior courts of this state.

**NEW SECTION, Sec. 57.** A new section is added to chapter 31.12 RCW to read as follows:

The director may apply to the superior court of the county in which the principal place of business of the affected credit union is located for the enforcement of any effective and outstanding order issued under RCW 31.12.575, 31.12.585, 31.12.595, and 31.12.615 (as recodified by this act), and the court has jurisdiction to order compliance therewith. No court has jurisdiction to affect by injunction or otherwise the issuance or enforcement of any such order, or to review, modify, suspend, terminate, or set aside any such order, except as provided in RCW 31.12.605, 31.12.615, and 31.12.625 (as recodified by this act).

**Sec. 58.** RCW 31.12.655 and 1994 c 92 s 216 are each amended to read as follows:

The director may request a special meeting of the board of a credit union if the director believes that a special meeting is necessary for the welfare of the credit union or the purposes of this chapter. The director's request for a special board meeting ~~((shall))~~ must be made in writing to the secretary of the board and the request ~~((shall))~~ must be handled in the same manner as a call for a special meeting under RCW 31.12.195 (as recodified by this act). The director may require the attendance of all of the directors ~~((of the board))~~ at the special board meeting, and an absence ~~((of a director))~~ unexcused by the director constitutes a violation of this chapter.

**Sec. 59.** RCW 31.12.665 and 1994 c 92 s 217 are each amended to read as follows:

~~((+))~~ The director may attend a ~~((regular or special))~~ meeting of the board of a credit union if the director believes that attendance at the meeting is necessary for the welfare of the credit union, or the purposes of this chapter, or if the board has

requested the director's attendance. The director shall provide reasonable notice to the board before attending a meeting.

~~((2) A communication from the director to the board shall upon the request of the director be read to the board at its next meeting and the fact that the communication was read shall be noted in the minutes.))~~

**NEW SECTION.** Sec. 60. A new section is added to chapter 31.12 RCW to read as follows:

The director may place a credit union under supervisory direction in accordance with sections 61 through 63 of this act, appoint a conservator for a credit union in accordance with sections 64 through 67 of this act, appoint a liquidating agent for a credit union in accordance with RCW 31.12.675 and 31.12.685 (as recodified by this act), or appoint a receiver for a credit union in accordance with sections 70 through 86 of this act, if the credit union:

- (1) Consents to the action;
- (2) Has failed to comply with the requirements of the director while the credit union is under supervisory direction;
- (3) Has committed or is about to commit a material violation of law or an unsafe or unsound practice, and such violation or practice has caused or is likely to cause an unsafe or unsound condition at the credit union; or
- (4) Is in an unsafe or unsound condition.

**NEW SECTION.** Sec. 61. A new section is added to chapter 31.12 RCW to read as follows:

(1) As authorized by section 60 of this act, the director may determine to place a credit union under supervisory direction. Upon such a determination, the director shall notify the credit union in writing of:

- (a) The director's determination; and
- (b) Any requirements that must be satisfied before the director shall terminate the supervisory direction.

(2) The credit union must comply with the requirements of the director as provided in the notice. If the credit union fails to comply with the requirements, the director may appoint a conservator, liquidating agent, or receiver for the credit union, in accordance with this chapter. The director may appoint a representative to supervise the credit union during the period of supervisory direction.

(3) All costs incident to supervisory direction will be a charge against the assets of the credit union to be allowed and paid as the director may determine.

**NEW SECTION.** Sec. 62. A new section is added to chapter 31.12 RCW to read as follows:

During the period of supervisory direction, the director may prohibit the credit union from engaging in any of the following acts without prior approval:

- (1) Disposing of, conveying, or encumbering any of its assets;
- (2) Withdrawing any of its accounts at other financial institutions;
- (3) Lending any of its funds;
- (4) Investing any of its funds;

- (5) Transferring any of its property; or
- (6) Incurring any debt, obligation, or liability.

**NEW SECTION.** Sec. 63. A new section is added to chapter 31.12 RCW to read as follows:

During the period of supervisory direction, the credit union may request the director to review an action taken or proposed to be taken by the representative, specifying how the action is not in the best interests of the credit union. The request stays the action, pending the director's review of the request.

**NEW SECTION.** Sec. 64. A new section is added to chapter 31.12 RCW to read as follows:

(1) As authorized by section 60 of this act, the director may, upon due notice and hearing, appoint a conservator for a credit union. The director may appoint himself or herself or another qualified party as conservator of the credit union. The conservator shall immediately take charge of the credit union and all of its property, books, records, and effects.

(2) The conservator shall conduct the business of the credit union and take such steps toward the removal of the causes and conditions that have necessitated the appointment of a conservator, as the director may direct. The conservator is authorized to, without limitation:

(a) Take all necessary measures to preserve, protect, and recover any assets or property of the credit union, including any claim or cause of action belonging to or which may be asserted by the credit union, and administer the same in his or her own name as conservator; and

(b) File, prosecute, and defend any suit that has been filed or may be filed by or against the credit union that is deemed by the conservator to be necessary to protect all of the interested parties or a property affected thereby.

The conservator shall make such reports to the director from time to time as may be required by the director.

(3) All costs incident to conservatorship will be a charge against the assets of the credit union to be allowed and paid as the director may determine.

(4) If at any time the director determines that the credit union is not in condition to continue business under the conservator in the interest of its share account holders, depositors, or creditors, and grounds exist under section 60 of this act, the director may proceed with appointment of a liquidating agent or receiver in accordance with this chapter.

**NEW SECTION.** Sec. 65. A new section is added to chapter 31.12 RCW to read as follows:

During the period of conservatorship, the credit union may request the director to review an action taken or proposed to be taken by the conservator, specifying how the action is not in the best interest of the credit union. The request stays the action, pending the director's review of the request.

**NEW SECTION.** Sec. 66. A new section is added to chapter 31.12 RCW to read as follows:

Any suit filed against a credit union or its conservator, during the period of conservatorship, must be brought in the superior court of Thurston county. A conservator for a credit union may file suit in any superior court or other court of competent jurisdiction against any person for the purpose of preserving, protecting, or recovering any asset or property of the credit union, including, but not limited to, any claims or causes of action belonging to or asserted by the credit union.

**NEW SECTION.** Sec. 67. A new section is added to chapter 31.12 RCW to read as follows:

The conservator shall serve until the purposes of the conservatorship have been accomplished. If rehabilitated, the credit union must be returned to management or new management under such conditions as the director may determine.

Sec. 68. RCW 31.12.675 and 1994 c 92 s 218 are each amended to read as follows:

(1) ~~((The articles of incorporation of a credit union may be suspended or revoked, the credit union placed in involuntary liquidation, and a liquidating agent appointed upon a finding by the director that the credit union is insolvent:—~~

~~(2) Except as otherwise provided in this chapter,)) As authorized by section 60 of this act, the director may appoint a liquidating agent for a credit union. Before appointing a liquidating agent, the director~~((before suspending or revoking the articles of incorporation of a credit union and placing the credit union in liquidation,))~~ shall issue and serve notice on the credit union ~~((concerned of the intention to suspend or revoke the articles and))~~ an order directing the credit union to show cause why its articles of incorporation should not be suspended or revoked, in accordance with chapter 34.05 RCW.~~

~~((3))~~ (2) If the ~~((director finds that the credit union is insolvent and the))~~ credit union fails to adequately show cause, the ~~((articles of incorporation shall be suspended or revoked and the credit union placed in involuntary liquidation. The))~~ director shall serve ~~((on))~~ the credit union with an order directing the suspension or revocation ~~((and an order directing the))~~ of the articles of incorporation, placing the credit union in involuntary liquidation ~~((and appointment of)), appointing a liquidating agent under this section and RCW 31.12.685 (as recodified by this act), and providing a statement of the findings on which the order is based.~~

~~((4))~~ (3) The suspension or revocation ~~((shall))~~ must be immediate and complete. Once the articles of incorporation are suspended or revoked, the credit union shall cease conducting business. The credit union may not accept any payment ~~((on))~~ to share~~((s))~~ or deposit~~((s))~~ accounts, may not grant or pay out any new or previously approved loans, may not invest any of its assets, and may not declare or pay out any previously declared dividends. The liquidating agent of a credit union whose articles have been suspended or revoked may accept payments

on loans previously paid out and may accept income from investments already made.

**Sec. 69.** RCW 31.12.685 and 1994 c 92 s 219 are each amended to read as follows:

(1) ~~((The director shall designate the liquidating agent in the order directing the involuntary liquidation of the credit union under RCW 31.12.675.))~~ On receipt of the order placing the credit union in involuntary liquidation, the officers and directors of the credit union ~~((concerned))~~ shall deliver to the liquidating agent possession and control of all books, records, assets, and property of the credit union.

(2) The liquidating agent shall proceed to convert the assets to cash, collect all debts due to the credit union and wind up its affairs in accordance with ~~((the))~~ any instructions and procedures issued by the director. If a liquidating agent agrees to absorb and serve the membership of ~~((a distressed))~~ the credit union, the director may approve a pooling of assets and liabilities rather than a distribution of assets.

(3) Each share account holder and depositor at the credit union is entitled to a proportionate allocation of the assets in liquidation after all shares, deposits, and debts have been paid.

The proportionate allocation shall be based on account balances as of a date determined by the board. For the purposes of liquidation, shares and deposits are equivalent.

(4) The liquidating agent shall cause a notice of liquidation to be published ~~((notice of liquidation))~~ once a week for three consecutive weeks in a newspaper of general circulation in the county in which the principal place of business of the ~~((liquidating))~~ credit union is located. The notice of liquidation ~~((shall))~~ must inform creditors of the ~~((liquidating))~~ credit union on how to make a claim upon the liquidating agent, and that if a claim is not made upon the liquidating agent within thirty days of the last date of publication, the creditor's claim ~~((shall be))~~ is barred. The liquidating agent shall provide personal notice of liquidation to the creditors of record, informing them that if they fail to make a claim upon the liquidating agent within thirty days of the service of the notice, the creditor's claim ~~((shall be))~~ is barred. If a creditor fails to make a claim upon the liquidating agent within the times required to be specified in the notices of liquidation, the creditor's claim ~~((shall be))~~ is barred. All contingent liabilities of the ~~((liquidated))~~ credit union ~~((shall be))~~ are discharged upon the director's order to liquidate the credit union. The liquidating agent shall, upon completion, certify to the director that the distribution or pooling of assets of the credit union is complete.

**NEW SECTION.** **Sec. 70.** A new section is added to chapter 31.12 RCW to read as follows:

As authorized by section 60 of this act, the director may without prior notice appoint a receiver to take possession of a credit union. The director may appoint the national credit union administration or other qualified party as receiver. Upon appointment, the receiver is authorized to act without bond. Upon acceptance of

the appointment, the receiver shall have and possess all the powers and privileges provided by the laws of this state with respect to the receivership of a credit union, and be subject to all the duties of and restrictions applicable to such a receiver, except insofar as such powers, privileges, duties, or restrictions are in conflict with any applicable provision of the federal credit union act.

Upon taking possession of the credit union, the receiver shall give written notice to the directors of the credit union and to all persons having possession of any assets of the credit union. No person with knowledge of the taking of possession by the receiver shall have a lien or charge for any payment advanced, clearance made, or liability incurred against any of the assets of the credit union, after the receiver takes possession, unless approved by the receiver.

**NEW SECTION. Sec. 71.** A new section is added to chapter 31.12 RCW to read as follows:

Within ten days after the receiver takes possession of a credit union's assets, the credit union may serve notice upon the receiver to appear before the superior court of the county in which the principal place of business of the credit union is located and at a time to be fixed by the court, which may not be less than five or more than fifteen days from the date of the service of the notice, to show cause why the credit union should not be restored to the possession of its assets.

The court shall summarily hear and dismiss the complaint if it finds that the receiver was appointed for cause. However, if the court finds that no cause existed for appointment of the receiver, the court shall require the receiver to restore the credit union to possession of its assets and enjoin the director from further appointment of a receiver for the credit union without cause.

**NEW SECTION. Sec. 72.** A new section is added to chapter 31.12 RCW to read as follows:

Upon taking possession of a credit union, the receiver shall proceed to collect the assets of the credit union and preserve, administer, and liquidate its business and assets.

With the approval of the Thurston county superior court or the superior court of the county in which the principal place of business of the credit union is located, the receiver may sell, compound, or compromise bad or doubtful debts, and upon such terms as the court may direct, borrow, mortgage, pledge, or sell all or any part of the real and personal property of the credit union. The receiver may deliver to each purchaser or lender an appropriate deed, mortgage, agreement of pledge, or other instrument of title or security. The receiver may employ an attorney or other assistants to assist in carrying out the receivership, subject to such surety bond as the director may require. The premium for any such bond must be paid out of the assets of the credit union.

In carrying out the receivership, the receiver may without limitation arrange for the merger or consolidation of the credit union in receivership with another credit union, out-of-state credit union, or federal credit union, or may arrange for the purchase of the credit union's assets and the assumption of its liabilities by such

a credit union, in whole or in part, or may arrange for such a transaction with another type of financial institution as may be otherwise permitted by law. The receiver shall give preference to transactions with a credit union or a federal credit union that has its principal place of business in this state.

**NEW SECTION.** Sec. 73. A new section is added to chapter 31.12 RCW to read as follows:

The receiver shall publish once a week for four consecutive weeks in a newspaper of general circulation in the county where the credit union's principal place of business is located, a notice requiring all persons having claims against the credit union to file proof of claim not later than ninety days from the date of the first publication of the notice. The receiver shall mail similar notices to all persons whose names appear as creditors upon the books of the credit union. The assets of the credit union are not subject to contingent claims.

After the expiration of the time fixed in the notice, the receiver has no power to accept any claim except the claim of a depositor or share account holder, and all other claims are barred. Claims of depositors or share account holders may be presented after the expiration of the time fixed in the notice and may be approved by the receiver. If such a claim is approved, the depositor or share account holder is entitled to its proportion of prior liquidation dividends, if sufficient funds are available for it, and will share in the distribution of the remaining assets.

The receiver may approve or reject any claim, but shall serve notice of rejection upon the claimant by mail or personally. An affidavit of service of the notice of rejection will serve as prima facie evidence that notice was given. No action may be brought on any claim after three months from the date of service of the notice of rejection.

**NEW SECTION.** Sec. 74. A new section is added to chapter 31.12 RCW to read as follows:

Upon taking possession of the credit union, the receiver shall make an inventory of the assets and file the list in the office of the county clerk. Upon the expiration of the time fixed for the presentation of claims, the receiver shall make a list of claims presented, segregating those approved and those rejected, to be filed in the office of the county clerk. The receiver shall also make and file with the office of the county clerk a supplemental list of claims at least fifteen days before the declaration of any liquidation dividend, and in any event at least every six months.

Objection may be made by any interested person to any claim approved by the receiver. Objections to claims approved by the receiver will be resolved by the court after providing notice to both the claimant and objector, as the court may prescribe.

**NEW SECTION.** Sec. 75. A new section is added to chapter 31.12 RCW to read as follows:

All expenses incurred by the receiver in relation to the receivership of a credit union, including, but not limited to, reasonable attorneys' fees, become a first

charge upon the assets of the credit union. The charges shall be fixed and determined by the receiver, subject to the approval of the court.

**NEW SECTION.** Sec. 76. A new section is added to chapter 31.12 RCW to read as follows:

At any time after the expiration of the date fixed for the presentation of claims, the receiver, subject to the approval of the court, may declare one or more liquidation dividends out of the funds remaining after the payment of expenses.

**NEW SECTION.** Sec. 77. A new section is added to chapter 31.12 RCW to read as follows:

When all expenses of the receivership have been paid, as well as all proper claims of share account holders, depositors, and other creditors, and proper provision has been made for unclaimed or unpaid debts and liquidation dividends, and assets of the credit union still remain, the receiver shall wind up the affairs of the credit union and distribute its assets to those entitled to them. Each share account holder and depositor at the credit union is entitled to a proportionate share of the assets remaining. The proportionate allocation shall be based on account balances as of a date determined by the board. For the purposes of liquidation, shares and deposits are equivalent.

**NEW SECTION.** Sec. 78. A new section is added to chapter 31.12 RCW to read as follows:

Any liquidation dividends to share account holders, depositors, or other creditors of the credit union remaining uncalled for and unpaid in the hands of the receiver for six months after the order of final distribution, must be deposited in a financial institution to each share account holder's, depositor's, or creditor's credit. The funds must be held in trust for the benefit of the persons entitled to the funds and, subject to the supervision of the court, must be paid by the receiver to them upon presentation of satisfactory evidence of their right to the funds.

**NEW SECTION.** Sec. 79. A new section is added to chapter 31.12 RCW to read as follows:

(1) The receiver shall inventory, package, and seal uncalled for and unclaimed personal property left with the credit union, including, but not limited to, property held in safe deposit boxes, and arrange for the packages to be held in safekeeping. The credit union, its directors and officers, and the receiver, shall be relieved of responsibility and liability for the property held in safekeeping. The receiver shall promptly send to each person in whose name the property stood on the books of the credit union, at the person's last known address, a registered letter notifying the person that the property will be held in the person's name for a period of not less than two years.

(2) After the expiration of two years from the date of mailing the notice, the receiver shall promptly send to each person in whose name the property stood on the books of the credit union, at the person's last known address, a registered letter providing notice of sale. The letter must indicate that the receiver will sell the

property set out in the notice, at a public auction at a specified time and place, not less than thirty days after the date of mailing the letter. The receiver may sell the property unless the person, prior to the sale, presents satisfactory evidence of the person's right to the property. A notice of the time and place of the sale must be published once within ten days prior to the sale in a newspaper of general circulation in the county where the sale is to be held.

(3) Any property, for which the address of the owner or owners is not known, may be sold at public auction after it has been held by the receiver for two years. A notice of the time and place of the sale must be published once within ten days prior to the sale in a newspaper of general circulation in the county where the sale is to be held.

(4) Whenever the personal property left with the credit union consists either wholly or in part, of documents, letters, or other papers of a private nature, the documents, letters, or papers may not be sold, but must be retained by the receiver and may be destroyed after a period of five years.

**NEW SECTION. Sec. 80.** A new section is added to chapter 31.12 RCW to read as follows:

The proceeds of the sale less any amounts for costs and charges incurred in safekeeping and sale must be deposited by the receiver in a financial institution, in trust for the benefit of the person entitled to the property. The sale proceeds must be paid by the receiver to the person upon presentation of satisfactory evidence of the person's right to the funds.

**NEW SECTION. Sec. 81.** A new section is added to chapter 31.12 RCW to read as follows:

Upon the completion of a receivership through merger, purchase of assets and assumption of liabilities, or liquidation, the director shall terminate the credit union's authority to conduct business and certify that fact to the secretary of state. Upon certification, the credit union shall cease to exist and the secretary of state shall note that fact upon his or her records.

**NEW SECTION. Sec. 82.** A new section is added to chapter 31.12 RCW to read as follows:

If at any time after a receiver is appointed, the director determines that all material deficiencies at the credit union have been corrected, and that the credit union is in a safe and sound condition to resume conducting business, the director may terminate the receivership and permit the credit union to reopen upon such terms and conditions as the director may prescribe. Before being permitted to reopen, the credit union must pay all of the expenses of the receiver.

**NEW SECTION. Sec. 83.** A new section is added to chapter 31.12 RCW to read as follows:

The receiver or director, as appropriate, may at any time after the expiration of one year from the order of final distribution, or from the date when the receivership has been completed, destroy any of the remaining files, records,

documents, books of account, or other papers of the credit union that appear to be obsolete or unnecessary for future reference as part of the receivership files.

**NEW SECTION. Sec. 84.** A new section is added to chapter 31.12 RCW to read as follows:

The pendency of any proceedings for judicial review of the appointment of a receiver may not operate to prevent the payment or acquisition of the share and deposit liabilities of the credit union by the national credit union administration or other insurer or guarantor of the share and deposit liabilities of the credit union. During the pendency of the proceedings, the receiver shall make credit union facilities, books, records, and other relevant credit union data available to the insurer or guarantor as may be necessary or appropriate to enable the insurer or guarantor to pay out or to acquire the insured or guaranteed share and deposit liabilities of the credit union. The national credit union administration and any other insurer or guarantor of the credit union's share and deposit liabilities, together with their directors, officers, agents, and employees, and the director and receiver and their agents and employees, will be free from liability to the credit union, its directors, members, and creditors, for or on account of any action taken in connection with the receivership.

**NEW SECTION. Sec. 85.** A new section is added to chapter 31.12 RCW to read as follows:

No receiver may be appointed by any court for any credit union, except that a court otherwise having jurisdiction may in case of imminent necessity appoint a temporary receiver to take possession of and preserve the assets of the credit union. Immediately upon appointment, the clerk of the court shall notify the director in writing of the appointment and the director shall appoint a receiver to take possession of the credit union and the temporary receiver shall upon demand surrender possession of the assets of the credit union to the receiver. The receiver may in due course pay the temporary receiver out of the assets of the credit union, subject to the approval of the court.

**NEW SECTION. Sec. 86.** A new section is added to chapter 31.12 RCW to read as follows:

Every transfer of a credit union's property or assets, and every assignment by a credit union for the benefit of creditors, made in contemplation of insolvency, or after it has become insolvent, to intentionally prefer one creditor over another, or to intentionally prevent the equal distribution of its property and assets among its creditors, is void. Every credit union director, officer, or employee making any such transfer is guilty of a felony.

An officer, director, or employee of a credit union who fraudulently receives any share or deposit on behalf of the credit union, knowing that the credit union is insolvent, is guilty of a felony.

**Sec. 87.** RCW 31.12.635 and 1994 c 92 s 215 are each amended to read as follows:

(1) It is unlawful for a director, supervisory committee member, officer, employee, or agent of a credit union to knowingly violate or consent to a violation of this chapter. Unless otherwise provided by law, a violation of this subsection is a misdemeanor under chapter 9A.20 RCW.

(2) It is unlawful for a person to perform any of the following acts:

(a) To knowingly subscribe to, make, or cause to be made a false statement or entry in the books of a credit union;

(b) To knowingly make a false statement or entry in a report required to be made to the director; or

(c) To knowingly exhibit a false or fictitious paper, instrument, or security to a person authorized to examine a credit union.

~~((2))~~ A violation of this ~~((section))~~ subsection is a class C felony under chapter 9A.20 RCW.

NEW SECTION. **Sec. 88.** The following acts or parts of acts are each repealed:

(1) RCW 31.12.095 and 1994 c 92 s 183;

(2) RCW 31.12.165 and 1984 c 31 s 18;

(3) RCW 31.12.206 and 1994 c 92 s 189 & 1984 c 31 s 22;

(4) RCW 31.12.315 and 1994 c 256 s 81 & 1984 c 31 s 33;

(5) RCW 31.12.355 and 1994 c 92 s 193;

(6) RCW 31.12.376 and 1984 c 31 s 39;

(7) RCW 31.12.395 and 1984 c 31 s 41;

(8) RCW 31.12.415 and 1994 c 256 s 85, 1994 c 92 s 196, & 1984 c 31 s 43;

(9) RCW 31.12.455 and 1994 c 92 s 200 & 1984 c 31 s 47;

(10) RCW 31.12.475 and 1994 c 92 s 202 & 1984 c 31 s 49;

(11) RCW 31.12.495 and 1984 c 31 s 51;

(12) RCW 31.12.506 and 1994 c 92 s 203 & 1984 c 31 s 52;

(13) RCW 31.12.535 and 1994 c 92 s 206 & 1984 c 31 s 55;

(14) RCW 31.12.645 and 1984 c 31 s 66;

(15) RCW 31.12.903 and 1984 c 31 s 77;

(16) RCW 31.12.904 and 1984 c 31 s 80;

(17) RCW 31.12.905 and 1994 c 92 s 224 & 1984 c 31 s 81; and

(18) RCW 43.320.125 and 1996 c 274 s 1.

NEW SECTION. **Sec. 89.** The following sections are codified or recodified within chapter 31.12 RCW in the following order:

RCW 31.12.005.

(1) The following sections are recodified and designated as a subchapter of chapter 31.12 RCW under the subchapter designation "Credit Union Organization":

RCW 31.12.015;

RCW 31.12.025;

RCW 31.12.035;

RCW 31.12.055;

RCW 31.12.065;

RCW 31.12.075; and  
RCW 31.12.085.

(2) The following sections are recodified and designated as a subchapter of chapter 31.12 RCW under the subchapter designation "Corporate Governance":

RCW 31.12.105;  
RCW 31.12.115;  
RCW 31.12.185;  
RCW 31.12.195;  
RCW 31.12.225;  
RCW 31.12.235;  
RCW 31.12.246;  
RCW 31.12.255;  
RCW 31.12.265;  
section 19 of this act;  
RCW 31.12.275;  
RCW 31.12.285;  
RCW 31.12.326;  
RCW 31.12.335;  
RCW 31.12.345;  
RCW 31.12.365; and  
RCW 31.12.306.

(3) The following sections are recodified and designated as a subchapter of chapter 31.12 RCW under the subchapter designation "Membership":

RCW 31.12.045;  
RCW 31.12.145;  
RCW 31.12.155; and  
RCW 31.12.295.

(4) The following sections are recodified and designated as a subchapter of chapter 31.12 RCW under the subchapter designation "Powers of Credit Unions":

RCW 31.12.125;  
RCW 31.12.136;  
RCW 31.12.037; and  
RCW 31.12.039.

(5) The following sections are recodified and designated as a subchapter of chapter 31.12 RCW under the subchapter designation "Members' Accounts":

RCW 31.12.385; and  
RCW 31.12.485.

(6) The following sections are recodified and designated as a subchapter of chapter 31.12 RCW under the subchapter designation "Loans to Members":

RCW 31.12.406; and  
RCW 31.12.317.

(7) The following sections are recodified and designated as a subchapter of chapter 31.12 RCW under the subchapter designation "Investments":

RCW 31.12.425; and  
RCW 31.12.435.

(8) The following sections are recodified and designated as a subchapter of chapter 31.12 RCW under the subchapter designation "Reserves":

RCW 31.12.445; and  
RCW 31.12.465.

(9) The following sections are recodified and designated as a subchapter of chapter 31.12 RCW under the subchapter designation "Mergers, Conversions, and Voluntary Liquidations":

RCW 31.12.695;  
RCW 31.12.705;  
RCW 31.12.715;  
RCW 31.12.526; and  
RCW 31.12.725.

(10) The following sections are recodified and designated as a subchapter of chapter 31.12 RCW under the subchapter designation "Examination and Supervision":

RCW 31.12.516;  
RCW 31.12.545;  
RCW 31.12.555;  
RCW 31.12.565;  
section 49 of this act;  
section 50 of this act;  
RCW 31.12.215;  
RCW 31.12.575;  
RCW 31.12.585;  
RCW 31.12.595;  
RCW 31.12.605;  
RCW 31.12.615;  
RCW 31.12.625;  
section 57 of this act;  
RCW 31.12.655;  
RCW 31.12.665;  
section 60 of this act;  
section 61 of this act;  
section 62 of this act;  
section 63 of this act;  
section 64 of this act;  
section 65 of this act;  
section 66 of this act;  
section 67 of this act;  
RCW 31.12.675;  
RCW 31.12.685;

section 70 of this act;  
section 71 of this act;  
section 72 of this act;  
section 73 of this act;  
section 74 of this act;  
section 75 of this act;  
section 76 of this act;  
section 77 of this act;  
section 78 of this act;  
section 79 of this act;  
section 80 of this act;  
section 81 of this act;  
section 82 of this act;  
section 83 of this act;  
section 84 of this act;  
section 85 of this act; and  
section 86 of this act.

(11) The following sections are recodified and designated as a subchapter of chapter 31.12 RCW under the subchapter designation "Miscellaneous":

RCW 31.12.720;  
RCW 31.12.740;  
RCW 31.12.735;  
RCW 31.12.635;  
Section 92 of this act; and  
RCW 31.12.902.

**NEW SECTION. Sec. 90.** Section 35 of this act takes effect July 1, 1998.

**NEW SECTION. Sec. 91.** Section 50 of this act takes effect January 1, 1999.

**NEW SECTION. Sec. 92.** Except for sections 35 and 50 of this act, this act takes effect January 1, 1998.

**NEW SECTION. Sec. 93.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed the Senate April 21, 1997.

Passed the House April 8, 1997.

Approved by the Governor May 16, 1997.

Filed in Office of Secretary of State May 16, 1997.

---

## CHAPTER 398

[Engrossed Senate Bill 5590]

### BIOSOLIDS PERMITTING PROGRAM

AN ACT Relating to funding of a state biosolids management program; amending RCW 90.48.465; and adding a new section to chapter 70.95J RCW.

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

**NEW SECTION. Sec. 1.** A new section is added to chapter 70.95J RCW to read as follows:

(1) The department shall establish annual fees to collect expenses for issuing and administering biosolids permits under this chapter. An initial fee schedule shall be established by rule and shall be adjusted no more often than once every two years. This fee schedule applies to all permits, regardless of date of issuance, and fees shall be assessed prospectively. Fees shall be established in amounts to recover expenses incurred by the department in processing permit applications and modifications, reviewing related plans and documents, monitoring, evaluating, conducting inspections, overseeing performance of delegated program elements, providing technical assistance and supporting overhead expenses that are directly related to these activities.

(2) The annual fee paid by a permittee for any permit issued under this chapter shall be determined by the number of residences or residential equivalents contributing to the permittee's biosolids management system. If residences or residential equivalents cannot be determined or reasonably estimated, fees shall be based on other appropriate criteria.

(3) The biosolids permit account is created in the state treasury. All receipts from fees under this section 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 the purposes of administering permits under this chapter.

(4) The department shall present a biennial progress report on the use of moneys from the biosolids permit account to the legislature. The first report is due on or before December 31, 1998, and thereafter on or before December 31st of odd-numbered years. The report shall consist of information on fees collected, actual expenses incurred, and anticipated expenses for the current and following fiscal years.

(5) The department shall work with the regulated community and local health departments to study the feasibility of modifying the fee schedule to support delegated local health departments and reduce local health department fees paid by biosolids permittees.

**Sec. 2.** RCW 90.48.465 and 1996 c 37 s 3 are each amended to read as follows:

(1) The department shall establish annual fees to collect expenses for issuing and administering each class of permits under RCW 90.48.160, 90.48.162, and 90.48.260(~~(, and 70.95J.020 through 70.95J.090)~~). An initial fee schedule shall be established by rule within one year of March 1, 1989, and thereafter the fee schedule shall be adjusted no more often than once every two years. This fee schedule shall apply to all permits, regardless of date of issuance, and fees shall be assessed prospectively. All fees charged shall be based on factors relating to the complexity of permit issuance and compliance and may be based on pollutant loading and toxicity and be designed to encourage recycling and the reduction of

the quantity of pollutants. Fees shall be established in amounts to fully recover and not to exceed expenses incurred by the department in processing permit applications and modifications, monitoring and evaluating compliance with permits, conducting inspections, securing laboratory analysis of samples taken during inspections, reviewing plans and documents directly related to operations of permittees, overseeing performance of delegated pretreatment programs, and supporting the overhead expenses that are directly related to these activities.

(2) The annual fee paid by a municipality, as defined in 33 U.S.C. Sec. 1362, for all domestic wastewater facility permits issued under RCW 90.48.162(;) and 90.48.260(, ~~and 70.95J.020 through 70.95J.090~~) shall not exceed the total of a maximum of fifteen cents per month per residence or residential equivalent contributing to the municipality's wastewater system. The department shall adopt by rule a schedule of credits for any municipality engaging in a comprehensive monitoring program beyond the requirements imposed by the department, with the credits available for five years from March 1, 1989, and with the total amount of all credits not to exceed fifty thousand dollars in the five-year period.

(3) The department shall ensure that indirect dischargers do not pay twice for the administrative expense of a permit. Accordingly, administrative expenses for permits issued by a municipality under RCW 90.48.165 are not recoverable by the department.

(4) In establishing fees, the department shall consider the economic impact of fees on small dischargers and the economic impact of fees on public entities required to obtain permits for storm water runoff and shall provide appropriate adjustments.

(5) All fees collected under this section shall be deposited in the water quality permit account hereby created in the state treasury. Moneys in the account may be appropriated only for purposes of administering permits under RCW 90.48.160, 90.48.162, and 90.48.260(, ~~and 70.95J.020 through 70.95J.090~~).

(6) 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 legislature. The report will be due December 31<sup>st</sup> of ~~((the))~~ odd-numbered years. The report shall consist of information on fees collected, actual expenses incurred, and anticipated expenses for the current and following fiscal years.

Passed the Senate April 22, 1997.

Passed the House April 10, 1997.

Approved by the Governor May 16, 1997.

Filed in Office of Secretary of State May 16, 1997.

---

## CHAPTER 399

[Substitute Senate Bill 5676]

### REAL ESTATE APPRAISERS—BROKER'S PRICE OPINIONS

AN ACT Relating to real estate appraisers; amending RCW 18.140.010 and 18.140.020; providing an effective date; and declaring an emergency.

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

**Sec. 1.** RCW 18.140.010 and 1996 c 182 s 2 are each amended to read as follows:

As used in this chapter, the following terms have the meanings indicated unless the context clearly requires otherwise.

(1) "Appraisal" means the act or process of estimating value; an estimate of value; or of or pertaining to appraising and related functions.

(2) "Appraisal report" means any communication, written or oral, of an appraisal, review, or consulting service in accordance with the standards of professional conduct or practice, adopted by the director, that is transmitted to the client upon completion of an assignment.

(3) "Appraisal assignment" means an engagement for which an appraiser is employed or retained to act, or would be perceived by third parties or the public as acting, as a disinterested third party in rendering an unbiased analysis, opinion, or conclusion relating to the value of specified interests in, or aspects of, identified real estate. The term "appraisal assignment" may apply to valuation work and analysis work.

(4) "Brokers price opinion" means an oral or written report of property value that is prepared by a real estate broker or salesperson licensed under chapter 18.85 RCW ~~((for listing, sale, purchase, or rental purposes)).~~

(5) "Certified appraisal" means an appraisal prepared or signed by a state-certified real estate appraiser. A certified appraisal represents to the public that it meets the appraisal standards defined in this chapter.

(6) "Client" means any party for whom an appraiser performs a service.

(7) "Committee" means the real estate appraiser advisory committee of the state of Washington.

(8) "Comparative market analysis" means a brokers price opinion.

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

(10) "Director" means the director of the department of licensing.

(11) "Expert review appraiser" means a state-certified or state-licensed real estate appraiser chosen by the director for the purpose of providing appraisal review assistance to the director.

(12) "Federal department" means an executive department of the United States of America specifically concerned with housing finance issues, such as the department of housing and urban development, the department of veterans affairs, or their legal federal successors.

(13) "Federal financial institutions regulatory agency" means the board of governors of the federal reserve system, the federal deposit insurance corporation, the office of the comptroller of the currency, the office of thrift supervision, the national credit union administration, their successors and/or such other agencies as may be named in future amendments to 12 U.S.C. Sec. 3350(6).

(14) "Federal secondary mortgage marketing agency" means the federal national mortgage association, the government national mortgage association, the

federal home loan mortgage corporation, their successors and/or such other similarly functioning housing finance agencies as may be federally chartered in the future.

(15) "Federally related transaction" means any real estate-related financial transaction that the federal financial institutions regulatory agency or the resolution trust corporation engages in, contracts for, or regulates; and that requires the services of an appraiser.

(16) "Financial institution" means any person doing business under the laws of this state or the United States relating to banks, bank holding companies, savings banks, trust companies, savings and loan associations, credit unions, consumer loan companies, and the affiliates, subsidiaries, and service corporations thereof.

~~((+6))~~ (17) "Licensed appraisal" means an appraisal prepared or signed by a state-licensed real estate appraiser. A licensed appraisal represents to the public that it meets the appraisal standards defined in this chapter.

~~((+7))~~ (18) "Mortgage broker" for the purpose of this chapter means a mortgage broker licensed under chapter 19.146 RCW, any mortgage broker approved and subject to audit by the federal national mortgage association, the government national mortgage association, or the federal home loan mortgage corporation as provided in RCW 19.146.020, any mortgage broker approved by the United States secretary of housing and urban development for participation in any mortgage insurance under the national housing act, 12 U.S.C. Sec. 1201, and the affiliates, subsidiaries, and service corporations thereof.

~~((+8))~~ (19) "Real estate" means an identified parcel or tract of land, including improvements, if any.

~~((+9))~~ (20) "Real estate-related financial transaction" means any transaction involving:

(a) The sale, lease, purchase, investment in, or exchange of real property, including interests in property, or the financing thereof;

(b) The refinancing of real property or interests in real property; and

(c) The use of real property or interests in property as security for a loan or investment, including mortgage-backed securities.

(21) "Real property" means one or more defined interests, benefits, or rights inherent in the ownership of real estate.

~~((+20))~~ (22) "Review" means the act or process of critically studying an appraisal report prepared by another.

~~((+21))~~ (23) "Specialized appraisal services" means all appraisal services which do not fall within the definition of appraisal assignment. The term "specialized appraisal service" may apply to valuation work and to analysis work. Regardless of the intention of the client or employer, if the appraiser would be perceived by third parties or the public as acting as a disinterested third party in rendering an unbiased analysis, opinion, or conclusion, the work is classified as an appraisal assignment and not a specialized appraisal service.

~~((22))~~ (24) "State-certified general real estate appraiser" means a person certified by the director to develop and communicate real estate appraisals of all types of property. A state-certified general real estate appraiser may designate or identify an appraisal rendered by him or her as a "certified appraisal."

~~((23))~~ (25) "State-certified residential real estate appraiser" means a person certified by the director to develop and communicate real estate appraisals of all types of residential property of one to four units without regard to transaction value or complexity and nonresidential property having a transaction value as specified in rules adopted by the director. A state certified residential real estate appraiser may designate or identify an appraisal rendered by him or her as a "certified appraisal."

~~((24))~~ (26) "State-licensed real estate appraiser" means a person licensed by the director to develop and communicate real estate appraisals of noncomplex one to four residential units and complex one to four residential units and nonresidential property having transaction values as specified in rules adopted by the director.

Sec. 2. RCW 18.140.020 and 1996 c 182 s 3 are each amended to read as follows:

(1) No person other than a state-certified or state-licensed real estate appraiser may receive compensation of any form for a real estate appraisal or an appraisal review. However, compensation may be provided for brokers price opinions prepared by a real estate licensee, licensed under chapter 18.85 RCW.

(2) No person, other than a state-certified or state-licensed real estate appraiser, may assume or use that title or any title, designation, or abbreviation likely to create the impression of certification or licensure as a real estate appraiser by this state.

(3) A person who is not certified or licensed under this chapter shall not prepare any appraisal of real estate located in this state, except as provided under subsection (1) of this section.

(4) This section does not preclude a staff employee of a governmental entity from performing an appraisal or an appraisal assignment within the scope of his or her employment insofar as the performance of official duties for the governmental entity are concerned. Such an activity for the benefit of the governmental entity is exempt from the requirements of this chapter.

(5) This ~~(section)~~ chapter does not preclude an individual person licensed by the state of Washington as a real estate broker or as a real estate salesperson ~~((and who performs))~~ from issuing a brokers price opinion ~~((as a service to a prospective seller, buyer, lessor, or lessee as the only intended user, and not for dissemination to a third party, within the scope of his or her employment or agency. Such an activity for the sole benefit of the prospective seller, buyer, lessor, or lessee is exempt from the requirements of this chapter)).~~ However, if the brokers price opinion is written, or given as evidence in any legal proceeding, and is issued to a person who is not a prospective seller, buyer, lessor, or lessee as the only

intended user, then the brokers price opinion shall contain a statement, in an obvious location within the written document or specifically and affirmatively in spoken testimony, that substantially states: "This brokers price opinion is not an appraisal as defined in chapter 18.140 RCW and has been prepared by a real estate licensee, licensed under chapter 18.85 RCW, who . . . . (is/is not) also state certified or state licensed as a real estate appraiser under chapter 18.140 RCW." However, the brokers price opinion issued under this subsection may not be used as an appraisal in conjunction with a federally related transaction.

(6) This section does not apply to an appraisal or an appraisal review performed for a financial institution or mortgage broker(~~(, whether conducted)~~) by an employee (~~(or third party)~~), when such appraisal or appraisal review is not required to be performed by a state-certified or state-licensed real estate appraiser by the appropriate federal financial institutions regulatory agency.

(7) This section does not apply to an attorney licensed to practice law in this state or to a certified public accountant, as defined in RCW 18.04.025, who evaluates real property in the normal scope of his or her professional services.

**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 July 1, 1997.

Passed the Senate April 22, 1997.

Passed the House April 9, 1997.

Approved by the Governor May 16, 1997.

Filed in Office of Secretary of State May 16, 1997.

## CHAPTER 400

[Senate Bill 5741]

### CONDOMINIUMS—REQUIREMENTS FOR DISCLOSURES

AN ACT Relating to public offering statements for condominiums; and amending RCW 64.34.410, 64.34.232, and 49.60.222.

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

**Sec. 1.** RCW 64.34.410 and 1992 c 220 s 21 are each amended to read as follows:

- (1) A public offering statement shall contain the following information:
  - (a) The name and address of the condominium;
  - (b) The name and address of the declarant;
  - (c) The name and address of the management company, if any;
  - (d) The relationship of the management company to the declarant, if any;
  - (e) A list of up to the five most recent condominium projects completed by the declarant or an affiliate of the declarant within the past five years, including the names of the condominiums, their addresses, and the number of existing units in each. For the purpose of this section, a condominium is "completed" when any one unit therein has been rented or sold;

- (f) The nature of the interest being offered for sale;
- (g) A brief description of the permitted uses and use restrictions pertaining to the units and the common elements;
- (h) A brief description of the restrictions, if any, on the renting or leasing of units by the declarant or other unit owners, together with the rights, if any, of the declarant to rent or lease at least a majority of units;
- (i) The number of existing units in the condominium and the maximum number of units that may be added to the condominium;
- ~~((h))~~ (j) A list of the principal common amenities in the condominium which materially affect the value of the condominium and those that will or may be added to the condominium;
- ~~((g))~~ (k) A list of the limited common elements assigned to the units being offered for sale;
- ~~((h))~~ (l) The identification of any real property not in the condominium, the owner of which has access to any of the common elements, and a description of the terms of such access;
- ~~((h))~~ (m) The identification of any real property not in the condominium to which unit owners have access and a description of the terms of such access;
- ~~((m))~~ (n) The status of construction of the units and common elements, including estimated dates of completion if not completed;
- ~~((n))~~ (o) The estimated current common expense liability for the units being offered;
- ~~((o))~~ (p) An estimate of any payment with respect to the common expense liability for the units being offered which will be due at closing;
- ~~((p))~~ (q) The estimated current amount and purpose of any fees not included in the common expenses and charged by the declarant or the association for the use of any of the common elements;
- ~~((q))~~ (r) Any assessments which have been agreed to or are known to the declarant and which, if not paid, may constitute a lien against any units or common elements in favor of any governmental agency;
- ~~((r))~~ (s) The identification of any parts of the condominium, other than the units, which any individual owner will have the responsibility for maintaining;
- ~~((s))~~ (t) If the condominium involves a conversion condominium, the information required by RCW 64.34.415;
- ~~((t))~~ (u) Whether timesharing is restricted or prohibited, and if restricted, a general description of such restrictions;
- ~~((u))~~ (v) A list of all development rights reserved to the declarant and all special declarant rights reserved to the declarant, together with the dates such rights must terminate, and a copy of or reference by recording number to any recorded transfer of a special declarant right;
- ~~((v))~~ (w) A description of any material differences in terms of furnishings, fixtures, finishes, and equipment between any model unit available to the purchaser at the time the agreement for sale is executed and the unit being offered;

~~((w))~~ (x) Any liens on real property to be conveyed to the association required to be disclosed pursuant to RCW 64.34.435(2)(b);

~~((\*)~~ (y) A list of any physical hazards known to the declarant which particularly affect the condominium or the immediate vicinity in which the condominium is located and which are not readily ascertainable by the purchaser;

~~((y))~~ (z) A brief description of any construction warranties to be provided to the purchaser;

~~((z))~~ (aa) Any building code violation citations received by the declarant in connection with the condominium which have not been corrected;

~~((ae))~~ (bb) A statement of any unsatisfied judgments or pending suits against the association, a statement of the status of any pending suits material to the condominium of which the declarant has actual knowledge, and a statement of any litigation brought by an owners' association, unit owner, or governmental entity in which the declarant or any affiliate of the declarant has been a defendant, arising out of the construction, sale, or administration of any condominium within the previous five years, together with the results thereof, if known;

~~((bb))~~ (cc) Any rights of first refusal to lease or purchase any unit or any of the common elements;

~~((ee))~~ (dd) The extent to which the insurance provided by the association covers furnishings, fixtures, and equipment located in the unit;

~~((dd))~~ (ee) A notice which describes a purchaser's right to cancel the purchase agreement or extend the closing under RCW 64.34.420, including applicable time frames and procedures;

~~((ee))~~ (ff) Any reports or statements required by RCW 64.34.415 or 64.34.440(6)(a). RCW 64.34.415 shall apply to the public offering statement of a condominium in connection with which a final certificate of occupancy was issued more than sixty calendar months prior to the preparation of the public offering statement whether or not the condominium is a conversion condominium as defined in RCW 64.34.020(10);

~~((ff))~~ (gg) A list of the documents which the prospective purchaser is entitled to receive from the declarant before the rescission period commences;

~~((gg))~~ (hh) A notice which states: A purchaser may not rely on any representation or express warranty unless it is contained in the public offering statement or made in writing signed by the declarant or by any person identified in the public offering statement as the declarant's agent;

~~((hh))~~ (ii) A notice which states: This public offering statement is only a summary of some of the significant aspects of purchasing a unit in this condominium and the condominium documents are complex, contain other important information, and create binding legal obligations. You should consider seeking the assistance of legal counsel; ~~(and~~

~~((ii))~~ (jj) Any other information and cross-references which the declarant believes will be helpful in describing the condominium to the recipients of the

public offering statement, all of which may be included or not included at the option of the declarant; and

(kk) A notice that addresses compliance or noncompliance with the housing for older persons act of 1995, P.L. 104-76, as enacted on December 28, 1995.

(2) The public offering statement shall include copies of each of the following documents: The declaration, the survey map and plans, the articles of incorporation of the association, bylaws of the association, rules and regulations, if any, current or proposed budget for the association, and the balance sheet of the association current within ninety days if assessments have been collected for ninety days or more.

If any of the foregoing documents listed in this subsection are not available because they have not been executed, adopted, or recorded, drafts of such documents shall be provided with the public offering statement, and, before closing the sale of a unit, the purchaser shall be given copies of any material changes between the draft of the proposed documents and the final documents.

(3) The disclosures required by subsection (1)(g), ~~((f))~~ (k), ~~((r))~~ (s), ~~((t))~~ (u), ~~((v))~~ (v), and ~~((bb))~~ (cc) of this section shall also contain a reference to specific sections in the condominium documents which further explain the information disclosed.

(4) The disclosures required by subsection (1)~~((dd))~~ (ee), ~~((gg))~~ (hh), and ~~((hh))~~ (ii) of this section shall be located at the top of the first page of the public offering statement and be typed or printed in ten-point bold face type size.

(5) A declarant shall promptly amend the public offering statement to reflect any material change in the information required by this section.

**Sec. 2.** RCW 64.34.232 and 1992 c 220 s 10 are each amended to read as follows:

(1) A survey map and plans executed by the declarant shall be recorded simultaneously with, and contain cross-references by recording number to, the declaration and any amendments. The survey map and plans must be clear and legible and contain a certification by the person making the survey or the plans that all information required by this section is supplied. All plans filed shall be in such style, size, form and quality as shall be prescribed by the recording authority of the county where filed, and a copy shall be delivered to the county assessor.

(2) Each survey map shall show or state:

(a) The name of the condominium and a legal description and a survey of the land in the condominium and of any land that may be added to the condominium;

(b) The boundaries of all land not subject to development rights, or subject only to the development right to withdraw, and the location and dimensions of all existing buildings containing units on that land;

(c) The boundaries of any land subject to development rights, labeled "SUBJECT TO DEVELOPMENT RIGHTS SET FORTH IN THE DECLARATION"; any land that may be added to the condominium shall also be labeled "MAY BE ADDED TO THE CONDOMINIUM"; any land that may be withdrawn

from the condominium shall also be labeled "MAY BE WITHDRAWN FROM THE CONDOMINIUM";

(d) The extent of any encroachments by or upon any portion of the condominium;

(e) To the extent feasible, the location and dimensions of all recorded easements serving or burdening any portion of the condominium and any unrecorded easements of which a surveyor knows or reasonably should have known, based on standard industry practices, while conducting the survey;

(f) Subject to the provisions of subsection (8) of this section, the location and dimensions of any vertical unit boundaries not shown or projected on plans recorded (~~(pursuant to)~~ under subsection (4) of this section and that unit's identifying number;

(g) The location with reference to an established datum of any horizontal unit boundaries not shown or projected on plans recorded (~~(pursuant to)~~ under subsection (4) of this section and that unit's identifying number;

(h) The location and dimensions of any real property in which the unit owners will own only an estate for years, labeled as "leasehold real property";

(i) The distance between any noncontiguous parcels of real property comprising the condominium;

(j) The general location of any existing principal common amenities listed in a public offering statement (~~(pursuant to)~~ under RCW 64.34.410(1)(~~(f)~~) (j) and any limited common elements, including limited common element porches, balconies, patios, parking spaces, and storage facilities, but not including the other limited common elements described in RCW 64.34.204 (2) and (4);

(k) In the case of real property not subject to development rights, all other matters customarily shown on land surveys.

(3) A survey map may also show the intended location and dimensions of any contemplated improvement to be constructed anywhere within the condominium. Any contemplated improvement shown must be labeled either "MUST BE BUILT" or "NEED NOT BE BUILT."

(4) To the extent not shown or projected on the survey map, plans of the existing units must show or project:

(a) Subject to the provisions of subsection (8) of this section, the location and dimensions of the vertical boundaries of each unit, and that unit's identifying number;

(b) Any horizontal unit boundaries, with reference to an established datum, and that unit's identifying number; and

(c) Any units in which the declarant has reserved the right to create additional units or common elements under RCW 64.34.236(3), identified appropriately.

(5) Unless the declaration provides otherwise, the horizontal boundaries of part of a unit located outside of a building have the same elevation as the horizontal boundaries of the inside part and in such case need not be depicted on the survey map and plans.

(6) Upon exercising any development right, the declarant shall record either a new survey map and plans necessary to conform to the requirements of subsections (1), (2), and (3) of this section or new certifications of a survey map and plans previously recorded if the documents otherwise conform to the requirements of those subsections.

(7) Any survey map, plan, or certification required by this section shall be made by a licensed surveyor.

(8) In showing or projecting the location and dimensions of the vertical boundaries of a unit under subsections (2)(f) and (4)(a) of this section, it is not necessary to show the thickness of the walls constituting the vertical boundaries or otherwise show the distance of those vertical boundaries either from the exterior surface of the building containing that unit or from adjacent vertical boundaries of other units if: (a) The walls are designated to be the vertical boundaries of that unit; (b) the unit is located within a building, the location and dimensions of the building having been shown on the survey map under subsection (2)(b) of this section; and (c) the graphic general location of the vertical boundaries are shown in relation to the exterior surfaces of that building and to the vertical boundaries of other units within that building.

**Sec. 3.** RCW 49.60.222 and 1995 c 259 s 3 are each amended to read as follows:

(1) It is an unfair practice for any person, whether acting for himself, herself, or another, because of sex, marital status, race, creed, color, national origin, families with children status, the presence of any sensory, mental, or physical disability, or the use of a trained guide dog or service dog by a disabled person:

(a) To refuse to engage in a real estate transaction with a person;

(b) To discriminate against a person in the terms, conditions, or privileges of a real estate transaction or in the furnishing of facilities or services in connection therewith;

(c) To refuse to receive or to fail to transmit a bona fide offer to engage in a real estate transaction from a person;

(d) To refuse to negotiate for a real estate transaction with a person;

(e) To represent to a person that real property is not available for inspection, sale, rental, or lease when in fact it is so available, or to fail to bring a property listing to his or her attention, or to refuse to permit the person to inspect real property;

(f) To discriminate in the sale or rental, or to otherwise make unavailable or deny a dwelling, to any person; or to a person residing in or intending to reside in that dwelling after it is sold, rented, or made available; or to any person associated with the person buying or renting;

(g) To make, print, circulate, post, or mail, or cause to be so made or published a statement, advertisement, or sign, or to use a form of application for a real estate transaction, or to make a record or inquiry in connection with a prospective real

estate transaction, which indicates, directly or indirectly, an intent to make a limitation, specification, or discrimination with respect thereto;

(h) To offer, solicit, accept, use, or retain a listing of real property with the understanding that a person may be discriminated against in a real estate transaction or in the furnishing of facilities or services in connection therewith;

(i) To expel a person from occupancy of real property;

(j) To discriminate in the course of negotiating, executing, or financing a real estate transaction whether by mortgage, deed of trust, contract, or other instrument imposing a lien or other security in real property, or in negotiating or executing any item or service related thereto including issuance of title insurance, mortgage insurance, loan guarantee, or other aspect of the transaction. Nothing in this section shall limit the effect of RCW 49.60.176 relating to unfair practices in credit transactions; or

(k) To attempt to do any of the unfair practices defined in this section.

(2) For the purposes of this chapter discrimination based on the presence of any sensory, mental, or physical disability or the use of a trained guide dog or service dog by a blind, deaf, or physically disabled person includes:

(a) A refusal to permit, at the expense of the disabled person, reasonable modifications of existing premises occupied or to be occupied by such person if such modifications may be necessary to afford such person full enjoyment of the dwelling, except that, in the case of a rental, the landlord may, where it is reasonable to do so, condition permission for a modification on the renter agreeing to restore the interior of the dwelling to the condition that existed before the modification, reasonable wear and tear excepted;

(b) To refuse to make reasonable accommodation in rules, policies, practices, or services when such accommodations may be necessary to afford a person with the presence of any sensory, mental, or physical disability and/or the use of a trained guide dog or service dog by a blind, deaf, or physically disabled person equal opportunity to use and enjoy a dwelling; or

(c) To fail to design and construct covered multifamily dwellings and premises in conformance with the federal fair housing amendments act of 1988 (42 U.S.C. Sec. 3601 et seq.) and all other applicable laws or regulations pertaining to access by persons with any sensory, mental, or physical disability or use of a trained guide dog or service dog. Whenever the requirements of applicable laws or regulations differ, the requirements which require greater accessibility for persons with any sensory, mental, or physical disability shall govern.

Nothing in (a) or (b) of this subsection shall apply to: (i) A single-family house rented or leased by the owner if the owner does not own or have an interest in the proceeds of the rental or lease of more than three such single-family houses at one time, the rental or lease occurred without the use of a real estate broker or salesperson, as defined in RCW 18.85.010, and the rental or lease occurred without the publication, posting, or mailing of any advertisement, sign, or statement in violation of subsection (1)(g) of this section; or (ii) rooms or units in dwellings

containing living quarters occupied or intended to be occupied by no more than four families living independently of each other if the owner maintains and occupies one of the rooms or units as his or her residence.

(3) Notwithstanding any other provision of this chapter, it shall not be an unfair practice or a denial of civil rights for any public or private educational institution to separate the sexes or give preference to or limit use of dormitories, residence halls, or other student housing to persons of one sex or to make distinctions on the basis of marital or families with children status.

(4) Except pursuant to subsection (2)(a) of this section, this section shall not be construed to require structural changes, modifications, or additions to make facilities accessible to a disabled person except as otherwise required by law. Nothing in this section affects the rights, responsibilities, and remedies of landlords and tenants pursuant to chapter 59.18 or 59.20 RCW, including the right to post and enforce reasonable rules of conduct and safety for all tenants and their guests, provided that chapters 59.18 and 59.20 RCW are only affected to the extent they are inconsistent with the nondiscrimination requirements of this chapter. Nothing in this section limits the applicability of any reasonable federal, state, or local restrictions regarding the maximum number of occupants permitted to occupy a dwelling.

(5) Notwithstanding any other provision of this chapter, it shall not be an unfair practice for any public establishment providing for accommodations offered for the full enjoyment of transient guests as defined by RCW 9.91.010(1)(c) to make distinctions on the basis of families with children status. Nothing in this section shall limit the effect of RCW 49.60.215 relating to unfair practices in places of public accommodation.

(6) Nothing in this chapter prohibiting discrimination based on families with children status applies to housing for older persons as defined by the federal fair housing amendments act of 1988, 42 U.S.C. Sec. 3607(b)(1) through (3), as amended by the housing for older persons act of 1995, P.L. 104-76, as enacted on December 28, 1995. Nothing in this chapter authorizes requirements for housing for older persons different than the requirements in the federal fair housing amendments act of 1988, 42 U.S.C. Sec. 3607(b)(1) through (3), as amended by the housing for older persons act of 1995, P.L. 104-76, as enacted on December 28, 1995.

Passed the Senate April 21, 1997.

Passed the House April 10, 1997.

Approved by the Governor May 16, 1997.

Filed in Office of Secretary of State May 16, 1997.

**CHAPTER 401**

[Senate Bill 5831]

**VENUE OF ACTIONS BY OR AGAINST COUNTIES—COMMENCEMENT IN NEAREST COUNTIES**

AN ACT Relating to the venue of actions by or against counties; and amending RCW 36.01.050.

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

**Sec. 1.** RCW 36.01.050 and 1963 c 4 s 36.01.050 are each amended to read as follows:

(1) All actions against any county may be commenced in the superior court of such county, or ~~((of the adjoining county, and))~~ in the superior court of either of the two nearest counties. All actions by any county shall be commenced in the superior court of the county in which the defendant resides, or in ~~((the county adjoining the county by which such action is commenced))~~ either of the two counties nearest to the county bringing the action.

(2) The determination of the nearest counties is measured by the travel time between county seats using major surface routes, as determined by the office of the administrator for the courts.

Passed the Senate April 22, 1997.

Passed the House April 10, 1997.

Approved by the Governor May 16, 1997.

Filed in Office of Secretary of State May 16, 1997.

---

**CHAPTER 402**

[Engrossed Senate Bill 5915]

**INDUSTRIAL LAND BANKS—ESTABLISHMENT REQUIREMENTS MODIFIED**

AN ACT Relating to 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 1996 c 167 s 2 are each amended to read as follows:

(1) In addition to the major industrial development allowed under RCW 36.70A.365, a county required or choosing to plan under RCW 36.70A.040 that has a population greater than two hundred fifty thousand and that is part of a metropolitan area that includes a city in another state with a population greater than two hundred fifty thousand or a county that has a population greater than one hundred forty thousand and is adjacent to another country 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:

(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;

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

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

(3) 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) Final approval of inclusion of a master planned location in the urban industrial land bank 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.

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

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

(7) The authority of a county to engage in the process of including or excluding master planned locations from the urban industrial land bank shall terminate on December 31, 1998. However, any location included in the urban industrial land bank on December 31, 1998, shall remain available for major industrial development as long as the criteria of subsection (2) of this section continue to be met.

(8) For the purposes of this section, "major industrial development" means a master planned location suitable for manufacturing or industrial businesses that: (a) Requires a parcel of land so large that no suitable parcels are available within an urban growth area; or (b) 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) 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.

Passed the Senate April 22, 1997.

Passed the House April 18, 1997.

Approved by the Governor May 16, 1997.

Filed in Office of Secretary of State May 16, 1997.

### CHAPTER 403

[Engrossed Second Substitute Senate Bill 5927]

#### HIGHER EDUCATION TUITION RATES

AN ACT Relating to higher education; and amending RCW 28B.15.067 and 28B.15.069.

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

**Sec. 1.** RCW 28B.15.067 and 1996 c 212 s 1 are each amended to read as follows:

(1) Tuition fees shall be established under the provisions of this chapter.

(2) Academic year tuition for full-time students at the state's institutions of higher education for the ~~((1995-96))~~ 1997-98 academic year, other than the summer term, shall be as provided in this subsection.

(a) At the University of Washington and Washington State University:

(i) For resident undergraduate students and other resident students not in graduate ~~((study)), law, or first professional~~ programs ~~((or enrolled in programs leading to the degrees of doctor of medicine, doctor of dental surgery, and doctor of veterinary medicine))~~, ~~two thousand ((seven hundred sixty-four))~~ nine hundred eighty-eight dollars;

(ii)(A) For nonresident undergraduate students and other nonresident students at the University of Washington not in graduate ((study)), law, or first professional programs ((or enrolled in programs leading to the degrees of doctor of medicine, doctor of dental surgery, and doctor of veterinary medicine, eight thousand two hundred sixty-eight)), ten thousand two hundred seventy-eight dollars;

(B) For nonresident undergraduate students and other nonresident students at Washington State University not in graduate or first professional programs, nine thousand eight hundred seventy dollars;

(iii) For resident graduate ~~((and law))~~ students ~~((not enrolled in programs leading to the degrees of doctor of medicine, doctor of dental surgery, and doctor of veterinary medicine))~~, ~~four thousand ((four hundred ninety))~~ eight hundred fifty-four dollars;

(iv) For nonresident graduate ~~((and law))~~ students ~~((not enrolled in programs leading to the degrees of doctor of medicine, doctor of dental surgery, and doctor of veterinary medicine, eleven thousand six hundred thirty-four)),~~ twelve thousand five hundred eighty-eight dollars;

(v) For resident law students, five thousand ten dollars;

(vi) For nonresident law students, twelve thousand nine hundred fifteen dollars;

(vii) For resident first professional students ((enrolled in programs leading to the degrees of doctor of medicine, doctor of dental surgery, and doctor of

~~veterinary medicine, seven thousand four hundred ninety-seven),~~ eight thousand one hundred twelve dollars; and

~~((vi)) (viii) For nonresident first professional students ((enrolled in programs leading to the degrees of doctor of medicine, doctor of dental surgery, and doctor of veterinary medicine, nineteen thousand four hundred thirty-one)),~~ twenty-one thousand twenty-four dollars.

(b) At the regional universities and The Evergreen State College:

(i) For resident undergraduate and all other resident students not in graduate ~~((study))~~ programs, ~~two thousand ((forty-five))~~ two hundred eleven dollars;

(ii) For nonresident undergraduate and all other nonresident students not in graduate ~~((study))~~ programs, ~~((seven thousand nine hundred ninety-two))~~ eight thousand six hundred forty-six dollars;

(iii) For resident graduate students, three thousand ~~((four hundred forty-three))~~ seven hundred twenty-six dollars; and

(iv) For nonresident graduate students, eleven thousand ~~((seventy-one))~~ nine hundred seventy-six dollars.

(c) At the community colleges:

(i) For resident students, one thousand ~~((two hundred twelve))~~ three hundred eleven dollars; and

(ii) For nonresident students, five thousand ~~((one hundred sixty-two))~~ five hundred eighty-six dollars ~~((and fifty cents))~~.

(3) Academic year tuition for full-time students at the state's institutions of higher education beginning with the ~~((1996-97))~~ 1998-99 academic year, other than the summer term, shall be as provided in this subsection unless different rates are adopted in the omnibus appropriations act.

(a) At the University of Washington and Washington State University:

(i) For resident undergraduate students and other resident students not in graduate ~~((study)), law, or first professional~~ programs ~~((or enrolled in programs leading to the degrees of doctor of medicine, doctor of dental surgery, and doctor of veterinary medicine, two thousand eight hundred seventy-five)),~~ three thousand one hundred eight dollars;

(ii)(A) For nonresident undergraduate students and other nonresident students at the University of Washington not in graduate ~~((study)), law, or first professional~~ programs ~~((or enrolled in programs leading to the degrees of doctor of medicine, doctor of dental surgery, and doctor of veterinary medicine, nine thousand four hundred ninety-one)),~~ eleven thousand one hundred thirty dollars;

(B) For nonresident undergraduate students and other nonresident students at Washington State University not in graduate or first professional programs, ten thousand two hundred sixty-six dollars;

(iii) For resident graduate ~~((and law))~~ students ~~((not enrolled in programs leading to the degrees of doctor of medicine, doctor of dental surgery, and doctor of veterinary medicine, four thousand six hundred sixty-nine)),~~ five thousand forty-six dollars;

(iv) For nonresident graduate ~~((and law))~~ students ~~((not enrolled in programs leading to the degrees of doctor of medicine, doctor of dental surgery, and doctor of veterinary medicine, twelve thousand one hundred))~~, thirteen thousand ninety-two dollars;

(v) For resident law students, five thousand three hundred seventy-six dollars;

(vi) For nonresident law students, thirteen thousand seven hundred eighty-two dollars;

(vii) For resident first professional students ~~((enrolled in programs leading to the degrees of doctor of medicine, doctor of dental surgery, and doctor of veterinary medicine, seven thousand seven hundred ninety-seven))~~, eight thousand four hundred thirty-six dollars; and

~~((v+))~~ (viii) For nonresident first professional students ~~((enrolled in programs leading to the degrees of doctor of medicine, doctor of dental surgery, and doctor of veterinary medicine, twenty thousand two hundred nine))~~, twenty-one thousand eight hundred sixty-four dollars.

(b) At the regional universities and The Evergreen State College:

(i) For resident undergraduate and all other resident students not in graduate ~~((study))~~ programs, two thousand ~~((one hundred twenty-seven))~~ two hundred ninety-eight dollars;

(ii) For nonresident undergraduate and all other nonresident students not in graduate ~~((study))~~ programs, eight thousand ~~((three hundred twelve))~~ nine hundred ninety-one dollars;

(iii) For resident graduate students, three thousand ~~((five hundred eighty-one))~~ eight hundred seventy-six dollars; and

(iv) For nonresident graduate students, ~~((eleven thousand five hundred fourteen))~~ twelve thousand four hundred fifty-six dollars.

(c) At the community colleges:

(i) For resident students, one thousand ~~((two hundred sixty-one))~~ three hundred sixty-two dollars; and

(ii) For nonresident students, five thousand ~~((three hundred sixty-nine))~~ eight hundred eight dollars ~~((and fifty cents))~~.

(4) For the 1997-98 and 1998-99 academic years, the University of Washington shall use at least ten percent of the revenue received from the difference between a four percent increase in tuition fees and the actual increase charged to law students to assist needy low and middle-income resident law students. For the 1997-98 and 1998-99 academic years, the University of Washington shall use at least ten percent of the revenue received from the difference between a four percent increase in tuition fees and the actual increase charged to nonresident undergraduate students and all other nonresident students not in graduate, law, or first professional programs to assist needy low and middle-income resident undergraduate students and all other resident students not enrolled in graduate, law, or first professional programs. This requirement is in addition to the deposit requirements of the institutional aid fund under RCW 28B.15.820.

(5) The tuition fees established under this chapter shall not apply to high school students enrolling in ~~((community colleges))~~ participating institutions of higher education under RCW 28A.600.300 through 28A.600.395.

**Sec. 2.** RCW 28B.15.069 and 1995 1st sp.s. c 9 s 5 are each amended to read as follows:

(1) As used in this section, each of the following subsections is a separate tuition category:

(a) Resident undergraduate students and all other resident students not in first professional, graduate, or law programs;

(b) Nonresident undergraduate students and all other nonresident students not in first professional graduate or law programs;

(c) Resident graduate ~~((and law))~~ students;

(d) Resident law students;

(e) Nonresident graduate ~~((and law))~~ students;

~~((e))~~ (f) Nonresident law students;

(g) Resident first professional students; and

~~((f))~~ (h) Nonresident first professional students ~~((in first professional programs))~~.

(2) Unless the context clearly requires otherwise, as used in this section "first professional programs" means programs leading to one of the following degrees: Doctor of medicine, doctor of dental surgery, or doctor of veterinary medicine.

(3) ~~((For the 1995-96 and 1996-97 academic years,))~~ The building fee for each academic year shall be a percentage of total tuition fees. This percentage shall be calculated by the higher education coordinating board and be based on the actual percentage the building fee is of total tuition for each tuition category in the 1994-95 academic year, rounded up to the nearest half percent.

(4) The governing boards of each institution of higher education, except for the technical colleges, shall charge to and collect from each student a services and activities fee. A governing board may increase the existing fee annually, consistent with budgeting procedures set forth in RCW 28B.15.045, by a percentage not to exceed the annual percentage increase in student tuition fees for the applicable tuition category: **PROVIDED**, That such percentage increase shall not apply to that portion of the services and activities fee previously committed to the repayment of bonded debt. The services and activities fee committee provided for in RCW 28B.15.045 may initiate a request to the governing board for a fee increase.

(5) Tuition and services and activities fees consistent with subsection (4) of this section shall be set by the state board for community and technical colleges for community college summer school students unless the community college charges fees in accordance with RCW 28B.15.515.

(6) Subject to the limitations of RCW 28B.15.910, each governing board of a community college may charge such fees for ungraded courses, noncredit courses, community services courses, and self-supporting courses as it, in its

discretion, may determine, consistent with the rules of the state board for community and technical colleges.

Passed the Senate April 26, 1997.

Passed the House April 26, 1997.

Approved by the Governor May 16, 1997.

Filed in Office of Secretary of State May 16, 1997.

---

## CHAPTER 404

[Substitute Senate Bill 6046]

### UNIVERSAL TELECOMMUNICATIONS SERVICE STUDY

AN ACT Relating to a study by the utilities and transportation commission on universal telecommunications service; and creating new sections.

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

NEW SECTION. Sec. 1. The legislature finds that in a competitive telecommunications industry, telecommunications companies may be less inclined to invest in facilities to serve sparsely populated or hard-to-serve areas of the state. The legislature further finds that in order to secure for all consumers of the state the benefits of high quality telecommunications service and evolving telecommunications technology, it is necessary to study the creation of a universal service fund. The purpose of this fund would be to provide an incentive to telecommunications carriers to build facilities to provide universal service and to serve sparsely populated and hard-to-serve areas of the state while preserving to consumers in those areas the availability of telecommunications services at rates which are comparable to rates in urban areas and are affordable.

NEW SECTION. Sec. 2. By January 1, 1998, or within six months of the date the federal communications commission adopts universal service rules as required by the federal telecommunications act of 1996 (110 Stat. 56; P.L. 104-104), whichever is later, the utilities and transportation commission shall study and make recommendations on the future of providing universal telecommunications services in this state. The study shall include at least the following topics: A recommended definition of basic service for telecommunications; an analysis of the range of potential telecommunications carriers, including wireless; an analysis of the proper cost methodologies for determining universal service funding; and options for generating and disbursing universal service funding. The study shall be reported to the energy and utilities committees of the house of representatives and the senate.

Passed the Senate April 19, 1997.

Passed the House April 8, 1997.

Approved by the Governor May 16, 1997.

Filed in Office of Secretary of State May 16, 1997.

---

CHAPTER 405

[Engrossed Substitute Senate Bill 6068]

ADVERTISEMENT OF STATE MEASURES

AN ACT Relating to legal advertising of state measures; and amending RCW 29.27.072 and RCW 29.27.074.

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

Sec. 1. RCW 29.27.072 and 1967 c 96 s 1 are each amended to read as follows:

Subject to the availability of funds appropriated specifically for that purpose, the secretary of state shall ~~((cause))~~ publish notice of the proposed constitutional amendments and ~~((laws authorizing))~~ other state ~~((debts))~~ measures that are to be submitted to the people ~~((to be published at least))~~ at a state general election up to four times during the four weeks ~~((next))~~ immediately preceding ~~((the))~~ that election in every legal newspaper in the state ~~((and))~~. The secretary of state shall supplement this publication ((thereof by)) with an equivalent amount of radio and television ((broadcast as provided in RCW 65.16.130, 65.16.140, and 65.16.150)) advertisements.

Sec. 2. RCW 29.27.074 and 1967 c 96 s 2 are each amended to read as follows:

The newspaper and broadcast notice ((provided for in)) required by Article XXIII, section 1, of the state Constitution and RCW 29.27.072 ((shall)) may set forth all or some of the following information:

- (1) A legal identification of the state measure to be voted upon.
- (2) The official ballot title of such state measure.
- (3) A brief statement explaining the constitutional provision or state law as it presently exists.
- (4) A brief statement explaining the effect of the state measure should it be approved.
- (5) The total number of votes cast for and against the measure in both the state senate and house of representatives.

No individual candidate or incumbent public official may be referred to or identified in these notices or advertisements.

Passed the Senate April 10, 1997.

Passed the House April 18, 1997.

Approved by the Governor May 16, 1997.

Filed in Office of Secretary of State May 16, 1997.

CHAPTER 406

[Engrossed Senate Bill 7900]

MODEL TOXICS CONTROL ACT—MODIFICATIONS

AN ACT Relating to implementing the model toxics control act policy advisory committee recommendations; amending RCW 70.105D.020, 70.105D.030, 70.105D.040, 70.105D.070, and 70.105D.080; and creating a new section.

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

**NEW SECTION. Sec. 1.** The legislature finds that:

(1) Engrossed Substitute House Bill No. 1810 enacted during the 1995 legislative session authorized establishment of the model toxics control act policy advisory committee, a twenty-two member committee representing a broad range of interests including the legislature, agriculture, large and small business, environmental organizations, and local and state government. The committee was charged with the task of providing advice to the legislature and the department of ecology to more effectively implement the model toxics control act, chapter 70.105D RCW.

(2) The committee members committed considerable time and effort to their charge, meeting twenty-six times during 1995 and 1996 to discuss and decide issues. In addition, the committee created four subcommittees that met over sixty times during this same period. There were also numerous working subgroups and drafting committees formed on an ad hoc basis to support the committee's work. Many members of the public also attended these meetings and were provided opportunities to contribute to the committee deliberations.

(3) The policy advisory committee completed its work and submitted a final report to the department of ecology and the legislature on December 15, 1996. That report contains numerous recommendations for statutory changes that were agreed to by consensus of the committee members or obtained broad support of most of the committee members. This act is intended to implement those recommended statutory changes.

**Sec. 2.** RCW 70.105D.020 and 1995 c 70 s 1 are each amended to read as follows:

(1) "Agreed order" means an order issued by the department under this chapter with which the potentially liable person receiving the order agrees to comply. An agreed order may be used to require or approve any cleanup or other remedial actions but it is not a settlement under RCW 70.105D.040(4) and shall not contain a covenant not to sue, or provide protection from claims for contribution, or provide eligibility for public funding of remedial actions under RCW 70.105D.070(2)(d)(xi).

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

(3) "Director" means the director of ecology or the director's designee.

(4) "Facility" means (a) any building, structure, installation, equipment, pipe or pipeline (including any pipe into a sewer or publicly owned treatment works), well, pit, pond, lagoon, impoundment, ditch, landfill, storage container, motor vehicle, rolling stock, vessel, or aircraft, or (b) any site or area where a hazardous substance, other than a consumer product in consumer use, has been deposited, stored, disposed of, or placed, or otherwise come to be located.

(5) "Federal cleanup law" means the federal comprehensive environmental response, compensation, and liability act of 1980, 42 U.S.C. Sec. 9601 et seq., as amended by Public Law 99-499.

(6) "Foreclosure and its equivalents" means purchase at a foreclosure sale, acquisition, or assignment of title in lieu of foreclosure, termination of a lease, or other repossession, acquisition of a right to title or possession, an agreement in satisfaction of the obligation, or any other comparable formal or informal manner, whether pursuant to law or under warranties, covenants, conditions, representations, or promises from the borrower, by which the holder acquires title to or possession of a facility securing a loan or other obligation.

(7) "Hazardous substance" means:

(a) Any dangerous or extremely hazardous waste as defined in RCW 70.105.010 (5) and (6), or any dangerous or extremely dangerous waste designated by rule pursuant to chapter 70.105 RCW;

(b) Any hazardous substance as defined in RCW 70.105.010(14) or any hazardous substance as defined by rule pursuant to chapter 70.105 RCW;

(c) Any substance that, on March 1, 1989, is a hazardous substance under section 101(14) of the federal cleanup law, 42 U.S.C. Sec. 9601(14);

(d) Petroleum or petroleum products; and

(e) Any substance or category of substances, including solid waste decomposition products, determined by the director by rule to present a threat to human health or the environment if released into the environment.

The term hazardous substance does not include any of the following when contained in an underground storage tank from which there is not a release: Crude oil or any fraction thereof or petroleum, if the tank is in compliance with all applicable federal, state, and local law.

(8) "Independent remedial actions" means remedial actions conducted without department oversight or approval, and not under an order, agreed order, or consent decree.

(9) "Holder" means a person who holds indicia of ownership primarily to protect a security interest. A holder includes the initial holder such as the loan originator, any subsequent holder such as a successor-in-interest or subsequent purchaser of the security interest on the secondary market, a guarantor of an obligation, surety, or any other person who holds indicia of ownership primarily to protect a security interest, or a receiver, court-appointed trustee, or other person who acts on behalf or for the benefit of a holder. A holder can be a public or privately owned financial institution, receiver, conservator, loan guarantor, or other similar persons that loan money or guarantee repayment of a loan. Holders typically are banks or savings and loan institutions but may also include others such as insurance companies, pension funds, or private individuals that engage in loaning of money or credit.

((9)) (10) "Indicia of ownership" means evidence of a security interest, evidence of an interest in a security interest, or evidence of an interest in a facility securing a loan or other obligation, including any legal or equitable title to a facility acquired incident to foreclosure and its equivalents. Evidence of such interests ((include[s])) includes, mortgages, deeds of trust, sellers interest in a real estate

contract, liens, surety bonds, and guarantees of obligations, title held pursuant to a lease financing transaction in which the lessor does not select initially the leased facility, or legal or equitable title obtained pursuant to foreclosure and their equivalents. Evidence of such interests also ~~((include{s}))~~ includes assignments, pledges, or other rights to or other forms of encumbrance against the facility that are held primarily to protect a security interest.

~~((+))~~ (11) "Operating a facility primarily to protect a security interest" occurs when all of the following are met: (a) Operating the facility where the borrower has defaulted on the loan or otherwise breached the security agreement; (b) operating the facility to preserve the value of the facility as an ongoing business; (c) the operation is being done in anticipation of a sale, transfer, or assignment of the facility; and (d) the operation is being done primarily to protect a security interest. Operating a facility for longer than one year prior to foreclosure or its equivalents shall be presumed to be operating the facility for other than to protect a security interest.

~~((+))~~ (12) "Owner or operator" means:

(a) Any person with any ownership interest in the facility or who exercises any control over the facility; or

(b) In the case of an abandoned facility, any person who had owned, or operated, or exercised control over the facility any time before its abandonment;

The term does not include:

(i) An agency of the state or unit of local government which acquired ownership or control involuntarily through bankruptcy, tax delinquency, abandonment, or circumstances in which the government involuntarily acquires title. This exclusion does not apply to an agency of the state or unit of local government which has caused or contributed to the release or threatened release of a hazardous substance from the facility; ~~((or))~~

(ii) A person who, without participating in the management of a facility, holds indicia of ownership primarily to protect the person's security interest in the facility. Holders after foreclosure and its equivalent and holders who engage in any of the activities identified in subsection ~~((+))~~ (13)(e) through (g) of this section shall not lose this exemption provided the holder complies with all of the following:

(A) The holder properly maintains the environmental compliance measures already in place at the facility;

(B) The holder complies with the reporting requirements in the rules adopted under this chapter;

(C) The holder complies with any order issued to the holder by the department to abate an imminent or substantial endangerment;

(D) The holder allows the department or potentially liable persons under an order, agreed order, or settlement agreement under this chapter access to the facility to conduct remedial actions and does not impede the conduct of such remedial actions;

(E) Any remedial actions conducted by the holder are in compliance with any preexisting requirements identified by the department, or, if the department has not identified such requirements for the facility, the remedial actions are conducted consistent with the rules adopted under this chapter; and

(F) The holder does not exacerbate an existing release; or

(iii) Any person who has any ownership interest in, operates, or exercises control over real property where a hazardous substance has come to be located solely as a result of migration of the hazardous substance to the real property through the ground water from a source off the property, if:

(A) The person can demonstrate that the hazardous substance has not been used, placed, managed, or otherwise handled on the property in a manner likely to cause or contribute to a release of the hazardous substance that has migrated onto the property;

(B) The person has not caused or contributed to the release of the hazardous substance;

(C) The person does not engage in activities that damage or interfere with the operation of remedial actions installed on the person's property or engage in activities that result in exposure of humans or the environment to the contaminated ground water that has migrated onto the property;

(D) If requested, the person allows the department, potentially liable persons who are subject to an order, agreed order, or consent decree, and the authorized employees, agents, or contractors of each, access to the property to conduct remedial actions required by the department. The person may attempt to negotiate an access agreement before allowing access; and

(E) Legal withdrawal of ground water does not disqualify a person from the exemption in this subsection (12)(b)(iii).

The exemption in (b)(ii) of this subsection (~~((11)(b)(ii))~~) does not apply to holders who cause or contribute to a new release or threatened release or who are otherwise liable under RCW 70.105D.040(1) (b), (c), (d), and (e); provided, however, that a holder shall not lose this exemption if it establishes that any such new release has been remediated according to the requirements of this chapter and that any hazardous substances remaining at the facility after remediation of the new release are divisible from such new release.

~~((12))~~ (13) "Participation in management" means exercising decision-making control over the borrower's operation of the facility, environmental compliance, or assuming or manifesting responsibility for the overall management of the enterprise encompassing the day-to-day decision making of the enterprise.

The term does not include any of the following: (a) A holder with the mere capacity or ability to influence, or the unexercised right to control facility operations; (b) a holder who conducts or requires a borrower to conduct an environmental audit or an environmental site assessment at the facility for which indicia of ownership is held; (c) a holder who requires a borrower to come into compliance with any applicable laws or regulations at the facility for which indicia

of ownership is held; (d) a holder who requires a borrower to conduct remedial actions including setting minimum requirements, but does not otherwise control or manage the borrower's remedial actions or the scope of the borrower's remedial actions except to prepare a facility for sale, transfer, or assignment; (e) a holder who engages in workout or policing activities primarily to protect the holder's security interest in the facility; (f) a holder who prepares a facility for sale, transfer, or assignment or requires a borrower to prepare a facility for sale, transfer, or assignment; (g) a holder who operates a facility primarily to protect a security interest, or requires a borrower to continue to operate, a facility primarily to protect a security interest; and (h) a prospective holder who, as a condition of becoming a holder, requires an owner or operator to conduct an environmental audit, conduct an environmental site assessment, come into compliance with any applicable laws or regulations, or conduct remedial actions prior to holding a security interest is not participating in the management of the facility.

~~((13))~~ (14) "Person" means an individual, firm, corporation, association, partnership, consortium, joint venture, commercial entity, state government agency, unit of local government, federal government agency, or Indian tribe.

~~((14))~~ (15) "Policing activities" means actions the holder takes to insure that the borrower complies with the terms of the loan or security interest or actions the holder takes or requires the borrower to take to maintain the value of the security. Policing activities include: Requiring the borrower to conduct remedial actions at the facility during the term of the security interest; requiring the borrower to comply or come into compliance with applicable federal, state, and local environmental and other laws, regulations, and permits during the term of the security interest; securing or exercising authority to monitor or inspect the facility including on-site inspections, or to monitor or inspect the borrower's business or financial condition during the term of the security interest; or taking other actions necessary to adequately police the loan or security interest such as requiring a borrower to comply with any warranties, covenants, conditions, representations, or promises from the borrower.

~~((15))~~ (16) "Potentially liable person" means any person whom the department finds, based on credible evidence, to be liable under RCW 70.105D.040. The department shall give notice to any such person and allow an opportunity for comment before making the finding, unless an emergency requires otherwise.

~~((16))~~ (17) "Prepare a facility for sale, transfer, or assignment" means to secure access to the facility; perform routine maintenance on the facility; remove inventory, equipment, or structures; properly maintain environmental compliance measures already in place at the facility; conduct remedial actions to clean up releases at the facility; or to perform other similar activities intended to preserve the value of the facility where the borrower has defaulted on the loan or otherwise breached the security agreement or after foreclosure and its equivalents and in anticipation of a pending sale, transfer, or assignment, primarily to protect the

holder's security interest in the facility. A holder can prepare a facility for sale, transfer, or assignment for up to one year prior to foreclosure and its equivalents and still stay within the security interest exemption in subsection ~~((17))~~ (12)(b)(ii) of this section.

~~((17))~~ (18) "Primarily to protect a security interest" means the indicia of ownership is held primarily for the purpose of securing payment or performance of an obligation. The term does not include indicia of ownership held primarily for investment purposes nor indicia of ownership held primarily for purposes other than as protection for a security interest. A holder may have other, secondary reasons, for maintaining indicia of ownership, but the primary reason must be for protection of a security interest. Holding indicia of ownership after foreclosure or its equivalents for longer than five years shall be considered to be holding the indicia of ownership for purposes other than primarily to protect a security interest. For facilities that have been acquired through foreclosure or its equivalents prior to July 23, 1995, this five-year period shall begin as of July 23, 1995.

~~((18))~~ (19) "Public notice" means, at a minimum, adequate notice mailed to all persons who have made timely request of the department and to persons residing in the potentially affected vicinity of the proposed action; mailed to appropriate news media; published in the newspaper of largest circulation in the city or county of the proposed action; and opportunity for interested persons to comment.

~~((19))~~ (20) "Release" means any intentional or unintentional entry of any hazardous substance into the environment, including but not limited to the abandonment or disposal of containers of hazardous substances.

~~((20))~~ (21) "Remedy" or "remedial action" means any action or expenditure consistent with the purposes of this chapter to identify, eliminate, or minimize any threat or potential threat posed by hazardous substances to human health or the environment including any investigative and monitoring activities with respect to any release or threatened release of a hazardous substance and any health assessments or health effects studies conducted in order to determine the risk or potential risk to human health.

~~((21))~~ (22) "Security interest" means an interest in a facility created or established for the purpose of securing a loan or other obligation. Security interests include deeds of trusts, sellers interest in a real estate contract, liens, legal, or equitable title to a facility acquired incident to foreclosure and its equivalents, and title pursuant to lease financing transactions. Security interests may also arise from transactions such as sale and leasebacks, conditional sales, installment sales, trust receipt transactions, certain assignments, factoring agreements, accounts receivable financing arrangements, easements, and consignments, if the transaction creates or establishes an interest in a facility for the purpose of securing a loan or other obligation.

~~((22))~~ (23) "Industrial properties" means properties that are or have been characterized by, or are to be committed to, traditional industrial uses such as

processing or manufacturing of materials, marine terminal and transportation areas and facilities, fabrication, assembly, treatment, or distribution of manufactured products, or storage of bulk materials, that are either:

(a) Zoned for industrial use by a city or county conducting land use planning under chapter 36.70A RCW; or

(b) For counties not planning under chapter 36.70A RCW and the cities within them, zoned for industrial use and adjacent to properties currently used or designated for industrial purposes.

~~((23))~~ (24) "Workout activities" means those actions by which a holder, at any time prior to foreclosure and its equivalents, seeks to prevent, cure, or mitigate a default by the borrower or obligor; or to preserve, or prevent the diminution of, the value of the security. Workout activities include: Restructuring or renegotiating the terms of the security interest; requiring payment of additional rent or interest; exercising forbearance; requiring or exercising rights pursuant to an assignment of accounts or other amounts owed to an obligor; requiring or exercising rights pursuant to an escrow agreement pertaining to amounts owed to an obligor; providing specific or general financial or other advice, suggestions, counseling, or guidance; and exercising any right or remedy the holder is entitled to by law or under any warranties, covenants, conditions, representations, or promises from the borrower.

**Sec. 3.** RCW 70.105D.030 and 1995 c 70 s 2 are each amended to read as follows:

(1) The department may exercise the following powers in addition to any other powers granted by law:

(a) Investigate, provide for investigating, or require potentially liable persons to investigate any releases or threatened releases of hazardous substances, including but not limited to inspecting, sampling, or testing to determine the nature or extent of any release or threatened release. If there is a reasonable basis to believe that a release or threatened release of a hazardous substance may exist, the department's authorized employees, agents, or contractors may enter upon any property and conduct investigations. The department shall give reasonable notice before entering property unless an emergency prevents such notice. The department may by subpoena require the attendance or testimony of witnesses and the production of documents or other information that the department deems necessary;

(b) Conduct, provide for conducting, or require potentially liable persons to conduct remedial actions (including investigations under (a) of this subsection) to remedy releases or threatened releases of hazardous substances. In carrying out such powers, the department's authorized employees, agents, or contractors may enter upon property. The department shall give reasonable notice before entering property unless an emergency prevents such notice. In conducting, providing for, or requiring remedial action, the department shall give preference to permanent

solutions to the maximum extent practicable and shall provide for or require adequate monitoring to ensure the effectiveness of the remedial action;

(c) Indemnify contractors retained by the department for carrying out investigations and remedial actions, but not for any contractor's reckless or wilful misconduct;

(d) Carry out all state programs authorized under the federal cleanup law and the federal resource, conservation, and recovery act, 42 U.S.C. Sec. 690I et seq., as amended;

(e) Classify substances as hazardous substances for purposes of RCW 70.105D.020(7) and classify substances and products as hazardous substances for purposes of RCW 82.21.020(1);

(f) Issue orders or enter into consent decrees or agreed orders that include, or issue written opinions under (i) of this subsection that may be conditioned upon, deed restrictions where necessary to protect human health and the environment from a release or threatened release of a hazardous substance from a facility. Prior to establishing a deed restriction under this subsection, the department shall notify and seek comment from a city or county department with land use planning authority for real property subject to a deed restriction;

(g) Enforce the application of permanent and effective institutional controls that are necessary for a remedial action to be protective of human health and the environment;

(h) Require holders to conduct remedial actions necessary to abate an imminent or substantial endangerment pursuant to RCW 70.105D.020(~~((+H))~~) (12)(b)(ii)(C); (~~and~~)

(i) Provide informal advice and assistance to persons regarding the administrative and technical requirements of this chapter. This may include site-specific advice to persons who are conducting or otherwise interested in independent remedial actions. Any such advice or assistance shall be advisory only, and shall not be binding on the department. As a part of providing this advice and assistance for independent remedial actions, the department may prepare written opinions regarding whether the independent remedial actions or proposals for those actions meet the substantive requirements of this chapter or whether the department believes further remedial action is necessary at the facility. The department may collect, from persons requesting advice and assistance, the costs incurred by the department in providing such advice and assistance; however, the department shall, where appropriate, waive collection of costs in order to provide an appropriate level of technical assistance in support of public participation. The state, the department, and officers and employees of the state are immune from all liability, and no cause of action of any nature may arise from any act or omission in providing, or failing to provide, informal advice and assistance; and

(j) Take any other actions necessary to carry out the provisions of this chapter, including the power to adopt rules under chapter 34.05 RCW.

(2) The department shall immediately implement all provisions of this chapter to the maximum extent practicable, including investigative and remedial actions where appropriate. The department shall adopt, and thereafter enforce, rules under chapter 34.05 RCW to:

(a) Provide for public participation, including at least (i) the establishment of regional citizen's advisory committees, (ii) public notice of the development of investigative plans or remedial plans for releases or threatened releases, and (iii) concurrent public notice of all compliance orders, agreed orders, enforcement orders, or notices of violation;

(b) Establish a hazard ranking system for hazardous waste sites;

(c) Provide for requiring the reporting by an owner or operator of releases of hazardous substances to the environment that may be a threat to human health or the environment within ninety days of discovery, including such exemptions from reporting as the department deems appropriate, however this requirement shall not modify any existing requirements provided for under other laws;

(d) Establish reasonable deadlines not to exceed ninety days for initiating an investigation of a hazardous waste site after the department receives notice or otherwise receives information that the site may pose a threat to human health or the environment and other reasonable deadlines for remedying releases or threatened releases at the site;

~~((+))~~ (e) Publish and periodically update minimum cleanup standards for remedial actions at least as stringent as the cleanup standards under section 121 of the federal cleanup law, 42 U.S.C. Sec. 9621, and at least as stringent as all applicable state and federal laws, including health-based standards under state and federal law; and

~~((e))~~ (f) Apply industrial clean-up standards at industrial properties. Rules adopted under this subsection shall ensure that industrial properties cleaned up to industrial standards cannot be converted to nonindustrial uses without approval from the department. The department may require that a property cleaned up to industrial standards is cleaned up to a more stringent applicable standard as a condition of conversion to a nonindustrial use. Industrial clean-up standards may not be applied to industrial properties where hazardous substances remaining at the property after remedial action pose a threat to human health or the environment in adjacent nonindustrial areas.

(3) Before November 1st of each even-numbered year, the department shall develop, with public notice and hearing, and submit to the ways and means and appropriate standing environmental committees of the senate and house of representatives a ranked list of projects and expenditures recommended for appropriation from both the state and local toxics control accounts. The department shall also provide the legislature and the public each year with an accounting of the department's activities supported by appropriations from the state toxics control account, including a list of known hazardous waste sites and their hazard rankings, actions taken and planned at each site, how the department is

meeting its top two management priorities under RCW 70.105.150, and all funds expended under this chapter.

(4) The department shall establish a scientific advisory board to render advice to the department with respect to the hazard ranking system, cleanup standards, remedial actions, deadlines for remedial actions, monitoring, the classification of substances as hazardous substances for purposes of RCW 70.105D.020(7) and the classification of substances or products as hazardous substances for purposes of RCW 82.21.020(1). The board shall consist of five independent members to serve staggered three-year terms. No members may be employees of the department. Members shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060.

(5) The department shall establish a program to identify potential hazardous waste sites and to encourage persons to provide information about hazardous waste sites.

**Sec. 4.** RCW 70.105D.040 and 1994 c 254 s 4 are each amended to read as follows:

(1) Except as provided in subsection (3) of this section, the following persons are liable with respect to a facility:

(a) The owner or operator of the facility;

(b) Any person who owned or operated the facility at the time of disposal or release of the hazardous substances;

(c) Any person who owned or possessed a hazardous substance and who by contract, agreement, or otherwise arranged for disposal or treatment of the hazardous substance at the facility, or arranged with a transporter for transport for disposal or treatment of the hazardous substances at the facility, or otherwise generated hazardous wastes disposed of or treated at the facility;

(d) Any person (i) who accepts or accepted any hazardous substance for transport to a disposal, treatment, or other facility selected by such person from which there is a release or a threatened release for which remedial action is required, unless such facility, at the time of disposal or treatment, could legally receive such substance; or (ii) who accepts a hazardous substance for transport to such a facility and has reasonable grounds to believe that such facility is not operated in accordance with chapter 70.105 RCW; and

(e) Any person who both sells a hazardous substance and is responsible for written instructions for its use if (i) the substance is used according to the instructions and (ii) the use constitutes a release for which remedial action is required at the facility.

(2) Each person who is liable under this section is strictly liable, jointly and severally, for all remedial action costs and for all natural resource damages resulting from the releases or threatened releases of hazardous substances. The attorney general, at the request of the department, is empowered to recover all costs and damages from persons liable therefor.

(3) The following persons are not liable under this section:

(a) Any person who can establish that the release or threatened release of a hazardous substance for which the person would be otherwise responsible was caused solely by:

(i) An act of God;

(ii) An act of war; or

(iii) An act or omission of a third party (including but not limited to a trespasser) other than (A) an employee or agent of the person asserting the defense, or (B) any person whose act or omission occurs in connection with a contractual relationship existing, directly or indirectly, with the person asserting this defense to liability. This defense only applies where the person asserting the defense has exercised the utmost care with respect to the hazardous substance, the foreseeable acts or omissions of the third party, and the foreseeable consequences of those acts or omissions;

(b) Any person who is an owner, past owner, or purchaser of a facility and who can establish by a preponderance of the evidence that at the time the facility was acquired by the person, the person had no knowledge or reason to know that any hazardous substance, the release or threatened release of which has resulted in or contributed to the need for the remedial action, was released or disposed of on, in, or at the facility. This subsection (b) is limited as follows:

(i) To establish that a person had no reason to know, the person must have undertaken, at the time of acquisition, all appropriate inquiry into the previous ownership and uses of the property, consistent with good commercial or customary practice in an effort to minimize liability. Any court interpreting this subsection (b) shall take into account any specialized knowledge or experience on the part of the person, the relationship of the purchase price to the value of the property if uncontaminated, commonly known or reasonably ascertainable information about the property, the obviousness of the presence or likely presence of contamination at the property, and the ability to detect such contamination by appropriate inspection;

(ii) The defense contained in this subsection (b) is not available to any person who had actual knowledge of the release or threatened release of a hazardous substance when the person owned the real property and who subsequently transferred ownership of the property without first disclosing such knowledge to the transferee;

(iii) The defense contained in this subsection (b) is not available to any person who, by any act or omission, caused or contributed to the release or threatened release of a hazardous substance at the facility;

(c) Any natural person who uses a hazardous substance lawfully and without negligence for any personal or domestic purpose in or near a dwelling or accessory structure when that person is: (i) A resident of the dwelling; (ii) a person who, without compensation, assists the resident in the use of the substance; or (iii) a person who is employed by the resident, but who is not an independent contractor;

(d) Any person who, for the purpose of growing food crops, applies pesticides or fertilizers without negligence and in accordance with all applicable laws and regulations.

(4) There may be no settlement by the state with any person potentially liable under this chapter except in accordance with this section.

(a) The attorney general may agree to a settlement with any potentially liable person only if the department finds, after public notice and any required hearing, that the proposed settlement would lead to a more expeditious cleanup of hazardous substances in compliance with cleanup standards under RCW 70.105D.030(2)(~~(d)~~) (e) and with any remedial orders issued by the department. Whenever practicable and in the public interest, the attorney general may expedite such a settlement with persons whose contribution is insignificant in amount and toxicity. A hearing shall be required only if at least ten persons request one or if the department determines a hearing is necessary.

(h) A settlement agreement under this section shall be entered as a consent decree issued by a court of competent jurisdiction.

(c) A settlement agreement may contain a covenant not to sue only of a scope commensurate with the settlement agreement in favor of any person with whom the attorney general has settled under this section. Any covenant not to sue shall contain a reopener clause which requires the court to amend the covenant not to sue if factors not known at the time of entry of the settlement agreement are discovered and present a previously unknown threat to human health or the environment.

(d) A party who has resolved its liability to the state under this section shall not be liable for claims for contribution regarding matters addressed in the settlement. The settlement does not discharge any of the other liable parties but it reduces the total potential liability of the others to the state by the amount of the settlement.

(e) If the state has entered into a consent decree with an owner or operator under this section, the state shall not enforce this chapter against any owner or operator who is a successor in interest to the settling party unless under the terms of the consent decree the state could enforce against the settling party, if:

(i) The successor owner or operator is liable with respect to the facility solely due to that person's ownership interest or operator status acquired as a successor in interest to the owner or operator with whom the state has entered into a consent decree; and

(ii) The stay of enforcement under this subsection does not apply if the consent decree was based on circumstances unique to the settling party that do not exist with regard to the successor in interest, such as financial hardship. For consent decrees entered into before the effective date of this section, at the request of a settling party or a potential successor owner or operator, the attorney general shall issue a written opinion on whether a consent decree contains such unique circumstances. For all other consent decrees, such unique circumstances shall be specified in the consent decree.

(f) Any person who is not subject to enforcement by the state under (e) of this subsection is not liable for claims for contribution regarding matters addressed in the settlement.

(5)(a) In addition to the settlement authority provided under subsection (4) of this section, the attorney general may agree to a settlement with a person not currently liable for remedial action at a facility who proposes to purchase, redevelop, or reuse the facility, provided that:

~~((a) The settlement will provide a substantial public benefit, including but not limited to the reuse of a vacant or abandoned manufacturing or industrial facility, or the development of a facility by a governmental entity to address an important public purpose;~~

—(b)) (i) The settlement will yield substantial new resources to facilitate cleanup;

((e)) (ii) The settlement will expedite remedial action consistent with the rules adopted under this chapter; and

((d)) (iii) Based on available information, the department determines that the redevelopment or reuse of the facility is not likely to contribute to the existing release or threatened release, interfere with remedial actions that may be needed at the site, or increase health risks to persons at or in the vicinity of the site.

(b) The legislature recognizes that the state does not have adequate resources to participate in all property transactions involving contaminated property. The primary purpose of this subsection (5) is to promote the cleanup and reuse of vacant or abandoned commercial or industrial contaminated property. The attorney general and the department may give priority to settlements that will provide a substantial public benefit, including, but not limited to the reuse of a vacant or abandoned manufacturing or industrial facility, or the development of a facility by a governmental entity to address an important public purpose.

(6) Nothing in this chapter affects or modifies in any way any person's right to seek or obtain relief under other statutes or under common law, including but not limited to damages for injury or loss resulting from a release or threatened release of a hazardous substance. No settlement by the department or remedial action ordered by a court or the department affects any person's right to obtain a remedy under common law or other statutes.

Sec. 5. RCW 70.105D.070 and 1994 c 252 s 5 are each amended to read as follows:

(1) The state toxics control account and the local toxics control account are hereby created in the state treasury.

(2) The following moneys shall be deposited into the state toxics control account: (a) Those revenues which are raised by the tax imposed under RCW 82.21.030 and which are attributable to that portion of the rate equal to thirty-three one-hundredths of one percent; (b) the costs of remedial actions recovered under this chapter or chapter 70.105A RCW; (c) penalties collected or recovered under this chapter; and (d) any other money appropriated or transferred to the account by

the legislature. Moneys in the account may be used only to carry out the purposes of this chapter, including but not limited to the following activities:

(i) The state's responsibility for hazardous waste planning, management, regulation, enforcement, technical assistance, and public education required under chapter 70.105 RCW;

(ii) The state's responsibility for solid waste planning, management, regulation, enforcement, technical assistance, and public education required under chapter 70.95 RCW;

(iii) The hazardous waste cleanup program required under this chapter;

(iv) State matching funds required under the federal cleanup law;

(v) Financial assistance for local programs in accordance with chapters 70.95, 70.95C, 70.95I, and 70.105 RCW;

(vi) State government programs for the safe reduction, recycling, or disposal of hazardous wastes from households, small businesses, and agriculture;

(vii) Hazardous materials emergency response training;

(viii) Water and environmental health protection and monitoring programs;

(ix) Programs authorized under chapter 70.146 RCW;

(x) A public participation program, including regional citizen advisory committees;

(xi) Public funding to assist potentially liable persons to pay for the costs of remedial action in compliance with cleanup standards under RCW 70.105D.030(2)(~~(d)~~) (e) but only when the amount and terms of such funding are established under a settlement agreement under RCW 70.105D.040(4) and when the director has found that the funding will achieve both (A) a substantially more expeditious or enhanced cleanup than would otherwise occur, and (B) the prevention or mitigation of unfair economic hardship; and

(xii) Development and demonstration of alternative management technologies designed to carry out the top two hazardous waste management priorities of RCW 70.105.150.

(3) The following moneys shall be deposited into the local toxics control account: Those revenues which are raised by the tax imposed under RCW 82.21.030 and which are attributable to that portion of the rate equal to thirty-seven one-hundredths of one percent.

(a) Moneys deposited in the local toxics control account shall be used by the department for grants or loans to local governments for the following purposes in descending order of priority: (i) Remedial actions; (ii) hazardous waste plans and programs under chapter 70.105 RCW; and (iii) solid waste plans and programs under chapters 70.95, 70.95C, 70.95I, and 70.105 RCW. Funds for plans and programs shall be allocated consistent with the priorities and matching requirements established in chapters 70.105, 70.95C, 70.95I, and 70.95 RCW.

(b) Funds may also be appropriated to the department of health to implement programs to reduce testing requirements under the federal safe drinking water act

for public water systems. The department of health shall reimburse the account from fees assessed under RCW 70.119A.115 by June 30, 1995.

(4) Except for unanticipated receipts under RCW 43.79.260 through 43.79.282, moneys in the state and local toxics control accounts may be spent only after appropriation by statute.

(5) One percent of the moneys deposited into the state and local toxics control accounts shall be allocated only for public participation grants to persons who may be adversely affected by a release or threatened release of a hazardous substance and to not-for-profit public interest organizations. The primary purpose of these grants is to facilitate the participation by persons and organizations in the investigation and remedying of releases or threatened releases of hazardous substances and to implement the state's solid and hazardous waste management priorities. No grant may exceed ~~((fifty))~~ sixty thousand dollars ~~((though it))~~. Grants may be renewed annually. Moneys appropriated for public participation from either account which are not expended at the close of any biennium shall revert to the state toxics control account.

(6) No moneys deposited into either the state or local toxics control account may be used for solid waste incinerator feasibility studies, construction, maintenance, or operation.

(7) The department shall adopt rules for grant or loan issuance and performance.

**Sec. 6.** RCW 70.105D.080 and 1993 c 326 s 1 are each amended to read as follows:

Except as provided in RCW 70.105D.040(4) (d) and (f), a person may bring a private right of action, including a claim for contribution or for declaratory relief, against any other person liable under RCW 70.105D.040 for the recovery of remedial action costs. In the action, natural resource damages paid to the state under this chapter may also be recovered. Recovery shall be based on such equitable factors as the court determines are appropriate. Remedial action costs shall include reasonable attorneys' fees and expenses. Recovery of remedial action costs shall be limited to those remedial actions that, when evaluated as a whole, are the substantial equivalent of a department-conducted or department-supervised remedial action. Substantial equivalence shall be determined by the court with reference to the rules adopted by the department under this chapter. An action under this section may be brought after remedial action costs are incurred but must be brought within three years from the date remedial action confirms cleanup standards are met or within one year of May 12, 1993, whichever is later. The prevailing party in such an action shall recover its reasonable attorneys' fees and costs. This section applies to all causes of action regardless of when the cause of action may have arisen. To the extent a cause of action has arisen prior to May 12, 1993, this section applies retroactively, but in all other respects it applies prospectively.

Passed the Senate April 22, 1997.  
Passed the House April 11, 1997.  
Approved by the Governor May 16, 1997.  
Filed in Office of Secretary of State May 16, 1997.

---

## CHAPTER 407

[Substitute House Bill 1592]

### TAX EXEMPTIONS FOR SMALL WATER-SEWER DISTRICTS

AN ACT Relating to tax exemptions for small water districts and systems; adding a new section to chapter 82.04 RCW; adding a new section to chapter 82.16 RCW; creating a new section; and providing expiration dates.

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

**NEW SECTION.** **Sec. 1.** The legislature finds that encouraging water districts to better manage state water resources and encouraging satellite management of failing water systems is in the best interests of the people of Washington state. Continual updates of water quantity and quality, as mandated by federal and state agencies, have revealed that degradation of water quality exists in small water systems throughout the state and that satellite management and consolidation of small systems under a centralized management structure can best utilize existing resources available to assure safe, clean drinking water. The legislature further finds that costs involved in upgrading these small systems can be extremely burdensome to water customers and public water purveyors. With diminishing resources available to these small systems, the legislature finds that granting business and occupation and excise tax relief, under certain conditions, will assist smaller water districts to meet state and federal standards.

**NEW SECTION.** **Sec. 2.** A new section is added to chapter 82.04 RCW to read as follows:

(1) This chapter does not apply to amounts received for water services supplied by a water-sewer district established under Title 57 RCW that has been certified by the department of health as:

- (a) Having less than one thousand five hundred connections; and
- (b) Charging residential water rates that exceed one hundred twenty-five percent of the state-wide average water rate.

(2) This chapter does not apply to amounts received for water services supplied by a water system that has been certified by the department of health as:

(a) Being operated or owned by a qualified satellite management agency under RCW 70.116.134;

- (b) Having less than two hundred connections; and
- (c) Charging residential water rates that exceed one hundred twenty-five percent of the state-wide average water rate.

(3) To receive an exemption under this section, the water system shall supply to the department of health proof that an amount equal to at least 90 percent of the

value of the exemption shall be expended to repair, equip, maintain, and upgrade the water system.

(4) The department of health shall certify to the department of revenue the eligibility of water districts and water systems under this section. In order to determine eligibility, the department of health may use rate information provided in surveys and reports produced by the association of Washington cities, an association of elected officials, or other municipal association to estimate a state-wide average residential water rate. The department of health shall update the estimated state-wide average residential water rate by July 1 of each year that this section remains in effect.

(5) This section expires July 1, 2003.

NEW SECTION. Sec. 3. A new section is added to chapter 82.16 RCW to read as follows:

(1) This chapter does not apply to amounts received for water services supplied by a water-sewer district established under Title 57 RCW that has been certified by the department of health as:

(a) Having less than one thousand five hundred connections; and

(b) Charging residential water rates that exceed one hundred twenty-five percent of the state-wide average water rate.

(2) This chapter does not apply to amounts received for water services supplied by a water system that has been certified by the department of health as:

(a) Being operated or owned by a qualified satellite management agency under RCW 70.116.134;

(b) Having less than two hundred connections; and

(c) Charging residential water rates that exceed one hundred twenty-five percent of the state-wide average water rate.

(3) To receive an exemption under this section, the water system shall supply to the department of health proof that an amount equal to at least 90 percent of the value of the exemption shall be expended to repair; equip, maintain, and upgrade the water system.

(4) The department of health shall certify to the department of revenue the eligibility of water districts and water systems under this section. In order to determine eligibility, the department of health may use rate information provided in surveys and reports produced by the association of Washington cities, an association of elected officials, or other municipal association to estimate a state-wide average residential water rate. The department of health shall update the estimated state-wide average residential water rate by July 1 of each year that this section remains in effect.

(5) This section expires July 1, 2003.

Passed the House April 22, 1997.  
Passed the Senate April 17, 1997.  
Approved by the Governor May 16, 1997.  
Filed in Office of Secretary of State May 16, 1997.

---

**CHAPTER 408**

[Senate Bill 5195]

**BUSINESS AND OCCUPATION TAX EXEMPTION FOR OUT-OF-STATE MEMBERSHIP SALES IN DISCOUNT PROGRAMS**

AN ACT Relating to the taxation of membership sales in discount programs; adding a new section to chapter 82.04 RCW; providing an effective date; and declaring an emergency.

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

**NEW SECTION. Sec. 1.** A new section is added to chapter 82.04 RCW to read as follows:

(1) For the purposes of this section, "qualifying discount program" means a membership program, club, or plan that entitles the member to discounts on services or products sold by others. The term does not include any discount program which in part or in total entitles the member to discounts on services or products sold by the seller of the membership or an affiliate of the seller of the membership. "Affiliate," for the purposes of this section, means any person who directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the seller.

(2) Persons selling memberships in a qualifying discount program are not subject to tax under this chapter on that portion of the membership sales where the seller delivers the membership materials to the purchaser who receives them at a point outside this state.

**NEW SECTION. Sec. 2.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 1997.

Passed the Senate April 21, 1997.  
Passed the House April 14, 1997.  
Approved by the Governor May 16, 1997.  
Filed in Office of Secretary of State May 16, 1997.

---

**CHAPTER 409**

[Engrossed Second Substitute House Bill 1032]

**REGULATORY REFORM**

AN ACT Relating to regulatory reform; amending RCW 76.09.010, 76.09.040, 48.02.060, 48.44.050, 48.46.200, 48.30.010, 34.05.010, 34.05.230, 34.05.325, 34.05.328, 34.05.350, 34.05.354, 82.32.410, 19.85.025, 34.05.570, 34.05.534, 48.04.010, 34.12.040, 34.05.630, 34.05.640, 34.05.655, 34.05.660, 4.84.340, 4.84.350, 4.84.360, 51.04.030, and 50.13.060; reenacting and amending RCW 42.17.260; adding a new section to chapter 43.22 RCW; adding new sections to chapter 34.05 RCW;

adding a new section to chapter 43.17 RCW; adding a new section to chapter 43.05 RCW; creating new sections; and declaring an emergency.

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

**PART I**  
**GRANTS OF RULE-MAKING AUTHORITY**

*\*Sec. 101. RCW 76.09.010 and 1993 c 443 s 1 are each amended to read as follows:*

*(1) The legislature hereby finds and declares that the forest land resources are among the most valuable of all resources in the state; that a viable forest products industry is of prime importance to the state's economy; that it is in the public interest for public and private commercial forest lands to be managed consistent with sound policies of natural resource protection; that coincident with maintenance of a viable forest products industry, it is important to afford protection to forest soils, fisheries, wildlife, water quantity and quality, air quality, recreation, and scenic beauty.*

*(2) The legislature further finds and declares it to be in the public interest of this state to create and maintain through the adoption of this chapter a comprehensive state-wide system of laws and forest practices regulations which will achieve the following purposes and policies:*

*(a) Afford protection to, promote, foster and encourage timber growth, and require such minimum reforestation of commercial tree species on forest lands as will reasonably utilize the timber growing capacity of the soil following current timber harvest;*

*(b) Afford protection to forest soils and public resources by utilizing all reasonable methods of technology in conducting forest practices;*

*(c) Recognize both the public and private interest in the profitable growing and harvesting of timber;*

*(d) Promote efficiency by permitting maximum operating freedom consistent with the other purposes and policies stated herein;*

*(e) Provide for regulation of forest practices so as to avoid unnecessary duplication in such regulation;*

*(f) Provide for interagency input and intergovernmental and tribal coordination and cooperation;*

*(g) Achieve compliance with all applicable requirements of federal and state law with respect to nonpoint sources of water pollution from forest practices;*

*(h) To consider reasonable land use planning goals and concepts contained in local comprehensive plans and zoning regulations; and*

*(i) Foster cooperation among managers of public resources, forest landowners, Indian tribes and the citizens of the state.*

*The authority of the board to adopt forest practices rules is prescribed by this subsection (2) and RCW 76.09.040. After the effective date of this act, the board may not adopt forest practices rules based solely on any other section of*

law stating a statute's intent or purpose, on the enabling provisions of the statute establishing the agency, or on any combination of those provisions.

(3) The legislature further finds and declares that it is also in the public interest of the state to encourage forest landowners to undertake corrective and remedial action to reduce the impact of mass earth movements and fluvial processes.

(4) The legislature further finds and declares that it is in the public interest that the applicants for state forest practice permits should assist in paying for the cost of review and permitting necessary for the environmental protection of these resources.

\*Sec. 101 was vetoed. See message at end of chapter.

\*Sec. 102. RCW 76.09.040 and 1994 c 264 s 48 are each amended to read as follows:

(1) Where necessary to accomplish the purposes and policies specifically stated in RCW 76.09.010(2), and to implement the provisions of this chapter, the board shall ~~((promulgate))~~ adopt forest practices ~~((regulations))~~ rules pursuant to chapter 34.05 RCW and in accordance with the procedures enumerated in this section that:

(a) Establish minimum standards for forest practices;

(b) Provide procedures for the voluntary development of resource management plans which may be adopted as an alternative to the minimum standards in (a) of this subsection if the plan is consistent with the purposes and policies specifically stated in RCW 76.09.010(2) and the plan meets or exceeds the objectives of the minimum standards;

(c) Set forth necessary administrative provisions; and

(d) Establish procedures for the collection and administration of forest practice fees as set forth by this chapter.

Forest practices ~~((regulations))~~ rules pertaining to water quality protection shall be ~~((promulgated))~~ adopted individually by the board and by the department of ecology after they have reached agreement with respect thereto. All other forest practices ~~((regulations))~~ rules shall be ~~((promulgated))~~ adopted by the board.

Forest practices ~~((regulations))~~ rules shall be administered and enforced by the department except as otherwise provided in this chapter. Such ~~((regulations))~~ rules shall be ~~((promulgated))~~ adopted and administered so as to give consideration to all purposes and policies specifically set forth in RCW 76.09.010(2).

(2) The board shall prepare proposed forest practices ~~((regulations))~~ rules. In addition to any forest practices ~~((regulations))~~ rules relating to water quality protection proposed by the board, the department of ecology shall prepare proposed forest practices ~~((regulations))~~ rules relating to water quality protection.

*Prior to initiating the rule making process, the proposed ((regulations)) rules shall be submitted for review and comments to the department of fish and wildlife and to the counties of the state. After receipt of the proposed forest practices ((regulations)) rules, the department of fish and wildlife and the counties of the state shall have thirty days in which to review and submit comments to the board, and to the department of ecology with respect to its proposed ((regulations)) rules relating to water quality protection. After the expiration of such thirty day period the board and the department of ecology shall jointly hold one or more hearings on the proposed ((regulations)) rules pursuant to chapter 34.05 RCW. At such hearing(s) any county may propose specific forest practices ((regulations)) rules relating to problems existing within such county. The board and the department of ecology may adopt such proposals if they find the proposals are consistent with the purposes and policies of this chapter.*

\*Sec. 102 was vetoed. See message at end of chapter.

NEW SECTION. Sec. 103. A new section is added to chapter 43.22 RCW to read as follows:

For rules adopted after the effective date of this act, the director of the department of labor and industries may not rely solely on a statute's statement of intent or purpose, on the enabling provisions of the statute establishing the agency, or on any combination of those provisions, for statutory authority to adopt any rule. This section does not apply to rules adopted under chapter 39.12 RCW.

\*Sec. 104. RCW 48.02.060 and 1947 c 79 s .02.06 are each amended to read as follows:

(1) *The commissioner shall have the authority expressly conferred upon him or her by or reasonably implied from the provisions of this code.*

(2) *The commissioner shall execute his or her duties and shall enforce the provisions of this code.*

(3) *The commissioner may:*

(a) *Make reasonable rules and regulations for effectuating any provision of this code, except those relating to his or her election, qualifications, or compensation. However, the commissioner may not adopt rules after the effective date of this act that are based solely on this statute, or on a statute's statement of intent or purpose, or on the enabling provisions of the statute establishing the agency, or any combination of those provisions, for statutory authority to adopt any rule, except rules defining or clarifying terms in, or procedures necessary to the implementation of a statute. No such rules and regulations shall be effective prior to their being filed for public inspection in the commissioner's office.*

(b) *Conduct investigations to determine whether any person has violated any provision of this code.*

*(c) Conduct examinations, investigations, hearings, in addition to those specifically provided for, useful and proper for the efficient administration of any provision of this code.*

\*Sec. 104 was vetoed. See message at end of chapter.

*\*Sec. 105. RCW 48.44.050 and 1947 c 268 s 5 are each amended to read as follows:*

*The insurance commissioner shall make reasonable regulations in aid of the administration of this chapter which may include, but shall not be limited to regulations concerning the maintenance of adequate insurance, bonds, or cash deposits, information required of registrants, and methods of expediting speedy and fair payments to claimants. However, the commissioner may not adopt rules after the effective date of this act that are based solely on this section, a statute's statement of intent or purpose, or on the enabling provisions of the statute establishing the agency, or any combination of those provisions, for statutory authority to adopt any rule, except rules defining or clarifying terms in, or procedures necessary to the implementation of a statute.*

\*Sec. 105 was vetoed. See message at end of chapter.

*\*Sec. 106. RCW 48.46.200 and 1975 1st ex.s. c 290 s 21 are each amended to read as follows:*

*The commissioner may adopt, in accordance with the provisions of the Administrative Procedure Act, chapter 34.05 RCW, ((promulgate)) rules and regulations as necessary or proper to carry out the provisions of this chapter. However, the commissioner may not adopt rules after the effective date of this act that are based solely on this section, a statute's statement of intent or purpose, or on the enabling provisions of the statute establishing the agency, or any combination of those provisions, for statutory authority to adopt any rule, except rules defining or clarifying terms in, or procedures necessary to the implementation of a statute. Nothing in this chapter shall be construed to prohibit the commissioner from requiring changes in procedures previously approved by ((him)) the commissioner.*

\*Sec. 106 was vetoed. See message at end of chapter.

*Sec. 107. RCW 48.30.010 and 1985 c 264 s 13 are each amended to read as follows:*

(1) No person engaged in the business of insurance shall engage in unfair methods of competition or in unfair or deceptive acts or practices in the conduct of such business as such methods, acts, or practices are defined pursuant to subsection (2) of this section.

(2) In addition to such unfair methods and unfair or deceptive acts or practices as are expressly defined and prohibited by this code, the commissioner may from time to time by regulation promulgated pursuant to chapter 34.05 RCW, define other methods of competition and other acts and practices in the conduct of such business reasonably found by the commissioner to be unfair or deceptive after a

review of all comments received during the notice and comment rule-making period.

(3)(a) In defining other methods of competition and other acts and practices in the conduct of such business to be unfair or deceptive, and after reviewing all comments and documents received during the notice and comment rule-making period, the commissioner shall identify his or her reasons for defining the method of competition or other act or practice in the conduct of insurance to be unfair or deceptive and shall include a statement outlining these reasons as part of the adopted rule.

(b) The commissioner shall include a detailed description of facts upon which he or she relied and of facts upon which he or she failed to rely, in defining the method of competition or other act or practice in the conduct of insurance to be unfair or deceptive, in the concise explanatory statement prepared under RCW 34.05.325(6).

(c) Upon appeal the superior court shall review the findings of fact upon which the regulation is based de novo on the record.

(4) No such regulation shall be made effective prior to the expiration of thirty days after the date of the order by which it is promulgated.

~~((4))~~ (5) If the commissioner has cause to believe that any person is violating any such regulation, the commissioner may order such person to cease and desist therefrom. The commissioner shall deliver such order to such person direct or mail it to the person by registered mail with return receipt requested. If the person violates the order after expiration of ten days after the cease and desist order has been received by him or her, he or she may be fined by the commissioner a sum not to exceed two hundred and fifty dollars for each violation committed thereafter.

~~((5))~~ (6) If any such regulation is violated, the commissioner may take such other or additional action as is permitted under the insurance code for violation of a regulation.

## PART II RULE-MAKING REQUIREMENTS

*\*Sec. 201. RCW 34.05.010 and 1992 c 44 s 10 are each amended to read as follows:*

*The definitions set forth in this section shall apply throughout this chapter, unless the context clearly requires otherwise.*

*(1) "Adjudicative proceeding" means a proceeding before an agency in which an opportunity for hearing before that agency is required by statute or constitutional right before or after the entry of an order by the agency. Adjudicative proceedings also include all cases of licensing and rate making in which an application for a license or rate change is denied except as limited by RCW 66.08.150, or a license is revoked, suspended, or modified, or in which the granting of an application is contested by a person having standing to contest under the law.*

(2) "Agency" means any state board, commission, department, institution of higher education, or officer, authorized by law to make rules or to conduct adjudicative proceedings, except those in the legislative or judicial branches, the governor, or the attorney general except to the extent otherwise required by law and any local governmental entity that may request the appointment of an administrative law judge under chapter 42.41 RCW.

(3) "Agency action" means licensing, the implementation or enforcement of a statute, the adoption or application of an agency rule or order, the imposition of sanctions, or the granting or withholding of benefits.

Agency action does not include an agency decision regarding (a) contracting or procurement of goods, services, public works, and the purchase, lease, or acquisition by any other means, including eminent domain, of real estate, as well as all activities necessarily related to those functions, or (b) determinations as to the sufficiency of a showing of interest filed in support of a representation petition, or mediation or conciliation of labor disputes or arbitration of labor disputes under a collective bargaining law or similar statute, or (c) any sale, lease, contract, or other proprietary decision in the management of public lands or real property interests, or (d) the granting of a license, franchise, or permission for the use of trademarks, symbols, and similar property owned or controlled by the agency.

(4) "Agency head" means the individual or body of individuals in whom the ultimate legal authority of the agency is vested by any provision of law. If the agency head is a body of individuals, a majority of those individuals constitutes the agency head.

(5) "De facto rule" means an issuance not adopted under Part III of this chapter that the agency uses to (a) subject a person to a penalty or administrative sanction; (b) establish, alter, or revoke a procedure, practice, or requirement relating to agency hearings; (c) establish, alter, or revoke a qualification or requirement relating to the enjoyment of a benefit or privilege conferred by law; (d) establish, alter, or revoke a qualification or standard for the issuance, suspension, or revocation of a license to pursue a commercial activity, trade, or profession; or (e) establish, alter, or revoke mandatory standards for a product or material that must be met before distribution or sale. The term does not include (i) statements concerning only the internal management of an agency and not affecting private rights or procedures available to the public, (ii) declaratory rulings issued under RCW 34.05.240, (iii) traffic restrictions for motor vehicles, bicyclists, and pedestrians established by the secretary of transportation or his or her designee where notice of the restrictions is given by official traffic control devices, or (iv) rules of institutions of higher education involving standards of admission, academic advancement, academic credit, graduation and the granting of degrees, employment relationships, or fiscal processes.

**(6) "Entry" of an order means the signing of the order by all persons who are to sign the order, as an official act indicating that the order is to be effective.**

**((6)) (7) "Filing" of a document that is required to be filed with an agency means delivery of the document to a place designated by the agency by rule for receipt of official documents, or in the absence of such designation, at the office of the agency head.**

**((7)) (8) "Institutions of higher education" are the University of Washington, Washington State University, Central Washington University, Eastern Washington University, Western Washington University, The Evergreen State College, the various community colleges, and the governing boards of each of the above, and the various colleges, divisions, departments, or offices authorized by the governing board of the institution involved to act for the institution, all of which are sometimes referred to in this chapter as "institutions."**

**((8)) (9) "Interpretive statement" means a written expression of the opinion of an agency, entitled an interpretive statement by the agency head or its designee, as to the meaning of a statute or other provision of law, of a court decision, or of an agency order.**

**((9)) (10) "Issuance" means a written document of general applicability issued by an agency that is available to the public. It includes, but is not limited to, an agency order of adoption, bulletin, directive, policy statement, interpretive statement, guideline, letter, memorandum, rule, or de facto rule. "Issuance" does not include final agency orders issued after an adjudicative proceeding under Part IV of this chapter, tax determinations of precedential value issued by the department of revenue, documents entitled "technical assistance document," medical coverage decisions, tariffs, or permits.**

**(11)(a) "License" means a franchise, permit, certification, approval, registration, charter, or similar form of authorization required by law, but does not include (i) a license required solely for revenue purposes, or (ii) a certification of an exclusive bargaining representative, or similar status, under a collective bargaining law or similar statute, or (iii) a license, franchise, or permission for use of trademarks, symbols, and similar property owned or controlled by the agency.**

**(b) "Licensing" includes the agency process respecting the issuance, denial, revocation, suspension, or modification of a license.**

**((10)) (12)(a) "Order," without further qualification, means a written statement of particular applicability that finally determines the legal rights, duties, privileges, immunities, or other legal interests of a specific person or persons.**

**(b) "Order of adoption" means the official written statement by which an agency adopts, amends, or repeals a rule.**

**((11)) (13) "Party to agency proceedings," or "party" in a context so indicating, means:**

(a) A person to whom the agency action is specifically directed; or  
 (b) A person named as a party to the agency proceeding or allowed to intervene or participate as a party in the agency proceeding.

~~((12))~~ (14) "Party to judicial review or civil enforcement proceedings," or "party" in a context so indicating, means:

(a) A person who files a petition for a judicial review or civil enforcement proceeding; or

(b) A person named as a party in a judicial review or civil enforcement proceeding, or allowed to participate as a party in a judicial review or civil enforcement proceeding.

~~((13))~~ (15) "Person" means any individual, partnership, corporation, association, governmental subdivision or unit thereof, or public or private organization or entity of any character, and includes another agency.

~~((14))~~ (16) "Policy statement" means a written description of the current approach of an agency, entitled a policy statement by the agency head or its designee, to implementation of a statute or other provision of law, of a court decision, or of an agency order, including where appropriate the agency's current practice, procedure, or method of action based upon that approach.

~~((15))~~ (17) "Rule" means any ~~(agency order, directive, or regulation of general applicability (a) the violation of which subjects a person to a penalty or administrative sanction; (b) which establishes, alters, or revokes any procedure, practice, or requirement relating to agency hearings; (c) which establishes, alters, or revokes any qualification or requirement relating to the enjoyment of benefits or privileges conferred by law; (d) which establishes, alters, or revokes any qualifications or standards for the issuance, suspension, or revocation of licenses to pursue any commercial activity, trade, or profession; or (e) which establishes, alters, or revokes any mandatory standards for any product or material which must be met before distribution or sale))~~ issuance adopted under Part III of this chapter. The term includes the amendment or repeal of a prior rule ~~(; but does not include (i) statements concerning only the internal management of an agency and not affecting private rights or procedures available to the public, (ii) declaratory rulings issued pursuant to RCW 34.05.240, (iii) traffic restrictions for motor vehicles, bicyclists, and pedestrians established by the secretary of transportation or his designee where notice of such restrictions is given by official traffic control devices, or (iv) rules of institutions of higher education involving standards of admission, academic advancement, academic credit, graduation and the granting of degrees, employment relationships, or fiscal processes)).~~

~~((16))~~ (15) "Rules review committee" or "committee" means the joint administrative rules review committee created pursuant to RCW 34.05.610 ~~((for the purpose of selectively reviewing existing and proposed rules of state agencies)).~~

~~((17))~~ **(19)** "Rule making" means the process for formulation and adoption of a rule.

~~((18))~~ **(20)** "Service," except as otherwise provided in this chapter, means posting in the United States mail, properly addressed, postage prepaid, or personal service. Service by mail is complete upon deposit in the United States mail. Agencies may, by rule, authorize service by electronic telefacsimile transmission, where copies are mailed simultaneously, or by commercial parcel delivery company.

\*Sec. 201 was vetoed. See message at end of chapter.

\*Sec. 202. RCW 34.05.230 and 1996 c 206 s 12 are each amended to read as follows:

(1) ((If the adoption of rules is not feasible and practicable;)) An agency may file notice for the expedited adoption of rules in accordance with the procedures set forth in this section for rules meeting any one of the following criteria:

(a) The proposed rules relate only to internal governmental operations that are not subject to violation by a person;

(b) The proposed rules adopt or incorporate by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of state-wide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule;

(c) The proposed rules only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect;

(d) The content of the proposed rules is explicitly and specifically dictated by statute;

(e) The proposed rules have been the subject of negotiated rule making, pilot rule making, or some other process that involved substantial participation by interested parties before the development of the proposed rule; or

(f) The proposed rule is being amended after a review under RCW 34.05.328 or section 210 of this act.

(2) The expedited rule-making process must follow the requirements for rule making set forth in RCW 34.05.320, except that the agency is not required to prepare a small business economic impact statement under RCW 19.85.025, a statement indicating whether the rule constitutes a significant legislative rule under RCW 34.05.328(5)(c)(iii), or a significant legislative rule analysis under RCW 34.05.328. An agency is not required to prepare statements of inquiry under RCW 34.05.310 or conduct a hearing for the expedited adoption of rules. The notice for the expedited adoption of rules must contain a statement in at least ten-point type, that is substantially in the following form:

NOTICE

THIS RULE IS BEING PROPOSED TO BE ADOPTED USING AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS RULE BEING ADOPTED USING THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO (INSERT NAME AND ADDRESS) AND RECEIVED BY (INSERT DATE).

(3) The agency shall send a copy of the notice of the proposed expedited rule making to any person who has requested notification of proposals for the expedited adoption of rules or of agency rule making, as well as the joint administrative rules review committee, within three days after its publication in the Washington State Register. An agency may charge for the actual cost of providing a requesting party mailed copies of these notices. The notice of the proposed expedited rule making must be preceded by a statement substantially in the form provided in subsection (2) of this section. The notice must also include an explanation of the reasons the agency believes the expedited adoption of the rule is appropriate.

(4) The code reviser shall publish the text of all rules proposed for expedited adoption along with the notice required in this section in a separate section of the Washington State Register. Once the text of the proposed rules has been published in the Washington State Register, the only changes that an agency may make in the text of these proposed rules before their final adoption are to correct typographical errors.

(5) Any person may file a written objection to the expedited adoption of a rule. The objection must be filed with the agency rules coordinator within forty-five days after the notice of the proposed expedited rule making has been published in the Washington State Register. A person who has filed a written objection to the expedited adoption of a rule may withdraw the objection.

(6) If no written objections to the expedited adoption of a rule are filed with the agency within forty-five days after the notice of proposed expedited rule making is published, or if all objections that have been filed are withdrawn by the persons filing the objections, the agency may enter an order adopting the rule without further notice or a public hearing. The order must be published in the manner required by this chapter for any other agency order adopting, amending, or repealing a rule.

(7) If a written notice of objection to the expedited adoption of the rule is timely filed with the agency and is not withdrawn, the notice of proposed expedited rule making published under this section is considered a statement of inquiry for the purposes of RCW 34.05.310, and the agency may initiate further rule adoption proceedings in accordance with this chapter.

(8) Subsections (1) through (8) of this section expire on December 31, 2000.

(9) An agency is encouraged to advise the public of its current opinions, approaches, and likely courses of action by means of ~~((interpretive or policy statements. Current interpretive and policy statements))~~ issuances. Unless adopted under Part III of this chapter or exempted under the definition of de facto rule as defined in RCW 34.05.010, these issuances are advisory only. ((To better inform and involve the public, an agency is encouraged to convert long-standing interpretive and policy statements into rules.

~~—(2))~~ (10) A person may petition an agency ((requesting the conversion of interpretive and policy statements into rules)) to adopt an issuance as a rule. Upon submission, the agency shall notify the joint administrative rules review committee of the petition. A person may petition an agency requesting the repeal or withdrawal of an interpretive or policy statement. Within sixty days after submission of ((a)) either type of petition, the agency shall either deny the petition in writing, stating its reasons for the denial, or initiate rule-making proceedings in accordance with this chapter.

~~((3))~~ (11) Each agency shall maintain a roster of interested persons, consisting of persons who have requested in writing to be notified of all interpretive and policy statements issued by that agency. Each agency shall update the roster once each year and eliminate persons who do not indicate a desire to continue on the roster. Whenever an agency issues an interpretive or policy statement, it shall send a copy of the statement to each person listed on the roster. The agency may charge a nominal fee to the interested person for this service.

~~((4))~~ (12) Whenever an agency issues an interpretive or policy statement, it shall submit to the code reviser for publication in the Washington State Register a statement describing the subject matter of the interpretive or policy statement, and listing the person at the agency from whom a copy of the interpretive or policy statement may be obtained.

\*Sec. 202 was partially vetoed. See message at end of chapter.

**\*NEW SECTION.** *Sec. 203. A new section is added to chapter 34.05 RCW under the subchapter heading "Part III" to read as follows:*

*In lieu of regular mail, an agency may send the contents of any notice pertaining to rule making required under this chapter by electronic mail or facsimile mail if requested in writing by the person entitled to receive the notice.*

\*Sec. 203 was vetoed. See message at end of chapter.

**\*Sec. 204.** *RCW 34.05.325 and 1995 c 403 s 304 are each amended to read as follows:*

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

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

(3) *If the agency possesses equipment capable of receiving electronic mail, telefacsimile transmissions, or recorded telephonic communications, the agency ((may)) shall provide in its notice of hearing filed under RCW 34.05.320 that interested parties may comment on proposed rules by these means. If the agency ((chooses)) is able to receive comments by these means, the notice of hearing shall provide instructions for making such comments, including, but not limited to, appropriate telephone numbers to be used; the date and time by which comments must be received; required methods to verify the receipt and authenticity of the comments; and any limitations on the number of pages for telefacsimile transmission or electronic mail comments and on the minutes of tape recorded comments. The agency shall accept comments received by these means for inclusion in the ((official-record)) rule-making file established under RCW 34.05.370 if the comments are made in accordance with the agency's instructions.*

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

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

(6)(a) *Before it files an adopted rule with the code reviser, an agency shall prepare a concise explanatory statement of the rule:*

- (i) *Identifying the agency's reasons for adopting the rule;*
- (ii) *Describing differences between the text of the proposed rule as published in the register and the text of the rule as adopted, other than editing changes, stating the reasons for differences; and*
- (iii) *Summarizing all comments received regarding the proposed rule, and responding to the comments by category or subject matter, indicating how the final rule reflects agency consideration of the comments, or why it fails to do so.*

(b) *The agency shall provide the concise explanatory statement to any person upon request or from whom the agency received comment.*

*\*Sec. 204 was vetoed. See message at end of chapter.*

*\*Sec. 205. RCW 34.05.328 and 1995 c 403 s 201 are each amended to read as follows:*

*(1) Before adopting a rule described in subsection (5) of this section, an agency shall:*

*(a) Clearly state in detail the general goals and specific objectives of the statute that the rule implements;*

*(b) Determine that the rule is needed to achieve the general goals and specific objectives stated under (a) of this subsection, and analyze alternatives to rule making and the consequences of not adopting the rule;*

*(c) Determine that the probable benefits of the rule are greater than its probable costs, taking into account both the qualitative and quantitative benefits and costs and the specific directives of the statute being implemented;*

*(d) Determine, after considering alternative versions of the rule and the analysis required under (b) and (c) of this subsection, that the rule being adopted is the least burdensome alternative for those required to comply with it that will achieve the general goals and specific objectives stated under (a) of this subsection;*

*(e) Determine that the rule does not require those to whom it applies to take an action that violates requirements of another federal or state law;*

*(f) Determine that the rule does not impose more stringent performance requirements on private entities than on public entities unless required to do so by federal or state law;*

*(g) Determine if the rule differs from any federal regulation or statute applicable to the same activity or subject matter and, if so, determine that the difference is justified by the following:*

*(i) A state statute that explicitly allows the agency to differ from federal standards; or*

*(ii) Substantial evidence that the difference is necessary to achieve the general goals and specific objectives stated under (a) of this subsection; and*

*(h) Coordinate the rule, to the maximum extent practicable, with other federal, state, and local laws applicable to the same activity or subject matter.*

*(2) In making its determinations pursuant to subsection (1)(b) through (g) of this section, the agency shall place in the rule-making file documentation of sufficient quantity and quality so as to persuade a reasonable person that the determinations are justified.*

*(3) Before adopting rules described in subsection (5) of this section, an agency shall place in the rule-making file a rule implementation plan for rules filed under each adopting order. The plan shall describe how the agency intends to:*

*(a) Implement and enforce the rule, including a description of the resources the agency intends to use;*

*(b) Inform and educate affected persons about the rule;*

*(c) Promote and assist voluntary compliance; and*

*(d) Evaluate whether the rule achieves the purpose for which it was adopted, including, to the maximum extent practicable, the use of interim milestones to assess progress and the use of objectively measurable outcomes.*

*(4) After adopting a rule described in subsection (5) of this section regulating the same activity or subject matter as another provision of federal or state law, an agency shall do all of the following:*

*(a) Provide to the ~~((business assistance center))~~ department of community, trade, and economic development a list citing by reference the other federal and state laws that regulate the same activity or subject matter;*

*(b) Coordinate implementation and enforcement of the rule with the other federal and state entities regulating the same activity or subject matter by making every effort to do one or more of the following:*

*(i) Deferring to the other entity;*

*(ii) Designating a lead agency; or*

*(iii) Entering into an agreement with the other entities specifying how the agency and entities will coordinate implementation and enforcement.*

*If the agency is unable to comply with this subsection (4)(b), the agency shall report to the legislature pursuant to (c) of this subsection;*

*(c) Report to the joint administrative rules review committee:*

*(i) The existence of any overlap or duplication of other federal or state laws, any differences from federal law, and any known overlap, duplication, or conflict with local laws; and*

*(ii) Make recommendations for any legislation that may be necessary to eliminate or mitigate any adverse effects of such overlap, duplication, or difference.*

*(5)(a) Except as provided in (b) of this subsection, this section applies to:*

*(i) Significant legislative rules of the departments of ecology, labor and industries, health, revenue, social and health services, and natural resources, the employment security department, the forest practices board, the office of the insurance commissioner, and to the legislative rules of the department of fish and wildlife implementing chapter 75.20 RCW; and*

*(ii) Any rule of any agency, if this section is voluntarily made applicable to the rule by the agency, or is made applicable to the rule by a majority vote of the joint administrative rules review committee within ~~((forty-five))~~ ninety days of receiving the notice of proposed rule making under RCW 34.05.320.*

*(b) This section does not apply to:*

*(i) Emergency rules adopted under RCW 34.05.350;*

*(ii) Rules relating only to internal governmental operations that are not subject to violation by a nongovernment party;*

*(iii) Rules adopting or incorporating by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of state-wide significance, or, as referenced by*

*Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule;*

*(iv) Rules that only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect;*

*(v) Rules the content of which is explicitly and specifically dictated by statute; ((or))*

*(vi) Rules that set or adjust fees or rates pursuant to legislative standards;*

*or*

*(vii) Rules of the department of social and health services relating only to client medical or financial eligibility and rules concerning liability for care of dependents.*

*(c) For purposes of this subsection:*

*(i) A "procedural rule" is a rule that adopts, amends, or repeals (A) any procedure, practice, or requirement relating to any agency hearings; (B) any filing or related process requirement for making application to an agency for a license or permit; or (C) any policy statement pertaining to the consistent internal operations of an agency.*

*(ii) An "interpretive rule" is a rule, the violation of which does not subject a person to a penalty or sanction, that sets forth the agency's interpretation of statutory provisions it administers.*

*(iii) A "significant legislative rule" is a rule other than a procedural or interpretive rule that (A) adopts substantive provisions of law pursuant to delegated legislative authority, the violation of which subjects a violator of such rule to a penalty or sanction; (B) establishes, alters, or revokes any qualification or standard for the issuance, suspension, or revocation of a license or permit; or (C) adopts a new, or makes significant amendments to, a policy or regulatory program.*

*(d) In the notice of proposed rule making under RCW 34.05.320, an agency shall state whether this section applies to the proposed rule pursuant to (a)(i) of this subsection, or if the agency will apply this section voluntarily.*

*(6) By January 31, 1996, and by January 31st of each even-numbered year thereafter, the office of financial management, after consulting with state agencies, counties, and cities, and business, labor, and environmental organizations, shall report to the governor and the legislature regarding the effects of this section on the regulatory system in this state. The report shall document:*

*(a) The rules proposed to which this section applied and to the extent possible, how compliance with this section affected the substance of the rule, if any, that the agency ultimately adopted;*

*(b) The costs incurred by state agencies in complying with this section;*

*(c) Any legal action maintained based upon the alleged failure of any agency to comply with this section, the costs to the state of such action, and the result;*

*(d) The extent to which this section has adversely affected the capacity of agencies to fulfill their legislatively prescribed mission;*

*(e) The extent to which this section has improved the acceptability of state rules to those regulated; and*

*(f) Any other information considered by the office of financial management to be useful in evaluating the effect of this section.*

\*Sec. 205 was vetoed. See message at end of chapter.

**NEW SECTION.** Sec. 206. A new section is added to chapter 34.05 RCW under the subchapter heading "Part III" to read as follows:

Each state agency shall prepare a semiannual agenda for rules under development. The agency shall file the agenda with the code reviser for publication in the state register not later than January 31st and July 31st of each year. Not later than three days after its publication in the state register, the agency shall send a copy of the agenda to each person who has requested receipt of a copy of the agenda. The agency shall also submit the agenda to the director of financial management, the rules review committee, and any other state agency that may reasonably be expected to have an interest in the subject of rules that will be developed.

\*Sec. 207. RCW 34.05.350 and 1994 c 249 s 3 are each amended to read as follows:

*(1) If an agency for good cause finds:*

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

*(b) That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule, the agency may dispense with those requirements and adopt, amend, or repeal the rule on an emergency basis. ((The agency's finding and a concise statement of the reasons for its finding shall be incorporated in)) The order for adoption of the emergency rule or amendment filed with the office of the code reviser under RCW 34.05.380 and with the rules review committee must contain the governor's signature approving the adoption of the emergency rule or amendment if immediate adoption is found necessary for the preservation of the general welfare. In that case, the governor shall also include a statement explaining why the rule is necessary for that reason. For all other emergency rules, the order of adoption must contain the agency's finding and a concise statement of the reasons for its finding.*

*(2) An emergency rule adopted under this section takes effect upon filing with the code reviser, unless a later date is specified in the order of adoption, and*

*may not remain in effect for longer than one hundred twenty days after filing. Identical or substantially similar emergency rules may not be adopted in sequence unless conditions have changed or the agency has filed notice of its intent to adopt the rule as a permanent rule, and is actively undertaking the appropriate procedures to adopt the rule as a permanent rule. This section does not relieve any agency from compliance with any law requiring that its permanent rules be approved by designated persons or bodies before they become effective.*

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

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

\*Sec. 207 was vetoed. See message at end of chapter.

**Sec. 208.** RCW 34.05.354 and 1995 c 403 s 701 are each amended to read as follows:

(1) Not later than ~~((June 30th))~~ April 1st or October 1st of each year, each agency shall submit to the code reviser, according to procedures and time lines established by the code reviser, rules that it determines should be repealed by the expedited repeal procedures provided for in this section. An agency shall file a copy of a preproposal notice of inquiry, as provided in RCW 34.05.310(1), that identifies the rule as one that is proposed for expedited repeal.

(2) An agency may propose the expedited repeal of rules meeting one or more of the following criteria:

(a) The statute on which the rule is based has been repealed and has not been replaced by another statute providing statutory authority for the rule;

(b) The statute on which the rule is based has been declared unconstitutional by a court with jurisdiction, there is a final judgment, and no statute has been enacted to replace the unconstitutional statute;

(c) The rule is no longer necessary because of changed circumstances; or

(d) Other rules of the agency or of another agency govern the same activity as the rule, making the rule redundant.

(3) The agency shall also send a copy of the preproposal notice of inquiry to any person who has requested notification of copies of proposals for the expedited repeal of rules or of agency rule making. The preproposal notice of inquiry shall

include a statement that any person who objects to the repeal of the rule must file a written objection to the repeal within thirty days after the preproposal notice of inquiry is published. The notice of inquiry shall also include an explanation of the reasons the agency believes the expedited repeal of the rule is appropriate.

(4) The code reviser shall publish all rules proposed for expedited repeal in a separate section of a regular edition of the Washington state register or in a special edition of the Washington state register. The publication shall be not later than ~~((July))~~ May 31st or November 30th of each year, or in the first register published after that date.

(5) Any person may file a written objection to the expedited repeal of a rule. The notice shall be filed with the agency rules coordinator within thirty days after the notice of inquiry has been published in the Washington state register. The written objection need not state any reason for objecting to the expedited repeal of the rule.

(6) If no written objections to the expedited repeal of a rule are filed with the agency within thirty days after the preproposal notice of inquiry is published, the agency may enter an order repealing the rule without further notice or an opportunity for a public hearing. The order shall be published in the manner required by this chapter for any other order of the agency adopting, amending, or repealing a rule. If a written objection to the expedited repeal of the rule is filed with the agency within thirty days after the notice of inquiry has been published, the preproposal notice of inquiry published pursuant to this section shall be considered a preproposal notice of inquiry for the purposes of RCW 34.05.310(1) and the agency may initiate rule adoption proceedings in accordance with the provisions of this chapter.

**NEW SECTION.** **Sec. 209.** The legislature finds that rules existing as of the effective date of this act may be unclear or difficult to understand; written or being implemented in a way that does not conform with the intent of the legislature as expressed by the statute that the rule implements; duplicative of, inconsistent with, or in conflict with other state, federal, or local rules or statutes; excessively costly or outdated in the methods prescribed; unauthorized because the authorizing statute has since been repealed or amended; or no longer necessary to meet the purposes of the statute that it implements. The legislature further finds that the review of existing rules is a critical undertaking that is necessary to address these and other deficiencies.

The legislature acknowledges the special nature of the relationship between the legislative and executive branches of government, the cooperation between both of which is essential to the just and efficient administration of the laws of this state.

The legislature further acknowledges the governor's Executive Order 97-02, which provides for executive review of existing rules of agencies the heads of which are appointed by and serve at the pleasure of the governor. The legislature encourages not only these but all agencies to establish a formal and expeditious

process for the review of existing rules in consideration of the aforementioned deficiencies in the rules of all state agencies and their interactions with each other.

***\*NEW SECTION. Sec. 210. A new section is added to chapter 34.05 RCW under the subchapter heading "Part III" to read as follows:***

***(1) No rule, adopted by any agency after the effective date of this act, is effective for more than seven years after the rule is adopted, unless the rule has been reviewed under the procedure in this subsection. An agency shall review a rule to evaluate:***

- (a) Achievement of the goals and objectives of the rule;***
- (b) Technological changes that impact the implementation of or compliance with the rule;***
- (c) Controversy surrounding the implementation or enforcement of the rule, stating the nature of the controversy;***
- (d) The outcome of any court challenges to the validity of the rule or its authority to draft the rule;***
- (e) Actual costs or changes undergone by the regulated community; and***
- (f) Laws or other rules passed since the rule was adopted that are in conflict, impact its implementation, or render the rule obsolete.***

***The agency shall place in a rules review file documentation sufficient to show that the agency conducted the review under this section.***

***(2) Those rules certified to the legislature by the governor to have undergone executive rules review by July 31, 2001, are subject to review under subsection (1) of this section beginning July 31, 2001, and may be effective for no more than seven years after that date unless so reviewed.***

***\*Sec. 210 was vetoed. See message at end of chapter.***

**Sec. 211. RCW 82.32.410 and 1991 c 330 s 2 are each amended to read as follows:**

- (1) The director may designate certain written determinations as precedents.**
  - (a) By rule adopted pursuant to chapter 34.05 RCW, the director shall adopt criteria which he or she shall use to decide whether a determination is precedential. These criteria shall include, but not be limited to, whether the determination clarifies an unsettled interpretation of Title 82 RCW or where the determination modifies or clarifies an earlier interpretation.**
  - (b) Written determinations designated as precedents by the director shall be indexed by subject matter. The determinations and indexes shall be made available for public inspection and shall be published by the department.**
  - (c) The department shall disclose any written determination upon which it relies to support any assessment of tax, interest, or penalty against such taxpayer, after making the deletions provided by subsection (2) of this section.**
- (2) Before making a written determination available for public inspection under subsection (1) of this section, the department shall delete:**

(a) The names, addresses, and other identifying details of the person to whom the written determination pertains and of another person identified in the written determination; and

(b) Information the disclosure of which is specifically prohibited by any statute applicable to the department of revenue, and the department may also delete other information exempted from disclosure by chapter 42.17 RCW or any other statute applicable to the department of revenue.

**Sec. 212.** RCW 19.85.025 and 1995 c 403 s 401 are each amended to read as follows:

(1) Unless an agency receives a written objection to the expedited repeal of a rule, this chapter does not apply to a rule proposed for expedited repeal pursuant to RCW 34.05.354. If an agency receives a written objection to expedited repeal of the rule, this chapter applies to the rule-making proceeding.

(2) This chapter does not apply to a rule proposed for expedited adoption under RCW 34.05.230 (1) through (8), unless a written objection is timely filed with the agency and the objection is not withdrawn.

(3) This chapter does not apply to the adoption of a rule described in RCW 34.05.310(4).

~~((3))~~ (4) An agency is not required to prepare a separate small business economic impact statement under RCW 19.85.040 if it prepared an analysis under RCW 34.05.328 that meets the requirements of a small business economic impact statement, and if the agency reduced the costs imposed by the rule on small business to the extent required by RCW 19.85.030(3). The portion of the analysis that meets the requirements of RCW 19.85.040 shall be filed with the code reviser and provided to any person requesting it in lieu of a separate small business economic impact statement.

**NEW SECTION. Sec. 213.** (1) The legislature finds that there are state rules on the same subject adopted by more than one state agency. The legislature further finds that this situation places an undue hardship on those regulated by rules issued by more than one state agency on the same subject since the regulated individuals must determine what the combined requirements of the rules from the multiple agencies are and how to comply with the requirements of one agency without violating the requirements of another agency.

(2) The governor or his or her designee shall present to the legislature a plan for the design and implementation of a pilot project on a single subject for the consolidation of all rules adopted by any state agency that regulate that same activity or subject matter. The goal of the pilot project is to consolidate these rules into one rule or set of rules that will be the sole and conclusive source of all regulation affecting that activity or subject matter.

The governor or his or her designee shall present the plan for the pilot project to the legislature no later than November 30, 1997.

**PART III  
JUDICIAL REVIEW**

*\*Sec. 301. RCW 34.05.570 and 1995 c 403 s 802 are each amended to read as follows:*

*(1) Generally. Except to the extent that this chapter or another statute provides otherwise:*

*(a) Except as provided in subsection (2) of this section, the burden of demonstrating the invalidity of agency action is on the party asserting invalidity;*

*(b) The validity of agency action shall be determined in accordance with the standards of review provided in this section, as applied to the agency action at the time it was taken;*

*(c) The court shall make a separate and distinct ruling on each material issue on which the court's decision is based; and*

*(d) The court shall grant relief only if it determines that a person seeking judicial relief has been substantially prejudiced by the action complained of.*

*(2) Review of rules. (a) A rule may be reviewed by petition for declaratory judgment filed pursuant to this subsection or in the context of any other review proceeding under this section. In an action challenging the validity of a rule, the agency shall be made a party to the proceeding.*

*(b) The validity of any rule may be determined upon petition for a declaratory judgment addressed to the superior court of Thurston county, when it appears that the rule, or its threatened application, interferes with or impairs or immediately threatens to interfere with or impair the legal rights or privileges of the petitioner. When the validity of a rule is challenged, after the petitioner has identified the defects in the rule, the burden of going forward with the evidence is on the agency. The declaratory judgment order may be entered whether or not the petitioner has first requested the agency to pass upon the validity of the rule in question.*

*(c) In a proceeding involving review of a rule, the court shall declare the rule invalid only if it finds that: The rule violates constitutional provisions; the rule exceeds the statutory authority of the agency; the rule was adopted without compliance with statutory rule-making procedures; or the rule is arbitrary and capricious.*

*(3) Review of agency orders in adjudicative proceedings. The court shall grant relief from an agency order in an adjudicative proceeding only if it determines that:*

*(a) The order, or the statute or rule on which the order is based, is in violation of constitutional provisions on its face or as applied;*

*(b) The order is outside the statutory authority or jurisdiction of the agency conferred by any provision of law;*

*(c) The agency has engaged in unlawful procedure or decision-making process, or has failed to follow a prescribed procedure;*

*(d) The agency has erroneously interpreted or applied the law;*

*(e) The order is not supported by evidence that is substantial when viewed in light of the whole record before the court, which includes the agency record for judicial review, supplemented by any additional evidence received by the court under this chapter;*

*(f) The agency has not decided all issues requiring resolution by the agency;*

*(g) A motion for disqualification under RCW 34.05.425 or 34.12.050 was made and was improperly denied or, if no motion was made, facts are shown to support the grant of such a motion that were not known and were not reasonably discoverable by the challenging party at the appropriate time for making such a motion;*

*(h) The order is inconsistent with a rule of the agency unless the agency explains the inconsistency by stating facts and reasons to demonstrate a rational basis for inconsistency; ((or))*

*(i) The order is arbitrary or capricious; or*

*(j) The order is based on a de facto rule.*

*(4) Review of other agency action.*

*(a) All agency action not reviewable under subsection (2) or (3) of this section shall be reviewed under this subsection.*

*(b) A person whose rights are violated by an agency's failure to perform a duty that is required by law to be performed may file a petition for review pursuant to RCW 34.05.514, seeking an order pursuant to this subsection requiring performance. Within twenty days after service of the petition for review, the agency shall file and serve an answer to the petition, made in the same manner as an answer to a complaint in a civil action. The court may hear evidence, pursuant to RCW 34.05.562, on material issues of fact raised by the petition and answer.*

*(c) Relief for persons aggrieved by the performance of an agency action, including the exercise of discretion, or an action under (b) of this subsection can be granted only if the court determines that the action is:*

*(i) Unconstitutional;*

*(ii) Outside the statutory authority of the agency or the authority conferred by a provision of law;*

*(iii) Arbitrary or capricious; ((or))*

*(iv) Taken by persons who were not properly constituted as agency officials lawfully entitled to take such action; or*

*(v) Based on a de facto rule.*

\*Sec. 301 was vetoed. See message at end of chapter.

Sec. 302. RCW 34.05.534 and 1995 c 403 s 803 are each amended to read as follows:

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

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

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

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

(a) The remedies would be patently inadequate;

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

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

*\*Sec. 303. RCW 48.04.010 and 1990 1st ex.s. c 3 s 1 are each amended to read as follows:*

*(1) The commissioner may hold a hearing for any purpose within the scope of this code as he or she may deem necessary. The commissioner shall hold a hearing:*

*(a) If required by any provision of this code; or*

*(b) Upon written demand for a hearing made by any person aggrieved by any act, threatened act, or failure of the commissioner to act, if such failure is deemed an act under any provision of this code, or by any report, promulgation, or order of the commissioner other than an order on a hearing of which such person was given actual notice or at which such person appeared as a party, or order pursuant to the order on such hearing.*

*(2) Any such demand for a hearing shall specify in what respects such person is so aggrieved and the grounds to be relied upon as basis for the relief to be demanded at the hearing.*

*(3) Unless a person aggrieved by a written order of the commissioner demands a hearing thereon within ninety days after receiving notice of such order, or in the case of a licensee under Title 48 RCW within ninety days after the commissioner has mailed the order to the licensee at the most recent address shown in the commissioner's licensing records for the licensee, the right to such hearing shall conclusively be deemed to have been waived.*

*(4) If a hearing is demanded by a licensee whose license has been temporarily suspended pursuant to RCW 48.17.540, the commissioner shall hold such hearing demanded within thirty days after receipt of the demand or within thirty days of the effective date of a temporary license suspension issued after such demand, unless postponed by mutual consent.*

(5) A hearing held under this section must be conducted by an administrative law judge unless the person demanding the hearing agrees in writing to have an employee of the commissioner conduct the hearing.

\*Sec. 303 was vetoed. See message at end of chapter.

\*Sec. 304. RCW 34.12.040 and 1981 c 67 s 4 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, whenever a state agency conducts a hearing which is not presided over by officials of the agency who are to render the final decision, the hearing shall be conducted by an administrative law judge assigned under this chapter. In assigning administrative law judges, the chief administrative law judge shall wherever practical ((+)) (a) use personnel having expertise in the field or subject matter of the hearing, and ((2)) (b) assign administrative law judges primarily to the hearings of particular agencies on a long-term basis.

(2) An employee of the office of the insurance commissioner may conduct a hearing as provided in RCW 48.04.010(5).

\*Sec. 304 was vetoed. See message at end of chapter.

#### PART IV LEGISLATIVE REVIEW

\*Sec. 401. RCW 34.05.630 and 1996 c 318 s 4 are each amended to read as follows:

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

(2) ((All agency policy and interpretive statements are subject to selective review by the legislature.

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

((4)) (3) The agency shall consider fully all written and oral submissions regarding (a) whether the rule in question is within the intent of the legislature as expressed by the statute ((which)) that the rule implements, (b) whether the rule was adopted in accordance with all applicable provisions of law, or (c)

*whether ((the agency is using a policy or interpretive statement in place of a)) an agency issuance is a de facto rule.*

*\*Sec. 401 was vetoed. See message at end of chapter.*

*\*Sec. 402. RCW 34.05.640 and 1996 c 318 s 5 are each amended to read as follows:*

*(1) Within seven days of an agency hearing held after notification of the agency by the rules review committee pursuant to RCW 34.05.620 or 34.05.630, the affected agency shall notify the committee of its intended action on a proposed or existing rule or issuance to which the committee objected ((~~or on a committee finding of the agency's failure to adopt rules~~)).*

*(2) If the rules review committee finds by a majority vote of its members: (a) That the proposed or existing rule in question will not be modified, amended, withdrawn, or repealed by the agency so as to conform with the intent of the legislature, (b) that an existing rule was not adopted in accordance with all applicable provisions of law, or (c) that the agency will not modify or withdraw a de facto rule, or replace ((~~the policy or interpretive statement~~)) it with a rule, the rules review committee may, within thirty days from notification by the agency of its intended action, file with the code reviser notice of its objections together with a concise statement of the reasons therefor. Such notice and statement shall also be provided to the agency by the rules review committee.*

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

*(4) The code reviser shall publish transmittals from the rules review committee or the governor issued pursuant to subsection (2) or (3) of this section in the Washington state register and shall publish in the next supplement and compilation of the Washington Administrative Code a reference to the committee's objection or recommended suspension and the governor's action on it and to the issue of the Washington state register in which the full text thereof appears. If the transmittal relates to a de facto rule, the code reviser shall publish the reference within the Washington State Register and the Washington Administrative Code in a location that addresses the most relevant subject matter.*

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

*\*Sec. 402 was vetoed. See message at end of chapter.*

*\*Sec. 403. RCW 34.05.655 and 1996 c 318 s 7 are each amended to read as follows:*

*(1) Any person may petition the rules review committee for a review of a proposed or existing rule or ~~((a policy or interpretive statement))~~ other issuance. Within thirty days of the receipt of the petition, the rules review committee shall acknowledge receipt of the petition and describe any initial action taken. If the rules review committee rejects the petition, a written statement of the reasons for rejection shall be included.*

*(2) A person may petition the rules review committee under subsection (1) of this section requesting review of an existing rule only if the person has petitioned the agency to amend or repeal the rule under RCW 34.05.330(1) and such petition was denied.*

*(3) A petition for review of a rule under subsection (1) of this section shall:*

*(a) Identify with specificity the proposed or existing rule to be reviewed;*

*(b) Identify the specific statute identified by the agency as authorizing the rule, the specific statute which the rule interprets or implements, and, if applicable, the specific statute the department is alleged not to have followed in adopting the rule;*

*(c) State the reasons why the petitioner believes that the rule is not within the intent of the legislature, or that its adoption was not or is not in accordance with law, and provide documentation to support these statements;*

*(d) Identify any known judicial action regarding the rule or statutes identified in the petition.*

*A petition to review an existing rule shall also include a copy of the agency's denial of a petition to amend or repeal the rule issued under RCW 34.05.330(1) and, if available, a copy of the governor's denial issued under RCW 34.05.330(3).*

*(4) A petition for review of ~~((a policy or interpretive statement))~~ an issuance other than a proposed or existing rule under subsection (1) of this section shall:*

*(a) Identify the specific ~~((statement))~~ issuance to be reviewed;*

*(b) ~~((Identify the specific statute which the rule interprets or implements;~~*

*—(c)) State the reasons why the petitioner believes that the ~~((statement))~~ issuance meets the definition of a de facto rule under RCW 34.05.010 ~~((and should have been adopted according to the procedures of this chapter));~~*

*~~((d))~~ (c) Identify any known judicial action regarding the ~~((statement))~~ issuance or statutes identified in the petition.*

*(5) Within ninety days of receipt of the petition, the rules review committee shall make a final decision on the rule or other issuance for which the petition for review was not previously rejected.*

*\*Sec. 403 was vetoed. See message at end of chapter.*

*\*Sec. 404. RCW 34.05.660 and 1988 c 288 s 606 are each amended to read as follows:*

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

*(2) If the joint administrative rules review committee recommends to the governor that an existing rule be suspended because it does not conform with the intent of the legislature or was not adopted in accordance with all applicable provisions of law, the recommendation establishes a rebuttable presumption in a proceeding challenging the validity of the rule that the rule is invalid. The burden of demonstrating the validity of the rule is then on the adopting agency.*

*\*Sec. 404 was vetoed. See message at end of chapter.*

## PART V FEES AND EXPENSES

*\*Sec. 501. RCW 4.84.340 and 1995 c 403 s 902 are each amended to read as follows:*

*Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 4.84.340 through 4.84.360.*

*(1) "Agency" means any state board, commission, department, institution of higher education, or officer, authorized by law to make rules or to conduct adjudicative proceedings, except those in the legislative or judicial branches, the governor, or the attorney general except to the extent otherwise required by law.*

*(2) "Agency action" means agency action as defined by chapter 34.05 RCW.*

*(3) "Fees and other expenses" includes the reasonable expenses of expert witnesses, the reasonable cost of a study, analysis, engineering report, test, or project that is found by the court to be necessary for the preparation of the party's case, and reasonable attorneys' fees. Reasonable attorneys' fees shall be based on the prevailing market rates for the kind and quality of services furnished, except that (a) no expert witness shall be compensated at a rate in excess of the highest rates of compensation for expert witnesses paid by the state of Washington, and (b) attorneys' fees shall not be awarded in excess of one hundred fifty dollars per hour unless the court determines that an increase in the cost of living or a special factor, such as the limited availability of qualified attorneys for the proceedings involved, justifies a higher fee.*

*(4) "Judicial review" means ~~(a) judicial review as defined by chapter 34.05 RCW)~~ review of an agency action in the superior court and courts of appeal.*

(5) "Qualified party" means (a) an individual whose net worth did not exceed ~~((one))~~ two million dollars at the time the initial petition for judicial review was filed or (b) a sole owner of an unincorporated business, or a partnership, corporation, association, or organization whose net worth did not exceed ~~((five))~~ seven million dollars at the time the initial petition for judicial review was filed, except that an organization described in section 501(c)(3) of the federal Internal Revenue Code of 1954 as exempt from taxation under section 501(a) of the code and a cooperative association as defined in section 15(a) of the Agricultural Marketing Act (12 U.S.C. 1141j(a)), may be a party regardless of the net worth of such organization or cooperative association.

\*Sec. 501 was vetoed. See message at end of chapter.

\*Sec. 502. RCW 4.84.350 and 1995 c 403 s 903 are each amended to read as follows:

(1) Except as otherwise specifically provided by statute, a court shall award a qualified party that prevails in a judicial review of an agency action fees and other expenses incurred in the judicial review, including reasonable attorneys' fees, unless the court finds that ((the agency action was substantially justified or that)) circumstances make an award grossly unjust. A qualified party shall be considered to have prevailed if the qualified party obtained relief on a significant issue that achieves some benefit that the qualified party sought.

(2) The amount awarded a qualified party under subsection (1) of this section shall not exceed ~~((twenty-five))~~ fifty thousand dollars for the fees and other expenses incurred in superior court, and fifty thousand dollars for the fees and other expenses incurred in each court of appeal to a maximum of seventy-five thousand dollars. Subsection (1) of this section shall not apply unless all parties challenging the agency action are qualified parties. If two or more qualified parties join in an action, the award in total shall not exceed ~~((twenty-five))~~ fifty thousand dollars in the superior court and fifty thousand dollars in each court of appeal to a maximum of seventy-five thousand dollars. The court, in its discretion, may reduce the amount to be awarded pursuant to subsection (1) of this section, or deny any award, to the extent that a qualified party during the course of the proceedings engaged in conduct that unduly or unreasonably protracted the final resolution of the matter in controversy.

\*Sec. 502 was vetoed. See message at end of chapter.

\*Sec. 503. RCW 4.84.360 and 1995 c 403 s 904 are each amended to read as follows:

Fees and other expenses awarded under RCW 4.84.340 and 4.84.350 shall be paid by the agency over which the party prevails from operating funds appropriated to the agency within ~~((sixty days))~~ thirty days of the decision of a superior court or court of appeal. The fees and other expenses must be paid from moneys appropriated to the agency for administration and support services and not out of moneys for program activities or service delivery if the operating budget or budget notes separately designate administration and support services.

*Agencies paying fees and other expenses pursuant to RCW 4.84.340 and 4.84.350 shall report all payments to the office of financial management within five days of paying the fees and other expenses. Fees and other expenses awarded by the court shall be subject to the provisions of chapter 39.76 RCW and shall be deemed payable on the date the court announces the award.*

\*Sec. 503 was vetoed. See message at end of chapter.

## PART VI MISCELLANEOUS

**Sec. 601.** RCW 42.17.260 and 1995 c 397 s 11 and 1995 c 341 s 1 are each reenacted and amended to read as follows:

(1) Each agency, in accordance with published rules, shall make available for public inspection and copying all public records, unless the record falls within the specific exemptions of subsection (6) of this section, RCW 42.17.310, 42.17.315, or other statute which exempts or prohibits disclosure of specific information or records. To the extent required to prevent an unreasonable invasion of personal privacy interests protected by RCW 42.17.310 and 42.17.315, an agency shall delete identifying details in a manner consistent with RCW 42.17.310 and 42.17.315 when it makes available or publishes any public record; however, in each case, the justification for the deletion shall be explained fully in writing.

(2) For informational purposes, each agency shall publish and maintain a current list containing every law, other than those listed in this chapter, that the agency believes exempts or prohibits disclosure of specific information or records of the agency. An agency's failure to list an exemption shall not affect the efficacy of any exemption.

(3) Each local agency shall maintain and make available for public inspection and copying a current index providing identifying information as to the following records issued, adopted, or promulgated after January 1, 1973:

(a) Final opinions, including concurring and dissenting opinions, as well as orders, made in the adjudication of cases;

(b) Those statements of policy and interpretations of policy, statute, and the Constitution which have been adopted by the agency;

(c) Administrative staff manuals and instructions to staff that affect a member of the public;

(d) Planning policies and goals, and interim and final planning decisions;

(e) Factual staff reports and studies, factual consultant's reports and studies, scientific reports and studies, and any other factual information derived from tests, studies, reports, or surveys, whether conducted by public employees or others; and

(f) Correspondence, and materials referred to therein, by and with the agency relating to any regulatory, supervisory, or enforcement responsibilities of the agency, whereby the agency determines, or opines upon, or is asked to determine or opine upon, the rights of the state, the public, a subdivision of state government, or of any private party.

(4) A local agency need not maintain such an index, if to do so would be unduly burdensome, but it shall in that event:

(a) Issue and publish a formal order specifying the reasons why and the extent to which compliance would unduly burden or interfere with agency operations; and

(b) Make available for public inspection and copying all indexes maintained for agency use.

(5) Each state agency shall, by rule, establish and implement a system of indexing for the identification and location of the following records:

(a) All records issued before July 1, 1990, for which the agency has maintained an index;

(b) Final orders entered after June 30, 1990, that are issued in adjudicative proceedings as defined in RCW 34.05.010(~~(+)~~) and that contain an analysis or decision of substantial importance to the agency in carrying out its duties;

(c) Declaratory orders entered after June 30, 1990, that are issued pursuant to RCW 34.05.240 and that contain an analysis or decision of substantial importance to the agency in carrying out its duties;

(d) Interpretive statements as defined in RCW 34.05.010(~~(+)~~) that were entered after June 30, 1990; and

(e) Policy statements as defined in RCW 34.05.010(~~(+)~~) that were entered after June 30, 1990.

Rules establishing systems of indexing shall include, but not be limited to, requirements for the form and content of the index, its location and availability to the public, and the schedule for revising or updating the index. State agencies that have maintained indexes for records issued before July 1, 1990, shall continue to make such indexes available for public inspection and copying. Information in such indexes may be incorporated into indexes prepared pursuant to this subsection. State agencies may satisfy the requirements of this subsection by making available to the public indexes prepared by other parties but actually used by the agency in its operations. State agencies shall make indexes available for public inspection and copying. State agencies may charge a fee to cover the actual costs of providing individual mailed copies of indexes.

(6) A public record may be relied on, used, or cited as precedent by an agency against a party other than an agency and it may be invoked by the agency for any other purpose only if—

(a) It has been indexed in an index available to the public; or

(b) Parties affected have timely notice (actual or constructive) of the terms thereof.

(7) Each agency shall establish, maintain, and make available for public inspection and copying a statement of the actual per page cost or other costs, if any, that it charges for providing photocopies of public records and a statement of the factors and manner used to determine the actual per page cost or other costs, if any.

(a) In determining the actual per page cost for providing photocopies of public records, an agency may include all costs directly incident to copying such public

records including the actual cost of the paper and the per page cost for use of agency copying equipment. In determining other actual costs for providing photocopies of public records, an agency may include all costs directly incident to shipping such public records, including the cost of postage or delivery charges and the cost of any container or envelope used.

(b) In determining the actual per page cost or other costs for providing copies of public records, an agency may not include staff salaries, benefits, or other general administrative or overhead charges, unless those costs are directly related to the actual cost of copying the public records. Staff time to copy and mail the requested public records may be included in an agency's costs.

(8) An agency need not calculate the actual per page cost or other costs it charges for providing photocopies of public records if to do so would be unduly burdensome, but in that event: The agency may not charge in excess of fifteen cents per page for photocopies of public records or for the use of agency equipment to photocopy public records and the actual postage or delivery charge and the cost of any container or envelope used to mail the public records to the requestor.

(9) This chapter shall not be construed as giving authority to any agency, the office of the secretary of the senate, or the office of the chief clerk of the house of representatives to give, sell or provide access to lists of individuals requested for commercial purposes, and agencies, the office of the secretary of the senate, and the office of the chief clerk of the house of representatives shall not do so unless specifically authorized or directed by law: PROVIDED, HOWEVER, That lists of applicants for professional licenses and of professional licensees shall be made available to those professional associations or educational organizations recognized by their professional licensing or examination board, upon payment of a reasonable charge therefor: PROVIDED FURTHER, That such recognition may be refused only for a good cause pursuant to a hearing under the provisions of chapter 34.05 RCW, the Administrative Procedure Act.

**\*Sec. 602. RCW 51.04.030 and 1994 c 164 s 25 are each amended to read as follows:**

***The director shall supervise the providing of prompt and efficient care and treatment, including care provided by physician assistants governed by the provisions of chapters 18.57A and 18.71A RCW, acting under a supervising physician, and including chiropractic care, to workers injured during the course of their employment at the least cost consistent with promptness and efficiency, without discrimination or favoritism, and with as great uniformity as the various and diverse surrounding circumstances and locations of industries will permit and to that end shall, from time to time, establish and adopt and supervise the administration of printed forms, rules, regulations, and practices for the furnishing of such care and treatment: PROVIDED, That, the department may recommend to an injured worker particular health care services and providers where specialized treatment is indicated or where cost effective payment levels or rates are obtained by the department: AND PROVIDED FURTHER, That***

*the department may enter into contracts for goods and services including, but not limited to, durable medical equipment so long as state-wide access to quality service is maintained for injured workers.*

*The director shall, in consultation with interested persons, establish and, in his or her discretion, periodically change as may be necessary, and make available a fee schedule of the maximum charges to be made by any physician, surgeon, chiropractor, hospital, druggist, physicians' assistants as defined in chapters 18.57A and 18.71A RCW, acting under a supervising physician or other agency or person rendering services to injured workers. The department shall coordinate with other state purchasers of health care services to establish as much consistency and uniformity in billing and coding practices as possible, taking into account the unique requirements and differences between programs. No service covered under this title shall be charged or paid at a rate or rates exceeding those specified in such fee schedule, and no contract providing for greater fees shall be valid as to the excess. The establishment of such a schedule, exclusive of conversion factors, does not constitute "agency action" as used in RCW 34.05.010(~~(3)~~), nor does such a fee schedule constitute a "de facto rule" as used in RCW 34.05.010(~~(15)~~).*

*The director or self-insurer, as the case may be, shall make a record of the commencement of every disability and the termination thereof and, when bills are rendered for the care and treatment of injured workers, shall approve and pay those which conform to the adopted rules, regulations, established fee schedules, and practices of the director and may reject any bill or item thereof incurred in violation of the principles laid down in this section or the rules, regulations, or the established fee schedules and rules and regulations adopted under it.*

\*Sec. 602 was vetoed. See message at end of chapter.

**NEW SECTION.** Sec. 603. A new section is added to chapter 43.17 RCW to read as follows:

(1) An agency, prior to releasing a final report or study regarding management by a county, city, town, special purpose district, or other unit of local government of a program delegated to the local government by the agency or for which the agency has regulatory responsibility, shall provide copies of a draft of the report or study at least two weeks in advance of the release of the final report or study to the legislative body of the local government. The agency shall, at the request of a local government legislative body, meet with the legislative body before the release of a final report or study regarding the management of such a program.

(2) For purposes of this section, "agency" means an office, department, board, commission, or other unit of state government, other than a unit of state government headed by a separately elected official.

**\*NEW SECTION.** Sec. 604. A new section is added to chapter 43.05 RCW to read as follows:

*When issuing a citation or other written finding that a person has violated a statute, rule, or order, the agency shall include with the citation or other written finding the text of the specific statute or statutes granting the agency the authority to regulate the subject matter of the citation or other written finding.*

\*Sec. 604 was vetoed. See message at end of chapter.

**Sec. 605.** RCW 50.13.060 and 1996 c 79 s 1 are each amended to read as follows:

(1) Governmental agencies, including law enforcement agencies, prosecuting agencies, and the executive branch, whether state, local, or federal shall have access to information or records deemed private and confidential under this chapter if the information or records are needed by the agency for official purposes and:

(a) The agency submits an application in writing to the employment security department for the records or information containing a statement of the official purposes for which the information or records are needed and specific identification of the records or information sought from the department; and

(b) The director, commissioner, chief executive, or other official of the agency has verified the need for the specific information in writing either on the application or on a separate document; and

(c) The agency requesting access has served a copy of the application for records or information on the individual or employing unit whose records or information are sought and has provided the department with proof of service. Service shall be made in a manner which conforms to the civil rules for superior court. The requesting agency shall include with the copy of the application a statement to the effect that the individual or employing unit may contact the public records officer of the employment security department to state any objections to the release of the records or information. The employment security department shall not act upon the application of the requesting agency until at least five days after service on the concerned individual or employing unit. The employment security department shall consider any objections raised by the concerned individual or employing unit in deciding whether the requesting agency needs the information or records for official purposes.

(2) The requirements of subsections (1) and (8) of this section shall not apply to the state legislative branch. The state legislature shall have access to information or records deemed private and confidential under this chapter, if the legislature or a legislative committee finds that the information or records are necessary and for official purposes. If the employment security department does not make information or records available as provided in this subsection, the legislature may exercise its authority granted by chapter 44.16 RCW.

(3) In cases of emergency the governmental agency requesting access shall not be required to formally comply with the provisions of subsection (1) of this section at the time of the request if the procedures required by subsection (1) of this section are complied with by the requesting agency following the receipt of any records or information deemed private and confidential under this chapter. An emergency is

defined as a situation in which irreparable harm or damage could occur if records or information are not released immediately.

(4) The requirements of subsection (1)(c) of this section shall not apply to governmental agencies where the procedures would frustrate the investigation of possible violations of criminal laws or to the release of employing unit names, addresses, number of employees, and aggregate employer wage data for the purpose of state governmental agencies preparing small business economic impact statements under chapter 19.85 RCW or preparing cost-benefit analyses under RCW 34.05.328(1)(c). Information provided by the department and held to be private and confidential under state or federal laws must not be misused or released to unauthorized parties. A person who misuses such information or releases such information to unauthorized parties is subject to the sanctions in RCW 50.13.080.

(5) Governmental agencies shall have access to certain records or information, limited to such items as names, addresses, social security numbers, and general information about benefit entitlement or employer information possessed by the department, for comparison purposes with records or information possessed by the requesting agency to detect improper or fraudulent claims, or to determine potential tax liability or employer compliance with registration and licensing requirements. In those cases the governmental agency shall not be required to comply with subsection (1)(c) of this section, but the requirements of the remainder of subsection (1) must be satisfied.

(6) Governmental agencies may have access to certain records and information, limited to employer information possessed by the department for purposes authorized in chapter 50.38 RCW. Access to these records and information is limited to only those individuals conducting authorized statistical analysis, research, and evaluation studies. Only in cases consistent with the purposes of chapter 50.38 RCW are government agencies not required to comply with subsection (1)(c) of this section, but the requirements of the remainder of subsection (1) of this section must be satisfied. Information provided by the department and held to be private and confidential under state or federal laws shall not be misused or released to unauthorized parties subject to the sanctions in RCW 50.13.080.

(7) Disclosure to governmental agencies of information or records obtained by the employment security department from the federal government shall be governed by any applicable federal law or any agreement between the federal government and the employment security department where so required by federal law. When federal law does not apply to the records or information state law shall control.

(8) The disclosure of any records or information by a governmental agency which has obtained the records or information under this section is prohibited unless the disclosure is directly connected to the official purpose for which the records or information were obtained.

(9) In conducting periodic salary or fringe benefit studies pursuant to law, the department of personnel shall have access to records of the employment security department as may be required for such studies. For such purposes, the requirements of subsection (1)(c) of this section need not apply.

**NEW SECTION. Sec. 606.** The code reviser shall study the feasibility of accepting agency rule filings in an electronic format. The study must include consideration of the benefits to be achieved by electronic filing compared to the costs that electronic filing would entail. The code reviser may consult with the office of financial management, state agencies, and the general public in conducting the study. The code reviser shall report to the legislature and the governor by July 1, 1998, on the results of this study.

**NEW SECTION. Sec. 607.** Part headings used in this act do not constitute any part of the law.

**NEW SECTION. Sec. 608.** Section 605 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

**NEW SECTION. Sec. 609.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed the House April 21, 1997.

Passed the Senate April 17, 1997.

Approved by the Governor May 19, 1997, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State May 19, 1997.

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

"I am returning herewith, without my approval as to sections 101, 102, 104, 105, 106, 201, 202(9) and (10), 203, 204, 205, 207, 210, 301, 303, 304, 401, 402, 403, 404, 501, 502, 503, 602, and 604, Engrossed Second Substitute House Bill No. 1032 entitled:

"AN ACT Relating to regulatory reform;"

On March 25, 1997, I issued Executive Order 97-02, which set the stage for a thorough review of agency regulations based on need, effectiveness, clarity, statutory intent, coordination and consistency, cost, and fairness. The order also directs agencies to review their reporting requirements for businesses and their policy and interpretive statements and other similar documents. It was not by accident that I chose regulatory reform as the subject of the first executive order of my administration. It is a top priority of my office and all state agencies, and I am firmly committed to ensuring that it results in effective and meaningful regulatory improvements throughout state government.

Despite this demonstrated commitment, the legislature chose to proceed with legislation that in many cases does not measure up to what I consider effective and meaningful regulatory reform. Regulatory reform should reduce inefficiencies, conflicts, and delays in the regulatory process. It should not increase costs, cause inefficiencies, or sacrifice continued protection of our environment and the health and safety of our citizens. While some of the proposals in Engrossed Second Substitute House Bill 1032 meet these goals, many do not.

I have approved a number of provisions in the bill that I hope will improve the regulatory process. Those sections will clarify rule making authority for the Department of Labor and Industries, improve the Insurance Commissioner's procedures for adopting

rules governing unfair practices, and initiate an expedited rule adoption process. Other sections that I have approved will provide better advance notice of rule making, improve opportunities for expedited repeal of rules, encourage all state agencies to engage in a formal rule review process, and provide greater public access to Department of Revenue tax determinations. I have also signed sections that set the stage for possible consolidation of agency rules on the same subject matter, remove legal ambiguities regarding judicial review of rules, provide more local government input on state agency reports, and facilitate the preparation of small business economic impact statements. I applaud the legislature for initiating these improvements to the regulatory process.

However, other sections of the bill are not consistent with meaningful and effective regulatory reform. Sections 101 and 102 would limit the authority of the Forest Practices Board to adopt rules regarding scenic beauty. Proponents argue that these sections merely clarify the current rule making authority of the Board and ensure that its authority is consistent with standards applied to other agencies. In fact, these sections could well be interpreted as a substantive reduction of Board authority and possibly jeopardize ongoing negotiated rule making over sensitive visual impacts in the Columbia River Gorge Scenic Area. For these reasons, I have vetoed sections 101 and 102.

Sections 104 through 106 pose similar risks to the rule making authority of the Office of the Insurance Commissioner, by limiting the general rule making authority of that office. In the insurance code, effective regulatory action and consumer protection depend on a combination of specific statutory directives and general rule making authority. To eliminate general authority, as is proposed in sections 104, 105, and 106, could compromise the capacity of that agency to effectively regulate insurance companies, health care service contractors, and health maintenance organizations. In addition, sections 303 and 304 require the use of administrative law judges for adjudicative proceedings within the Office of the Insurance Commissioner. I have not been presented with sufficient evidence that the current system has created results that were unfair to aggrieved parties. It appears that existing procedures are both cost-effective and efficient. For these reasons, sections 104, 105, 106, 303, and 304 are vetoed.

Section 201 and other related sections in the bill are designed to clarify the difference between rules and other documents that agencies issue. These sections restructure the definition of "rule" within the Administrative Procedure Act (APA). Proponents believe that this language would resolve problems that businesses have when agencies issue policy statements or other documents that should be adopted as rules. I am sympathetic with these concerns and recognize that problems do exist in this area. For that reason, in Executive Order 97-02, I directed agencies to review these kinds of documents with the Attorney General's office and affected members of the regulated community, and take appropriate corrective action. I will be monitoring that effort and will determine if legislation is necessary in 1998.

I believe this problem can be more effectively addressed on an issue-by-issue basis, not by a restructuring of the definition of "rule," as is proposed in this bill. Section 201 could substantially increase rule making in areas where rules may not be the best answer for reasons of cost, timeliness and urgency of the decision, and the sheer number of decisions that must be made in many state programs. Also, sections 202(9) and (10), 301, 401, 402, 403, and 602 contain changes that cross-reference the terms "issuance" or "de facto rule" that are defined only in section 201. Since section 201 is vetoed, these changes would be confusing and obsolete. For these reasons, I have vetoed sections 201, 202(9) and (10), 301, 401, 402, 403, and 602.

Section 203 would authorize agencies to send out the contents of regulatory notices by electronic mail or fax. This was authorized in Substitute House Bill 1323, which I have already signed.

Section 204 mandates that agencies receive and accept comments on proposed rules via voice mail if they have the equipment to receive comments by this method. Current law authorizes agencies to receive comments by voice mail. This is preferable to the mandate contained in section 204.

Section 205 requires the Department of Social and Health Services to adopt a large portion of its rules using significant legislative rule making requirements. This provision is identical to one contained in Substitute House Bill 1076, which I will sign. Section 205

also provides the Joint Administrative Rules Review Committee (JARRC) with 90 days to direct an agency to adopt rules using significant legislative rule making requirements. If an agency completes rule making before the 90 days have elapsed, it is uncertain what the legal effect of the rule would be if JARRC subsequently mandates that the rule should have been adopted under these more stringent requirements. For these reasons, I have vetoed section 205.

Section 207 requires the governor's signature on every emergency rule adopted by all agencies under the general welfare criterion. This section introduces excessive bureaucratic process and paperwork into crucial agency operations. It is also impractical to require the governor to review and approve hundreds of emergency rules, many of which require a same day turn around time. For these reasons, I have vetoed section 207.

Section 210 requires a review of all newly adopted rules within seven years, and a review of existing rules after the governor's rule review is completed. Without this review, the rules would no longer be effective. This section creates a major workload that, in most cases, will duplicate rule review efforts of agencies under Executive Order 97-02. And because the requirement would be part of statutory rule adoption provisions of the APA, it could add substantial legal uncertainty and risk regarding the validity of many rules that may be subject to court challenge. For these reasons, I have vetoed section 210.

Section 301 shifts to agencies the burden of going forward with evidence in rule validity challenges. The purpose of this change is to make it easier for people with limited resources to challenge rules. While I am sympathetic to this concern, there is already provision in the APA to address the problem.

Section 404 gives five members of JARRC the power to establish a rebuttable presumption in judicial proceedings that a rule does not comply with legislative intent or was not adopted in accordance with all applicable provisions of law. The burden of proof to establish the validity of the rule would then fall to the agency, rather than to the person challenging the rule. I have vetoed this section because it violates the state Constitution, which requires that legislative acts be performed by the entire legislature with presentment to the governor for approval. It also raises constitutional separation of powers questions.

Sections 501 through 503 make major changes in the Equal Access to Justice Act, which was recently enacted in 1995 under ESHB 1010. The proposed changes expand the program to judicial review of all agency actions, not just APA issues; modify the standard for allowing attorney's fees; substantially increase awards and the net worth of persons who can qualify for awards; and make other changes regarding the payment of fees. I am not convinced that such changes are justified in a program that is less than two years old and has been applied to only a handful of cases. The current law, with its existing limits and standards, was intended to cure the evils the legislature sought to eliminate. For these reasons, I have vetoed sections 501, 502, and 503.

Finally, section 604 requires that agencies print on their citations the entire text of laws authorizing those citations. This may turn the "ticket books" used by some agencies into rather lengthy treatises.

For these reasons, I have vetoed sections 101,102, 104, 105, 106, 201, 202(9) and (10), 203, 204, 205, 207, 210, 301, 303, 304, 401, 402, 403, 404, 501, 502, 503, 602, and 604 of Engrossed Second Substitute House Bill 1032.

With the exceptions of sections 101,102, 104, 105, 106, 201, 202(9) and (10), 203, 204, 205, 207, 210, 301, 303, 304, 401, 402, 403, 404, 501, 502, 503, 602, and 604, Engrossed Second Substitute House Bill 1032 is approved."

---

## CHAPTER 410

[Substitute House Bill 1033]

### REQUIREMENTS FOR GRAIN FACILITIES UNDER THE WASHINGTON CLEAN AIR ACT

AN ACT Relating to requirements for grain facilities under the Washington clean air act; and amending RCW 70.94.151.

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

**Sec. 1.** RCW 70.94.151 and 1993 c 252 s 3 are each amended to read as follows:

(1) The board of any activated authority or the department, may classify air contaminant sources, by ordinance, resolution, rule or regulation, which in its judgment may cause or contribute to air pollution, according to levels and types of emissions and other characteristics which cause or contribute to air pollution, and may require registration or reporting or both for any such class or classes. Classifications made pursuant to this section may be for application to the area of jurisdiction of such authority, or the state as a whole or to any designated area within the jurisdiction, and shall be made with special reference to effects on health, economic and social factors, and physical effects on property.

(2) Except as provided in subsection (3) of this section, any person operating or responsible for the operation of air contaminant sources of any class for which the ordinances, resolutions, rules or regulations of the department or board of the authority, require registration and reporting shall register therewith and make reports containing information as may be required by such department or board concerning location, size and height of contaminant outlets, processes employed, nature of the contaminant emission and such other information as is relevant to air pollution and available or reasonably capable of being assembled. The department or board may require that such registration be accompanied by a fee and may determine the amount of such fee for such class or classes: PROVIDED, That the amount of the fee shall only be to compensate for the costs of administering such registration program which shall be defined as initial registration and annual or other periodic reports from the source owner providing information directly related to air pollution registration, on-site inspections necessary to verify compliance with registration requirements, data storage and retrieval systems necessary for support of the registration program, emission inventory reports and emission reduction credits computed from information provided by sources pursuant to registration program requirements, staff review, including engineering analysis for accuracy and currentness, of information provided by sources pursuant to registration program requirements, clerical and other office support provided in direct furtherance of the registration program, and administrative support provided in directly carrying out the registration program: PROVIDED FURTHER, That any such registration made with either the board or the department shall preclude a further registration with any other board or the department.

All registration program fees collected by the department shall be deposited in the air pollution control account. All registration program fees collected by the local air authorities shall be deposited in their respective treasuries.

(3) If a registration or report has been filed for a grain warehouse or grain elevator as required under this section, registration, reporting, or a registration program fee shall not, after January 1, 1997, again be required under this section for the warehouse or elevator unless the capacity of the warehouse or elevator as listed as part of the license issued for the facility has been increased since the date

the registration or reporting was last made. If the capacity of the warehouse or elevator listed as part of the license is increased, any registration or reporting required for the warehouse or elevator under this section must be made by the date the warehouse or elevator receives grain from the first harvest season that occurs after the increase in its capacity is listed in the license.

For the purposes of this subsection, a "grain warehouse" or "grain elevator" is an establishment classified in standard industrial classification (SIC) code 5153 for wholesale trade; and a "license" is a license issued by the department of agriculture licensing a facility as a grain warehouse or grain elevator under chapter 22.09 RCW or a license issued by the federal government licensing a facility as a grain warehouse or grain elevator for purposes similar to those of licensure for the facility under chapter 22.09 RCW.

This subsection does not apply to a grain warehouse or grain elevator if the warehouse or elevator handles more than ten million bushels of grain annually.

Passed the House April 17, 1997.

Passed the Senate April 14, 1997.

Approved by the Governor May 19, 1997.

Filed in Office of Secretary of State May 19, 1997.

## CHAPTER 411

[Substitute House Bill 1086]

### CONDITIONS FOR REMOVAL OF CHILDREN FROM SCHOOL GROUNDS

AN ACT Relating to removing a child from school grounds; and amending RCW 28A.605.010.

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

**Sec. 1.** RCW 28A.605.010 and 1975 1st ex.s. c 248 s 1 are each amended to read as follows:

The board of directors of each school district by rule or regulation shall set forth proper procedure to ensure that each school within their district is carrying out district policy providing that no child ~~((will))~~ may be removed from any school grounds or building thereon during school hours except by a person so authorized by a parent or legal guardian having legal custody thereof~~((:—PROVIDED, That such rules and regulations need not be applicable to any child in grades nine through twelve))~~, except that a student may leave secondary school grounds only in accordance with the school district's open campus policy under RCW 28A.600.035. Such rules shall be applicable to school employees or their designees who may not remove, cause to be removed, or allow to be removed, any student from school grounds without authorization from the student's parent or legal guardian unless the employee is: The student's parent, legal guardian, or immediate family member, a school employee providing school bus transportation services in accordance with chapter 28A.160 RCW, a school employee supervising an extracurricular activity in which the student is participating and the employee is providing transportation to or from the activity; or, the student is in need of

emergent medical care, and the employee is unable to reach the parent for transportation of the student. School security personnel may remove a student from school grounds without parental authorization for disciplinary reasons.

Nothing in this section shall be construed to limit removal of a student from school grounds by any person acting in his or her official capacity in response to a 911 emergency call.

Passed the House April 21, 1997.

Passed the Senate April 18, 1997.

Approved by the Governor May 19, 1997.

Filed in Office of Secretary of State May 19, 1997.

## CHAPTER 412

[Second Substitute House Bill 1191]

### REVIEW OF MANDATED HEALTH INSURANCE BENEFITS

AN ACT Relating to review of mandated health insurance benefits; amending RCW 48.42.060, 48.42.070, and 48.42.080; adding a new chapter to Title 48 RCW; and recodifying RCW 48.42.060, 48.42.070, and 48.42.080.

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

**Sec. 1.** RCW 48.42.060 and 1984 c 56 s 1 are each amended to read as follows:

The legislature ~~((takes notice of the increasing number of proposals for the))~~ finds that there is a continued interest in mandating ((of)) certain health coverages or offering of health coverages by ((insurance)) health carriers((,-health care service contractors, and health maintenance organizations as a component of individual or group policies-)); and that improved access to these health care services to segments of the population which desire them can provide beneficial social and health consequences which may be in the public interest.

The legislature finds further, however, that the cost ramifications of expanding health coverages is ((resulting in a growing)) of continuing concern((-The way that such coverages are structured and the steps taken to create incentives to provide cost-effective services or to take advantage of cost off-setting features of services can significantly influence the cost impact of mandating particular coverages-)); and that the merits of a particular ((coverage mandate)) mandated benefit must be balanced against a variety of consequences which may go far beyond the immediate impact upon the cost of insurance coverage. The legislature hereby finds and declares that a systematic review of proposed mandated ((or mandatorily offered health coverage)) benefits, which explores all the ramifications of such proposed legislation, will assist the legislature in determining whether mandating a particular coverage or offering is in the public interest. ((This chapter provides for a set of guidelines which should be addressed in the consideration of all such mandated coverage proposals coming before the legislature.)) The purpose of this chapter is to establish a procedure for the proposal, review, and determination of mandated benefit necessity.

**NEW SECTION.** Sec. 2. Unless otherwise specifically provided, the definitions in this section apply throughout this chapter.

(1) "Appropriate committees of the legislature" or "committees" means nonfiscal standing committees of the Washington state senate and house of representatives that have jurisdiction over statutes that regulate health carriers, health care facilities, health care providers, or health care services.

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

(3) "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.

(4) "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.

(5) "Health care service" or "service" means a service, drug, or medical equipment offered or provided by a health care facility and a health care provider relating to the prevention, cure, or treatment of illness, injury, or disease.

(6) "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, a health maintenance organization as defined in RCW 48.46.020, plans operating under the state health care authority under chapter 41.05 RCW, the state health insurance pool operating under chapter 48.41 RCW, and insuring entities regulated in chapter 48.43 RCW.

(7) "Mandated health benefit," "mandated benefit," or "benefit" means coverage or offering required by law to be provided by a health carrier to: (a) Cover a specific health care service or services; (b) cover treatment of a specific condition or conditions; or (c) contract, pay, or reimburse specific categories of health care providers for specific services; however, it does not mean benefits established pursuant to chapter 74.09, 41.05, or 70.47 RCW, or scope of practice modifications pursuant to chapter 18.120 RCW.

**Sec. 3.** RCW 48.42.070 and 1989 1st ex.s. c 9 s 221 are each amended to read as follows:

**Mandated health benefits shall be established as follows:**

(1) Every person who, or organization ((which)) that, seeks ((sponsorship of a legislative proposal which would mandate a health coverage or offering of a health coverage by an insurance carrier, health care service contractor, or health maintenance organization as a component of individual or group policies, shall submit a report to the legislative committees having jurisdiction, assessing both the social and financial impacts of such coverage, including the efficacy of the treatment or service proposed, according to the guidelines enumerated in RCW 48.42.080. Copies of the report shall be sent to the state department of health for review and comment. The state department of health shall make recommendations based on the report to the extent requested by the legislative committees)) to establish a mandated benefit shall, at least ninety days prior to a regular legislative session, submit a mandated benefit proposal to the appropriate committees of the legislature, assessing the social impact, financial impact, and evidence of health care service efficacy of the benefit in strict adherence to the criteria enumerated in RCW 48.42.080 (as recodified by this act).

(2) The chair of a committee may request that the department examine the proposal using the criteria set forth in RCW 48.42.080 (as recodified by this act), however, such request must be made no later than nine months prior to a subsequent regular legislative session.

(3) To the extent that funds are appropriated for this purpose, the department shall report to the appropriate committees of the legislature on the appropriateness of adoption no later than thirty days prior to the legislative session during which the proposal is to be considered.

(4) Mandated benefits must be authorized by law.

Sec. 4. RCW 48.42.080 and 1984 c 56 s 3 are each amended to read as follows:

~~((Guidelines for assessing the impact of proposed mandated or mandatorily offered health coverage to the extent that information is available, shall include, but not be limited to, the following:))~~

(1) Based on the availability of relevant information, the following criteria shall be used to assess the impact of proposed mandated benefits:

(a) The social impact: ((a)) (i) To what extent is the ((treatment or service)) benefit generally utilized by a significant portion of the population? ((b)) (ii) To what extent is the ((insurance coverage)) benefit already generally available? ((c)) (iii) If ((coverage)) the benefit is not generally available, to what extent ((does the lack of coverage result in persons avoiding necessary health care treatments)) has its unavailability resulted in persons not receiving needed services? ((d)) (iv) If the ((coverage)) benefit is not generally available, to what extent ((does the lack of coverage result)) has its unavailability resulted in unreasonable financial hardship? ((e)) (v) What is the level of public demand for the ((treatment or service)) benefit? ((f) What is the level of public demand for insurance coverage of treatment or service? (g)) (vi) What is the level of interest

of collective bargaining agents in negotiating privately for inclusion of this ~~((coverage))~~ benefit in group contracts?

~~((2))~~ (b) The financial impact: ~~((a))~~ (i) To what extent will the ~~((coverage))~~ benefit increase or decrease the cost of treatment or service? ~~((b))~~ (ii) To what extent will the coverage increase the appropriate use of the ~~((treatment or service))~~ benefit? ~~((c))~~ (iii) To what extent will the ~~((mandated treatment or service))~~ benefit be a substitute for a more expensive ~~((treatment or service))~~ benefit? ~~((d))~~ (iv) To what extent will the ~~((coverage))~~ benefit increase or decrease the administrative expenses of ~~((insurance companies))~~ health carriers and the premium and administrative expenses of policyholders? ~~((e))~~ (v) What will be the impact of this ~~((coverage))~~ benefit on the total cost of health care services and on premiums for health coverage? (vi) What will be the impact of this benefit on costs for state-purchased health care? (vii) What will be the impact of this benefit on affordability and access to coverage?

(c) Evidence of health care service efficacy:

(i) If a mandatory benefit of a specific service is sought, to what extent has there been conducted professionally accepted controlled trials demonstrating the health consequences of that service compared to no service or an alternative service?

(ii) If a mandated benefit of a category of health care provider is sought, to what extent has there been conducted professionally accepted controlled trials demonstrating the health consequences achieved by the mandated benefit of this category of health care provider?

(iii) To what extent will the mandated benefit enhance the general health status of the state residents?

(2) The department shall consider the availability of relevant information in assessing the completeness of the proposal.

(3) The department may supplement these criteria to reflect new relevant information or additional significant issues.

(4) The department shall establish, where appropriate, ad hoc panels composed of related experts, and representatives of carriers, consumers, providers, and purchasers to assist in the proposal review process. Ad hoc panel members shall serve without compensation.

(5) The health care authority shall evaluate the reasonableness and accuracy of cost estimates associated with the proposed mandated benefit that are provided to the department by the proposer or other interested parties, and shall provide comment to the department. Interested parties may, in addition, submit data directly to the department.

NEW SECTION. Sec. 5. Section 2 of this act shall constitute a new chapter in Title 48 RCW.

NEW SECTION. Sec. 6. RCW 48.42.060, 48.42.070, and 48.42.080 are each recodified in the new chapter created in section 5 of this act.

NEW SECTION. Sec. 7. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed the House April 19, 1997.

Passed the Senate April 17, 1997.

Approved by the Governor May 19, 1997.

Filed in Office of Secretary of State May 19, 1997.

**CHAPTER 413**

[House Bill 1468]

**SURFACE MINING FEES—WAIVER FOR SMALL MINES—REMOVAL OF DEPARTMENT OF NATURAL RESOURCES' AUTHORITY TO MODIFY**

AN ACT Relating to surface mining; and amending RCW 78.44.085.

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

**Sec. 1.** RCW 78.44.085 and 1996 c 70 s 1 are each amended to read as follows:

(1) An applicant for a public or private reclamation permit shall pay an application fee to the department before being granted a surface mining permit. The amount of the application fee shall be six hundred fifty dollars.

(2) After June 30, 1993, each public or private permit holder shall pay an annual permit fee of six hundred fifty dollars. The annual permit fee shall be payable to the department on the first anniversary of the permit date and each year thereafter. Annual fees paid by a county for mines used exclusively for public works projects and having less than seven acres of disturbed area per mine shall not exceed one thousand dollars. Annual fees are waived for all mines used primarily for public works projects if the mines are owned and primarily operated by counties with 1993 populations of less than twenty thousand persons, and if each mine has less than seven acres of disturbed area.

~~(3) ((After July 1, 1995, the department may modify annual permit fees by rule if:~~

~~—(a) The total annual permit fees are reasonably related to the approximate costs of administering the department's surface mining regulatory program;~~

~~—(b) The annual fee does not exceed five thousand dollars; and~~

~~—(c) The mines are small mines in remote areas that are used primarily for public service, then lower annual permit fees may be established;~~

~~(4)) Appeals from any determination of the department shall not stay the requirement to pay any annual permit fee. Failure to pay the annual fee may constitute grounds for an order to suspend surface mining or cancellation of the reclamation permit as provided in this chapter.~~

~~((5))~~ (4) All fees collected by the department shall be deposited into the surface mining reclamation account.

~~((6))~~ (5) If the department delegates enforcement responsibilities to a county, city, or town, the department may allocate funds collected under this section to the county, city, or town.

Passed the House April 19, 1997.

Passed the Senate April 14, 1997.

Approved by the Governor May 19, 1997.

Filed in Office of Secretary of State May 19, 1997.

## CHAPTER 414

[Substitute House Bill 1485]

### SALMON AND STEELHEAD HARVEST REPORTS

AN ACT Relating to salmon harvest reporting; and adding a new section to chapter 75.08 RCW.

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

**NEW SECTION.** Sec. 1. A new section is added to chapter 75.08 RCW to read as follows:

Beginning September 1, 1998, and each September 1st thereafter, the department shall submit a report to the appropriate standing committees of the legislature identifying the total salmon and steelhead harvest of the preceding season. This report shall include the final commercial harvests and recreational harvests. At a minimum, the report shall clearly identify:

(1) The total treaty tribal and nontribal harvests by species and by management unit;

(2) Where and why the nontribal harvest does not meet the full allocation allowed under *United States v. Washington*, 384 F. Supp. 312 (1974) (Boldt I) including a summary of the key policies within the management plan that result in a less than full nontribal allocation; and

(3) The location and quantity of salmon and steelhead harvested under the wastage provisions of *United States v. Washington*, 384 F. Supp. 312 (1974).

Passed the House April 24, 1997.

Passed the Senate April 9, 1997.

Approved by the Governor May 19, 1997.

Filed in Office of Secretary of State May 19, 1997.

## CHAPTER 415

[Substitute House Bill 1565]

### SMALL SCALE PROSPECTING AND MINING—REVISIONS

AN ACT Relating to small scale prospecting and mining; adding a new section to chapter 75.20 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 small scale prospecting and mining: (1) Is an important part of the heritage of the state; (2) provides

economic benefits to the state; and (3) can be conducted in a manner that is beneficial to fish habitat and fish propagation. Now, therefore, the legislature declares that small scale prospecting and mining shall be regulated in the least burdensome manner that is consistent with the state's fish management objectives and the federal endangered species act.

**NEW SECTION. Sec. 2.** A new section is added to chapter 75.20 RCW to read as follows:

(1) Small scale prospecting and mining shall not require written approval under this chapter if the prospecting is conducted in accordance with provisions established by the department.

(2) By December 31, 1998, the department shall adopt rules applicable to small scale prospecting and mining activities subject to this section. The department shall develop the rules in cooperation with the recreational mining community and other interested parties.

(3) Within two months of adoption of the rules, the department shall distribute an updated gold and fish pamphlet that describes methods of mineral prospecting that are consistent with the department's rule. The pamphlet shall be written to clearly indicate the prospecting methods that require written approval under this chapter and the prospecting methods that require compliance with the pamphlet. To the extent possible, the department shall use the provisions of the gold and fish pamphlet to minimize the number of specific provisions of a written approval issued under this chapter.

(4) For the purposes of this chapter, "small scale prospecting and mining" means only the use of the following methods: Pans, nonmotorized sluice boxes, concentrators, and minirocker boxes for the discovery and recovery of minerals.

Passed the House April 26, 1997.

Passed the Senate April 26, 1997.

Approved by the Governor May 19, 1997.

Filed in Office of Secretary of State May 19, 1997.

## CHAPTER 416

[Substitute House Bill 1607]

### DETERMINATION OF PARTIAL PERMANENT DISABILITY BENEFITS BY INDUSTRIAL INSURANCE SELF-INSURERS

AN ACT Relating to determination of benefits for permanent partial disability by industrial insurance self-insurers; amending RCW 51.32.055; and creating a new section.

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

**Sec. 1.** RCW 51.32.055 and 1994 c 97 s 1 are each amended to read as follows:

(1) One purpose of this title is to restore the injured worker as nearly as possible to the condition of self-support as an able-bodied worker. Benefits for permanent disability shall be determined under the director's supervision, except

as otherwise authorized in subsection (9) of this section, only after the injured worker's condition becomes fixed.

(2) All determinations of permanent disabilities shall be made by the department, except as otherwise authorized in subsection (9) of this section. Either the worker, employer, or self-insurer may make a request or the inquiry may be initiated by the director or, as authorized in subsection (9) of this section, by the self-insurer on ~~((his or her))~~ the director or the self-insurer's own motion. Determinations shall be required in every instance where permanent disability is likely to be present. All medical reports and other pertinent information in the possession of or under the control of the employer or, if the self-insurer has made a request to the department, in the possession of or under the control of the self-insurer shall be forwarded to the director with the request.

(3) A request for determination of permanent disability shall be examined by the department or, if authorized in subsection (9) of this section, the self-insurer, and the department shall issue an order ~~((shall issue))~~ in accordance with RCW 51.52.050 or, in the case of a self-insured employer, the self-insurer may: (a) Enter a written order, communicated to the worker and the department self-insurance section in accordance with subsection (9) of this section, or (b) request the department to issue an order in accordance with RCW 51.52.050.

(4) The department or, in cases authorized in subsection (9) of this section, the self-insurer may require that the worker present himself or herself for a special medical examination by a physician or physicians selected by the department, and the department or, in cases authorized in subsection (9) of this section, the self-insurer may require that the worker present himself or herself for a personal interview. The costs of the examination or interview, including payment of any reasonable travel expenses, shall be paid by the department or self-insurer, as the case may be.

(5) The director may establish a medical bureau within the department to perform medical examinations under this section. Physicians hired or retained for this purpose shall be grounded in industrial medicine and in the assessment of industrial physical impairment. Self-insurers shall bear a proportionate share of the cost of the medical bureau in a manner to be determined by the department.

(6) Where a dispute arises from the handling of any claim before the condition of the injured worker becomes fixed, the worker, employer, or self-insurer may request the department to resolve the dispute or the director may initiate an inquiry on his or her own motion. In these cases, the department shall proceed as provided in this section and an order shall issue in accordance with RCW 51.52.050.

(7)(a) If a claim (i) is accepted by a self-insurer after June 30, 1986, and before August 1, 1997, (ii) involves only medical treatment and the payment of temporary disability compensation under RCW 51.32.090 or only the payment of temporary disability compensation under RCW 51.32.090, (iii) at the time medical treatment is concluded does not involve permanent disability, (iv) is one with respect to which the department has not intervened under subsection (6) of this

section, and (v) the injured worker has returned to work with the self-insured employer of record, whether at the worker's previous job or at a job that has comparable wages and benefits, the claim may be closed by the self-insurer, subject to reporting of claims to the department in a manner prescribed by department rules adopted under chapter 34.05 RCW.

(b) All determinations of permanent disability for claims accepted under this subsection (7) by self-insurers (~~(after June 30, 1986,)~~) shall be made by the self-insured section of the department under subsections (1) through (4) of this section.

(c) Upon closure of a claim under (a) of this subsection, the self-insurer shall enter a written order, communicated to the worker and the department self-insurance section, which contains the following statement clearly set forth in bold face type: "This order constitutes notification that your claim is being closed with medical benefits and temporary disability compensation only as provided, and with the condition you have returned to work with the self-insured employer. If for any reason you disagree with the conditions or duration of your return to work or the medical benefits or the temporary disability compensation that has been provided, you ~~((may))~~ must protest in writing to the department of labor and industries, self-insurance section, within sixty days of the date you received this order." ~~((If the department receives such a protest, the self-insurer's closure order shall be held in abeyance. The department shall review the claim closure action and enter a determinative order as provided for in RCW 51.52.050.~~

~~—(d) If within two years of claim closure the department determines that the self-insurer has made payment of benefits because of clerical error, mistake of identity, or innocent misrepresentation or the department discovers a violation of the conditions of claim closure, the department may require the self-insurer to correct the benefits paid or payable. This paragraph does not limit in any way the application of RCW 51.32.240.))~~

(8)(a) If a claim ~~((a))~~ (i) is accepted by a self-insurer after June 30, 1990, ~~((b))~~ and before August 1, 1997, (ii) involves only medical treatment, ~~((c))~~ (iii) does not involve payment of temporary disability compensation under RCW 51.32.090, and ~~((d))~~ (iv) at the time medical treatment is concluded does not involve permanent disability, the claim may be closed by the self-insurer, subject to reporting of claims to the department in a manner prescribed by department rules adopted under chapter 34.05 RCW. Upon closure of a claim, the self-insurer shall enter a written order, communicated to the worker, which contains the following statement clearly set forth in bold-face type: "This order constitutes notification that your claim is being closed with medical benefits only, as provided. If for any reason you disagree with this closure, you ~~((may))~~ must protest in writing to the Department of Labor and Industries, Olympia, within 60 days of the date you received this order. The department will then review your claim and enter a further determinative order." ~~((If the department receives such a protest, it shall review the claim and enter a further determinative order as provided for in RCW 51.52.050.))~~

(b) All determinations of permanent disability for claims accepted under this subsection (8) by self-insurers shall be made by the self-insured section of the department under subsections (1) through (4) of this section.

(9)(a) If a claim: (i) Is accepted by a self-insurer after July 31, 1997; (ii)(A) involves only medical treatment, or medical treatment and the payment of temporary disability compensation under RCW 51.32.090, and a determination of permanent partial disability, if applicable, has been made by the self-insurer as authorized in this subsection; or (B) involves only the payment of temporary disability compensation under RCW 51.32.090 and a determination of permanent partial disability, if applicable, has been made by the self-insurer as authorized in this subsection; (iii) is one with respect to which the department has not intervened under subsection (6) of this section; and (iv) concerns an injured worker who has returned to work with the self-insured employer of record, whether at the worker's previous job or at a job that has comparable wages and benefits, the claim may be closed by the self-insurer, subject to reporting of claims to the department in a manner prescribed by department rules adopted under chapter 34.05 RCW.

(b) If a physician submits a report to the self-insurer that concludes that the worker's condition is fixed and stable and supports payment of a permanent partial disability award, and if within fourteen days from the date the self-insurer mailed the report to the attending or treating physician, the worker's attending or treating physician disagrees in writing that the worker's condition is fixed and stable, the self-insurer must get a supplemental medical opinion from a provider on the department's approved examiner's list before closing the claim. In the alternative, the self-insurer may forward the claim to the department, which must review the claim and enter a final order as provided for in RCW 51.52.050.

(c) Upon closure of a claim under this subsection (9), the self-insurer shall enter a written order, communicated to the worker and the department self-insurance section, which contains the following statement clearly set forth in bold-face type: "This order constitutes notification that your claim is being closed with such medical benefits and temporary disability compensation as provided to date and with such award for permanent partial disability, if any, as set forth below, and with the condition that you have returned to work with the self-insured employer. If for any reason you disagree with the conditions or duration of your return to work or the medical benefits, temporary disability compensation provided, or permanent partial disability that has been awarded, you must protest in writing to the Department of Labor and Industries, Self-Insurance Section, within sixty days of the date you received this order. If you do not protest this order to the department, this order will become final."

(d) All determinations of permanent partial disability for claims accepted by self-insurers under this subsection (9) may be made by the self-insurer or the self-insurer may request a determination by the self-insured section of the department. All determinations shall be made under subsections (1) through (4) of this section.

(10) If the department receives a protest of an order issued by a self-insurer under subsections (7) through (9) of this section, the self-insurer's closure order must be held in abeyance. The department shall review the claim closure action and enter a further determinative order as provided for in RCW 51.52.050. If no protest is timely filed, the closing order issued by the self-insurer shall become final and shall have the same force and effect as a department order that has become final under RCW 51.52.050.

(11) If within two years of claim closure under subsections (7) through (9) of this section, the department determines that the self-insurer has made payment of benefits because of clerical error, mistake of identity, or innocent misrepresentation or the department discovers a violation of the conditions of claim closure, the department may require the self-insurer to correct the benefits paid or payable. This subsection (11) does not limit in any way the application of RCW 51.32.240.

(12) For the purposes of this section, "comparable wages and benefits" means wages and benefits that are at least ninety-five percent of the wages and benefits received by the worker at the time of injury.

**NEW SECTION. Sec. 2.** The department of labor and industries shall review the permanent partial disability claims closure activity by self-insured employers authorized under RCW 51.32.055(9) through at least June 30, 1999. The department must also review the claims closure activity by the self-insured section of the department for the same period. The review of these activities must include the number and types of claims closed, protested, reconsidered, and appealed, and the results of such activities, including the results of injured worker satisfaction surveys conducted by the department. The department must report on its review to the appropriate committees of the legislature no later than January 1, 2000.

Passed the House April 21, 1997.

Passed the Senate April 10, 1997.

Approved by the Governor May 19, 1997.

Filed in Office of Secretary of State May 19, 1997.

## CHAPTER 417

[Substitute House Bill 1768]

### REGULATION OF PHARMACY ANCILLARY PERSONNEL

AN ACT Relating to pharmacy ancillary personnel; and amending RCW 18.64A.010, 18.64A.020, 18.64A.030, 18.64A.040, 18.64A.050, 18.64A.060, 18.64A.070, and 18.64A.080.

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

**Sec. 1.** RCW 18.64A.010 and 1989 1st ex.s. c 9 s 422 are each amended to read as follows:

Terms used in this chapter shall have the meaning set forth in this section unless the context clearly indicates otherwise:

- (1) "Board" means the state board of pharmacy;
- (2) "Department" means the department of health;

(3) "Pharmacist" means a person duly licensed by the state board of pharmacy to engage in the practice of pharmacy;

(4) "Pharmacy" means every place properly licensed by the board of pharmacy where the practice of pharmacy is conducted;

(5) "Pharmacy ancillary personnel" means pharmacy technicians and pharmacy assistants;

~~(6)~~ (6) "Pharmacy ~~((assistant level A))~~ technician" means:

(a) A person who is enrolled in, or who has satisfactorily completed, a board approved training program designed to prepare persons to perform nondiscretionary functions associated with the practice of pharmacy; or

(b) A person who is a graduate with a degree in pharmacy or medicine of a foreign school, university, or college recognized by the board;

~~((6))~~ (7) "Pharmacy assistant ~~((level B))~~" means a person ~~((certified))~~ registered by the board to perform limited functions in the pharmacy;

~~((7))~~ (8) "Practice of pharmacy" means the definition given in RCW 18.64.011 ~~((, as now or hereafter amended))~~;

~~((8))~~ (9) "Secretary" means the secretary of health or the secretary's designee.

**Sec. 2.** RCW 18.64A.020 and 1995 c 198 s 8 are each amended to read as follows:

(1) The board shall adopt, in accordance with chapter 34.05 RCW, rules fixing the classification and qualifications and the educational and training requirements for persons who may be employed as pharmacy ~~((assistants))~~ technicians or who may be enrolled in any pharmacy ~~((assistant))~~ technician training program. Such rules shall provide that:

(a) Licensed pharmacists shall supervise the training of pharmacy ~~((assistants))~~ technicians; and

(b) Training programs shall assure the competence of pharmacy ~~((assistants))~~ technicians to aid and assist pharmacy operations. Training programs shall consist of instruction and/or practical training.

Such rules may include successful completion of examinations for applicants for pharmacy ~~((assistant))~~ technician certificates. If such examination rules are adopted, the board shall prepare or determine the nature of, and supervise the grading of the examinations. The board may approve an examination prepared or administered by a private testing agency or association of licensing authorities.

(2) The board may disapprove or revoke approval of any training program for failure to conform to board rules. In the case of the disapproval or revocation of approval of a training program by the board, a hearing shall be conducted in accordance with RCW 18.64.160, and appeal may be taken in accordance with the Administrative Procedure Act, chapter 34.05 RCW.

**Sec. 3.** RCW 18.64A.030 and 1996 c 191 s 50 are each amended to read as follows:

The board shall adopt, in accordance with chapter 34.05 RCW, rules ~~((and regulations))~~ governing the extent to which pharmacy ~~((assistants))~~ ancillary personnel may perform services associated with the practice of pharmacy ~~((during training and after successful completion of a training course. Such regulations))~~. These rules shall provide for the certification of pharmacy ~~((assistants))~~ technicians by the department at a fee determined by the secretary under RCW 43.70.250 ~~((and 43.70.280 according to the following levels of classification))~~:

(1) ~~((“Level A pharmacy assistants”))~~ “Pharmacy technicians” may assist in performing, under the ~~((immediate))~~ supervision and control of a licensed pharmacist, manipulative, nondiscretionary functions associated with the practice of pharmacy and other such duties and subject to such restrictions as the board may by rule adopt.

(2) ~~((Level B))~~ Pharmacy assistants may perform, under the ~~((general))~~ supervision of a licensed pharmacist, duties including but not limited to, typing of prescription labels, filing, refiling, bookkeeping, pricing, stocking, delivery, nonprofessional phone inquiries, and documentation of third party reimbursements and other such duties and subject to such restrictions as the board may by rule adopt.

Sec. 4. RCW 18.64A.040 and 1992 c 40 s 1 are each amended to read as follows:

(1) ~~((A pharmacy assistant))~~ Pharmacy ancillary personnel shall practice pharmacy in this state only after authorization by the board and only to the extent permitted by the board in accordance with this chapter.

(2) A pharmacist shall be assisted by ~~((a))~~ pharmacy ~~((assistant))~~ ancillary personnel in the practice of pharmacy in this state only after authorization by the board and only to the extent permitted by the board in accordance with this chapter: PROVIDED, That no pharmacist may supervise more than one ~~((person performing level A))~~ pharmacy ~~((assistant duties and functions))~~ technician: PROVIDED FURTHER, That in pharmacies operating in connection with facilities licensed pursuant to chapter 70.41, 71.12, 71A.20, or 74.42 RCW, whether or not situated within the said facility which shall be physically separated from any area of a pharmacy where dispensing of prescriptions to the general public occurs, the ratio of pharmacists to ~~((persons performing level A))~~ pharmacy ~~((assistant duties and functions))~~ technicians shall be as follows: In the preparation of medicine or other materials used by patients within the facility, one pharmacist supervising no more than three ~~((persons performing level A))~~ pharmacy ~~((assistant duties and functions))~~ technicians; in the preparation of medicine or other materials dispensed to persons not patients within the facility, one pharmacist supervising not more than one ~~((person performing level A))~~ pharmacy ~~((assistant duties and functions))~~ technician.

(3) The board may by rule modify the standard ratios set out in subsection (2) of this section governing the utilization of pharmacy technicians by pharmacies and pharmacists. Should a pharmacy desire to use more pharmacy technicians than the

standard ratios, the pharmacy must submit to the board a pharmacy services plan for approval.

(a) The pharmacy services plan shall include, at a minimum, the following information: Pharmacy design and equipment, information systems, workflow, and quality assurance procedures. In addition, the pharmacy services plan shall demonstrate how it facilitates the provision of pharmaceutical care by the pharmacy.

(b) Prior to approval of a pharmacy services plan, the board may require additional information to ensure appropriate oversight of pharmacy ancillary personnel.

(c) The board may give conditional approval for pilot or demonstration projects.

(d) Variance from the approved pharmacy services plan is grounds for disciplinary action under RCW 18.64A.050.

**Sec. 5.** RCW 18.64A.050 and 1993 c 367 s 15 are each amended to read as follows:

In addition to the grounds under RCW 18.130.170 and 18.130.180, the board of pharmacy may take disciplinary action against the certificate of any pharmacy ((assistant)) technician upon proof that:

(1) His or her certificate was procured through fraud, misrepresentation or deceit;

(2) He or she has been found guilty of any offense in violation of the laws of this state relating to drugs, poisons, cosmetics or drug sundries by any court of competent jurisdiction. Nothing herein shall be construed to affect or alter the provisions of RCW 9.96A.020;

(3) He or she has exhibited gross incompetency in the performance of his or her duties;

(4) He or she has willfully or repeatedly violated any of the rules and regulations of the board of pharmacy or of the department;

(5) He or she has willfully or repeatedly performed duties beyond the scope of his or her certificate in violation of the provisions of this chapter; or

(6) He or she has impersonated a licensed pharmacist.

**Sec. 6.** RCW 18.64A.060 and 1996 c 191 s 51 are each amended to read as follows:

No pharmacy licensed in this state shall utilize the services of pharmacy ((assistants)) ancillary personnel without approval of the board.

Any pharmacy licensed in this state may apply to the board for permission to use the services of pharmacy ((assistants)) ancillary personnel. The application shall be accompanied by a fee and shall comply with administrative procedures and administrative requirements set pursuant to RCW 43.70.250 and 43.70.280, shall detail the manner and extent to which the pharmacy ((assistants)) ancillary personnel would be used and supervised, and shall provide other information in such form as the secretary may require.

The board may approve or reject such applications. In addition, the board may modify the proposed utilization of pharmacy ~~((assistants))~~ ancillary personnel and approve the application as modified. Whenever it appears to the board that ~~((a))~~ pharmacy ~~((assistant-is))~~ ancillary personnel are being utilized in a manner inconsistent with the approval granted, the board may withdraw such approval. In the event a hearing is requested upon the rejection of an application, or upon the withdrawal of approval, a hearing shall be conducted in accordance with chapter 18.64 RCW, as now or hereafter amended, and appeal may be taken in accordance with the Administrative Procedure Act, chapter 34.05 RCW.

**Sec. 7.** RCW 18.64A.070 and 1977 ex.s. c 101 s 7 are each amended to read as follows:

(1) Persons presently assisting a pharmacist by performing the functions of a pharmacy ~~((assistant))~~ technician may continue to do so under the supervision of a licensed pharmacist: PROVIDED, That within eighteen months after May 28, 1977, such persons shall be in compliance with the provisions of this chapter.

(2) Pharmacies presently employing persons to perform the functions of a pharmacy ~~((assistant))~~ technician may continue to do so while obtaining board approval for the use of certified pharmacy ~~((assistants))~~ technicians: PROVIDED, That within eighteen months after May 28, 1977, such pharmacies shall be in compliance with the provisions of this chapter.

**Sec. 8.** RCW 18.64A.080 and 1977 ex.s. c 101 s 8 are each amended to read as follows:

~~((No))~~ A pharmacy or pharmacist which utilizes the services of ~~((a))~~ pharmacy ~~((assistant))~~ ancillary personnel with approval by the board, ~~((shall be considered as))~~ is not aiding and abetting an unlicensed person to practice pharmacy within the meaning of chapter 18.64 RCW~~((as now or hereafter amended))~~: PROVIDED, HOWEVER, That the pharmacy or pharmacist shall retain responsibility for any act performed by ~~((a))~~ pharmacy ~~((assistant))~~ ancillary personnel in the course of ~~((his or her))~~ employment.

Passed the House March 13, 1997.

Passed the Senate April 14, 1997.

Approved by the Governor May 19, 1997.

Filed in Office of Secretary of State May 19, 1997.

---

## CHAPTER 418

[Substitute House Bill 1770]

### DUNGENESS CRAB—COASTAL FISHERY FEES

AN ACT Relating to the Dungeness crab—coastal fishery; amending RCW 75.28.011, 75.30.360, 75.30.380, and 75.30.390; adding a new section to chapter 75.28 RCW; and decodifying RCW 75.30.400.

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

**Sec. 1.** RCW 75.28.011 and 1995 c 228 s 1 are each amended to read as follows:

(1) Unless otherwise provided in this title, a license issued under this chapter is not transferable from the license holder to any other person.

(2) The following restrictions apply to transfers of commercial fishery licenses, salmon delivery licenses, and salmon charter licenses that are transferable between license holders:

(a) The license holder shall surrender the previously issued license to the department.

(b) The department shall complete no more than one transfer of the license in any seven-day period.

(c) The fee to transfer a license from one license holder to another is:

(i) The same as the resident license renewal fee if the license is not limited under chapter 75.30 RCW;

(ii) Three and one-half times the resident renewal fee if the license is not a commercial salmon license and the license is limited under chapter 75.30 RCW;

(iii) Fifty dollars if the license is a commercial salmon license and is limited under chapter 75.30 RCW; ~~((or))~~

(iv) Five hundred dollars if the license is a Dungeness crab—coastal fishery license; or

(v) If a license is transferred from a resident to a nonresident, an additional fee is assessed that is equal to the difference between the resident and nonresident license fees at the time of transfer, to be paid by the transferee.

(3) A commercial license that is transferable under this title survives the death of the holder. Though such licenses are not personal property, they shall be treated as analogous to personal property for purposes of inheritance and intestacy. Such licenses are subject to state laws governing wills, trusts, estates, intestate succession, and community property, except that such licenses are exempt from claims of creditors of the estate and tax liens. The surviving spouse, estate, or beneficiary of the estate may apply for a renewal of the license. There is no fee for transfer of a license from a license holder to the license holder's surviving spouse or estate, or to a beneficiary of the estate.

**Sec. 2.** RCW 75.30.360 and 1994 c 260 s 3 are each amended to read as follows:

(1) The director shall allow the landing into Washington state of crab taken in offshore waters only if:

(a) The crab are legally caught and landed by fishers with a valid Washington state Dungeness crab—coastal fishery license or a valid Dungeness crab—coastal class B fishery license; or

(b) ~~((The crab are legally caught and landed by fishers with a valid Oregon or California commercial crab fishing license during the calendar year between the dates of February 15th and September 15th inclusive, if the crab were caught in offshore waters beyond the jurisdiction of Washington state, if the crab were taken~~

~~with crab gear that consisted of one buoy attached to each crab pot, if each crab pot was fished individually, and if the fisher landing the crab has obtained a valid delivery license; or~~

~~—(e)) (i) The director determines that the landing of offshore Dungeness crab by fishers without a Washington state Dungeness crab—coastal fishery license or a valid Dungeness crab—coastal class B fishery license is in the best interest of the coastal crab processing industry ((and)), (ii) the director has been requested to allow such landings by at least three Dungeness crab processors((-and-if)); (iii) the landings are permitted only between the dates of December 1st to February 15th inclusively((-if)); (iv) only crab fishers commercially licensed to fish by Oregon or California are permitted to land, if the crab was taken with gear that consisted of one buoy attached to each crab pot, ((if)) and each crab pot was fished individually, ((if)); (v) the fisher landing the crab has obtained a valid delivery license((-);); and ((if)) (vi) the decision is made on a case-by-case basis for the sole reason of improving the economic stability of the commercial crab fishery.~~

(2) Nothing in this section allows the commercial fishing of Dungeness crab in waters within three miles of Washington state by fishers who do not possess a valid Dungeness crab—coastal fishery license or a valid Dungeness crab—coastal class B fishery license. Landings of offshore Dungeness crab by fishers without a valid Dungeness crab—coastal fishery license or a valid Dungeness crab—coastal class B ~~((fishery))~~ fishery license do not qualify the fisher for such licenses.

Sec. 3. RCW 75.30.380 and 1994 c 260 s 5 are each amended to read as follows:

Dungeness crab—coastal fishery licenses are freely transferable on a willing seller-willing buyer basis~~((-if upon each sale of a Dungeness crab—coastal fishery license, twenty percent of the sale proceeds are remitted to the department and deposited in the coastal crab account. Funds shall be used for license purchase as provided in RCW 75.30.400 or for coastal crab management activities as provided in RCW 75.30.410))~~ after paying the transfer fee in RCW 75.28.011.

~~((For any license transfer that includes the transfer of the designated vessel and associated business, the seller must sign a notarized affidavit that the value of the vessel and associated business was not inflated. A marine survey documenting the value of the vessel and associated business shall be filed with the department along with the affidavit and the application to transfer the Dungeness crab—coastal fishery license. The cost of the survey shall be paid by the purchaser.))~~

Sec. 4. RCW 75.30.390 and 1994 c 260 s 6 are each amended to read as follows:

~~((+))~~ The coastal crab account is created in the custody of the state treasurer. The account shall consist of revenues from fees from the transfer of each Dungeness crab—coastal fishery license assessed under RCW 75.28.011, delivery fees assessed under RCW 75.30.370, and the license surcharge under section 5 of this act. Only the director or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter

43.88 RCW but no appropriation is required for expenditures. Funds may be used for ~~((license purchase as provided in RCW 75.30.400, or for))~~ coastal crab management activities as provided in RCW 75.30.410. ~~((The appropriate standing committees of the legislature shall review the status and expenditures of the coastal crab account yearly.~~

~~—(2) A surcharge of two hundred fifty dollars shall be collected with each Dungeness crab coastal fishery license and Dungeness crab coastal class B fishery license for 1995 and 1996, for the purposes of purchasing Dungeness crab coastal class B fishery licenses as provided in RCW 75.30.400. The moneys shall be deposited into the coastal crab account:))~~

NEW SECTION. Sec. 5. A new section is added to chapter 75.28 RCW to read as follows.

A surcharge of one hundred twenty dollars shall be collected with each Dungeness crab—coastal fishery license and with each Dungeness crab—coastal class B fishery license issued under RCW 75.28.130. Moneys collected under this section shall be placed in the coastal crab account created under RCW 75.30.390.

NEW SECTION. Sec. 6. RCW 75.30.400 is decodified.

Passed the House April 21, 1997.

Passed the Senate April 14, 1997.

Approved by the Governor May 19, 1997.

Filed in Office of Secretary of State May 19, 1997.

## CHAPTER 419

[Engrossed Substitute House Bill 1792]

### CERTIFICATION OF ENVIRONMENTAL TECHNOLOGIES

AN ACT Relating to certification of environmental technologies; and adding new sections to chapter 43.21A RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 43.21A RCW to read as follows:

(1) The legislature finds that:

(a) New and innovative environmental technologies can help improve environmental quality at lower costs;

(b) Current regulatory processes often include permits or approvals that require applicants to duplicate costly technical analysis;

(c) The commercialization of innovative environmental technologies can be discouraged due to the costs of repeated environmental analysis;

(d) The regulatory process can be improved by sharing and relying on information generated through demonstration projects and technical certification programs; and

(e) Other states have developed programs to certify environmental technologies in order to streamline the permitting process and to encourage use of environmental technologies.

(2) The legislature therefore declares that the department shall:

(a) Review environmental technology certification programs established by other states or federal agencies, and enter into agreements to use the information from these programs if the department finds that this information will improve the efficiency and effectiveness of the state's environmental regulatory process; and

(b) Participate in technology demonstration activities that support the state's needs for environmental technology.

**NEW SECTION. Sec. 2.** A new section is added to chapter 43.21A RCW to read as follows:

(1) At the request of a project proponent, the department shall consider information developed through a certification program when making permit or other regulatory decisions. The department may not require duplicative demonstration of such information, but may require additional information as necessary to assure that state requirements are met. A local government that has a regulatory authority delegated by the department may use information developed through a certification program when making permit or other regulatory decisions.

(2) The department shall develop a certification program for technologies for remediation of radioactive and mixed waste, as those terms are defined in chapter 70.105 RCW, if all program development and operational costs are paid by the federal government or persons seeking certification of the technologies.

(3) Following the development of the certification program in subsection (2) of this section, the department may use the policies and procedures of that program on a pilot basis to evaluate the use of certification for site remediation technologies and other environmental technologies, if the operational costs of the certification are paid by the federal government or persons seeking certification of such technologies.

(4) The department shall charge a reasonable fee to recover the operational costs of certifying a technology.

(5) Subsections (1), (3), and (4) of this section apply to permit and other regulatory decisions made under the following: Chapters 70.94, 70.95, 70.105, 70.105D, 70.120, 70.138, 90.48, 90.54, and 90.56 RCW.

(6) For the purposes of this section, "certification program" means a program, developed or approved by the department, to certify the quantitative performance of an environmental technology over a specified range of parameters and conditions. Certification of a technology does not imply endorsement of a specific technology by the department, or a guarantee of the performance of a technology.

(7) The department may adopt rules as necessary to implement the requirements of subsections (2) and (3) of this section, and establish requirements and procedures for evaluation and certification of environmental technologies.

(8) The state, the department, and officers and employees of the state shall not be liable for damages resulting from the utilization of information developed through a certification program, or from a decision to certify or deny certification to an environmental technology. Actions of the department under this section are not decisions reviewable under RCW 43.21B.110.

Passed the House April 21, 1997.

Passed the Senate April 15, 1997.

Approved by the Governor May 19, 1997.

Filed in Office of Secretary of State May 19, 1997.

## CHAPTER 420

[Engrossed Substitute House Bill 2272]

### TRANSFERRING ENFORCEMENT OF CIGARETTE AND TOBACCO TAXES FROM THE DEPARTMENT OF REVENUE TO THE LIQUOR CONTROL BOARD

AN ACT Relating to transferring the enforcement of existing cigarette and tobacco taxes from the department of revenue to the liquor control board; amending RCW 66.44.010, 82.24.010, 82.24.110, 82.24.130, 82.24.190, 82.24.250, 82.24.550, and 82.32.300; adding new sections to chapter 82.24 RCW; adding new sections to chapter 82.26 RCW; adding a new section to chapter 43.06 RCW; adding a new section to chapter 82.08 RCW; adding a new section to chapter 82.12 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 82.24 RCW to read as follows:*

*In transferring the enforcement of existing cigarette and tobacco taxes from the department of revenue to the liquor control board, it is the intent of the legislature that the cigarette and tobacco tax laws of the state of Washington be actively enforced. Enforcement officers of the liquor control board appointed under section 10 or 11 of this act shall pursue all necessary means within their statutory authority in order to ensure compliance with chapters 82.24 and 82.26 RCW.*

\*Sec. 1 was vetoed. See message at end of chapter.

**\*Sec. 2.** *RCW 66.44.010 and 1987 c 202 s 224 are each amended to read as follows:*

*(1) All county and municipal peace officers are hereby charged with the duty of investigating and prosecuting all violations of this title, and the penal laws of this state relating to the manufacture, importation, transportation, possession, distribution and sale of liquor, and all fines imposed for violations of this title and the penal laws of this state relating to the manufacture, importation, transportation, possession, distribution and sale of liquor shall belong to the county, city or town wherein the court imposing the fine is located, and shall be placed in the general fund for payment of the salaries of those engaged in the enforcement of the provisions of this title and the penal laws of this state relating to the manufacture, importation, transportation, possession, distribution and sale of liquor: PROVIDED, That all fees, fines, forfeitures and*

penalties collected or assessed by a district court because of the violation of a state law shall be remitted as provided in chapter 3.62 RCW as now exists or is later amended.

(2) In addition to any and all other powers granted, the board shall have the power to enforce the penal provisions of this title and the penal laws of this state relating to the manufacture, importation, transportation, possession, distribution and sale of liquor.

(3)(a) In addition to the other duties under this section, the board shall enforce chapters 82.24 and 82.26 RCW.

(b) Through active enforcement of chapters 82.24 and 82.26 RCW and negotiation of cooperative agreements as authorized under section 12 of this act, the board shall reduce the ninety million dollars in lost cigarette and tobacco tax revenue due to tax evasion. The board shall achieve a net decrease in lost cigarette and tobacco revenue according to the following schedules:

(i) By June 30, 1998, at least five percent;

(ii) By June 30, 1999, at least twelve and one-half percent;

(iii) By June 30, 2000, at least thirty percent;

(iv) By June 30, 2001, at least thirty-seven and one-half percent; and

(v) By June 30, 2002, at least fifty percent.

The board shall sustain the fifty percent net decrease in lost revenue due to cigarette and tobacco tax evasion after June 30, 2002.

(4) The board may appoint and employ, assign to duty and fix the compensation of, officers to be designated as liquor enforcement officers. Such liquor enforcement officers shall have the power, under the supervision of the board, to enforce the penal provisions of this title and the penal laws of this state relating to the manufacture, importation, transportation, possession, distribution and sale of liquor, and the provisions of chapters 82.24 and 82.26 RCW. They shall have the power and authority to serve and execute all warrants and process of law issued by the courts in enforcing the penal provisions of this title or of any penal law of this state relating to the manufacture, importation, transportation, possession, distribution and sale of liquor. They shall have the power to arrest without a warrant any person or persons found in the act of violating any of the penal provisions of this title or of any penal law of this state relating to the manufacture, importation, transportation, possession, distribution and sale of liquor, and the provisions of chapters 82.24 and 82.26 RCW.

\*Sec. 2 was vetoed. See message at end of chapter.

Sec. 3. RCW 82.24.010 and 1995 c 278 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) "Board" means the liquor control board.

(2) "Cigarette" means any roll for smoking made wholly or in part of tobacco, irrespective of size or shape and irrespective of the tobacco being flavored,

adulterated, or mixed with any other ingredient, where such roll has a wrapper or cover made of paper or any material, except where such wrapper is wholly or in the greater part made of natural leaf tobacco in its natural state.

~~((2))~~ (3) "Indian tribal organization" means a federally recognized Indian tribe, or tribal entity, and includes an Indian wholesaler or retailer that is owned by an Indian who is an enrolled tribal member conducting business under tribal license or similar tribal approval within Indian country. For purposes of this chapter "Indian country" is defined in the manner set forth in 18 U.S.C. Sec. 1151.

~~((3))~~ (4) "Precollection obligation" means the obligation of a seller otherwise exempt from the tax imposed by this chapter to collect the tax from that seller's buyer.

~~((4))~~ (5) "Retailer" means every person, other than a wholesaler, who purchases, sells, offers for sale or distributes any one or more of the articles taxed herein, irrespective of quantity or amount, or the number of sales, and all persons operating under a retailer's registration certificate.

~~((5))~~ (6) "Retail selling price" means the ordinary, customary or usual price paid by the consumer for each package of cigarettes, less the tax levied by this chapter and less any similar tax levied by this state.

~~((6))~~ (7) "Stamp" means the stamp or stamps by use of which the tax levy under this chapter is paid or identification is made of those cigarettes with respect to which no tax is imposed.

~~((7))~~ (8) "Wholesaler" means every person who purchases, sells, or distributes any one or more of the articles taxed herein to retailers for the purpose of resale only.

~~((8))~~ (9) The meaning attributed, in chapter 82.04 RCW, to the words "person," "sale," "business" and "successor" applies equally in this chapter.

**Sec. 4.** RCW 82.24.110 and 1995 c 278 s 7 are each amended to read as follows:

- (1) Each of the following acts is a gross misdemeanor and punishable as such:
  - (a) To sell, except as a licensed wholesaler engaged in interstate commerce as to the article being taxed herein, without the stamp first being affixed;
  - (b) To sell in Washington as a wholesaler to a retailer who does not possess and is required to possess a current cigarette retailer's license;
  - (c) To use or have in possession knowingly or intentionally any forged or counterfeit stamps;
  - (d) For any person other than the department of revenue or its duly authorized agent to sell any stamps not affixed to any of the articles taxed herein whether such stamps are genuine or counterfeit;
  - (e) To violate any of the provisions of this chapter;
  - (f) To violate any lawful rule made and published by the department of revenue or the board;
  - (g) To use any stamps more than once;

(h) To refuse to allow the department of revenue or its duly authorized agent, on demand, to make full inspection of any place of business where any of the articles herein taxed are sold or otherwise hinder or prevent such inspection;

(i) Except as provided in this chapter, for any retailer to have in possession in any place of business any of the articles herein taxed, unless the same have the proper stamps attached;

(j) For any person to make, use, or present or exhibit to the department of revenue or its duly authorized agent, any invoice for any of the articles herein taxed which bears an untrue date or falsely states the nature or quantity of the goods therein invoiced;

(k) For any wholesaler or retailer or his or her agents or employees to fail to produce on demand of the department of revenue all invoices of all the articles herein taxed or stamps bought by him or her or received in his or her place of business within five years prior to such demand unless he or she can show by satisfactory proof that the nonproduction of the invoices was due to causes beyond his or her control;

(l) For any person to receive in this state any shipment of any of the articles taxed herein, when the same are not stamped, for the purpose of avoiding payment of tax. It is presumed that persons other than dealers who purchase or receive shipments of unstamped cigarettes do so to avoid payment of the tax imposed herein;

(m) For any person to possess or transport in this state a quantity of sixty thousand cigarettes or less unless the proper stamps required by this chapter have been affixed or unless: (i) Notice of the possession or transportation has been given as required by RCW 82.24.250; (ii) the person transporting the cigarettes has in actual possession invoices or delivery tickets which show the true name and address of the consignor or seller, the true name and address of the consignee or purchaser, and the quantity and brands of the cigarettes so transported; and (iii) the cigarettes are consigned to or purchased by any person in this state who is authorized by this chapter to possess unstamped cigarettes in this state.

(2) It is unlawful for any person knowingly or intentionally to possess or to transport in this state a quantity in excess of sixty thousand cigarettes unless the proper stamps required by this chapter are affixed thereto or unless: (a) Proper notice as required by RCW 82.24.250 has been given; (b) the person transporting the cigarettes actually possesses invoices or delivery tickets showing the true name and address of the consignor or seller, the true name and address of the consignee or purchaser, and the quantity and brands of the cigarettes so transported; and (c) the cigarettes are consigned to or purchased by a person in this state who is authorized by this chapter to possess unstamped cigarettes in this state. Violation of this section shall be punished as a class C felony under Title 9A RCW.

(3) All agents, employees, and others who aid, abet, or otherwise participate in any way in the violation of the provisions of this chapter or in any of the offenses described in this chapter shall be guilty and punishable as principals, to

the same extent as any wholesaler or retailer or any other person violating this chapter.

**Sec. 5.** RCW 82.24.130 and 1990 c 216 s 5 are each amended to read as follows:

(1) The following are subject to seizure and forfeiture:

(a) Subject to RCW 82.24.250, any articles taxed in this chapter that are found at any point within this state, which articles are held, owned, or possessed by any person, and that do not have the stamps affixed to the packages or containers.

(b) All conveyances, including aircraft, vehicles, or vessels, which are used, or intended for use, to transport, or in any manner to facilitate the transportation, for the purpose of sale or receipt of property described in (a) of this subsection, except:

(i) A conveyance used by any person as a common or contract carrier having in actual possession invoices or delivery tickets showing the true name and address of the consignor or seller, the true name of the consignee or purchaser, and the quantity and brands of the cigarettes transported, unless it appears that the owner or other person in charge of the conveyance is a consenting party or privy to a violation of this chapter;

(ii) A conveyance subject to forfeiture under this section by reason of any act or omission of which the owner thereof establishes to have been committed or omitted without his or her knowledge or consent;

(iii) A conveyance encumbered by a bona fide security interest if the secured party neither had knowledge of nor consented to the act or omission.

(c) Any vending machine used for the purpose of violating the provisions of this chapter.

(2) Property subject to forfeiture under this chapter may be seized by any agent of the department authorized to collect taxes, any enforcement officer of the board, or law enforcement officer of this state upon process issued by any superior court or district court having jurisdiction over the property. Seizure without process may be made if:

(a) The seizure is incident to an arrest or a search under a search warrant or an inspection under an administrative inspection warrant; or

(b) The department, the board, or the law enforcement officer has probable cause to believe that the property was used or is intended to be used in violation of this chapter and exigent circumstances exist making procurement of a search warrant impracticable.

(3) Notwithstanding the foregoing provisions of this section, articles taxed in this chapter which are in the possession of a wholesaler or retailer, licensed under Washington state law, for a period of time necessary to affix the stamps after receipt of the articles, shall not be considered contraband.

**Sec. 6.** RCW 82.24.190 and 1987 c 202 s 244 are each amended to read as follows:

When the department of revenue or the board has good reason to believe that any of the articles taxed herein are being kept, sold, offered for sale, or given away in violation of the provisions of this chapter or regulations issued under authority hereof, it may make affidavit of such fact, describing the place or thing to be searched, before any judge of any court in this state, and such judge shall issue a search warrant directed to the sheriff, any deputy, police officer, or duly authorized agent of the department of revenue commanding him or her diligently to search any building, room in a building, place or vehicle as may be designated in the affidavit and search warrant, and to seize such tobacco so possessed and to hold the same until disposed of by law, and to arrest the person in possession or control thereof. If upon the return of such warrant, it shall appear that any of the articles taxed herein, unlawfully possessed, were seized, the same shall be sold as provided in this chapter.

**Sec. 7.** RCW 82.24.250 and 1995 c 278 s 10 are each amended to read as follows:

(1) No person other than: (a) A licensed wholesaler in the wholesaler's own vehicle; or (b) a person who has given notice to the ((department)) the board in advance of the commencement of transportation shall transport or cause to be transported in this state cigarettes not having the stamps affixed to the packages or containers.

(2) When transporting unstamped cigarettes, such persons shall have in their actual possession or cause to have in the actual possession of those persons transporting such cigarettes on their behalf invoices or delivery tickets for such cigarettes, which shall show the true name and address of the consignor or seller, the true name and address of the consignee or purchaser, and the quantity and brands of the cigarettes so transported.

(3) If the cigarettes are consigned to or purchased by any person in this state such purchaser or consignee must be a person who is authorized by chapter 82.24 RCW to possess unstamped cigarettes in this state.

(4) In the absence of the notice of transportation required by this section or in the absence of such invoices or delivery tickets, or, if the name or address of the consignee or purchaser is falsified or if the purchaser or consignee is not a person authorized by chapter 82.24 RCW to possess unstamped cigarettes, the cigarettes so transported shall be deemed contraband subject to seizure and sale under the provisions of RCW 82.24.130.

(5) Transportation of cigarettes from a point outside this state to a point in some other state will not be considered a violation of this section provided that the person so transporting such cigarettes has in his possession adequate invoices or delivery tickets which give the true name and address of such out-of-state seller or consignor and such out-of-state purchaser or consignee.

(6) In any case where the department or its duly authorized agent, or any peace officer of the state, has knowledge or reasonable grounds to believe that any vehicle is transporting cigarettes in violation of this section, the department, such

agent, or such police officer, is authorized to stop such vehicle and to inspect the same for contraband cigarettes.

(7) For purposes of this section, the term "person authorized by chapter 82.24 RCW to possess unstamped cigarettes" means:

- (a) A wholesaler or retailer, licensed under Washington state law;
- (b) The United States or an agency thereof; and
- (c) Any person, including an Indian tribal organization, who, after notice has been given to the ~~((department))~~ board as provided in this section, brings or causes to be brought into the state unstamped cigarettes, if within a period of time after receipt of the cigarettes as the department determines by rule to be reasonably necessary for the purpose the person has caused stamps to be affixed in accordance with RCW 82.24.030 or otherwise made payment of the tax required by this chapter in the manner set forth in rules adopted by the department.

Sec. 8. RCW 82.24.550 and 1993 c 507 s 17 are each amended to read as follows:

(1) The ~~((department of revenue))~~ board shall enforce the provisions of this chapter ~~((except RCW 82.24.500, which will be enforced by the liquor control board))~~. The board may adopt, amend, and repeal rules necessary to enforce the provisions of this chapter.

(2) The department of revenue may adopt, amend, and repeal rules necessary to ~~((enforce and))~~ administer the provisions of this chapter. The department of revenue has full power and authority to revoke or suspend the license or permit of any wholesale or retail cigarette dealer in the state upon sufficient cause appearing of the violation of this chapter or upon the failure of such licensee to comply with any of the provisions of this chapter.

~~((2))~~ (3) A license shall not be suspended or revoked except upon notice to the licensee and after a hearing as prescribed by the department of revenue. The department of revenue, upon a finding by same, that the licensee has failed to comply with any provision of this chapter or any rule promulgated thereunder, shall, in the case of the first offender, suspend the license or licenses of the licensee for a period of not less than thirty consecutive business days, and, in the case of a second or plural offender, shall suspend the license or licenses for a period of not less than ninety consecutive business days nor more than twelve months, and, in the event the department of revenue finds the offender has been guilty of willful and persistent violations, it may revoke the license or licenses.

~~((3))~~ (4) Any person whose license or licenses have been so revoked may apply to the department of revenue at the expiration of one year for a reinstatement of the license or licenses. The license or licenses may be reinstated by the department of revenue if it appears to the satisfaction of the department of revenue that the licensee will comply with the provisions of this chapter and the rules promulgated thereunder.

~~((4))~~ (5) A person whose license has been suspended or revoked shall not sell cigarettes or permit cigarettes to be sold during the period of such suspension

or revocation on the premises occupied by the person or upon other premises controlled by the person or others or in any other manner or form whatever.

~~((5))~~ (6) Any determination and order by the department of revenue, and any order of suspension or revocation by the department of revenue of the license or licenses, or refusal to reinstate a license or licenses after revocation shall be reviewable by an appeal to the superior court of Thurston county. The superior court shall review the order or ruling of the department of revenue and may hear the matter de novo, having due regard to the provisions of this chapter and the duties imposed upon the department of revenue and the board.

**Sec. 9.** RCW 82.32.300 and 1983 c 3 s 222 are each amended to read as follows:

The administration of this and chapters 82.04 through 82.27 RCW of this title is vested in the department of revenue which shall prescribe forms and rules of procedure for the determination of the taxable status of any person, for the making of returns and for the ascertainment, assessment and collection of taxes and penalties imposed thereunder.

The department of revenue shall make and publish rules and regulations, not inconsistent therewith, necessary to enforce ~~((their))~~ provisions of this chapter and chapters 82.02 through 82.23B and 82.27 RCW, and the liquor control board shall make and publish rules necessary to enforce chapters 82.24 and 82.26 RCW, which shall have the same force and effect as if specifically included therein, unless declared invalid by the judgment of a court of record not appealed from.

The department may employ such clerks, specialists, and other assistants as are necessary. Salaries and compensation of such employees shall be fixed by the department and shall be charged to the proper appropriation for the department.

The department shall exercise general supervision of the collection of taxes and, in the discharge of such duty, may institute and prosecute such suits or proceedings in the courts as may be necessary and proper.

**NEW SECTION. Sec. 10.** A new section is added to chapter 82.24 RCW to read as follows:

The department shall appoint, as duly authorized agents, enforcement officers of the liquor control board to enforce provisions of this chapter. These officers shall not be considered employees of the department.

**NEW SECTION. Sec. 11.** A new section is added to chapter 82.26 RCW to read as follows:

The department shall appoint, as duly authorized agents, enforcement officers of the liquor control board to enforce provisions of this chapter. These officers shall not be considered employees of the department.

**\*NEW SECTION. Sec. 12.** A new section is added to chapter 43.06 RCW to read as follows:

*(1) The governor is authorized and empowered to execute cooperative agreements with federally recognized Indian tribes or nations in the state of*

*Washington concerning the sales of cigarettes and tobacco. The liquor control board shall negotiate the cooperative agreements with the federally recognized Indian tribes or nations. The rate of tax imposed and collected on cigarettes and tobacco products under cooperative agreements shall be at the same rate as the taxes imposed on cigarettes and tobacco products under chapters 82.24 and 82.26 RCW, but the amount of taxes collected that may be retained by the Indian tribes or nations shall be as provided in the cooperative agreements.*

*(2) A cooperative agreement under this section shall be designed to contribute to the achievement of a net decrease in the ninety million dollars in cigarette and tobacco tax revenues that are lost annually, balancing the contribution of voluntary compliance, enforcement, and the cooperative agreement. In conjunction with active enforcement of chapters 82.24 and 82.26 RCW under RCW 66.44.010, cooperative agreements shall be designed to achieve a net decrease in lost cigarette and tobacco revenue according to the following schedules:*

- (a) By June 30, 1998, at least five percent;*
- (b) By June 30, 1999, at least twelve and one-half percent;*
- (c) By June 30, 2000, at least thirty percent;*
- (d) By June 30, 2001, at least thirty-seven and one-half percent; and*
- (e) By June 30, 2002, at least fifty percent.*

*The board shall sustain the fifty percent net decrease in lost revenue due to cigarette and tobacco tax evasion after June 30, 2002.*

*(3) Of the revenues received by the state under cooperative agreements negotiated under this section, fifty percent shall be deposited in the violence reduction and drug enforcement account and fifty percent shall be deposited in the health services account.*

*(4) For the purposes of this section, "federally recognized Indian tribes or nations" means an Indian entity that is recognized as an Indian tribe or a self-governing dependent Indian community by the United States secretary of the interior.*

*\*Sec. 12 was vetoed. See message at end of chapter.*

*\*NEW SECTION. Sec. 13. A new section is added to chapter 82.08 RCW to read as follows:*

*The tax levied by RCW 82.08.020 does not apply to sales of cigarettes or tobacco made by a federally recognized Indian tribe or nation or its licensees during the effective period of a cooperative agreement entered into between the state and the federally recognized Indian tribe or nation under section 12 of this act.*

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

*\*NEW SECTION. Sec. 14. A new section is added to chapter 82.12 RCW to read as follows:*

*The provisions of this chapter do not apply in respect to the use of cigarettes or tobacco sold by a federally recognized Indian tribe or nation or its licensees*

*during the effective period of a cooperative agreement entered into between the state and the federally recognized Indian tribe or nation under section 12 of this act.*

\*Sec. 14 was vetoed. See message at end of chapter.

**\*NEW SECTION.** *Sec. 15. A new section is added to chapter 82.24 RCW to read as follows:*

*This chapter does not apply to the sale, use, consumption, handling, possession, or distribution of cigarettes by a federally recognized Indian tribe or nation or its licensees during the effective period of a cooperative agreement entered into between the state and the federally recognized Indian tribe or nation under section 12 of this act.*

\*Sec. 15 was vetoed. See message at end of chapter.

**\*NEW SECTION.** *Sec. 16. A new section is added to chapter 82.26 RCW to read as follows:*

*This chapter does not apply to the sale, use, consumption, handling, possession, or distribution of tobacco by a federally recognized Indian tribe or nation or its licensees during the effective period of a cooperative agreement entered into between the state and the federally recognized Indian tribe or nation under section 12 of this act.*

\*Sec. 16 was vetoed. See message at end of chapter.

**\*NEW SECTION.** *Sec. 17. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.*

\*Sec. 17 was vetoed. See message at end of chapter.

Passed the House April 21, 1997.

Passed the Senate April 16, 1997.

Approved by the Governor May 19, 1997, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State May 19, 1997.

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

"I am returning herewith, without my approval as to sections 1, 2, and 12 through 17, Engrossed Substitute House Bill No. 2272 entitled:

"AN ACT Relating to transferring the enforcement of existing cigarette and tobacco taxes from the department of revenue to the liquor control board;"

Engrossed Substitute House Bill No. 2272 transfers responsibility for collection of cigarette taxes from the Department of Revenue to the Liquor Control Board. It also makes statements about the estimated amounts of tax revenue lost annually due to evasion, and permits the governor to enter into agreements with tribal governments for the collection of the tax on tribal lands.

I concur with the Legislature that the state has a significant problem related to the collection of the state tax on cigarettes, and I agree that the Liquor Control Board is better suited to collect the tax than the Department of Revenue. However, I believe that other portions of ESHB 2272 are too restrictive to be practical.

Other states have successfully dealt with this issue through effective and fair government-to-government agreements. This bill would have authorized the governor to enter into compacts with Indian tribes regarding cigarette tax collection, but it leaves too little negotiating room. We already have other successful compacting processes in place.

This bill did not make use of those successful processes. Instead, the compacting process set forth in the bill severely and unnecessarily restricts the terms of the agreements. I want the Legislature to revisit this compacting authority next session.

For these reasons, I have vetoed sections 1, 2, and 12 through 17 of Engrossed Substitute House Bill No. 2272.

With the exception of sections 1, 2, and 12 through 17, Engrossed Substitute House Bill No. 2272 is approved."

## CHAPTER 421

[Substitute Senate Bill 5103]

### ALTERNATE OPERATORS ALLOWED UNDER COMMERCIAL FISHERY, DELIVERY, AND CHARTER LICENSES—INCREASE AUTHORIZED

AN ACT Relating to commercial fishery licenses; and adding a new section to chapter 75.28 RCW.

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

**NEW SECTION.** Sec. 1. A new section is added to chapter 75.28 RCW to read as follows:

The fish and wildlife commission may, by rule, increase the number of alternate operators beyond the level authorized by RCW 75.28.030 and 75.28.046 for a commercial fishery license, delivery license, or charter license.

Passed the Senate April 19, 1997.

Passed the House April 14, 1997.

Approved by the Governor May 19, 1997.

Filed in Office of Secretary of State May 19, 1997.

## CHAPTER 422

[Substitute Senate Bill 5104]

### EASTERN WASHINGTON PHEASANT ENHANCEMENT PROGRAM

AN ACT Relating to game birds; adding new sections to chapter 77.12 RCW; and creating new sections.

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

**NEW SECTION.** Sec. 1. The legislature finds that pheasant populations in eastern Washington have greatly decreased from their historic high levels and that pheasant hunting success rates have plummeted. The number of pheasant hunters has decreased due to reduced hunting success. There is an opportunity to enhance the pheasant population by release of pen-reared pheasants and habitat enhancements to create increased hunting opportunities on publicly owned and managed lands.

**NEW SECTION.** Sec. 2. There is created within the department the eastern Washington pheasant enhancement program. The purpose of the program is to improve the harvest of pheasants by releasing pen-reared rooster pheasants on sites accessible for public hunting and by providing grants for habitat enhancement on public or private lands under agreement with the department. The department may

either purchase rooster pheasants from private contractors, or produce rooster pheasants from department-sanctioned cooperative projects, whichever is less expensive, provided that the pheasants released meet minimum department standards for health and maturity. Any surplus hen pheasants from pheasant farms or projects operated by the department or the department of corrections for this enhancement program shall be made available to landowners who voluntarily open their lands to public pheasant hunting. Pheasants produced for the eastern Washington pheasant enhancement program must not detrimentally affect the production or operation of the department's western Washington pheasant release program. The release of pheasants for hunting purposes must not conflict with or supplant other department efforts to improve upland bird habitat or naturally produced upland birds.

**NEW SECTION.** Sec. 3. The commission must establish special pheasant hunting opportunities for juvenile hunters in eastern Washington for the 1998 season and future seasons.

**NEW SECTION.** Sec. 4. Beginning September 1, 1997, a person who hunts for pheasant in eastern Washington must pay an annual surcharge of ten dollars, in addition to other licensing requirements. Funds from the surcharge must be deposited in the eastern Washington pheasant enhancement account created in section 5 of this act.

**NEW SECTION.** Sec. 5. The eastern Washington pheasant enhancement account is created in the custody of the state treasurer. All receipts under section 4 of this act must be deposited in the account. Moneys in the account are subject to legislative appropriation and shall be used for the purpose of funding the eastern Washington pheasant enhancement program. The department may use moneys from the account to improve pheasant habitat or to purchase or produce pheasants. Not less than eighty percent of expenditures from the account must be used to purchase or produce pheasants. The eastern Washington pheasant enhancement account funds must not be used for the purchase of land. The account may be used to offer grants to improve pheasant habitat on public or private lands that are open to public hunting. The department may enter partnerships with private landowners, nonprofit corporations, cooperative groups, and federal or state agencies for the purposes of pheasant habitat enhancement in areas that will be available for public hunting.

**NEW SECTION.** Sec. 6. The department of fish and wildlife must jointly investigate with the department of corrections the feasibility of producing pheasants for the eastern Washington pheasant enhancement program utilizing inmate labor and facilities at the Walla Walla state penitentiary or other eastern Washington state correctional facilities. The investigation must include a comparison of the costs of producing pheasants at a correctional facility versus the costs of purchasing pheasants for this enhancement program. The two departments

must report their findings to the senate and house of representatives natural resources committees on or before January 1, 1998.

**NEW SECTION.** Sec. 7. Sections 2 through 5 of this act are each added to chapter 77.12 RCW.

Passed the Senate April 22, 1997.

Passed the House April 18, 1997.

Approved by the Governor May 19, 1997.

Filed in Office of Secretary of State May 19, 1997.

## CHAPTER 423

[Substitute Senate Bill 5119]

### COMPENSATION OF MEMBERS OF THE FOREST PRACTICES APPEALS BOARD

AN ACT Relating to compensating members of the forest practices appeals board; amending RCW 76.09.220; creating a new section; providing an effective date; and declaring an emergency.

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

**NEW SECTION.** Sec. 1. The legislature finds that the functions of the forest practices appeals board have overriding sensitivity and are of importance to the public welfare and operation of state government.

**Sec. 2.** RCW 76.09.220 and 1989 c 175 s 164 are each amended to read as follows:

(1) The appeals board shall operate on either a part-time or a full-time basis, as determined by the governor. If it is determined that the appeals board shall operate on a full-time basis, each member shall receive an annual salary to be determined by the governor. If it is determined that the appeals board shall operate on a part-time basis, each member shall be compensated in accordance with RCW ((43.03.240:—PROVIDED, That such)) 43.03.250. The director of the environmental hearings office shall make the determination, required under RCW 43.03.250, as to what statutorily prescribed duties, in addition to attendance at a hearing or meeting of the board, shall merit compensation. This compensation shall not exceed ten thousand dollars in a fiscal year. Each member shall receive reimbursement for travel expenses incurred in the discharge of his duties in accordance with the provisions of RCW 43.03.050 and 43.03.060.

(2) The appeals board shall as soon as practicable after the initial appointment of the members thereof, meet and elect from among its members a chairman, and shall at least biennially thereafter meet and elect or reelect a chairman.

(3) The principal office of the appeals board shall be at the state capital, but it may sit or hold hearings at any other place in the state. A majority of the appeals board shall constitute a quorum for making orders or decisions, promulgating rules and regulations necessary for the conduct of its powers and duties, or transacting other official business, and may act though one position on the board be vacant. One or more members may hold hearings and take testimony to be reported for action by the board when authorized by rule or order of the board. The appeals

board shall perform all the powers and duties granted to it in this chapter or as otherwise provided by law.

(4) The appeals board shall make findings of fact and prepare a written decision in each case decided by it, and such findings and decision shall be effective upon being signed by two or more members and upon being filed at the appeals board's principal office, and shall be open to public inspection at all reasonable times.

(5) The appeals board shall either publish at its expense or make arrangements with a publishing firm for the publication of those of its findings and decisions which are of general public interest, in such form as to assure reasonable distribution thereof.

(6) The appeals board shall maintain at its principal office a journal which shall contain all official actions of the appeals board, with the exception of findings and decisions, together with the vote of each member on such actions. The journal shall be available for public inspection at the principal office of the appeals board at all reasonable times.

(7) The forest practices appeals board shall have exclusive jurisdiction to hear appeals arising from an action or determination by the department.

(8)(a) Any person aggrieved by the approval or disapproval of an application to conduct a forest practice may seek review from the appeals board by filing a request for the same within thirty days of the approval or disapproval. Concurrently with the filing of any request for review with the board as provided in this section, the requestor shall file a copy of his request with the department and the attorney general. The attorney general may intervene to protect the public interest and insure that the provisions of this chapter are complied with.

(b) The review proceedings authorized in ((subparagraph)) (a) of this subsection are subject to the provisions of chapter 34.05 RCW pertaining to procedures in adjudicative proceedings.

**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 July 1, 1997.

Passed the Senate April 21, 1997.

Passed the House April 14, 1997.

Approved by the Governor May 19, 1997.

Filed in Office of Secretary of State May 19, 1997.

## CHAPTER 424

[Engrossed Substitute Senate Bill 5273]

### COMPENSATORY MITIGATION FOR AQUATIC RESOURCES

AN ACT Relating to compensatory mitigation; adding new sections to chapter 75.20 RCW; adding a new section to chapter 90.48 RCW; and adding a new chapter to Title 90 RCW.

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

**NEW SECTION. Sec. 1.** (1) The legislature finds that:

(a) The state lacks a clear policy relating to the mitigation of wetlands and aquatic habitat for infrastructure development;

(b) Regulatory agencies have generally required project proponents to use compensatory mitigation only at the site of the project's impacts and to mitigate narrowly for the habitat or biological functions impacted by a project;

(c) This practice of considering traditional on-site, in-kind mitigation may provide fewer environmental benefits when compared to innovative mitigation proposals that provide benefits in advance of a project's planned impacts and that restore functions or habitat other than those impacted at a project site; and

(d) Regulatory decisions on development proposals that attempt to incorporate innovative mitigation measures take an unreasonably long period of time and are subject to a great deal of uncertainty and additional expenses.

(2) The legislature therefore declares that it is the policy of the state to authorize innovative mitigation measures by requiring state regulatory agencies to consider mitigation proposals for infrastructure projects that are timed, designed, and located in a manner to provide equal or better biological functions and values compared to traditional on-site, in-kind mitigation proposals.

(3) It is the intent of the legislature to authorize local governments to accommodate the goals of this chapter. It is not the intent of the legislature to: (a) Restrict the ability of a project proponent to pursue project specific mitigation; or (b) create any new authority for regulating wetlands or aquatic habitat beyond what is specifically provided for in this chapter.

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

(1) "Mitigation" means sequentially avoiding impacts, minimizing impacts, or compensating for remaining unavoidable impacts.

(2) "Compensatory mitigation" means the restoration, creation, enhancement, or preservation of uplands, wetlands, or other aquatic resources for the purposes of compensating for unavoidable adverse impacts that remain after all appropriate and practicable avoidance and minimization has been achieved. "Compensatory mitigation" includes mitigation that:

(a) Occurs at the same time as, or in advance of, a project's planned environmental impacts;

(b) Is located in a site either on, near, or distant from the project's impacts; and

(c) Provides either the same or different biological functions and values as the functions and values impacted by the project.

(3) "Infrastructure development" means an action that is critical for the maintenance or expansion of an existing infrastructure feature such as a highway, rail line, airport, marine terminal, utility corridor, harbor area, or hydroelectric facility and is consistent with an approved land use planning process. This planning process may include the growth management act, chapter 36.70A RCW,

or the shoreline management act, chapter 90.58 RCW, in areas covered by those chapters.

(4) "Mitigation plan" means a document or set of documents developed through joint discussions between a project proponent and environmental regulatory agencies that describe the unavoidable wetland or aquatic resource impacts of the proposed infrastructure development and the proposed compensatory mitigation for those impacts.

(5) "Project proponent" means a public or private entity responsible for preparing a mitigation plan.

(6) "Watershed" means an area identified as a state of Washington water resource inventory area under WAC 173-500-040 as it exists on the effective date of this section.

**NEW SECTION. Sec. 3.** (1) Project proponents may use a mitigation plan to propose compensatory mitigation within a watershed. A mitigation plan shall:

(a) Contain provisions that guarantee the long-term viability of the created, restored, enhanced, or preserved habitat, including assurances for protecting any essential biological functions and values defined in the mitigation plan;

(b) Contain provisions for long-term monitoring of any created, restored, or enhanced mitigation site; and

(c) Be consistent with the local comprehensive land use plan and any other applicable planning process in effect for the development area, such as an adopted subbasin or watershed plan.

(2) The departments of ecology and fish and wildlife may not limit the scope of options in a mitigation plan to areas on or near the project site, or to habitat types of the same type as contained on the project site. The departments of ecology and fish and wildlife shall fully review and give due consideration to compensatory mitigation proposals that improve the overall biological functions and values of the watershed or bay and accommodate the mitigation needs of infrastructure development.

The departments of ecology and fish and wildlife are not required to grant approval to a mitigation plan that the departments find does not provide equal or better biological functions and values within the watershed or bay.

(3) When making a permit or other regulatory decision under the guidance of this chapter, the departments of ecology and fish and wildlife shall consider whether the mitigation plan provides equal or better biological functions and values, compared to the existing conditions, for the target resources or species identified in the mitigation plan. This consideration shall be based upon the following factors:

(a) The relative value of the mitigation for the target resources, in terms of the quality and quantity of biological functions and values provided;

(b) The compatibility of the proposal with the intent of broader resource management and habitat management objectives and plans, such as existing

resource management plans, watershed plans, critical areas ordinances, and shoreline master programs;

(c) The ability of the mitigation to address scarce functions or values within a watershed;

(d) The benefits of the proposal to broader watershed landscape, including the benefits of connecting various habitat units or providing population-limiting habitats or functions for target species;

(e) The benefits of early implementation of habitat mitigation for projects that provide compensatory mitigation in advance of the project's planned impacts; and

(f) The significance of any negative impacts to nontarget species or resources.

(4) A mitigation plan may be approved through a memorandum of agreement between the project proponent and either the department of ecology or the department of fish and wildlife, or both.

**NEW SECTION.** Sec. 4. (1) In making regulatory decisions relating to wetland or aquatic resource mitigation, the departments of ecology and fish and wildlife shall, at the request of the project proponent, follow the guidance of sections 1 through 3 of this act.

(2) If the department of ecology or the department of fish and wildlife receives multiple requests for review of mitigation plans, each department may schedule its review of these proposals to conform to available budgetary resources.

**NEW SECTION.** Sec. 5. A new section is added to chapter 75.20 RCW to read as follows:

The department shall not require mitigation for sediment dredging or capping actions that result in a cleaner aquatic environment and equal or better habitat functions and values, if the actions are taken under a state or federal cleanup action.

This chapter shall not be construed to require habitat mitigation for navigation and maintenance dredging of existing channels and berthing areas.

**NEW SECTION.** Sec. 6. A new section is added to chapter 75.20 RCW to read as follows:

When reviewing a mitigation plan under RCW 75.20.100 or RCW 75.20.103, the department shall, at the request of the project proponent, follow the guidance contained in sections 1 through 4 of this act.

**NEW SECTION.** Sec. 7. A new section is added to chapter 90.48 RCW to read as follows:

When exercising its powers under RCW 90.48.260, the department shall, at the request of the project proponent, follow the guidance contained in sections 1 through 4 of this act.

**NEW SECTION.** Sec. 8. Sections 1 through 4 of this act constitute a new chapter in Title 90 RCW.

Passed the Senate April 21, 1997.

Passed the House April 8, 1997.

Approved by the Governor May 19, 1997.

Filed in Office of Secretary of State May 19, 1997.

---

## CHAPTER 425

[Substitute Senate Bill 5327]

### FISH AND WILDLIFE HABITAT INCENTIVES PROGRAM

AN ACT Relating to fish and wildlife enhancement; adding a new section to chapter 77.12 RCW; adding a new section to chapter 75.20 RCW; adding a new section to chapter 76.09 RCW; creating new sections; and making appropriations.

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

**NEW SECTION.** **Sec. 1.** In an effort to increase the amount of habitat available for fish and wildlife, the legislature finds that it is desirable for the department of fish and wildlife, the department of natural resources, and other interested parties to work closely with private landowners to achieve habitat enhancements. In some instances, private landowners avoid enhancing habitat because of a concern that the presence of fish or wildlife may make future land management more difficult. It is the intent of this act to provide a mechanism that facilitates habitat development while avoiding an adverse impact on the landowner at a later date. The habitat incentives program is not intended to supercede any federal laws.

**NEW SECTION.** **Sec. 2.** (1) The department of fish and wildlife and the department of natural resources shall jointly initiate a habitat incentives program in two phases. In creating this program, the departments shall make use of and complement other study efforts underway relating to habitat protection and enhancement, including the department of fish and wildlife's review of the hydraulic project approval process and the forestry module under development for the forest practices board dealing with practices within riparian areas.

(2) In phase one, the department of fish and wildlife and the department of natural resources shall work with affected federally recognized Indian tribes, landowners, the regional fisheries enhancement groups, the timber, fish, and wildlife cooperators, and other interested parties to identify appropriate criteria and other factors necessary for implementation of the habitat incentives program. The departments in concert with the interested parties shall identify at least the following elements for implementation of the program:

(a) The factors and the approach that the departments should use in evaluating and weighing the benefits and concurrent risks of entering into a habitat incentives agreement with a landowner;

(b) The approach to be used in assigning responsibilities for implementation of the agreement to the landowner and to the departments;

(c) Assignment of responsibility for documentation of the conditions on a landowner's property prior to the departments entering into a habitat incentives agreement;

(d) The process to be used when a landowner who has entered into a habitat incentives agreement applies for hydraulic project approval or a forest practices permit during the term of the agreement;

(e) The process to be used to monitor and evaluate whether actions taken as a part of the agreement actually enhance habitat for the target species and to amend the agreement if the existing agreement is not enhancing habitat;

(f) The conditions under which the departments and the landowner may terminate the agreement and the remedies if either party breaches the terms of the agreement;

(g) The means for ensuring that the departments are notified if the property covered by the agreement is sold or otherwise transferred into other ownership;

(h) The process to be used for reaching concurrence between the landowner, the departments, the timber, fish, and wildlife cooperators, and affected federally recognized Indian tribes; and

(i) The process to be used in prioritizing proposed agreements if the requests for agreements exceed the funding available for entering into and implementing such agreements.

The departments and the interested parties may identify and propose solutions to other issues necessary in order to implement the habitat incentives program. The departments and the interested parties shall report to the legislature on their findings as well as on any other recommendations for implementation and funding for the habitat incentives program by December 1, 1997.

NEW SECTION. Sec. 3. A new section is added to chapter 77.12 RCW to read as follows:

(1) Beginning in January 1998, the department of fish and wildlife and the department of natural resources shall implement a habitat incentives program based on the recommendations of federally recognized Indian tribes, landowners, the regional fisheries enhancement groups, the timber, fish, and wildlife cooperators, and other interested parties. The program shall allow a private landowner to enter into an agreement with the departments to enhance habitat on the landowner's property for food fish, game fish, or other wildlife species. In exchange, the landowner shall receive state regulatory certainty with regard to future applications for hydraulic project approval or a forest practices permit on the property covered by the agreement. The overall goal of the program is to provide a mechanism that facilitates habitat development on private property while avoiding an adverse state regulatory impact to the landowner at some future date. A single agreement between the departments and a landowner may encompass up to one thousand acres. A landowner may enter into multiple agreements with the departments, provided that the total acreage covered by such agreements with a single landowner does not exceed ten thousand acres. The departments are not obligated to enter

into an agreement unless the departments find that the agreement is in the best interest of protecting fish or wildlife species or their habitat.

(2) A habitat incentives agreement shall be in writing and shall contain at least the following: A description of the property covered by the agreement, an expiration date, a description of the condition of the property prior to the implementation of the agreement, and other information needed by the landowner and the departments for future reference and decisions.

(3) As part of the agreement, the department of fish and wildlife may stipulate the factors that will be considered when the department evaluates a landowner's application for hydraulic project approval under RCW 75.20.100 or 75.20.103 on property covered by the agreement. The department's identification of these evaluation factors shall be in concurrence with the department of natural resources and affected federally recognized Indian tribes. In general, future decisions related to the issuance, conditioning, or denial of hydraulic project approval shall be based on the conditions present on the landowner's property at the time of the agreement, unless all parties agree otherwise.

(4) As part of the agreement, the department of natural resources may stipulate the factors that will be considered when the department evaluates a landowner's application for a forest practices permit under chapter 76.09 RCW on property covered by the agreement. The department's identification of these evaluation factors shall be in concurrence with the department of fish and wildlife and affected federally recognized Indian tribes. In general, future decisions related to the issuance, conditioning, or denial of forest practices permits shall be based on the conditions present on the landowner's property at the time of the agreement, unless all parties agree otherwise.

(5) The agreement is binding on and may be used by only the landowner who entered into the agreement with the department. The agreement shall not be appurtenant with the land. However, if a new landowner chooses to maintain the habitat enhancement efforts on the property, the new landowner and the departments may jointly choose to retain the agreement on the property.

(6) If the departments receive multiple requests for agreements with private landowners under the habitat incentives program, the departments shall prioritize these requests and shall enter into as many agreements as possible within available budgetary resources.

**NEW SECTION.** Sec. 4. A new section is added to chapter 75.20 RCW to read as follows:

When a private landowner is applying for hydraulic project approval under this chapter and that landowner has entered into a habitat incentives agreement with the department and the department of natural resources as provided in section 3 of this act, the department shall comply with the terms of that agreement when evaluating the request for hydraulic project approval.

**NEW SECTION.** Sec. 5. A new section is added to chapter 76.09 RCW to read as follows:

When a private landowner is applying for a forest practices permit under this chapter and that landowner has entered into a habitat incentives agreement with the department and the department of fish and wildlife as provided in section 3 of this act, the department shall comply with the terms of that agreement when evaluating the permit application.

**NEW SECTION. Sec. 6.** (1) The sum of twelve thousand one hundred twenty-five dollars, or as much thereof as may be necessary, is appropriated for the fiscal year ending June 30, 1998, from the general fund to the department of fish and wildlife for the purposes of this act.

(2) The sum of twelve thousand one hundred twenty-five dollars, or as much thereof as may be necessary, is appropriated for the fiscal year ending June 30, 1999, from the general fund to the department of fish and wildlife for the purposes of this act.

(3) The sum of twelve thousand one hundred twenty-five dollars, or as much thereof as may be necessary, is appropriated for the fiscal year ending June 30, 1998, from the general fund to the department of natural resources for the purposes of this act.

(4) The sum of twelve thousand one hundred twenty-five dollars, or as much thereof as may be necessary, is appropriated for the fiscal year ending June 30, 1999, from the general fund to the department of natural resources for the purposes of this act.

Passed the Senate April 26, 1997.

Passed the House April 26, 1997.

Approved by the Governor May 19, 1997.

Filed in Office of Secretary of State May 19, 1997.

---

## CHAPTER 426

[Senate Bill 5650]

### JURISDICTION OVER WATER-SEWER DISTRICTS BY CITIES

AN ACT Relating to local government; amending RCW 35.13A.070 and 35.13A.080; adding a new section to chapter 35.13A RCW; and adding new sections to chapter 35.51 RCW.

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

**NEW SECTION. Sec. 1.** A new section is added to chapter 35.13A RCW to read as follows:

The board of commissioners of a water-sewer district, with fewer than one hundred twenty customers on the effective date of this act, may by resolution declare that it is in the best interests of the district for a city, with a population greater than one hundred thousand on the effective date of this act, to assume jurisdiction of the district. None of the territory or assessed valuation of the district need be included within the corporate boundaries of the city. If the city legislative body agrees to assume jurisdiction of the district, the district and the city shall enter into a contract under RCW 35.13A.070, acceptable to both the district and the city,

to carry out the assumption. The contract must provide for the transfer to the city of all real and personal property, franchises, rights, assets, taxes levied but not collected for the district for other than indebtedness, water and sewer lines, and all other facilities and equipment of the district. The transfers are subject to all financial, statutory, or contractual obligations of the district for the security or performance of which the property may have been pledged. The city may manage, control, maintain, and operate the property, facilities, and equipment and fix and collect service and other charges from owners and occupants of properties so served by the city. However, the actions of the city are subject to any outstanding indebtedness, bonded or otherwise, of the district payable from taxes, assessments, or revenues of any kind or nature and to any other contractual obligations of the district, including but not limited to the contract entered into by the city and the district under RCW 35.13A.070.

Under the contract, the city may assume the obligation of paying the district indebtedness and of levying and collecting or causing to be collected the district taxes, assessments, and utility rates and charges of any kind or nature to pay and secure the payment of the indebtedness, according to all terms, conditions, and covenants incident to the indebtedness. The city shall assume and perform all other outstanding contractual obligations of the district in accordance with all of their terms, conditions, and covenants. The assumption does not impair the obligation of any indebtedness or other contractual obligation entered into after the effective date of this act. Until the outstanding indebtedness of the district has been discharged, the territory of the district and the owners and occupants of property in it, continue to be liable for its and their proportionate share of the indebtedness, including outstanding assessments levied by a local improvement district or utility local improvement district within the water-sewer district. The city shall assume the obligation of paying the indebtedness, collecting the assessments and charges, and observing and performing the other district contractual obligations. The legislative body of the city shall act as the officers of the district for the purpose of certifying the amount of any property tax to be levied and collected in the district, and causing service and other charges and assessments to be collected from the property or owners or occupants of it, enforcing the collection, and performing all other acts necessary to insure performance of the district's contractual obligations.

When the city assumes the obligation of paying the outstanding indebtedness, and if property taxes or assessments have been levied and service or other charges have accrued for that purpose but have not been collected by the district before the assumption, the taxes, assessments, and charges collected belong and must be paid to the city and used by the city so far as necessary for payment of indebtedness of the district that existed and was unpaid on the date the city elected to assume the indebtedness. Funds received by the city that have been collected for the purpose of paying bonded or other indebtedness of the district must be used for the purpose for which they were collected and for no other purpose. Outstanding indebtedness must be paid as provided in the bond covenants. The city shall use funds of the

district on deposit with the county treasurer at the time of title transfer solely for the benefit of the utility, and shall not transfer them to or use them for the benefit of the city's general fund.

This section expires December 31, 1998.

**Sec. 2.** RCW 35.13A.070 and 1971 ex.s. c 95 s 7 are each amended to read as follows:

Notwithstanding any provision of this chapter to the contrary, one or more cities and one or more (~~water districts or sewer~~) districts may, through their legislative authorities, authorize a contract with respect to the rights, powers, duties, and obligation of such cities, or districts with regard to the use and ownership of property, the providing of services, the maintenance and operation of facilities, allocation of cost, financing and construction of new facilities, application and use of assets, disposition of liabilities and debts, the performance of contractual obligations, and any other matters arising out of the inclusion, in whole or in part, of the district or districts within any city or cities, or the assumption by the city of jurisdiction of a district under section 1 of this act. The contract may provide for the furnishing of services by any party thereto and the use of city or district facilities or real estate for such purpose, and may also provide for the time during which such district or districts may continue to exercise any rights, privileges, powers, and functions provided by law for such district or districts as if the district or districts or portions thereof were not included within a city or were not subject to an assumption of jurisdiction under section 1 of this act, including but not by way of limitation, the right to promulgate rules and regulations, to levy and collect special assessments, rates, charges, service charges, and connection fees, (~~and~~) to adopt and carry out the provisions of a comprehensive plan, and amendments thereto, for a system of improvements, and to issue general obligation bonds or revenue bonds in the manner provided by law. The contract may provide for the transfer to a city of district facilities, property, rights, and powers as provided in RCW 35.13A.030 (~~and~~), 35.13A.050, and section 1 of this act, whether or not sixty percent or any of the area or assessed valuation of real estate lying within the district or districts is included within such city. The contract may provide that any party thereto may authorize, issue, and sell revenue bonds to provide funds for new water or sewer improvements or to refund any water revenue, sewer revenue, or combined water and sewer revenue bonds outstanding of any city, or district which is a party to such contract if such refunding is deemed necessary, providing such refunding will not increase interest costs. The contract may provide that any party thereto may authorize and issue, in the manner provided by law, general obligation or revenue bonds of like amounts, terms, conditions, and covenants as the outstanding bonds of any other party to the contract, and such new bonds may be substituted or exchanged for such outstanding bonds(~~(- PROVIDED, That)~~). However, no such exchange or substitution shall be effected in such a manner as to impair the obligation or security of any such outstanding bonds.

**Sec. 3.** RCW 35.13A.080 and 1971 ex.s. c 95 s 8 are each amended to read as follows:

In any of the cases provided for in RCW 35.13A.020, 35.13A.030, ~~((and))~~ 35.13A.050, and section 1 of this act, and notwithstanding any other method of dissolution provided by law, dissolution proceedings may be initiated by either the city or the district, or both, when the legislative body of the city and the governing body of the district agree to, and petition for, dissolution of the district.

The petition for dissolution shall be signed by the chief administrative officer of the city and the district, upon authorization of the legislative body of the city and the governing body of the district, respectively and such petition shall be presented to the superior court of the county in which the city is situated.

If the petition is thus authorized by both the city and district, and title to the property, facilities, and equipment of the district has passed to the city pursuant to action taken under this chapter, all indebtedness and local improvement district or utility local improvement district assessments of the district have been discharged or assumed by and transferred to the city, and the petition contains a statement of the distribution of assets and liabilities mutually agreed upon by the city and the district and a copy of the agreement between such city and the district is attached thereto, a hearing shall not be required and the court shall, if the interests of all interested parties have been protected, enter an order dissolving the district.

In any of the cases provided for in RCW 35.13A.020 ~~((and))~~, 35.13A.030, and section 1 of this act, if the petition for an order of dissolution is signed on behalf of the city alone or the district alone, or there is no mutual agreement on the distribution of assets and liabilities, the superior court shall enter an order fixing a hearing date not less than sixty days from the day the petition is filed, and the clerk of the court of the county shall give notice of such hearing by publication in a newspaper of general circulation in the district once a week for three successive weeks and by posting in three public places in the district at least twenty-one days before the hearing. The notice shall set forth the filing of the petition, its purposes, and the date and place of hearing thereon.

After the hearing the court shall enter its order with respect to the dissolution of the district. If the court finds that such district should be dissolved and the functions performed by the city, the court shall provide for the transfer of assets and liabilities to the city. The court may provide for the dissolution of the district upon such conditions as the court may deem appropriate. A certified copy of the court order dissolving the district shall be filed with the county auditor. If the court does not dissolve the district, it shall state the reasons for declining to do so.

**NEW SECTION.** **Sec. 4.** A new section is added to chapter 35.51 RCW to read as follows:

Assessments for local improvements in a local improvement district created by a municipality may be pledged and applied when collected to the payment of its obligations under a loan agreement entered into under chapter 39.69 RCW to pay costs of improvements in such a local improvement district.

**NEW SECTION. Sec. 5.** A new section is added to chapter 35.51 RCW to read as follows:

The authority granted by section 4 of this act is supplemental and in addition to the authority granted by Title 35 RCW and to any other authority granted to cities, towns, or municipal corporations to levy, pledge, and apply special assessments.

Passed the Senate April 26, 1997.

Passed the House April 25, 1997.

Approved by the Governor May 19, 1997.

Filed in Office of Secretary of State May 19, 1997.

---

## CHAPTER 427

[Substitute Senate Bill 5701]

### DISTRIBUTION OF WOOD BYPRODUCTS AS COMMERCIAL FERTILIZER—LICENSURE

AN ACT Relating to commercial soil amendments; amending RCW 15.54.270, 15.54.800, and 70.95.240; adding a new section to chapter 15.54 RCW; and adding a new section to chapter 70.95 RCW.

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

**Sec. 1.** RCW 15.54.270 and 1993 c 183 s 1 are each amended to read as follows:

Terms used in this chapter have the meaning given to them in this chapter unless the context clearly indicates otherwise.

(1) "Brand" means a term, design, or trademark used in connection with the distribution and sale of one or more grades of commercial fertilizers.

(2) "Bulk fertilizer" means commercial fertilizer distributed in a nonpackage form such as, but not limited to, tote bags, tote tanks, bins, tanks, trailers, spreader trucks, and railcars.

(3) "Calcium carbonate equivalent" means the acid-neutralizing capacity of an agricultural liming material expressed as a weight percentage of calcium carbonate.

(4) "Commercial fertilizer" means a substance containing one or more recognized plant nutrients and that is used for its plant nutrient content or that is designated for use or claimed to have value in promoting plant growth, and shall include limes, gypsum, ~~((and))~~ manipulated animal and vegetable manures, and a material approved under section 5 of this act. It does not include unmanipulated animal and vegetable manures and other products exempted by the department by rule.

(5) "Customer-formula fertilizer" means a mixture of commercial fertilizer or materials of which each batch is mixed according to the specifications of the final purchaser.

(6) "Department" means the department of agriculture of the state of Washington or its duly authorized representative.

(7) "Director" means the director of the department of agriculture.

(8) "Distribute" means to import, consign, manufacture, produce, compound, mix, or blend commercial fertilizer, or to offer for sale, sell, barter, exchange, or otherwise supply commercial fertilizer in this state.

(9) "Distributor" means a person who distributes.

(10) "Grade" means the percentage of total nitrogen, available phosphoric acid, and soluble potash stated in whole numbers in the same terms, order, and percentages as in the "guaranteed analysis," unless otherwise allowed by a rule adopted by the department. Specialty fertilizers may be guaranteed in fractional units of less than one percent of total nitrogen, available phosphorus or phosphoric acid, and soluble potassium or potash. Fertilizer materials, bone meal, manures, and similar materials may be guaranteed in fractional units.

(11) "Guaranteed analysis."

(a) Until the director prescribes an alternative form of "guaranteed analysis" by rule the term "guaranteed analysis" shall mean the minimum percentage of plant nutrients claimed in the following order and form:

Total nitrogen (N) . . . . .	percent
Available phosphoric acid (P2O5) . . .	percent
Soluble potash (K2O) . . . . .	percent

The percentage shall be stated in whole numbers unless otherwise allowed by the department by rule.

The "guaranteed analysis" may also include elemental guarantees for phosphorus (P) and potassium (K).

(b) For unacidulated mineral phosphatic material and basic slag, bone, tankage, and other organic phosphatic materials, the total phosphoric acid or degree of fineness may also be guaranteed.

(c) Guarantees for plant nutrients other than nitrogen, phosphorus, and potassium shall be as allowed or required by rule of the department. The guarantees for such other nutrients shall be expressed in the form of the element.

(d) The guaranteed analysis for limes shall include the percentage of calcium or magnesium expressed as their carbonate; the calcium carbonate equivalent as determined by methods prescribed by the association of official analytical chemists; and the minimum percentage of material that will pass respectively a one hundred mesh, sixty mesh, and ten mesh sieve. The mesh size declaration may also include the percentage of material that will pass additional mesh sizes.

(e) In commercial fertilizer, the principal constituent of which is calcium sulfate (gypsum), the percentage of calcium sulfate (CaSO4.2H2O) shall be given along with the percentage of total sulfur.

(f) The guaranteed analysis for a material approved under section 5 of this act and to be used as a soil amendment shall include the name and percentage of each soil amending ingredient and the total percentage of all other ingredients.

(12) "Label" means the display of all written, printed, or graphic matter, upon the immediate container, or a statement accompanying a fertilizer.

(13) "Labeling" includes all written, printed, or graphic matter, upon or accompanying a commercial fertilizer, or advertisement, brochures, posters, television, and radio announcements used in promoting the sale of such fertilizer.

(14) "Licensee" means the person who receives a license to distribute a fertilizer under the provisions of this chapter.

(15) "Lime" means a substance or a mixture of substances, the principal constituent of which is calcium or magnesium carbonate, hydroxide, or oxide, singly or combined.

(16) "Manipulation" means processed or treated in any manner, including drying to a moisture content less than thirty percent.

(17) "Manufacture" means to compound, produce, granulate, mix, blend, repackage, or otherwise alter the composition of fertilizer materials.

(18) "Official sample" means a sample of commercial fertilizer taken by the department and designated as "official" by the department.

(19) "Packaged fertilizer" means commercial fertilizers, either agricultural or specialty, distributed in nonbulk form.

(20) "Person" means an individual, firm, brokerage, partnership, corporation, company, society, or association.

(21) "Percent" or "percentage" means the percentage by weight.

(22) "Registrant" means the person who registers commercial fertilizer under the provisions of this chapter.

(23) "Specialty fertilizer" means a commercial fertilizer distributed primarily for nonfarm use, such as, but not limited to, use on home gardens, lawns, shrubbery, flowers, golf courses, municipal parks, cemeteries, greenhouses, and nurseries.

(24) "Ton" means the net weight of two thousand pounds avoirdupois.

(25) "Total nutrients" means the sum of the percentages of total nitrogen, available phosphoric acid, and soluble potash as guaranteed and as determined by analysis.

**NEW SECTION.** Sec. 2. A new section is added to chapter 15.54 RCW to read as follows:

A material approved under section 5 of this act may be distributed as a commercial fertilizer and may be registered as a packaged commercial fertilizer. However, the department may refuse to register such a material as a packaged commercial fertilizer, may cancel the registration of the material as a packaged commercial fertilizer, and may prohibit its distribution as a commercial fertilizer if the department finds evidence that use of the material as a commercial fertilizer poses unacceptable hazards to human health or the environment that were not known during the approval process specified in section 5 of this act.

Sec. 3. RCW 15.54.800 and 1993 c 183 s 14 are each amended to read as follows:

(1) The director shall administer and enforce the provisions of this chapter and any rules adopted under this chapter. All authority and requirements provided for in chapter 34.05 RCW apply to this chapter in the adoption of rules.

(2) The director may adopt appropriate rules for carrying out the purpose and provisions of this chapter, including but not limited to rules providing for:

(a) Definitions of terms;

(b) Determining standards for labeling and registration of commercial fertilizers (~~and agricultural minerals and limes~~);

(c) The collection and examination of commercial fertilizers (~~and agricultural mineral and limes~~);

(d) Recordkeeping by registrants and licensees;

(e) Regulation of the use and disposal of commercial fertilizers for the protection of ground water and surface water; and

(f) The safe handling, transportation, storage, display, and distribution of commercial fertilizers.

Sec. 4. RCW 70.95.240 and 1993 c 292 s 3 are each amended to read as follows:

(1) After the adoption of regulations or ordinances by any county, city, or jurisdictional board of health providing for the issuance of permits as provided in RCW 70.95.160, it shall be unlawful for any person to dump or deposit or permit the dumping or depositing of any solid waste onto or under the surface of the ground or into the waters of this state except at a solid waste disposal site for which there is a valid permit. This section shall not:

(a) Prohibit a person from dumping or depositing solid waste resulting from his own activities onto or under the surface of ground owned or leased by him when such action does not violate statutes or ordinances, or create a nuisance; or

(b) Apply to a person using a material or materials on the land as commercial fertilizer if (i) the department of ecology has issued written approval for the use of the material or materials as commercial fertilizer as provided in section 5 of this act, (ii) the registration of the material or materials as a packaged commercial fertilizer has not been canceled under section 2 of this act, and (iii) the distribution of the material or materials as a commercial fertilizer has not been prohibited by the department of agriculture under section 2 of this act.

(2)(a) It is a class 3 civil infraction as defined in RCW 7.80.120 for a person to litter in an amount less than or equal to one cubic foot.

(b) It is a class 1 civil infraction as defined in RCW 7.80.120 for a person to litter in an amount greater than one cubic foot. Unless suspended or modified by a court, the person shall also pay a litter cleanup fee of twenty-five dollars per cubic foot of litter. The court may, in addition to or in lieu of part or all of the cleanup fee, order the person to pick up and remove litter from the property, with prior permission of the legal owner or, in the case of public property, of the agency managing the property.

**NEW SECTION.** Sec. 5. A new section is added to chapter 70.95 RCW to read as follows:

(1) The legislature finds that an optional procedure should be established that provides certainty as to whether certain materials generated as byproducts from the manufacturing of wood products may clearly be distributed and used as commercial fertilizer. It is the intent of the legislature in establishing such a procedure that it be truly optional, and that the procedure or the legislature's establishment of the procedure not be construed, except as provided in subsection (3) of this section, as suggesting in any manner whatsoever that a material submitted or not submitted for approval under the procedure or generated or not generated as a byproduct from the manufacturing of wood products is or is not to be regulated as a solid waste.

(2) If a person desires to receive the express approval of the department of ecology to distribute a material generated as a byproduct from the manufacturing of wood products as a commercial fertilizer under chapter 15.54 RCW for use as a commercial fertilizer, the person may request in writing the department to provide such approval. The department shall issue written approval to the person and to the department of agriculture that the material may be used as a commercial fertilizer, if the material characteristics and management methods will not pose unacceptable hazards to human health and the environment. The written approval shall certify, to the extent practicable, that the use of the material as a commercial fertilizer is consistent with the following:

(a) The biosolids standards set forth in rule or guidance under chapter 70.95J RCW, municipal sewage sludge;

(b) Chapter 70.105D RCW, model toxics control act;

(c) Chapter 90.48 RCW, water pollution control;

(d) Chapter 70.94 RCW, Washington clean air act;

(e) Chapter 70.105 RCW, hazardous waste management act; and

(f) Other factors intended to protect human health and the environment.

(3) A material generated as a byproduct from the manufacturing of wood products that is approved by the department under this section for use as commercial fertilizer and that is distributed and used as such shall not be regulated as solid waste.

(4) A party aggrieved by a decision of the department to issue a written approval under this section or to deny the issuance of such an approval may appeal the decision to the pollution control hearings board within thirty days of the decision. Review of such a decision shall be conducted in accordance with chapter 43.21B RCW. Any subsequent appeal of a decision of the hearings board shall be obtained in accordance with RCW 43.21B.180.

Passed the Senate April 22, 1997.  
Passed the House April 15, 1997.  
Approved by the Governor May 19, 1997.  
Filed in Office of Secretary of State May 19, 1997.

---

**CHAPTER 428**

[Substitute Senate Bill 5750]

**COMMERCIAL PROPERTY CASUALTY POLICIES--FILING**

AN ACT Relating to filing certain rates and contracts with the insurance commissioner; amending RCW 48.18.100 and 48.19.060; adding a new section to chapter 48.18 RCW; and adding a new section to chapter 48.19 RCW.

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

**NEW SECTION.** **Sec. 1.** A new section is added to chapter 48.18 RCW to read as follows:

(1) It is the intent of the legislature to assist the purchasers of commercial property casualty insurance by allowing policies to be issued more expeditiously and provide a more competitive market for forms.

(2) Commercial property casualty policies may be issued prior to filing the forms. All commercial property casualty forms shall be filed with the commissioner within thirty days after an insurer issues any policy using them.

(3) If, within thirty days after a commercial property casualty form has been filed, the commissioner finds that the form does not meet the requirements of this chapter, the commissioner shall disapprove the form and give notice to the insurer or rating organization that made the filing, specifying how the form fails to meet the requirements and stating when, within a reasonable period thereafter, the form shall be deemed no longer effective. The commissioner may extend the time for review another fifteen days by giving notice to the insurer prior to the expiration of the original thirty-day period.

(4) Upon a final determination of a disapproval of a policy form under subsection (3) of this section, the insurer shall amend any previously issued disapproved form by endorsement to comply with the commissioner's disapproval.

(5) For purposes of this section, "commercial property casualty" means insurance pertaining to a business, profession, or occupation for the lines of property and casualty insurance defined in RCW 48.11.040, 48.11.050, 48.11.060, or 48.11.070.

(6) Except as provided in subsection (4) of this section, the disapproval shall not affect any contract made or issued prior to the expiration of the period set forth in the notice of disapproval.

(7) In the event a hearing is held on the actions of the commissioner under subsection (3) of this section, the burden of proof shall be on the commissioner.

**NEW SECTION.** **Sec. 2.** A new section is added to chapter 48.19 RCW to read as follows:

(1) It is the intent of the legislature to assist the purchasers of commercial property casualty insurance by allowing policies to be issued more expeditiously and provide a more competitive market for rates.

(2) Notwithstanding the provisions of RCW 48.19.040(1), commercial property casualty policies may be issued prior to filing the rates. All commercial property casualty rates shall be filed with the commissioner within thirty days after an insurer issues any policy using them.

(3) If, within thirty days after a commercial property casualty rate has been filed, the commissioner finds that the rate does not meet the requirements of this chapter, the commissioner shall disapprove the filing and give notice to the insurer or rating organization that made the filing, specifying how the filing fails to meet the requirements and stating when, within a reasonable period thereafter, the filing shall be deemed no longer effective. The commissioner may extend the time for review another fifteen days by giving notice to the insurer prior to the expiration of the original thirty-day period.

(4) Upon a final determination of a disapproval of a rate filing under subsection (3) of this section, the insurer shall issue an endorsement changing the rate to comply with the commissioner's disapproval from the date the rate is no longer effective.

(5) For purposes of this section, "commercial property casualty" means insurance pertaining to a business, profession, or occupation for the lines of property and casualty insurance defined in RCW 48.11.040, 48.11.050, 48.11.060, or 48.11.070.

(6) Except as provided in subsection (4) of this section, the disapproval shall not affect any contract made or issued prior to the expiration of the period set forth in the notice of disapproval.

(7) In the event a hearing is held on the actions of the commissioner under subsection (3) of this section, the burden of proof shall be on the commissioner.

**Sec. 3.** RCW 48.18.100 and 1989 c 25 s 1 are each amended to read as follows:

(1) No insurance policy form other than surety bond forms, forms exempt under section 1 of this act, or application form where written application is required and is to be attached to the policy, or printed life or disability rider or endorsement form shall be issued, delivered, or used unless it has been filed with and approved by the commissioner. This section shall not apply to policies, riders or endorsements of unique character designed for and used with relation to insurance upon a particular subject.

(2) Every such filing containing a certification, in a form approved by the commissioner, by either the chief executive officer of the insurer or by an actuary who is a member of the American academy of actuaries, attesting that the filing complies with Title 48 RCW and Title 284 of the Washington Administrative Code, may be used by such insurer immediately after filing with the commissioner. The commissioner may order an insurer to cease using a certified form upon the

grounds set forth in RCW 48.18.110. This subsection shall not apply to certain types of policy forms designated by the commissioner by rule.

(3) Except as provided in section 1 of this act, every filing that does not contain a certification pursuant to subsection (2) of this section shall be made not less than thirty days in advance of any such issuance, delivery, or use. At the expiration of such thirty days the form so filed shall be deemed approved unless prior thereto it has been affirmatively approved or disapproved by order of the commissioner. The commissioner may extend by not more than an additional fifteen days the period within which he or she may so affirmatively approve or disapprove any such form, by giving notice of such extension before expiration of the initial thirty-day period. At the expiration of any such period as so extended, and in the absence of such prior affirmative approval or disapproval, any such form shall be deemed approved. The commissioner may withdraw any such approval at any time for cause. By approval of any such form for immediate use, the commissioner may waive any unexpired portion of such initial thirty-day waiting period.

(4) The commissioner's order disapproving any such form or withdrawing a previous approval shall state the grounds therefor.

(5) No such form shall knowingly be so issued or delivered as to which the commissioner's approval does not then exist.

(6) The commissioner may, by order, exempt from the requirements of this section for so long as he or she deems proper, any insurance document or form or type thereof as specified in such order, to which in his or her opinion this section may not practicably be applied, or the filing and approval of which are, in his or her opinion, not desirable or necessary for the protection of the public.

(7) Every member or subscriber to a rating organization shall adhere to the form filings made on its behalf by the organization. Deviations from such organization are permitted only when filed with the commissioner in accordance with this chapter.

**Sec. 4.** RCW 48.19.060 and 1989 c 25 s 5 are each amended to read as follows:

(1) The commissioner shall review a filing as soon as reasonably possible after made, to determine whether it meets the requirements of this chapter.

(2) Except as provided in RCW 48.19.070 and section 2 of this act:

(a) No such filing shall become effective within thirty days after the date of filing with the commissioner, which period may be extended by the commissioner for an additional period not to exceed fifteen days if he or she gives notice within such waiting period to the insurer or rating organization which made the filing that he or she needs such additional time for the consideration of the filing. The commissioner may, upon application and for cause shown, waive such waiting period or part thereof as to a filing that he or she has not disapproved.

(b) A filing shall be deemed to meet the requirements of this chapter unless disapproved by the commissioner within the waiting period or any extension thereof.

Passed the Senate April 21, 1997.

Passed the House April 14, 1997.

Approved by the Governor May 19, 1997.

Filed in Office of Secretary of State May 19, 1997.

---

## CHAPTER 429

[Engrossed Senate Bill 6094]

### GROWTH MANAGEMENT—MODIFICATIONS

AN ACT Relating to growth management; amending RCW 36.70A.030, 36.70A.060, 36.70A.070, 36.70A.130, 36.70A.270, 36.70A.290, 36.70A.300, 36.70A.305, 36.70A.320, 36.70A.330, 36.70A.110, 43.62.035, 36.70A.500, 43.155.070, 70.146.070, 84.34.020, 84.34.060, 84.34.065, 84.40.030, 90.60.030, 35A.14.295, 35.13.174, 36.93.170, 84.14.010, 84.14.030, 84.14.050, 90.61.020, 90.61.040, 36.70B.040, 43.21C.110, 36.70B.110, 43.21C.075, 90.58.090, 90.58.143, and 34.05.518; adding new sections to chapter 36.70A RCW; adding a new section to chapter 35.13 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 36.70A RCW to read as follows:*

*In enacting the section 7(5), chapter . . ., Laws of 1997 (section 7(5) of this act) amendments to RCW 36.70A.070(5), the legislature finds that chapter 36.70A RCW is intended to recognize the importance of agriculture, forestry, and rural lands and rural character to Washington's economy, its people, and its environment, while respecting regional differences and, in accordance with one of the goals of the growth management act, protecting the property rights of landowners from arbitrary and discriminatory actions. Rural lands and rural-based economies, including agriculture and forest uses that are located outside of designated resource lands, enhance the economic desirability of the state, help to preserve traditional economic activities, and contribute to the state's overall quality of life. The legislature also finds that in developing its rural element under RCW 36.70A.070(5), a county should foster land use patterns and develop a local vision of rural character that: Will help preserve rural-based economies and traditional rural lifestyles; will encourage the economic prosperity of rural residents; will foster opportunities for small-scale, rural-based employment and self-employment; will permit the operation of rural-based agricultural, commercial, recreational, and tourist businesses that are consistent with existing and planned land use patterns; will foster the private stewardship of the land and preservation of open space; and will enhance the rural sense of community and quality of life. The legislature recognizes that there will be a variety of interpretations by counties of how best to implement a rural element, reflecting the diverse needs and local circumstances found across the state. RCW 36.70A.070(5) provides a framework for local elected officials to make*

*these determinations. References to both wildlife and water are intended in RCW 36.70A.030 and 36.70A.070 to acknowledge their importance as features or components of rural character. It is expected that these matters will be addressed in comprehensive plans, but that counties may not necessarily need to adopt new regulations to account adequately for them in establishing a pattern of land use and development for rural areas.*

\*Sec. 1 was vetoed. See message at end of chapter.

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

In amending RCW 36.70A.320(3) by section 20(3), chapter . . ., Laws of 1997 (section 20(3) of this act), the legislature intends that the boards apply a more deferential standard of review to actions of counties and cities than the preponderance of the evidence standard provided for under existing law. In recognition of the broad range of discretion that may be exercised by counties and cities consistent with the requirements of this chapter, the legislature intends for the boards to grant deference to counties and cities in how they plan for growth, consistent with the requirements and goals of this chapter. Local comprehensive plans and development regulations require counties and cities to balance priorities and options for action in full consideration of local circumstances. The legislature finds that while this chapter requires local planning to take place within a framework of state goals and requirements, the ultimate burden and responsibility for planning, harmonizing the planning goals of this chapter, and implementing a county's or city's future rests with that community.

**Sec. 3.** RCW 36.70A.030 and 1995 c 382 s 9 are each amended to read as follows:

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

(1) "Adopt a comprehensive land use plan" means to enact a new comprehensive land use plan or to update an existing comprehensive land use plan.

(2) "Agricultural land" means land primarily devoted to the commercial production of horticultural, viticultural, floricultural, dairy, apiary, vegetable, or animal products or of berries, grain, hay, straw, turf, seed, Christmas trees not subject to the excise tax imposed by RCW 84.33.100 through 84.33.140, finfish in upland hatcheries, or livestock, and that has long-term commercial significance for agricultural production.

(3) "City" means any city or town, including a code city.

(4) "Comprehensive land use plan," "comprehensive plan," or "plan" means a generalized coordinated land use policy statement of the governing body of a county or city that is adopted pursuant to this chapter.

(5) "Critical areas" include the following areas and ecosystems: (a) Wetlands; (b) areas with a critical recharging effect on aquifers used for potable water; (c) fish and wildlife habitat conservation areas; (d) frequently flooded areas; and (e) geologically hazardous areas.

(6) "Department" means the department of community, trade, and economic development.

(7) "Development regulations" or "regulation" means the controls placed on development or land use activities by a county or city, including, but not limited to, zoning ordinances, critical areas ordinances, shoreline master programs, official controls, planned unit development ordinances, subdivision ordinances, and binding site plan ordinances together with any amendments thereto. A development regulation does not include a decision to approve a project permit application, as defined in RCW 36.70B.020, even though the decision may be expressed in a resolution or ordinance of the legislative body of the county or city.

(8) "Forest land" means land primarily devoted to growing trees for long-term commercial timber production on land that can be economically and practically managed for such production, including Christmas trees subject to the excise tax imposed under RCW 84.33.100 through 84.33.140, and that has long-term commercial significance. In determining whether forest land is primarily devoted to growing trees for long-term commercial timber production on land that can be economically and practically managed for such production, the following factors shall be considered: (a) The proximity of the land to urban, suburban, and rural settlements; (b) surrounding parcel size and the compatibility and intensity of adjacent and nearby land uses; (c) long-term local economic conditions that affect the ability to manage for timber production; and (d) the availability of public facilities and services conducive to conversion of forest land to other uses.

(9) "Geologically hazardous areas" means areas that because of their susceptibility to erosion, sliding, earthquake, or other geological events, are not suited to the siting of commercial, residential, or industrial development consistent with public health or safety concerns.

(10) "Long-term commercial significance" includes the growing capacity, productivity, and soil composition of the land for long-term commercial production, in consideration with the land's proximity to population areas, and the possibility of more intense uses of the land.

(11) "Minerals" include gravel, sand, and valuable metallic substances.

(12) "Public facilities" include streets, roads, highways, sidewalks, street and road lighting systems, traffic signals, domestic water systems, storm and sanitary sewer systems, parks and recreational facilities, and schools.

(13) "Public services" include fire protection and suppression, law enforcement, public health, education, recreation, environmental protection, and other governmental services.

(14) "Rural character" refers to the patterns of land use and development established by a county in the rural element of its comprehensive plan:

(a) In which open space, the natural landscape, and vegetation predominate over the built environment;

(b) That foster traditional rural lifestyles, rural-based economies, and opportunities to both live and work in rural areas;

(c) That provide visual landscapes that are traditionally found in rural areas and communities;

(d) That are compatible with the use of the land by wildlife and for fish and wildlife habitat;

(e) That reduce the inappropriate conversion of undeveloped land into sprawling, low-density development;

(f) That generally do not require the extension of urban governmental services;  
and

(g) That are consistent with the protection of natural surface water flows and ground water and surface water recharge and discharge areas.

(15) "Rural development" refers to development outside the urban growth area and outside agricultural, forest, and mineral resource lands designated pursuant to RCW 36.70A.170. Rural development can consist of a variety of uses and residential densities, including clustered residential development, at levels that are consistent with the preservation of rural character and the requirements of the rural element. Rural development does not refer to agriculture or forestry activities that may be conducted in rural areas.

(16) "Rural governmental services" or "rural services" include those public services and public facilities historically and typically delivered at an intensity usually found in rural areas, and may include domestic water systems, fire and police protection services, transportation and public transit services, and other public utilities associated with rural development and normally not associated with urban areas. Rural services do not include storm or sanitary sewers, except as otherwise authorized by RCW 36.70A.110(4).

(17) "Urban growth" refers to growth that makes intensive use of land for the location of buildings, structures, and impermeable surfaces to such a degree as to be incompatible with the primary use of ~~((such))~~ land for the production of food, other agricultural products, or fiber, or the extraction of mineral resources, rural uses, rural development, and natural resource lands designated pursuant to RCW 36.70A.170. A pattern of more intensive rural development, as provided in RCW 36.70A.070(5)(d), is not urban growth. When allowed to spread over wide areas, urban growth typically requires urban governmental services. "Characterized by urban growth" refers to land having urban growth located on it, or to land located in relationship to an area with urban growth on it as to be appropriate for urban growth.

~~((+5))~~ (18) "Urban growth areas" means those areas designated by a county pursuant to RCW 36.70A.110.

~~((+6))~~ (19) "Urban governmental services" or "urban services" include those ~~((governmental))~~ public services and public facilities at an intensity historically and typically ~~((delivered by))~~ provided in cities, ~~((and include))~~ specifically including storm and sanitary sewer systems, domestic water systems, street cleaning services, fire and police protection services, public transit services, and other public utilities

associated with urban areas and normally not associated with (~~(nonurban))~~ rural areas.

~~((17))~~ (20) "Wetland" or "wetlands" means areas that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from nonwetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from nonwetland areas created to mitigate conversion of wetlands.

**\*NEW SECTION.** *Sec. 4. A new section is added to chapter 36.70A RCW to read as follows:*

*(1) A county, after conferring with its cities, may develop alternative methods of achieving the planning goals established by RCW 36.70A.020.*

*(2) The authority provided by this section may not be used to modify:*

*(a) Requirements for the designation and protection of critical areas or for the designation of natural resource lands under RCW 36.70A.060(2), 36.70A.170, and 36.70A.172;*

*(b) The requirement that wetlands be delineated consistent with the requirements of RCW 36.70A.175; or*

*(c) The requirement to establish a process for the siting of essential public facilities pursuant to RCW 36.70A.200.*

*(3) Before adopting any alternative methods of achieving the planning goals established by RCW 36.70A.020, a county shall provide an opportunity for public review and comment. An ordinance or resolution proposing or adopting alternative methods must be submitted to the department in the same manner as provided in RCW 36.70A.106 for submittal of proposed and adopted comprehensive plans and development regulations.*

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

**\*NEW SECTION.** *Sec. 5. A new section is added to chapter 36.70A RCW to read as follows:*

*The legislature finds that it is the goal of the state of Washington to achieve no overall net loss of wetland functions. Wetlands can provide public benefits related to flood control, groundwater recharge, water quality, and wildlife habitat. The legislature further finds that consideration should be given to the functions wetlands provide and to the needs of private property owners to assure that wetlands regulations both reflect the impact to wetland functions and allow for a reasonable use of property. In adopting critical areas development regulations, counties and cities should consider and balance all of the goals*

*under RCW 36.70A.020. The legislature intends that no goal takes precedence over any of the others, but that counties and cities may prioritize the goals in accordance with local history, conditions, circumstances, and choice.*

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

*\*Sec. 6. RCW 36.70A.060 and 1991 sp.s. c 32 s 21 are each amended to read as follows:*

*(1) Each county that is required or chooses to plan under RCW 36.70A.040, and each city within such county, shall adopt development regulations on or before September 1, 1991, to assure the conservation of agricultural, forest, and mineral resource lands designated under RCW 36.70A.170. Regulations adopted under this subsection may not prohibit uses legally existing on any parcel prior to their adoption and shall remain in effect until the county or city adopts development regulations pursuant to RCW 36.70A.120. Such regulations shall assure that the use of lands adjacent to agricultural, forest, or mineral resource lands shall not interfere with the continued use, in the accustomed manner and in accordance with best management practices, of these designated lands for the production of food, agricultural products, or timber, or for the extraction of minerals. Counties and cities shall require that all plats, short plats, development permits, and building permits issued for development activities on, or within three hundred feet of, lands designated as agricultural lands, forest lands, or mineral resource lands, contain a notice that the subject property is within or near designated agricultural lands, forest lands, or mineral resource lands on which a variety of commercial activities may occur that are not compatible with residential development for certain periods of limited duration.*

*(2) Each county and city shall adopt development regulations that protect critical areas that are required to be designated under RCW 36.70A.170. For counties and cities that are required or choose to plan under RCW 36.70A.040, such development regulations shall be adopted on or before September 1, 1991. For the remainder of the counties and cities, such development regulations shall be adopted on or before March 1, 1992.*

*(3) Such counties and cities shall review these designations and development regulations when adopting their comprehensive plans under RCW 36.70A.040 and implementing development regulations under RCW 36.70A.120 and may alter such designations and development regulations to insure consistency.*

*(4) Forest land and agricultural land located within urban growth areas shall not be designated by a county or city as forest land or agricultural land of long-term commercial significance under RCW 36.70A.170 unless the city or county has enacted a program authorizing transfer or purchase of development rights.*

*(5) Counties and cities may exempt the following from critical areas development regulations:*

*(a) Emergency activities; and*

*(b) Activities with minor impacts on critical areas.*

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

Sec. 7. RCW 36.70A.070 and 1996 c 239 s 1 are each amended to read as follows:

The comprehensive plan of a county or city that is required or chooses to plan under RCW 36.70A.040 shall consist of a map or maps, and descriptive text covering objectives, principles, and standards used to develop the comprehensive plan. The plan shall be an internally consistent document and all elements shall be consistent with the future land use map. A comprehensive plan shall be adopted and amended with public participation as provided in RCW 36.70A.140.

Each comprehensive plan shall include a plan, scheme, or design for each of the following:

(1) A land use element designating the proposed general distribution and general location and extent of the uses of land, where appropriate, for agriculture, timber production, housing, commerce, industry, recreation, open spaces, general aviation airports, public utilities, public facilities, and other land uses. The land use element shall include population densities, building intensities, and estimates of future population growth. The land use element shall provide for protection of the quality and quantity of ground water used for public water supplies. Where applicable, the land use element shall review drainage, flooding, and storm water run-off in the area and nearby jurisdictions and provide guidance for corrective actions to mitigate or cleanse those discharges that pollute waters of the state, including Puget Sound or waters entering Puget Sound.

(2) A housing element ensuring the vitality and character of established residential neighborhoods that: (a) Includes an inventory and analysis of existing and projected housing needs; (b) includes a statement of goals, policies, objectives, and mandatory provisions for the preservation, improvement, and development of housing, including single-family residences; (c) identifies sufficient land for housing, including, but not limited to, government-assisted housing, housing for low-income families, manufactured housing, multifamily housing, and group homes and foster care facilities; and (d) makes adequate provisions for existing and projected needs of all economic segments of the community.

(3) A capital facilities plan element consisting of: (a) An inventory of existing capital facilities owned by public entities, showing the locations and capacities of the capital facilities; (b) a forecast of the future needs for such capital facilities; (c) the proposed locations and capacities of expanded or new capital facilities; (d) at least a six-year plan that will finance such capital facilities within projected funding capacities and clearly identifies sources of public money for such purposes; and (e) a requirement to reassess the land use element if probable funding falls short of meeting existing needs and to ensure that the land use element, capital facilities plan element, and financing plan within the capital facilities plan element are coordinated and consistent.

(4) A utilities element consisting of the general location, proposed location, and capacity of all existing and proposed utilities, including, but not limited to, electrical lines, telecommunication lines, and natural gas lines.

(5) Rural element. Counties shall include a rural element including lands that are not designated for urban growth, agriculture, forest, or mineral resources. The following provisions shall apply to the rural element:

(a) Growth management act goals and local circumstances. Because circumstances vary from county to county, in establishing patterns of rural densities and uses, a county may consider local circumstances, but shall develop a written record explaining how the rural element harmonizes the planning goals in RCW 36.70A.020 and meets the requirements of this chapter,

(b) Rural development. The rural element shall permit (~~appropriate land uses that are compatible with the rural character of such lands and~~) rural development, forestry, and agriculture in rural areas. The rural element shall provide for a variety of rural densities (~~and~~), uses (~~and may also provide~~), essential public facilities, and rural governmental services needed to serve the permitted densities and uses. In order to achieve a variety of rural densities and uses, counties may provide for clustering, density transfer, design guidelines, conservation easements, and other innovative techniques that will accommodate appropriate rural densities and uses that are not characterized by urban growth and that are consistent with rural character.

(c) Measures governing rural development. The rural element shall include measures that apply to rural development and protect the rural character of the area, as established by the county, by:

(i) Containing or otherwise controlling rural development;

(ii) Assuring visual compatibility of rural development with the surrounding rural area;

(iii) Reducing the inappropriate conversion of undeveloped land into sprawling, low-density development in the rural area;

(iv) Protecting critical areas, as provided in RCW 36.70A.060, and surface water and ground water resources; and

(v) Protecting against conflicts with the use of agricultural, forest, and mineral resource lands designated under RCW 36.70A.170.

(d) Limited areas of more intensive rural development. Subject to the requirements of this subsection and except as otherwise specifically provided in this subsection (5)(d), the rural element may allow for limited areas of more intensive rural development, including necessary public facilities and public services to serve the limited area as follows:

(i) Rural development consisting of the infill, development, or redevelopment of existing commercial, industrial, residential, or mixed-use areas, whether characterized as shoreline development, villages, hamlets, rural activity centers, or crossroads developments. A commercial, industrial, residential, shoreline, or mixed-use area shall be subject to the requirements of (d)(iv) of this subsection, but

shall not be subject to the requirements of (c)(ii) and (iii) of this subsection. An industrial area is not required to be principally designed to serve the existing and projected rural population;

(ii) The intensification of development on lots containing, or new development of, small-scale recreational or tourist uses, including commercial facilities to serve those recreational or tourist uses, that rely on a rural location and setting, but that do not include new residential development. A small-scale recreation or tourist use is not required to be principally designed to serve the existing and projected rural population. Public services and public facilities shall be limited to those necessary to serve the recreation or tourist use and shall be provided in a manner that does not permit low-density sprawl;

(iii) The intensification of development on lots containing isolated nonresidential uses or new development of isolated cottage industries and isolated small-scale businesses that are not principally designed to serve the existing and projected rural population and nonresidential uses, but do provide job opportunities for rural residents. Public services and public facilities shall be limited to those necessary to serve the isolated nonresidential use and shall be provided in a manner that does not permit low-density sprawl;

(iv) A county shall adopt measures to minimize and contain the existing areas or uses of more intensive rural development, as appropriate, authorized under this subsection. Lands included in such existing areas or uses shall not extend beyond the logical outer boundary of the existing area or use, thereby allowing a new pattern of low-density sprawl. Existing areas are those that are clearly identifiable and contained and where there is a logical boundary delineated predominately by the built environment, but that may also include undeveloped lands if limited as provided in this subsection. The county shall establish the logical outer boundary of an area of more intensive rural development. In establishing the logical outer boundary the county shall address (A) the need to preserve the character of existing natural neighborhoods and communities, (B) physical boundaries such as bodies of water, streets and highways, and land forms and contours, (C) the prevention of abnormally irregular boundaries, and (D) the ability to provide public facilities and public services in a manner that does not permit low-density sprawl;

(v) For purposes of (d) of this subsection, an existing area or existing use is one that was in existence;

(A) On July 1, 1990, in a county that was initially required to plan under all of the provisions of this chapter;

(B) On the date the county adopted a resolution under RCW 36.70A.040(2), in a county that is planning under all of the provisions of this chapter under RCW 36.70A.040(2); or

(C) On the date the office of financial management certifies the county's population as provided in RCW 36.70A.040(5), in a county that is planning under all of the provisions of this chapter pursuant to RCW 36.70A.040(5).

(e) Exception. This subsection shall not be interpreted to permit in the rural area a major industrial development or a master planned resort unless otherwise specifically permitted under RCW 36.70A.360 and 36.70A.365.

(6) A transportation element that implements, and is consistent with, the land use element. The transportation element shall include the following subelements:

(a) Land use assumptions used in estimating travel;

(b) Facilities and services needs, including:

(i) An inventory of air, water, and ground transportation facilities and services, including transit alignments and general aviation airport facilities, to define existing capital facilities and travel levels as a basis for future planning;

(ii) Level of service standards for all arterials and transit routes to serve as a gauge to judge performance of the system. These standards should be regionally coordinated;

(iii) Specific actions and requirements for bringing into compliance any facilities or services that are below an established level of service standard;

(iv) Forecasts of traffic for at least ten years based on the adopted land use plan to provide information on the location, timing, and capacity needs of future growth;

(v) Identification of system expansion needs and transportation system management needs to meet current and future demands;

(c) Finance, including:

(i) An analysis of funding capability to judge needs against probable funding resources;

(ii) A multiyear financing plan based on the needs identified in the comprehensive plan, the appropriate parts of which shall serve as the basis for the six-year street, road, or transit program required by RCW 35.77.010 for cities, RCW 36.81.121 for counties, and RCW 35.58.2795 for public transportation systems;

(iii) If probable funding falls short of meeting identified needs, a discussion of how additional funding will be raised, or how land use assumptions will be reassessed to ensure that level of service standards will be met;

(d) Intergovernmental coordination efforts, including an assessment of the impacts of the transportation plan and land use assumptions on the transportation systems of adjacent jurisdictions;

(e) Demand-management strategies.

After adoption of the comprehensive plan by jurisdictions required to plan or who choose to plan under RCW 36.70A.040, local jurisdictions must adopt and enforce ordinances which prohibit development approval if the development causes the level of service on a transportation facility to decline below the standards adopted in the transportation element of the comprehensive plan, unless transportation improvements or strategies to accommodate the impacts of development are made concurrent with the development. These strategies may include increased public transportation service, ride sharing programs, demand

management, and other transportation systems management strategies. For the purposes of this subsection (6) "concurrent with the development" shall mean that improvements or strategies are in place at the time of development, or that a financial commitment is in place to complete the improvements or strategies within six years.

The transportation element described in this subsection, and the six-year plans required by RCW 35.77.010 for cities, RCW 36.81.121 for counties, and RCW 35.58.2795 for public transportation systems, must be consistent.

**\*NEW SECTION.** *Sec. 8. A new section is added to chapter 36.70A RCW to read as follows:*

*(1) Except as otherwise provided in this chapter, residential and nonresidential uses in the rural element shall not require urban services and nonresidential rural development shall be principally designed to serve and provide jobs for the existing and projected rural population or servc existing nonresidential uses.*

*(2) This section applies to (a) a county with a population of ninety-five thousand or more; and (b) a county that has committed five percent or more of its land base to urban growth areas under RCW 36.70A.110 and that has no more than eighty percent of its land base in public ownership or resource lands of long-term commercial significance designated under RCW 36.70A.170.*

*\*Sec. 8 was vetoed. See message at end of chapter.*

**NEW SECTION.** *Sec. 9. A new section is added to chapter 36.70A RCW to read as follows:*

*(1) The public participation requirements of this chapter shall include notice procedures that are reasonably calculated to provide notice to property owners and other affected and interested individuals, tribes, government agencies, businesses, and organizations of proposed amendments to comprehensive plans and development regulation. Examples of reasonable notice provisions include:*

- (a) Posting the property for site-specific proposals;*
- (b) Publishing notice in a newspaper of general circulation in the county, city, or general area where the proposal is located or that will be affected by the proposal;*
- (c) Notifying public or private groups with known interest in a certain proposal or in the type of proposal being considered;*
- (d) Placing notices in appropriate regional, neighborhood, ethnic, or trade journals; and*

*(e) Publishing notice in agency newsletters or sending notice to agency mailing lists, including general lists or lists for specific proposals or subject areas.*

*(2)(a) Except as otherwise provided in (b) of this subsection, if the legislative body for a county or city chooses to consider a change to an amendment to a comprehensive plan or development regulation, and the change is proposed after the opportunity for review and comment has passed under the county's or city's*

procedures, an opportunity for review and comment on the proposed change shall be provided before the local legislative body votes on the proposed change.

(b) An additional opportunity for public review and comment is not required under (a) of this subsection if:

(i) An environmental impact statement has been prepared under chapter 43.21C RCW for the pending resolution or ordinance and the proposed change is within the range of alternatives considered in the environmental impact statement;

(ii) The proposed change is within the scope of the alternatives available for public comment;

(iii) The proposed change only corrects typographical errors, corrects cross-references, makes address or name changes, or clarifies language of a proposed ordinance or resolution without changing its effect;

(iv) The proposed change is to a resolution or ordinance making a capital budget decision as provided in RCW 36.70A.120; or

(v) The proposed change is to a resolution or ordinance enacting a moratorium or interim control adopted under RCW 36.70A.390.

(3) This section is prospective in effect and does not apply to a comprehensive plan, development regulation, or amendment adopted before the effective date of this section.

**Sec. 10.** RCW 36.70A.130 and 1995 c 347 s 106 are each amended to read as follows:

(1) Each comprehensive land use plan and development regulations shall be subject to continuing ~~((evaluation and))~~ review and evaluation by the county or city that adopted them. Not later than September 1, 2002, and at least every five years thereafter, a county or city shall take action to review and, if needed, revise its comprehensive land use plan and development regulations to ensure that the plan and regulations are complying with the requirements of this chapter. The review and evaluation required by this subsection may be combined with the review required by subsection (3) of this section.

Any amendment or revision to a comprehensive land use plan shall conform to this chapter, and any change to development regulations shall be consistent with and implement the comprehensive plan.

(2)(a) Each county and city shall establish and broadly disseminate to the public a public participation program identifying procedures whereby proposed amendments or revisions of the comprehensive plan are considered by the governing body of the county or city no more frequently than once every year except that amendments may be considered more frequently under the following circumstances:

(i) The initial adoption of a subarea plan; ~~((and))~~

(ii) The adoption or amendment of a shoreline master program under the procedures set forth in chapter 90.58 RCW; and

(iii) The amendment of the capital facilities element of a comprehensive plan that occurs concurrently with the adoption or amendment of a county or city budget.

(b) Except as otherwise provided in (a) of this subsection, all proposals shall be considered by the governing body concurrently so the cumulative effect of the various proposals can be ascertained. However, after appropriate public participation a county or city may adopt amendments or revisions to its comprehensive plan that conform with this chapter whenever an emergency exists or to resolve an appeal of a comprehensive plan filed with a growth management hearings board or with the court.

(3) Each county that designates urban growth areas under RCW 36.70A.110 shall review, at least every ten years, its designated urban growth area or areas, and the densities permitted within both the incorporated and unincorporated portions of each urban growth area. In conjunction with this review by the county, each city located within an urban growth area shall review the densities permitted within its boundaries, and the extent to which the urban growth occurring within the county has located within each city and the unincorporated portions of the urban growth areas. The county comprehensive plan designating urban growth areas, and the densities permitted in the urban growth areas by the comprehensive plans of the county and each city located within the urban growth areas, shall be revised to accommodate the urban growth projected to occur in the county for the succeeding twenty-year period. The review required by this subsection may be combined with the review and evaluation required by section 25 of this act.

**Sec. 11.** RCW 36.70A.270 and 1996 c 325 s 1 are each amended to read as follows:

Each growth management hearings board shall be governed by the following rules on conduct and procedure:

(1) Any board member may be removed for inefficiency, malfeasance, and misfeasance in office, under specific written charges filed by the governor. The governor shall transmit such written charges to the member accused and the chief justice of the supreme court. The chief justice shall thereupon designate a tribunal composed of three judges of the superior court to hear and adjudicate the charges. Removal of any member of a board by the tribunal shall disqualify such member for reappointment.

(2) Each board member shall receive reimbursement for travel expenses incurred in the discharge of his or her duties in accordance with RCW 43.03.050 and 43.03.060. If it is determined that the review boards shall operate on a full-time basis, each member shall receive an annual salary to be determined by the governor pursuant to RCW 43.03.040. If it is determined that a review board shall operate on a part-time basis, each member shall receive compensation pursuant to RCW 43.03.250, provided such amount shall not exceed the amount that would be set if they were a full-time board member. The principal office of each board shall be located by the governor within the jurisdictional boundaries of each board. The

boards shall operate on either a part-time or full-time basis, as determined by the governor.

(3) Each board member shall not: (a) Be a candidate for or hold any other public office or trust; (b) engage in any occupation or business interfering with or inconsistent with his or her duty as a board member; and (c) for a period of one year after the termination of his or her board membership, act in a representative capacity before the board on any matter.

(4) A majority of each board shall constitute a quorum for making orders or decisions, adopting rules necessary for the conduct of its powers and duties, or transacting other official business, and may act even though one position of the board is vacant. One or more members may hold hearings and take testimony to be reported for action by the board when authorized by rule or order of the board. The board shall perform all the powers and duties specified in this chapter or as otherwise provided by law.

(5) The board may appoint one or more hearing examiners to assist the board in its hearing function, to make conclusions of law and findings of fact and, if requested by the board, to make recommendations to the board for decisions in cases before the board. Such hearing examiners must have demonstrated knowledge of land use planning and law. The boards shall specify in their joint rules of practice and procedure, as required by subsection (7) of this section, the procedure and criteria to be employed for designating hearing examiners as a presiding officer. Hearing examiners selected by a board shall meet the requirements of subsection (3) of this section. The findings and conclusions of the hearing examiner shall not become final until they have been formally approved by the board. This authorization to use hearing examiners does not waive the requirement of RCW 36.70A.300 that final orders be issued within one hundred eighty days of board receipt of a petition.

(6) Each board shall make findings of fact and prepare a written decision in each case decided by it, and such findings and decision shall be effective upon being signed by two or more members of the board and upon being filed at the board's principal office, and shall be open for public inspection at all reasonable times.

(7) All proceedings before the board, any of its members, or a hearing examiner appointed by the board shall be conducted in accordance with such administrative rules of practice and procedure as the boards jointly prescribe. All three boards shall jointly meet to develop and adopt joint rules of practice and procedure, including rules regarding expeditious and summary disposition of appeals. The boards shall publish such rules and decisions they render and arrange for the reasonable distribution of the rules and decisions. Except as it conflicts with specific provisions of this chapter, the administrative procedure act, chapter 34.05 RCW, and specifically including the provisions of RCW 34.05.455 governing ex parte communications, shall govern the practice and procedure of the boards.

(8) A board member or hearing examiner is subject to disqualification under chapter 34.05 RCW. The joint rules of practice of the boards shall establish procedures by which a party to a hearing conducted before the board may file with the board a motion to disqualify, with supporting affidavit, against a board member or hearing examiner assigned to preside at the hearing.

(9) The members of the boards shall meet jointly on at least an annual basis with the objective of sharing information that promotes the goals and purposes of this chapter.

**Sec. 12.** RCW 36.70A.290 and 1995 c 347 s 109 are each amended to read as follows:

(1) All requests for review to a growth management hearings board shall be initiated by filing a petition that includes a detailed statement of issues presented for resolution by the board. The board shall render written decisions articulating the basis for its holdings. The board shall not issue advisory opinions on issues not presented to the board in the statement of issues, as modified by any prehearing order.

(2) All petitions relating to whether or not an adopted comprehensive plan, development regulation, or permanent amendment thereto, is in compliance with the goals and requirements of this chapter or chapter 90.58 or 43.21C RCW must be filed within sixty days after publication by the legislative bodies of the county or city.

(a) Except as provided in (c) of this subsection, the date of publication for a city shall be the date the city publishes the ordinance, or summary of the ordinance, adopting the comprehensive plan or development regulations, or amendment thereto, as is required to be published.

(b) Promptly after adoption, a county shall publish a notice that it has adopted the comprehensive plan or development regulations, or amendment thereto.

Except as provided in (c) of this subsection, for purposes of this section the date of publication for a county shall be the date the county publishes the notice that it has adopted the comprehensive plan or development regulations, or amendment thereto.

(c) For local governments planning under RCW 36.70A.040, promptly after approval or disapproval of a local government's shoreline master program or amendment thereto by the department of ecology as provided in RCW 90.58.090, the local government shall publish a notice that the shoreline master program or amendment thereto has been approved or disapproved by the department of ecology. For purposes of this section, the date of publication for the adoption or amendment of a shoreline master program is the date the local government publishes notice that the shoreline master program or amendment thereto has been approved or disapproved by the department of ecology.

(3) Unless the board dismisses the petition as frivolous or finds that the person filing the petition lacks standing, or the parties have filed an agreement to have the

case heard in superior court as provided in section 13 of this act, the board shall, within ten days of receipt of the petition, set a time for hearing the matter.

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

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

**NEW SECTION. Sec. 13.** A new section is added to chapter 36.70A RCW to read as follows:

(1) The superior court may directly review a petition for review filed under RCW 36.70A.290 if all parties to the proceeding before the board have agreed to direct review in the superior court. The agreement of the parties shall be in writing and signed by all of the parties to the proceeding or their designated representatives. The agreement shall include the parties' agreement to proper venue as provided in RCW 36.70A.300(5). The parties shall file their agreement with the board within ten days after the date the petition is filed, or if multiple petitions have been filed and the board has consolidated the petitions pursuant to RCW 36.70A.300, within ten days after the board serves its order of consolidation.

(2) Within ten days of receiving the timely and complete agreement of the parties, the board shall file a certificate of agreement with the designated superior court and shall serve the parties with copies of the certificate. The superior court shall obtain exclusive jurisdiction over a petition when it receives the certificate of agreement. With the certificate of agreement the board shall also file the petition for review, any orders entered by the board, all other documents in the board's files regarding the action, and the written agreement of the parties.

(3) For purposes of a petition that is subject to direct review, the superior court's subject matter jurisdiction shall be equivalent to that of the board. Consistent with the requirements of the superior court civil rules, the superior court may consolidate a petition subject to direct review under this section with a separate action filed in the superior court.

(4)(a) Except as otherwise provided in (b) and (c) of this subsection, the provisions of RCW 36.70A.280 through 36.70A.330, which specify the nature and extent of board review, shall apply to the superior court's review.

(b) The superior court:

(i) Shall not have jurisdiction to directly review or modify an office of financial management population projection;

(ii) Except as otherwise provided in RCW 36.70A.300(2)(b), shall render its decision on the petition within one hundred eighty days of receiving the certification of agreement; and

(iii) Shall give a compliance hearing under RCW 36.70A.330(2) the highest priority of all civil matters before the court.

(c) An aggrieved party may secure appellate review of a final judgment of the superior court under this section by the supreme court or the court of appeals. The review shall be secured in the manner provided by law for review of superior court decisions in other civil cases.

(5) If, following a compliance hearing, the court finds that the state agency, county, or city is not in compliance with the court's prior order, the court may use its remedial and contempt powers to enforce compliance.

(6) The superior court shall transmit a copy of its decision and order on direct review to the board, the department, and the governor. If the court has determined that a county or city is not in compliance with the provisions of this chapter, the governor may impose sanctions against the county or city in the same manner as if a board had recommended the imposition of sanctions as provided in RCW 36.70A.330.

(7) After the court has assumed jurisdiction over a petition for review under this section, the superior court civil rules shall govern a request for intervention and all other procedural matters not specifically provided for in this section.

Sec. 14. RCW 36.70A.300 and 1995 c 347 s 110 are each amended to read as follows:

(1) The board shall issue a final order (~~((within one hundred eighty days of receipt of the petition for review, or, when multiple petitions are filed, within one hundred eighty days of receipt of the last petition that is consolidated. Such a final order))~~ that shall be based exclusively on whether or not a state agency, county, or city is in compliance with the requirements of this chapter, chapter 90.58 RCW as it relates to adoption or amendment of shoreline master programs, or chapter 43.21C RCW as it relates to adoption of plans, development regulations, and amendments thereto, (~~adopted~~) under RCW 36.70A.040 or chapter 90.58 RCW.

(2)(a) Except as provided in (b) of this subsection, the final order shall be issued within one hundred eighty days of receipt of the petition for review, or, if multiple petitions are filed, within one hundred eighty days of receipt of the last petition that is consolidated.

(b) The board may extend the period of time for issuing a decision to enable the parties to settle the dispute if additional time is necessary to achieve a settlement, and (i) an extension is requested by all parties, or (ii) an extension is requested by the petitioner and respondent and the board determines that a negotiated settlement between the remaining parties could resolve significant issues in dispute. The request must be filed with the board not later than seven days before the date scheduled for the hearing on the merits of the petition. The board may authorize one or more extensions for up to ninety days each, subject to the requirements of this section.

(3) In the final order, the board shall either:

(a) Find that the state agency, county, or city is in compliance with the requirements of this chapter (~~(or)~~, chapter 90.58 RCW as it relates to the adoption or amendment of shoreline master programs, or chapter 43.21C RCW as it relates

to adoption of plans, development regulations, and amendments thereto, under RCW 36.70A.040 or chapter 90.58 RCW; or

(b) Find that the state agency, county, or city is not in compliance with the requirements of this chapter ((or)), chapter 90.58 RCW as it relates to the adoption or amendment of shoreline master programs, or chapter 43.21C RCW as it relates to adoption of plans, development regulations, and amendments thereto, under RCW 36.70A.040 or chapter 90.58 RCW, in which case the board shall remand the matter to the affected state agency, county, or city ((and)), The board shall specify a reasonable time not in excess of one hundred eighty days, or such longer period as determined by the board in cases of unusual scope or complexity, within which the state agency, county, or city shall comply with the requirements of this chapter. The board may require periodic reports to the board on the progress the jurisdiction is making towards compliance.

~~((2))~~ (4) Unless the board makes a determination of invalidity as provided in section 16 of this act, a finding of noncompliance and an order of remand shall not affect the validity of comprehensive plans and development regulations during the period of remand((-unless the board's final order also:

~~—(a) Includes a determination, supported by findings of fact and conclusions of law, that the continued validity of the plan or regulation would substantially interfere with the fulfillment of the goals of this chapter; and~~

~~—(b) Specifies the particular part or parts of the plan or regulation that are determined to be invalid, and the reasons for their invalidity;~~

~~—(3) A determination of invalidity shall:~~

~~—(a) Be prospective in effect and shall not extinguish rights that vested under state or local law before the date of the board's order; and~~

~~—(b) Subject any development application that would otherwise vest after the date of the board's order to the local ordinance or resolution that both is enacted in response to the order of remand and determined by the board pursuant to RCW 36.70A.330 to comply with the requirements of this chapter.~~

~~—(4) If the ordinance that adopts a plan or development regulation under this chapter includes a savings clause intended to revive prior policies or regulations in the event the new plan or regulations are determined to be invalid, the board shall determine under subsection (2) of this section whether the prior policies or regulations are valid during the period of remand)).~~

(5) Any party aggrieved by a final decision of the hearings board may appeal the decision to superior court as provided in RCW 34.05.514 or 36.01.050 within thirty days of the final order of the board.

**\*NEW SECTION.** *Sec. 15. A new section is added to chapter 36.70A RCW to read as follows:*

*After the effective date of this section, all appeals of a decision taken from a final decision of a board shall be filed in the court of appeals for assignment by the chief presiding judge.*

\*Sec. 15 was vetoed. See message at end of chapter.

**NEW SECTION.** Sec. 16. A new section is added to chapter 36.70A RCW to read as follows:

(1) A board may determine that part or all of a comprehensive plan or development regulations are invalid if the board:

(a) Makes a finding of noncompliance and issues an order of remand under RCW 36.70A.300;

(b) Includes in the final order a determination, supported by findings of fact and conclusions of law, that the continued validity of part or parts of the plan or regulation would substantially interfere with the fulfillment of the goals of this chapter; and

(c) Specifies in the final order the particular part or parts of the plan or regulation that are determined to be invalid, and the reasons for their invalidity.

(2) A determination of invalidity is prospective in effect and does not extinguish rights that vested under state or local law before receipt of the board's order by the city or county. The determination of invalidity does not apply to a completed development permit application for a project that vested under state or local law before receipt of the board's order by the county or city or to related construction permits for that project.

(3)(a) Except as otherwise provided in subsection (2) of this section and (b) of this subsection, a development permit application not vested under state or local law before receipt of the board's order by the county or city vests to the local ordinance or resolution that is determined by the board not to substantially interfere with the fulfillment of the goals of this chapter.

(b) Even though the application is not vested under state or local law before receipt by the county or city of the board's order, a determination of invalidity does not apply to a development permit application for:

(i) A permit for construction by any owner, lessee, or contract purchaser of a single-family residence for his or her own use or for the use of his or her family on a lot existing before receipt by the county or city of the board's order, except as otherwise specifically provided in the board's order to protect the public health and safety;

(ii) A building permit and related construction permits for remodeling, tenant improvements, or expansion of an existing structure on a lot existing before receipt of the board's order by the county or city; and

(iii) A boundary line adjustment or a division of land that does not increase the number of buildable lots existing before receipt of the board's order by the county or city.

(4) If the ordinance that adopts a plan or development regulation under this chapter includes a savings clause intended to revive prior policies or regulations in the event the new plan or regulations are determined to be invalid, the board shall determine under subsection (1) of this section whether the prior policies or regulations are valid during the period of remand.

(5) A county or city subject to a determination of invalidity may adopt interim controls and other measures to be in effect until it adopts a comprehensive plan and development regulations that comply with the requirements of this chapter. A development permit application may vest under an interim control or measure upon determination by the board that the interim controls and other measures do not substantially interfere with the fulfillment of the goals of this chapter.

(6) A county or city subject to a determination of invalidity may file a motion requesting that the board clarify, modify, or rescind the order. The board shall expeditiously schedule a hearing on the motion. At the hearing on the motion, the parties may present information to the board to clarify the part or parts of the comprehensive plan or development regulations to which the final order applies. The board shall issue any supplemental order based on the information provided at the hearing not later than thirty days after the date of the hearing.

(7)(a) If a determination of invalidity has been made and the county or city has enacted an ordinance or resolution amending the invalidated part or parts of the plan or regulation or establishing interim controls on development affected by the order of invalidity, after a compliance hearing, the board shall modify or rescind the determination of invalidity if it determines under the standard in subsection (1) of this section that the plan or regulation, as amended or made subject to such interim controls, will no longer substantially interfere with the fulfillment of the goals of this chapter.

(b) If the board determines that part or parts of the plan or regulation are no longer invalid as provided in this subsection, but does not find that the plan or regulation is in compliance with all of the requirements of this chapter, the board, in its order, may require periodic reports to the board on the progress the jurisdiction is making towards compliance.

***\*NEW SECTION. Sec. 17. A board shall determine that part or all of a comprehensive plan or development regulations, or amendments thereto, are invalid only if, in addition to the requirements of section 16 of this act, the board finds that in adopting plans or development regulations, or amendments thereto, the county or city acted in an arbitrary and capricious manner.***

*\*Sec. 17 was vetoed. See message at end of chapter.*

***\*Sec. 18. RCW 36.70A.305 and 1996 c 325 s 4 are each amended to read as follows:***

***(1) The court shall provide expedited review of ~~((a-determination-of invalidity-or))~~ an order ~~((effectuating))~~ that includes a determination of invalidity made or issued under RCW 36.70A.300 and section 16 of this act. The matter must be set for hearing within sixty days of the date set for submitting the board's record, absent a showing of good cause for a different date or a stipulation of the parties.***

***(2) A determination of substantial interference under this chapter must be based on evidence of actual development or development permit applications that***

would substantially interfere with the goals of this chapter, and not on hypothetical or speculative development potential.

\*Sec. 18 was vetoed. See message at end of chapter.

**\*NEW SECTION.** *Sec. 19. A new section is added to chapter 36.70A RCW to read as follows:*

*A court, in reviewing an order of the board, may:*

*(1) Affirm the board's order;*

*(2) Set aside the board's order, enjoin or stay the board's order, remand the matter for further proceedings, order the board to rescind or modify an order;*  
*or*

*(3) Enter a declaratory judgment order of compliance or noncompliance, which may include a determination of invalidity if (a) the determination is supported by findings of fact and conclusions of law that the continued validity of part or parts of the plan or regulation would substantially interfere with the fulfillment of the goals of this chapter and (b) the court's order specifies the particular part or parts of the plan or regulation that are determined to be invalid, and the reasons for their invalidity.*

\*Sec. 19 was vetoed. See message at end of chapter.

**Sec. 20.** RCW 36.70A.320 and 1995 c 347 s 111 are each amended to read as follows:

(1) Except as provided in subsection ~~((2))~~ (5) of this section, comprehensive plans and development regulations, and amendments thereto, adopted under this chapter are presumed valid upon adoption.

(2) Except as otherwise provided in subsection (4) of this section, the burden is on the petitioner to demonstrate that any action taken by a state agency, county, or city under this chapter is not in compliance with the requirements of this chapter.

(3) In any petition under this chapter, the board, after full consideration of the petition, shall determine whether there is compliance with the requirements of this chapter. In making its determination, the board shall consider the criteria adopted by the department under RCW 36.70A.190(4). The board shall find compliance unless it ~~((finds by a preponderance of the evidence that the state agency, county, or city erroneously interpreted or applied this chapter))~~ determines that the action by the state agency, county, or city is clearly erroneous in view of the entire record before the board and in light of the goals and requirements of this chapter.

~~((2))~~ (4) A county or city subject to a determination of invalidity made under RCW 36.70A.300 or section 16 of this act has the burden of demonstrating that the ordinance or resolution it has enacted in response to the determination of invalidity will no longer substantially interfere with the fulfillment of the goals of this chapter under the standard in section 16(1) of this act.

(5) The shoreline element of a comprehensive plan and the applicable development regulations adopted by a county or city shall take effect as provided in chapter 90.58 RCW.

**Sec. 21.** RCW 36.70A.330 and 1995 c 347 s 112 are each amended to read as follows:

(1) After the time set for complying with the requirements of this chapter under RCW (~~36.70A.300(1)(b))~~ 36.70A.300(3)(b) has expired, or at an earlier time upon the motion of a county or city subject to a determination of invalidity under RCW 36.70A.300, the board shall set a hearing for the purpose of determining whether the state agency, county, or city is in compliance with the requirements of this chapter.

(2) The board shall conduct a hearing and issue a finding of compliance or noncompliance with the requirements of this chapter and with any compliance schedule established by the board in its final order. A person with standing to challenge the legislation enacted in response to the board's final order may participate in the hearing along with the petitioner and the state agency, (~~city, or~~) county, or city. A hearing under this subsection shall be given the highest priority of business to be conducted by the board, and a finding shall be issued within forty-five days of the filing of the motion under subsection (1) of this section with the board. The board shall issue any order necessary to make adjustments to the compliance schedule and set additional hearings as provided in subsection (5) of this section.

(3) If the board after a compliance hearing finds that the state agency, county, or city is not in compliance, the board shall transmit its finding to the governor. The board may recommend to the governor that the sanctions authorized by this chapter be imposed. The board shall take into consideration the county's or city's efforts to meet its compliance schedule in making the decision to recommend sanctions to the governor.

(4) In a compliance hearing upon petition of a party, the board shall also reconsider its final order and decide(~~:~~

~~—(a) If a determination of invalidity has been made, whether such a determination should be rescinded or modified under the standards in RCW 36.70A.300(2); or~~

~~—(b)), if no determination of invalidity has been made, whether one now should be made ((under the standards in RCW 36.70A.300(2))) under section 16 of this act.~~

(5) The board shall schedule additional hearings as appropriate pursuant to subsections (1) and (2) of this section.

**NEW SECTION.** **Sec. 22.** A new section is added to chapter 36.70A RCW to read as follows:

A county or city subject to an order of invalidity issued before the effective date of section 14 of this act, by motion may request the board to review the order of invalidity in light of the section 14, chapter . . . , Laws of 1997 (section 14 of this act) amendments to RCW 36.70A.300, the section 21, chapter . . . , Laws of 1997 (section 21 of this act) amendments to RCW 36.70A.330, and section 16 of this act. If a request is made, the board shall rescind or modify the order of invalidity

as necessary to make it consistent with the section 14, chapter . . ., Laws of 1997 (section 14 of this act) amendments to RCW 36.70A.300, and to the section 21, chapter . . ., Laws of 1997 (section 21 of this act) amendments to RCW 36.70A.330, and section 16 of this act.

**NEW SECTION.** Sec. 23. A new section is added to chapter 36.70A RCW 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;

(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.

Sec. 24. RCW 36.70A.110 and 1995 c 400 s 2 are each amended to read as follows:

(1) Each county that is required or chooses to plan under RCW 36.70A.040 shall designate an urban growth area or areas within which urban growth shall be encouraged and outside of which growth can occur only if it is not urban in nature. Each city that is located in such a county shall be included within an urban growth area. An urban growth area may include more than a single city. An urban growth area may include territory that is located outside of a city only if such territory already is characterized by urban growth 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 urban growth areas in))~~ the county and each city within the county shall include areas and densities sufficient to permit the urban growth that is projected to occur in the county or city for the succeeding twenty-year period. Each urban growth area shall permit urban densities and shall include greenbelt and open space areas. An urban growth area determination may include a reasonable land market supply factor and shall permit

a range of urban densities and uses. In determining this market factor, cities and counties may consider local circumstances. Cities and counties have discretion in their comprehensive plans to make many choices about accommodating growth.

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

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

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

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

urban growth areas shall be adopted at the time of comprehensive plan adoption under this chapter.

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

**NEW SECTION. Sec. 25.** A new section is added to chapter 36.70A RCW to read as follows:

(1) Subject to the limitations in subsection (7) of this section, a county shall adopt, in consultation with its cities, county-wide planning policies to establish a review and evaluation program. This program shall be in addition to the requirements of RCW 36.70A.110, 36.70A.130, and 36.70A.210. In developing and implementing the review and evaluation program required by this section, the county and its cities shall consider information from other appropriate jurisdictions and sources. The purpose of the review and evaluation program shall be to:

(a) Determine whether a county and its cities are achieving urban densities within urban growth areas by comparing growth and development assumptions, targets, and objectives contained in the county-wide planning policies and the county and city comprehensive plans with actual growth and development that has occurred in the county and its cities; and

(b) Identify reasonable measures, other than adjusting urban growth areas, that will be taken to comply with the requirements of this chapter.

(2) The review and evaluation program shall:

(a) Encompass land uses and activities both within and outside of urban growth areas and provide for annual collection of data on urban and rural land uses, development, critical areas, and capital facilities to the extent necessary to determine the quantity and type of land suitable for development, both for residential and employment-based activities;

(b) Provide for evaluation of the data collected under (a) of this subsection every five years as provided in subsection (3) of this section. The first evaluation shall be completed not later than September 1, 2002. The county and its cities may establish in the county-wide planning policies indicators, benchmarks, and other similar criteria to use in conducting the evaluation;

(c) Provide for methods to resolve disputes among jurisdictions relating to the county-wide planning policies required by this section and procedures to resolve inconsistencies in collection and analysis of data; and

(d) Provide for the amendment of the county-wide policies and county and city comprehensive plans as needed to remedy an inconsistency identified through the evaluation required by this section, or to bring these policies into compliance with the requirements of this chapter.

(3) At a minimum, the evaluation component of the program required by subsection (1) of this section shall:

(a) Determine whether there is sufficient suitable land to accommodate the county-wide population projection established for the county pursuant to RCW

43.62.035 and the subsequent population allocations within the county and between the county and its cities and the requirements of RCW 36.70A.110;

(b) Determine the actual density of housing that has been constructed and the actual amount of land developed for commercial and industrial uses within the urban growth area since the adoption of a comprehensive plan under this chapter or since the last periodic evaluation as required by subsection (1) of this section; and

(c) Based on the actual density of development as determined under (b) of this subsection, review commercial, industrial, and housing needs by type and density range to determine the amount of land needed for commercial, industrial, and housing for the remaining portion of the twenty-year planning period used in the most recently adopted comprehensive plan.

(4) If the evaluation required by subsection (3) of this section demonstrates an inconsistency between what has occurred since the adoption of the county-wide planning policies and the county and city comprehensive plans and development regulations and what was envisioned in those policies and plans and the planning goals and the requirements of this chapter, as the inconsistency relates to the evaluation factors specified in subsection (3) of this section, the county and its cities shall adopt and implement measures that are reasonably likely to increase consistency during the subsequent five-year period. If necessary, a county, in consultation with its cities as required by RCW 36.70A.210, shall adopt amendments to county-wide planning policies to increase consistency. The county and its cities shall annually monitor the measures adopted under this subsection to determine their effect and may revise or rescind them as appropriate.

(5)(a) Not later than July 1, 1998, the department shall prepare a list of methods used by counties and cities in carrying out the types of activities required by this section. The department shall provide this information and appropriate technical assistance to counties and cities required to or choosing to comply with the provisions of this section.

(b) By December 31, 2007, the department shall submit to the appropriate committees of the legislature a report analyzing the effectiveness of the activities described in this section in achieving the goals envisioned by the county-wide planning policies and the comprehensive plans and development regulations of the counties and cities.

(6) From funds appropriated by the legislature for this purpose, the department shall provide grants to counties, cities, and regional planning organizations required under subsection (7) of this section to conduct the review and perform the evaluation required by this section.

(7) The provisions of this section shall apply to counties, and the cities within those counties, that were greater than one hundred fifty thousand in population in 1995 as determined by office of financial management population estimates and that are located west of the crest of the Cascade mountain range. Any other county

planning under RCW 36.70A.040 may carry out the review, evaluation, and amendment programs and procedures as provided in this section.

**Sec. 26.** RCW 43.62.035 and 1995 c 162 s 1 are each amended to read as follows:

The office of financial management shall determine the population of each county of the state annually as of April 1st of each year and on or before July 1st of each year shall file a certificate with the secretary of state showing its determination of the population for each county. The office of financial management also shall determine the percentage increase in population for each county over the preceding ten-year period, as of April 1st, and shall file a certificate with the secretary of state by July 1st showing its determination. At least once every ~~((ten))~~ five years or upon the availability of decennial census data, whichever is later, the office of financial management shall prepare twenty-year growth management planning population projections required by RCW 36.70A.110 for each county that adopts a comprehensive plan under RCW 36.70A.040 and shall review these projections with such counties and the cities in those counties before final adoption. The county and its cities may provide to the office such information as they deem relevant to the office's projection, and the office shall consider and comment on such information before adoption. Each projection shall be expressed as a reasonable range developed within the standard state high and low projection. The middle range shall represent the office's estimate of the most likely population projection for the county. If any city or county believes that a projection will not accurately reflect actual population growth in a county, it may petition the office to revise the projection accordingly. The office shall complete the first set of ranges for every county by December 31, 1995.

A comprehensive plan adopted or amended before December 31, 1995, shall not be considered to be in noncompliance with the twenty-year growth management planning population projection if the projection used in the comprehensive plan is in compliance with the range later adopted under this section.

**NEW SECTION.** **Sec. 27.** In order to ensure that there will be no unfunded responsibilities imposed on counties and cities, if specific funding for the purposes of section 25 of this act, referencing this act by bill or chapter number, is not provided by June 30, 1997, in the omnibus appropriations act, section 25 of this act is null and void.

**Sec. 28.** RCW 36.70A.500 and 1995 c 347 s 116 are each amended to read as follows:

(1) The department of community, trade, and economic development shall provide management services for the fund created by RCW 36.70A.490. The department ~~((by rule))~~ shall establish procedures for fund management. The department shall encourage participation in the grant program by other public agencies. The department shall develop the grant criteria, monitor the grant

program, and select grant recipients in consultation with state agencies participating in the grant program through the provision of grant funds or technical assistance.

(2) A grant may be awarded to a county or city that is required to or has chosen to plan under RCW 36.70A.040 and that is qualified pursuant to this section. The grant shall be provided to assist a county or city in paying for the cost of preparing ~~((a detailed environmental impact statement))~~ an environmental analysis under chapter 43.21C RCW, that is integrated with a comprehensive plan ((or)), subarea plan ((and)), plan element, county-wide planning policy, development regulation((s)), monitoring program, or other planning activity adopted under or implementing this chapter that:

(a) Improves the process for project permit review while maintaining environmental quality; or

(b) Encourages use of plans and information developed for purposes of complying with this chapter to satisfy requirements of other state programs.

(3) In order to qualify for a grant, a county or city shall:

(a) Demonstrate that it will prepare an environmental analysis pursuant to chapter 43.21C RCW and subsection (2) of this section that is integrated with a comprehensive plan ~~((or)), subarea plan ((and)), plan element, county-wide planning policy, development regulations, monitoring program, or other planning activity adopted under or implementing this chapter;~~

(b) Address environmental impacts and consequences, alternatives, and mitigation measures in sufficient detail to allow the analysis to be adopted in whole or in part by ~~((subsequent))~~ applicants for development permits within the geographic area analyzed in the plan;

(c) Demonstrate that procedures for review of development permit applications will be based on the integrated plans and environmental analysis;

~~((d))~~ Include mechanisms ((in the plan)) to monitor the consequences of growth as it occurs in the plan area and ((provide ongoing)) to use the resulting data to update the plan, policy, or implementing mechanisms and associated environmental analysis;

~~((d) Be making))~~ (e) Demonstrate substantial progress towards compliance with the requirements of this chapter. A county or city that is more than six months out of compliance with a requirement of this chapter is deemed not to be making substantial progress towards compliance; and

~~((e))~~ (f) Provide local funding, which may include financial participation by the private sector.

(4) In awarding grants, the department shall give preference to proposals that include one or more of the following elements:

(a) Financial participation by the private sector, or a public/private partnering approach;

~~(b) ((Comprehensive and subarea plan proposals that are designed to identify and monitor))~~ Identification and monitoring of system capacities for elements of the built environment, and to the extent appropriate, of the natural environment;

~~(c)~~ Coordination with state, federal, and tribal governments in project review;

~~(d)~~ Furtherance of important state objectives related to economic development, protection of areas of state-wide significance, and siting of essential public facilities;

~~(e)~~ Programs to improve the efficiency and effectiveness of the permitting process by greater reliance on integrated plans and prospective environmental analysis;

~~((d))~~ ~~(f)~~ Programs for effective citizen and neighborhood involvement that contribute to greater ((certainty)) likelihood that planning decisions ((with)) can be implemented with community support; and

~~((e) Plans that))~~ ~~(g)~~ Programs to identify environmental impacts and establish mitigation measures that provide effective means to satisfy concurrency requirements and establish project consistency with the plans.

(5) If the local funding includes funding provided by other state functional planning programs, including open space planning and watersbed or basin planning, the functional plan shall be integrated into and be consistent with the comprehensive plan.

(6) State agencies shall work with grant recipients to facilitate state and local project review processes that will implement the projects receiving grants under this section.

Sec. 29. RCW 43.155.070 and 1996 c 168 s 3 are each amended to read as follows:

(1) To qualify for loans or pledges under this chapter the board must determine that a local government meets all of the following conditions:

(a) The city or county must be imposing a tax under chapter 82.46 RCW at a rate of at least one-quarter of one percent;

(b) The local government must have developed a long-term plan for financing public works needs;

(c) The local government must be using all local revenue sources which are reasonably available for funding public works, taking into consideration local employment and economic factors; and

(d) Except where necessary to address a public health need or substantial environmental degradation, a county, city, or town that is required or chooses to plan under RCW 36.70A.040 must have adopted a comprehensive plan in conformance with the requirements of chapter 36.70A RCW, after it is required that the comprehensive plan be adopted, and must have adopted development regulations in conformance with the requirements of chapter 36.70A RCW, after it is required that development regulations be adopted.

(2) The board shall develop a priority process for public works projects as provided in this section. The intent of the priority process is to maximize the value

of public works projects accomplished with assistance under this chapter. The board shall attempt to assure a geographical balance in assigning priorities to projects. The board shall consider at least the following factors in assigning a priority to a project:

- (a) Whether the local government receiving assistance has experienced severe fiscal distress resulting from natural disaster or emergency public works needs;
- (b) Whether the project is critical in nature and would affect the health and safety of a great number of citizens;
- (c) The cost of the project compared to the size of the local government and amount of loan money available;
- (d) The number of communities served by or funding the project;
- (e) Whether the project is located in an area of high unemployment, compared to the average state unemployment;
- (f) Whether the project is the acquisition, expansion, improvement, or renovation by a local government of a public water system that is in violation of health and safety standards, including the cost of extending existing service to such a system;
- (g) The relative benefit of the project to the community, considering the present level of economic activity in the community and the existing local capacity to increase local economic activity in communities that have low economic growth; and
- (h) Other criteria that the board considers advisable.

(3) Existing debt or financial obligations of local governments shall not be refinanced under this chapter. Each local government applicant shall provide documentation of attempts to secure additional local or other sources of funding for each public works project for which financial assistance is sought under this chapter.

(4) Before November 1 of each year, the board shall develop and submit to the appropriate fiscal committees of the senate and house of representatives a description of the loans made under RCW 43.155.065, 43.155.068, and subsection (7) of this section during the preceding fiscal year and a prioritized list of projects which are recommended for funding by the legislature, including one copy to the staff of each of the committees. The list shall include, but not be limited to, a description of each project and recommended financing, the terms and conditions of the loan or financial guarantee, the local government jurisdiction and unemployment rate, demonstration of the jurisdiction's critical need for the project and documentation of local funds being used to finance the public works project. The list shall also include measures of fiscal capacity for each jurisdiction recommended for financial assistance, compared to authorized limits and state averages, including local government sales taxes; real estate excise taxes; property taxes; and charges for or taxes on sewerage, water, garbage, and other utilities.

(5) The board shall not sign contracts or otherwise financially obligate funds from the public works assistance account before the legislature has appropriated

funds for a specific list of public works projects. The legislature may remove projects from the list recommended by the board. The legislature shall not change the order of the priorities recommended for funding by the board.

(6) Subsection (5) of this section does not apply to loans made under RCW 43.155.065, 43.155.068, and subsection (7) of this section.

(7)(a) Loans made for the purpose of capital facilities plans shall be exempted from subsection (5) of this section. In no case shall the total amount of funds utilized for capital facilities plans and emergency loans exceed the limitation in RCW 43.155.065.

(b) For the purposes of this section "capital facilities plans" means those plans required by the growth management act, chapter 36.70A RCW, and plans required by the public works board for local governments not subject to the growth management act.

(8) To qualify for loans or pledges for solid waste or recycling facilities under this chapter, a city or county must demonstrate that the solid waste or recycling facility is consistent with and necessary to implement the comprehensive solid waste management plan adopted by the city or county under chapter 70.95 RCW.

**Sec. 30.** RCW 70.146.070 and 1991 sp.s. c 32 s 24 are each amended to read as follows:

When making grants or loans for water pollution control facilities, the department shall consider the following:

- (1) The protection of water quality and public health;
- (2) The cost to residential ratepayers if they had to finance water pollution control facilities without state assistance;
- (3) Actions required under federal and state permits and compliance orders;
- (4) The level of local fiscal effort by residential ratepayers since 1972 in financing water pollution control facilities;
- (5) The extent to which the applicant county or city, or if the applicant is another public body, the extent to which the county or city in which the applicant public body is located, has established programs to mitigate nonpoint pollution of the surface or subterranean water sought to be protected by the water pollution control facility named in the application for state assistance; and

(6) The recommendations of the Puget Sound (~~(water quality authority)~~) action team and any other board, council, commission, or group established by the legislature or a state agency to study water pollution control issues in the state.

Except where necessary to address a public health need or substantial environmental degradation, a county, city, or town that is required or chooses to plan under RCW 36.70A.040 may not receive a grant or loan for water pollution control facilities unless it has adopted a comprehensive plan in conformance with the requirements of chapter 36.70A RCW, after it is required that the comprehensive plan be adopted, or unless it has adopted development regulations in conformance with the requirements of chapter 36.70A RCW, after it is required that development regulations be adopted.

**Sec. 31.** RCW 84.34.020 and 1992 c 69 s 4 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 ~~((either))~~;

(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 ~~((following consultation with the advisory committee established in section 19 of this act))~~;

(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.

Agricultural lands shall also include such 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";

(d) 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;

(e) Any parcel of land designated as agricultural land under RCW 36.70A.170;  
or

(f) Any parcel of land not within an urban growth area zoned as agricultural land under a comprehensive plan adopted under chapter 36.70A RCW.

(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 forest crops for commercial purposes. A timber management plan shall be filed with the county legislative authority at the time (a) an application is made for classification as timber land pursuant to this chapter or (b) when a sale or transfer of timber land occurs and a notice of classification continuance is signed. Timber land means the land only.

(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.

**Sec. 32.** RCW 84.34.060 and 1992 c 69 s 8 are each amended to read as follows:

In determining the true and fair value of open space land and timber land, which has been classified as such under the provisions of this chapter, the assessor shall consider only the use to which such property and improvements is currently applied and shall not consider potential uses of such property. The assessed valuation of open space land shall not be less than the minimum value per acre of classified farm and agricultural land except that the assessed valuation of open space land may be valued based on the public benefit rating system adopted under RCW 84.34.055: PROVIDED FURTHER, That timber land shall be valued according to chapter 84.33 RCW. In valuing any tract or parcel of real property designated and zoned under a comprehensive plan adopted under chapter 36.70A RCW as agricultural, forest, or open space land, the appraisal shall not be based on similar sales of parcels that have been converted to nonagricultural, nonforest, or nonopen-space uses within five years after the sale.

**Sec. 33.** RCW 84.34.065 and 1992 c 69 s 9 are each amended to read as follows:

The true and fair value of farm and agricultural land shall be determined by consideration of the earning or productive capacity of comparable lands from crops grown most typically in the area averaged over not less than five years, capitalized at indicative rates. The earning or productive capacity of farm and agricultural lands shall be the "net cash rental", capitalized at a "rate of interest" charged on long term loans secured by a mortgage on farm or agricultural land plus a component for property taxes. The current use value of land under RCW 84.34.020(2)(d) shall be established as: The prior year's average value of open space farm and agricultural land used in the county plus the value of land improvements such as septic, water, and power used to serve the residence. This shall not be interpreted to require the assessor to list improvements to the land with the value of the land.

In valuing any tract or parcel of real property designated and zoned under a comprehensive plan adopted under chapter 36.70A RCW as agricultural, forest, or open space land, the appraisal shall not be based on similar sales of parcels that have been converted to nonagricultural, nonforest, or nonopen-space uses within five years after the sale.

For the purposes of the above computation:

(1) The term "net cash rental" shall mean the average rental paid on an annual basis, in cash, for the land being appraised and other farm and agricultural land of similar quality and similarly situated that is available for lease for a period of at least three years to any reliable person without unreasonable restrictions on its use for production of agricultural crops. There shall be allowed as a deduction from the rental received or computed any costs of crop production charged against the landlord if the costs are such as are customarily paid by a landlord. If "net cash rental" data is not available, the earning or productive capacity of farm and agricultural lands shall be determined by the cash value of typical or usual crops grown on land of similar quality and similarly situated averaged over not less than five years. Standard costs of production shall be allowed as a deduction from the cash value of the crops.

The current "net cash rental" or "earning capacity" shall be determined by the assessor with the advice of the advisory committee as provided in RCW 84.34.145, and through a continuing internal study, assisted by studies of the department of revenue. This net cash rental figure as it applies to any farm and agricultural land may be challenged before the same boards or authorities as would be the case with regard to assessed values on general property.

(2) The term "rate of interest" shall mean the rate of interest charged by the farm credit administration and other large financial institutions regularly making loans secured by farm and agricultural lands through mortgages or similar legal instruments, averaged over the immediate past five years.

The "rate of interest" shall be determined annually by a rule adopted by the department of revenue and such rule shall be published in the state register not later than January 1 of each year for use in that assessment year. The department of revenue determination may be appealed to the state board of tax appeals within thirty days after the date of publication by any owner of farm or agricultural land or the assessor of any county containing farm and agricultural land.

(3) The "component for property taxes" shall be a figure obtained by dividing the assessed value of all property in the county into the property taxes levied within the county in the year preceding the assessment and multiplying the quotient obtained by one hundred.

**Sec. 34.** RCW 84.40.030 and 1994 c 124 s 20 are each amended to read as follows:

All property shall be valued at one hundred percent of its true and fair value in money and assessed on the same basis unless specifically provided otherwise by law.

Taxable leasehold estates shall be valued at such price as they would bring at a fair, voluntary sale for cash without any deductions for any indebtedness owed including rentals to be paid.

The true and fair value of real property for taxation purposes (including property upon which there is a coal or other mine, or stone or other quarry) shall be based upon the following criteria:

(1) Any sales of the property being appraised or similar properties with respect to sales made within the past five years. The appraisal shall be consistent with the comprehensive land use plan, development regulations under chapter 36.70A RCW, zoning, and any other governmental policies or practices in effect at the time of appraisal that affect the use of property, as well as physical and environmental influences. The appraisal shall also take into account: (a) In the use of sales by real estate contract as similar sales, the extent, if any, to which the stated selling price has been increased by reason of the down payment, interest rate, or other financing terms; and (b) the extent to which the sale of a similar property actually represents the general effective market demand for property of such type, in the geographical area in which such property is located. Sales involving deed releases or similar seller-developer financing arrangements shall not be used as sales of similar property.

(2) In addition to sales as defined in subsection (1), consideration may be given to cost, cost less depreciation, reconstruction cost less depreciation, or capitalization of income that would be derived from prudent use of the property. In the case of property of a complex nature, or being used under terms of a franchise from a public agency, or operating as a public utility, or property not having a record of sale within five years and not having a significant number of sales of similar property in the general area, the provisions of this subsection (2) shall be the dominant factors in valuation. When provisions of this subsection (2) are relied upon for establishing values the property owner shall be advised upon request of the factors used in arriving at such value.

(3) In valuing any tract or parcel of real property, the value of the land, exclusive of structures thereon shall be determined; also the value of structures thereon, but the valuation shall not exceed the value of the total property as it exists. In valuing agricultural land, growing crops shall be excluded.

(4) In valuing any tract or parcel of real property designated and zoned under a comprehensive plan adopted under chapter 36.70A RCW as agricultural, forest, or open space land, the appraisal shall not be based on similar sales of parcels that have been converted to nonagricultural, nonforest, or nonopen-space uses within five years after the sale.

**Sec. 35.** RCW 90.60.030 and 1995 c 347 s 603 are each amended to read as follows:

The permit assistance center is established within the department. The center shall:

(1) Publish and keep current one or more handbooks containing lists and explanations of all permit laws. ~~((The center shall coordinate with the business assistance center in providing and maintaining this information to applicants and others.))~~ To the extent possible, the handbook shall include relevant federal and tribal laws. A state agency or local government shall provide a reasonable number of copies of application forms, statutes, ordinances, rules, handbooks, and other informational material requested by the center and shall otherwise fully cooperate with the center. The center shall seek the cooperation of relevant federal agencies and tribal governments;

(2) Establish, and make known, a point of contact for distribution of the handbook and advice to the public as to its interpretation in any given case;

(3) Work closely and cooperatively with the business license center ~~((and the business assistance center))~~ in providing efficient and nonduplicative service to the public;

(4) Seek the assignment of employees from the permit agencies listed under RCW 90.60.020(6)(a) to serve on a rotating basis in staffing the center; ~~((and))~~

(5) Collect and disseminate information to public and private entities on federal, state, local, and tribal government programs that rely on private professional expertise to assist governmental agencies in project permit review; and

(6) Provide an annual report to the legislature on potential conflicts and perceived inconsistencies among existing statutes. The first report shall be submitted to the appropriate standing committees of the house of representatives and senate by December 1, 1996.

Sec. 36. RCW 35A.14.295 and 1967 ex.s. c 119 s 35A.14.295 are each amended to read as follows:

~~((When there is, within))~~ (1) The legislative body of a code city may resolve to annex territory containing residential property owners to the city if there is within the city, unincorporated territory;

(a) Containing less than one hundred acres and having at least eighty percent of the boundaries of such area contiguous to the code city~~((; the legislative body may resolve to annex such territory to the code city));~~ or

(b) Of any size and having at least eighty percent of the boundaries of such area contiguous to the city if such area existed before June 30, 1994, and is within the same county and within the same urban growth area designated under RCW 36.70A.110, and the city was planning under chapter 36.70A RCW as of June 30, 1994.

(2) The resolution shall describe the boundaries of the area to be annexed, state the number of voters residing therein as nearly as may be, and set a date for a public hearing on such resolution for annexation. Notice of the hearing shall be given by publication of the resolution at least once a week for two weeks prior to the date of the hearing, in one or more newspapers of general circulation within the code city and one or more newspapers of general circulation within the area to be annexed.

(3) For purposes of subsection (1)(b) of this section, territory bounded by a river, lake, or other body of water is considered contiguous to a city that is also bounded by the same river, lake, or other body of water.

**NEW SECTION. Sec. 37.** A new section is added to chapter 35.13 RCW to read as follows:

(1) The legislative body of a city or town planning under chapter 36.70A RCW as of June 30, 1994, may resolve to annex territory to the city or town if there is, within the city or town, unincorporated territory containing residential property owners within the same county and within the same urban growth area designated under RCW 36.70A.110 as the city or town:

(a) Containing less than one hundred acres and having at least eighty percent of the boundaries of such area contiguous to the city or town if such area existed before June 30, 1994; or

(b) Of any size and having at least eighty percent of the boundaries of the area contiguous to the city if the area existed before June 30, 1994.

(2) The resolution shall describe the boundaries of the area to be annexed, state the number of voters residing in the area as nearly as may be, and set a date for a public hearing on the resolution for annexation. Notice of the hearing shall be given by publication of the resolution at least once a week for two weeks before the date of the hearing in one or more newspapers of general circulation within the city or town and one or more newspapers of general circulation within the area to be annexed.

(3) For purposes of subsection (1)(b) of this section, territory bounded by a river, lake, or other body of water is considered contiguous to a city that is also bounded by the same river, lake, or other body of water.

**Sec. 38.** RCW 35.13.174 and 1973 1st ex.s. c 164 s 17 are each amended to read as follows:

Upon receipt by the board of county commissioners of a determination by a majority of the review board favoring annexation of the proposed area that has been initiated by resolution pursuant to RCW 35.13.015 by the city or town legislative body, the board of county commissioners, or the city or town legislative body for any city or town within an urban growth area designated under RCW 36.70A.110, shall fix a date on which an annexation election shall be held, which date will be not less than thirty days nor more than sixty days thereafter.

**Sec. 39.** RCW 36.93.170 and 1989 c 84 s 5 are each amended to read as follows:

In reaching a decision on a proposal or an alternative, the board shall consider the factors affecting such proposal, which shall include, but not be limited to the following:

(1) Population and territory; population density; land area and land uses; comprehensive plans and zoning, as adopted under chapter 35.63, 35A.63, or 36.70 RCW; comprehensive plans and development regulations adopted under chapter 36.70A RCW; applicable service agreements entered into under chapter 36.115 or

39.34 RCW; applicable interlocal annexation agreements between a county and its cities; per capita assessed valuation; topography, natural boundaries and drainage basins, proximity to other populated areas; the existence and preservation of prime agricultural soils and productive agricultural uses; the likelihood of significant growth in the area and in adjacent incorporated and unincorporated areas during the next ten years; location and most desirable future location of community facilities;

(2) Municipal services; need for municipal services; effect of ordinances, governmental codes, regulations and resolutions on existing uses; present cost and adequacy of governmental services and controls in area; prospects of governmental services from other sources; probable future needs for such services and controls; probable effect of proposal or alternative on cost and adequacy of services and controls in area and adjacent area; the effect on the finances, debt structure, and contractual obligations and rights of all affected governmental units; and

(3) The effect of the proposal or alternative on adjacent areas, on mutual economic and social interests, and on the local governmental structure of the county.

The provisions of chapter 43.21C RCW, State Environmental Policy, shall not apply to incorporation proceedings covered by chapter 35.02 RCW.

**Sec. 40.** RCW 84.14.010 and 1995 c 375 s 3 are each amended to read as follows:

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

(1) "City" means either (a) a city or town with a population of at least one hundred ((fifty)) thousand or (b) the largest city or town, if there is no city or town with a population of at least one hundred thousand, located in a county planning under the growth management act.

(2) "Governing authority" means the local legislative authority of a city having jurisdiction over the property for which an exemption may be applied for under this chapter.

(3) "Growth management act" means chapter 36.70A RCW.

(4) "Multiple-unit housing" means a building having four or more dwelling units not designed or used as transient accommodations and not including hotels and motels. Multifamily units may result from new construction or rehabilitated or conversion of vacant, underutilized, or substandard buildings to multifamily housing.

(5) "Owner" means the property owner of record.

(6) "Permanent residential occupancy" means multiunit housing that provides either rental or owner occupancy on a nontransient basis. This includes owner-occupied or rental accommodation that is leased for a period of at least one month. This excludes hotels and motels that predominately offer rental accommodation on a daily or weekly basis.

(7) "Rehabilitation improvements" means modifications to existing structures, that are vacant for twelve months or longer, that are made to achieve a condition of substantial compliance with existing building codes or modification to existing occupied structures which increase the number of multifamily housing units.

(8) "Residential targeted area" means an area within an urban center that has been designated by the governing authority as a residential targeted area in accordance with this chapter.

(9) "Substantial compliance" means compliance with local building or housing code requirements that are typically required for rehabilitation as opposed to new construction.

(10) "Urban center" means a compact identifiable district where urban residents may obtain a variety of products and services. An urban center must contain:

(a) Several existing or previous, or both, business establishments that may include but are not limited to shops, offices, banks, restaurants, governmental agencies;

(b) Adequate public facilities including streets, sidewalks, lighting, transit, domestic water, and sanitary sewer systems; and

(c) A mixture of uses and activities that may include housing, recreation, and cultural activities in association with either commercial or office, or both, use.

**NEW SECTION.** Sec. 41. A new section is added to chapter 36.70A RCW to read as follows:

The legislature recognizes that the preservation of urban greenbelts is an integral part of comprehensive growth management in Washington. The legislature further recognizes that certain greenbelts are subject to adverse possession action which, if carried out, threaten the comprehensive nature of this chapter. Therefore, a party shall not acquire by adverse possession property that is designated as a plat greenbelt or open space area or that is dedicated as open space to a public agency or to a bona fide homeowner's association.

**Sec. 42.** RCW 84.14.030 and 1995 c 375 s 6 are each amended to read as follows:

An owner of property making application under this chapter must meet the following requirements:

(1) The new or rehabilitated multiple-unit housing must be located in a residential targeted area as designated by the city;

(2) The multiple-unit housing must meet the guidelines as adopted by the governing authority that may include height, density, public benefit features, number and size of proposed development, parking, low-income or moderate-income occupancy requirements, and other adopted requirements indicated necessary by the city. The required amenities should be relative to the size of the project and tax benefit to be obtained;

(3) The new, converted, or rehabilitated multiple-unit housing must provide for a minimum of fifty percent of the space for permanent residential occupancy.

In the case of existing occupied multifamily development, the multifamily housing must also provide for a minimum of four additional multifamily units. Existing multifamily vacant housing that has been vacant for twelve months or more does not have to provide additional multifamily units;

(4) New construction multifamily housing and rehabilitation improvements must be completed within three years from the date of approval of the application;

(5) Property proposed to be rehabilitated must be vacant at least twelve months before submitting an application and fail to comply with one or more standards of the applicable state or local building or housing codes on or after July 23, 1995; and

(6) The applicant must enter into a contract with the city approved by the governing body under which the applicant has agreed to the implementation of the development on terms and conditions satisfactory to the governing authority.

Sec. 43. RCW 84.14.050 and 1995 c 375 s 8 are each amended to read as follows:

An owner of property seeking tax incentives under this chapter must complete the following procedures:

(1) In the case of rehabilitation or where demolition or new construction is required, the owner shall secure from the governing authority or duly authorized agent, before commencement of rehabilitation improvements or new construction, verification of property noncompliance with applicable building and housing codes;

(2) In the case of new and rehabilitated multifamily housing, the owner shall apply to the city on forms adopted by the governing authority. The application must contain the following:

(a) Information setting forth the grounds supporting the requested exemption including information indicated on the application form or in the guidelines;

(b) A description of the project and site plan, including the floor plan of units and other information requested;

(c) A statement that the applicant is aware of the potential tax liability involved when the property ceases to be eligible for the incentive provided under this chapter;

(3) The applicant must verify the application by oath or affirmation; and

(4) The application must be made on or before April 1 of each year, and must be accompanied by the application fee, if any, required under RCW ~~((84.14.070))~~ 84.14.080. The governing authority may permit the applicant to revise an application before final action by the governing authority.

*\*Sec. 44. RCW 90.61.020 and 1995 c 347 s 802 are each amended to read as follows:*

*The commission shall consist of not more than ~~((fourteen))~~ twenty-two members. ~~((Eleven))~~ Fifteen members of the commission shall be appointed by the governor. ~~((Membership))~~ The commission members appointed by the governor shall reflect the interests of business, ~~((agriculture))~~ operators of small*

businesses, owners of small property holdings, livestock producers, irrigated agriculture, dryland farmers or major crop commodity producers, labor, the environment, neighborhood groups, other citizens, the legislature, cities, counties, and federally recognized Indian tribes. ((Members)) The commission members appointed by the governor shall have substantial experience in matters relating to land use and environmental planning and regulation, and shall have the ability to work toward cooperative solutions among diverse interests. The director of the department of community, trade, and economic development, or the director's designee, shall be a member and shall serve as chair of the commission. The director of the department of ecology, or the director's designee, and the secretary of the department of transportation, or the secretary's designee, shall also be members of the commission. Two members of the commission shall be members of the senate, one from each caucus appointed by the president of the senate, and two members of the commission shall be members of the house of representatives, one from each caucus appointed by the speaker of the house of representatives. Staff for the commission shall be provided by the department of community, trade, and economic development, with additional staff to be provided by other state agencies and the legislature, as may be required. State agencies shall provide the commission with information and assistance as needed.

This section expires June 30, 1998.

\*Sec. 44 was vetoed. See message at end of chapter.

\*Sec. 45. RCW 90.61.040 and 1995 c 347 s 804 are each amended to read as follows:

*The commission shall:*

(1) Consider the effectiveness of state and local government efforts to consolidate and integrate the growth management act, the state environmental policy act, the shoreline management act, and other land use, planning, environmental, and permitting laws.

(2) Identify the revisions and modifications needed in state land use, planning, and environmental law and practice to adequately plan for growth and achieve economically and environmentally sustainable development, to adequately assess environmental impacts of comprehensive plans, development regulations, and growth, and to reduce the time and cost of obtaining project permits.

(3) Draft a consolidated land use procedure, following these guidelines:

(a) Conduct land use planning through the comprehensive planning process under chapter 36.70A RCW rather than through review of individual projects;

(b) Involve diverse sectors of the public in the planning process. Early and informal environmental analysis should be incorporated into planning and decision making;

*(c) Recognize that different questions need to be answered and different levels of detail applied at each planning phase, from the initial development of plan concepts or plan elements to implementation programs;*

*(d) Integrate and combine to the fullest extent possible the processes, analysis, and documents currently required under chapters 36.70A and 43.21C RCW, so that subsequent plan decisions and subsequent implementation will incorporate measures to promote the environmental, economic, and other goals and to mitigate undesirable or unintended adverse impacts on a community's quality of life;*

*(e) Focus environmental review and the level of detail needed for different stages of plan and project decisions on the environmental considerations most relevant to that stage of the process;*

*(f) Avoid duplicating review that has occurred for plan decisions when specific projects are proposed;*

*(g) Use environmental review on projects to: (i) Review and document consistency with comprehensive plans and development regulations; (ii) provide prompt and coordinated review by agencies, tribes, and the public on compliance with applicable environmental laws and plans, including mitigation for site specific project impacts that have not been considered and addressed at the plan or development regulation level; and (iii) ensure accountability by local government to applicants and the public for requiring and implementing mitigation measures;*

*(h) Maintain or improve the quality of environmental analysis both for plan and for project decisions, while integrating these analyses with improved state and local planning and permitting processes;*

*(i) Examine existing land use and environmental permits for necessity and utility. To the extent possible, existing permits should be combined into fewer permits, assuring that the values and principles intended to be protected by those permits remain protected; and*

*(j) Consolidate local government appeal processes to allow a single appeal of permits at local government levels, a single state level administrative appeal, and a final judicial appeal.*

*(4) Monitor instances state-wide of the vesting of project permit applications during the period that an appeal is pending before a growth management hearings board, as authorized under RCW 36.70A.300. The commission shall also review the extent to which such vesting results in the approval of projects that are inconsistent with a comprehensive plan or development regulation provision ultimately found to be in compliance with a board's order or remand. The commission shall analyze the impact of such approvals on ensuring the attainment of the goals and policies of chapter 36.70A RCW, and make recommendations to the governor and the legislature on statutory changes to address any adverse impacts from the provisions of RCW 36.70A.300. The commission shall provide an initial report on its findings and recommendations*

by November 1, 1995, and submit its further findings and recommendations subsequently in the reports required under RCW 90.61.030.

(5) Monitor local government consolidated permit procedures and the effectiveness of the timelines established by RCW 36.70B.090. The commission shall include in its report submitted to the governor and the legislature on November 1, 1997, its recommendation about what timelines, if any, should be imposed on the local government consolidated permit process required by chapter 36.70B RCW.

(6) Evaluate funding mechanisms that will enable local governments to pay for and recover the costs of conducting integrated planning and environmental analysis. The commission shall include its conclusions in its first report to the legislature on November 1, 1995, and include any recommended statutory changes.

(7) Study, in cooperation with the state board for registration of professional engineers and the state building code council, ways in which state agencies and local governments could authorize professionals with appropriate qualifications to certify a project's compliance with certain state and local land use and environmental requirements. The commission shall report to the legislature on measures necessary to implement such a system of professional certification.

(8) Review long-term approaches for resolving disputes that arise under the growth management act, chapter 36.70A RCW; the shoreline management act, chapter 90.58 RCW; and other environmental laws. In particular, in the commission's recommendations on a consolidated land use procedure and integration and consolidation of Washington's land use and environmental laws, identify needed changes to the structure of the boards that hear environmental appeals as well as the extent to which quasi-judicial bodies are needed to provide continued oversight of matters currently brought before the growth management hearings board and other boards that hear such appeals.

(9) If the commission finds that there is no longer a need for the growth management hearings boards and recommends sunset of the boards, include in its recommendations a plan for implementing the sunset process. Alternatively, if the boards are to become advisory bodies with the primary duty of mediating disputes and making advisory decisions, the commission shall make recommendations as to how such a change in the board's authority should be implemented. If the commission makes other recommendations with respect to the boards, it shall make recommendations to implement any needed changes.

(10) Evaluate the effect of the 1997 amendments to this chapter that raise the standard of review of agency, county, and city actions by the growth management hearings boards and make changes with respect to board determinations of invalidity, and make recommendations as to whether the latitude of the boards should be further curtailed and greater deference given to local decisions by raising the standard of review, limiting the authority of the board to make determinations of invalidity, or making other changes.

*These guidelines are intended to guide the work of the commission, without limiting its charge to integrate and consolidate Washington's land use and environmental laws into a single, manageable statutory framework.*

*This section expires June 30, 1998.*

\*Sec. 45 was vetoed. See message at end of chapter.

Sec. 46. RCW 36.70B.040 and 1995 c 347 s 405 are each amended to read as follows:

(1) A proposed project's consistency with a local government's development regulations adopted under chapter 36.70A RCW, or, in the absence of applicable development regulations, the appropriate elements of the comprehensive plan (~~or subarea plan~~) adopted under chapter 36.70A RCW shall be (~~determined~~) decided by the local government during project review by consideration of:

(a) The type of land use;

(b) The level of development, such as units per acre or other measures of density;

(c) Infrastructure, including public facilities and services needed to serve the development; and

(d) The (~~character~~) characteristics of the development, such as development standards.

(2) In (~~determining consistency~~) deciding whether a project is consistent, the determinations made pursuant to RCW 36.70B.030(2) shall be controlling.

(3) For purposes of this section, the term "consistency" shall include all terms used in this chapter and chapter 36.70A RCW to refer to performance in accordance with this chapter and chapter 36.70A RCW, including but not limited to compliance, conformity, and consistency.

(4) Nothing in this section requires documentation, dictates an agency's procedures for considering consistency, or limits a (~~unit of government~~) city or county from asking more specific or related questions with respect to any of the four main categories listed in subsection (1)(a) through (d) of this section.

(5) The department of community, trade, and economic development is authorized to develop and adopt by rule criteria to assist local governments planning under RCW 36.70A.040 to analyze the consistency of project actions. These criteria shall be jointly developed with the department of ecology.

Sec. 47. RCW 43.21C.110 and 1995 c 347 s 206 are each amended to read as follows:

It shall be the duty and function of the department of ecology:

(1) To adopt and amend thereafter rules of interpretation and implementation of this chapter, subject to the requirements of chapter 34.05 RCW, for the purpose of providing uniform rules and guidelines to all branches of government including state agencies, political subdivisions, public and municipal corporations, and counties. The proposed rules shall be subject to full public hearings requirements associated with rule promulgation. Suggestions for modifications of the proposed rules shall be considered on their merits, and the department shall have the

authority and responsibility for full and appropriate independent promulgation and adoption of rules, assuring consistency with this chapter as amended and with the preservation of protections afforded by this chapter. The rule-making powers authorized in this section shall include, but shall not be limited to, the following phases of interpretation and implementation of this chapter:

(a) Categories of governmental actions which are not to be considered as potential major actions significantly affecting the quality of the environment, including categories pertaining to applications for water right permits pursuant to chapters 90.03 and 90.44 RCW. The types of actions included as categorical exemptions in the rules shall be limited to those types which are not major actions significantly affecting the quality of the environment. The rules shall provide for certain circumstances where actions which potentially are categorically exempt require environmental review. An action that is categorically exempt under the rules adopted by the department may not be conditioned or denied under this chapter.

(b) Rules for criteria and procedures applicable to the determination of when an act of a branch of government is a major action significantly affecting the quality of the environment for which a detailed statement is required to be prepared pursuant to RCW 43.21C.030.

(c) Rules and procedures applicable to the preparation of detailed statements and other environmental documents, including but not limited to rules for timing of environmental review, obtaining comments, data and other information, and providing for and determining areas of public participation which shall include the scope and review of draft environmental impact statements.

(d) Scope of coverage and contents of detailed statements assuring that such statements are simple, uniform, and as short as practicable; statements are required to analyze only reasonable alternatives and probable adverse environmental impacts which are significant, and may analyze beneficial impacts.

(e) Rules and procedures for public notification of actions taken and documents prepared.

(f) Definition of terms relevant to the implementation of this chapter including the establishment of a list of elements of the environment. Analysis of environmental considerations under RCW 43.21C.030(2) may be required only for those subjects listed as elements of the environment (or portions thereof). The list of elements of the environment shall consist of the "natural" and "built" environment. The elements of the built environment shall consist of public services and utilities (such as water, sewer, schools, fire and police protection), transportation, environmental health (such as explosive materials and toxic waste), and land and shoreline use (including housing, and a description of the relationships with land use and shoreline plans and designations, including population).

(g) Rules for determining the obligations and powers under this chapter of two or more branches of government involved in the same project significantly affecting the quality of the environment.

(h) Methods to assure adequate public awareness of the preparation and issuance of detailed statements required by RCW 43.21C.030(2)(c).

(i) To prepare rules for projects setting forth the time limits within which the governmental entity responsible for the action shall comply with the provisions of this chapter.

(j) Rules for utilization of a detailed statement for more than one action and rules improving environmental analysis of nonproject proposals and encouraging better interagency coordination and integration between this chapter and other environmental laws.

(k) Rules relating to actions which shall be exempt from the provisions of this chapter in situations of emergency.

(l) Rules relating to the use of environmental documents in planning and decision making and the implementation of the substantive policies and requirements of this chapter, including procedures for appeals under this chapter.

(m) Rules and procedures that provide for the integration of environmental review with project review as provided in RCW 43.21C.240. The rules and procedures shall be jointly developed with the department of community, trade, and economic development and shall be applicable to the preparation of environmental documents for actions in counties, cities, and towns planning under RCW 36.70A.040. The rules and procedures shall also include procedures and criteria to analyze ((the consistency of project actions, including)) planned actions under RCW 43.21C.031(2)~~((with development regulations adopted under chapter 36.70A RCW, or in the absence of applicable development regulations, the appropriate elements of a comprehensive plan or subarea plan adopted under chapter 36.70A RCW))~~ and revisions to the rules adopted under this section to ensure that they are compatible with the requirements and authorizations of chapter 347, Laws of 1995, as amended by chapter . . . , Laws of 1997 (this act). Ordinances or procedures adopted by a county, city, or town to implement the provisions of ~~((RCW 43.21C.240))~~ chapter 347, Laws of 1995 prior to the effective date of rules adopted under this subsection (1)(m) shall continue to be effective until the adoption of any new or revised ordinances or procedures that may be required. If any revisions are required as a result of rules adopted under this subsection (1)(m), those revisions shall be made within the time limits specified in RCW 43.21C.120.

(2) In exercising its powers, functions, and duties under this section, the department may:

(a) Consult with the state agencies and with representatives of science, industry, agriculture, labor, conservation organizations, state and local governments, and other groups, as it deems advisable; and

(b) Utilize, to the fullest extent possible, the services, facilities, and information (including statistical information) of public and private agencies, organizations, and individuals, in order to avoid duplication of effort and expense, overlap, or conflict with similar activities authorized by law and performed by established agencies.

(3) Rules adopted pursuant to this section shall be subject to the review procedures of chapter 34.05 RCW.

**Sec. 48.** RCW 36.70B.110 and 1995 c 347 s 415 are each amended to read as follows:

(1) Not later than April 1, 1996, a local government planning under RCW 36.70A.040 shall provide a notice of application to the public and the departments and agencies with jurisdiction as provided in this section. If a local government has made a determination of significance under chapter 43.21C RCW concurrently with the notice of application, the notice of application shall be combined with the determination of significance and scoping notice. Nothing in this section prevents a determination of significance and scoping notice from being issued prior to the notice of application. Nothing in this section or this chapter prevents a lead agency, when it is a project proponent or is funding a project, from conducting its review under chapter 43.21C RCW or from allowing appeals of procedural determinations prior to submitting a project permit application.

(2) The notice of application shall be provided within fourteen days after the determination of completeness as provided in RCW 36.70B.070 and, except as limited by the provisions of subsection (4)(b) of this section, shall include the following in whatever sequence or format the local government deems appropriate:

(a) The date of application, the date of the notice of completion for the application, and the date of the notice of application;

(b) A description of the proposed project action and a list of the project permits included in the application and, if applicable, a list of any studies requested under RCW 36.70B.070 or 36.70B.090;

(c) The identification of other permits not included in the application to the extent known by the local government;

(d) The identification of existing environmental documents that evaluate the proposed project, and, if not otherwise stated on the document providing the notice of application, such as a city land use bulletin, the location where the application and any studies can be reviewed;

(e) A statement of the public comment period, which shall be not less than fourteen nor more than thirty days following the date of notice of application, and statements of the right of any person to comment on the application, receive notice of and participate in any hearings, request a copy of the decision once made, and any appeal rights. A local government may accept public comments at any time prior to the closing of the record of an open record predecision hearing, if any, or, if no open record predecision hearing is provided, prior to the decision on the project permit;

(f) The date, time, place, and type of hearing, if applicable and scheduled at the date of notice of the application;

(g) A statement of the preliminary determination, if one has been made at the time of notice, of those development regulations that will be used for project mitigation and of consistency as provided in RCW ~~((36.70B.040))~~ 36.70B.030(2); and

(h) Any other information determined appropriate by the local government.

(3) If an open record predecision hearing is required for the requested project permits, the notice of application shall be provided at least fifteen days prior to the open record hearing.

(4) A local government shall use reasonable methods to give the notice of application to the public and agencies with jurisdiction and may use its existing notice procedures. A local government may use different types of notice for different categories of project permits or types of project actions. If a local government by resolution or ordinance does not specify its method of public notice, the local government shall use the methods provided for in (a) and (b) of this subsection. Examples of reasonable methods to inform the public are:

(a) Posting the property for site-specific proposals;

(b) Publishing notice, including at least the project location, description, type of permit(s) required, comment period dates, and location where the notice of application required by subsection (2) of this section and the complete application may be reviewed, in the newspaper of general circulation in the general area where the proposal is located or in a local land use newsletter published by the local government;

(c) Notifying public or private groups with known interest in a certain proposal or in the type of proposal being considered;

(d) Notifying the news media;

(e) Placing notices in appropriate regional or neighborhood newspapers or trade journals;

(f) Publishing notice in agency newsletters or sending notice to agency mailing lists, either general lists or lists for specific proposals or subject areas; and

(g) Mailing to neighboring property owners.

(5) A notice of application shall not be required for project permits that are categorically exempt under chapter 43.21C RCW, unless ~~((a public comment period or))~~ an open record predecision hearing is required or an open record appeal hearing is allowed on the project permit decision.

(6) A local government shall integrate the permit procedures in this section with its environmental review under chapter 43.21C RCW as follows:

(a) Except for a determination of significance and except as otherwise expressly allowed in this section, the local government may not issue its threshold determination ~~((or issue a decision or a recommendation on a project permit))~~ until the expiration of the public comment period on the notice of application.

(b) If an open record predecision hearing is required (~~and the local government's threshold determination requires public notice under chapter 43.21C RCW~~), the local government shall issue its threshold determination at least fifteen days prior to the open record predecision hearing.

(c) Comments shall be as specific as possible.

(d) A local government is not required to provide for administrative appeals of its threshold determination. If provided, an administrative appeal shall be filed within fourteen days after notice that the determination has been made and is appealable. Except as otherwise expressly provided in this section, the appeal hearing on a determination of nonsignificance shall be consolidated with any open record hearing on the project permit.

(7) At the request of the applicant, a local government may combine any hearing on a project permit with any hearing that may be held by another local, state, regional, federal, or other agency (~~provided that~~), if:

(a) The hearing is held within the geographic boundary of the local government(~~(- Hearings shall be combined if requested by an applicant, as long as)~~); and

(b) The joint hearing can be held within the time periods specified in RCW 36.70B.090 or the applicant agrees to the schedule in the event that additional time is needed in order to combine the hearings. All agencies of the state of Washington, including municipal corporations and counties participating in a combined hearing, are hereby authorized to issue joint hearing notices and develop a joint format, select a mutually acceptable hearing body or officer, and take such other actions as may be necessary to hold joint hearings consistent with each of their respective statutory obligations.

(8) All state and local agencies shall cooperate to the fullest extent possible with the local government in holding a joint hearing if requested to do so, as long as:

(a) The agency is not expressly prohibited by statute from doing so;

(b) Sufficient notice of the hearing is given to meet each of the agencies' adopted notice requirements as set forth in statute, ordinance, or rule; and

(c) The agency has received the necessary information about the proposed project from the applicant to hold its hearing at the same time as the local government hearing.

(9) A local government is not required to provide for administrative appeals. If provided, an administrative appeal of the project decision(~~(- combined with)~~) and of any environmental determination(~~(s)~~) issued at the same time as the project decision, shall be filed within fourteen days after the notice of the decision or after other notice that the decision has been made and is appealable. The local government shall extend the appeal period for an additional seven days, if state or local rules adopted pursuant to chapter 43.21C RCW allow public comment on a determination of nonsignificance issued as part of the appealable project permit decision.

(10) The applicant for a project permit is deemed to be a participant in any comment period, open record hearing, or closed record appeal.

(11) Each local government planning under RCW 36.70A.040 shall adopt procedures for administrative interpretation of its development regulations.

Sec. 49. RCW 43.21C.075 and 1995 c 347 s 204 are each amended to read as follows:

(1) Because a major purpose of this chapter is to combine environmental considerations with public decisions, any appeal brought under this chapter shall be linked to a specific governmental action. The State Environmental Policy Act provides a basis for challenging whether governmental action is in compliance with the substantive and procedural provisions of this chapter. The State Environmental Policy Act is not intended to create a cause of action unrelated to a specific governmental action.

(2) Unless otherwise provided by this section:

(a) Appeals under this chapter shall be of the governmental action together with its accompanying environmental determinations.

(b) Appeals of environmental determinations made (or lacking) under this chapter shall be commenced within the time required to appeal the governmental action which is subject to environmental review.

(3) If an agency has a procedure for appeals of agency environmental determinations made under this chapter, such procedure:

(a) Shall ~~((not))~~ allow no more than one agency appeal proceeding on ~~((a))~~ each procedural determination (the adequacy of a determination of significance/nonsignificance or of a final environmental impact statement)~~((—The appeal proceeding on a determination of significance may occur before the agency's final decision on a proposed action. The appeal proceeding on a determination of nonsignificance may occur before the agency's final decision on a proposed action only if the appeal is heard at a proceeding where the hearing body or officer will render a final recommendation or decision on the proposed underlying governmental action. Such appeals shall also be allowed for a determination of significance/nonsignificance which may be issued by the agency after supplemental review))~~);

(b) Shall consolidate an appeal of procedural issues and of substantive determinations made under this chapter (such as a decision to require particular mitigation measures or to deny a proposal) with a hearing or appeal on the underlying governmental action by providing for a single simultaneous hearing before one hearing officer or body to consider the agency decision or recommendation on a proposal and any environmental determinations made under this chapter, with the exception of ~~((the))~~;

(i) An appeal~~((—if any))~~ of a determination of significance ~~((as provided in (a) of this subsection))~~;

(ii) An appeal of a procedural determination made by an agency when the agency is a project proponent, or is funding a project, and chooses to conduct its

review under this chapter, including any appeals of its procedural determinations, prior to submitting an application for a project permit:

(iii) An appeal of a procedural determination made by an agency on a nonproject action; or

(iv) An appeal to the local legislative authority under RCW 43.21C.060 or other applicable state statutes;

(c) Shall provide for the preparation of a record for use in any subsequent appeal proceedings, and shall provide for any subsequent appeal proceedings to be conducted on the record, consistent with other applicable law. An adequate record consists of findings and conclusions, testimony under oath, and taped or written transcript. An electronically recorded transcript will suffice for purposes of review under this subsection; and

(d) Shall provide that procedural determinations made by the responsible official shall be entitled to substantial weight.

(4) If a person aggrieved by an agency action has the right to judicial appeal and if an agency has an administrative appeal procedure, such person shall, prior to seeking any judicial review, use such agency procedure if any such procedure is available, unless expressly provided otherwise by state statute.

(5) Some statutes and ordinances contain time periods for challenging governmental actions which are subject to review under this chapter, such as various local land use approvals (the "underlying governmental action"). RCW 43.21C.080 establishes an optional "notice of action" procedure which, if used, imposes a time period for appealing decisions under this chapter. This subsection does not modify any such time periods. In this subsection, the term "appeal" refers to a judicial appeal only.

(a) If there is a time period for appealing the underlying governmental action, appeals under this chapter shall be commenced within such time period. The agency shall give official notice stating the date and place for commencing an appeal.

(b) If there is no time period for appealing the underlying governmental action, and a notice of action under RCW 43.21C.080 is used, appeals shall be commenced within the time period specified by RCW 43.21C.080.

(6)(a) Judicial review under subsection (5) of this section of an appeal decision made by an agency under subsection (3) of this section shall be on the record, consistent with other applicable law.

(b) A taped or written transcript may be used. If a taped transcript is to be reviewed, a record shall identify the location on the taped transcript of testimony and evidence to be reviewed. Parties are encouraged to designate only those portions of the testimony necessary to present the issues raised on review, but if a party alleges that a finding of fact is not supported by evidence, the party should include in the record all evidence relevant to the disputed finding. Any other party may designate additional portions of the taped transcript relating to issues raised on review. A party may provide a written transcript of portions of the testimony

at the party's own expense or apply to that court for an order requiring the party seeking review to pay for additional portions of the written transcript.

(c) Judicial review under this chapter shall without exception be of the governmental action together with its accompanying environmental determinations.

(7) Jurisdiction over the review of determinations under this chapter in an appeal before an agency or superior court shall upon consent of the parties be transferred in whole or part to the shorelines hearings board. The shorelines hearings board shall hear the matter and sign the final order expeditiously. The superior court shall certify the final order of the shorelines hearings board and ~~((said))~~ the certified final order may only be appealed to an appellate court. In the case of an appeal under this chapter regarding a project or other matter that is also the subject of an appeal to the shorelines hearings board under chapter 90.58 RCW, the shorelines hearings board shall have sole jurisdiction over both the appeal under this section and the appeal under chapter 90.58 RCW, shall consider them together, and shall issue a final order within one hundred eighty days as provided in RCW 90.58.180.

(8) For purposes of this section and RCW 43.21C.080, the words "action", "decision", and "determination" mean substantive agency action including any accompanying procedural determinations under this chapter (except where the word "action" means "appeal" in RCW 43.21C.080(2)). The word "action" in this section and RCW 43.21C.080 does not mean a procedural determination by itself made under this chapter. The word "determination" includes any environmental document required by this chapter and state or local implementing rules. The word "agency" refers to any state or local unit of government. Except as provided in subsection (5) of this section, the word "appeal" refers to administrative, legislative, or judicial appeals.

(9) The court in its discretion may award reasonable ~~((attorney's))~~ attorneys' fees of up to one thousand dollars in the aggregate to the prevailing party, including a governmental agency, on issues arising out of this chapter if the court makes specific findings that the legal position of a party is frivolous and without reasonable basis.

**Sec. 50.** RCW 90.58.090 and 1995 c 347 s 306 are each amended to read as follows:

(1) A master program, segment of a master program, or an amendment to a master program shall become effective when approved by the department. Within the time period provided in RCW 90.58.080, each local government shall have submitted a master program, either totally or by segments, for all shorelines of the state within its jurisdiction to the department for review and approval.

(2) Upon receipt of a proposed master program or amendment, the department shall:

(a) Provide notice to and opportunity for written comment by all interested parties of record as a part of the local government review process for the proposal and to all persons, groups, and agencies that have requested in writing notice of

proposed master programs or amendments generally or for a specific area, subject matter, or issue. The comment period shall be at least thirty days, unless the department determines that the level of complexity or controversy involved supports a shorter period;

(b) In the department's discretion, conduct a public hearing during the thirty-day comment period in the jurisdiction proposing the master program or amendment;

(c) Within fifteen days after the close of public comment, request the local government to review the issues identified by the public, interested parties, groups, and agencies and provide a written response as to how the proposal addresses the identified issues;

(d) Within thirty days after receipt of the local government response pursuant to (c) of this subsection, make written findings and conclusions regarding the consistency of the proposal with the policy of RCW 90.58.020 and the applicable guidelines, provide a response to the issues identified in (c) of this subsection, and either approve the proposal as submitted, recommend specific changes necessary to make the proposal approvable, or deny approval of the proposal in those instances where no alteration of the proposal appears likely to be consistent with the policy of RCW 90.58.020 and the applicable guidelines. The written findings and conclusions shall be provided to the local government, all interested persons, parties, groups, and agencies of record on the proposal;

(e) If the department recommends changes to the proposed master program or amendment, within thirty days after the department mails the written findings and conclusions to the local government, the local government may:

(i) Agree to the proposed changes. The receipt by the department of the written notice of agreement constitutes final action by the department approving the amendment; or

(ii) Submit an alternative proposal. If, in the opinion of the department, the alternative is consistent with the purpose and intent of the changes originally submitted by the department and with this chapter it shall approve the changes and provide written notice to all recipients of the written findings and conclusions. If the department determines the proposal is not consistent with the purpose and intent of the changes proposed by the department, the department may resubmit the proposal for public and agency review pursuant to this section or reject the proposal.

(3) The department shall approve the segment of a master program relating to shorelines unless it determines that the submitted segments are not consistent with the policy of RCW 90.58.020 and the applicable guidelines.

(4) The department shall approve those segments of the master program relating to shorelines of state-wide significance only after determining the program provides the optimum implementation of the policy of this chapter to satisfy the state-wide interest. If the department does not approve a segment of a local government master program relating to a shoreline of state-wide significance, the

department may develop and by rule adopt an alternative to the local government's proposal.

(5) In the event a local government has not complied with the requirements of RCW 90.58.070 it may thereafter upon written notice to the department elect to adopt a master program for the shorelines within its jurisdiction, in which event it shall comply with the provisions established by this chapter for the adoption of a master program for such shorelines.

Upon approval of such master program by the department it shall supersede such master program as may have been adopted by the department for such shorelines.

(6) A master program or amendment to a master program takes effect when and in such form as approved or adopted by the department. Shoreline master programs that were adopted by the department prior to July 22, 1995, in accordance with the provisions of this section then in effect, shall be deemed approved by the department in accordance with the provisions of this section that became effective on that date. The department shall maintain a record of each master program, the action taken on any proposal for adoption or amendment of the master program, and any appeal of the department's action. The department's approved document of record constitutes the official master program.

Sec. 51. RCW 90.58.143 and 1996 c 62 s 1 are each amended to read as follows:

(1) The time requirements of this section shall apply to all substantial development permits and to any development authorized pursuant to a variance or conditional use permit authorized under this chapter. Upon a finding of good cause, based on the requirements and circumstances of the project proposed and consistent with the policy and provisions of the master program and this chapter, local government may adopt different time limits from those set forth in subsections (2) and (3) of this section as a part of action on a substantial development permit.

(2) Construction activities shall be commenced or, where no construction activities are involved, the use or activity shall be commenced within two years of the effective date of a substantial development permit. However, local government may authorize a single extension for a period not to exceed one year based on reasonable factors, if a request for extension has been filed before the expiration date and notice of the proposed extension is given to parties of record on the substantial development permit and to the department.

(3) Authorization to conduct construction activities shall terminate five years after the effective date of a substantial development permit. However, local government may authorize a single extension for a period not to exceed one year based on reasonable factors, if a request for extension has been filed before the expiration date and notice of the proposed extension is given to parties of record and to the department.

(4) The effective date of a substantial development permit shall be the date of ~~((the last action required on the substantial development permit and all))~~ filing as provided in RCW 90.58.140(6). The permit time periods in subsections (2) and (3) of this section do not include the time during which a use or activity was not actually pursued due to the pendency of administrative appeals or legal actions or due to the need to obtain any other government permits and approvals for the development that authorize the development to proceed, including all reasonably related administrative ((and)) or legal actions on any such permits or approvals.

*\*Sec. 52. RCW 34.05.518 and 1995 c 382 s 5 are each amended to read as follows:*

*(1) The final decision of an administrative agency in an adjudicative proceeding under this chapter may be directly reviewed by the court of appeals either (a) upon certification by the superior court pursuant to this section or (b) if the final decision is from an environmental board as defined in subsection (3) of this section, upon acceptance by the court of appeals after a certificate of appealability has been filed by the environmental board that rendered the final decision.*

*(2) For direct review upon certification by the superior court, an application for direct review must be filed with the superior court within thirty days of the filing of the petition for review in superior court. The superior court may certify a case for direct review only if the judicial review is limited to the record of the agency proceeding and the court finds that:*

*(a) Fundamental and urgent issues affecting the future administrative process or the public interest are involved which require a prompt determination;*

*(b) Delay in obtaining a final and prompt determination of such issues would be detrimental to any party or the public interest;*

*(c) An appeal to the court of appeals would be likely regardless of the determination in superior court; and*

*(d) The appellate court's determination in the proceeding would have significant precedential value.*

*Procedures for certification shall be established by court rule.*

*(3)(a) For the purposes of direct review of final decisions of environmental boards, environmental boards include those boards identified in RCW 43.21B.005 ~~((and growth management hearings boards as identified in RCW 36.70A.250)).~~*

*(b) An environmental board may issue a certificate of appealability if it finds that delay in obtaining a final and prompt determination of the issues would be detrimental to any party or the public interest and either:*

*(i) Fundamental and urgent state-wide or regional issues are raised; or*

*(ii) The proceeding is likely to have significant precedential value.*

*(4) The environmental board shall state in the certificate of appealability which criteria it applied, explain how that criteria was met, and file with the certificate a copy of the final decision.*

*(5) For an appellate court to accept direct review of a final decision of an environmental board, it shall consider the same criteria outlined in subsection (3) of this section.*

*(6) The procedures for direct review of final decisions of environmental boards include:*

*(a) Within thirty days after filing the petition for review with the superior court, a party may file an application for direct review with the superior court and serve the appropriate environmental board and all parties of record. The application shall request the environmental board to file a certificate of appealability.*

*(b) If an issue on review is the jurisdiction of the environmental board, the board may file an application for direct review on that issue.*

*(c) The environmental board shall have thirty days to grant or deny the request for a certificate of appealability and its decision shall be filed with the superior court and served on all parties of record.*

*(d) If a certificate of appealability is issued, the parties shall have fifteen days from the date of service to file a notice of discretionary review in the superior court, and the notice shall include a copy of the certificate of appealability and a copy of the final decision.*

*(e) If the appellate court accepts review, the certificate of appealability shall be transmitted to the court of appeals as part of the certified record.*

*(f) If a certificate of appealability is denied, review shall be by the superior court. The superior court's decision may be appealed to the court of appeals.*

*\*Sec. 52 was vetoed. See message at end of chapter.*

**NEW SECTION.** Sec. 53. Except as otherwise specifically provided in section 22 of this act, sections 1 through 21, chapter . . . , Laws of 1997 (sections 1 through 21 of this act) are prospective in effect and shall not affect the validity of actions taken or decisions made before the effective date of this section.

**NEW SECTION.** Sec. 54. 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. 55. Sections 29 and 30 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 the Senate April 27, 1997.

Passed the House April 27, 1997.

Approved by the Governor May 19, 1997, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State May 19, 1997.

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

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

"AN ACT Relating to growth management;"

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

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

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

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

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

Section 5 states that the goal of the state is to achieve no overall net loss of wetland functions. This section also provides that in adopting critical areas development regulations, counties and cities should balance all of the goals of the GMA and that the legislature intends that no goal takes precedence, but that counties and cities may prioritize the goals in accordance with local history, conditions, circumstances, and choice. This issue was not addressed by the Land Use Study Commission and seems to me to be inconsistent with the tenor of the Commission's recommendations.

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

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

Section 7 provides that the rural element shall permit rural development providing for a variety of rural densities, uses, essential public facilities, and rural governmental services to serve the permitted densities and uses in the rural element. There are three exceptions in which businesses in the rural element are not required to be principally

designed to serve the existing and projected rural population. These exceptions are: (1) infill of existing development; (2) small-scale recreational or tourist uses; and (3) development of cottage industries and small-scale businesses. Therefore, section 8 is unnecessary, confusing, and potentially more restrictive in certain counties than are the recommendations of the Land Use Study Commission embodied in section 7.

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

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

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

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

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

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

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

Section 45 amends the charge given to the Land Use Study Commission by adding the following requirements: (1) Review long-term approaches for resolving disputes that arise under the Growth Management Act, the Shoreline Management Act, and other environmental laws, including identifying needed changes to the structure of the boards

that hear environmental appeals; (2) If the LUSC determines that there is no longer a need for the Growth Management Hearings Boards, recommend a plan for sunseting the boards; and (3) Evaluate the effect of the changes to the standard of review and make recommendations raising the standard of review, limiting the authority of the boards to make determinations of invalidity, or making other changes.

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

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

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

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

## CHAPTER 430

[Substitute House Bill 1076]

### AGENCY RULE MAKING—MODIFICATIONS TO DEPARTMENT OF SOCIAL AND HEALTH SERVICES AUTHORITY

AN ACT Relating to state and local government; amending RCW 34.05.328; and adding a new section to chapter 43.20A RCW.

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

**Sec. 1.** RCW 34.05.328 and 1995 c 403 s 201 are each amended to read as follows:

(1) Before adopting a rule described in subsection (5) of this section, an agency shall:

(a) Clearly state in detail the general goals and specific objectives of the statute that the rule implements;

(b) Determine that the rule is needed to achieve the general goals and specific objectives stated under (a) of this subsection, and analyze alternatives to rule making and the consequences of not adopting the rule;

(c) Determine that the probable benefits of the rule are greater than its probable costs, taking into account both the qualitative and quantitative benefits and costs and the specific directives of the statute being implemented;

(d) Determine, after considering alternative versions of the rule and the analysis required under (b) and (c) of this subsection, that the rule being adopted is the least burdensome alternative for those required to comply with it that will achieve the general goals and specific objectives stated under (a) of this subsection;

(e) Determine that the rule does not require those to whom it applies to take an action that violates requirements of another federal or state law;

(f) Determine that the rule does not impose more stringent performance requirements on private entities than on public entities unless required to do so by federal or state law;

(g) Determine if the rule differs from any federal regulation or statute applicable to the same activity or subject matter and, if so, determine that the difference is justified by the following:

(i) A state statute that explicitly allows the agency to differ from federal standards; or

(ii) Substantial evidence that the difference is necessary to achieve the general goals and specific objectives stated under (a) of this subsection; and

(h) Coordinate the rule, to the maximum extent practicable, with other federal, state, and local laws applicable to the same activity or subject matter.

(2) In making its determinations pursuant to subsection (1)(b) through (g) of this section, the agency shall place in the rule-making file documentation of sufficient quantity and quality so as to persuade a reasonable person that the determinations are justified.

(3) Before adopting rules described in subsection (5) of this section, an agency shall place in the rule-making file a rule implementation plan for rules filed under each adopting order. The plan shall describe how the agency intends to:

(a) Implement and enforce the rule, including a description of the resources the agency intends to use;

(b) Inform and educate affected persons about the rule;

(c) Promote and assist voluntary compliance; and

(d) Evaluate whether the rule achieves the purpose for which it was adopted, including, to the maximum extent practicable, the use of interim milestones to assess progress and the use of objectively measurable outcomes.

(4) After adopting a rule described in subsection (5) of this section regulating the same activity or subject matter as another provision of federal or state law, an agency shall do all of the following:

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

(b) Coordinate implementation and enforcement of the rule with the other federal and state entities regulating the same activity or subject matter by making every effort to do one or more of the following:

(i) Deferring to the other entity;

(ii) Designating a lead agency; or

(iii) Entering into an agreement with the other entities specifying how the agency and entities will coordinate implementation and enforcement.

If the agency is unable to comply with this subsection (4)(b), the agency shall report to the legislature pursuant to (c) of this subsection;

(c) Report to the joint administrative rules review committee:

(i) The existence of any overlap or duplication of other federal or state laws, any differences from federal law, and any known overlap, duplication, or conflict with local laws; and

(ii) Make recommendations for any legislation that may be necessary to eliminate or mitigate any adverse effects of such overlap, duplication, or difference.

(5)(a) Except as provided in (b) of this subsection, this section applies to:

(i) Significant legislative rules of the departments of ecology, labor and industries, health, revenue, social and health services, and natural resources, the employment security department, the forest practices board, the office of the insurance commissioner, and to the legislative rules of the department of fish and wildlife implementing chapter 75.20 RCW; and

(ii) Any rule of any agency, if this section is voluntarily made applicable to the rule by the agency, or is made applicable to the rule by a majority vote of the joint administrative rules review committee within forty-five days of receiving the notice of proposed rule making under RCW 34.05.320.

(b) This section does not apply to:

(i) Emergency rules adopted under RCW 34.05.350;

(ii) Rules relating only to internal governmental operations that are not subject to violation by a nongovernment party;

(iii) Rules adopting or incorporating by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of state-wide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule;

(iv) Rules that only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect;

(v) Rules the content of which is explicitly and specifically dictated by statute;

((or))

(vi) Rules that set or adjust fees or rates pursuant to legislative standards ; or

(vii) Rules of the department of social and health services relating only to client medical or financial eligibility and rules concerning liability for care of dependents.

(c) For purposes of this subsection:

(i) A "procedural rule" is a rule that adopts, amends, or repeals (A) any procedure, practice, or requirement relating to any agency hearings; (B) any filing or related process requirement for making application to an agency for a license or permit; or (C) any policy statement pertaining to the consistent internal operations of an agency.

(ii) An "interpretive rule" is a rule, the violation of which does not subject a person to a penalty or sanction, that sets forth the agency's interpretation of statutory provisions it administers.

(iii) A "significant legislative rule" is a rule other than a procedural or interpretive rule that (A) adopts substantive provisions of law pursuant to delegated

legislative authority, the violation of which subjects a violator of such rule to a penalty or sanction; (B) establishes, alters, or revokes any qualification or standard for the issuance, suspension, or revocation of a license or permit; or (C) adopts a new, or makes significant amendments to, a policy or regulatory program.

(d) In the notice of proposed rule making under RCW 34.05.320, an agency shall state whether this section applies to the proposed rule pursuant to (a)(i) of this subsection, or if the agency will apply this section voluntarily.

(6) By January 31, 1996, and by January 31st of each even-numbered year thereafter, the office of financial management, after consulting with state agencies, counties, and cities, and business, labor, and environmental organizations, shall report to the governor and the legislature regarding the effects of this section on the regulatory system in this state. The report shall document:

(a) The rules proposed to which this section applied and to the extent possible, how compliance with this section affected the substance of the rule, if any, that the agency ultimately adopted;

(b) The costs incurred by state agencies in complying with this section;

(c) Any legal action maintained based upon the alleged failure of any agency to comply with this section, the costs to the state of such action, and the result;

(d) The extent to which this section has adversely affected the capacity of agencies to fulfill their legislatively prescribed mission;

(e) The extent to which this section has improved the acceptability of state rules to those regulated; and

(f) Any other information considered by the office of financial management to be useful in evaluating the effect of this section.

**NEW SECTION.** **Sec. 2.** A new section is added to chapter 43.20A RCW to read as follows:

A committee or council required by federal law, within the department of social and health services, that makes policy recommendations regarding reimbursement for drugs under the requirements of federal law or regulations is subject to chapters 42.30 and 42.32 RCW.

Passed the House April 21, 1997.

Passed the Senate April 17, 1997.

Approved by the Governor May 20, 1997.

Filed in Office of Secretary of State May 20, 1997.

## CHAPTER 431

[Engrossed Second Substitute House Bill 1303]

### EDUCATION—WAIVERS FROM STATUTORY REQUIREMENTS

AN ACT Relating to education; amending RCW 28A.405.100, 41.59.935, and 28A.630.945; adding new sections to chapter 28A.320 RCW; adding a new section to chapter 28A.150 RCW; adding a new section to chapter 28A.155 RCW; adding a new section to chapter 28A.165 RCW; adding a new section to chapter 28A.175 RCW; adding a new section to chapter 28A.180 RCW; adding a new section to chapter 28A.185 RCW; adding a new section to chapter 28A.220 RCW; adding a new section to chapter 28A.225 RCW; adding a new section to chapter 28A.230 RCW; adding a new

section to chapter 28A.235 RCW; adding a new section to chapter 28A.300 RCW; adding a new section to chapter 28A.305 RCW; adding a new section to chapter 28A.330 RCW; adding a new section to chapter 28A.400 RCW; adding a new section to chapter 28A.405 RCW; adding a new section to chapter 28A.600 RCW; adding a new section to chapter 28A.640 RCW; creating new sections; and providing expiration dates.

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

**NEW SECTION.** Sec. 1. As we face a more complex society and increasing demands are placed on schools and the educational services they provide for children, it is important that school districts are provided with flexibility to determine how best to work within their communities to ensure students are meeting high academic standards. It is the intent of the legislature to allow schools to approach their educational mission with both increased flexibility and accountability that will assist them in better meeting the needs of the students in their district.

**NEW SECTION.** Sec. 2. A new section is added to chapter 28A.320 RCW to read as follows:

(1) As provided in sections 3 through 20 of this act, the board of directors of each school district may grant waivers, or partial waivers, of state laws and rules to schools within the district. The school board shall grant waivers in accordance with this section.

(2) To apply for waivers, a school principal must prepare an application to the board of directors that identifies which laws and rules are being requested for waiver and the rationale for the request. The rationale must identify how granting the waivers will improve student learning or the delivery of education services in the school. The application must include evidence that the school's teachers, classified employees, site council, parents, and students, as appropriate, are committed to working cooperatively in implementing the waiver.

(3) The school board shall provide for public review and comment regarding the waiver request.

(4) The duration, renewal, and rescission of the waivers shall be determined by the school district board of directors. The renewal of a waiver shall be subject to the review process by the superintendent of public instruction and the state board of education as provided in subsection (7) of this section.

(5) The following may not be waived:

(a) Laws and rules pertaining to health, safety, and civil rights;

(b) Provisions of the basic education act relating to certificated instructional staff ratios, RCW 28A.150.100, except for waivers provided in accordance with RCW 28A.630.945; goals, RCW 28A.150.210; funding allocations, formulas, and definitions, RCW 28A.150.250 and 28A.150.260, except for waivers provided in accordance with RCW 28A.150.250; and salary and compensation minimum amounts and limitations, RCW 28A.400.200;

(c) The essential academic learning requirements being developed by the commission on student learning in RCW 28A.630.885;

(d) The assessment, accountability, and reporting requirements in RCW 28A.230.190, the fourth grade standardized test; RCW 28A.230.230, the eighth grade standardized test; RCW 28A.230.240, the eleventh grade standardized test; RCW 28A.630.885, assessment requirements as developed by the commission on student learning; and RCW 28A.320.205, the annual performance report;

(e) Requirements in RCW 28A.150.220 pertaining to the total number of program hours that must be offered, except for waivers provided in accordance with RCW 28A.305.140;

(f) State and federal financial reporting and auditing requirements;

(g) State constitutional requirements; and

(h) Certification and other requirements in chapter 28A.410 RCW.

(6) A school district may not include provisions in a collective bargaining agreement that limit the district's authority to grant waivers under this section.

(7) School district boards of directors granting waivers to state laws and rules shall certify to the superintendent of public instruction that they have a waiver review process in effect and shall transmit to the superintendent of public instruction and the state board of education a list of laws and rules that have been waived in accordance with this section and a description of the process used in considering the waivers. The superintendent of public instruction and the state board of education shall review the waivers of state laws and rules within their respective jurisdictions. The waivers shall be approved by the superintendent of public instruction or the state board of education, as appropriate, if the school district board of directors complied with the requirements of this section. The superintendent of public instruction or state board of education, as appropriate, shall approve or deny the waiver request, in whole or in part, within forty calendar days of receiving the list of waivers. If the district receives no response from either the superintendent of public instruction or the state board of education after forty days, the waiver shall be deemed uncontested. If a waiver is contested by the superintendent of public instruction or the state board of education, either as appropriate, may make recommendations to the district that will assist the district in accomplishing the goal sought through the waiver. The state board of education may delegate the responsibility for reviewing and approving or denying the waivers to its staff if an appeal procedure to the board is provided.

(8) School district boards of directors granting waivers shall report annually to the superintendent of public instruction the impact on student learning or delivery of education services resulting from the waivers granted.

(9) The superintendent of public instruction and state board of education shall report to the legislature by November 1, 2000, the laws and rules that have been waived in accordance with this section.

(10) This section expires June 30, 1999.

NEW SECTION. Sec. 3. A new section is added to chapter 28A.150 RCW to read as follows:

(1) Schools may obtain, in accordance with section 2 of this act, waivers from the statutory requirements in this chapter that pertain to the instructional program, operation, and management of schools. Waivers also may be obtained, in accordance with section 2 of this act, from any rules of the state board of education and superintendent of public instruction adopted to implement the statutory requirements.

(2) This section expires June 30, 1999.

***\*NEW SECTION. Sec. 4. A new section is added to chapter 28A.155 RCW to read as follows:***

***(1) Schools may obtain, in accordance with section 2 of this act, waivers from the statutory requirements in this chapter that pertain to the instructional program, operation, and management of schools, except that the statutory requirements of RCW 28A.155.105 and RCW 28A.155.115 may not be waived. Waivers also may be obtained, in accordance with section 2 of this act, from any rules of the state board of education and superintendent of public instruction adopted to implement the statutory requirements, except that any rules adopted to implement RCW 28A.155.105 and RCW 28A.155.115 may not be waived. School districts may not waive the district's obligation to meet all federal statutes applicable to the education of individuals with disabilities.***

***(2) This section expires June 30, 1999.***

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

***NEW SECTION. Sec. 5. A new section is added to chapter 28A.165 RCW to read as follows:***

(1) Schools may obtain, in accordance with section 2 of this act, waivers from the statutory requirements in this chapter that pertain to the instructional program, operation, and management of schools. Waivers also may be obtained, in accordance with section 2 of this act, from any rules of the state board of education and superintendent of public instruction adopted to implement the statutory requirements.

(2) This section expires June 30, 1999.

***NEW SECTION. Sec. 6. A new section is added to chapter 28A.175 RCW to read as follows:***

(1) Schools may obtain, in accordance with section 2 of this act, waivers from the statutory requirements in this chapter that pertain to the instructional program, operation, and management of schools. Waivers also may be obtained, in accordance with section 2 of this act, from any rules of the state board of education and superintendent of public instruction adopted to implement the statutory requirements.

(2) This section expires June 30, 1999.

***\*NEW SECTION. Sec. 7. A new section is added to chapter 28A.180 RCW to read as follows:***

***(1) Schools may obtain, in accordance with section 2 of this act, waivers from the statutory requirements in this chapter that pertain to the instructional program, operation, and management of schools. Waivers also may be obtained, in accordance with section 2 of this act, from any rules of the state board of education and superintendent of public instruction adopted to implement the statutory requirements.***

***(2) This section expires June 30, 1999.***

**\*Sec. 7 was vetoed. See message at end of chapter.**

**NEW SECTION. Sec. 8.** A new section is added to chapter 28A.185 RCW to read as follows:

(1) Schools may obtain, in accordance with section 2 of this act, waivers from the statutory requirements in this chapter that pertain to the instructional program, operation, and management of schools. Waivers also may be obtained, in accordance with section 2 of this act, from any rules of the state board of education and superintendent of public instruction adopted to implement the statutory requirements.

(2) This section expires June 30, 1999.

**NEW SECTION. Sec. 9.** A new section is added to chapter 28A.220 RCW to read as follows:

(1) Schools may obtain, in accordance with section 2 of this act, waivers from the statutory requirements in this chapter that pertain to the instructional program, operation, and management of schools. Waivers also may be obtained, in accordance with section 2 of this act, from any rules of the state board of education and superintendent of public instruction adopted to implement the statutory requirements.

(2) This section expires June 30, 1999.

**\*NEW SECTION. Sec. 10.** A new section is added to chapter 28A.225 RCW to read as follows:

***(1) Schools may obtain, in accordance with section 2 of this act, waivers from the statutory requirements in this chapter that pertain to the instructional program, operation, and management of schools. Waivers also may be obtained, in accordance with section 2 of this act, from any rules of the state board of education and superintendent of public instruction adopted to implement the statutory requirements.***

***(2) This section expires June 30, 1999.***

**\*Sec. 10 was vetoed. See message at end of chapter.**

**NEW SECTION. Sec. 11.** A new section is added to chapter 28A.230 RCW to read as follows:

(1) Schools may obtain, in accordance with section 2 of this act, waivers from the statutory requirements in this chapter that pertain to the instructional program, operation, and management of schools. Waivers also may be obtained, in accordance with section 2 of this act, from any rules of the state board of education

and superintendent of public instruction adopted to implement the statutory requirements.

(2) This section expires June 30, 1999.

**NEW SECTION.** Sec. 12. A new section is added to chapter 28A.235 RCW to read as follows:

(1) Schools may obtain, in accordance with section 2 of this act, waivers from the statutory requirements in this chapter that pertain to the instructional program, operation, and management of schools. Waivers also may be obtained, in accordance with section 2 of this act, from any rules of the state board of education and superintendent of public instruction adopted to implement the statutory requirements.

(2) This section expires June 30, 1999.

**NEW SECTION.** Sec. 13. A new section is added to chapter 28A.300 RCW to read as follows:

(1) Schools may obtain, in accordance with section 2 of this act, waivers from the statutory requirements in this chapter that pertain to the instructional program, operation, and management of schools. Waivers also may be obtained, in accordance with section 2 of this act, from any rules of the state board of education and superintendent of public instruction adopted to implement the statutory requirements.

(2) This section expires June 30, 1999.

**NEW SECTION.** Sec. 14. A new section is added to chapter 28A.305 RCW to read as follows:

(1) Schools may obtain, in accordance with section 2 of this act, waivers from the statutory requirements in this chapter that pertain to the instructional program, operation, and management of schools. Waivers also may be obtained, in accordance with section 2 of this act, from any rules of the state board of education and superintendent of public instruction adopted to implement the statutory requirements.

(2) This section expires June 30, 1999.

**NEW SECTION.** Sec. 15. A new section is added to chapter 28A.320 RCW to read as follows:

(1) Schools may obtain, in accordance with section 2 of this act, waivers from the statutory requirements in this chapter that pertain to the instructional program, operation, and management of schools. Waivers also may be obtained, in accordance with section 2 of this act, from any rules of the state board of education and superintendent of public instruction adopted to implement the statutory requirements. No waivers may be obtained from section 2 of this act.

(2) This section expires June 30, 1999.

**NEW SECTION.** Sec. 16. A new section is added to chapter 28A.330 RCW to read as follows:

(1) Schools may obtain, in accordance with section 2 of this act, waivers from the statutory requirements in this chapter that pertain to the instructional program, operation, and management of schools. Waivers also may be obtained, in accordance with section 2 of this act, from any rules of the state board of education and superintendent of public instruction adopted to implement the statutory requirements.

(2) This section expires June 30, 1999.

**NEW SECTION.** **Sec. 17.** A new section is added to chapter 28A.400 RCW to read as follows:

(1) Schools may obtain, in accordance with section 2 of this act, waivers from the statutory requirements in this chapter that pertain to the instructional program, operation, and management of schools. Waivers also may be obtained, in accordance with section 2 of this act, from any rules of the state board of education and superintendent of public instruction adopted to implement the statutory requirements.

(2) This section expires June 30, 1999.

**NEW SECTION.** **Sec. 18.** A new section is added to chapter 28A.405 RCW to read as follows:

(1) Schools may obtain, in accordance with section 2 of this act, waivers from the statutory requirements in this chapter that pertain to the instructional program, operation, and management of schools. Waivers also may be obtained, in accordance with section 2 of this act, from any rules of the state board of education and superintendent of public instruction adopted to implement the statutory requirements.

(2) This section expires June 30, 1999.

**NEW SECTION.** **Sec. 19.** A new section is added to chapter 28A.600 RCW to read as follows:

(1) Schools may obtain, in accordance with section 2 of this act, waivers from the statutory requirements in this chapter that pertain to the instructional program, operation, and management of schools. Waivers also may be obtained, in accordance with section 2 of this act, from any rules of the state board of education and superintendent of public instruction adopted to implement the statutory requirements.

(2) This section expires June 30, 1999.

***NEW SECTION.*** ***Sec. 20.*** *A new section is added to chapter 28A.640 RCW to read as follows:*

***(1) Schools may obtain, in accordance with section 2 of this act, waivers from the statutory requirements in this chapter that pertain to the instructional program, operation, and management of schools. Waivers also may be obtained, in accordance with section 2 of this act, from any rules of the state board of education and superintendent of public instruction adopted to implement the statutory requirements.***

*(2) This section expires June 30, 1999.*

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

*\*Sec. 21. RCW 28A.405.100 and 1994 c 115 s 1 are each amended to read as follows:*

*(1) The superintendent of public instruction shall establish and may amend from time to time minimum criteria for the evaluation of the professional performance capabilities and development of certificated classroom teachers and certificated support personnel. For classroom teachers the criteria shall be developed in the following categories: Instructional skill; classroom management, professional preparation and scholarship; effort toward improvement when needed; the handling of student discipline and attendant problems; and interest in teaching pupils and knowledge of subject matter.*

*Every board of directors shall, in accordance with procedure provided in RCW 41.59.010 through 41.59.170, 41.59.910 and 41.59.920, establish evaluative criteria and procedures for all certificated classroom teachers and certificated support personnel. The evaluative criteria must contain as a minimum the criteria established by the superintendent of public instruction pursuant to this section and must be prepared within six months following adoption of the superintendent of public instruction's minimum criteria. The district must certify to the superintendent of public instruction that evaluative criteria have been so prepared by the district.*

*Except as provided in subsection (5) of this section, it shall be the responsibility of a principal or his or her designee to evaluate all certificated personnel in his or her school. During each school year all classroom teachers and certificated support personnel, hereinafter referred to as "employees" in this section, shall be observed for the purposes of evaluation at least twice in the performance of their assigned duties. Total observation time for each employee for each school year shall be not less than sixty minutes. Following each observation, or series of observations, the principal or other evaluator shall promptly document the results of the observation in writing, and shall provide the employee with a copy thereof within three days after such report is prepared. New employees shall be observed at least once for a total observation time of thirty minutes during the first ninety calendar days of their employment period.*

*~~((Every)) At any time after October 15th, an employee whose work is judged unsatisfactory based on district evaluation criteria shall be notified in writing of ((stated)) the specific areas of deficiencies along with a ((suggested specific and)) reasonable program for improvement ((on or before February 1st of each year)). During the period of probation, the employee may not be transferred from the supervision of the original evaluator. Improvement of performance or probable cause for nonrenewal must occur and be documented by the original evaluator before any consideration of a request for transfer or reassignment as contemplated by either the individual or the school district. A probationary period of sixty school days shall be established ((beginning on or before~~*

~~February 1st and ending no later than May 1st)).~~ The establishment of a probationary period does not adversely affect the contract status of an employee within the meaning of RCW 28A.405.300. The purpose of the probationary period is to give the employee opportunity to demonstrate improvements in his or her areas of deficiency. The establishment of the probationary period and the giving of the notice to the employee of deficiency shall be by the school district superintendent and need not be submitted to the board of directors for approval. During the probationary period the evaluator shall meet with the employee at least twice monthly to supervise and make a written evaluation of the progress, if any, made by the employee. The evaluator may authorize one additional certificated employee to evaluate the probationer and to aid the employee in improving his or her areas of deficiency; such additional certificated employee shall be immune from any civil liability that might otherwise be incurred or imposed with regard to the good faith performance of such evaluation. The probationer may be removed from probation if he or she has demonstrated improvement to the satisfaction of the principal in those areas specifically detailed in his or her initial notice of deficiency and subsequently detailed in his or her improvement program. Lack of necessary improvement ~~((shall be))~~ during the established probationary period, as specifically documented in writing with notification to the probationer and shall constitute grounds for a finding of probable cause under RCW 28A.405.300 or 28A.405.210.

~~((The establishment of a probationary period shall not be deemed to adversely affect the contract status of an employee within the meaning of RCW 28A.405.300.))~~

Immediately following the completion of a probationary period that does not produce performance changes detailed in the initial notice of deficiencies and improvement program, the employee may be removed from his or her assignment and placed into an alternative assignment for the remainder of the school year. This reassignment may not displace another employee nor may it adversely affect the probationary employee's compensation or benefits for the remainder of the employee's contract year. If such reassignment is not possible, the district may, at its option, place the employee on paid leave for the balance of the contract term.

(2) Every board of directors shall establish evaluative criteria and procedures for all superintendents, principals, and other administrators. It shall be the responsibility of the district superintendent or his or her designee to evaluate all administrators. Such evaluation shall be based on the administrative position job description. Such criteria, when applicable, shall include at least the following categories: Knowledge of, experience in, and training in recognizing good professional performance, capabilities and development; school administration and management; school finance; professional preparation and scholarship; effort toward improvement when needed; interest in pupils,

*employees, patrons and subjects taught in school; leadership; and ability and performance of evaluation of school personnel.*

*(3) Each certificated employee shall have the opportunity for confidential conferences with his or her immediate supervisor on no less than two occasions in each school year. Such confidential conference shall have as its sole purpose the aiding of the administrator in his or her assessment of the employee's professional performance.*

*(4) The failure of any evaluator to evaluate or supervise or cause the evaluation or supervision of certificated employees or administrators in accordance with this section, as now or hereafter amended, when it is his or her specific assigned or delegated responsibility to do so, shall be sufficient cause for the nonrenewal of any such evaluator's contract under RCW 28A.405.210, or the discharge of such evaluator under RCW 28A.405.300.*

*(5) After an employee has four years of satisfactory evaluations under subsection (1) of this section, a school district may use a short form of evaluation, a locally bargained evaluation emphasizing professional growth, an evaluation under subsection (1) of this section, or any combination thereof. The short form of evaluation shall include either a thirty minute observation during the school year with a written summary or a final annual written evaluation based on the criteria in subsection (1) of this section and based on at least two observation periods during the school year totaling at least sixty minutes without a written summary of such observations being prepared. However, the evaluation process set forth in subsection (1) of this section shall be followed at least once every three years unless this time is extended by a local school district under the bargaining process set forth in chapter 41.59 RCW. The employee or evaluator may require that the evaluation process set forth in subsection (1) of this section be conducted in any given school year. No evaluation other than the evaluation authorized under subsection (1) of this section may be used as a basis for determining that an employee's work is unsatisfactory under subsection (1) of this section or as probable cause for the nonrenewal of an employee's contract under RCW 28A.405.210 unless an evaluation process developed under chapter 41.59 RCW determines otherwise.*

*(6) This section expires June 30, 1999.*

\*Sec. 21 was vetoed. See message at end of chapter.

Sec. 22. RCW 41.59.935 and 1990 c 33 s 571 are each amended to read as follows:

(1) Nothing in this chapter shall be construed to grant employers or employees the right to reach agreements regarding:

(a) Salary or compensation increases in excess of those authorized in accordance with RCW 28A.150.410 and 28A.400.200; or

(b) Limiting the employer's authority to grant waivers under section 2 of this act.

*(2) This section expires June 30, 1999.*

**Sec. 23.** RCW 28A.630.945 and 1995 c 208 s 1 are each amended to read as follows:

(1) The state board of education, where appropriate, or the superintendent of public instruction, where appropriate, may grant waivers to districts from the provisions of statutes or rules relating to: The length of the school year; student-to-teacher ratios; and other administrative rules that in the opinion of the state board of education or the opinion of the superintendent of public instruction may need to be waived in order for a district to implement a plan for restructuring its educational program or the educational program of individual schools within the district.

(2) School districts may use the application process in RCW 28A.305.140 or 28A.300.138 to apply for the waivers under subsection (1) of this section.

~~(3) ((The joint select committee on education restructuring shall study which waivers of state laws or rules are necessary for school districts to implement education restructuring. The committee shall study whether the waivers are used to implement specific essential academic learning requirements and student learning goals. The committee shall study the availability of waivers under the schools for the twenty-first century program created by chapter 525, Laws of 1987, and the use of those waivers by schools participating in that program. The committee shall also study the use of waivers authorized under RCW 28A.305.140. The committee shall report its findings to the legislature by December 1, 1997))~~  
This section expires June 30, 1999.

**NEW SECTION. Sec. 24.** The superintendent of public instruction, in collaboration with school district personnel and the state board of education, shall conduct a study to identify additional actions that can be taken to increase flexibility for individual schools and school districts. The study shall review the superintendent of public instruction's rule-making process, the granting of waivers from provisions of collective bargaining agreements, and other policies and practices that reduce school and school district flexibility. The study shall be submitted to the education committees of the senate and house of representatives by December 1, 1997.

Passed the House April 26, 1997.

Passed the Senate April 18, 1997.

Approved by the Governor May 20, 1997, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State May 20, 1997.

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

"I am returning herewith, without my approval as to sections 4, 7, 10, 20 and 21, Engrossed Second Substitute House Bill No. 1303 entitled:

"AN ACT Relating to education;"

Engrossed Second Substitute House Bill No. 1303 authorizes school districts' boards of directors to grant to individual schools within their districts full or partial waivers of specified laws and rules relating to education. This authorization provides greater flexibility to locally elected officials and enables principals to propose what is best for the

children in their schools. Because the authorization is granted only until June 30, 1999, and because the legislation requires the Superintendent of Public Instruction to study the effect of the waivers, it is clear the Legislature intended this legislation to be an *experiment* in greater local authority and flexibility.

Section 4 would allow the waiver of statutes that protect the educational rights of students with disabilities, section 7 would allow the waiver of statutes that protect bilingual students, section 10 would allow waiver of the state wide truancy standards, section 20 would allow waiver of statutes that protect sexual equality, and section 21 amends the statute regarding probationary periods for certificated school employees. I believe there is sufficient new authority and flexibility in this bill regarding other parts of education law to enable a meaningful "experiment in greater local authority and flexibility" without the inclusion of these statutes designed to protect special populations of students.

The state wide truancy standards were part of the "Becca Bill" and are just beginning to have an effect. It would be inappropriate to allow them to be waived so soon. Except for the expiration date, section 21 is identical to provisions in SB 5340 which I have already approved.

For these reasons, I have vetoed sections 4, 7, 10, 20 and 21 of Engrossed Second Substitute House Bill No. 1303.

With the exception of sections 4, 7, 10, 20, and 21, Engrossed Second Substitute House Bill 1303 is approved."

---

## CHAPTER 432

[House Bill 1458]

### LICENSING REGULATIONS

AN ACT Relating to licensing; amending RCW 46.70.023, 46.70.051, 46.12.170, 46.12.370, and 82.44.060; adding a new section to chapter 46.70 RCW; adding a new section to chapter 88.02 RCW; and prescribing penalties.

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

**Sec. 1.** RCW 46.70.023 and 1996 c 282 s 1 are each amended to read as follows:

(1) An "established place of business" requires a permanent, enclosed commercial building located within the state of Washington easily accessible at all reasonable times. The business of a vehicle dealer must be lawfully carried on at an established place of business in accordance with the terms of all applicable building code, zoning, and other land-use regulatory ordinances. A vehicle dealer may display a vehicle for sale only at its established place of business, licensed subagency, or temporary subagency site, except at auction. The dealer shall keep the building open to the public so that the public may contact the vehicle dealer or the dealer's salespersons at all reasonable times. The books, records, and files necessary to conduct the business shall be kept and maintained at that place. The established place of business shall display an exterior sign with the business name and nature of the business, such as auto sales, permanently affixed to the land or building, with letters clearly visible to the major avenue of traffic. A room or rooms in a hotel, rooming house, or apartment house building or part of a single or multiple-unit dwelling house may not be considered an "established place of business" unless the ground floor of such a dwelling is devoted principally to and occupied for commercial purposes and the dealer offices are located on the ground floor. A mobile office or mobile home may be used as an office if it is connected

to utilities and is set up in accordance with state law. A state-wide trade association representing manufactured housing dealers shall be permitted to use a manufactured home as an office if the office complies with all other applicable building code, zoning, and other land-use regulatory ordinances. This subsection does not apply to auction companies that do not own vehicle inventory or sell vehicles from an auction yard.

(2) An auction company shall have office facilities within the state. The books, records, and files necessary to conduct the business shall be maintained at the office facilities. All storage facilities for inventory shall be listed with the department, and shall meet local zoning and land use ordinances. An auction company shall maintain a telecommunications system.

(3) Auction companies shall post their vehicle dealer license at each auction where vehicles are offered, and shall provide the department with the address of the auction at least three days before the auction.

(4) If a dealer maintains a place of business at more than one location or under more than one name in this state, he or she shall designate one location as the principal place of business of the firm, one name as the principal name of the firm, and all other locations or names as subagencies. A subagency license is required for each and every subagency: **PROVIDED**, That the department may grant an exception to the subagency requirement in the specific instance where a licensed dealer is unable to locate their used vehicle sales facilities adjacent to or at the established place of business. This exception shall be granted and defined under the promulgation of rules consistent with the Administrative Procedure Act.

(5) All vehicle dealers shall maintain ownership or leasehold throughout the license year of the real property from which they do business. The dealer shall provide the department with evidence of ownership or leasehold whenever the ownership changes or the lease is terminated.

(6) A subagency shall comply with all requirements of an established place of business, except that subagency records may be kept at the principal place of business designated by the dealer. Auction companies shall comply with the requirements in subsection (2) of this section.

(7) A temporary subagency shall meet all local zoning and building codes for the type of merchandising being conducted. The dealer license certificate shall be posted at the location. No other requirements of an established place of business apply to a temporary subagency. Auction companies are not required to obtain a temporary subagency license.

(8) A wholesale vehicle dealer shall have office facilities in a commercial building within this state, and all storage facilities for inventory shall be listed with the department, and shall meet local zoning and land use ordinances. A wholesale vehicle dealer shall maintain a telecommunications system. An exterior sign visible from the nearest street shall identify the business name and the nature of business. ~~((A wholesale dealer need not maintain a display area as required in this section.))~~ When two or more vehicle dealer businesses share a location, all

records, office facilities, and inventory, if any, must be physically segregated and clearly identified.

(9) A retail vehicle dealer shall be open during normal business hours, maintain office and display facilities in a commercially zoned location or in a location complying with all applicable building and land use ordinances, and maintain a business telephone listing in the local directory. When two or more vehicle dealer businesses share a location, all records, office facilities, and inventory shall be physically segregated and clearly identified.

~~(10) ((A listing dealer need not have a display area if the dealer does not physically maintain any vehicles for display.~~

~~—((11))~~ A subagency license is not required for a mobile home dealer to display an on-site display model, a consigned mobile home not relocated from its site, or a repossessed mobile home if sales are handled from a principal place of business or subagency. A mobile home dealer shall identify on-site display models, repossessed mobile homes, and those consigned at their sites with a sign that includes the dealer's name and telephone number.

~~((12))~~ (11) Every vehicle dealer shall advise the department of the location of each and every place of business of the firm and the name or names under which the firm is doing business at such location or locations. If any name or location is changed, the dealer shall notify the department of such change within ten days. The license issued by the department shall reflect the name and location of the firm and shall be posted in a conspicuous place at that location by the dealer.

~~((13))~~ (12) A vehicle dealer's license shall upon the death or incapacity of an individual vehicle dealer authorize the personal representative of such dealer, subject to payment of license fees, to continue the business for a period of six months from the date of the death or incapacity.

NEW SECTION, Sec. 2. A new section is added to chapter 46.70 RCW to read as follows:

The director may deny a license under this chapter when the application is a subterfuge that conceals the real person in interest whose license has been denied, suspended, or revoked for cause under this chapter and the terms have not been fulfilled or a civil penalty has not been paid, or the director finds that the application was not filed in good faith. This section does not preclude the department from taking an action against a current licensee.

NEW SECTION, Sec. 3. A new section is added to chapter 88.02 RCW to read as follows:

The director may deny a license under this chapter when the application is a subterfuge that conceals the real person in interest whose license has been denied, suspended, or revoked for cause under this chapter and the terms have not been fulfilled or a civil penalty has not been paid, or the director finds that the application was not filed in good faith. This section does not preclude the department from taking an action against a current licensee.

Sec. 4. RCW 46.70.051 and 1996 c 282 s 2 are each amended to read as follows:

(1) After the application has been filed, the fee paid, and bond posted, if required, the department shall, if no denial order is in effect and no proceeding is pending under RCW 46.70.101, issue the appropriate license, which license, in the case of a vehicle dealer, shall designate the classification of the dealer. Nothing prohibits a vehicle dealer from obtaining licenses for more than one classification, and nothing prevents any vehicle dealer from dealing in other classes of vehicles on an isolated basis.

(2) An auction company licensed under chapter 18.11 RCW may sell at auction all classifications of vehicles under a motor vehicle dealer's license issued under this chapter including motor vehicles, miscellaneous type vehicles, and mobile homes and travel trailers.

(3) At the time the department issues a vehicle dealer license, the department shall provide to the dealer a current, up-to-date vehicle dealer manual setting forth the various statutes and rules applicable to vehicle dealers. In addition, at the time any such license is renewed under RCW 46.70.083, the department shall provide the dealer with any updates or current revisions to the vehicle dealer manual.

(4) The department may contract with responsible private parties to provide them elements of the vehicle data base on a regular basis. The private parties may only disseminate this information to licensed vehicle dealers.

(a) Subject to the disclosure agreement provisions of RCW 46.12.380 and the requirements of Executive Order 97-01, the department may provide to the contracted private parties the following information:

(i) All vehicle and title data necessary to accurately disclose known title defects, brands, or flags and odometer discrepancies;

(ii) All registered and legal owner information necessary to determine true ownership of the vehicle and the existence of any recorded liens, including but not limited to liens of the department of social and health services or its successor; and

(iii) Any data in the department's possession necessary to calculate the motor vehicle excise tax, license, and registration fees including information necessary to determine the applicability of regional transit authority excise and use tax surcharges.

(b) The department may provide this information in any form the contracted private party and the department agree upon, but if the data is to be transmitted over the Internet or similar public network from the department to the contracted private party, it must be encrypted.

(c) The department shall give these contracted private parties advance written notice of any change in the information referred to in (a)(i), (ii), or (iii) of this subsection, including information pertaining to the calculation of motor vehicle excise taxes.

(d) The department shall revoke a contract made under this subsection (4) with a private party who disseminates information from the vehicle data base to anyone

other than a licensed vehicle dealer. A private party who obtains information from the vehicle data base under a contract with the department and disseminates any of that information to anyone other than a licensed vehicle dealer is guilty of a gross misdemeanor punishable under chapter 9A.20 RCW.

(e) Nothing in this subsection (4) authorizes a vehicle dealer or any other organization or entity not otherwise appointed as a vehicle licensing subagent under RCW 46.01.140 to perform any of the functions of a vehicle licensing subagent so appointed.

Sec. 5. RCW 46.12.170 and 1994 c 262 s 6 are each amended to read as follows:

If, after a certificate of ownership is issued, a security interest is granted on the vehicle described therein, the registered owner or secured party shall, within ten days thereafter, present an application to the department, to which shall be attached the certificate of ownership last issued covering the vehicle, or such other documentation as may be required by the department, which application shall be upon a form provided by the department and shall be accompanied by a fee of one dollar and twenty-five cents in addition to all other fees. The department, if satisfied that there should be a reissue of the certificate, shall note such change upon the vehicle records and issue to the secured party a new certificate of ownership.

Whenever there is no outstanding secured obligation and no commitment to make advances and incur obligations or otherwise give value, the secured party must assign the certificate of ownership to the debtor or the debtor's assignee or transferee, and transmit the certificate to the department with an accompanying fee of one dollar and twenty-five cents in addition to all other fees. The department shall then issue a new certificate of ownership and transmit it to the owner. If the affected secured party fails to either assign the certificate of ownership to the debtor or the debtor's assignee or transferee or transmit the certificate of ownership to the department within ten days after proper demand, that secured party shall be liable to the debtor or the debtor's assignee or transferee for one hundred dollars, and in addition for any loss caused to the debtor or the debtor's assignee or transferee by such failure.

Sec. 6. RCW 46.12.370 and 1982 c 215 s 1 are each 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; (~~or~~)

(3) 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

(4) 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. In the event a list of registered and legal owners of motor vehicles is used for any purpose other than that authorized in (~~subsections (1), (2) and (3) of~~) this section, the manufacturer, governmental agency, ~~authorized agent, contractor,~~ financial institution, 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.

*\*Sec. 7. RCW 82.44.060 and 1990 c 42 s 304 are each amended to read as follows:*

*(1) The excise tax hereby imposed shall be due and payable to the department or its agents at the time of registration of a motor vehicle. Whenever an application is made to the department or its agents for a license for a motor vehicle there shall be collected, in addition to the amount of the license fee or renewal license fee, the amount of the excise tax imposed by this chapter, and no dealer's license or license plates, and no license or license plates for a motor vehicle shall be issued unless such tax is paid in full. The excise tax hereby imposed shall be collected for each registration year. The excise tax upon a motor vehicle licensed for the first time in this state shall be levied for one full registration year commencing on the date of the calendar year designated by the department and ending on the same date of the next succeeding calendar year. For vehicles registered under chapter 46.87 RCW, proportional registration, and for vehicle dealer plates issued under chapter 46.70 RCW, the registration year is the period provided in those chapters: PROVIDED, That the tax shall in no case be less than two dollars except for proportionally registered vehicles.*

*(2) A motor vehicle shall be deemed licensed for the first time in this state when such vehicle was not previously licensed by this state for the registration year immediately preceding the registration year in which the application for license is made or when the vehicle has been registered in another jurisdiction subsequent to any prior registration in this state.*

*(3) No additional tax shall be imposed under this chapter upon any vehicle upon the transfer of ownership thereof if the tax imposed with respect to such*

vehicle has already been paid for the registration year or fraction of a registration year in which transfer of ownership occurs.

(4) The regional transit authority (RTA) must provide at no cost to the private parties referred to in RCW 46.70.051(4) accurate, up-to-date, and easily decipherable excise tax information in a machine readable ASCII text file. This file will allow the contracted private parties to accurately determine which individuals are subject to any such special excise or use taxes and the amount of any such special excise or use taxes. The file must contain the following items: (a) A list of five digit zip codes completely contained within the RTA taxation area; (b) a list of five digit zip codes for those areas on the border of the RTA taxation, with the border area defined as those zip codes where some residences may be subject to the RTA use or motor vehicle excise tax surcharge and some residences are not; and (c) for those residences described in (b) of this subsection, a complete list of only those street addresses subject to RTA taxation.

(5) No person may be denied issuance of a registration or license plates due to the nonpayment of any such special excise tax if the information referred to in subsection (4) of this section is not provided by the RTA to the contracted private parties.

(6) No motor vehicle dealer may be held liable for the remittance of any such special excise tax if the information referred to in subsection (4) of this section is not provided by the RTA to the contracted private parties.

\*Sec. 7 was vetoed. See message at end of chapter.

Passed the House April 19, 1997.

Passed the Senate April 15, 1997.

Approved by the Governor May 20, 1997, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State May 20, 1997.

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

"I am returning herewith, without my approval as to section 7, House Bill No. 1458 entitled:

"AN ACT Relating to licensing;"

House Bill No. 1458 makes numerous changes in the laws relating vehicle and vessel licensing taxes. However, section 7 of the bill requires the Regional Transit Authority (RTA) to provide excise tax information in a machine readable ASCII text file to a private contractor at no cost. This information would allow the contractor to determine who is subject to the RTA's special excise and use taxes and how much taxes should be paid.

I understand that the intent of section 7 is to ensure that vehicle dealers receive accurate information regarding these taxes at any time, and that they should not be obligated to collect the taxes unless they have accurate and up-to-date information. While I agree with the intent, this section is flawed, overly prescriptive, and unnecessary. By using the word "remittance" the language implies that if accurate information were not supplied by the RTA, taxes already collected by dealers would not have to be forwarded to the state. Further, the RTA does not need the very prescriptive and limiting contracting language contained in section 7 to provide accurate tax information for these purposes.

For these reasons, I have vetoed section 7 of House Bill No. 1458.

With the exception of section 7, House Bill No. 1458 is approved."

## CHAPTER 433

[Engrossed House Bill 1647]  
HOME TUITION PROGRAM

AN ACT Relating to higher education; amending RCW 28B.15.012, 28B.15.014, 28B.15.725, and 28B.15.910; and creating a new section.

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

**NEW SECTION. Sec. 1.** It is the intent of the legislature to provide for diverse educational opportunities at the state's institutions of higher education and to facilitate student participation in educational exchanges with institutions outside the state of Washington. To accomplish this, this act establishes a home tuition program allowing students at Washington state institutions of higher education to take advantage of out-of-state and international educational opportunities while paying an amount equal to their regularly charged tuition and required fees.

**Sec. 2.** RCW 28B.15.012 and 1994 c 188 s 2 are each amended to read as follows:

Whenever used in chapter 28B.15 RCW:

(1) The term "institution" shall mean a public university, college, or community college within the state of Washington.

(2) The term "resident student" shall mean:

(a) A financially independent student who has had a domicile in the state of Washington for the period of one year immediately prior to the time of commencement of the first day of the semester or quarter for which the student has registered at any institution and has in fact established a bona fide domicile in this state primarily for purposes other than educational;

(b) A dependent student, if one or both of the student's parents or legal guardians have maintained a bona fide domicile in the state of Washington for at least one year immediately prior to commencement of the semester or quarter for which the student has registered at any institution;

(c) A student classified as a resident based upon domicile by an institution on or before May 31, 1982, who was enrolled at a state institution during any term of the 1982-1983 academic year, so long as such student's enrollment (excepting summer sessions) at an institution in this state is continuous;

(d) Any student who has spent at least seventy-five percent of both his or her junior and senior years in high schools in this state, whose parents or legal guardians have been domiciled in the state for a period of at least one year within the five-year period before the student graduates from high school, and who enrolls in a public institution of higher education within six months of leaving high school, for as long as the student remains continuously enrolled for three quarters or two semesters in any calendar year;

(e) A student who is the spouse or a dependent of a person who is on active military duty stationed in the state; ((or))

(f) A student of an out-of-state institution of higher education who is attending a Washington state institution of higher education pursuant to a home tuition agreement as described in RCW 28B.15.725; or

(g) A student who meets the requirements of RCW 28B.15.0131: PROVIDED, That a nonresident student enrolled for more than six hours per semester or quarter shall be considered as attending for primarily educational purposes, and for tuition and fee paying purposes only such period of enrollment shall not be counted toward the establishment of a bona fide domicile of one year in this state unless such student proves that the student has in fact established a bona fide domicile in this state primarily for purposes other than educational.

(3) The term "nonresident student" shall mean any student who does not qualify as a "resident student" under the provisions of RCW 28B.15.012 and 28B.15.013. Except for students qualifying under subsection (2)(f) of this section, a nonresident student shall include:

(a) A student attending an institution with the aid of financial assistance provided by another state or governmental unit or agency thereof, such nonresidency continuing for one year after the completion of such semester or quarter.

(b) A person who is not a citizen of the United States of America who does not have permanent or temporary resident status or does not hold "Refugee-Parolee" or "Conditional Entrant" status with the United States immigration and naturalization service or is not otherwise permanently residing in the United States under color of law and who does not also meet and comply with all the applicable requirements in RCW 28B.15.012 and 28B.15.013.

(4) The term "domicile" shall denote a person's true, fixed and permanent home and place of habitation. It is the place where the student intends to remain, and to which the student expects to return when the student leaves without intending to establish a new domicile elsewhere. The burden of proof that a student, parent or guardian has established a domicile in the state of Washington primarily for purposes other than educational lies with the student.

(5) The term "dependent" shall mean a person who is not financially independent. Factors to be considered in determining whether a person is financially independent shall be set forth in rules and regulations adopted by the higher education coordinating board and shall include, but not be limited to, the state and federal income tax returns of the person and/or the student's parents or legal guardian filed for the calendar year prior to the year in which application is made and such other evidence as the board may require.

**Sec. 3.** RCW 28B.15.014 and 1993 sp.s. c 18 s 5 are each amended to read as follows:

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 may exempt the following nonresidents from paying all or a portion of the nonresident tuition fees differential:

(1) Any person who resides in the state of Washington and who holds a graduate service appointment designated as such by a public institution of higher education or is employed for an academic department in support of the instructional or research programs involving not less than twenty hours per week during the term such person shall hold such appointment.

(2) Any faculty member, classified staff member or administratively exempt employee holding not less than a half time appointment at an institution who resides in the state of Washington, and the dependent children and spouse of such persons.

(3) Active-duty military personnel stationed in the state of Washington.

(4) Any immigrant refugee and the spouse and dependent children of such refugee, if the refugee (a) is on parole status, or (b) has received an immigrant visa, or (c) has applied for United States citizenship.

~~(5) ((Domestic exchange students participating in the program created under RCW 28B.15.725.~~

~~—(6)) Any dependent of a member of the United States congress representing the state of Washington.~~

Sec. 4. RCW 28B.15.725 and 1994 c 234 s 1 are each amended to read as follows:

~~((Subject to the limitations of RCW 28B.15.910;))~~ (1) The governing boards of the state universities, the regional universities, and The Evergreen State College may ~~((enter into undergraduate student exchange))~~ establish home tuition programs by negotiating home tuition agreements with an out-of-state institution or consortium of institutions of higher education ((of other states and agree to exempt participating undergraduate students from payment of all or a portion of the nonresident tuition fees differential subject to the following restrictions:

~~—(1) In any given academic year, the number of students receiving a waiver at a state institution shall not exceed the number of that institution's students receiving nonresident tuition waivers at participating out-of-state institutions. Waiver imbalances that may occur in one year shall be off-set in the year immediately following))~~ if no loss of tuition and fee revenue occurs as a result of the agreements.

(2) ~~((Undergraduate))~~ Home tuition agreements allow students at Washington state institutions of higher education to attend an out-of-state institution of higher education as part of a student exchange. Students participating in a home tuition program shall pay an amount equal to their regular, full-time tuition and required fees to either the Washington institution of higher education or the out-of-state institution of higher education depending upon the provisions of the particular agreement. Payment of course fees in excess of generally applicable tuition and required fees must be addressed in each home tuition agreement to ensure that the instructional programs of the Washington institution of higher education do not incur additional uncompensated costs as a result of the exchange.

(3) Student participation in ((an exchange program)) a home tuition agreement authorized by this section is limited to one academic year.

(4) Students enrolled under a home tuition agreement shall reside in Washington state for the duration of the program, may not use the year of enrollment under this program to establish Washington state residency, and are not eligible for state financial aid.

Sec. 5. RCW 28B.15.910 and 1993 sp.s. c 18 s 31 are each amended to read as follows:

(1) Except for revenue waived under programs listed in subsection (3) 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 set forth below. 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) Ungraded courses under RCW 28B.15.502(4);
- (g) RCW 28B.15.520;
- (h) RCW 28B.15.526;
- (i) RCW 28B.15.527;
- (j) RCW 28B.15.543;
- (k) RCW 28B.15.545;
- (l) RCW 28B.15.555;
- (m) RCW 28B.15.556;
- (n) RCW 28B.15.615;
- (o) RCW 28B.15.620;
- (p) RCW 28B.15.628;

(q) ~~((RCW 28B.15.725;~~  
~~(r))~~ RCW 28B.15.730;  
~~((s))~~ ~~(r)~~ RCW 28B.15.740;  
~~((t))~~ ~~(s)~~ RCW 28B.15.750;  
~~((u))~~ ~~(t)~~ RCW 28B.15.756;  
~~((v))~~ ~~(u)~~ RCW 28B.50.259;  
~~((w))~~ ~~(v)~~ RCW 28B.70.050; and  
~~((x))~~ ~~(w)~~ RCW 28B.80.580.

(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.15.535;
- (c) RCW 28B.15.540; and
- (d) RCW 28B.15.558.

**NEW SECTION. Sec. 6.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed the House April 19, 1997.

Passed the Senate April 14, 1997.

Approved by the Governor May 20, 1997.

Filed in Office of Secretary of State May 20, 1997.

## CHAPTER 434

[Substitute House Bill 1657]

### SOLID WASTE COLLECTION COMPANIES—PASS-THROUGH OF DISPOSAL FEES

AN ACT Relating to allowing the pass-through of disposal fees for certain solid waste collection companies; amending RCW 81.77.160; and adding a new section to chapter 81.16 RCW.

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

**Sec. 1.** RCW 81.77.160 and 1989 c 431 s 30 are each amended to read as follows:

**(1)** The commission, in fixing and altering collection rates charged by every solid waste collection company under this section, shall include in the base for the collection rates:

~~((1))~~ **(a)** All charges for the disposal of solid waste at the facility or facilities ~~((that the solid waste collection company is required to use))~~ designated by a local jurisdiction under a local comprehensive solid waste management plan or ordinance ~~((designating disposal sites))~~; and

~~((2))~~ **(b)** All known and measurable costs related to implementation of the approved county or city comprehensive solid waste management plan.

**(2)** If a solid waste collection company files a tariff to recover the costs specified under this section, and the commission suspends the tariff, the portion of the tariff covering costs specified in this section shall be placed in effect by the

commission at the request of the company on an interim basis as of the originally filed effective date, subject to refund, pending the commission's final order. The commission may adopt rules to implement this section.

(3) This section applies to a solid waste collection company that has an affiliated interest under chapter 81.16 RCW with a facility, if the total cost of disposal, including waste transfer, transport, and disposal charges, at the facility is equal to or lower than any other reasonable and currently available option.

NEW SECTION. Sec. 2. A new section is added to chapter 81.16 RCW to read as follows:

This chapter does not apply to a determination of the base for collection rates for solid waste collection companies meeting the requirements under RCW 81.77.160(3).

Passed the House March 11, 1997.

Passed the Senate April 18, 1997.

Approved by the Governor May 20, 1997.

Filed in Office of Secretary of State May 20, 1997.

## CHAPTER 435

[House Bill 1819]

### CONFIDENTIALITY OF FINANCIAL INSTITUTION COMPLIANCE REVIEW DOCUMENTS

AN ACT Relating to the confidentiality of voluntary compliance efforts by financial institutions; and adding a new chapter to Title 7 RCW.

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

NEW SECTION. Sec. 1. The legislature finds and declares that efforts by financial institutions to comply voluntarily with state and federal statutory and regulatory requirements are vital to the public interest; that possible discovery and use in civil litigation of work produced in connection with such voluntary compliance efforts has an undesirable chilling effect on the use, scope, and effectiveness of voluntary compliance efforts by financial institutions; and that the public interest in encouraging aggressive voluntary compliance review outweighs the value of this work product in civil litigation.

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

(1) "Affiliate" means any person that controls, is controlled by, or is under common control with a financial institution.

(2) "Civil action" means a civil proceeding pending in a court or other adjudicatory tribunal with jurisdiction to issue a request or subpoena for records, including a voluntary or mandated alternative dispute resolution mechanism under which a party may compel the production of records. "Civil action" does not include an examination or enforcement proceeding initiated by a governmental agency with primary regulatory jurisdiction over a financial institution in possession of a compliance review document.

(3) "Compliance review personnel" means a person or persons assigned and directed by the board of directors or management of a financial institution or affiliate to conduct a compliance review, and any person engaged or assigned by compliance review personnel or by the board of directors or management to assist in a compliance review.

(4) "Compliance review" means a self-critical analysis conducted by compliance review personnel to test, review, or evaluate past conduct, transactions, policies, or procedures for the purpose of confidentially (a) ascertaining, monitoring, or remediating violations of applicable state and federal statutes, rules, regulations, or mandatory policies, statements, or guidelines, (b) assessing and improving loan quality, loan underwriting standards, or lending practices, or (c) assessing and improving financial reporting to federal or state regulatory agencies.

(5) "Compliance review document" means any record prepared or created by compliance review personnel in connection with a compliance review. "Compliance review document" includes any documents created or data generated in the course of conducting a compliance review, but does not include other underlying documents, data, or factual materials that are the subject of, or source materials for, the compliance review, including any documents in existence prior to the commencement of the compliance review that are not themselves compliance review documents related to a past compliance review.

(6) "Financial institution" means a bank, trust company, mutual savings bank, savings and loan association, or credit union authorized by federal or state law to accept deposits in this state.

(7) "Person" means an individual, group, committee, partnership, firm, association, corporation, limited liability company, or other entity, including a financial institution or affiliate and its agents, employees, legal counsel, auditors, and consultants.

**NEW SECTION. Sec. 3.** Except as provided in section 4 of this act:

(1) Compliance review documents are confidential and are not discoverable or admissible as evidence in any civil action.

(2) Compliance review personnel shall not be required to testify at deposition or trial in any civil action concerning the contents of or matters addressed in any compliance review or any compliance review documents, nor as to the actions or activities undertaken by or at the direction of the financial institution or affiliate in connection with a compliance review.

**NEW SECTION. Sec. 4.** Section 3 of this act does not:

(1) Limit the discovery or admissibility in any civil action of any documents that are not compliance review documents;

(2) Limit the discovery or admissibility of the testimony as to the identity of relevant witnesses or the identification of any relevant documents other than compliance review documents;

(3) Apply if the financial institution or affiliate expressly waives the privilege in writing;

(4) Apply if a compliance review document or matters learned in connection with a compliance review are voluntarily disclosed, but only to the extent of that disclosure, to a nonaffiliated third party other than a federal or state regulatory agency or legal counsel for or independent auditors of the financial institution or affiliate; or

(5) Apply to any information required by statute, rule, or federal regulation to be maintained by or provided to a governmental agency while the information is in the possession of the agency, to the extent applicable law authorizes its disclosure.

**NEW SECTION. Sec. 5.** In a proceeding in which the privilege provided by this chapter is asserted, a court of competent jurisdiction may determine after in camera review that the privilege does not apply to any or all of the documents for which the privilege is claimed, and if so, the court may order the materials disclosed but shall protect from disclosure any other material in or related to compliance review documents or to activities of compliance review personnel to which the privilege does apply.

**NEW SECTION. Sec. 6.** This chapter does not limit, waive, or abrogate the scope or nature of any other statutory or common law privilege of this state or the United States, including the attorney-client privilege.

**NEW SECTION. Sec. 7.** Sections 1 through 6 of this act constitute a new chapter in Title 7 RCW.

Passed the House March 13, 1997.

Passed the Senate April 26, 1997.

Approved by the Governor May 20, 1997.

Filed in Office of Secretary of State May 20, 1997.

---

## CHAPTER 436

[House Bill 2165]

### FERRY EMPLOYEES—INTEREST ON RETROACTIVE COMPENSATION INCREASES

AN ACT Relating to interest on retroactive compensation increases to marine employees; and amending RCW 47.64.120.

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

**Sec. 1.** RCW 47.64.120 and 1983 c 15 s 3 are each amended to read as follows:

(1) Ferry system management and ferry system employee organizations, through their collective bargaining representatives, shall meet at reasonable times, to negotiate in good faith with respect to wages, hours, working conditions, insurance, and health care benefits as limited by RCW 47.64.270, and other matters mutually agreed upon. Employer funded retirement benefits shall be provided under the public employees retirement system under chapter 41.40 RCW and shall not be included in the scope of collective bargaining.

(2) Upon ratification of bargaining agreements, ferry employees are entitled to an amount equivalent to the interest earned on retroactive compensation increases. For purposes of this section, the interest earned on retroactive compensation increases is the same monthly rate of interest that was earned on the amount of the compensation increases while held in the state treasury. The interest will be computed for each employee until the date the retroactive compensation is paid, and must be allocated in accordance with appropriation authority. The interest earned on retroactive compensation is not considered part of the ongoing compensation obligation of the state and is not compensation earnable for the purposes of chapter 41.40 RCW. Negotiations shall also include grievance procedures for resolving any questions arising under the agreement, which shall be embodied in a written agreement and signed by the parties.

Passed the House April 21, 1997.

Passed the Senate April 17, 1997.

Approved by the Governor May 20, 1997.

Filed in Office of Secretary of State May 20, 1997.

---

### CHAPTER 437

[Substitute Senate Bill 5521]

#### COUNTY RESEARCH SERVICES

AN ACT Relating to county research services; amending RCW 43.110.010, 43.110.030, 82.08.170, and 43.88.114; adding a new section to chapter 43.110 RCW; providing an effective date; and declaring an emergency.

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

**Sec. 1.** RCW 43.110.010 and 1990 c 104 s 1 are each amended to read as follows:

There shall be a state agency which shall be known as the municipal research council. The council shall be composed of ~~((eighteen))~~ twenty-three members. Four members shall be appointed by the president of the senate, with equal representation from each of the two major political parties; four members shall be appointed by the speaker of the house of representatives, with equal representation from each of the two major political parties; one member shall be appointed by the governor independently; ~~((and the other))~~ nine members, who shall be city or town officials, shall be appointed by the governor from a list of nine nominees submitted by the board of directors of the association of Washington cities; and five members, who shall be county officials, shall be appointed by the governor, two of whom shall be from a list of two nominees submitted by the board of directors of the Washington association of county officials, and three of whom shall be from a list of three nominees submitted by the board of directors of the Washington state association of counties. Of the ~~((members appointed by the association))~~ city or town officials, at least one shall be an official of a city having a population of twenty thousand or more; at least one shall be an official of a city having a

population of one thousand five hundred to twenty thousand; and at least one shall be an official of a town having a population of less than one thousand five hundred.

The terms of members shall be for two years (~~and shall not~~). The terms of those members who are appointed as legislators or city, town, or county officials shall be dependent upon continuance in legislative ((or)), city, town, or county office. The terms of all members except legislative members shall commence on the first day of August in every odd-numbered year. The speaker of the house of representatives and the president of the senate shall make their appointments on or before the third Monday in January in each odd-numbered year, and the terms of the members thus appointed shall commence on the third Monday of January in each odd-numbered year.

Council members shall receive no compensation but shall be reimbursed for travel expenses at rates in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended, except that members of the council who are also members of the legislature shall be reimbursed at the rates provided by RCW 44.04.120.

Sec. 2. RCW 43.110.030 and 1990 c 104 s 2 are each amended to read as follows:

The municipal research council shall contract for the provision of municipal research and services to cities (~~and~~), towns, and counties. Contracts for municipal research and services shall be made with state agencies, educational institutions, or private consulting firms, that in the judgment of council members are qualified to provide such research and services. Contracts for staff support may be made with state agencies, educational institutions, or private consulting firms that in the judgment of the council members are qualified to provide such support.

Municipal research and services shall consist of: (1) Studying and researching (~~municipal~~) city, town, and county government and issues relating to (~~municipal~~) city, town, and county government; (2) acquiring, preparing, and distributing publications related to (~~municipal~~) city, town, and county government and issues relating to (~~municipal~~) city, town, and county government; (3) providing educational conferences relating to (~~municipal~~) city, town, and county government and issues relating to (~~municipal~~) city, town, and county government; and (4) furnishing legal, technical, consultative, and field services to cities (~~and~~), towns, and counties concerning planning, public health, utility services, fire protection, law enforcement, public works, and other issues relating to (~~municipal~~) city, town, and county government. Requests for legal services by county officials shall be sent to the office of the county prosecuting attorney. Responses by the municipal research council to county requests for legal services shall be provided to the requesting official and the county prosecuting attorney.

The activities, programs, and services of the municipal research council shall be carried on, and all expenditures shall be made, in cooperation with the cities and towns of the state acting through the board of directors of the association of Washington cities, which is recognized as their official agency or instrumentality.

and in cooperation with counties of the state acting through the Washington state association of counties. Services to cities and towns shall be based upon the moneys appropriated to the municipal research council under RCW 82.44.160. Services to counties shall be based upon the moneys appropriated to the municipal research council from the county research services account under section 3 of this act.

**NEW SECTION. Sec. 3.** A new section is added to chapter 43.110 RCW to read as follows:

A special account is created in the state treasury to be known as the county research services account. The account shall consist of all money transferred to the account under RCW 82.08.170 or otherwise transferred or appropriated to the account by the legislature. Moneys in the account may be spent only after appropriation. The account is subject to the allotment process under chapter 43.88 RCW.

Moneys in the county research services account may be expended only to finance the costs of county research.

**Sec. 4.** RCW 82.08.170 and 1983 c 3 s 215 are each amended to read as follows:

~~((On the first day of))~~ **(1) During** the months of January, April, July and October of each year, the state treasurer shall make the apportionment and distribution of all moneys in the liquor excise tax fund to the counties, cities and towns in the following proportions: Twenty percent of the moneys in said liquor excise tax fund shall be divided among and distributed to the counties of the state in accordance with the provisions of RCW 66.08.200; eighty percent of the moneys in said liquor excise tax fund shall be divided among and distributed to the cities and towns of the state in accordance with the provisions of RCW 66.08.210.

**(2) Each fiscal quarter and prior to making the twenty percent distribution to counties under subsection (1) of this section, the treasurer shall transfer to the county research services account under section 3 of this act sufficient moneys that, when combined with any cash balance in the account, will fund the allotments from any legislative appropriations from the county research services account.**

**Sec. 5.** RCW 43.88.114 and 1983 c 22 s 2 are each amended to read as follows:

Appropriations of funds to the municipal research council from motor vehicle excise taxes shall not be subject to allotment by the office of financial management.

**NEW SECTION. Sec. 6.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 1997.

Passed the Senate April 22, 1997.  
Passed the House April 9, 1997.  
Approved by the Governor May 20, 1997.  
Filed in Office of Secretary of State May 20, 1997.

---

**CHAPTER 438**

[Senate Bill 5193]

**AGRICULTURAL EMPLOYEE HOUSING SALES AND USE TAX EXEMPTIONS—  
REVISIONS**

AN ACT Relating to sales and use tax exemptions for farmworker housing; amending RCW 82.08.02745 and 82.12.02685; and declaring an emergency.

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

**Sec. 1.** RCW 82.08.02745 and 1996 c 117 s 1 are each amended to read as follows:

(1) The tax levied by RCW 82.08.020 shall not apply to charges made for labor and services rendered by any person in respect to the constructing, repairing, decorating, or improving of new or existing buildings or other structures used as agricultural employee housing, or to sales of tangible personal property that becomes an ingredient or component of the buildings or other structures during the course of the constructing, repairing, decorating, or improving the buildings or other structures, but only if the buyer provides the seller with an exemption certificate in a form and manner prescribed by the department by rule.

(2) The exemption provided in this section for agricultural employee housing provided to year-round employees of the agricultural employer, only applies if that housing is built to the current building code for single-family or multifamily dwellings according to the state building code, chapter 19.27 RCW.

(3) Any agricultural employee housing built under this section shall be used according to this section for at least five consecutive years from the date the housing is approved for ~~((occupation))~~ occupancy, or the full amount of tax otherwise due shall be immediately due and payable together with interest, but not penalties, from the date the housing is approved for occupancy until the date of payment. If at any time agricultural employee housing that is not located on agricultural land ceases to be used in the manner specified in subsection (2) of this section, the full amount of tax otherwise due shall be immediately due and payable with interest, but not penalties, from the date the housing ceases to be used as agricultural employee housing until the date of payment.

(4) The exemption provided in this section shall not apply to housing built for the occupancy of an employer, family members of an employer, or persons owning stock or shares in a farm partnership or corporation business.

(5) For purposes of this section and RCW 82.12.02685:

(a) "Agricultural employee" or "employee" has the same meaning as given in RCW 19.30.010;

(b) "Agricultural employer" or "employer" has the same meaning as given in RCW 19.30.010; and

(c) "Agricultural employee housing" means all facilities provided by ~~((the))~~ an agricultural employer, housing authority, local government, state or federal agency, nonprofit community or neighborhood-based organization that is exempt from income tax under section 501(c) of the internal revenue code of 1986 (26 U.S.C. Sec. 501(c)), or for-profit provider of housing for housing ~~((the employer's))~~ agricultural employees on a year-round or seasonal basis, including bathing, food handling, hand washing, laundry, and toilet facilities, single-family and multifamily dwelling units and dormitories, and includes labor camps under RCW 70.54.110. "Agricultural employee housing" does not include housing regularly provided on a commercial basis to the general public ~~((that is provided to agricultural employees on the same terms and conditions as it is provided to the general public))~~. "Agricultural employee housing" does not include housing provided by a housing authority unless at least eighty percent of the occupants are agricultural employees whose adjusted income is less than fifty percent of median family income, adjusted for household size, for the county where the housing is provided.

Sec. 2. RCW 82.12.02685 and 1996 c 117 s 2 are each amended to read as follows:

(1) The provisions of this chapter shall not apply in respect to the use of tangible personal property that becomes an ingredient or component of buildings or other structures used as agricultural employee housing during the course of constructing, repairing, decorating, or improving the buildings or other structures by any person.

(2) The exemption provided in this section for agricultural employee housing provided to year-round employees of the agricultural employer, only applies if that housing is built to the current building code for single-family or multifamily dwellings according to the state building code, chapter 19.27 RCW.

(3) Any agricultural employee housing built under this section shall be used according to this section for at least five consecutive years from the date the housing is approved for ~~((occupation))~~ occupancy, or the full amount of a tax otherwise due shall be immediately due and payable together with interest, but not penalties, from the date the housing is approved for occupancy until the date of payment. If at any time agricultural employee housing that is not located on agricultural land ceases to be used in the manner specified in subsection (2) of this section, the full amount of tax otherwise due shall be immediately due and payable with interest, but not penalties, from the date the housing ceases to be used as agricultural employee housing until the date of payment.

(4) The exemption provided in this section shall not apply to housing built for the occupancy of an employer, family members of an employer, or persons owning stock or shares in a farm partnership or corporation business.

(5) The definitions in RCW 82.08.02745(5) apply to 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 the Senate April 19, 1997.

Passed the House April 14, 1997.

Approved by the Governor May 20, 1997.

Filed in Office of Secretary of State May 20, 1997.

**CHAPTER 439**

[Engrossed Substitute House Bill 1110]

**WATER RESOURCES—LIMITATIONS AND REQUIREMENTS FOR RULES ADOPTED BY THE DEPARTMENT OF ECOLOGY**

AN ACT Relating to water resources; amending RCW 90.54.050; and creating a new section.

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

NEW SECTION. Sec. 1. WAC 173-563-015 as it existed prior to the effective date of this section is void.

Sec. 2. RCW 90.54.050 and 1988 c 47 s 7 are each amended to read as follows:

In conjunction with the programs provided for in RCW 90.54.040(1), whenever it appears necessary to the director in carrying out the policy of this chapter, the department may by rule adopted pursuant to chapter 34.05 RCW:

- (1) Reserve and set aside waters for beneficial utilization in the future, and
- (2) When sufficient information and data are lacking to allow for the making of sound decisions, withdraw various waters of the state from additional appropriations until such data and information are available. Before proposing the adoption of rules to withdraw waters of the state from additional appropriation, the department shall consult with the standing committees of the house of representatives and the senate having jurisdiction over water resource management issues.

Prior to the adoption of a rule under this section, the department shall conduct a public hearing in each county in which waters relating to the rule are located. The public hearing shall be preceded by a notice placed in a newspaper of general circulation published within each of said counties. Rules adopted hereunder shall be subject to review in accordance with the provisions of RCW ~~((34.05.538 or))~~ 34.05.240.

~~((No new rules or changes to existing rules to reserve or set aside water may be adopted pursuant to this section, as provided in RCW 90.54.022(5).))~~

Passed the House April 19, 1997.

Passed the Senate April 10, 1997.

Approved by the Governor May 20, 1997.

Filed in Office of Secretary of State May 20, 1997.

**CHAPTER 440**

[Substitute House Bill 1118]

**WATER RIGHT CLAIMS—FILING REQUIREMENTS**

AN ACT Relating to water rights claims; amending RCW 90.14.041 and 90.14.071; and adding new sections to chapter 90.14 RCW.

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

**NEW SECTION.** Sec. 1. A new section is added to chapter 90.14 RCW to read as follows:

(1) A new period for filing statements of claim for water rights is established. The filing period shall begin September 1, 1997, and shall end at midnight June 30, 1998. Each person or entity claiming under state law a right to withdraw or divert and beneficially use surface water under a right that was established before the effective date of water code established by chapter 117, Laws of 1917, and any person claiming under state law a right to withdraw and beneficially use ground water under a right that was established before the effective date of the ground water code established by chapter 263, Laws of 1945, shall register the claim with the department during the filing period unless the claim has been filed in the state water rights claims registry before the effective date of this section. A person who claims such a right and fails to register the claim as required is conclusively deemed to have waived and relinquished any right, title, or interest in the right. A statement filed during this filing period shall be filed as provided in RCW 90.14.051 and 90.14.061 and shall be subject to the provisions of this chapter regarding statements of claim. This reopening of the period for filing statements of claim shall not affect or impair in any respect whatsoever any water right existing prior to the effective date of this section. A water right embodied in a statement of claim filed under this section is subordinate to any water right embodied in a permit or certificate issued under chapter 90.03 or 90.44 RCW prior to the date the statement of claim is filed with the department and is subordinate to any water right embodied in a statement of claim filed in the water rights claims registry before the effective date of this section.

(2) The department of ecology shall, at least once each week during the month of August 1997 and at least once each month during the filing period, publish a notice regarding this new filing period in newspapers of general circulation in the various regions of the state. The notice shall contain the substance of the following notice:

**WATER RIGHTS NOTICE**

Each person or entity claiming a right to withdraw or divert and beneficially use surface water under a right that was established before June 7, 1917, or claiming a right to withdraw and beneficially use ground water under a right that was established before June 7, 1945, under the laws of the state of Washington must register the claim with the department of ecology, Olympia, Washington. The claim must be

registered on or after September 1, 1997, and not later than five o'clock on June 30, 1998.

**FAILURE TO REGISTER THE CLAIM WILL  
RESULT IN A WAIVER AND RELINQUISH-  
MENT OF THE WATER RIGHT OR CLAIMED  
WATER RIGHT**

Registering a claim is NOT required for:

1. A water right that is based on the authority of a permit or certificate issued by the department of ecology or one of its predecessors;
2. A water right that is based on the exemption from permitting requirements provided by RCW 90.44.050 for certain very limited uses of ground water; or
3. A water right that is based on a statement of claim that has previously been filed in the state's water rights claims registry during other registration periods.

For further information, for a copy of the law establishing this filing period, and for an explanation of the law and its requirements, contact the department of ecology, Olympia, Washington.

The department shall also prepare, make available to the public, and distribute to the communications media information describing the types of rights for which statements of claim need not be filed, the effect of filing, the effect of RCW 90.14.071, and other information relevant to filings and statements of claim.

(3) The department of ecology shall ensure that employees of the department are readily available to respond to inquiries regarding filing statements of claim and that all of the information the department has at its disposal that is relevant to an inquiry regarding a particular potential claim, including information regarding other rights and claims in the vicinity of the potentially claimed right, is available to the person making the inquiry. The department shall dedicate additional staff in each of the department's regional offices and in the department's central office to ensure that responses and information are provided in a timely manner during each of the business days during the month of August 1997 and during the new filing period.

(4) To assist the department in avoiding unnecessary duplication, the department shall provide to a requestor, within ten working days of receiving the request, the records of any water right claimed, listed, recorded, or otherwise existing in the records of the department or its predecessor agencies, including any report of a referee in a water rights adjudication. This information shall be provided as required by this subsection if the request is provided in writing from the owner of the water right or from the holder of a possessory interest in any real property for water right records associated with the property or if the requestor is an attorney for such an owner. The information regarding water rights in the area served by a regional office of the department shall also be provided within ten

working days to any requestor who requests to review the information in person in the department's regional office. The information held by the headquarters office of the department shall also be provided within ten working days to any requestor who requests to review the information in person in the department's headquarters office. The requirements of this subsection that records and information be provided to requestors within ten working days may not be construed as limiting in any manner the obligations of the department to provide public access to public records as required by chapter 42.17 RCW.

(5) This section does not apply to claims for the use of ground water withdrawn in an area that is, during the period established by subsection (2) of this section, the subject of a general adjudication proceeding for water rights in superior court under RCW 90.03.110 through 90.03.245 and the proceeding applies to ground water rights. This section does not apply to claims for the use of surface water withdrawn in an area that is, during the period established by subsection (2) of this section, the subject of a general adjudication proceeding for water rights in superior court under RCW 90.03.110 through 90.03.245 and the proceeding applies to surface water rights.

(6) This section does not apply to claims for the use of water in a ground water area or subarea for which a management program adopted by the department by rule and in effect on the effective date of this section establishes acreage expansion limitations for the use of ground water.

**Sec. 2.** RCW 90.14.041 and 1988 c 127 s 73 are each amended to read as follows:

All persons using or claiming the right to withdraw or divert and make beneficial use of public surface or ground waters of the state, except as (~~hereinafter~~) provided in this section, RCW 90.14.043, and section 1 of this act, shall file with the department of ecology not later than June 30, 1974, a statement of claim for each water right asserted on a form provided by the department. Neither this section (~~shall not~~) nor section 1 of this act apply to any water rights which are based on the authority of a permit or certificate issued by the department of ecology or one of its predecessors. Further, section 1 of this act does not apply to the beneficial uses of water which are the subject of statements of claim in the water rights claims registry prior to September 1, 1997, or which are exempted from permit and application requirements by RCW 90.44.050 and neither this section nor section 1 of this act requires that statements of claims for such uses be filed during the filing period established by section 1 of this act.

**Sec. 3.** RCW 90.14.071 and 1969 ex.s. c 284 s 16 are each amended to read as follows:

Except as provided in section 5 of this act or as exempted from filing by RCW 90.14.041, any person claiming the right to divert or withdraw waters of the state as set forth in RCW 90.14.041, who fails to file a statement of claim as provided in RCW 90.14.041, 90.14.043, or section 1 of this act and in RCW 90.14.051 and

90.14.061, shall be conclusively deemed to have waived and relinquished any right, title, or interest in said right.

**\*NEW SECTION.** *Sec. 4. A new section is added to chapter 90.14 RCW to read as follows:*

*Any person or entity, or successor to such person or entity, having a statement of claim on file with the water rights claims registry on the effective date of this section, may submit to the department of ecology for filing an amendment to such a statement of claim as provided in this section. Such an amendment may be submitted only to correct an error in the statement filed and the person submitting the amendment shall attest in writing that the amendment does not constitute an expansion of the right for which the statement of claim was intended. Such an amendment may be submitted only during the period established in section 1 of this act for filing statements of claim.*

*The department shall accept any such submission and file the amendment in the registry unless the department by written determination concludes that the requirements of this section have not been satisfied. Any person aggrieved by a determination of the department may obtain a review thereof by filing a petition for review with the pollution control hearings board within thirty days of the date of the determination by the department. The provisions of RCW 90.14.081 shall apply to any amendment filed under this section. This section shall not be construed as limiting the authority of a person or entity to submit an amendment under RCW 90.14.065.*

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

**\*NEW SECTION.** *Sec. 5. A new section is added to chapter 90.14 RCW to read as follows:*

*During the period beginning March 1, 1994, and ending at midnight June 30, 1998, neither the department of ecology nor the pollution control hearings board may determine or find that a water right has been waived or relinquished under this chapter based on the failure of any person or entity to file a statement of claim for the right under this chapter. Any finding or determination issued contrary to this section is void. If the department or the board determined that a person waived or relinquished a water right during the time period specified in this section, but prior to the effective date of this section, the sole remedy for the person shall be to file a new claim or submit an amendment under section 1 or 4 of this act or RCW 90.14.065.*

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

Passed the House March 14, 1997.

Passed the Senate April 26, 1997.

Approved by the Governor May 20, 1997, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State May 20, 1997.

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

"I am returning herewith, without my approval as to sections 4 and 5, Substitute House Bill No. 1118 entitled:

"AN ACT Relating to water right claims;"

I have approved most sections of Substitute House Bill No. 1118. It is my hope that this legislation will clear up the murky past of water rights claims and put an end to the confusion over who needed to file claims in the Water Rights Claims Registry.

I have vetoed section 4 for two reasons. The first reason is that an existing statute (RCW 90.14.065) provides a mechanism to amend an existing claim filed with the Water Rights Claim Registry. The second reason is that the burden of proof for such amendments would be placed on the Department Ecology instead of the claimant.

I have vetoed section 5 because the exemption from relinquishment is retroactive to March 1, 1994. It is reasonable to provide protection from relinquishment for those filing new claims. However, the retroactive provision is problematic because it would conflict with one or more Superior Court decisions related to the relinquishment of water rights due to the failure to file a claim.

For these reasons, I have vetoed sections 4 and 5 of Substitute House Bill No. 1118.

With exception of sections 4 and 5, Substitute House Bill No. 1118 is approved."

## CHAPTER 441

[Substitute House Bill 1272]

### WATER CONSERVANCY BOARDS

AN ACT Relating to water transfers; and adding a new chapter to Title 90 RCW.

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

**NEW SECTION. Sec. 1.** The legislature finds:

- (1) Voluntary water transfers between water users can reallocate water use in a manner that will result in more efficient use of water resources;
- (2) Voluntary water transfers can help alleviate water shortages, save capital outlays, reduce development costs, and provide an incentive for investment in water conservation efforts by water right holders; and
- (3) The state should expedite the administrative process for noncontested water transfers among water right holders, conveying greater operational control to water managers and water right holders.

**NEW SECTION. Sec. 2.** The following definitions apply throughout this chapter, unless the context clearly requires otherwise.

- (1) "Board" means a water conservancy board created under this chapter.
- (2) "Commissioner" means a member of a water conservancy board.
- (3) "Department" means the department of ecology.
- (4) "Director" means the director of the department of ecology.

**NEW SECTION. Sec. 3.** (1) The county legislative authority of a county may create a water conservancy board, subject to approval by the director, for the purpose of expediting voluntary water transfers within the county.

(2) A water conservancy board may be initiated by: (a) A resolution of the county legislative authority; (b) a resolution presented to the county legislative authority calling for the creation of a board by the legislative authority of an

irrigation district, public utility district that operates a public water system, a reclamation district, a city operating a public water system, or a water-sewer district that operates a public water system; (c) a resolution by the governing body of a cooperative or mutual corporation that operates a public water system serving one hundred or more accounts; (d) a petition signed by five or more water rights holders, including their addresses, who divert water for use within the county; or (e) any combination of (a) through (d) of this subsection. The resolution or petition must state the need for the board, include proposed bylaws or rules and procedures that will govern the operation of the board, identify the geographic boundaries where there is an initial interest in transacting water sales or transfers, and describe the proposed method for funding the operation of the board.

(3) After receiving a resolution or petition to create a board, a county legislative authority shall determine its sufficiency. If the county legislative authority finds that the resolution or petition is sufficient, or if the county is initiating the creation of a board upon its own motion, it shall hold at least one public hearing on the proposed creation of the board. Notice of the hearing shall be published at least once in a newspaper of general circulation in the county not less than ten days nor more than thirty days before the date of the hearing. The notice shall describe the time, date, place, and purpose of the hearing, as well as the purpose of the board. Following the hearing, the county legislative authority may adopt a resolution approving the creation of the board if it finds that the board's creation is in the public interest.

**NEW SECTION.** Sec. 4. (1) The county legislative authority shall forward a copy of the resolution or petition calling for the creation of the board, a copy of the resolution approving the creation of the board, and a summary of the public testimony presented at the public hearing to the director following the adoption of the resolution calling for the board's creation.

(2) The director shall approve or deny the creation of a board within forty-five days after the county legislative authority has submitted all information required under subsection (1) of this section. The director must determine whether the creation of the board would further the purposes of this chapter and is in the public interest. The director shall include a description of the necessary training requirements for commissioners in the notice of approval sent to the county legislative authority.

**NEW SECTION.** Sec. 5. The director of the department may, as deemed necessary by the director, adopt rules in accordance with chapter 34.05 RCW necessary to carry out this chapter, including minimum requirements for the training and continuing education of commissioners. Training courses for commissioners shall include an overview of state water law and hydrology. Prior to commissioners taking action on proposed water right transfers, the commissioners shall comply with training requirements that include state water law and hydrology.

**NEW SECTION.** **Sec. 6.** A water conservancy board constitutes a public body corporate and politic and a separate unit of local government in the state. Each board shall consist of three commissioners appointed by the county legislative authority for six-year terms. The county legislative authority shall stagger the initial appointment of commissioners so that the first commissioners who are appointed shall serve terms of two, four, and six years, respectively, from the date of their appointment. All vacancies shall be filled for the unexpired term. The county legislative authority shall consider, but is not limited in appointing, nominations to the board by people or entities petitioning or requesting the creation of the board. However, the county legislative authority shall ensure that individual water right holders who divert water for use within the county are represented on the board. In making appointments to the board, the county legislative authority shall choose from among persons who are residents of the county or a county that is contiguous to the county that the water conservancy board is to serve. No commissioner may participate in board decisions until he or she has successfully completed the necessary training required under section 5 of this act. Commissioners shall serve without compensation, but are entitled to reimbursement for necessary travel expenses in accordance with RCW 43.03.050 and 43.03.060 and costs incident to training.

**NEW SECTION.** **Sec. 7.** (1) A water conservancy board may acquire, purchase, hold, lease, manage, occupy, and sell real and personal property or any interest therein, enter into and perform all necessary contracts, appoint and employ necessary agents and employees and fix their compensation, employ contractors including contracts for professional services, sue and be sued, and do any and all lawful acts required and expedient to carry out the purposes of this chapter.

(2) A board constitutes an independently funded entity, and may provide for its own funding as determined by the commissioners. The board may accept grants and may adopt fees for processing applications for transfers of water rights to fund the activities of the board. A board may not impose taxes or acquire property by the exercise of eminent domain.

**\*NEW SECTION.** **Sec. 8.** *A board shall operate on a county-wide basis, and shall have the following powers, in addition to any others granted in this chapter:*

*(1) A board may establish a water transfer exchange through which all or part of the water that any person is entitled to use by reason of owning or holding a water right may be listed for sale or transfer. The board may approve water transfers involving a change in place of use, point of diversion or withdrawal, purpose of use, time of use, source of supply, quantity of use permitted, and the place of storage. Any water transfer approved by the board is subject to final approval by the director pursuant to section 11 of this act.*

*(2) The board may approve the transfer of a water right or a water right claim filed under chapter 90.14 RCW that has not been adjudicated. The board shall make a tentative determination as to the validity and extent of the existing*

*right, and may only approve transfers of those rights to the extent they are deemed valid by the board. Neither the board's approval of a transfer, nor the director's approval of the board's action constitutes an adjudication of the validity, priority, or quantity of the transferor's water right as between the transferor or the transferee and the state, or as between the transferor or the transferee and one or more water use claimants, and such approvals do not preclude or prejudice a subsequent challenge to the validity, priority, or quantity of the right in an adjudicatory proceeding. The tentative determination of a water right by a board does not preclude a different conclusion in a subsequent adjudication.*

*(3) Water transfers approved by the board must remain within an existing category of beneficial use, and a transfer of water that is being used for agricultural applications is restricted to short-term or long-term leases.*

*(4) Each board shall maintain and publish all information made available to it concerning water rights listed with the board and any application to the board for approval of a water transfer. Each board shall establish policies and procedures, consistent with applicable law, for the administration of a system of timely local approvals for water transfers under this chapter. The administration shall be performed exclusively by the board, but the department may provide technical assistance to the board.*

\*Sec. 8 was vetoed. See message at end of chapter.

**NEW SECTION.** Sec. 9. (1) Applications to the board for transfers shall be made on a form provided by the department, and shall contain such additional information as may be required by the board in order to review and act upon the application. At a minimum, the application shall include information sufficient to establish to the board's satisfaction of the transferor's right to the quantity of water being transferred, and a description of any applicable limitations on the right to use water, including the point of diversion or withdrawal, place of use, source of supply, purpose of use, quantity of use permitted, time of use, period of use, and the place of storage.

(2) The transferor and the transferee of any proposed water transfer may apply to a board for approval of the transfer if the water proposed to be transferred is currently diverted or used within the geographic boundaries of the county, or would be diverted or used within the geographic boundaries of the county if the transfer is approved. In the case of a proposed water transfer in which the water is currently diverted or would be diverted outside the geographic boundaries of the county, the board shall hold a public hearing in the county of the diversion or proposed diversion. The board shall provide for prominent publication of notice of such hearing in a newspaper of general circulation published in the county in which the hearing is to be held for the purpose of affording an opportunity for interested persons to comment upon the application.

(3) After an application for a transfer is filed with the board, the board shall publish notice of the application in accordance with the publication requirements

and send notice to state agencies as provided in RCW 90.03.280. Any person may submit comments to the board regarding the application. Any water right holder claiming detriment or injury to an existing water right may intervene in the application before the board pursuant to subsection (4) of this section. If a majority of the board determines that the application is complete, in accordance with the law and the transfer can be made without injury or detriment to existing water rights in accordance with RCW 90.03.380, the board shall issue the applicant a certificate conditionally approving the transfer, subject to review by the director.

(4) If a water right holder claims a proposed transfer will cause an impairment to that right, the water right holder is entitled to a hearing before the board. The board shall receive such evidence as it deems material and necessary to determine the validity of the claim of impairment. If the party claiming the impairment establishes by a preponderance of the evidence that his or her water right will be impaired by the proposed transfer, the board may not approve the transfer unless the applicant and the impaired party agree upon compensation for the impairment.

***\*NEW SECTION. Sec. 10. (1) If an application for a transfer is proposed to transfer water from one irrigation district to another, approval of the transfer shall be conditioned upon receipt of the concurrence from each of the irrigation districts that the transfer will not adversely affect the ability to deliver water to other landowners or impair the financial integrity of either of the districts.***

***(2) A transfer involving a change in place or use or a nonconsumptive use by an individual water user or users of water provided by an irrigation district need only receive the approval for the transfer from the board of directors of the irrigation district if the water continues within the irrigation district.***

***\*Sec. 10 was vetoed. See message at end of chapter.***

***NEW SECTION. Sec. 11. (1) If a transfer is approved by the board, the board shall submit a copy of the proposed certificate conditionally approving the transfer to the department for review. The board shall also submit a report summarizing any factual findings on which the board relied in deciding to approve the proposed transfer. The board shall also transmit notice by mail to any person who objected to the transfer or who requested notice.***

***(2) The director shall review each proposed transfer conditionally approved by a board for compliance with state water transfer laws including RCW 90.03.380, 90.03.390, and 90.44.100, rules and guidelines adopted by the department, and other applicable law.***

***(3) Any party to a transfer or a third party who alleges his or her water right will be impaired by the proposed transfer may file objections with the department. If objections to the transfer are filed with the department, the board shall forward the files and records upon which it based its decision to the department.***

***(4) The director shall review the action of the board and affirm, reverse, or modify the action of the board within forty-five days of receipt. The forty-five day time period may be extended for an additional thirty days by the director, upon the consent of the parties to the transfer. If the director fails to act within this time***

period, the board's action is final. Upon approval of a water transfer by the action or nonaction of the director, the conditional certificate issued by the board is final and valid.

**NEW SECTION.** Sec. 12. The decision of the director to approve an action to create a board, or to approve, deny, or modify a water transfer either by action or nonaction shall be appealable in the same manner as other water right decisions made pursuant to chapter 90.03 RCW.

**NEW SECTION.** Sec. 13. Neither the county nor the department shall be subject to any cause of action or claim for damages arising out of transfers approved by a board under this chapter.

***\*NEW SECTION. Sec. 14. A person who, in good faith and without intent of circumventing water right relinquishment statutes, leases a water right under this chapter may not lose any portion of that water right by relinquishment due to the nonuse of the water by the lessee.***

\*Sec. 14 was vetoed. See message at end of chapter.

**NEW SECTION.** Sec. 15. Nothing in this chapter eliminates or lessens the requirements necessary for the approval of interties.

**NEW SECTION.** Sec. 16. (1) A commissioner of a water conservancy board who has an ownership interest in a water right subject to an application for approval of a transfer or change by the board, shall not participate in the board's review or decision upon the application.

(2) A commissioner of a water conservancy board who also serves as an employee or upon the governing body of a municipally owned water system, shall not participate in the board's review or decision upon an application for the transfer or change of a water right in which that water system has or is proposed to have an ownership interest.

**NEW SECTION.** Sec. 17. Water conservancy board activities are subject to the open public meetings act, chapter 42.30 RCW.

**NEW SECTION.** Sec. 18. Nothing in this chapter affects transfers that may be otherwise approved under chapter 90.03 RCW.

**NEW SECTION.** Sec. 19. The department shall report biennially by December 31st of each even-numbered year to the appropriate committees of the legislature on the boards formed or sought to be formed under the authority of this chapter, the transfer applications reviewed and other activities conducted by the boards, and the funding of such boards.

**NEW SECTION.** Sec. 20. 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. 21. Sections I through 19 of this act constitute a new chapter in Title 90 RCW.

Passed the House April 19, 1997.

Passed the Senate April 14, 1997.

Approved by the Governor May 20, 1997, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State May 20, 1997.

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

"I am returning herewith, without my approval sections 8, 10, and 14 of Substitute House Bill No. 1272 entitled:

"AN ACT Relating to water transfers;"

I have approved most sections of Substitute House Bill No. 1272 because it provides new ways to better use our existing water supplies. A water conservancy board will provide a county-wide mechanism for changing and exchanging water rights.

The Legislature authorized the Department of Ecology to adopt rules necessary to carry out this newly created chapter in the water code, including minimum requirements for the training and continuing education of board commissioners. This will be crucial for effective utilization of this new tool, and necessary before the Department can accept and approve the creation of any water conservancy board. Accordingly, I direct the Department of Ecology to initiate rule-making as soon as possible.

Subsections (1) and (3) of section 8 contain conflicting directions to a water conservancy board relating to its authority in approving water transfers.

Section 10 of SHB 1272 conflicts with RCW 90.03.380, which it was intended to mirror, and would likely create confusion in interpretation of the statutes and disagreement in the management of the resource.

Section 14 establishes a subjective standard for protection against relinquishment, requiring the Department of Ecology to prove that a person intended to circumvent the relinquishment statute in order to relinquish a leased water right. Because it is particularly difficult to prove a person's intent in this context, section 14 could lead to questionable leases to preserve unused water rights from relinquishment for non-use.

For these reasons, I have vetoed sections 8, 10, and 14 of Substitute House Bill No. 1272.

With the exception of sections 8, 10, and 14, Substitute House Bill No. 1272 is approved."

## CHAPTER 442

[Second Substitute House Bill 2054]

### WATER RESOURCE MANAGEMENT—MODIFICATIONS

AN ACT Relating to water resource management; amending RCW 90.54.040, 90.54.020, 90.54.180, 90.03.383, 90.03.330, 90.14.140, 43.21B.110, 43.21B.130, 43.21B.240, 43.21B.305, 43.21B.310, 43.27A.190, 90.14.130, 90.14.190, 90.14.200, 90.66.080, 90.03.380, and 90.44.100; reenacting and amending RCW 34.05.514; adding new sections to chapter 90.03 RCW; adding a new section to chapter 34.05 RCW; adding new sections to chapter 43.21B RCW; adding a new chapter to Title 90 RCW; and creating new sections.

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

**PART I**  
**BASIN PLANS**

**NEW SECTION. Sec. 101.** The purpose of this chapter is to develop a more thorough and cooperative method of determining what the current water resource situation is in each water resource inventory area of the state and to provide local citizens with the maximum possible input concerning their goals and objectives for water resource management and development.

It is necessary for the legislature to establish processes and policies that will result in providing state agencies with more specific guidance to manage the water resources of the state consistent with current law and direction provided by local entities and citizens through the process established in accordance with this chapter.

**NEW SECTION. Sec. 102.** The legislature finds that the local development of watershed plans for managing water resources and for protecting existing water rights is vital to both state and local interests. The local development of these plans serves vital local interests by placing it in the hands of people: Who have the greatest knowledge of both the resources and the aspirations of those who live and work in the watershed; and who have the greatest stake in the proper, long-term management of the resources. The development of such plans serves the state's vital interests by ensuring that the state's water resources are used wisely, by protecting existing water rights, by protecting instream flows for fish, and by providing for the economic well-being of the state's citizenry and communities. Therefore, the legislature believes it necessary for units of local government throughout the state to engage in the orderly development of these watershed plans.

**NEW SECTION. Sec. 103.** Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

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

(2) "Implementing rules" for a WRIA plan are the rules needed to give force and effect to the parts of the plan that create rights or obligations for any party including a state agency or that establish water management policy.

(3) "Minimum instream flow" means a minimum flow under chapter 90.03 or 90.22 RCW or a base flow under chapter 90.54 RCW.

(4) "WRIA" means a water resource inventory area established in chapter 173-500 WAC as it existed on January 1, 1997.

(5) "Water supply utility" means a water, combined water-sewer, irrigation, reclamation, or public utility district that provides water to persons or other water users within the district or a division or unit responsible for administering a publicly governed water supply system on behalf of a county.

(6) "WRIA plan" or "plan" means the product of the planning unit including any rules adopted in conjunction with the product of the planning unit.

**NEW SECTION. Sec. 104.** In order to have the best possible program for appropriating and administering water use in the state, the legislature establishes

the following principles and criteria to carry out the purpose and intent of chapter . . . , Laws of 1997 (this act).

(1) All WRIA planning units established under this chapter shall develop a process to assure that water resource user interests and directly involved interest groups at the local level have the opportunity, in a fair and equitable manner, to give input and direction to the process.

(2) If a planning unit requests technical assistance from a state agency as part of its planning activities under this chapter and the assistance is with regard to a subject matter over which the agency has jurisdiction, the state agency shall provide the technical assistance to the planning unit.

(3) Plans developed under chapter . . . , Laws of 1997 (this act) shall be consistent with and not duplicative of efforts already under way in a WRIA, including but not limited to watershed analysis conducted under state forest practices statutes and rules.

**NEW SECTION.** Sec. 105. (1) Once a WRIA planning unit has been organized and designated a lead agency, it shall notify the department and may apply to the department for funding assistance for conducting the planning. Funds shall be provided from and to the extent of appropriations made by the legislature to the department expressly for this purpose.

(2) Each planning unit that has complied with subsection (1) of this section is eligible to receive fifty thousand dollars for each WRIA to initiate the planning process. The department shall allocate additional funds to WRIA planning units based on need demonstrated by a detailed proposed budget submitted by the planning unit for carrying out the duties of the planning unit. Each WRIA planning unit may receive up to two hundred fifty thousand dollars for each WRIA during the first two-year period of planning, with a maximum allocation of five hundred thousand dollars for each WRIA. Funding provided under this section shall be considered a contractual obligation against the moneys appropriated for this purpose.

(3) Preference shall be given to planning units requesting funding for conducting multi-WRIA planning under section 108 of this act.

(4) The department may retain up to one percent of funds allocated under this section to defray administrative costs.

**NEW SECTION.** Sec. 106. (1) This chapter shall not be construed as creating a new cause of action against the state or any county, city, town, water supply utility, conservation district, or planning unit.

(2) Notwithstanding RCW 4.92.090, 4.96.010, and 64.40.020, no claim for damages may be filed against the state or any county, city, town, water supply utility, tribal governments, conservation district, or planning unit that or member of a planning unit who participates in a WRIA planning unit for performing responsibilities under this chapter.

**\*NEW SECTION.** Sec. 107. (1)(a) *Except as provided in section 108 of this act for multi-WRIA planning, the county with the largest area within the*

*boundaries of a WRIA, the city obtaining the largest amount of water from the WRIA, and the largest water supply utility in the WRIA may jointly and unanimously choose to initiate water resource planning for the WRIA under this chapter. If the initiating group so chooses, it shall make application to the department of ecology to declare its intent to conduct watershed planning. Upon making application to the department, the initiating group shall notify the counties, cities, water supply utilities, tribal governments, and conservation districts with territory within the WRIA that these groups are to meet to appoint their members of the WRIA planning unit. The initiating group may consult with the department regarding the initiation of watershed planning. For the purposes of this section and sections 108 and 112 of this act, a county is considered to have territory within a WRIA only if the territory of the county located in the WRIA constitutes at least fifteen percent of the area of the WRIA. For conducting planning under this chapter, the county with the largest area within the boundaries of the WRIA is the lead agency for the WRIA planning, except as provided in (b) and (c) of this subsection and section 108 of this act for multi-WRIA planning.*

*(b) When the counties of a WRIA have convened jointly to make appointments to the planning unit, they may, by a majority vote, choose as the lead agency for WRIA planning any governmental entity in the WRIA. Such a governmental entity shall act as the lead agency for this purpose if it agrees in writing to accept the designation.*

*(c) For a WRIA located within Pierce, King, Snohomish, or Spokane county, the lead agency shall be the water purveyor that is using the largest amount of water from the WRIA unless the water supply utility notifies in writing the county with the largest area in the WRIA that it chooses not to be the lead agency. Such notice shall be provided within ten working days.*

*(2) In a WRIA where water resource planning efforts have commenced before the effective date of this section, such as but not limited to the Kettle river WRIA, the county legislative authorities with territory within the WRIA in accordance with subsection (1) of this section may, by majority vote, choose to adopt the existing planning unit membership for purposes of planning under chapter . . ., Laws of 1997 (this act).*

*Nothing in chapter . . ., Laws of 1997 (this act) shall affect ongoing efforts to develop new resources and the sharing of existing resources. No moratorium may be imposed on water resource decision making by the department solely because of ongoing planning efforts or the absence of a plan or planning effort. Any new planning units formed under this act shall recognize efforts already in progress.*

*(3)(a) One WRIA planning unit shall be appointed for the WRIA as provided by this section or for a multi-WRIA area as provided by section 108 of this act for multi-WRIA planning. The planning unit shall be composed of:*

*(i) One member representing each county with territory in the WRIA appointed by the county;*

*(ii) One member representing cities for each county with territory in the WRIA appointed by the cities within that county;*

*(iii) One member representing water supply utilities for each county with territory within the WRIA, appointed jointly by the three largest water supply utilities in the county;*

*(iv) One member representing all conservation districts with territory within the WRIA appointed jointly by those districts;*

*(v) Three members representing various special interest groups appointed jointly by the cities with territory within the WRIA; and six members representing various special interest groups appointed jointly by the counties with territory within the WRIA;*

*(vi) One member representing the general citizenry appointed jointly by the cities with territory within the WRIA;*

*(vii) Three members representing the general citizenry appointed jointly by the counties with territory in the WRIA, of which at least one shall be a holder of a water right certificate and at least one shall be a holder of a water right for which a statement of claim was in the state's water rights claims registry before January 1, 1997;*

*(viii) If one or more federal Indian reservations are located in whole or in part within the boundaries of the WRIA, the planning unit shall extend an invitation to the tribal government of each reservation to appoint one member representing that tribal government; and*

*(ix) Three members representing state agencies including the secretary of the department of transportation or the secretary's designee, the director of the department of fish and wildlife or the director's designee, and the director of the department of ecology or the director's designee. The three members representing state government shall have a single vote representing state agency interests.*

*(b) In addition, for a WRIA located within Pierce, King, Snohomish, or Spokane county, one representative of the water purveyor using the largest amount of water from the WRIA shall be a voting member of the planning unit whether the principal offices of the purveyor are or are not located within the WRIA.*

*(4) Except for a person appointed under subsection (3)(a)(ix) or (b) of this section, each person appointed to a WRIA planning unit shall have been a resident and a property owner of the WRIA for at least three years. No state employees or state officials other than members appointed under subsection (3)(a)(ix) of this section may be appointed to the planning unit. In appointing persons to the WRIA planning unit representing special interest groups, the counties and cities shall consider industrial water users, general businesses, hydroelectric and thermal power producers, and irrigated agriculture,*

*nonirrigated agriculture, forestry, recreation, environmental, and fisheries interest groups and other groups with interests in the WRIA.*

*(5)(a) In voting to appoint the members of a WRIA planning unit, to select a lead agency for water resource planning under section 107 or 108 of this act, to approve a WRIA plan under section 112 of this act, or to request or concur with a request for multi-WRIA planning under section 108 of this act, each county with territory within the WRIA shall have three votes, divided equally among the members of the county's legislative authority and these actions shall be made by majority vote based on the votes allocated under this section. In voting to appoint members of a WRIA planning unit: Each city with territory within the WRIA shall have one vote and appointments shall be made by majority vote of such cities; each water supply utility other than those of a city or town with territory within the WRIA shall have one vote and appointments shall be made by majority vote of such districts; and each conservation district with territory within the WRIA shall have one vote and appointments shall be made by majority vote of such districts. All appointments shall be made within sixty days of the date the appointing authorities other than the counties are notified to convene to make appointments or the appointments shall be made by the counties with territory in the WRIA in the same manner the counties make other appointments.*

*(b) The members appointed to the WRIA planning unit under subsection (3)(a)(i), (ii), and (iii) of this section may, within thirty days, by unanimous vote, increase the number of members of the planning unit appointed under subsection (3)(a)(v), (vi), and (vii) of this section by up to five members. Appointment of additional members to the planning unit shall be made within thirty days from the date of application to the department under subsection (1)(a) of this section.*

*(c) A vacancy on the planning unit shall be filled by appointment in the same manner prescribed for appointing the position that has become vacant. The planning unit shall convene and begin work as soon as two-thirds of the number of persons eligible to be members of the planning unit have been appointed. All positions must be filled within thirty days of the convening of the planning unit. The unit shall not interrupt its work to await additional original appointments or appointments to fill any vacancies that may occur in its membership.*

*\*Sec. 107 was vetoed. See message at end of chapter.*

*\*NEW SECTION. Sec. 108. (1) The counties with territory in a WRIA, the city obtaining the largest quantity of water from the WRIA, and the largest water supply utility in the WRIA may jointly and unanimously elect to initiate multi-WRIA planning. If this initiating group so chooses, the initiating group shall notify the counties, cities, water supply utilities, tribal governments, and conservation districts with territory within the multi-WRIA area that these*

groups are to meet to appoint their members of the multi-WRIA area planning unit.

(a) *The planning unit shall be composed of:*

(i) *One member representing each county with territory in the multi-WRIA area appointed by that county;*

(ii) *One member representing cities for each county with territory in the multi-WRIA area appointed by the cities within that county;*

(iii) *One member representing water supply utilities for each county with territory within the multi-WRIA area appointed jointly by the three water supply utilities in each county;*

(iv) *Up to two members, as that number is determined by the districts, representing all conservation districts with territory within the multi-WRIA area and appointed jointly by those districts;*

(v) *Three members representing various special interest groups appointed jointly by the cities with territory within the multi-WRIA area; and six members representing various special interest groups appointed jointly by the counties with territory within the multi-WRIA area;*

(vi) *One member representing the general citizenry appointed jointly by the cities with territory within the multi-WRIA area;*

(vii) *Three members representing the general citizenry appointed jointly by the counties with territory in the multi-WRIA area, of which at least one shall be a holder of a water right certificate and at least one shall be a holder of a water right for which a statement of claim was in the state's water rights claims registry before January 1, 1997;*

(viii) *If one or more federal Indian reservations are located in whole or in part within the boundaries of the multi-WRIA area, the planning unit shall extend an invitation to the tribal government of each reservation to appoint one member representing that tribal government; and*

(ix) *Three members representing state agencies including the secretary of the department of transportation or the secretary's designee, the director of the department of fish and wildlife or the director's designee, and the director of the department of ecology or the director's designee. The three members representing state government shall have a single vote representing state agency interests.*

(b) *In addition, for a multi-WRIA planning unit located within Pierce, King, Snohomish, or Spokane county, one representative of the water purveyor using the largest amount of water from the multi-WRIA area shall be a voting member of the planning unit whether the principal offices of the purveyor are or are not located within the multi-WRIA area.*

(c) *Except for a person appointed under (a)(ix) or (b) of this subsection, each person appointed to a multi-WRIA planning unit shall have been a resident and property owner within the multi-WRIA area for at least three years. No state employees or state officials other than members appointed under (a)(ix) of this*

*subsection may be appointed to the planning unit. In appointing persons to the multi-WRIA planning unit representing special interest groups the counties and cities shall consider industrial water users, general businesses, hydroelectric and thermal power producers, and irrigated agriculture, nonirrigated agriculture, forestry, recreation, environmental, and fisheries interest groups and other groups with interests in the multi-WRIA area.*

*(2) In a multi-WRIA area where water resource planning efforts have commenced before the effective date of this section, such as but not limited to the Kettle river WRIA, the county legislative authorities with territory within the WRIA in accordance with subsection (1) of this section may, by majority vote, choose to adopt the existing planning unit membership for purposes of planning under chapter . . . , Laws of 1997 (this act).*

*Nothing in this act shall affect ongoing efforts to develop new resources and the sharing of existing resources. No moratorium may be imposed on water resource decision making by the department solely because of ongoing planning efforts or the absence of a plan or planning effort. Any new planning units formed under this act shall recognize efforts already in progress.*

*(3)(a) The counties in the multi-WRIA area shall select, by a majority vote, a governmental entity in the multi-WRIA area to act as lead agency for water resource planning in the multi-WRIA area under this chapter. Such an entity shall serve as the lead agency if it agrees in writing to do so. All appointments shall be made within sixty days of the date the lead agency in the multi-WRIA area notifies the other appointing authorities to convene to make appointments or the appointments shall be made by the counties with territory in the multi-WRIA area in the same manner the counties make other appointments.*

*(b) The members appointed to the WRIA planning unit under subsection (1)(a)(i), (ii), and (iii) of this section may, within thirty days, by unanimous vote, increase the number of members of the planning unit appointed under subsection (1)(a)(v), (vi), and (vii) of this section by up to five members. Appointment of additional members to the planning unit shall be made within thirty days from the date of application to the department to initiate planning.*

*(c) A vacancy on the planning unit shall be filled by appointment in the same manner prescribed for appointing the position that has become vacant. The planning unit shall convene and begin work as soon as two-thirds of the number of persons eligible to be members of the planning unit have been appointed. All positions must be filled within thirty days of the convening of the planning unit. The unit shall not interrupt its work to await additional original appointments or appointments to fill any vacancies that may occur in its membership.*

*(4) A planning unit for a multi-WRIA area shall perform all of the functions assigned by this chapter to a WRIA planning unit and is subject to all of the provisions of this chapter that apply to a WRIA planning unit.*

*\*Sec. 108 was vetoed. See message at end of chapter.*

***\*NEW SECTION. Sec. 109. The lead agency shall provide staff support from resources provided for planning under chapter . . ., Laws of 1997 (this act) and from other sources, including but not limited to sources provided under section 113 of this act, for the work of the WRIA planning unit. Each WRIA planning unit may establish its own methods of operation that are consistent with this chapter and may establish methods for reviewing the operations of its lead agency. No planning unit appointed or selected under this chapter may possess or exercise the power of eminent domain. No planning unit appointed or selected under this chapter may take any action that affects in any manner a general adjudication proceeding for water rights, completed or ongoing. Each WRIA planning unit is encouraged to: Consider information and plans that may have been previously developed by other entities in establishing water resource management plans for the WRIA; consider existing data regarding water resources in the WRIA; and, for a WRIA that borders another state, cooperate with local government counterparts in the adjacent state regarding water resource planning. Water resource plans developed under this chapter for a WRIA may not interfere in any manner with a general adjudication of water rights, completed or ongoing. Such a WRIA plan may not in any manner impair or diminish with a water right that exists before the adoption of the plan by the department under section 112 of this act.***

***All meetings of a WRIA planning unit shall be conducted as public meetings as required for such meetings by the open public meetings act, chapter 42.30 RCW. Some time shall be set aside at the end of each meeting of a WRIA planning unit for public comments. Each planning unit shall establish procedures to be followed by the unit in making decisions. The objective to be sought by the planning unit in making decisions is to reach agreement among its members on the decisions. Decisions by a two-thirds majority vote may be used if the unit has found that attempts at achieving full agreement have not been successful.***

***No person who is a member of a WRIA planning unit may designate another to act on behalf of the person as a member or to attend as a member a meeting of the unit on behalf of the person. If a member of a WRIA planning unit is absent from more than five meetings of the WRIA planning unit that constitute twenty percent or more of the meetings that have been conducted by the planning unit while the person is a member of the unit and these absences have not been excused as provided by this section, the member's position on the WRIA planning unit is to be considered vacant. A person's absence from a meeting may be excused: By the chair of the planning unit if a written request to do so is received by the chair before the meeting from which the member is to be absent; or by a majority vote of the members of the planning unit at the meeting during which the member is absent.***

***\*Sec. 109 was vetoed. See message at end of chapter.***

***\*NEW SECTION. Sec. 110. (1) Each WRIA planning unit shall develop a water resource plan. The plan must address the elements listed in subsection (2) of this section and may include other elements added by the planning unit. Once organized, the first task of the planning unit is to prioritize these elements regarding their importance in the WRIA and in developing a water resource plan for the WRIA. A plan shall not be developed such that its provisions (a) are in conflict with state statute or federal law; (b) impair or diminish in any manner a water right existing before its adoption; (c) are inconsistent with the construction, operation, or maintenance of a federal reclamation project; or (d) are inconsistent with an instream flow or condition established for hydroelectric power project licensed under the federal power act. No aspect of the plan may establish standards for water quality or regulate water quality in any manner whatsoever.***

***(2) The plan must include the following:***

***(a) An assessment of water supply and use in the WRIA, including:***

***(i) A quantitative estimation of the amount of surface and ground water present in the planning unit, using United States geological survey information and other existing sources of information;***

***(ii) A quantitative estimation using existing sources of information, of the amount of precipitation and surface and ground water available, using available technologies, collectively for both current and future water uses, including for instream purposes and for withdrawal or diversion;***

***(iii) A quantitative estimation using existing sources of information, of the amount of surface and ground water actually being used, and the months of peak and minimum use, both in-stream and by withdrawal, for agricultural, industrial, fisheries, recreational, environmental, municipal, and residential purposes, and including amounts claimed, permitted, or certificated for future municipal needs; and***

***(iv) A quantitative estimation of the amount of water, approximately, that is represented by amounts in claims in the water rights claims registry, in water use permits, in certificated rights, and in rules establishing instream flows;***

***(b) A quantitative description of future water-based instream and out-of-stream needs in the planning unit, based on projected population and agricultural and other economic growth. That is, an identification of the water needed collectively for use for agricultural, fisheries, recreational, environmental, industrial, municipal, and residential purposes. If a federal reclamation project is providing water for reclamation purposes within the WRIA or multi-WRIA area, federal reclamation water use requirements shall be those for project lands within the WRIA or multi-WRIA area;***

***(c) Instream flows.***

***(i) Except for the main stem of the Columbia river or the main stem of the Snake river, a planning unit may propose minimum instream flows or lake levels as part of its plan for other rivers and streams in its WRIA or multi-WRIA area.***

*(ii) The planning unit, by unanimous recorded vote of all voting members, may set specific minimum instream flows or lake levels, and such flows or levels shall be adopted by rule of the department.*

*(iii) If the planning unit is unable to approve specific minimum instream flows or levels unanimously, such flows or levels may be submitted as a recommended minimum instream flow or level in the WRIA plan for consideration by the department. Such recommendations must be approved by a two-thirds majority vote of the voting members of the planning unit.*

*(iv) Minimum instream flows or lake levels proposed under this subsection may not conflict with flow requirements or conditions in effect under a license issued under the federal power act.*

*(v) The planning unit may propose adjustments to minimum instream flows or lake levels that have been set by rule before the adoption of the planning unit's plan and will propose minimum instream flows or lake levels as part of the plan for the other rivers, streams, and lakes for which it determines the establishment of flows or levels to be appropriate in the WRIA, or in the multi-WRIA area for multi-WRIA planning under section 108 of this act.*

*(vi) The planning unit, by unanimous recorded vote of all voting members, may adjust established minimum instream flows or lake levels, and such flows or levels shall be adopted by rule of the department.*

*(vii) If the planning unit is unable to approve such adjustments unanimously, such flows or levels may be submitted as a recommended adjustment to established minimum instream flows or lake levels in the WRIA plan for consideration by the department. Such recommendations must be approved by a two-thirds majority vote of the voting members of the planning unit.*

*(viii) A minimum instream flow or lake level set for a body of water in a WRIA plan adopted by the department under section 112 of this act supersedes any minimum flow or level or base flow or any other such flow or level previously established for the body of water by the department;*

*(d) A quantitative description of the ground water and of the surface water available for further appropriation including water that may be obtained through reuse. As used in this subsection (2)(d), "available" means available on the date the plan takes effect as a rule under section 112 of this act;*

*(e) An identification of known areas that provide for the recharge of aquifers from the surface and areas where aquifers recharge surface bodies of water;*

*(f) Strategies for increasing water supplies in the WRIA, including:*

*(i) Water conservation and reuse measures; and*

*(ii) Storage enhancements, including modifications to existing reservoirs, new reservoirs, and underground storage. Any quantity of water made available under these strategies is a quantity that is in addition to the water declared available for appropriation under (d) of this subsection; and*

*(g) An identification of areas where voluntary water-related habitat improvement projects or voluntary transactions providing for the purchase of water-related habitat or water-related habitat easements would provide the greatest benefit to habitat in the WRIA, and a prioritization of the areas based on their potential for providing such benefits. The purpose of this element of the plan is to provide a means of coordinating nonregulatory, voluntary efforts for improving water-related habitat in the WRIA.*

*(3) Upon request the department shall assist the planning unit in drafting proposed implementing rules for the elements of the plan over which the department has authority. The draft rules shall accompany the plan as it is reviewed under the provisions of this chapter.*

*(4) A plan shall not be developed under this chapter to require directly or indirectly the implementation of laws, rules, or programs that are designed primarily to control water pollution or discharges of pollutants to water, to regulate effluent discharges or wastewater treatment systems or facilities, or to establish or require the achievement of water quality standards, including but not limited to chapter 90.48 RCW and rules adopted under chapter 90.48 RCW, the national pollutant discharge elimination system permit program, and the state waste discharge permit program.*

*\*Sec. 110 was vetoed. See message at end of chapter.*

***\*NEW SECTION.** Sec. 111. (1) Water resource management plans developed pursuant to the process in this chapter and subsequently adopted by the department under section 112 of this act are presumed valid. This presumption shall apply in any petition or action filed against a plan.*

*(2) Any action taken by a state agency regarding water resources within a WRIA for which a plan has been adopted under section 112 of this act and any planning conducted by a state agency regarding water resources within a WRIA for which a plan has been adopted under section 112 of this act shall be taken or conducted in a manner that is consistent with the plan. All actions and decisions of the department regarding water resources in the WRIA shall be consistent with and based upon such an adopted plan for the WRIA. Any other authority of the department exercised within the WRIA regarding water resources shall be exercised in a manner that is consistent with such an adopted plan.*

*\*Sec. 111 was vetoed. See message at end of chapter.*

***\*NEW SECTION.** Sec. 112. (1) Upon completing a proposed water resource plan for the WRIA, the WRIA planning unit shall publish notice of and conduct at least one public hearing in the WRIA on the proposed plan. The planning unit shall take care to provide notice of the hearing throughout the WRIA or multi-WRIA area. As a minimum, it shall publish a notice of the hearing in one or more newspapers of general circulation in the WRIA or multi-WRIA area. After considering the public comments presented at the hearing or hearings, the planning unit shall submit a copy of its proposed plan to the*

*department and to the tribal council of each reservation with territory within the WRIA.*

*(2)(a) The department shall provide advice as to any specific subsections or sections of the plan that the department believes to be in conflict with state statute or federal law and may provide other recommendations regarding the plan. The department shall transmit its advice and recommendations regarding the plan to the WRIA planning unit within sixty days of receiving it for review.*

*(b) The tribal council may review and provide comments and recommendations to the planning unit within sixty days of the receipt of the plan.*

*(3) The WRIA planning unit shall consider each recommendation provided under subsection (2) of this section. The planning unit may adopt such a recommendation or provide changes to respond to the advice of the department and the tribal council by a two-thirds majority vote of the members of the planning unit.*

*The WRIA planning unit shall approve a water resource plan for the WRIA by a two-thirds majority vote of the members of the planning unit. An approved plan shall be submitted to the counties with territory within the WRIA for adoption. If a WRIA planning unit receives funding for WRIA or multi-WRIA planning under section 105 of this act and does not approve a plan for submission to the counties within four years of the date the planning unit receives the first of that funding from the department for the planning, the department shall develop and adopt a water resource plan for the WRIA or multi-WRIA area.*

*(4) The legislative authority of each of the counties with territory within the WRIA shall provide public notice for and conduct at least one public hearing on the WRIA plan submitted to the county under this section. The counties shall take care to provide notice of the hearings throughout the WRIA or multi-WRIA area. As a minimum, they shall publish a notice of the hearings in one or more newspapers of general circulation in the WRIA or multi-WRIA area. After the public hearings, the legislative authorities of these counties shall convene in joint session to consider the plan. The counties may approve or reject the plan, but may not amend the plan. Approval of a plan, or of recommendations for a plan that is not approved, shall be made by a majority vote of the members of the various legislative authorities of the counties with territory in the WRIA based on the votes allocated under section 107 of this act.*

*If the plan is not approved, it shall be returned to the WRIA planning unit with recommendations for revisions. Any revised plan and implementing rules prepared by the planning unit shall be submitted to the department and to the counties as provided by this section for WRIA water resource plans generally.*

*(5) If the plan and implementing rules are approved by the members of the legislative authorities, the plan shall be transmitted to the department for adoption. The department shall adopt such an approved WRIA water resource plan through the adopting of implementing rules. The department has no*

*discretion to amend or reject the plan or implementing rules except those recommendations provided in section 110(2)(c) (iii) or (vii) of this act. A copy of the implementing rules and notice of its adoption as rules shall be published in the state register under chapter 34.05 RCW. The public hearing required by chapter 34.05 RCW shall be deemed to have been satisfied by public hearings held by county legislative authorities.*

*(6) If the department finds that an element of a WRIA plan is in conflict with state statute or federal law and the planning unit does not remove the conflict created by the element from its plan, the department and the planning unit shall submit the conflict to mediation. If mediation does not resolve the conflict within sixty days, the department shall file a petition for declaratory judgment in the superior court to determine whether the element is or is not in conflict with state statute or federal law. The petition shall be filed in the superior court in the county with the largest area in the WRIA or multi-WRIA area governed by the plan. The counties that approved the plan shall be named as parties to the proceeding. The superior court shall review the potential conflict under the error of law standard. If the superior court finds that an element of the plan is in conflict with state statute or federal law, that element of the plan shall be invalid. Decisions on such petitions are reviewable as in other civil cases. This subsection shall not be construed as establishing such state liability for any other element of the plan adopted as rules.*

*\*Sec. 112 was vetoed. See message at end of chapter.*

***\*NEW SECTION.** Sec. 113. The WRIA planning units may accept grants, funds, and other financing, as well as enter into cooperative agreements with private and public entities for planning assistance and funding.*

*\*Sec. 113 was vetoed. See message at end of chapter.*

***\*NEW SECTION.** Sec. 114. A new section is added to chapter 90.03 RCW to read as follows:*

*(1) The department shall rule in a timely manner upon complete applications to appropriate public surface and ground water. For complete applications that seek to appropriate water from within a WRIA for which a WRIA plan has been adopted, the department shall grant or deny the application within one hundred eighty days of the date the properly completed application is filed with the department, except as provided in subsection (2) of this section. For applications filed after July 1, 1999, that seek to appropriate water from within a WRIA for which no WRIA plan has been adopted, the department shall grant or deny the application within one year of the date the properly completed application is filed with the department, except as provided in subsection (2) of this section. The times allowed in this section to rule upon an application shall not include the time it takes the applicant to respond to an explicit request for additional information reasonably required to make a determination on the application. The department shall be allowed only one such request for additional information. The cost of obtaining such information shall be*

*reasonable in relation to the quantity and value of the water right applied for. Once the applicant responds to an information request, the stay of the time allowed for the permit decision shall end.*

*(2) If a detailed statement, generally referred to as an environmental impact statement, must be prepared under chapter 43.21C RCW for or in regard to an application to appropriate water, the department shall grant or deny the application within ninety days of the date the final environmental impact statement is available from the official responsible for it under chapter 43.21C RCW.*

*(3) The department shall report by January 1, 1999, to the legislature on the status of processing applications under this section.*

*\*Sec. 114 was vetoed. See message at end of chapter.*

*\*NEW SECTION. Sec. 115. A new section is added to chapter 34.05 RCW to read as follows:*

*(1) Once a plan has been adopted by the counties in the WRIA under section 112 of this act and the plan has been submitted to the department of ecology, the department shall file implementing rules for the plan with the code reviser along with an order adopting the implementing rules. The code reviser shall cause the order and the implementing rules to be published in the Washington state register in the manner provided for the adoption of final rules and shall incorporate the implementing rules into the Washington Administrative Code. No other aspect of this chapter that establishes procedures for the adoption of rules applies to the adoption of the plan by the department.*

*(2) For the purposes of this section, "WRIA" has the meaning established in section 103 of this act.*

*\*Sec. 115 was vetoed. See message at end of chapter.*

*\*Sec. 116. RCW 90.54.040 and 1997 c . . . s 2 (Senate Bill 5029) are each amended to read as follows:*

*(1) Consistent with chapter . . . , Laws of 1997 (this act) the department, through the adoption of appropriate rules, is directed, as a matter of high priority to insure that the waters of the state are utilized for the best interests of the people, to develop and implement in accordance with the policies of this chapter a comprehensive state water resources program which will provide a process for making decisions on future water resource allocation and use. The department may develop the program in segments so that immediate attention may be given to waters of a given physioeconomic region of the state or to specific critical problems of water allocation and use.*

*(2) In relation to the management and regulatory programs relating to water resources vested in it, the department is further directed to modify existing regulations and adopt new regulations, when needed and possible, to insure that existing regulatory programs are in accord with the water resource policy of this chapter and the program established in subsection (1) of this section.*

*(3) The department is directed to review all statutes relating to water resources which it is responsible for implementing. When any of the same appear to the department to be ambiguous, unclear, unworkable, unnecessary, or otherwise deficient, it shall make recommendations to the legislature including appropriate proposals for statutory modifications or additions. Whenever it appears that the policies of any such statutes are in conflict with the policies of this chapter, and the department is unable to fully perform as provided in subsection (2) of this section, the department is directed to submit statutory modifications to the legislature which, if enacted, would allow the department to carry out such statutes in harmony with this chapter.*

\*Sec. 116 was vetoed. See message at end of chapter.

## **PART II STORAGE**

**Sec. 201.** RCW 90.54.020 and 1989 c 348 s 1 are each amended to read as follows:

Utilization and management of the waters of the state shall be guided by the following general declaration of fundamentals:

(1) Uses of water for domestic, stock watering, industrial, commercial, agricultural, irrigation, hydroelectric power production, mining, fish and wildlife maintenance and enhancement, recreational, and thermal power production purposes, and preservation of environmental and aesthetic values, and all other uses compatible with the enjoyment of the public waters of the state, are declared to be beneficial.

(2) Allocation of waters among potential uses and users shall be based generally on the securing of the maximum net benefits for the people of the state. Maximum net benefits shall constitute total benefits less costs including opportunities lost.

(3) The quality of the natural environment shall be protected and, where possible, enhanced as follows:

(a) Perennial rivers and streams of the state shall be retained with base flows necessary to provide for preservation of wildlife, fish, scenic, aesthetic and other environmental values, and navigational values. Lakes and ponds shall be retained substantially in their natural condition. Withdrawals of water which would conflict therewith shall be authorized only in those situations where it is clear that overriding considerations of the public interest will be served.

(b) Waters of the state shall be of high quality. Regardless of the quality of the waters of the state, all wastes and other materials and substances proposed for entry into said waters shall be provided with all known, available, and reasonable methods of treatment prior to entry. Notwithstanding that standards of quality established for the waters of the state would not be violated, wastes and other materials and substances shall not be allowed to enter such waters which will reduce the existing quality thereof, except in those situations where it is clear that overriding considerations of the public interest will be served. Technology-based

effluent limitations or standards for discharges for municipal water treatment plants located on the Chehalis, Columbia, Cowlitz, Lewis, or Skagit river shall be adjusted to reflect credit for substances removed from the plant intake water if:

(i) The municipality demonstrates that the intake water is drawn from the same body of water into which the discharge is made; and

(ii) The municipality demonstrates that no violation of receiving water quality standards or appreciable environmental degradation will result.

(4) The development of multipurpose water storage facilities shall be a high priority for programs of water allocation, planning, management, and efficiency. The department, other state agencies, local governments, and planning units formed under section 107 or 108 of this act shall evaluate the potential for the development of new storage projects and the benefits and effects of storage in reducing damage to stream banks and property, increasing the use of land, providing water for municipal, industrial, agricultural, power generation, and other beneficial uses, and improving stream flow regimes for fisheries and other instream uses.

(5) Adequate and safe supplies of water shall be preserved and protected in potable condition to satisfy human domestic needs.

~~((5))~~ (6) Multiple-purpose impoundment structures are to be preferred over single-purpose structures. Due regard shall be given to means and methods for protection of fishery resources in the planning for and construction of water impoundment structures and other artificial obstructions.

~~((6))~~ (7) Federal, state, and local governments, individuals, corporations, groups and other entities shall be encouraged to carry out practices of conservation as they relate to the use of the waters of the state. In addition to traditional development approaches, improved water use efficiency and conservation shall be emphasized in the management of the state's water resources and in some cases will be a potential new source of water with which to meet future needs throughout the state.

~~((7))~~ (8) Development of water supply systems, whether publicly or privately owned, which provide water to the public generally in regional areas within the state shall be encouraged. Development of water supply systems for multiple domestic use which will not serve the public generally shall be discouraged where water supplies are available from water systems serving the public.

~~((8))~~ (9) Full recognition shall be given in the administration of water allocation and use programs to the natural interrelationships of surface and ground waters.

~~((9))~~ (10) Expressions of the public interest will be sought at all stages of water planning and allocation discussions.

~~((10))~~ (11) Water management programs, including but not limited to, water quality, flood control, drainage, erosion control and storm runoff are deemed to be in the public interest.

*\*Sec. 202. RCW 90.54.180 and 1989 c 348 s 5 are each amended to read as follows:*

*Consistent with the fundamentals of water resource policy set forth in this chapter, state and local governments, individuals, corporations, groups and other entities shall be encouraged to carry out water use efficiency and conservation programs and practices consistent with the following:*

*(1) Water efficiency and conservation programs should utilize an appropriate mix of economic incentives, cost share programs, regulatory programs, and technical and public information efforts. Programs which encourage voluntary participation are preferred.*

*(2) Increased water use efficiency should receive consideration as a potential source of water in state and local water resource planning processes. In determining the cost-effectiveness of alternative water sources, consideration should be given to the benefits of conservation, including waste water recycling, and ((impoundment)) storage of waters.*

*(3) In determining the cost-effectiveness of alternative water sources, full consideration should be given to the benefits of storage which can reduce the damage to stream banks and property, increase the utilization of land, provide water for municipal, industrial, agricultural, and other beneficial uses, provide for the generation of electric power from renewable resources, and improve stream flow regimes for fishery and other instream uses.*

*(4) Entities receiving state financial assistance for construction of water source expansion or acquisition of new sources shall develop, and implement if cost-effective, a water use efficiency and conservation element of a water supply plan pursuant to RCW 43.20.230(1).*

*(5) State programs to improve water use efficiency should focus on those areas of the state in which water is overappropriated; areas that experience diminished streamflows or aquifer levels; and areas where projected water needs, including those for instream flows, exceed available supplies.*

*(6) Existing and future generations of citizens of the state of Washington should be made aware of the importance of the state's water resources and the need for wise and efficient use and development of this vital resource. In order to increase this awareness, state agencies should integrate public education on increasing water use efficiency into existing public information efforts. This effort shall be coordinated with other levels of government, including local governments and Indian tribes.*

*\*Sec. 202 was vetoed. See message at end of chapter.*

### PART III GENERAL ADJUDICATIONS

NEW SECTION. Sec. 301. A new section is added to chapter 90.03 RCW to read as follows:

The legislature finds that the lack of certainty regarding water rights within a water resource basin may impede management and planning for water resources.

The legislature further finds that planning units conducting water resource planning under chapter 90.— RCW (sections 101 through 113 of this act) may find that the certainty provided by a general adjudication of water rights under this chapter is required for water planning or water management in a water resource inventory area or in a portion of the area. Therefore, such planning units may petition the department to conduct such a general adjudication and the department shall give high priority to such a request in initiating any such general adjudications under this chapter.

#### PART IV WATER PURVEYORS

*\*Sec. 401. RCW 90.03.383 and 1991 c 350 s 1 are each amended to read as follows:*

*(1) The legislature recognizes the value of interties for improving the reliability of public water systems, enhancing their management, and more efficiently utilizing the increasingly limited resource. Given the continued growth in the most populous areas of the state, the increased complexity of public water supply management, and the trend toward regional planning and regional solutions to resource issues, interconnections of public water systems through interties provide a valuable tool to ensure reliable public water supplies for the citizens of the state. Public water systems have been encouraged in the past to utilize interties to achieve public health and resource management objectives. The legislature finds that it is in the public interest to recognize interties existing and in use as of January 1, 1991, and to have associated water rights modified by the department of ecology to reflect current use of water through those interties, pursuant to subsection (3) of this section. The legislature further finds it in the public interest to develop a coordinated process to review proposals for interties commencing use after January 1, 1991.*

*(2) For the purposes of this section, the following definitions shall apply:*

*(a) "Interties" are interconnections between public water systems permitting exchange, acquisition, or delivery of wholesale and/or retail water between those systems for other than emergency supply purposes, where such exchange, acquisition, or delivery is within established instantaneous and annual withdrawal rates specified in the systems' existing water right permits or certificates, or contained in claims filed pursuant to chapter 90.14 RCW, and which results in better management of public water supply consistent with existing rights and obligations. Interties include interconnections between public water systems permitting exchange, acquisition, or delivery of water to serve as primary or secondary sources of supply(~~(, but do not include development of new sources of supply to meet future demand)~~) and the development of new sources of supply to meet future demands if the water system or systems receiving water through such an intertie make efficient use of existing sources of water supply and the provision of water through such an intertie is consistent with local land use plans. For this purpose, a system's full*

compliance with the state department of health's conservation guidelines for such systems is deemed efficient use.

(b) "Service area" is the area designated as the wholesale and/or retail area in a water system plan or a coordinated water system plan pursuant to chapter 43.20 or 70.116 RCW respectively. When a public water system does not have a designated service area subject to the approval process of those chapters, the service area shall be the designated place of use contained in the water right permit or certificate, or contained in the claim filed pursuant to chapter 90.14 RCW.

(3)(a) Public water systems with interties existing and in use as of January 1, 1991, or that have received written approval from the department of health prior to that date, shall file written notice of those interties with the department of health and the department of ecology. The notice may be incorporated into the public water system's five-year update of its water system plan, but shall be filed no later than June 30, 1996. The notice shall identify the location of the intertie; the dates of its first use; the purpose, capacity, and current use; the intertie agreement of the parties and the service areas assigned; and other information reasonably necessary to modify the public water system's water right ((permit)). Notwithstanding the provisions of RCW 90.03.380 and 90.44.100, for public water systems with interties existing and in use or with written approval as of January 1, 1991, the department of ecology, upon receipt of notice meeting the requirements of this subsection, shall, as soon as practicable, modify the place of use descriptions in the water right permits, certificates, or claims to reflect the actual use through such interties, provided that the place of use is within service area designations established in a water system plan approved pursuant to chapter 43.20 RCW, or a coordinated water system plan approved pursuant to chapter 70.116 RCW, and further provided that the water used is within the instantaneous and annual withdrawal rates specified in the water rights ((permit)) and that no outstanding complaints of impairment to existing water rights have been filed with the department of ecology prior to September 1, 1991. Where such complaints of impairment have been received, the department of ecology shall make all reasonable efforts to resolve them in a timely manner through agreement of the parties or through available administrative remedies.

(b) An intertie meeting the requirements of this subsection (3) for modifying the place of use description in a water right permit, certificate, or claim may be used to its full design or built capacity within the most recently approved retail or wholesale or retail and wholesale service area, without further approval under this section and without regard to the capacity actually used before January 1, 1991.

(4) Notwithstanding the provisions of RCW 90.03.380 and 90.44.100, exchange, acquisition, or delivery of water through interties approved by the department of health commencing use after January 1, 1991, shall be permitted

*when the intertie improves overall system reliability, enhances the manageability of the systems, provides opportunities for conjunctive use, or delays or avoids the need to develop new water sources, and otherwise meets the requirements of this section, provided that each public water system's water use shall not exceed the instantaneous or annual withdrawal rate specified in its water right authorization, shall not adversely affect existing water rights, and shall not be inconsistent with state-approved plans such as water system plans or other plans which include specific proposals for construction of interties. Interties approved and commencing use after January 1, 1991, shall not be inconsistent with regional water resource plans developed pursuant to chapter 90.54 RCW or chapter 90. — RCW (sections 101 through 113 of this act).*

*(5) For public water systems subject to the approval process of chapter 43.20 RCW or chapter 70.116 RCW, proposals for interties commencing use after January 1, 1991, shall be incorporated into water system plans pursuant to chapter 43.20 RCW or coordinated water system plans pursuant to chapter 70.116 RCW and submitted to the department of health and the department of ecology for review and approval as provided for in subsections (5) through (9) of this section. The plan shall state how the proposed intertie will improve overall system reliability, enhance the manageability of the systems, provide opportunities for conjunctive use, or delay or avoid the need to develop new water sources.*

*(6) The department of health shall be responsible for review and approval of proposals for new interties. In its review the department of health shall determine whether the intertie satisfies the criteria of subsection (4) of this section, with the exception of water rights considerations, which are the responsibility of the department of ecology, and shall determine whether the intertie is necessary to address emergent public health or safety concerns associated with public water supply.*

*(7) If the intertie is determined by the department of health to be necessary to address emergent public health or safety concerns associated with public water supply, the public water system shall amend its water system plan as required and shall file an application with the department of ecology to change its existing water right to reflect the proposed use of the water as described in the approved water system plan. The department of ecology shall process the application for change pursuant to RCW 90.03.380 or 90.44.100 as appropriate, except that, notwithstanding the requirements of those sections regarding notice and protest periods, applicants shall be required to publish notice one time, and the comment period shall be fifteen days from the date of publication of the notice. Within sixty days of receiving the application, the department of ecology shall issue findings and advise the department of health if existing water rights are determined to be adversely affected. If no determination is provided by the department of ecology within the sixty-day period, the department of health shall proceed as if existing rights are not adversely affected by the proposed intertie.*

*The department of ecology may obtain an extension of the sixty-day period by submitting written notice to the department of health and to the applicant indicating a definite date by which its determination will be made. No additional extensions shall be granted, and in no event shall the total review period for the department of ecology exceed one hundred eighty days.*

*(8) If the department of health determines the proposed intertie appears to meet the requirements of subsection (4) of this section but is not necessary to address emergent public health or safety concerns associated with public water supply, the department of health shall instruct the applicant to submit to the department of ecology an application for change to the underlying water right or claim as necessary to reflect the new place of use. The department of ecology shall consider the applications pursuant to the provisions of RCW 90.03.380 and 90.44.100 as appropriate. The department of ecology shall not deny or limit a change of place of use for an intertie on the grounds that the holder of a permit has not yet put all of the water authorized in the permit to beneficial use. If in its review of proposed interties and associated water rights the department of ecology determines that additional information is required to act on the application, the department may request applicants to provide information necessary for its decision, consistent with agency rules and written guidelines. Parties disagreeing with the decision of the department of ecology ((Ø\*)) to approve or deny the application for change in place of use may appeal the decision to the pollution control hearings board.*

*(9) The department of health may approve plans containing intertie proposals prior to the department of ecology's decision on the water right application for change in place of use. However, notwithstanding such approval, construction work on the intertie shall not begin until the department of ecology issues the appropriate water right document to the applicant consistent with the approved plan.*

*(10) The 1997 amendments to this section in this act are null and void if any one of sections 101 through 115 of this act is vetoed by June 30, 1997.*

*\*Sec. 401 was vetoed. See message at end of chapter.*

*\*Sec. 402. RCW 90.03.330 and 1987 c 109 s 89 are each amended to read as follows:*

*(1) Upon a showing satisfactory to the department that any appropriation has been perfected in accordance with the provisions of this chapter, it shall be the duty of the department to issue to the applicant a certificate stating such facts in a form to be prescribed by him, and such certificate shall thereupon be recorded with the department. Any original water right certificate issued, as provided by this chapter, shall be recorded with the department and thereafter, at the expense of the party receiving the same, be by the department transmitted to the county auditor of the county or counties where the distributing system or any part thereof is located, and be recorded in the office of such county auditor, and thereafter be transmitted to the owner thereof.*

(2) If a public water system is providing water for municipal supply purposes under a certificated water right, the instantaneous and annual withdrawal rates specified in the certificate are deemed valid and perfected.

(3) If a federal reclamation project is providing water for reclamation purposes under a certificated water right, the instantaneous and annual withdrawal rates specified in the certificate are deemed valid and perfected.

(4) If an irrigation district is providing water for the purposes authorized by chapter 87.03 RCW under a certificated water right, the instantaneous and annual withdrawal rates specified in the certificate are deemed valid and perfected.

(5) The 1997 amendments to this section in this act are null and void if any one of sections 101 through 115 of this act is vetoed by June 30, 1997.

\*Sec. 402 was vetoed. See message at end of chapter.

## PART V RELINQUISHMENT

\*Sec. 501. RCW 90.14.140 and 1987 c 125 s 1 are each amended to read as follows:

(1) For the purposes of RCW 90.14.130 through 90.14.180, "sufficient cause" shall be defined as the nonuse of all or a portion of the water by the owner of a water right for a period of five or more consecutive years where such nonuse occurs as a result of:

(a) Drought, or other unavailability of water;

(b) Active service in the armed forces of the United States during military crisis;

(c) Nonvoluntary service in the armed forces of the United States;

(d) The operation of legal proceedings;

(e) Federal laws imposing land or water use restrictions either directly or through the voluntary enrollment of a landowner in a federal program implementing those laws, or acreage limitations, or production quotas;

(f) An elapse of time occurring while a request or application is processed for transferring or changing a water right to use by a public water supplier for municipal purposes;

(g) The implementation of practices or technologies or the installation or repair of facilities, including but not limited to water conveyance practices, technologies, or facilities, that are more efficient or more water use efficient than practices, technologies, or facilities previously used under the water right.

(2) Notwithstanding any other provisions of RCW 90.14.130 through 90.14.180, there shall be no relinquishment of any water right:

(a) If such right is claimed for power development purposes under chapter 90.16 RCW and annual license fees are paid in accordance with chapter 90.16 RCW, or

(b) If such right is used for a standby or reserve water supply to be used in time of drought or other low flow period so long as withdrawal or diversion

*facilities are maintained in good operating condition for the use of such reserve or standby water supply, or*

*(c) If such right is claimed for a determined future development to take place ((either)) at any time within fifteen years of either July 1, 1967, or the most recent beneficial use of the water right, whichever date is later, or*

*(d) If such right is claimed for municipal water supply purposes under chapter 90.03 RCW, or*

*(e) If such waters are not subject to appropriation under the applicable provisions of RCW 90.40.030 as now or hereafter amended.*

\*Sec. 501 was vetoed. See message at end of chapter.

## PART VI GENERAL PERMITS

**\*NEW SECTION.** *Sec. 601. The legislature finds that the present delay in the processing of water right applications is not beneficial to the citizens of the state nor is it in keeping with the goal of managing the resource to the highest possible standard and maximum net benefit.*

*The legislature further finds that water conservation efforts would be greatly enhanced by a permit system that encourages water right applicants to use only the amount of water actually necessary to meet their needs.*

\*Sec. 601 was vetoed. See message at end of chapter.

**\*NEW SECTION.** *Sec. 602. A new section is added to chapter 90.03 RCW to read as follows:*

*(1) The department shall develop a general permit system for appropriating water for nonconsumptive, nonbypass uses. This system must be designed and used to accurately identify and register any water right application that qualifies for the streamlined process of appropriation of water by meeting the requirements in this section and registering the use. The general permit system must be applicable state-wide, and all waters of the state shall be eligible for coverage under the system. The evaluation and report required for an application under RCW 90.03.290 are not required for applications processed under the general permit system. For the purposes of this section:*

*(a) "Nonconsumptive, nonbypass use" means a use of water in which water is diverted from a stream or drawn from an aquifer and following its use is discharged back into or near the point of diversion or withdrawal without diminishment in quality and less than five thousand gallons of net consumption per day; and*

*(b) "Without diminishment of quality" means that, before being discharged back to its source, the water being discharged meets state water quality standards adopted under chapter 90.48 RCW.*

*(2) The department shall, by January 1, 1998, establish the general permit system by adopting rules in accordance with chapter 34.05 RCW. Before the adoption of rules for a system, the department shall consult with representatives of the following interest groups: Agriculture; aquaculture; home construction*

*and development; county government; city government; surface mining; and the environmental community. At least four public hearings must be held at various locations around the state, not less than two of which shall be east of the crest of the Cascade mountains. The rules must identify criteria for proposed uses of water for which applications might be processed under the system and must establish procedures for filing and processing applications and issuing water rights certificates under the general permit system.*

*\*Sec. 602 was vetoed. See message at end of chapter.*

***\*NEW SECTION. Sec. 603.*** *A new section is added to chapter 90.03 RCW to read as follows:*

*An application for registration as a nonconsumptive, nonbypass water user under the general permit system established under section 602 of this act must be made on a form adopted and provided by the department. Within sixty days of receipt of a properly completed application, the department shall determine whether the proposed use is eligible to be processed under the general permit system. If the department determines that the proposed use is eligible to be processed under the system, the application must be processed under the system within the next sixty days. The priority date of the water right established pursuant to this section shall be the date that the properly completed application is submitted. If the department determines that the proposed use is not eligible for the processing, the department shall explain to the applicant in writing the reasons for its determination. For a proposed use determined ineligible for the processing, if the department finds that the information contained on the application form substantially satisfies the information requirements for an application for a use that would normally be filed for processing the application outside of the general permit system, the department shall notify the applicant of its finding and shall process the application as if it were filed for processing outside of the system. If the department finds that the information does not substantially satisfy the requirements, the application must be considered to be incomplete for the processing and the applicant must be notified of this consideration.*

*\*Sec. 603 was vetoed. See message at end of chapter.*

***\*NEW SECTION. Sec. 604.*** *A new section is added to chapter 90.03 RCW to read as follows:*

*Nothing in sections 602 and 603 of this act authorizes the impairment or operates to impair any existing water rights. A water right holder under sections 602 and 603 of this act shall not make withdrawals that impair a senior water right. A holder of a senior water right who believes his or her water right is impaired may file a complaint with the department of ecology. Where such complaints of impairment have been received, the department of ecology shall make all reasonable efforts to resolve them in a timely manner through agreement of the parties. Nothing in section 602 or 603 of this act may be*

*construed as waiving any requirement established under chapter 90.48 RCW or federal law that a permittee secure a discharge permit regarding water quality.*

\*Sec. 604 was vetoed. See message at end of chapter.

***\*NEW SECTION. Sec. 605. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 1997, in the omnibus appropriations act, this act is null and void.***

\*Sec. 605 was vetoed. See message at end of chapter.

## PART VII APPEALS

***\*NEW SECTION. Sec. 701. The legislature recognizes that in many cases the value of real property directly depends upon the amount of water that is available for use on that property. The legislature also recognizes that water rights are a type of property right in which many different parties may assert an interest. Current statutes require many property rights actions in which different parties assert interests, such as actions for partition or eminent domain, to be filed in superior court. The legislature further finds that informal procedures such as mediation and fact finding have been employed successfully in other areas of the law, and may produce positive results in certain types of water disputes. The legislature therefore finds that property owners should have a choice to select informal or formal hearings before the pollution control hearings board, and that relinquishment proceedings should be appealed to the local superior courts.***

\*Sec. 701 was vetoed. See message at end of chapter.

***\*Sec. 702. RCW 34.05.514 and 1995 c 347 s 113 and 1995 c 292 s 9 are each reenacted and amended to read as follows:***

***(1) Except as provided in subsections (2) and (3) of this section, proceedings for review under this chapter shall be instituted by paying the fee required under RCW 36.18.020 and filing a petition in the superior court, at the petitioner's option, for (a) Thurston county, (b) the county of the petitioner's residence or principal place of business, or (c) in any county where the property owned by the petitioner and affected by the contested decision is located.***

***(2) For proceedings involving institutions of higher education, the petition shall be filed either in the county in which the principal office of the institution involved is located or in the county of a branch campus if the action involves such branch.***

***(3) For proceedings involving the relinquishment of a water right and appeals of formal and informal hearings of the pollution control hearings board involving a water quantity decision as defined in section 713 of this act, the petition shall be filed in the superior court for the county in which is located the land upon which the water was used.***

\*Sec. 702 was vetoed. See message at end of chapter.

***\*Sec. 703. RCW 43.21B.110 and 1993 c 387 s 22 are each amended to read as follows:***

**(1) The pollution control hearings board shall only have jurisdiction to hear and decide appeals from the following decisions of the department, the director, the administrator of the office of marine safety, and the air pollution control boards or authorities as established pursuant to chapter 70.94 RCW, or local health departments:**

**(a) Civil penalties imposed pursuant to RCW 18.104.155, 70.94.431, 70.105.080, 70.107.050, 88.46.090, 90.03.600, 90.48.144, 90.56.310, and 90.56.330.**

**(b) Orders issued pursuant to RCW 18.104.043, 18.104.060, 43.27A.190, 70.94.211, 70.94.332, 70.105.095, 86.16.020, 88.46.070, (~~90.14.130~~;) and 90.48.120.**

**(c) The issuance, modification, or termination of any permit, certificate, or license by the department or any air authority in the exercise of its jurisdiction, including the issuance or termination of a waste disposal permit, the denial of an application for a waste disposal permit, or the modification of the conditions or the terms of a waste disposal permit.**

**(d) Decisions of local health departments regarding the grant or denial of solid waste permits pursuant to chapter 70.95 RCW.**

**(e) Decisions of local health departments regarding the issuance and enforcement of permits to use or dispose of biosolids under RCW 70.95J.080.**

**(f) Any other decision by the department, the administrator of the office of marine safety, or an air authority which pursuant to law must be decided as an adjudicative proceeding under chapter 34.05 RCW.**

**(2) The jurisdiction of the pollution control hearings board is further limited as follows:**

**(a) The hearings board has no jurisdiction to review orders pertaining to the relinquishment of a water right under RCW 90.14.130, or to review proceedings regarding general adjudications of water rights conducted pursuant to chapter 90.03 or 90.44 RCW.**

**(b) The following hearings shall not be conducted by the hearings board:  
((a)) (i) Hearings required by law to be conducted by the shorelines hearings board pursuant to chapter 90.58 RCW.**

**((b)) (ii) Hearings conducted by the department pursuant to RCW 70.94.332, 70.94.390, 70.94.395, 70.94.400, 70.94.405, 70.94.410, and 90.44.180.**

**~~((c) Proceedings by the department relating to general adjudications of water rights pursuant to chapter 90.03 or 90.44 RCW;~~**

**—((d)) (iii) Hearings conducted by the department to adopt, modify, or repeal rules.**

**(3) ((Review of)) Rules and regulations adopted by the hearings board shall be subject to review in accordance with the provisions of the Administrative Procedure Act, chapter 34.05 RCW.**

\*Sec. 703 was vetoed. See message at end of chapter.

*\*Sec. 704. RCW 43.21B.130 and 1990 c 65 s 3 are each amended to read as follows:*

*The administrative procedure act, chapter 34.05 RCW, shall apply to the appeal of rules and regulations adopted by the board to the same extent as it applied to the review of rules and regulations adopted by the directors and/or boards or commissions of the various departments whose powers, duties and functions were transferred by section 6, chapter 62, Laws of 1970 ex. sess. to the department. ~~((All other decisions and orders of the director and all decisions of air pollution control boards or authorities established pursuant to chapter 70.94 RCW shall be subject to review by the hearings board as provided in this chapter:))~~*

*\*Sec. 704 was vetoed. See message at end of chapter.*

*\*Sec. 705. RCW 43.21B.240 and 1989 c 175 s 105 are each amended to read as follows:*

*The department and air authorities shall not have authority to hold adjudicative proceedings pursuant to the Administrative Procedure Act, chapter 34.05 RCW. Such hearings, except for appeals of orders pertaining to the relinquishment of a water right issued pursuant to RCW 90.14.130, shall be held by the pollution control hearings board.*

*\*Sec. 705 was vetoed. See message at end of chapter.*

*\*Sec. 706. RCW 43.21B.305 and 1994 c 253 s 5 are each amended to read as follows:*

*In an appeal that involves a penalty of five thousand dollars or less, the appeal may be heard by one member of the board, whose decision shall be the final decision of the board. An informal hearing appeal relating to a water quantity decision as defined in section 713 of this act may be heard by one member of the board. The board shall define by rule alternative procedures to expedite small appeals. These alternatives may include: Mediation, upon agreement of all parties unless initiated as provided in section 713 of this act; submission of testimony by affidavit; conducting hearing by telephone; or other forms that may lead to less formal and faster resolution of appeals.*

*\*Sec. 706 was vetoed. See message at end of chapter.*

*\*Sec. 707. RCW 43.21B.310 and 1992 c 73 s 3 are each amended to read as follows:*

*(1) Except as provided in subsection (2) of this section, any order issued by the department~~((the administrator of the office of marine safety;))~~ or 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 receipt of the order. Except as provided under chapter 70.105D RCW, ((this is)) these are the exclusive means of appeal of such an order.*

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

***((3)) (b) 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)) (c) Any appeal before the hearings board must contain the following in accordance with the rules of the hearings board:***

***((a)) (i) The appellant's name and address;***

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

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

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

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

***((f)) (vi) A statement setting forth the relief sought.***

***((5)) (d) Upon failure to comply with any final order of the department or the administrator, the attorney general, on request of the department or the administrator, 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)) (e) 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 receipt.***

***(2) Water quantity decisions of the department, as defined in section 713 of this act, may be appealed to the pollution control hearings board as provided in section 713 of this act. Appeals of orders pertaining to the relinquishment of a water right are filed in superior court as provided by RCW 90.14.130.***

\*Sec. 707 was vetoed. See message at end of chapter.

***\*Sec. 708. RCW 43.27A.190 and 1987 c 109 s 11 are each amended to read as follows:***

***Notwithstanding and in addition to any other powers granted to the department of ecology, whenever it appears to the department that a person is violating or is about to violate any of the provisions of the following:***

***(1) Chapter 90.03 RCW; or***

***(2) Chapter 90.44 RCW; or***

***(3) Chapter 86.16 RCW; or***

***(4) Chapter 43.37 RCW; or***

***(5) Chapter 43.27A RCW; or***

(6) Any other law relating to water resources administered by the department; or

(7) A rule or regulation adopted, or a directive or order issued by the department relating to subsections (1) through (6) of this section; the department may cause a written regulatory order to be served upon ~~((said))~~ the person either personally, or by registered or certified mail delivered to addressee only with return receipt requested and acknowledged by him or her. The order shall specify the provision of the statute, rule, regulation, directive or order alleged to be or about to be violated, and the facts upon which the conclusion of violating or potential violation is based, and shall order the act constituting the violation or the potential violation to cease and desist or, in appropriate cases, shall order necessary corrective action to be taken with regard to such acts within a specific and reasonable time. The regulation of a headgate or controlling works as provided in RCW 90.03.070, by a watermaster, stream patrolman, or other person so authorized by the department shall constitute a regulatory order within the meaning of this section. A regulatory order issued hereunder shall become effective immediately upon receipt by the person to whom the order is directed, except for regulations under RCW 90.03.070 which shall become effective when a written notice is attached as provided therein. Any person aggrieved by such order may appeal the order pursuant to RCW 43.21B.310, except that appeals of orders pertaining to the relinquishment of a water right shall be filed in superior court pursuant to RCW 90.14.130.

\*Sec. 708 was vetoed. See message at end of chapter.

\*Sec. 709. RCW 90.14.130 and 1987 e 109 s 13 are each amended to read as follows:

When it appears to the department of ecology that a person entitled to the use of water has not beneficially used his or her water right or some portion thereof, and it appears that ~~((said))~~ the person's right has or may have reverted to the state because of such nonuse, as provided by RCW 90.14.160, 90.14.170, or 90.14.180, the department of ecology shall notify such person by order: **PROVIDED**, That where a company, association, district, or the United States has filed a blanket claim under the provisions of RCW 90.14.060 for the total benefits of those served by it, the notice shall be served on such company, association, district or the United States and not upon any of its individual water users who may not have used the water or some portion thereof which they were entitled to use. The order shall contain: (1) A description of the water right, including the approximate location of the point of diversion, the general description of the lands or places where such waters were used, the water source, the amount involved, the purpose of use, and the apparent authority upon which the right is based; (2) a statement that unless sufficient cause be shown on appeal the water right will be declared relinquished; and (3) a statement that such order may be appealed to the ~~((pollution-control-hearings-board))~~ superior court. Any person aggrieved by such an order may appeal it to the ~~((pollution~~

~~control hearings board pursuant to RCW 43.21B.310)) superior court for the county in which is located the land upon which the water was used. Any such appeal to superior court shall be heard de novo. The order shall be served by registered or certified mail to the last known address of the person and be posted at the point of division or withdrawal. The order by itself shall not alter the recipient's right to use water, if any.~~

\*Sec. 709 was vetoed. See message at end of chapter.

**\*Sec. 710. RCW 90.14.190 and 1987 c 109 s 14 are each amended to read as follows:**

***Any person feeling aggrieved by any decision of the department of ecology may have the same reviewed pursuant to RCW 43.21B.310. However, any order pertaining to the relinquishment of a water right shall be filed in superior court pursuant to RCW 90.14.130. In any such review, the findings of fact as set forth in the report of the department of ecology shall be prima facie evidence of the fact of any waiver or relinquishment of a water right or portion thereof. If the hearings board affirms the decision of the department, a party seeks review in superior court of that hearings board decision pursuant to chapter 34.05 RCW, and the court determines that the party was injured by an arbitrary, capricious, or erroneous order of the department, the court may award reasonable attorneys' fees.***

\*Sec. 710 was vetoed. See message at end of chapter.

**\*Sec. 711. RCW 90.14.200 and 1989 c 175 s 180 are each amended to read as follows:**

***(1) All matters relating to the implementation and enforcement of this chapter by the department of ecology shall be carried out in accordance with chapter 34.05 RCW, the Administrative Procedure Act, except where the provisions of this chapter expressly conflict with chapter 34.05 RCW. Proceedings held pursuant to RCW 90.14.130 are (~~adjudicative proceedings within the meaning of chapter 34.05 RCW. Final decisions of the department of ecology in these proceedings~~) appealable to superior court as provided in that section. Other final decisions of the department of ecology under this chapter are subject to review by the pollution control hearings board in accordance with chapter 43.21B RCW.***

***(2) RCW 90.14.130 provides nonexclusive procedures for determining a relinquishment of water rights under RCW 90.14.160, 90.14.170, and 90.14.180. RCW 90.14.160, 90.14.170, and 90.14.180 may be applied in, among other proceedings, general adjudication proceedings initiated under RCW 90.03.110 or 90.44.220: PROVIDED, That nothing herein shall apply to litigation involving determinations of the department of ecology under RCW 90.03.290 relating to the impairment of existing rights.***

\*Sec. 711 was vetoed. See message at end of chapter.

**\*Sec. 712. RCW 90.66.080 and 1979 c 3 s 8 are each amended to read as follows:**

*The department is hereby empowered to promulgate such rules as may be necessary to carry out the provisions of this chapter. Decisions of the department, other than rule making, shall be subject to review by the pollution control hearings board or a superior court in accordance with chapter 43.21B RCW.*

*\*Sec. 712 was vetoed. See message at end of chapter.*

*\*NEW SECTION. Sec. 713. A new section is added to chapter 43.21B RCW to read as follows:*

*(1) A water right claimant, or permit or certificate holder or applicant who is aggrieved or adversely affected by a water quantity decision may appeal the decision to the pollution control hearings board pursuant to RCW 43.21B.310. A formal hearing before the board may only be granted if all parties to the appeal of the water quantity decision agree to a formal hearing.*

*(2) At the request of any party, the board shall conduct an informal hearing, consisting of mediation and, if a settlement cannot be agreed upon, fact finding with recommendations. The hearings board shall adopt rules governing the election, practice, and procedures of informal hearings consistent with this section and section 714 of this act.*

*(3) For purposes of this chapter, a "water quantity decision" includes the following:*

*(a) A decision to grant or deny a permit or certificate for a right to the beneficial use of water or to amend, change, or transfer such a right; and*

*(b) A decision to enforce the conditions of a permit for, or right to, the beneficial use of water or to require any person to discontinue the use of water.*

*\*Sec. 713 was vetoed. See message at end of chapter.*

*\*NEW SECTION. Sec. 714. A new section is added to chapter 43.21B RCW to read as follows:*

*(1) When one of the parties elects an informal hearing pursuant to section 713 of this act, a board member or an administrative law judge from the environmental hearings office shall be assigned as the mediator for the appeal.*

*(2) The parties involved in the informal hearing must provide the mediator and the other parties in advance with a clear, concise statement of the disputed issues and the parties' position in relation to the issues and supporting documentation. The mediator shall meet with the parties either jointly or separately, in the general area of the project under review or by telephone, at the discretion of the mediator, and shall take such steps as the mediator deems appropriate to resolve their differences and reach a settlement agreement. If a settlement agreement is reached, the mediator shall prepare and submit to the hearings board a written order of dismissal to which the settlement agreement is attached. The hearings board shall enter the order and dismiss the case unless the hearings board finds that the settlement agreement is contrary to law.*

*If the hearings board finds that the settlement agreement is contrary to law, it shall notify the parties and refer the dispute back to mediation.*

(3) *If the parties are unable to achieve a settlement agreement within ninety days after being appointed, the mediator shall issue a statement that a settlement agreement has not been reached. After issuance of the statement, the party filing the appeal may request the hearings board to submit the dispute to fact finding with recommendations. Notice of the request for fact finding must be sent to the other parties.*

(4) *Within five days of the receipt of the request for fact finding, the hearings board shall assign a board member or an administrative appeals judge from the environmental hearings office to serve as fact finder. The person who served as the mediator to the dispute may serve as the fact finder with the consent of both parties.*

(5) *Within five days of being appointed, the fact finder shall establish a date, time, and place for the fact-finding hearing. The date of the hearing must be within thirty days of the appointment of the fact finder. The hearing shall be conducted in the general area where the project under review is located. At least seven days before the date of the hearing, each party must submit to the fact finder and to the other parties written proposals on all of the issues it intends to submit to fact finding. The fact finder has the power to issue subpoenas requiring the attendance and production of witnesses and the production of evidence. The order of presentation at the hearing shall be as agreed by the parties or as determined by the fact finder. Each documentary exhibit shall be filed with the fact finder and copies shall be provided to the other parties. The fact finder shall declare the hearing closed after the parties have completed presenting their testimony within agreed time limits.*

(6) *The fact finder shall, within thirty days following the conclusion of the hearing, make written findings of fact and written recommendations to the parties as to how the dispute should be resolved. The fact finder may not apply any presumption as part of the findings of fact or recommendations. A copy of the findings and recommendations shall be filed with the hearings board. The findings of fact and recommendations of the fact finder are advisory only, and are not subject to review by the hearings board.*

(7) *The time limits established in this section may be extended by mutual agreement of all the parties.*

\*Sec. 714 was vetoed. See message at end of chapter.

**\*NEW SECTION.** Sec. 715. A new section is added to chapter 43.21B RCW to read as follows:

(1) *Within thirty days after the fact finder has filed the findings of fact and recommendations pursuant to section 714 of this act, a party may request a formal hearing by the hearings board or appeal the water quantity decision directly to superior court. All parties must agree to a formal hearing by the hearings board before a formal hearing is granted.*

*(2) If a party elects to file an action in superior court following an informal hearing, it must be filed in the county in which is located the land upon which the water is or would be used.*

\*Sec. 715 was vetoed. See message at end of chapter.

**\*NEW SECTION.** *Sec. 716. A new section is added to chapter 43.21B RCW to read as follows:*

*An appeal to superior court of a water quantity decision, as defined in section 713 of this act, following an informal hearing by the board shall be heard de novo. If an informal hearing on the decision or order had been completed by the pollution control hearings board, no issue may be raised in superior court that was not raised and discussed as part of the fact-finding hearing. No bond may be required on appeals to the superior court or on review by the supreme court unless specifically required by the judge of the superior court.*

\*Sec. 716 was vetoed. See message at end of chapter.

## PART VIII MISCELLANEOUS

**Sec. 801.** RCW 90.03.380 and 1996 c 320 s 19 are each amended to read as follows:

**(1)** The right to the use of water which has been applied to a beneficial use in the state shall be and remain appurtenant to the land or place upon which the same is used: PROVIDED, HOWEVER, That ~~((said))~~ the right may be transferred to another or to others and become appurtenant to any other land or place of use without loss of priority of right theretofore established if such change can be made without detriment or injury to existing rights. The point of diversion of water for beneficial use or the purpose of use may be changed, if such change can be made without detriment or injury to existing rights. A change in the place of use, point of diversion, and/or purpose of use of a water right to enable irrigation of additional acreage or the addition of new uses may be permitted if such change results in no increase in the annual consumptive quantity of water used under the water right. For purposes of this section, "annual consumptive quantity" means the estimated or actual annual amount of water diverted pursuant to the water right, reduced by the estimated annual amount of return flows, averaged over the most recent five-year period of continuous beneficial use of the water right. Before any transfer of such right to use water or change of the point of diversion of water or change of purpose of use can be made, any person having an interest in the transfer or change, shall file a written application therefor with the department, and ~~((said))~~ the application shall not be granted until notice of ~~((said))~~ the application ~~((shall be))~~ is published as provided in RCW 90.03.280. If it shall appear that such transfer or such change may be made without injury or detriment to existing rights, the department shall issue to the applicant a certificate in duplicate granting the right for such transfer or for such change of point of diversion or of use. The certificate so issued shall be filed and be made a record with the department and the duplicate certificate issued to the applicant may be filed with the county auditor

in like manner and with the same effect as provided in the original certificate or permit to divert water.

(2) If an application for change proposes to transfer water rights from one irrigation district to another, the department shall, before publication of notice, receive concurrence from each of the irrigation districts that such transfer or change will not adversely affect the ability to deliver water to other landowners or impair the financial integrity of either of the districts.

(3) A change in place of use by an individual water user or users of water provided by an irrigation district need only receive approval for the change from the board of directors of the district if the use of water continues within the irrigation district, and when water is provided by an irrigation entity that is a member of a board of joint control created under chapter 87.80 RCW, approval need only be received from the board of joint control if the use of water continues within the area of jurisdiction of the joint board and the change can be made without detriment or injury to existing rights.

(4) This section shall not apply to trust water rights acquired by the state through the funding of water conservation projects under chapter 90.38 RCW or RCW 90.42.010 through 90.42.070.

**\*Sec. 802. RCW 90.44.100 and 1987 c 109 s 113 are each amended to read as follows:**

***After an application to, and upon the issuance by the department of an amendment to the appropriate permit or certificate of ground water right, the holder of a valid right to withdraw public ground waters may, without losing his priority of right, construct wells or other means of withdrawal at a new location in substitution for or in addition to those at the original location, or he may change the manner or the place of use of the water(~~(=PROVIDED, HOWEVER, That such)~~). An amendment shall be issued only after publication of notice of the application and findings as prescribed in the case of an original application. Such amendment shall be issued by the department only on the conditions that: (1) The additional or substitute well or wells shall tap the same body of public ground water as the original well or wells; (2) use of the original well or wells shall be discontinued upon construction of the substitute well or wells; (3) the construction of an additional well or wells shall not enlarge the right conveyed by the original permit or certificate; and (4) other existing rights shall not be impaired. An amendment to a permit or certificate to change the place of use, point of withdrawal, and/or purpose of use of a ground water right to enable irrigation of additional acreage or the addition of new uses may be issued if such change results in no increase in the annual consumptive quantity of water used under a certificate or authorized for use under a permit. For purposes of this section, "annual consumptive quantity" means the estimated or actual annual amount of water withdrawn pursuant to a certificate or the amount authorized for use pursuant to a permit, reduced by the estimated annual amount of return flows. For permits or certificates under which actual***

*amounts of water have been withdrawn, withdrawals and return flows shall be averaged over the most recent five-year period of continuous beneficial use of the ground water right or, if the period of actual continuous beneficial use is less than five years, such lesser period. The department may specify an approved manner of construction and shall require a showing of compliance with the terms of the amendment, as provided in RCW 90.44.080 in the case of an original permit.*

\*Sec. 802 was vetoed. See message at end of chapter.

NEW SECTION. Sec. 803. As used in this act, part headings constitute no part of the law.

NEW SECTION. Sec. 804. Sections 101 through 113 of this act constitute a new chapter in Title 90 RCW.

NEW SECTION. Sec. 805. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed the House April 27, 1997.

Passed the Senate April 18, 1997.

Approved by the Governor May 20, 1997, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State May 20, 1997.

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

"I am returning herewith, without my approval as to sections 107 through 116, 202, 401, 402, 501, 601, 602, 603, 604, 605, 701 through 716, and 802, Second Substitute House Bill No. 2054 entitled:

"AN ACT Relating to water resource management;"

Second Substitute House Bill No. 2054 addresses a number of water resource management issues, including watershed planning, storage, adjudications, water purveyors, relinquishment, general permits, water right appeals, and transfers.

I agree with legislative leaders on the need for local watershed planning. The people who live in a particular area should have a strong voice as to how water should be used in their watershed. Sections 101 through 106 set the tone for how we will resolve many of our water problems and I support those sections.

Sections 107 through 116 set out a process for local watershed planning and adoption which does not provide sufficient flexibility to accommodate a wide array of watershed planning needs. The time limits imposed on the Department of Ecology for making decisions on water right applications are unreasonable under current resources available to the Department of Ecology.

Section 202 equates water storage with water conservation and although the two may be related, this definition of water conservation could be problematic in future water rights processing and appeals.

Sections 401 and 402 are null and void because of my actions on sections 107 through 116, but these are important water resource management issues so I will address the issues in these sections. Section 401 makes changes to the intertie statute (RCW 90.03.380) to promote land development, but is not linked to growth management plans or state-approved demand forecasts. The broad language used to grandfather in existing interties would create dormant water rights and excuse these interties from a review to determine potential impacts on other existing water rights as well as instream flows. Section 402 would equate the perfection of a water right to the quantity allocated in a certificate of water right rather than the quantity beneficially used. This would violate a

fundamental principle of western water law and the state water code and create great uncertainty in trying to determine what water is available for other water rights, new applications, and the protection of instream resources.

Section 501, without a standard established by the legislature, could allow a water right holder to avoid relinquishment by taking an unlimited amount of time to implement a water conservation project.

Sections 601 through 605 would create a new surface water permit exemption for water uses that consume less than 5,000 gallons per day.

Sections 701 through 716 would override the existing, well-established and highly functional water right appeals process. These sections could establish a total of four processes to reach a factual decision on the record.

Section 802 would amend the ground water code to allow changes to water rights that are already authorized in section 801, which amends the surface water code. The legislature has already recognized that the surface water code, RCW chapter 90.03, applies to the allocation and regulation of ground water. I believe, and the Department of Ecology concurs, that the amendments to RCW 90.03.380 set forth within section 801 apply to ground water rights as well as to surface water rights. To the extent that this is duplicative of the provisions in section 801, section 802, which amends RCW 90.44.100, is unnecessary. Section 802 would also allow the irrigation of additional acreage or the addition of new uses for a quantity of water authorized under a ground water permit that has not yet been put to beneficial use. This is a concept that I am very interested in exploring, and I will be asking for further study and recommendations on this issue in the interim.

For these reasons, I have vetoed sections 107 through 116, 202, 401, 402, 501, 601, 602, 603, 604, 605, 701 through 716, and 802, Second Substitute House Bill No. 2054.

With the exception of sections 107 through 116, 202, 401, 402, 501, 601, 602, 603, 604, 605, 701 through 716, and 802, Second Substitute House Bill No. 2054 is approved."

## CHAPTER 443

[Substitute Senate Bill 5505]

### ASSISTANCE FOR APPLICANTS FOR WATER RIGHTS TO OBTAIN AND DEVELOP WATER SUPPLIES

AN ACT Relating to water supply and growth management; amending RCW 43.21A.064; and creating new sections.

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

**NEW SECTION.** Sec. 1. The legislature finds that there is a need for development of additional water resources to meet the forecasted population growth in the state. It is the intent of chapter . . . , Laws of 1997 (this act) to direct the responsible agencies to assist applicants seeking a safe and reliable water source for their use. Providing this assistance for public water supply systems can be accomplished through assistance in the creation of municipal interties and transfers, additional storage capabilities, enhanced conservation efforts, and added efficiency standards for using existing supplies.

Sec. 2. RCW 43.21A.064 and 1995 c 8 s 3 are each amended to read as follows:

Subject to RCW 43.21A.068, the director of the department of ecology shall have the following powers and duties:

(1) The supervision of public waters within the state and their appropriation, diversion, and use, and of the various officers connected therewith;

(2) Insofar as may be necessary to assure safety to life or property, ((he)) the director shall inspect the construction of all dams, canals, ditches, irrigation systems, hydraulic power plants, and all other works, systems, and plants pertaining to the use of water, and ((he)) may require such necessary changes in the construction or maintenance of said works, to be made from time to time, as will reasonably secure safety to life and property;

(3) ((He)) The director shall regulate and control the diversion of water in accordance with the rights thereto;

(4) ((He)) The director shall determine the discharge of streams and springs and other sources of water supply, and the capacities of lakes and of reservoirs whose waters are being or may be utilized for beneficial purposes;

(5) ((He)) The director shall, if requested, provide assistance to an applicant for a water right in obtaining or developing an adequate and appropriate supply of water consistent with the land use permitted for the area in which the water is to be used and the population forecast for the area under RCW 43.62.035. If the applicant is a public water supply system, the supply being sought must be used in a manner consistent with applicable land use, watershed and water system plans, and the population forecast for that area provided under RCW 43.62.035;

(6) The director shall keep such records as may be necessary for the recording of the financial transactions and statistical data thereof, and shall procure all necessary documents, forms, and blanks. ((He)) The director shall keep a seal of the office, and all certificates ((by him)) covering any of ((his)) the director's acts or the acts of ((his)) the director's office, or the records and files of ((his)) that office, under such seal, shall be taken as evidence thereof in all courts;

(((6)He)) (7) The director shall render when required by the governor, a full written report of the ((work of his office)) office's work with such recommendations for legislation as ((he may)) the director deems advisable for the better control and development of the water resources of the state;

(((7))) (8) The director and duly authorized deputies may administer oaths;

(((8)He)) (9) The director shall establish and promulgate rules governing the administration of chapter 90.03 RCW;

(((9)He)) (10) The director shall perform such other duties as may be prescribed by law.

**NEW SECTION. Sec. 3.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 1997, in the omnibus appropriations act, this act is null and void.

Passed the Senate April 22, 1997.

Passed the House April 14, 1997.

Approved by the Governor May 20, 1997.

Filed in Office of Secretary of State May 20, 1997.

**CHAPTER 444****[Engrossed Substitute Senate Bill 5725]  
RECLAIMED WATER—REGULATIONS**

AN ACT Relating to reclaimed water; amending RCW 90.46.010, 90.46.080, and 90.46.090; adding new sections to chapter 90.46 RCW; adding a new section to chapter 90.03 RCW; adding a new section to chapter 90.44 RCW; adding a new section to chapter 90.48 RCW; and creating a new section.

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

**NEW SECTION. Sec. 1.** A new section is added to chapter 90.46 RCW to read as follows:

The owner of a wastewater treatment facility that is reclaiming water with a permit issued under this chapter has the exclusive right to any reclaimed water generated by the wastewater treatment facility. Use and distribution of the reclaimed water by the owner of the wastewater treatment facility is exempt from the permit requirements of RCW 90.03.250 and 90.44.060. Revenues derived from the reclaimed water facility shall be used only to offset the cost of operation of the wastewater utility fund or other applicable source of system-wide funding.

If the proposed use or uses of reclaimed water are intended to augment or replace potable water supplies or create the potential for the development of additional potable water supplies, such use or uses shall be considered in the development of the regional water supply plan or plans addressing potable water supply service by multiple water purveyors. The owner of a wastewater treatment facility that proposes to reclaim water shall be included as a participant in the development of such regional water supply plan or plans.

**NEW SECTION. Sec. 2.** A new section is added to chapter 90.03 RCW to read as follows:

The permit requirements of RCW 90.03.250 do not apply to the use of reclaimed water by the owner of a wastewater treatment facility under the provisions of section 1 of this act.

**NEW SECTION. Sec. 3.** A new section is added to chapter 90.44 RCW to read as follows:

The permit requirements of RCW 90.44.060 do not apply to the use of reclaimed water by the owner of a wastewater treatment facility under the provisions of section 1 of this act.

**NEW SECTION. Sec. 4.** A new section is added to chapter 90.46 RCW to read as follows:

Facilities that reclaim water under this chapter shall not impair any existing water right downstream from any freshwater discharge points of such facilities unless compensation or mitigation for such impairment is agreed to by the holder of the affected water right.

**Sec. 5.** RCW 90.46.010 and 1995 c 342 s 2 are each amended to read as follows:

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

(1) "Greywater" means wastewater having the consistency and strength of residential domestic type wastewater. Greywater includes wastewater from sinks, showers, and laundry fixtures, but does not include toilet or urinal waters.

(2) "Land application" means application of treated effluent for purposes of irrigation or landscape enhancement for residential, business, and governmental purposes.

(3) "Person" means any state, individual, public or private corporation, political subdivision, governmental subdivision, governmental agency, municipality, copartnership, association, firm, trust estate, or any other legal entity whatever.

(4) "Reclaimed water" means effluent derived in any part from sewage from a wastewater treatment system that has been adequately and reliably treated, so that as a result of that treatment, it is suitable for a ~~((direct))~~ beneficial use or a controlled use that would not otherwise occur and is no longer considered wastewater.

(5) "Sewage" means water-carried human wastes ~~((including kitchen, bath, and laundry waste))~~ from residences, buildings, industrial and commercial establishments, or other places, together with such ground water infiltration, surface waters, or industrial wastewater as may be present.

(6) "User" means any person who uses reclaimed water.

(7) "Wastewater" means water and wastes discharged from homes, businesses, and industry to the sewer system.

(8) ~~((Direct))~~ "Beneficial use" means the use of reclaimed water, that has been transported from the point of production to the point of use without an intervening discharge to the waters of the state, for a beneficial purpose.

(9) "Direct recharge" means the controlled subsurface addition of water directly to the ground water basin that results in the replenishment of ground water.

(10) "Ground water recharge criteria" means the contaminant criteria found in the drinking water quality standards adopted by the state board of health pursuant to chapter 43.20 RCW and the department of health pursuant to chapter 70.119A RCW.

(11) "Planned ground water recharge project" means any reclaimed water project designed for the purpose of recharging ground water, via direct recharge or surface ~~((spreading))~~ percolation.

(12) "Reclamation criteria" means the criteria set forth in the water reclamation and reuse interim standards and subsequent revisions adopted by the department of ecology and the department of health.

(13) "Streamflow augmentation" means the discharge of reclaimed water to rivers and streams of the state or other surface water bodies, but not wetlands.

(14) "Surface ~~((spreading))~~ percolation" means the controlled application of water to the ground surface for the purpose of replenishing ground water.

(15) "Wetland or wetlands" means areas that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted to life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands regulated under this chapter shall be delineated in accordance with the manual adopted by the department of ecology pursuant to RCW 90.58.380.

(16) (~~"Created wetlands" means a wetland intentionally created from a nonwetland site to produce or replace natural habitat.~~) "Constructed beneficial use wetlands" means those wetlands intentionally constructed on nonwetland sites to produce or replace natural wetland functions and values. Constructed beneficial use wetlands are considered "waters of the state."

(17) "Constructed treatment wetlands" means those wetlands intentionally constructed on nonwetland sites and managed for the primary purpose of wastewater or storm water treatment. Constructed treatment wetlands are considered part of the collection and treatment system and are not considered "waters of the state."

Sec. 6. RCW 90.46.080 and 1995 c 342 s 3 are each amended to read as follows:

(1) Reclaimed water may be beneficially used for surface (~~spreading~~) percolation provided the reclaimed water meets the ground water recharge criteria as measured in ground water beneath or down gradient of the recharge project site, and has been incorporated into a sewer or water comprehensive plan, as applicable, adopted by the applicable local government and approved by the department of health or department of ecology as applicable.

(2) If the state ground water recharge criteria as defined by RCW 90.46.010 do not contain a standard for a constituent or contaminant, the department of ecology shall establish a discharge limit consistent with the goals of this chapter.

(3) Reclaimed water that does not meet the ground water recharge criteria may be beneficially used for surface percolation where the department of ecology, in consultation with the department of health, has specifically authorized such use at such lower standard.

Sec. 7. RCW 90.46.090 and 1995 c 342 s 4 are each amended to read as follows:

(1) Reclaimed water may be beneficially used for discharge into (~~created~~) constructed beneficial use wetlands and constructed treatment wetlands provided the reclaimed water meets the class A or B reclaimed water standards as defined in the reclamation criteria, and the discharge is incorporated into a sewer or water comprehensive plan, as applicable, adopted by the applicable local government and approved by the department of health or department of ecology as applicable.

(2) Reclaimed water that does not meet the class A or B reclaimed water standards may be beneficially used for discharge into (~~created~~) constructed treatment wetlands where the department of ecology, in consultation with the

~~department of health, has specifically authorized such use at such lower standards ((in conjunction with a pilot project designated pursuant to this chapter, the purpose of which is to test and implement the use of created wetlands for advanced treatment)).~~

(3) The department of ecology and the department of health must develop appropriate standards for discharging reclaimed water into constructed beneficial use wetlands and constructed treatment wetlands. These standards must be considered as part of the approval process under subsections (1) and (2) of this section.

NEW SECTION. Sec. 8. A new section is added to chapter 90.46 RCW to read as follows:

(1) The department of health shall develop standards, procedures, and guidelines for the reuse of greywater, consistent with RCW 43.20.230(2), by January 1, 1998.

(2) Standards, procedures, and guidelines developed by the department of health for reuse of greywater shall encourage the application of this technology for conserving water resources, or reducing the wastewater load, on domestic wastewater facilities, individual on-site sewage treatment and disposal systems, or community on-site sewage treatment and disposal systems.

(3) The department of health and local health officers may permit the reuse of greywater according to rules adopted by the department of health.

NEW SECTION. Sec. 9. A new section is added to chapter 90.48 RCW to read as follows:

The evaluation of any plans submitted under RCW 90.48.110 must include consideration of opportunities for the use of reclaimed water as defined in RCW 90.46.010.

NEW SECTION. Sec. 10. The department of ecology and the department of health shall report on the progress of the implementation of chapter 342, Laws of 1995, as amended by chapter . . . , Laws of 1997 (this act) to the members of the agriculture and ecology committee of the house of representatives and the members of the agriculture and environment committee of the senate by December 15, 1997.

NEW SECTION. Sec. 11. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed the Senate April 23, 1997.

Passed the House April 11, 1997.

Approved by the Governor May 20, 1997.

Filed in Office of Secretary of State May 20, 1997.

## CHAPTER 445

[Substitute Senate Bill 5783]

## PUBLIC WATER SYSTEMS—MUNICIPAL WATER SUPPLIES

AN ACT Relating to public water systems; amending RCW 90.03.320 and 90.03.330; adding a new section to chapter 90.03 RCW; and creating a new section.

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

**\*NEW SECTION.** *Sec. 1. The legislature finds that it is in the public interest for water rights held by public water systems to be managed and regulated in a manner that:*

*(1) Allows such systems to prolong and maximize the use of water rights applied to municipal purposes consistent with the population demand projections established in state-approved water system plans and adopted growth management plans; and*

*(2) Promotes water conservation, with enhanced efforts occurring in water critical areas, promotes water system efficiencies, and eliminates disincentives for investments in water efficient technologies.*

*The department of ecology is therefore directed to administer water rights laws consistent with RCW 90.03.320 and 90.03.330 and section 2 of this act.*

\*Sec. 1 was vetoed. See message at end of chapter.

**\*NEW SECTION.** *Sec. 2. A new section is added to chapter 90.03 RCW to read as follows:*

*(1) For the purposes of this chapter and RCW 90.14.140, "municipal water supply purposes" means water distributed by a group A public water system as defined by RCW 70.119.020, and includes domestic, commercial, and industrial water uses provided as an integral element of the public water system and includes industrial water uses provided on the effective date of this act under RCW 54.16.030 which are included in a comprehensive water system plan. Except as stated above, this definition does not include commercial, industrial, irrigation, or other water systems that are not designated as a public water system for potable water use recognized by a state-approved public water system plan or withdrawals of public ground waters exempt from permit requirements under RCW 90.44.050.*

*(2) For the purposes of RCW 90.14.140, the amount of water held for municipal water supply purposes is limited to the water that is deemed to be an efficient use and that meets the needs of the public water system's service area as determined by plans in RCW 90.03.320. Water uses that are deemed as efficient uses of water are those that are in full compliance with the department of health's conservation guidelines for such systems. This section applies only to those public water systems that are required to develop water conservation plans pursuant to the department of health's conservation guidelines.*

\*Sec. 2 was vetoed. See message at end of chapter.

**Sec. 3.** RCW 90.03.320 and 1987 c 109 s 67 are each amended to read as follows:

Actual construction work shall be commenced on any project for which permit has been granted within such reasonable time as shall be prescribed by the department, and shall thereafter be prosecuted with diligence and completed within the time prescribed by the department. The department, in fixing the time for the commencement of the work, or for the completion thereof and the application of the water to the beneficial use prescribed in the permit, shall take into consideration the cost and magnitude of the project and the engineering and physical features to be encountered, and shall allow such time as shall be reasonable and just under the conditions then existing, having due regard for the public welfare and public interests affected: and, for good cause shown, it shall extend the time or times fixed as aforesaid, and shall grant such further period or periods as may be reasonably necessary, having due regard to the good faith of the applicant and the public interests affected. In fixing construction schedules and the time, or extension of time, for application of water to beneficial use for municipal water supply purposes, the department shall also take into consideration the term and amount of financing required to complete the project, delays that may result from planned and existing conservation and water use efficiency measures implemented by the public water system, and the supply needs of the public water system's service area, consistent with an approved comprehensive plan under chapter 36.70A RCW, or in the absence of such a plan, a county-approved comprehensive plan under chapter 36.70 RCW or a plan approved under chapter 35.63 RCW, and related water demand projections prepared by public water systems in accordance with state law. An existing comprehensive plan under chapter 36.70A or 36.70 RCW, plan under chapter 35.63 RCW, or demand projection may be used. If the terms of the permit or extension thereof, are not complied with the department shall give notice by registered mail that such permit will be canceled unless the holders thereof shall show cause within sixty days why the same should not be so canceled. If cause ((be)) is not shown, ((said)) the permit shall be canceled.

*\*Sec. 4. RCW 90.03.330 and 1987 c 109 s 89 are each amended to read as follows:*

*(1) Upon a showing satisfactory to the department that any appropriation has been perfected in accordance with the provisions of this chapter, it shall be the duty of the department to issue to the applicant a certificate stating such facts in a form to be prescribed by ((him)) the director, and such certificate shall thereupon be recorded with the department.*

*(2) For those public water supplies that fulfill municipal water supply purposes and are designed to accommodate future growth as defined by a state-approved water system plan, the amount of instantaneous diversion or withdrawal considered to be applied to beneficial use at the time of perfection of the certificate shall be based upon the design capacity of the diversion structures and mainlines or withdrawal facilities and mainlines installed at such time. Further, the amount of annual appropriation considered to be applied to beneficial use at the time of perfection shall be based on the growth projection*

**contained in the most current state-approved water system plan. However, the department may not issue a certificate for quantities of water in excess of those contained in a permit if a permit has been issued. This subsection shall apply to the administration of water rights existing on the effective date of this section and prospectively issued water rights, but shall not apply to water rights subject to the terms of final adjudication decrees entered in accordance with this chapter. Withdrawal of ground water shall be in compliance with RCW 90.44.100.**

***(3) Any original water right certificate issued, as provided by this chapter, shall be recorded with the department and thereafter, at the expense of the party receiving the same, be by the department transmitted to the county auditor of the county or counties where the distributing system or any part thereof is located, and be recorded in the office of such county auditor, and thereafter be transmitted to the owner thereof.***

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

Passed the Senate April 23, 1997.

Passed the House April 11, 1997.

Approved by the Governor May 20, 1997, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State May 20, 1997.

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

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

"AN ACT Relating to public water systems;"

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

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

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

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

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

**CHAPTER 446**

[Substitute Senate Bill 5785]

**CONSOLIDATION OF GROUND WATER RIGHTS FOR EXEMPT WELLS**

AN ACT Relating to consolidating ground water rights of exempt wells; and adding a new section to chapter 90.44 RCW.

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

**NEW SECTION.** Sec. 1. A new section is added to chapter 90.44 RCW to read as follows:

Upon the issuance by the department of an amendment to the appropriate permit or certificate of ground water right, the holder of a valid right to withdraw public ground waters may consolidate that right with a ground water right exempt from the permit requirement under RCW 90.44.050, without affecting the priority of either of the water rights being consolidated. Such a consolidation amendment shall be issued only after publication of a notice of the application, a comment period, and a determination made by the department, in lieu of meeting the conditions required for an amendment under RCW 90.44.100, that: (1) The exempt well taps the same body of public ground water as the well to which the water right of the exempt well is to be consolidated; (2) use of the exempt well shall be discontinued upon approval of the consolidation amendment to the permit or certificate; (3) legally enforceable agreements have been entered to prohibit the construction of another exempt well to serve the area previously served by the exempt well to be discontinued, and such agreements are binding upon subsequent owners of the land through appropriate binding limitations on the title to the land; (4) the exempt well or wells the use of which is to be discontinued will be properly decommissioned in accordance with chapter 18.104 RCW and the rules of the department; and (5) other existing rights, including ground and surface water rights and minimum stream flows adopted by rule, shall not be impaired. The notice shall be published by the applicant in a newspaper of general circulation in the county or counties in which the wells for the rights to be consolidated are located once a week for two consecutive weeks. The applicant shall provide evidence of the publication of the notice to the department. The comment period shall be for thirty days beginning on the date the second notice is published.

The amount of the water to be added to the holder's permit or certificate upon discontinuance of the exempt well shall be the average withdrawal from the well, in gallons per day, for the most recent five-year period preceding the date of the application, except that the amount shall not be less than eight hundred gallons per day for each residential connection or such alternative minimum amount as may be established by the department in consultation with the department of health, and shall not exceed five thousand gallons per day. The department shall presume that an amount identified by the applicant as being the average withdrawal from the well during the most recent five-year period is accurate if the applicant establishes that the amount identified for the use or uses of water from the exempt well is

consistent with the average amount of water used for similar use or uses in the general area in which the exempt well is located. The department shall develop, in consultation with the department of health, a schedule of average household and small-area landscaping water usages in various regions of the state to aid the department and applicants in identifying average amounts used for these purposes. The presumption does not apply if the department finds credible evidence of nonuse of the well during the required period or credible evidence that the use of water from the exempt well or the intensity of the use of the land supported by water from the exempt well is substantially different than such uses in the general area in which the exempt well is located. The department shall also accord a presumption in favor of approval of such consolidation if the requirements of this subsection are met and the discontinuance of the exempt well is consistent with an adopted coordinated water system plan under chapter 70.116 RCW, an adopted comprehensive land use plan under chapter 36.70A RCW, or other comprehensive watershed management plan applicable to the area containing an objective of decreasing the number of existing and newly developed small ground water withdrawal wells. The department shall provide a priority to reviewing and deciding upon applications subject to this subsection, and shall make its decision within sixty days of the end of the comment period following publication of the notice by the applicant or within sixty days of the date on which compliance with the state environmental policy act, chapter 43.21C RCW, is completed, whichever is later. The applicant and the department may by prior mutual agreement extend the time for making a decision.

Passed the Senate April 22, 1997.

Passed the House April 10, 1997.

Approved by the Governor May 20, 1997.

Filed in Office of Secretary of State May 20, 1997.

---

## CHAPTER 447

[Substitute Senate Bill 5838]

### ON-SITE SEWAGE DISPOSAL SYSTEMS—ALTERNATIVE FORMATION OF WATER-SEWER DISTRICTS

AN ACT Relating to sewage disposal; amending RCW 35.67.010, 35.67.020, 35.92.020, 36.94.010, 36.94.020, 36.94.140, 57.08.005, 57.08.065, 57.16.010, 57.08.081, and 90.72.040; adding a new section to chapter 70.05 RCW; adding new sections to chapter 70.118 RCW; adding a new section to chapter 57.04 RCW; adding a new section to chapter 35.58 RCW; adding a new section to chapter 35.21 RCW; adding a new section to chapter 53.08; and creating new sections.

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

**NEW SECTION. Sec. 1.** The legislature finds that improperly designed, installed, or maintained on-site sewage disposal systems are a major contributor to water pollution in this state. The legislature also recognizes that evolving technology has produced many viable alternatives to traditional on-site septic systems. It is the purpose of this act to help facilitate the siting of new alternative

on-site septic systems and to assist local governments in promoting efficient operation of on-site septic these systems.

**NEW SECTION.** Sec. 2. A new section is added to chapter 70.05 RCW to read as follows:

(1) The local health officer must respond to the applicant for an on-site sewage system permit within thirty days after receiving a fully completed application. The local health officer must respond that the application is either approved, denied, or pending.

(2) If the local health officer denies an application to install an on-site sewage system, the denial must be for cause and based upon public health and environmental protection concerns, including concerns regarding the ability to operate and maintain the system, or conflicts with other existing laws, regulations, or ordinances. The local health officer must provide the applicant with a written justification for the denial, along with an explanation of the procedure for appeal.

(3) If the local health officer identifies the application as pending and subject to review beyond thirty days, the local health officer must provide the applicant with a written justification that the site-specific conditions or circumstances necessitate a longer time period for a decision on the application. The local health officer must include any specific information necessary to make a decision and the estimated time required for a decision to be made.

(4) A local health officer may not limit the number of alternative sewage systems within his or her jurisdiction without cause. Any such limitation must be based upon public health and environmental protection concerns, including concerns regarding the ability to operate and maintain the system, or conflicts with other existing laws, regulations, or ordinances. If such a limitation is established, the local health officer must justify the limitation in writing, with specific reasons, and must provide an explanation of the procedure for appealing the limitation.

**NEW SECTION.** Sec. 3. A new section is added to chapter 70.118 RCW to read as follows:

The department of health must include one person who is familiar with the operation and maintenance of certified proprietary devices on the technical review committee responsible for evaluating and making recommendations to the department of health regarding the general use of alternative on-site sewage systems in the state.

**NEW SECTION.** Sec. 4. A new section is added to chapter 57.04 RCW to read as follows:

(1) As an alternative means to forming a water-sewer district, a county legislative authority may authorize the formation of a water-sewer district to serve a new development that at the time of formation does not have any residents, at written request of sixty percent of the owners of the area to be included in the proposed district. The county legislative authority shall review the proposed district according to the procedures and criteria in RCW 57.02.040.

(2) The county legislative authority shall appoint the initial water-sewer commissioners of the district. The commissioners shall serve until seventy-five percent of the development is sold and occupied, or until some other time as specified by the county legislative authority when the district is approved. Commissioners serving under this section are not entitled to any form of compensation from the district.

(3) New commissioners shall be elected according to the procedures in chapter 57.12 RCW at the next election held under RCW 29.13.010 that follows more than ninety days after the date seventy-five percent of the development is sold and occupied, or after the time specified by the county legislative authority when the district is approved.

(4) A water-sewer district created under this section may be transferred to a city or county, or dissolved if the district is inactive, by order of the county legislative authority at the written request of sixty percent of the owners of the area included in the district.

**NEW SECTION.** Sec. 5. A new section is added to chapter 70.118 RCW to read as follows:

In order to assure that technical guidelines and standards keep pace with advancing technologies, the department of health in collaboration with the technical review committee, local health departments, and other interested parties, must review and update as appropriate, the state guidelines and standards for alternative on-site sewage disposal every three years. The first review and update must be completed by January 1, 1999.

**NEW SECTION.** Sec. 6. Nothing in sections 2 through 4 of this act may be deemed to eliminate any requirements for approval from public health agencies under applicable law in connection with the siting, design, construction, and repair of on-site septic systems.

Sec. 7. RCW 35.67.010 and 1965 c 110 s 1 are each amended to read as follows:

A "system of sewerage" means and may include((s)) any or all of the following:

(1) Sanitary sewage (~~disposal sewers~~) collection, treatment, and/or disposal facilities and services, on-site or off-site sanitary sewerage facilities, inspection services and maintenance services for public or private on-site systems, or any other means of sewage treatment and disposal approved by the city;

(2) Combined sanitary sewage disposal and storm or surface water sewers;

(3) Storm or surface water sewers;

(4) Outfalls for storm drainage or sanitary sewage and works, plants, and facilities for storm drainage or sanitary sewage treatment and disposal, ~~((or))~~ and rights and interests in property relating to the system;

(5) Combined water and sewerage systems;

(6) Point and nonpoint water pollution monitoring programs that are directly related to the sewerage facilities and programs operated by a city or town;

(7) Public restroom and sanitary facilities; and

(8) Any combination of or part of any or all of such facilities.

The words "public utility" when used in this chapter (~~shall have~~) has the same meaning as the words "system of sewerage."

Sec. 8. RCW 35.67.020 and 1995 c 124 s 3 are each amended to read as follows:

Every city and town may construct, condemn and purchase, acquire, add to, maintain, conduct, and operate systems of sewerage and systems and plants for refuse collection and disposal together with additions, extensions, and betterments thereto, within and without its limits, with full jurisdiction and authority to manage, regulate, and control them and to fix, alter, regulate, and control the rates and charges for their use. The rates charged must be uniform for the same class of customers or service and facilities furnished.

In classifying customers served or service and facilities furnished by such system of sewerage, the city or town legislative body may in its discretion consider any or all of the following factors: (1) The difference in cost of service and facilities to the various customers; (2) the location of the various customers within and without the city or town; (3) the difference in cost of maintenance, operation, repair, and replacement of the various parts of the system; (4) the different character of the service and facilities furnished various customers; (5) the quantity and quality of the sewage delivered and the time of its delivery; (6) the achievement of water conservation goals and the discouragement of wasteful water use practices; (7) capital contributions made to the system, including but not limited to, assessments; (8) the nonprofit public benefit status, as defined in RCW 24.03.490, of the land user; and (9) any other matters which present a reasonable difference as a ground for distinction. 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.

A city or town may provide assistance to aid low-income persons in connection with services provided under this chapter.

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.

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 city or town shall not provide on-site sewage system inspection, pumping services, or other maintenance or repair services under this section using city or town employees unless the on-site system is connected by a publicly owned collection system to the city or town's sewerage system, and the on-site system represents the first step in the sewage disposal process. Nothing in this section shall affect the authority of state or local health officers to carry out their responsibilities under any other applicable law.

Sec. 9. RCW 35.92.020 and 1995 c 124 s 5 are each amended to read as follows:

A city or town may construct, condemn and purchase, purchase, acquire, add to, alter, maintain, and operate systems, plants, sites, or other facilities of sewerage as defined in RCW 35.67.010, or solid waste handling as defined by RCW 70.95.030, and shall have full authority to manage, regulate, operate, control, and to fix the price of service and facilities of those systems, plants, sites, or other facilities within and without the limits of the city or town. The rates charged shall be uniform for the same class of customers or service and facilities. In classifying customers served or service and facilities furnished by a system or systems of sewerage, the legislative authority of the city or town may in its discretion consider any or all of the following factors: (1) The difference in cost of service and facilities to customers; (2) the location of customers within and without the city or town; (3) the difference in cost of maintenance, operation, repair, and replacement of the parts of the system; (4) the different character of the service and facilities furnished to customers; (5) the quantity and quality of the sewage delivered and the time of its delivery; (6) capital contributions made to the systems, plants, sites, or other facilities, including but not limited to, assessments; (7) the nonprofit public benefit status, as defined in RCW 24.03.490, of the land user; and (8) any other factors that present a reasonable difference as a ground for distinction. 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.

A city or town may provide assistance to aid low-income persons in connection with services provided under this chapter.

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.

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 city or town shall not provide on-site sewage system inspection, pumping services, or other maintenance or repair services under this section using city or town employees unless the on-site system is connected by a publicly owned collection system to the city or town's sewerage system, and the on-site system represents the first step in the sewage disposal process. Nothing in this section shall affect the authority of state or local health officers to carry out their responsibilities under any other applicable law.

Sec. 10. RCW 36.94.010 and 1981 c 313 s 14 are each amended to read as follows:

As used in this chapter:

(1) A "system of sewerage" means and may include(\*) any or all of the following:

(a) Sanitary sewage collection, treatment, and/or disposal (~~(sewers and)~~) facilities and services, including without limitation on-site or off-site sanitary sewerage facilities (~~(consisting of an approved septic tank or septic tank systems)~~), inspection services and maintenance services for private or public on-site systems, or any other means of sewage treatment and disposal approved by the county;

(b) Combined sanitary sewage disposal and storm or surface water drains and facilities;

(c) Storm or surface water drains, channels, and facilities;

(d) Outfalls for storm drainage or sanitary sewage and works, plants, and facilities for storm drainage or sanitary sewage treatment and disposal, and rights and interests in property relating to the system;

(e) Combined water and sewerage systems;

(f) Point and nonpoint water pollution monitoring programs that are directly related to the sewerage facilities and programs operated by a county;

(g) Public restroom and sanitary facilities;

(h) The facilities and services authorized in RCW 36.94.020; and

(i) Any combination of or part of any or all of such facilities.

(2) A "system of water" means and includes:

(a) A water distribution system, including dams, reservoirs, aqueducts, plants, pumping stations, transmission and lateral distribution lines and other facilities for distribution of water;

(b) A combined water and sewerage system;

(c) Any combination of or any part of any or all of such facilities.

(3) A "sewerage and/or water general plan" means a general plan for a system of sewerage and/or water for the county which shall be an element of the comprehensive plan established by the county pursuant to RCW 36.70.350(6) and/or chapter 35.63 RCW, if there is such a comprehensive plan.

(a) A sewerage general plan shall include the general location and description of treatment and disposal facilities, trunk and interceptor sewers, pumping stations, monitoring and control facilities, channels, local service areas and a general description of the collection system to serve those areas, a description of on-site

sanitary sewerage system inspection services and maintenance services, and other facilities and services as may be required to provide a functional and implementable plan, including preliminary engineering to assure feasibility. The plan may also include a description of the regulations deemed appropriate to carrying out surface drainage plans.

(b) A water general plan shall include the general location and description of water resources to be utilized, wells, treatment facilities, transmission lines, storage reservoirs, pumping stations, and monitoring and control facilities as may be required to provide a functional and implementable plan.

(c) Water and/or sewerage general plans shall include preliminary engineering in adequate detail to assure technical feasibility and, to the extent then known, shall further discuss the methods of distributing the cost and expense of the system and shall indicate the economic feasibility of plan implementation. The plans may also specify local or lateral facilities and services. The sewerage and/or water general plan does not mean the final engineering construction or financing plans for the system.

(4) "Municipal corporation" means and includes any city, town, metropolitan municipal corporation, any public utility district which operates and maintains a sewer or water system, any sewer, water, diking, or drainage district, any diking, drainage, and sewerage improvement district, and any irrigation district.

(5) A "private utility" means and includes all utilities, both public and private, which provide sewerage and/or water service and which are not municipal corporations within the definition of this chapter. The ownership of a private utility may be in a corporation, nonprofit or for profit, in a cooperative association, in a mutual organization, or in individuals.

(6) "Board" means one or more boards of county commissioners and/or the legislative authority of a home rule charter county.

**Sec. 11.** RCW 36.94.020 and 1981 c 313 s 1 are each amended to read as follows:

The construction, operation, and maintenance of a system of sewerage and/or water is a county purpose. Subject to the provisions of this chapter, every county has the power, individually or in conjunction with another county or counties to adopt, provide for, accept, establish, condemn, purchase, construct, add to, operate, and maintain a system or systems of sanitary and storm sewers, including outfalls, interceptors, plans, and facilities and services necessary for sewerage treatment and disposal, and/or system or systems of water supply within all or a portion of the county(~~:(= PROVIDED, That))~~, However, counties shall not have power to condemn sewerage and/or water systems of any municipal corporation or private utility.

Such county or counties shall have the authority to control, regulate, operate, and manage such system or systems and to provide funds therefor by general obligation bonds, revenue bonds, local improvement district bonds, utility local improvement district or local improvement district assessments, and in any other

lawful fiscal manner. 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.

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.

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 county shall not provide on-site sewage system inspection, pumping services, or other maintenance or repair services under this section using county employees unless the on-site system is connected by a publicly owned collection system to the county's sewerage system, and the on-site system represents the first step in the sewage disposal process. Nothing in this section shall affect the authority of a state or local health officer to carry out their responsibilities under any other applicable law.

A county may, as part of a system of sewerage established under this chapter, provide for, finance, and operate any of the facilities and services and may exercise the powers expressly authorized for county storm water, flood control, pollution prevention, and drainage services and activities under chapters 36.89, 86.12, 86.13, and 86.15 RCW. A county also may provide for, finance, and operate the facilities and services and may exercise any of the powers authorized for aquifer protection areas under chapter 36.36 RCW; for lake management districts under chapter 36.61 RCW; for diking districts, and diking, drainage, and sewerage improvement districts under chapters 85.05, 85.08, 85.15, 85.16, and 85.18 RCW; and for shellfish protection districts under chapter 90.72 RCW. However, if a county by reference to any of those statutes assumes as part of its system of sewerage any powers granted to such areas or districts and not otherwise available to a county under this chapter, then (1) the procedures and restrictions applicable to those areas or districts apply to the county's exercise of those powers, and (2) the county may not simultaneously impose rates and charges under this chapter and under the statutes authorizing such areas or districts for substantially the same facilities and services, but must instead impose uniform rates and charges consistent with RCW 36.94.140. By agreement with such an area or district that is not part of a county's system of sewerage, a county may operate that area's or district's services or facilities, but a county may not dissolve any existing area or district except in

accordance with any applicable provisions of the statute under which that area or district was created.

**Sec. 12.** RCW 36.94.140 and 1995 c 124 s 2 are each amended to read as follows:

Every county, in the operation of a system of sewerage and/or water, shall have full jurisdiction and authority to manage, regulate, and control it and to fix, alter, regulate, and control the rates and charges for the service and facilities to those to whom such ((~~county~~)) service ((~~is~~)) and facilities are available, and to levy charges for connection to the system. The rates for availability of service and facilities, and connection charges so charged must be uniform for the same class of customers or service and facility.

In classifying customers served, service furnished or made available by such system of sewerage and/or water, or the connection charges, the county legislative authority may consider any or all of the following factors:

(1) The difference in cost of service to the various customers within or without the area;

(2) The difference in cost of maintenance, operation, repair and replacement of the various parts of the systems;

(3) The different character of the service and facilities furnished various customers;

(4) The quantity and quality of the sewage and/or water delivered and the time of its delivery;

(5) Capital contributions made to the system or systems, including, but not limited to, assessments;

(6) The cost of acquiring the system or portions of the system in making system improvements necessary for the public health and safety;

(7) The nonprofit public benefit status, as defined in RCW 24.03.490, of the land user; and

(8) Any other matters which present a reasonable difference as a ground for distinction.

A county may provide assistance to aid low-income persons in connection with services provided under this chapter.

The service charges and rates shall produce revenues sufficient to take care of the costs of maintenance and operation, revenue bond and warrant interest and principal amortization requirements, and all other charges necessary for the efficient and proper operation of the system.

**NEW SECTION. Sec. 13.** A new section is added to chapter 35.58 RCW to read as follows:

A metropolitan municipal corporation authorized to perform water pollution abatement may exercise all the powers relating to systems of sewerage authorized by RCW 36.94.010, 36.94.020, and 36.94.140 for counties.

**NEW SECTION. Sec. 14.** A new section is added to chapter 35.21 RCW to read as follows:

The legislative authority of any city or town may exercise all the powers relating to systems of sewerage authorized by RCW 35.67.010 and 35.67.020.

**NEW SECTION. Sec. 15.** A new section is added to chapter 53.08 RCW to read as follows:

A port district may exercise all the powers relating to systems of sewerage authorized by RCW 35.67.010 and 35.67.020 for cities and towns.

**Sec. 16.** RCW 57.08.005 and 1996 c 230 s 301 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 and for the protection, preservation, and rehabilitation of surface and underground waters, facilities for the drainage and treatment of storm or surface waters, public highways, streets, and roads 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, treatment, or drainage 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, treatment, or drainage. 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, treatment, or drainage 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) To construct, condemn, acquire, and own buildings and other necessary district facilities;

(7) 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;

(8) 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;

(9) To fix rates and charges for water, sewer, and drain service supplied and to charge property owners seeking to connect to the district's systems, as a condition to granting the right to so connect, in addition to the cost of the connection, such reasonable connection charge as the board of commissioners shall determine to be proper in order that those property owners shall bear their equitable share of the cost of the system. For the purposes of calculating a connection charge, the board of commissioners shall determine the pro rata share of the cost of existing facilities and facilities planned for construction within the next ten years and contained in an adopted comprehensive plan and other costs borne by the district which are directly attributable to the improvements required by property owners seeking to connect to the system. The cost of existing facilities shall not include those portions of the system which have been donated or which have been paid for by grants. The connection charge may include interest charges applied from the date of construction of the system until the connection, or for a period not to exceed ten years, whichever is shorter, at a rate commensurate with the rate of interest applicable to the district at the time of construction or major rehabilitation of the system, or at the time of installation of the lines to which the property owner is seeking to connect. A district may permit payment of the cost of connection and the reasonable connection charge to be paid with interest in installments over a

period not exceeding fifteen years. The county treasurer may charge and collect a fee of three dollars for each year for the treasurer's services. Those fees shall be a charge to be included as part of each annual installment, and shall be credited to the county current expense fund by the county treasurer. Revenues from connection charges excluding permit fees are to be considered payments in aid of construction as defined by department of revenue rule. Rates or charges for on-site inspection and maintenance services may not be imposed under this chapter on the development, construction, or reconstruction of property.

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

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

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

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

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

(12) 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;

(13) To sue and be sued;

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

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

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

(17) 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;

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

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

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

**Sec. 17.** RCW 57.08.065 and 1996 c 230 s 313 are each amended to read as follows:

(1) A district shall have power to establish, maintain, and operate a mutual water, ((sewer)) sewerage, drainage, and street lighting system, a mutual system of any two or three of the systems, or separate systems.

(2) Where any two or more districts include the same territory as of July 1, 1997, none of the overlapping districts may provide any service that was made available by any of the other districts prior to July 1, 1997, within the overlapping territory without the consent by resolution of the board of commissioners of the other district or districts.

(3) A district that was a water district prior to July 1, 1997, that did not operate a ((sewer)) system of sewerage prior to July 1, 1997, may not proceed to exercise the powers to establish, maintain, construct, and operate any ((sewer)) system of sewerage without first obtaining written approval and certification of necessity from the department of ecology and department of health. Any comprehensive plan for a system of sewers or addition thereto or betterment thereof proposed by a district that was a water district prior to July 1, 1997, shall be approved by the same county and state officials as were required to approve such plans adopted by a sewer district immediately prior to July 1, 1997, and as subsequently may be required.

**Sec. 18.** RCW 57.16.010 and 1996 c 230 s 501 are each amended to read as follows:

Before ordering any improvements or submitting to vote any proposition for incurring any indebtedness, the district commissioners shall adopt a general comprehensive plan for the type or types of facilities the district proposes to provide. A district may prepare a separate general comprehensive plan for each of these services and other services that districts are permitted to provide, or the district may combine any or all of its comprehensive plans into a single general comprehensive plan.

(1) For a general comprehensive plan of a water supply system, the commissioners shall investigate the several portions and sections of the district for the purpose of determining the present and reasonably foreseeable future needs thereof; shall examine and investigate, determine, and select a water supply or water supplies for such district suitable and adequate for present and reasonably

foreseeable future needs thereof; and shall consider and determine a general system or plan for acquiring such water supply or water supplies, and the lands, waters, and water rights and easements necessary therefor, and for retaining and storing any such waters, and erecting dams, reservoirs, aqueducts, and pipe lines to convey the same throughout such district. There may be included as part of the system the installation of fire hydrants at suitable places throughout the district. The commissioners shall determine a general comprehensive plan for distributing such water throughout such portion of the district as may then reasonably be served by means of subsidiary aqueducts and pipe lines, and a long-term plan for financing the planned projects and the method of distributing the cost and expense thereof, including the creation of local improvement districts or utility local improvement districts, and shall determine whether the whole or part of the cost and expenses shall be paid from revenue or general obligation bonds.

(2) For a general comprehensive plan for a sewer system, the commissioners shall investigate all portions and sections of the district and select a general comprehensive plan for a sewer system for the district suitable and adequate for present and reasonably foreseeable future needs thereof. The general comprehensive plan shall provide for treatment plants and other methods and services, if any, for the prevention, control, and reduction of water pollution and for the treatment and disposal of sewage and industrial and other liquid wastes now produced or which may reasonably be expected to be produced within the district and shall, for such portions of the district as may then reasonably be served, provide for the acquisition or construction and installation of laterals, trunk sewers, intercepting sewers, syphons, pumping stations or other sewage collection facilities, septic tanks, septic tank systems or drainfields, and systems for the transmission and treatment of wastewater. The general comprehensive plan shall provide a long-term plan for financing the planned projects and the method of distributing the cost and expense of the sewer system and services, including the creation of local improvement districts or utility local improvement districts; and provide whether the whole or some part of the cost and expenses shall be paid from revenue or general obligation bonds.

(3) For a general comprehensive plan for a drainage system, the commissioners shall investigate all portions and sections of the district and adopt a general comprehensive plan for a drainage system for the district suitable and adequate for present and future needs thereof. The general comprehensive plan shall provide for a system to collect, treat, and dispose of storm water or surface waters, including use of natural systems and the construction or provision of culverts, storm water pipes, ponds, and other systems. The general comprehensive plan shall provide for a long-term plan for financing the planned projects and provide for a method of distributing the cost and expense of the drainage system, including local improvement districts or utility local improvement districts, and provide whether the whole or some part of the cost and expenses shall be paid from revenue or general obligation bonds.

(4) For a general comprehensive plan for street lighting, the commissioners shall investigate all portions and sections of the district and adopt a general comprehensive plan for street lighting for the district suitable and adequate for present and future needs thereof. The general comprehensive plan shall provide for a system or systems of street lighting, provide for a long-term plan for financing the planned projects, and provide for a method of distributing the cost and expense of the street lighting system, including local improvement districts or utility local improvement districts, and provide whether the whole or some part of the cost and expenses shall be paid from revenue or general obligation bonds.

(5) The commissioners may employ such engineering and legal service as in their discretion is necessary in carrying out their duties.

(6) Any general comprehensive plan or plans shall be adopted by resolution and submitted to an engineer designated by the legislative authority of the county in which fifty-one percent or more of the area of the district is located, and to the director of health of the county in which the district or any portion thereof is located, and must be approved in writing by the engineer and director of health, except that a comprehensive plan relating to street lighting shall not be submitted to or approved by the director of health. The general comprehensive plan shall be approved, conditionally approved, or rejected by the director of health and by the designated engineer within sixty days of their respective receipt of the plan. However, this sixty-day time limitation may be extended by the director of health or engineer for up to an additional sixty days if sufficient time is not available to review adequately the general comprehensive plans.

Before becoming effective, the general comprehensive plan shall also be submitted to, and approved by resolution of, the legislative authority of every county within whose boundaries all or a portion of the district lies. The general comprehensive plan shall be approved, conditionally approved, or rejected by each of the county legislative authorities pursuant to the criteria in RCW 57.02.040 for approving the formation, reorganization, annexation, consolidation, or merger of districts. The resolution, ordinance, or motion of the legislative body that rejects the comprehensive plan or a part thereof shall specifically state in what particular the comprehensive plan or part thereof rejected fails to meet these criteria. The general comprehensive plan shall not provide for the extension or location of facilities that are inconsistent with the requirements of RCW 36.70A.110. Nothing in this chapter shall preclude a county from rejecting a proposed plan because it is in conflict with the criteria in RCW 57.02.040. Each general comprehensive plan shall be deemed approved if the county legislative authority fails to reject or conditionally approve the plan within ninety days of the plan's submission to the county legislative authority or within thirty days of a hearing on the plan when the hearing is held within ninety days of submission to the county legislative authority. However, a county legislative authority may extend this ninety-day time limitation by up to an additional ninety days where a finding is made that ninety days is insufficient to review adequately the general comprehensive plan. In addition, the

commissioners and the county legislative authority may mutually agree to an extension of the deadlines in this section.

If the district includes portions or all of one or more cities or towns, the general comprehensive plan shall be submitted also to, and approved by resolution of, the legislative authorities of the cities and towns before becoming effective. The general comprehensive plan shall be deemed approved by the city or town legislative authority if the city or town legislative authority fails to reject or conditionally approve the plan within ninety days of the plan's submission to the city or town or within thirty days of a hearing on the plan when the hearing is held within ninety days of submission to the county legislative authority. However, a city or town legislative authority may extend this time limitation by up to an additional ninety days where a finding is made that insufficient time exists to adequately review the general comprehensive plan within these time limitations. In addition, the commissioners and the city or town legislative authority may mutually agree to an extension of the deadlines in this section.

Before becoming effective, the general comprehensive plan shall be approved by any state agency whose approval may be required by applicable law. Before becoming effective, any amendment to, alteration of, or addition to, a general comprehensive plan shall also be subject to such approval as if it were a new general comprehensive plan. However, only if the amendment, alteration, or addition affects a particular city or town, shall the amendment, alteration, or addition be subject to approval by such particular city or town governing body.

**Sec. 19.** RCW 57.08.081 and 1996 c 230 s 314 are each amended to read as follows:

The commissioners of any district shall provide for revenues by fixing rates and charges for furnishing sewer and drainage service and facilities to those to whom service is available or for providing water, such rates and charges to be fixed as deemed necessary by the commissioners, so that uniform charges will be made for the same class of customer or service and facility. Rates and charges may be combined for the furnishing of more than one type of sewer service(;) and facility such as but not limited to storm or surface water and sanitary.

In classifying customers of such water, sewer, or drainage system, the board of commissioners may in its discretion consider any or all of the following factors: The difference in cost (~~of service~~) to various customers; the location of the various customers within and without the district; the difference in cost of maintenance, operation, repair, and replacement of the various parts of the system; the different character of the service furnished various customers; the quantity and quality of the service and facility furnished; the time of its use; the achievement of water conservation goals and the discouragement of wasteful practices; capital contributions made to the system including but not limited to assessments; and any other matters which present a reasonable difference as a ground for distinction. Rates shall be established as deemed proper by the commissioners and as fixed by resolution and shall produce revenues sufficient to take care of the costs of

maintenance and operation, revenue bond and warrant interest and principal amortization requirements, and all other charges necessary for efficient and proper operation of the system.

The commissioners shall enforce collection of connection charges, and rates and charges for water supplied against property owners connecting with the system or receiving such water, and for sewer and drainage services charged against property to which and its owners to whom the service is available, such charges being deemed charges against the property served, by addition of penalties of not more than ten percent thereof in case of failure to pay the charges at times fixed by resolution. The commissioners may provide by resolution that where either connection charges or rates and charges for services supplied are delinquent for any specified period of time, the district shall certify the delinquencies to the treasurer of the county in which the real property is located, and the charges and any penalties added thereto and interest thereon at the rate of not more than the prime lending rate of the district's bank plus four percentage points per year shall be a lien against the property upon which the service was received, subject only to the lien for general taxes.

The district may, at any time after the connection charges or rates and charges for services supplied or available and penalties are delinquent for a period of sixty days, bring suit in foreclosure by civil action in the superior court of the county in which the real property is located. The court may allow, in addition to the costs and disbursements provided by statute, attorneys' fees, title search and report costs, and expenses as it adjudges reasonable. The action shall be in rem, and may be brought in the name of the district against an individual or against all of those who are delinquent in one action. The laws and rules of the court shall control as in other civil actions.

In addition to the right to foreclose provided in this section, the district may also cut off all or part of the service after charges for water or sewer service supplied or available are delinquent for a period of sixty days.

**See. 20.** RCW 90.72.040 and 1992 c 100 s 3 are each amended to read as follows:

(1) The county legislative authority may create a shellfish protection district on its own motion or by submitting the question to the voters of the proposed district and obtaining the approval of a majority of those voting. The boundaries of the district shall be determined by the legislative authority. The legislative authority may create more than one district. A district may include any area or areas within the county, whether incorporated or unincorporated. Counties shall coordinate and cooperate with cities, towns, and water-related special districts within their boundaries in establishing shellfish protection districts and carrying out shellfish protection programs. Where a portion of the proposed district lies within an incorporated area, the county shall develop procedures for the participation of the city or town in the determination of the boundaries of the district and the administration of the district, including funding of the district's programs. The

legislative authority of more than one county may by agreement provide for the creation of a district including areas within each of those counties. County legislative authorities are encouraged to coordinate their plans and programs to protect shellfish growing areas, especially where shellfish growing areas are located within the boundaries of more than one county. The legislative authority or authorities creating a district may abolish a shellfish protection district on its or their own motion or by submitting the question to the voters of the district and obtaining the approval of a majority of those voting.

(2) If the county legislative authority creates a shellfish protection district by its own motion, any registered voter residing within the boundaries of the shellfish protection district may file a referendum petition to repeal the ordinance that created the district. Any referendum petition to repeal the ordinance creating the shellfish protection district shall be filed with the county auditor within seven days of passage of the ordinance. Within ten days of the filing of a petition, the county auditor shall confer with the petitioner concerning form and style of the petition, issue an identification number for the petition, and write a ballot title for the measure. The ballot title shall be posed as a question so that an affirmative answer to the question and an affirmative vote on the measure results in creation of the shellfish protection district and a negative answer to the question and a negative vote on the measure results in the shellfish protection district not being created. The petitioner shall be notified of the identification number and ballot title within this ten-day period.

After this notification, the petitioner shall have thirty days in which to secure on petition forms the signatures of not less than twenty-five percent of the registered voters residing within the boundaries of the shellfish protection district and file the signed petitions with the county auditor. Each petition form shall contain the ballot title and full text of the measure to be referred. The county auditor shall verify the sufficiency of the signatures on the petitions. If sufficient valid signatures are properly submitted, the county auditor shall submit the referendum measure to the registered voters residing in the shellfish protection district in a special election no later than one hundred twenty days after the signed petition has been filed with the county auditor. The special election may be conducted by mail ballot as provided for in chapter 29.36 RCW.

(3) The county legislative authority shall not impose fees, rates, or charges for shellfish protection district programs upon properties on which fees, rates, or charges are imposed ~~((to pay for another program to eliminate or decrease contamination in storm water runoff))~~ under chapter 36.89 or 36.94 RCW for substantially the same programs and services.

**NEW SECTION. Sec. 21.** (1) The department of health shall convene a work group for the purpose of making recommendations to the legislature for the development of a certification program for different classes of people involved with on-site septic systems. The work group shall study certification of persons who pump, install, design, perform maintenance, inspect, or regulate any of the

above listed functions with regard to on-site septic systems. The work group shall make recommendations regarding appropriate bonding levels and other standards for the various occupations for which certification will be recommended. The work group shall also examine the development of a risk analysis pertaining to the installation and maintenance of different types of septic systems for different parts of the state. The work group shall report its findings and recommendations to the senate agriculture and environment committee and the house of representatives agriculture and ecology committee by January 1, 1998.

(2) The work group shall consist of a representative from each of the following groups: On-site septic system pumpers, installers, designers, maintenance operators, and inspectors, as well as a representative of cities, counties, the department of health, engineers, residential construction, the Puget Sound water quality action team, public utility districts, water-sewer districts, and two members from the general public. The members of the work group shall be appointed by the governor. The representative of the department of health shall serve as the chair of the work group. Staff support for the work group shall be provided by the department of health.

Passed the Senate April 19, 1997.

Passed the House April 14, 1997.

Approved by the Governor May 20, 1997.

Filed in Office of Secretary of State May 20, 1997.

## CHAPTER 448

[Substitute House Bill 1826]

### ADMINISTRATION OF MONEYS DERIVED FROM PUBLIC LANDS

AN ACT Relating to the moneys derived from public lands managed by the commissioner of public lands; amending RCW 76.12.030 and 79.01.744; and reenacting and amending RCW 76.12.120.

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

*\*Sec. 1. RCW 76.12.030 and 1991 c 363 s 151 are each amended to read as follows:*

*If any land acquired by a county through foreclosure of tax liens, or otherwise, comes within the classification of land described in RCW 76.12.020 and can be used as state forest land and if the department deems such land necessary for the purposes of this chapter, the county shall, upon demand by the department, deed such land to the department and the land shall become a part of the state forest lands.*

*Such land shall be held in trust and administered and protected by the department as other state forest lands. Any moneys derived from the lease of such land or from the sale of forest products, oils, gases, coal, minerals, or fossils therefrom, shall be distributed as follows:*

*(1) The expense incurred by the state for administration, reforestation, and protection, not to exceed ((twenty-five)) twenty-two percent, which rate of*

*percentage shall be determined by the board of natural resources, shall be returned to the forest development account in the state general fund. By June 30th of each year, the board of natural resources must establish the percentage and a budget for the following fiscal year in such a manner that the balance in the account does not exceed the amount necessary for six months of operating expenses for administration, reforestation, and protection. The board of natural resources must set the level of the balance of the account in cooperation with the counties that have forest board transfer lands.*

*(2) Any balance remaining after the distribution under subsection (1) of this section shall be paid to the county in which the land is located to be paid, distributed, and prorated, except as hereinafter provided, to the various funds in the same manner as general taxes are paid and distributed during the year of payment(~~((:—PROVIDED, That))~~). Within seven working days of receipt of these moneys, the department shall certify to the state treasurer the amounts to be distributed to the counties. The state treasurer shall distribute funds to the counties four times per month, with no more than ten days between each payment date. Any such balance remaining paid to a county with a population of less than nine thousand shall first be applied to the reduction of any indebtedness existing in the current expense fund of such county during the year of payment.*

\*Sec. 1 was vetoed. See message at end of chapter.

\*Sec. 2. RCW 76.12.120 and 1988 c 128 s 32 and 1988 c 70 s 1 are each reenacted and amended to read as follows:

*All land, acquired or designated by the department as state forest land, shall be forever reserved from sale, but the timber and other products thereon may be sold or the land may be leased in the same manner and for the same purposes as is authorized for state granted land if the department finds such sale or lease to be in the best financial interests of the (~~(state and approves the terms and conditions thereof)~~) respective county trust beneficiaries.*

*Except as provided in RCW 79.12.035, all money derived from the sale of timber or other products, or from lease, or from any other source from the land, except where the Constitution of this state or RCW 76.12.030 requires other disposition, shall be disposed of as follows:*

*(1) Fifty percent shall be placed in the forest development account.*

*(2) Fifty percent shall be prorated and distributed to the state general fund, to be dedicated for the benefit of the public schools, and the county in which the land is located according to the relative proportions of tax levies of all taxing districts in the county. The portion to be distributed to the state general fund shall be based on the regular school levy rate under RCW 84.52.065 as now or hereafter amended and the levy rate for any maintenance and operation special school levies. With regard to the portion to be distributed to the counties, the department shall certify to the state treasurer the amounts to be distributed within seven working days of receipt of the money. The state treasurer shall*

**distribute funds to the counties four times per month, with no more than ten days between each payment date. The money distributed to the county shall be paid, distributed, and prorated to the various other funds in the same manner as general taxes are paid and distributed during the year of payment.**

\*Sec. 2 was vetoed. See message at end of chapter.

**Sec. 3.** RCW 79.01.744 and 1987 c 505 s 76 are each amended to read as follows:

(1) It shall be the duty of the commissioner of public lands to report, and recommend, to each session of the legislature, any changes in the law relating to the methods of handling the public lands of the state that he may deem advisable.

(2) The commissioner of public lands shall provide a comprehensive biennial report to reflect the previous fiscal period. The report shall include, but not be limited to, description: of all department activities including: Revenues generated, program costs, capital expenditures, personnel, special projects, new and ongoing research, environmental controls, cooperative projects, intergovernmental agreements, the adopted sustainable harvest compared to the sales program, and outlines of ongoing litigation, recent court decisions and orders on major issues with the potential for state liability. The report shall describe the status of the resources managed and the recreational and commercial utilization. The report shall be given to the chairs of the house and senate committees on ways and means and the house and senate committees on natural resources, including one copy to the staff of each of the committees, and shall be made available to the public.

**(3) The commissioner of public lands shall provide annual reports to the respective trust beneficiaries, including each county. The report shall include, but not be limited to, the following: Acres sold, acres harvested, volume from those acres, acres planted, number of stems per acre, acres precommercially thinned, acres commercially thinned, acres partially cut, acres clear cut, age of final rotation for acres clear cut, and the total number of acres off base for harvest and an explanation of why those acres are off base for harvest.**

Passed the House April 21, 1997.

Passed the Senate April 15, 1997.

Approved by the Governor May 20, 1997, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State May 20, 1997.

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

"I am returning herewith, without my approval as to sections 1 and 2, Substitute House Bill No. 1826 entitled:

"AN ACT Relating to the moneys derived from public lands managed by the commissioner of public lands;"

Substitute House Bill No. 1826 makes changes to the management of state Forest Board Lands. I have concerns about two sections.

Section 1 reduces the maximum percentage of revenue from state Forest Board Lands that can be retained in the Forest Development Account (FDA) from 25 percent to 22 percent. In addition, the Board of Natural Resources is to establish a budget that maintains no greater than six months' operating expenses for the FDA. This would result in a one-

time windfall of approximately \$19 million to the trust beneficiaries in Fiscal Year 1999. However, by Fiscal Year 2001 revenues would not be able to keep pace with current agency management activities. This provision would limit current and future revenue generating abilities. The Board of Natural Resources has already reduced the percentage of revenue retained by the FDA to 22 percent. It is preferable to allow the Board of Natural Resources to retain management flexibility.

Section 2 changes the management objectives for state Forest Board Lands from the best interest of the state to the best financial interest of the respective county trust beneficiaries. This is a fundamental change in state policy. Although counties do receive significant financial benefit from these lands, local schools and the state General Fund also receive revenue from these lands. These changes are not in the best interests of the citizens of our state.

For these reasons, I have vetoed sections 1 and 2 of Substitute House Bill No. 1826.

With the exception of sections 1 and 2, Substitute House Bill No. 1826 is approved."

## CHAPTER 449

[Engrossed Substitute House Bill 2096]

### OIL SPILL PREVENTION PROGRAM CONSOLIDATION

AN ACT Relating to consolidating and funding of the state's oil spill prevention programs within the department of ecology; amending RCW 43.211.005, 82.23B.020, and 90.56.510; creating new sections; providing an effective date; providing an expiration date; and declaring an emergency.

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

Sec. 1. RCW 43.211.005 and 1991 c 200 s 401 are each amended to read as follows:

(1) The legislature declares that Washington's waters have irreplaceable value for the citizens of the state. These waters are vital habitat for numerous and diverse marine life and wildlife and the source of recreation, aesthetic pleasure, and pride for Washington's citizens. These waters are also vital for much of Washington's economic vitality.

The legislature finds that the transportation of oil on these waters creates a great potential hazard to these important natural resources. The legislature also finds that there is no state agency responsible for maritime safety to ensure this state's interest in preserving these resources.

The legislature therefore finds that in order to protect these waters it is necessary to establish an office of marine safety which will have the responsibility to promote the safety of marine transportation in Washington.

(2) The legislature finds that adequate funding is necessary for the state to continue its priority focus on the prevention of oil spills, as well as maintain a strong oil spill response, planning, and environmental restoration capability. The legislature further finds that long-term environmental health of the state's waters depends upon the strength and vitality of its oil spill prevention and response program that fosters planning, coordination, and incident command. To that end, the merger of the office of marine safety with the department of ecology shall: Ensure coordination via streamlining the marine safety functions of two agencies into one; provide a focused prevention and response program under a single administration; generate efficient incident command response capability and

continue to meet the challenges threatening marine safety and the environment; and increase accountability to the public, the executive branch, and the legislature.

(3) It is the intent of the legislature that the state's oil spill prevention, response, planning, and environmental restoration activities be sufficiently funded to maintain a strong prevention and response program. It is further the intent of the legislature that the merger of the office of marine safety with the department of ecology be accomplished in an organizational manner that maintains a priority focus and position for the oil spill prevention and response program. The merger shall allow for ready identification of the program by the public and ensure no diminution in the state's commitment to marine safety and environmental protection as follows:

(a) The director of the department of ecology shall consolidate all of the agency's oil spill prevention, planning, and response programs and personnel into a division or equivalent unit of organization within the department. The division shall be managed by a single administrator who is an assistant director or person of equivalent status in the department's organization. The administrator shall report directly to the director.

(b) The consolidated oil spill program unit within the department shall maintain prevention of oil spills as a specific program.

(c) The department shall identify and participate in resolving threats to safety of marine transportation and the impact of marine transportation on the environment.

Sec. 2. RCW 82.23B.020 and 1995 c 399 s 214 are each amended to read as follows:

(1) An oil spill response tax is imposed on the privilege of receiving crude oil or petroleum products at a marine terminal within this state from a waterborne vessel or barge operating on the navigable waters of this state. The tax imposed in this section is levied upon the owner of the crude oil or petroleum products immediately after receipt of the same into the storage tanks of a marine terminal from a waterborne vessel or barge at the rate of ~~((two))~~ one cent~~((s))~~ per barrel of crude oil or petroleum product received.

(2) In addition to the tax imposed in subsection (1) of this section, an oil spill administration tax is imposed on the privilege of receiving crude oil or petroleum products at a marine terminal within this state from a waterborne vessel or barge operating on the navigable waters of this state. The tax imposed in this section is levied upon the owner of the crude oil or petroleum products immediately after receipt of the same into the storage tanks of a marine terminal from a waterborne vessel or barge at the rate of ~~((three))~~ four cents per barrel of crude oil or petroleum product.

(3) The taxes imposed by this chapter shall be collected by the marine terminal operator from the taxpayer. If any person charged with collecting the taxes fails to bill the taxpayer for the taxes, or in the alternative has not notified the taxpayer in writing of the imposition of the taxes, or having collected the taxes, fails to pay

them to the department in the manner prescribed by this chapter, whether such failure is the result of the person's own acts or the result of acts or conditions beyond the person's control, he or she shall, nevertheless, be personally liable to the state for the amount of the taxes. Payment of the taxes by the owner to a marine terminal operator shall relieve the owner from further liability for the taxes.

(4) Taxes collected under this chapter shall be held in trust until paid to the department. Any person collecting the taxes who appropriates or converts the taxes collected shall be guilty of a gross misdemeanor if the money required to be collected is not available for payment on the date payment is due. The taxes required by this chapter to be collected shall be stated separately from other charges made by the marine terminal operator in any invoice or other statement of account provided to the taxpayer.

(5) If a taxpayer fails to pay the taxes imposed by this chapter to the person charged with collection of the taxes and the person charged with collection fails to pay the taxes to the department, the department may, in its discretion, proceed directly against the taxpayer for collection of the taxes.

(6) The taxes shall be due from the marine terminal operator, along with reports and returns on forms prescribed by the department, within twenty-five days after the end of the month in which the taxable activity occurs.

(7) The amount of taxes, until paid by the taxpayer to the marine terminal operator or to the department, shall constitute a debt from the taxpayer to the marine terminal operator. Any person required to collect the taxes under this chapter who, with intent to violate the provisions of this chapter, fails or refuses to do so as required and any taxpayer who refuses to pay any taxes due under this chapter, shall be guilty of a misdemeanor as provided in chapter 9A.20 RCW.

(8) Upon prior approval of the department, the taxpayer may pay the taxes imposed by this chapter directly to the department. The department shall give its approval for direct payment under this section whenever it appears, in the department's judgment, that direct payment will enhance the administration of the taxes imposed under this chapter. The department shall provide by rule for the issuance of a direct payment certificate to any taxpayer qualifying for direct payment of the taxes. Good faith acceptance of a direct payment certificate by a terminal operator shall relieve the marine terminal operator from any liability for the collection or payment of the taxes imposed under this chapter.

(9) All receipts from the tax imposed in subsection (1) of this section shall be deposited into the state oil spill response account. All receipts from the tax imposed in subsection (2) of this section shall be deposited into the oil spill administration account.

(10) Within forty-five days after the end of each calendar quarter, the office of financial management shall determine the balance of the oil spill response account as of the last day of that calendar quarter. Balance determinations by the office of financial management under this section are final and shall not be used to challenge the validity of any tax imposed under this chapter. The office of

financial management shall promptly notify the departments of revenue and ecology of the account balance once a determination is made. For each subsequent calendar quarter, the tax imposed by subsection (1) of this section shall be imposed during the entire calendar quarter unless:

(a) Tax was imposed under subsection (1) of this section during the immediately preceding calendar quarter, and the most recent quarterly balance is more than ~~((twenty-five))~~ ten million dollars; or

(b) Tax was not imposed under subsection (1) of this section during the immediately preceding calendar quarter, and the most recent quarterly balance is more than ~~((fifteen))~~ nine million dollars.

~~((11) The office of marine safety, the department of revenue, and the department of community, trade, and economic development shall study tax credits for taxpayers employing vessels with the best achievable technology and the best available protection to reduce the risk of oil spills to the navigable waters of the state and submit the study to the appropriate standing committees of the legislature by December 1, 1992.))~~

**Sec. 3.** RCW 90.56.510 and 1995 2nd sp.s. c 14 s 525 are each amended to read as follows:

(1) The oil spill administration account is created in the state treasury. All receipts from RCW 82.23B.020(2) shall be deposited in the account. Moneys from the account may be spent only after appropriation. The account is subject to allotment procedures under chapter 43.88 RCW. ~~((On July 1 of each odd-numbered year, if receipts deposited in the account from the tax imposed by RCW 82.23B.020(2) for the previous fiscal biennium exceed the amount appropriated from the account for the previous fiscal biennium, the state treasurer shall transfer the amount of receipts exceeding the appropriation to the oil spill response account.))~~ If, on the first day of any calendar month, the balance of the oil spill response account is greater than ~~((twenty-five))~~ ten million dollars and the balance of the oil spill administration account exceeds the unexpended appropriation for the current biennium, then the tax under RCW 82.23B.020(2) shall be suspended on the first day of the next calendar month until the beginning of the following biennium, provided that the tax shall not be suspended during the last six months of the biennium. If the tax imposed under RCW 82.23B.020(2) is suspended during two consecutive biennia, the department shall by November 1st after the end of the second biennium, recommend to the appropriate standing committees an adjustment in the tax rate. For the biennium ending June 30, 1997, the state treasurer may transfer up to \$1,718,000 from the oil spill response account to the oil spill administration account to support appropriations made from the oil spill administration account in the omnibus and transportation appropriations acts adopted not later than June 30, 1997.

(2) Expenditures from the oil spill administration account shall be used exclusively for the administrative costs related to the purposes of this chapter, and chapters 90.48, 88.40, and 88.46 RCW. Starting with the 1995-1997 biennium, the

legislature shall give activities of state agencies related to prevention of oil spills priority in funding from the oil spill administration account. Costs of administration include the costs of:

- (a) Routine responses not covered under RCW 90.56.500;
- (b) Management and staff development activities;
- (c) Development of rules and policies and the state-wide plan provided for in RCW 90.56.060;
- (d) Facility and vessel plan review and approval, drills, inspections, investigations, enforcement, and litigation;
- (e) Interagency coordination and public outreach and education;
- (f) Collection and administration of the tax provided for in chapter 82.23B RCW; and
- (g) Appropriate travel, goods and services, contracts, and equipment.

**NEW SECTION.** Sec. 4. All employees of the office of marine safety are transferred to the jurisdiction of the department of ecology. All employees classified under chapter 41.06 RCW, the state civil service law, are assigned to the department of ecology to perform their usual duties upon the same terms as formerly, without any loss of rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing state civil service.

**NEW SECTION.** Sec. 5. (1) An oil spill prevention and response advisory committee is created within the department of ecology. The committee shall consist of eleven members as follows: Four legislators, one from each caucus; one member each to represent pilots licensed under chapter 88.16 RCW, the marine oil transportation industry, the marine cargo transportation industry, the fishing industry, the shellfish industry, an environmental organization, and the department of ecology. The member representing the department of ecology shall be an ex-officio member. Legislative members shall be appointed by the speaker of the house of representatives or the president of the senate, as appropriate. The director of the department of ecology shall appoint all other members.

(2) By December 1, 1998, the committee shall submit a report to the appropriate standing committees of the legislature evaluating the merger of the functions of the office of marine safety into the department of ecology.

(3) This section expires June 30, 1999.

**NEW SECTION.** Sec. 6. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 1997.

Passed the House April 21, 1997.

Passed the Senate April 14, 1997.

Approved by the Governor May 20, 1997.

Filed in Office of Secretary of State May 20, 1997.

## CHAPTER 450

[Engrossed Second Substitute Senate Bill 5074]

## WAREHOUSE AND GRAIN ELEVATOR OPERATIONS TAX EXEMPTIONS

AN ACT Relating to increasing interstate trade through tax incentives for warehouse and grain elevator operations; amending RCW 81.104.170; adding a new section to chapter 82.08 RCW; adding a new section to chapter 82.12 RCW; adding a new section to chapter 82.14 RCW; creating new sections; and declaring an emergency.

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

**NEW SECTION.** Sec. 1. The legislature finds that the state's overall economic health and prosperity is bolstered through tax incentives targeted to specific industries. The warehouse and distribution industry is critical to other businesses. The transportation sector, the retail sector, the ports, and the wholesalers all rely on the warehouse and distribution industry. It is the intent of the legislature to stimulate interstate trade by providing tax incentives to those persons in the warehouse and distribution industry engaged in highly competitive trade.

**NEW SECTION.** Sec. 2. A new section is added to chapter 82.08 RCW to read as follows:

(1) Wholesalers or third-party warehouse owners who own or operate warehouses or grain elevators and retailers who own or operate distribution centers, and who have paid the tax levied by RCW 82.08.020 on:

(a) Material-handling and racking equipment, and labor and services rendered in respect to installing, repairing, cleaning, altering, or improving the equipment; or

(b) Construction of a warehouse or grain elevator, including materials, and including service and labor costs, are eligible for an exemption in the form of a remittance. The amount of the remittance is computed under subsection (3) of this section and is based on the state share of sales tax.

(2) For purposes of this section and section 3 of this act:

(a) "Agricultural products" has the meaning given in RCW 82.04.213;

(b) "Construction" means the actual construction of a warehouse or grain elevator that did not exist before the construction began. "Construction" includes expansion if the expansion adds at least two hundred thousand square feet of additional space to an existing warehouse or additional storage capacity of at least one million bushels to an existing grain elevator. "Construction" does not include renovation, remodeling, or repair;

(c) "Department" means the department of revenue;

(d) "Distribution center" means a warehouse that is used exclusively by a retailer solely for the storage and distribution of finished goods to retail outlets of the retailer. "Distribution center" does not include a warehouse at which retail sales occur;

(e) "Finished goods" means tangible personal property intended for sale by a retailer or wholesaler. "Finished goods" does not include agricultural products

stored by wholesalers, third-party warehouses, or retailers if the storage takes place on the land of the person who produced the agricultural product. "Finished goods" does not include logs, minerals, petroleum, gas, or other extracted products stored as raw materials or in bulk;

(f) "Grain elevator" means a structure used for storage and handling of grain in bulk;

(g) "Material-handling equipment and racking equipment" means equipment in a warehouse or grain elevator that is primarily used to handle, store, organize, convey, package, or repackage finished goods. The term includes tangible personal property with a useful life of one year or more that becomes an ingredient or component of the equipment, including repair and replacement parts. The term does not include equipment in offices, lunchrooms, restrooms, and other like space, within a warehouse or grain elevator, or equipment used for nonwarehousing purposes. "Material-handling equipment" includes but is not limited to: Conveyers, carousels, lifts, positioners, pick-up-and-place units, cranes, hoists, mechanical arms, and robots; mechanized systems, including containers that are an integral part of the system, whose purpose is to lift or move tangible personal property; and automated handling, storage, and retrieval systems, including computers that control them, whose purpose is to lift or move tangible personal property; and forklifts and other off-the-road vehicles that are used to lift or move tangible personal property and that cannot be operated legally on roads and streets. "Racking equipment" includes, but is not limited to, conveying systems, chutes, shelves, racks, bins, drawers, pallets, and other containers and storage devices that form a necessary part of the storage system;

(h) "Person" has the meaning given in RCW 82.04.030;

(i) "Retailer" means a person who makes "sales at retail" as defined in chapter 82.04 RCW of tangible personal property;

(j) "Square footage" means the product of the two horizontal dimensions of each floor of a specific warehouse. The entire footprint of the warehouse shall be measured in calculating the square footage, including space that juts out from the building profile such as loading docks. "Square footage" does not mean the aggregate of the square footage of more than one warehouse at a location or the aggregate of the square footage of warehouses at more than one location;

(k) "Third-party warehouse" means a person taxable under RCW 82.04.280(4);

(l) "Warehouse" means an enclosed building or structure in which finished goods are stored. A warehouse building or structure may have more than one storage room and more than one floor. Office space, lunchrooms, restrooms, and other space within the warehouse and necessary for the operation of the warehouse are considered part of the warehouse as are loading docks and other such space attached to the building and used for handling of finished goods. Landscaping and parking lots are not considered part of the warehouse. A storage yard is not a warehouse, nor is a building in which manufacturing takes place; and

(m) "Wholesaler" means a person who makes "sales at wholesale" as defined in chapter 82.04 RCW of tangible personal property, but "wholesaler" does not include a person who makes sales exempt under 82.04.330.

(3)(a) A person claiming an exemption from state tax in the form of a remittance under this section must pay the tax imposed by RCW 82.08.020. The buyer may then apply to the department for remittance of all or part of the tax paid under RCW 82.08.020. For grain elevators with bushel capacity of one million but less than two million, the remittance is equal to fifty percent of the amount of tax paid. For warehouses with square footage of two hundred thousand or more and for grain elevators with bushel capacity of two million or more, the remittance is equal to one hundred percent of the amount of tax paid for qualifying construction, materials, service, and labor, and fifty percent of the amount of tax paid for qualifying material-handling equipment and racking equipment, and labor and services rendered in respect to installing, repairing, cleaning, altering, or improving the equipment.

(b) The department shall determine eligibility under this section based on information provided by the buyer and through audit and other administrative records. The buyer shall on a quarterly basis submit an information sheet, in a form and manner as required by the department by rule, specifying the amount of exempted tax claimed and the qualifying purchases or acquisitions for which the exemption is claimed. The buyer shall retain, in adequate detail to enable the department to determine whether the equipment or construction meets the criteria under this section: Invoices; proof of tax paid; documents describing the material-handling equipment and racking equipment; location and size of warehouses and grain elevators; and construction invoices and documents.

(c) The department shall on a quarterly basis remit exempted amounts to qualifying persons who submitted applications during the previous quarter.

(4) Warehouses, grain elevators, and material-handling equipment and racking equipment for which an exemption, credit, or deferral has been or is being received under chapter 82.60, 82.61, 82.62, or 82.63 RCW or RCW 82.08.02565 or 82.12.02565 are not eligible for any remittance under this section. Warehouses and grain elevators upon which construction was initiated before the effective date of this act are not eligible for a remittance under this section.

(5) The lessor or owner of a warehouse or grain elevator is not eligible for a remittance under this section unless the underlying ownership of the warehouse or grain elevator and the material-handling equipment and racking equipment vests exclusively in the same person, or unless the lessor by written contract agrees to pass the economic benefit of the remittance to the lessee in the form of reduced rent payments.

**NEW SECTION. Sec. 3.** A new section is added to chapter 82.12 RCW to read as follows:

(1) Wholesalers or third-party warehouse owners who own or operate warehouses or grain elevators, and retailers who own or operate distribution centers, and who have paid the tax levied under RCW 82.12.020 on:

(a) Material-handling equipment and racking equipment; or

(b) Materials incorporated in the construction of a warehouse or grain elevator.

(2)(a) A person claiming an exemption from state tax in the form of a remittance under this section must pay the tax imposed by RCW 82.12.020 to the department. The person may then apply to the department for remittance of all or part of the tax paid under RCW 82.12.020. For grain elevators with bushel capacity of one million but less than two million, the remittance is equal to fifty percent of the amount of tax paid. For warehouses with square footage of two hundred thousand and for grain elevators with bushel capacity of two million or more, the remittance is equal to one hundred percent of the amount of tax paid for qualifying construction materials, and fifty percent of the amount of tax paid for qualifying material-handling equipment and racking equipment.

(b) The department shall determine eligibility under this section based on information provided by the buyer and through audit and other administrative records. The buyer shall on a quarterly basis submit an information sheet, in a form and manner as required by the department by rule, specifying the amount of exempted tax claimed and the qualifying purchases or acquisitions for which the exemption is claimed. The buyer shall retain, in adequate detail to enable the department to determine whether the equipment or construction meets the criteria under this section: Invoices; proof of tax paid; documents describing the material-handling equipment and racking equipment; location and size of warehouses, if applicable; and construction invoices and documents.

(c) The department shall on a quarterly basis remit or credit exempted amounts to qualifying persons who submitted applications during the previous quarter.

(3) Warehouse, grain elevators, and material-handling equipment and racking equipment for which an exemption, credit, or deferral has been or is being received under chapter 82.60, 82.61, 82.62, or 82.63 RCW or RCW 82.08.02565 or 82.12.02565 are not eligible for any remittance under this section. Materials incorporated in warehouses and grain elevators upon which construction was initiated prior to the effective date of this act are not eligible for a remittance under this section.

(4) The lessor or owner of the warehouse or grain elevator is not eligible for a remittance or credit under this section unless the underlying ownership of the warehouse or grain elevator and material-handling equipment and racking equipment vests exclusively in the same person, or unless the lessor by written contract agrees to pass the economic benefit of the exemption to the lessee in the form of reduced rent payments.

(5) The definitions in section 2 of this act apply to this section.

**NEW SECTION.** Sec. 4. A new section is added to chapter 82.14 RCW to read as follows:

The exemptions in sections 2 and 3 of this act are for the state portion of the sales and use tax and do not extend to the tax imposed in this chapter.

**Sec. 5.** RCW 81.104.170 and 1992 c 101 s 28 are each amended to read as follows:

Cities that operate transit systems, county transportation authorities, metropolitan municipal corporations, public transportation benefit areas, and regional transit authorities may submit an authorizing proposition to the voters and if approved by a majority of persons voting, fix and impose a sales and use tax in accordance with the terms of this chapter, solely for the purpose of providing high capacity transportation service.

The tax authorized pursuant to this section shall be in addition to the tax authorized by RCW 82.14.030 and shall be collected from those persons who are taxable by the state pursuant to chapters 82.08 and 82.12 RCW upon the occurrence of any taxable event within the taxing district. The maximum rate of such tax shall be approved by the voters and shall not exceed one percent of the selling price (in the case of a sales tax) or value of the article used (in the case of a use tax). The maximum rate of such tax that may be imposed shall not exceed nine-tenths of one percent in any county that imposes a tax under RCW 82.14.340, or within a regional transit authority if any county within the authority imposes a tax under RCW 82.14.340. The exemptions in sections 2 and 3 of this act are for the state portion of the sales and use tax and do not extend to the tax authorized in this section.

**NEW SECTION.** **Sec. 6.** The legislative fiscal committees shall report to the legislature by December 1, 2001, on the economic impacts of this act. This report shall analyze employment and other relevant economic data pertaining to the tax exemptions authorized under this act and shall measure the effect on the creation or retention of family-wage jobs and diversification of the state's economy. The report must include the committee's findings on the tax incentive program's performance in achieving its goals and recommendations on ways to improve its effectiveness. Analytic techniques may include, but not be limited to, comparisons of Washington to other states that did not enact business tax changes, comparisons across Washington counties based on usage of the tax exemptions, and comparisons across similar firms based on their use of the tax exemptions. In performing the analysis, the legislative fiscal committees shall consult with business and labor interests. The department of revenue, the employment security department, and other agencies shall provide to the legislative fiscal committees such data as the legislative fiscal committees may request in performing the analysis required under this section.

**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 the Senate April 17, 1997.

Passed the House April 26, 1997.

Approved by the Governor May 20, 1997.

Filed in Office of Secretary of State May 20, 1997.

## CHAPTER 451

[Substitute Senate Bill 5845]

### BEER TAXES—REDISTRIBUTION OF RECEIPTS

AN ACT Relating to offsetting an increase in the beer tax for the health care services account with a corresponding decrease in other beer taxes; amending RCW 66.24.290, 69.50.520, 66.08.180, and 66.08.195; providing an effective date; and declaring an emergency.

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

**Sec. 1.** RCW 66.24.290 and 1995 c 232 s 4 are each amended to read as follows:

(1) Any brewer or beer wholesaler licensed under this title may sell and deliver beer to holders of authorized licenses direct, but to no other person, other than the board; and every such brewer or beer wholesaler shall report all sales to the board monthly, pursuant to the regulations, and shall pay to the board as an added tax for the privilege of manufacturing and selling the beer within the state a tax of ~~((two))~~ one dollar((s)) and ~~((sixty))~~ thirty cents per barrel of thirty-one gallons on sales to licensees within the state and on sales to licensees within the state of bottled and canned beer shall pay a tax computed in gallons at the rate of ~~((two))~~ one dollar((s)) and ~~((sixty))~~ thirty cents per barrel of thirty-one gallons. Any brewer or beer wholesaler whose applicable tax payment is not postmarked by the twentieth day following the month of sale will be assessed a penalty at the rate of two percent per month or fraction thereof. Beer shall be sold by brewers and wholesalers in sealed barrels or packages. The moneys collected under this subsection shall be distributed as follows: (a) Three-tenths of a percent shall be distributed to border areas under RCW 66.08.195; and (b) of the remaining moneys: (i) Twenty percent shall be distributed to counties in the same manner as under RCW 66.08.200; and (ii) eighty percent shall be distributed to incorporated cities and towns in the same manner as under RCW 66.08.210.

(2) ~~((An additional tax is imposed equal to seven percent multiplied by the tax payable under subsection (1) of this section. All revenues collected during any month from this additional tax shall be transferred to the state general fund by the twenty-fifth day of the following month.~~

~~—((3))~~ An additional tax is imposed on all beer subject to tax under subsection (1) of this section. The additional tax is equal to two dollars per barrel of thirty-one gallons. All revenues collected during any month from this additional tax shall be deposited in the violence reduction and drug enforcement account under RCW 69.50.520 by the twenty-fifth day of the following month.

~~((4))~~ (3)(a) An additional tax is imposed on all beer subject to tax under subsection (1) of this section. The additional tax is equal to ninety-six cents per

barrel of thirty-one gallons through June 30, 1995, two dollars and thirty-nine cents per barrel of thirty-one gallons for the period July 1, 1995, through June 30, 1997, and four dollars and seventy-eight cents per barrel of thirty-one gallons thereafter.

(b) The additional tax imposed under this subsection does not apply to the sale of the first sixty thousand barrels of beer each year by breweries that are entitled to a reduced rate of tax under 26 U.S.C. Sec. 5051, as existing on July 1, 1993, or such subsequent date as may be provided by the board by rule consistent with the purposes of this exemption.

(c) All revenues collected from the additional tax imposed under this subsection (~~((4))~~) (3) shall be deposited in the health services account under RCW 43.72.900.

((5)) (4) An additional tax is imposed on all beer that is subject to tax under subsection (1) of this section that is in the first sixty thousand barrels of beer by breweries that are entitled to a reduced rate of tax under 26 U.S.C. Sec. 5051, as existing on July 1, 1993, or such subsequent date as may be provided by the board by rule consistent with the purposes of the exemption under subsection (3)(b) of this section. The additional tax is equal to one dollar and forty-eight and two-tenths cents per barrel of thirty-one gallons. By the twenty-fifth day of the following month, three percent of the revenues collected from this additional tax shall be distributed to border areas under RCW 66.08.195 and the remaining moneys shall be transferred to the state general fund.

(5) The tax imposed under this section shall not apply to "strong beer" as defined in this title.

**Sec. 2.** RCW 69.50.520 and 1995 2nd sp.s. c 18 s 919 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(~~((7))~~) (8), 66.24.210(4), 66.24.290(~~((3))~~) (2), 69.50.505(h)(1), 82.08.150(5), 82.24.020(2), 82.64.020, and section 420, chapter 271, Laws of 1989 shall be deposited into the account. Expenditures from the account may be used only for funding services and programs under chapter 271, Laws of 1989 and chapter 7, Laws of 1994 sp. sess., including state incarceration costs. After July 1, 1997, at least seven and one-half percent of expenditures from the account shall be used for providing grants to community networks under chapter 70.190 RCW by the family policy council.

**Sec. 3.** RCW 66.08.180 and 1995 c 398 s 16 are each amended to read as follows:

Except as provided in RCW 66.24.290(1), moneys in the liquor revolving fund shall be distributed by the board at least once every three months in accordance with RCW 66.08.190, 66.08.200 and 66.08.210: PROVIDED, That the board shall reserve from distribution such amount not exceeding five hundred thousand dollars as may be necessary for the proper administration of this title.

(1) All license fees, penalties and forfeitures derived under this act from class H licenses or class H licensees shall every three months be disbursed by the board as follows:

(a) Three hundred thousand dollars per biennium, to the University of Washington for the forensic investigations council to conduct the state toxicological laboratory pursuant to RCW 68.50.107; and

(b) Of the remaining funds:

(i) 6.06 percent to the University of Washington and 4.04 percent to Washington State University for alcoholism and drug abuse research and for the dissemination of such research; and

(ii) 89.9 percent to the general fund to be used by the department of social and health services solely to carry out the purposes of RCW 70.96A.050;

(2) The first fifty-five dollars per license fee provided in RCW 66.24.320 and 66.24.330 up to a maximum of one hundred fifty thousand dollars annually shall be disbursed every three months by the board to the general fund to be used for juvenile alcohol and drug prevention programs for kindergarten through third grade to be administered by the superintendent of public instruction;

(3) Twenty percent of the remaining total amount derived from license fees pursuant to RCW 66.24.320, 66.24.330, 66.24.340, 66.24.350, 66.24.360, and 66.24.370, shall be transferred to the general fund to be used by the department of social and health services solely to carry out the purposes of RCW 70.96A.050; and

(4) One-fourth cent per liter of the tax imposed by RCW 66.24.210 shall every three months be disbursed by the board to Washington State University solely for wine and wine grape research, extension programs related to wine and wine grape research, and resident instruction in both wine grape production and the processing aspects of the wine industry in accordance with RCW 28B.30.068. The director of financial management shall prescribe suitable accounting procedures to ensure that the funds transferred to the general fund to be used by the department of social and health services and appropriated are separately accounted for.

**Sec. 4.** RCW 66.08.196 and 1995 c 159 s 3 are each amended to read as follows:

Distribution of funds to border areas under RCW 66.08.190 and 66.24.290 (1)(a) and (4) shall be as follows:

(1) Sixty-five percent of the funds shall be distributed to border areas ratably based on border area traffic totals;

(2) Twenty-five percent of the funds shall be distributed to border areas ratably based on border-related crime statistics; and

(3) Ten percent of the funds shall be distributed to border areas ratably based upon border area per capita law enforcement spending.

Distributions to an unincorporated area that is a point of land surrounded on three sides by saltwater and adjacent to the Canadian border shall be made to the

county in which such an area is located and may only be spent on services provided to that area.

**NEW SECTION. Sec. 5.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 1997.

Passed the Senate April 15, 1997.

Passed the House April 18, 1997.

Approved by the Governor May 20, 1997.

Filed in Office of Secretary of State May 20, 1997.

## CHAPTER 452

[Substitute Senate Bill 5867]

### LOCAL EXCISE TAXES—REVISIONS

AN ACT Relating to hotel and motel taxes in certain cities and towns; amending RCW 67.28.080, 67.28.120, 67.28.130, 67.28.150, 67.28.160, 67.28.170, 67.28.180, 67.28.184, 67.28.200, 67.40.100, 35.43.040, 59.18.440, 67.38.140, 67.40.110, 67.40.120, and 82.02.020; adding new sections to chapter 67.28 RCW; creating new sections; repealing RCW 67.28.090, 67.28.100, 67.28.110, 67.28.182, 67.28.185, 67.28.190, 67.28.210, 67.28.240, 67.28.260, 67.28.270, 67.28.280, 67.28.290, 67.28.300, 67.28.310, 67.28.320, 67.28.360, and 67.28.370; providing an effective date; and providing an expiration date.

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

**NEW SECTION. Sec. 1.** The intent of this act is to provide uniform standards for local option excise taxation of lodging.

**Sec. 2.** RCW 67.28.080 and 1991 c 357 s 1 are each amended to read as follows:

~~((In any county located in whole or in part in a national scenic area and the population of which county is less than 20,000, a convention center facility may include a hotel, destination resort, conference center, or similar or related facility. A convention center facility may include the land on which any of the foregoing structures or facilities are sited. A convention center facility may also include land necessary for the operation of a convention center facility))~~ The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Acquisition" includes, but is not limited to, siting, acquisition, design, construction, refurbishing, expansion, repair, and improvement, including paying or securing the payment of all or any portion of general obligation bonds, leases, revenue bonds, or other obligations issued or incurred for such purpose or purposes under this chapter.

(2) "Municipality" ((as used in this chapter)) means any county, city or town of the state of Washington.

(3) "Operation" includes, but is not limited to, operation, management, and marketing.

(4) "Person" ((as used in this chapter)) means the federal government or any agency thereof, the state or any agency, subdivision, taxing district or municipal

corporation thereof other than county, city or town, any private corporation, partnership, association, or individual.

(5) "Tourism" means economic activity resulting from tourists, which may include sales of overnight lodging, meals, tours, gifts, or souvenirs.

(6) "Tourism promotion" means activities and expenditures designed to increase tourism, including but not limited to advertising, publicizing, or otherwise distributing information for the purpose of attracting and welcoming tourists; developing strategies to expand tourism; operating tourism promotion agencies; and funding marketing of special events and festivals designed to attract tourists.

(7) "Tourism-related facility" means real or tangible personal property with a usable life of three or more years, or constructed with volunteer labor, and used to support tourism, performing arts, or to accommodate tourist activities.

(8) "Tourist" means a person who travels from a place of residence to a different town, city, county, state, or country, for purposes of business, pleasure, recreation, education, arts, heritage, or culture.

NEW SECTION. Sec. 3. A new section is added to chapter 67.28 RCW to read as follows:

(1) The legislative body of any municipality may impose an excise tax on the sale of or charge made for the furnishing of lodging that is subject to tax under chapter 82.08 RCW. The rate of tax shall not exceed the lesser of four percent or a rate that, when combined with all other taxes imposed upon sales of lodging within the municipality under this chapter and chapters 36.100, 67.40, 82.08, and 82.14 RCW, equals twelve percent. A tax under this chapter shall not be imposed in increments smaller than tenths of a percent.

(2) Notwithstanding subsection (1) of this section:

(a) If a municipality imposed taxes under this chapter and RCW 67.40.100 with a total rate exceeding four percent on January 1, 1998, the rate of tax imposed under this chapter by the municipality shall not exceed the total rate imposed by the municipality under this chapter and RCW 67.40.100 on January 1, 1998.

(b) If a city or town, other than a municipality described in (a) of this subsection, is located in a county that imposed taxes under this chapter with a total rate of four percent or more on January 1, 1997, the rate of tax imposed under this chapter by the city or town shall not exceed two percent.

(c) If a city has a population of four hundred thousand or more and is located in a county with a population of one million or more, the rate of tax imposed under this chapter by the city shall not exceed the lesser of four percent or a rate that, when combined with all other taxes imposed upon sales of lodging in the municipality under this chapter and chapters 36.100, 67.40, 82.08, and 82.14 RCW, equals fifteen and two-tenths percent.

(3) Except as provided in RCW 67.28.180, any county ordinance or resolution adopted under this section shall contain a provision allowing a credit against the county tax for the full amount of any city or town tax imposed under this section upon the same taxable event.

(4) Tax imposed under this section on a sale of lodging shall be credited against the amount of sales tax due to the state under chapter 82.08 RCW on the same sale of lodging, but the total credit for taxes imposed by all municipalities on a sale of lodging shall not exceed the amount that would be imposed under a two percent tax under this section. This subsection does not apply to taxes which are credited against the state sales tax under RCW 67.28.180.

**NEW SECTION.** Sec. 4. A new section is added to chapter 67.28 RCW to read as follows:

All revenue from taxes imposed under this chapter shall be credited to a special fund in the treasury of the municipality imposing such tax and used solely for the purpose of paying all or any part of the cost of tourism promotion, acquisition of tourism-related facilities, or operation of tourism-related facilities. Municipalities may, under chapter 39.34 RCW, agree to the utilization of revenue from taxes imposed under this chapter for the purposes of funding a multijurisdictional tourism-related facility.

**NEW SECTION.** Sec. 5. A new section is added to chapter 67.28 RCW to read as follows:

(1) Before imposing a tax under section 3 of this act, a municipality with a population of five thousand or more shall establish a lodging tax advisory committee under this section. A lodging tax advisory committee shall consist of at least five members, appointed by the legislative body of the municipality, unless the municipality has a charter providing for a different appointment authority. The committee membership shall include: (a) At least two members who are representatives of businesses required to collect tax under this chapter; and (b) at least two members who are persons involved in activities authorized to be funded by revenue received under this chapter. Persons who are eligible for appointment under (a) of this subsection are not eligible for appointment under (b) of this subsection. Persons who are eligible for appointment under (b) of this subsection are not eligible for appointment under (a) of this subsection. Organizations representing businesses required to collect tax under this chapter, organizations involved in activities authorized to be funded by revenue received under this chapter, and local agencies involved in tourism promotion may submit recommendations for membership on the committee. The number of members who are representatives of businesses required to collect tax under this chapter shall equal the number of members who are involved in activities authorized to be funded by revenue received under this chapter. One member shall be an elected official of the municipality who shall serve as chair of the committee. An advisory committee for a county may include one nonvoting member who is an elected official of a city or town in the county. An advisory committee for a city or town may include one nonvoting member who is an elected official of the county in which the city or town is located. The appointing authority shall review the membership of the advisory committee annually and make changes as appropriate.

(2) Any municipality that proposes imposition of a tax under this chapter, an increase in the rate of a tax imposed under this chapter, repeal of an exemption from a tax imposed under this chapter, or a change in the use of revenue received under this chapter shall submit the proposal to the lodging tax advisory committee for review and comment. The submission shall occur at least forty-five days before final action on or passage of the proposal by the municipality. The advisory committee shall submit comments on the proposal in a timely manner through generally applicable public comment procedures. The comments shall include an analysis of the extent to which the proposal will accommodate activities for tourists or increase tourism, and the extent to which the proposal will affect the long-term stability of the fund created under section 4 of this act. Failure of the advisory committee to submit comments before final action on or passage of the proposal shall not prevent the municipality from acting on the proposal. A municipality is not required to submit an amended proposal to an advisory committee under this section.

NEW SECTION. Sec. 6. (1) Each municipality imposing a tax under chapter 67.28 RCW shall submit a report to the department of community, trade, and economic development on October 1, 1998, and October 1, 2000. Each report shall include the following information:

- (a) The rate of tax imposed under chapter 67.28 RCW;
- (b) The total revenue received under chapter 67.28 RCW for each of the preceding six years;
- (c) A list of projects and activities funded with revenue received under chapter 67.28 RCW; and
- (d) The amount of revenue under chapter 67.28 RCW expended for each project and activity.

(2) The department of community, trade, and economic development shall summarize and analyze the data received under subsection (1) of this section in a report submitted to the legislature on January 1, 1999, and January 1, 2001. The report shall include, but not be limited to, analysis of factors contributing to growth in revenue received under chapter 67.28 RCW and the effects of projects and activities funded with revenue received under chapter 67.28 RCW on tourism growth.

Sec. 7. RCW 67.28.120 and 1979 ex.s. c 222 s 1 are each amended to read as follows:

Any municipality is authorized either individually or jointly with any other municipality, or person, or any combination thereof, to acquire (~~by purchase, gift or grant, to lease as lessee;~~) and to (~~construct, install, add to, improve, replace, repair, maintain;~~) operate (~~and regulate the use of public stadium facilities, convention center facilities, performing arts center facilities, and/or visual art center~~) tourism-related facilities, whether located within or without such municipality(~~, including but not limited to buildings, structures, concession and service facilities, roads, bridges, walks, ramps and other access facilities, terminal~~

~~and parking facilities for private vehicles and public transportation vehicles and systems, together with all lands, properties, property rights, equipment, utilities, accessories and appurtenances necessary for such public stadium facilities, convention center facilities, performing arts center facilities, or visual arts center facilities, and to pay for any engineering, planning, financial, legal and professional services incident to the development and operation of such public facilities)).~~

**Sec. 8.** RCW 67.28.130 and 1979 ex.s. c 222 s 2 are each amended to read as follows:

Any municipality, taxing district, or municipal corporation is authorized to convey or lease any lands, properties or facilities to any other municipality for the development by such other municipality of ~~((public stadium facilities, convention center facilities, performing arts center facilities, and/or visual art center))~~ tourism-related facilities or to provide for the joint use of such lands, properties or facilities, or to participate in the financing of all or any part of the public facilities on such terms as may be fixed by agreement between the respective legislative bodies without submitting the matter to the voters of such municipalities, unless the provisions of general law applicable to the incurring of municipal indebtedness shall require such submission.

**Sec. 9.** RCW 67.28.150 and 1984 c 186 s 56 are each amended to read as follows:

To carry out the purposes of this chapter any municipality shall have the power to issue general obligation bonds within the limitations now or hereafter prescribed by the laws of this state. Such general obligation bonds shall be authorized, executed, issued and made payable as other general obligation bonds of such municipality: PROVIDED, That the governing body of such municipality may provide that such bonds mature in not to exceed forty years from the date of their issue, may provide that such bonds also be made payable from any special taxes provided for in ~~((RCW 67.28.180))~~ this chapter, and may provide that such bonds also be made payable from any otherwise unpledged revenue which may be derived from the ownership or operation of any properties.

**Sec. 10.** RCW 67.28.160 and 1983 c 167 s 168 are each amended to read as follows:

(1) To carry out the purposes of this chapter the legislative body of any municipality shall have the power to issue revenue bonds without submitting the matter to the voters of the municipality: PROVIDED, That the legislative body shall create a special fund or funds for the sole purpose of paying the principal of and interest on the bonds of each such issue, into which fund or funds the legislative body may obligate the municipality to pay all or part of amounts collected from the special taxes provided for in ~~((RCW 67.28.180))~~ this chapter, and/or to pay such amounts of the gross revenue of all or any part of the facilities constructed, acquired, improved, added to, repaired or replaced pursuant to this chapter, as the legislative body shall determine: PROVIDED, FURTHER, That the principal of and interest on such bonds shall be payable only out of such special

fund or funds, and the owners of such bonds shall have a lien and charge against the gross revenue pledged to such fund.

Such revenue bonds and the interest thereon issued against such fund or funds shall constitute a claim of the owners thereof only as against such fund or funds and the revenue pledged therefor, and shall not constitute a general indebtedness of the municipality.

Each such revenue bond shall state upon its face that it is payable from such special fund or funds, and all revenue bonds issued under this chapter shall be negotiable securities within the provisions of the law of this state. Such revenue bonds may be registered either as to principal only or as to principal and interest as provided in RCW 39.46.030, or may be bearer bonds; shall be in such denominations as the legislative body shall deem proper; shall be payable at such time or times and at such places as shall be determined by the legislative body; shall be executed in such manner and bear interest at such rate or rates as shall be determined by the legislative body.

Such revenue bonds shall be sold in such manner as the legislative body shall deem to be for the best interests of the municipality, either at public or private sale.

The legislative body may at the time of the issuance of such revenue bonds make such covenants with the owners of said bonds as it may deem necessary to secure and guaranty the payment of the principal thereof and the interest thereon, including but not being limited to covenants to set aside adequate reserves to secure or guaranty the payment of such principal and interest, to pledge and apply thereto part or all of any lawfully authorized special taxes provided for in ((RCW 67.28.180)) this chapter, to maintain rates, charges or rentals sufficient with other available moneys to pay such principal and interest and to maintain adequate coverage over debt service, to appoint a trustee or trustees for the bond owners, to safeguard the expenditure of the proceeds of sale of such bonds and to fix the powers and duties of such trustee or trustees and to make such other covenants as the legislative body may deem necessary to accomplish the most advantageous sale of such bonds. The legislative body may also provide that revenue bonds payable out of the same source may later be issued on a parity with revenue bonds being issued and sold.

The legislative body may include in the principal amount of any such revenue bond issue an amount for engineering, architectural, planning, financial, legal, and other services and charges incident to the acquisition or construction of public stadium facilities, convention center facilities, performing arts center facilities, and/or visual arts center facilities, an amount to establish necessary reserves, an amount for working capital and an amount necessary for interest during the period of construction of any facilities to be financed from the proceeds of such issue plus six months. The legislative body may, if it deems it in the best interest of the municipality, provide in any contract for the construction or acquisition of any facilities or additions or improvements thereto or replacements or extensions thereof that payment therefor shall be made only in such revenue bonds.

If the municipality shall fail to carry out or perform any of its obligations or covenants made in the authorization, issuance and sale of such bonds, the owner of any such bond may bring action against the municipality and compel the performance of any or all of such covenants.

(2) Notwithstanding subsection (1) of this section, such bonds may be issued and sold in accordance with chapter 39.46 RCW.

**Sec. 11.** RCW 67.28.170 and 1979 ex.s. c 222 s 4 are each amended to read as follows:

The legislative body of any municipality owning or operating (~~public stadium facilities, convention center facilities, performing arts center facilities, and/or visual arts center~~) tourism-related facilities acquired (~~or developed pursuant to~~) under this chapter shall have power to lease to any municipality or person, or to contract for the use or operation by any municipality or person, of all or any part of the facilities authorized by this chapter, including but not limited to parking facilities, concession facilities of all kinds and any property or property rights appurtenant to such (~~stadium facilities, convention center facilities, performing arts center facilities, and/or visual arts center~~) tourism-related facilities, for such period and under such terms and conditions and upon such rentals, fees and charges as such legislative body may determine, and may pledge all or any portion of such rentals, fees and charges and all other revenue derived from the ownership and/or operation of such facilities to pay and to secure the payment of general obligation bonds and/or revenue bonds of such municipality issued for authorized (~~public stadium, convention center, performing arts center, and/or visual arts center~~) tourism-related facilities purposes.

**\*Sec. 12.** RCW 67.28.180 and 1995 1st sp.s. c 14 s 10 are each amended to read as follows:

*(1) ((Subject to the conditions set forth in subsections (2) and (3) of this section, the legislative body of any county or any city, is authorized to levy and collect a special excise tax of not to exceed two percent on the sale of or charge made for the furnishing of lodging by a hotel, rooming house, tourist court, motel, trailer camp, and the granting of any similar license to use real property, as distinguished from the renting or leasing of real property: PROVIDED, That it shall be presumed that the occupancy of real property for a continuous period of one month or more constitutes a rental or lease of real property and not a mere license to use or to enjoy the same.)) (a) Tax imposed under section 3 of this act on a sale of lodging by a county exempt under subsection (2) of this section shall be credited against the amount of sales tax due to the state under chapter 82.08 RCW on the same sale of lodging, but the credit under this subsection (1)(a) shall not exceed the amount that would be imposed under a two percent tax under section 3 of this act.*

*(b) If a city in a county exempt under subsection (2) of this section has imposed a tax under this chapter and has, prior to June 26, 1975, authorized and issued revenue or general obligation bonds pursuant to the provisions of RCW*

67.28.150 through 67.28.160, the tax imposed under section 3 of this act on a sale of lodging by such city shall be credited against the amount of sales tax due to the state under chapter 82.08 RCW on the same sale of lodging, but the credit under this subsection (1)(b) shall not exceed the amount that would be collected under a two percent tax under section 3 of this act.

(2) ~~((Any levy authorized by this section shall be subject to the following:—(a) Any county ordinance or resolution adopted pursuant to this section shall contain, in addition to all other provisions required to conform to this chapter, a provision allowing a credit against the county tax for the full amount of any city tax imposed pursuant to this section upon the same taxable event.—(b)))~~ In the event that any county has levied ~~((the tax authorized by this section))~~ a tax under this chapter and has, prior to June 26, 1975, either pledged the tax revenues for payment of principal and interest on city revenue or general obligation bonds authorized and issued pursuant to RCW 67.28.150 through 67.28.160 or has authorized and issued revenue or general obligation bonds pursuant to the provisions of RCW 67.28.150 through 67.28.160, such county shall be exempt from ~~((the provisions of (a) of this subsection))~~ section 3(3) of this act, to the extent that the tax rate imposed by the county under this chapter does not exceed two percent and the revenues are pledged for payment of principal and interest on bonds issued at any time pursuant to the provisions of RCW 67.28.150 through 67.28.160: PROVIDED, That so much of such pledged tax revenues, together with any investment earnings thereon, not immediately necessary for actual payment of principal and interest on such bonds may be used: ~~((+))~~ (a) In any county with a population of one million or more, for repayment either of limited tax levy general obligation bonds or of any county fund or account from which a loan was made, the proceeds from the bonds or loan being used to pay for constructing, installing, improving, and equipping stadium capital improvement projects, and to pay for any engineering, planning, financial, legal and professional services incident to the development of such stadium capital improvement projects, regardless of the date the debt for such capital improvement projects was or may be incurred; or ~~((+))~~ (b) in other counties, for county-owned facilities for agricultural promotion. A county is exempt under this subsection in respect to city revenue or general obligation bonds issued after April 1, 1991, only if such bonds mature before January 1, 2013.

As used in this subsection (2)~~((b))~~, "capital improvement projects" may include, but not be limited to a stadium restaurant facility, restroom facilities, artificial turf system, seating facilities, parking facilities and scoreboard and information system adjacent to or within a county owned stadium, together with equipment, utilities, accessories and appurtenances necessary thereto. The stadium restaurant authorized by this subsection (2)~~((b))~~ shall be operated by a private concessionaire under a contract with the county.

~~((c) No city within a county exempt under subsection (2)(b) of this section may levy the tax authorized by this section so long as said county is so exempt: PROVIDED, That in the event that any city in such county has levied the tax authorized by this section and has, prior to June 26, 1975, authorized and issued revenue or general obligation bonds pursuant to the provisions of RCW 67.28.150 through 67.28.160, such city may levy the tax so long as the tax revenues are pledged for payment of principal and interest on bonds issued at any time pursuant to the provisions of RCW 67.28.150 through 67.28.160.))~~

~~(3) Any levy ((authorized by this section)) under this chapter by a county that ((has levied the tax authorized by this section and has, prior to June 26, 1975, either pledged the tax revenues for payment of principal and interest on city revenue or general obligation bonds authorized and issued pursuant to RCW 67.28.150 through 67.28.160 or has authorized and issued revenue or general obligation bonds pursuant to the provisions of RCW 67.28.150 through 67.28.160)) is exempt under subsection (2) of this section shall be subject to the following:~~

~~(a) Taxes collected under this ((section)) chapter in any calendar year in excess of five million three hundred thousand dollars shall only be used as follows:~~

~~(i) Seventy-five percent from January 1, 1992, through December 31, 2000, and seventy percent from January 1, 2001, through December 31, 2012, for art museums, cultural museums, heritage museums, the arts, and the performing arts. Moneys spent under this subsection (3)(a)(i) shall be used for the purposes of this subsection (3)(a)(i) in all parts of the county.~~

~~(ii) Twenty-five percent from January 1, 1992, through December 31, 2000, and thirty percent from January 1, 2001, through December 31, 2012, for the following purposes and in a manner reflecting the following order of priority: Stadium capital improvements, as defined in subsection (2)((b)) of this section; acquisition of open space lands; youth sports activities; and tourism promotion.~~

~~(b) At least seventy percent of moneys spent under (a)(i) of this subsection for the period January 1, 1992, through December 31, 2000, shall be used only for the purchase, design, construction, and remodeling of performing arts, visual arts, heritage, and cultural facilities, and for the purchase of fixed assets that will benefit art, heritage, and cultural organizations. For purposes of this subsection, fixed assets are tangible objects such as machinery and other equipment intended to be held or used for ten years or more. Moneys received under this subsection (3)(b) may be used for payment of principal and interest on bonds issued for capital projects. Qualifying organizations receiving moneys under this subsection (3)(b) must be financially stable and have at least the following:~~

- ~~(i) A legally constituted and working board of directors;~~
- ~~(ii) A record of artistic, heritage, or cultural accomplishments;~~
- ~~(iii) Been in existence and operating for at least two years;~~

*(iv) Demonstrated ability to maintain net current liabilities at less than thirty percent of general operating expenses;*

*(v) Demonstrated ability to sustain operational capacity subsequent to completion of projects or purchase of machinery and equipment; and*

*(vi) Evidence that there has been independent financial review of the organization.*

*(c) At least forty percent of the revenues distributed pursuant to (a)(i) of this subsection for the period January 1, 2001, through December 31, 2012, shall be deposited in an account and shall be used to establish an endowment. Principal in the account shall remain permanent and irreducible. The earnings from investments of balances in the account may only be used for the purposes of (a)(i) of this subsection.*

*(d) School districts and schools shall not receive revenues distributed pursuant to (a)(i) of this subsection.*

*(e) Moneys distributed to art museums, cultural museums, heritage museums, the arts, and the performing arts, and moneys distributed for tourism promotion shall be in addition to and may not be used to replace or supplant any other funding by the legislative body of the county.*

*(f) As used in this section, "tourism promotion" includes activities intended to attract visitors for overnight stays, arts, heritage, and cultural events, and recreational, professional, and amateur sports events. Moneys allocated to tourism promotion in a class AA county shall be allocated to nonprofit organizations formed for the express purpose of tourism promotion in the county. Such organizations shall use moneys from the taxes to promote events in all parts of the class AA county.*

*(g) No taxes ((collected)) distributed under this section may be used for the operation or maintenance of a public stadium that is financed directly or indirectly by bonds to which the tax is pledged. Expenditures for operation or maintenance include all expenditures other than expenditures that directly result in new fixed assets or that directly increase the capacity, life span, or operating economy of existing fixed assets.*

*(h) No ad valorem property taxes may be used for debt service on bonds issued for a public stadium that is financed by bonds to which the tax is pledged, unless the taxes ((collected)) distributed under this section are or are projected to be insufficient to meet debt service requirements on such bonds.*

*(i) If a substantial part of the operation and management of a public stadium that is financed directly or indirectly by bonds to which the tax is pledged is performed by a nonpublic entity or if a public stadium is sold that is financed directly or indirectly by bonds to which the tax is pledged, any bonds to which the tax is pledged shall be retired. This subsection (3)(i) does not apply in respect to a public stadium transferred to, owned by, or constructed by a public facilities district under chapter 36.100 RCW.*

*(j) The county shall not lease a public stadium that is financed directly or indirectly by bonds to which the tax is pledged to, or authorize the use of the public stadium by, a professional major league sports franchise unless the sports franchise gives the right of first refusal to purchase the sports franchise, upon its sale, to local government. This subsection (3)(j) does not apply to contracts in existence on April 1, 1986.*

*If a court of competent jurisdiction declares any provision of this subsection (3) invalid, then that invalid provision shall be null and void and the remainder of this section is not affected.*

**(4) This section expires January 1, 2013.**

\*Sec. 12 was vetoed. See message at end of chapter.

**Sec. 13.** RCW 67.28.184 and 1987 1st ex.s. c 8 s 7 are each amended to read as follows:

No city imposing the tax authorized under (~~(RCW 67.28.180)~~) this chapter may use the tax proceeds directly or indirectly to acquire, construct, operate, or maintain facilities or land intended to be used by a professional sports franchise if the county within which the city is located uses the proceeds of its tax imposed under (~~(RCW 67.28.180)~~) this chapter to directly or indirectly acquire, construct, operate, or maintain a facility used by a professional sports franchise.

**Sec. 14.** RCW 67.28.200 and 1993 c 389 s 2 are each amended to read as follows:

The legislative body of any (~~county or city~~) municipality may establish reasonable exemptions (~~(and may adopt such reasonable rules and regulations as may be necessary for the levy and collection of the)~~) for taxes authorized under this chapter. The department of revenue shall perform the collection of such taxes on behalf of such (~~county or city~~) municipality at no cost to such (~~county or city~~) municipality.

**Sec. 15.** RCW 67.40.100 and 1990 c 242 s 1 are each amended to read as follows:

~~((+))~~ Except as provided in chapters 67.28 and 82.14 RCW and (~~(subsection (2) of this)~~) section 3 of this act, after January 1, 1983, no city, town, or county in which the tax under RCW 67.40.090 is imposed may impose a license fee or tax on the act or privilege of engaging in business to furnish lodging by a hotel, rooming house, tourist court, motel, trailer camp, or similar facilities in excess of the rate imposed upon other persons engaged in the business of making sales at retail as that term is defined in chapter 82.04 RCW.

~~((2))~~ A city incorporated before January 1, 1982, with a population over sixty thousand located in a county with a population over one million, other than the city of Seattle, may impose a special excise tax under the following conditions:

— (a) The proceeds of the tax must be used for the acquisition, design, construction, and marketing of convention and trade facilities and may be used for and pledged to the payment of bonds, leases, or other obligations issued or incurred for such purposes. ~~The proceeds of the tax may be used for maintenance and~~

operation only as part of a budget which includes the use of the tax for debt service and marketing:

— (b) The legislative body of the city, before imposing the tax, must authorize a complete study and investigation of the desirability and economic feasibility of the proposed convention and trade facilities:

— (c) The rate of the tax shall not exceed three percent:

— (d) The tax shall be imposed on the sale of or charge made for the furnishing of lodging by a hotel, rooming house, tourist court, motel, or trailer camp, and the granting of any similar license to use real property, as distinguished from the renting or leasing of real property, except that no such tax may be levied on any premises having fewer than sixty lodging units:))

Sec. 16. RCW 35.43.040 and 1989 c 277 s 1 are each amended to read as follows:

Whenever the public interest or convenience may require, the legislative authority of any city or town may order the whole or any part of any local improvement including but not restricted to those, or any combination thereof, listed below to be constructed, reconstructed, repaired, or renewed and landscaping including but not restricted to the planting, setting out, cultivating, maintaining, and renewing of shade or ornamental trees and shrubbery thereon; may order any and all work to be done necessary for completion thereof; and may levy and collect special assessments on property specially benefited thereby to pay the whole or any part of the expense thereof, viz:

(1) Alleys, avenues, boulevards, lanes, park drives, parkways, parking facilities, public places, public squares, public streets, their grading, regrading, planking, replanking, paving, repaving, macadamizing, remacadamizing, graveling, regraveling, piling, repiling, capping, recapping, or other improvement; if the management and control of park drives, parkways, and boulevards is vested in a board of park commissioners, the plans and specifications for their improvement must be approved by the board of park commissioners before their adoption;

(2) Auxiliary water systems;

(3) Auditoriums, field houses, gymnasiums, swimming pools, or other recreational, playground, museum, cultural, or arts facilities or structures;

(4) Bridges, culverts, and trestles and approaches thereto;

(5) Bulkheads and retaining walls;

(6) Dikes and embankments;

(7) Drains, sewers, and sewer appurtenances which as to trunk sewers shall include as nearly as possible all the territory which can be drained through the trunk sewer and subsewers connected thereto;

(8) Escalators or moving sidewalks together with the expense of operation and maintenance;

(9) Parks and playgrounds;

(10) Sidewalks, curbing, and crosswalks;

(11) Street lighting systems together with the expense of furnishing electrical energy, maintenance, and operation;

(12) Underground utilities transmission lines;

(13) Water mains, hydrants, and appurtenances which as to trunk water mains shall include as nearly as possible all the territory in the zone or district to which water may be distributed from the trunk water mains through lateral service and distribution mains and services;

(14) Fences, culverts, syphons, or coverings or any other feasible safeguards along, in place of, or over open canals or ditches to protect the public from the hazards thereof;

(15) Roadbeds, trackage, signalization, storage facilities for rolling stock, overhead and underground wiring, and any other stationary equipment reasonably necessary for the operation of an electrified public streetcar line;

(16) Systems of surface, underground, or overhead railways, tramways, buses, or any other means of local transportation except taxis, and including passenger, terminal, station parking, and related facilities and properties, and such other facilities as may be necessary for passenger and vehicular access to and from such terminal, station, parking, and related facilities and properties, together with all lands, rights of way, property, equipment, and accessories necessary for such systems and facilities;

(17) Convention center facilities or structures in cities (~~imposing a special excise tax pursuant to RCW 67.40.100(2))~~ incorporated before January 1, 1982, with a population over sixty thousand located in a county with a population over one million, other than the city of Seattle. Assessments for purposes of convention center facilities or structures may be levied only to the extent necessary to cover a funding shortfall that occurs when funds received from special excise taxes imposed pursuant to chapter 67.28 RCW (~~67.28.180 and 67.40.100(2))~~ are insufficient to fund the annual debt service for such facilities or structures, and may not be levied on property exclusively maintained as single-family or multifamily permanent residences whether they are rented, leased, or owner occupied; and

(18) Programs of aquatic plant control, lake or river restoration, or water quality enhancement. Such programs shall identify all the area of any lake or river which will be improved and shall include the adjacent waterfront property specially benefited by such programs of improvements. Assessments may be levied only on waterfront property including any waterfront property owned by the department of natural resources or any other state agency. Notice of an assessment on a private leasehold in public property shall comply with provisions of chapter 79.44 RCW. Programs under this subsection shall extend for a term of not more than five years.

**Sec. 17.** RCW 59.18.440 and 1995 c 399 s 151 are each amended to read as follows:

(1) Any city, town, county, or municipal corporation that is required to develop a comprehensive plan under RCW 36.70A.040(1) is authorized to require, after reasonable notice to the public and a public hearing, property owners to

provide their portion of reasonable relocation assistance to low-income tenants upon the demolition, substantial rehabilitation whether due to code enforcement or any other reason, or change of use of residential property, or upon the removal of use restrictions in an assisted-housing development. No city, town, county, or municipal corporation may require property owners to provide relocation assistance to low-income tenants, as defined in this chapter, upon the demolition, substantial rehabilitation, upon the change of use of residential property, or upon the removal of use restrictions in an assisted-housing development, except as expressly authorized herein or when authorized or required by state or federal law. As used in this section, "assisted housing development" means a multifamily rental housing development that either receives government assistance and is defined as federally assisted housing in RCW 59.28.020, or that receives other federal, state, or local government assistance and is subject to use restrictions.

(2) As used in this section, "low-income tenants" means tenants whose combined total income per dwelling unit is at or below fifty percent of the median income, adjusted for family size, in the county where the tenants reside.

The department of community, trade, and economic development shall adopt rules defining county median income in accordance with the definitions promulgated by the federal department of housing and urban development.

(3) A requirement that property owners provide relocation assistance shall include the amounts of such assistance to be provided to low-income tenants. In determining such amounts, the jurisdiction imposing the requirement shall evaluate, and receive public testimony on, what relocation expenses displaced tenants would reasonably incur in that jurisdiction including:

- (a) Actual physical moving costs and expenses;
- (b) Advance payments required for moving into a new residence such as the cost of first and last month's rent and security and damage deposits;
- (c) Utility connection fees and deposits; and
- (d) Anticipated additional rent and utility costs in the residence for one year after relocation.

(4)(a) Relocation assistance provided to low-income tenants under this section shall not exceed two thousand dollars for each dwelling unit displaced by actions of the property owner under subsection (1) of this section. A city, town, county, or municipal corporation may make future annual adjustments to the maximum amount of relocation assistance required under this subsection in order to reflect any changes in the housing component of the consumer price index as published by the United States department of labor, bureau of labor statistics.

(b) The property owner's portion of any relocation assistance provided to low-income tenants under this section shall not exceed one-half of the required relocation assistance under (a) of this subsection in cash or services.

(c) The portion of relocation assistance not covered by the property owner under (b) of this subsection shall be paid by the city, town, county, or municipal corporation authorized to require relocation assistance under subsection (1) of this

section. The relocation assistance may be paid from proceeds collected from the excise tax imposed under RCW 82.46.010.

(5) A city, town, county, or municipal corporation requiring the provision of relocation assistance under this section shall adopt policies, procedures, or regulations to implement such requirement. Such policies, procedures, or regulations shall include provisions for administrative hearings to resolve disputes between tenants and property owners relating to relocation assistance or unlawful detainer actions during relocation, and shall require a decision within thirty days of a request for a hearing by either a tenant or property owner.

Judicial review of an administrative hearing decision relating to relocation assistance may be had by filing a petition, within ten days of the decision, in the superior court in the county where the residential property is located. Judicial review shall be confined to the record of the administrative hearing and the court may reverse the decision only if the administrative findings, inferences, conclusions, or decision is:

(a) In violation of constitutional provisions;  
(b) In excess of the authority or jurisdiction of the administrative hearing officer;

(c) Made upon unlawful procedure or otherwise is contrary to law; or  
(d) Arbitrary and capricious.

(6) Any city, town, county, or municipal corporation may require relocation assistance, under the terms of this section, for otherwise eligible tenants whose living arrangements are exempted from the provisions of this chapter under RCW 59.18.040(3) and if the living arrangement is considered to be a rental or lease ~~((pursuant to RCW 67.28.180(1)))~~ not defined as a retail sale under RCW 82.04.050.

(7)(a) Persons who move from a dwelling unit prior to the application by the owner of the dwelling unit for any governmental permit necessary for the demolition, substantial rehabilitation, or change of use of residential property or prior to any notification or filing required for condominium conversion shall not be entitled to the assistance authorized by this section.

(b) Persons who move into a dwelling unit after the application for any necessary governmental permit or after any required condominium conversion notification or filing shall not be entitled to the assistance authorized by this section if such persons receive written notice from the property owner prior to taking possession of the dwelling unit that specifically describes the activity or condition that may result in their temporary or permanent displacement and advises them of their ineligibility for relocation assistance.

**Sec. 18.** RCW 67.38.140 and 1982 1st ex.s. c 22 s 14 are each amended to read as follows:

The county or counties and each component city included in the district collecting or planning to collect the hotel/motel tax ~~((pursuant to))~~ under chapter 67.28 RCW ((67.28.180)) may contribute such revenue ~~((towards the expense for~~

~~maintaining and operating the cultural arts, stadium and convention system))~~ in such manner as shall be agreed upon between them, consistent with this chapter and chapter 67.28 RCW.

**Sec. 19.** RCW 67.40.110 and 1987 1st ex.s. c 8 s 8 are each amended to read as follows:

No city imposing the tax authorized under chapter 67.28 RCW ((67.40.100(2))) may use the tax proceeds directly or indirectly to acquire, construct, operate, or maintain facilities or land intended to be used by a professional sports franchise if the county within which the city is located uses the proceeds of its tax imposed under chapter 67.28 RCW ((67.28.180)) to directly or indirectly acquire, construct, operate, or maintain a facility used by a professional sports franchise.

**Sec. 20.** RCW 67.40.120 and 1991 c 336 s 2 are each amended to read as follows:

The state convention and trade center corporation may contract with the Seattle-King county convention and visitors bureau for marketing the convention and trade center facility and services. Any contract with the Seattle-King county convention and visitors bureau shall include, but is not limited to, the following condition: Each dollar in convention and trade center operations account funds provided to the Seattle-King county convention and visitors bureau shall be matched by at least one dollar and ten cents in nonstate funds. "Nonstate funds" does not include funds received under chapter 67.28 RCW ((67.28.180)).

**Sec. 21.** RCW 82.02.020 and 1996 c 230 s 1612 are each amended to read as follows:

Except only as expressly provided in (~~RCW 67.28.180 and 67.28.190 and the provisions of~~) chapters 67.28 and 82.14 RCW, the state preempts the field of imposing taxes upon retail sales of tangible personal property, the use of tangible personal property, parimutuel wagering authorized pursuant to RCW 67.16.060, conveyances, and cigarettes, and no county, town, or other municipal subdivision shall have the right to impose taxes of that nature. Except as provided in RCW 82.02.050 through 82.02.090, no county, city, town, or other municipal corporation shall impose any tax, fee, or charge, either direct or indirect, on the construction or reconstruction of residential buildings, commercial buildings, industrial buildings, or on any other building or building space or appurtenance thereto, or on the development, subdivision, classification, or reclassification of land. However, this section does not preclude dedications of land or easements within the proposed development or plat which the county, city, town, or other municipal corporation can demonstrate are reasonably necessary as a direct result of the proposed development or plat to which the dedication of land or easement is to apply.

This section does not prohibit voluntary agreements with counties, cities, towns, or other municipal corporations that allow a payment in lieu of a dedication of land or to mitigate a direct impact that has been identified as a consequence of

a proposed development, subdivision, or plat. A local government shall not use such voluntary agreements for local off-site transportation improvements within the geographic boundaries of the area or areas covered by an adopted transportation program authorized by chapter 39.92 RCW. Any such voluntary agreement is subject to the following provisions:

(1) The payment shall be held in a reserve account and may only be expended to fund a capital improvement agreed upon by the parties to mitigate the identified, direct impact;

(2) The payment shall be expended in all cases within five years of collection; and

(3) Any payment not so expended shall be refunded with interest at the rate applied to judgments to the property owners of record at the time of the refund; however, if the payment is not expended within five years due to delay attributable to the developer, the payment shall be refunded without interest.

No county, city, town, or other municipal corporation shall require any payment as part of such a voluntary agreement which the county, city, town, or other municipal corporation cannot establish is reasonably necessary as a direct result of the proposed development or plat.

Nothing in this section prohibits cities, towns, counties, or other municipal corporations from collecting reasonable fees from an applicant for a permit or other governmental approval to cover the cost to the city, town, county, or other municipal corporation of processing applications, inspecting and reviewing plans, or preparing detailed statements required by chapter 43.21C RCW.

This section does not limit the existing authority of any county, city, town, or other municipal corporation to impose special assessments on property specifically benefitted thereby in the manner prescribed by law.

Nothing in this section prohibits counties, cities, or towns from imposing or permits counties, cities, or towns to impose water, sewer, natural gas, drainage utility, and drainage system charges: PROVIDED, That no such charge shall exceed the proportionate share of such utility or system's capital costs which the county, city, or town can demonstrate are attributable to the property being charged: PROVIDED FURTHER, That these provisions shall not be interpreted to expand or contract any existing authority of counties, cities, or towns to impose such charges.

Nothing in this section prohibits a transportation benefit district from imposing fees or charges authorized in RCW 36.73.120 nor prohibits the legislative authority of a county, city, or town from approving the imposition of such fees within a transportation benefit district.

Nothing in this section prohibits counties, cities, or towns from imposing transportation impact fees authorized pursuant to chapter 39.92 RCW.

Nothing in this section prohibits counties, cities, or towns from requiring property owners to provide relocation assistance to tenants under RCW 59.18.440 and 59.18.450.

This section does not apply to special purpose districts formed and acting pursuant to Titles 54, 57, or 87 RCW, nor is the authority conferred by these titles affected.

**NEW SECTION.** Sec. 22. The following acts or parts of acts are each repealed:

- (1) RCW 67.28.090 and 1991 c 363 s 138 & 1967 c 236 s 2;
- (2) RCW 67.28.100 and 1967 c 236 s 3;
- (3) RCW 67.28.110 and 1967 c 236 s 4;
- (4) RCW 67.28.182 and 1995 c 386 s 9 & 1987 c 483 s 2;
- (5) RCW 67.28.185 and 1975 1st ex.s. c 225 s 2;
- (6) RCW 67.28.190 and 1967 c 236 s 12;
- (7) RCW 67.28.210 and 1996 c 159 s 4, 1995 c 290 s 1, & 1994 c 290 s 1;
- (8) RCW 67.28.240 and 1995 c 386 s 10, 1993 sp.s. c 16 s 3, 1991 c 363 s 140, & 1988 ex.s. c 1 s 21;
- (9) RCW 67.28.260 and 1991 c 331 s 1;
- (10) RCW 67.28.270 and 1995 c 290 s 2 & 1991 c 357 s 4;
- (11) RCW 67.28.280 and 1993 c 389 s 1;
- (12) RCW 67.28.290 and 1993 sp.s. c 16 s 1;
- (13) RCW 67.28.300 and 1994 c 65 s 1;
- (14) RCW 67.28.310 and 1995 c 340 s 1;
- (15) RCW 67.28.320 and 1996 c 159 s 1;
- (16) RCW 67.28.360 and 1996 c 159 s 2; and
- (17) RCW 67.28.370 and 1996 c 159 s 3.

**NEW SECTION.** Sec. 23. This act does not affect any existing right acquired or liability or obligation incurred under the sections amended or repealed in this act or under any rule or order adopted under those sections, nor does it affect any proceeding instituted under those sections. As provided in RCW 1.12.020, the sections amended or repealed in this act are continued by section 3 of this act for purposes such as redemption payments on bonds issued in reliance on taxes imposed under those sections. Any moneys held in a fund created under a section repealed in this act shall be deposited in a fund created under section 4 of this act.

**NEW SECTION.** Sec. 24. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

**NEW SECTION.** Sec. 25. *This act takes effect April 1, 1998.*

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

Passed the Senate April 26, 1997.

Passed the House April 25, 1997.

Approved by the Governor May 20, 1997, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State May 20, 1997.

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

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

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

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

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

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

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

## CHAPTER 453

[Substitute Senate Bill] 5868]

### CLASSIFICATION OF PRODUCERS OF ALUMINUM MASTER ALLOYS FOR BUSINESS AND OCCUPATION TAX PURPOSES

AN ACT Relating to excise taxation of producers of aluminum master alloys; amending RCW 82.04.110; providing an effective date; and declaring an emergency.

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

**Sec. 1.** RCW 82.04.110 and 1971 ex.s. c 186 s 1 are each amended to read as follows:

"Manufacturer" means every person who, either directly or by contracting with others for the necessary labor or mechanical services, manufactures for sale or for commercial or industrial use from his or her own materials or ingredients any articles, substances or commodities. When the owner of equipment or facilities furnishes, or sells to the customer prior to manufacture, all or a portion of the materials that become a part or whole of the manufactured article, the department shall prescribe equitable rules for determining tax liability: **PROVIDED, That a person who produces aluminum master alloys is a processor for hire rather than a manufacturer, regardless of the portion of the aluminum provided by that person's customer: PROVIDED FURTHER, That** a nonresident of this state who is the owner of materials processed for it in this state by a processor for hire shall not be deemed to be engaged in business in this state as a manufacturer because of the performance of such processing work for it in this state: **PROVIDED FURTHER, That** the owner of materials from which a nuclear fuel assembly is made for it by a processor for hire shall not be subject to tax under this chapter as a manufacturer of the fuel assembly.

For the purposes of this section, "aluminum master alloy" means an alloy registered with the Aluminum Association as a grain refiner or a hardener alloy using the American National Standards Institute designating system H35.3.

**NEW SECTION.** Sec. 2. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 1997.

Passed the Senate April 8, 1997.

Passed the House April 17, 1997.

Approved by the Governor May 20, 1997.

Filed in Office of Secretary of State May 20, 1997.

## CHAPTER 454

[Engrossed Substitute House Bill 2259]

### OPERATING BUDGET, 1997-1999—SUPPLEMENTAL OPERATING BUDGET, 1995-1997

AN ACT Relating to fiscal matters; amending RCW 43.79.445; amending 1997 c 149 ss 103, 118, 127, 149, 151, 207, 208, 211, 212, 213, 220, 218, 221, 222, 225, 302, 303, 308, 515, 610, 709, 801, and 803 (uncodified); amending 1996 c 283 ss 106, 109, 113, 114, 116, 121, 124, 132, 133, 135, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 214, 215, 216, 217, 218, 220, 301, 302, 304, 305, 306, 402, 501, 502, 504, 505, 506, 507, 509, 511, 512, 514, 515, 516, 602, 603, 604, 605, 606, 607, 608, 609, 610, 613, 701, 702, 703, 705, 709, 801, 802, and 803 (uncodified); amending 1995 2nd sp.s. c 18 ss 116, 145, 210, 213, 214, and 306 (uncodified); adding new sections to 1995 2nd sp.s. c 18 (uncodified); creating new sections; repealing 1997 c 149 s 710 (uncodified) and 1997 c 149 s 719 (uncodified); making appropriations; and declaring an emergency.

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

**NEW SECTION.** Sec. 1. (1) A budget is hereby adopted and, subject to the provisions set forth in the following sections, the several amounts specified in parts I through VIII of this act, or so much thereof as shall be sufficient to accomplish the purposes designated, are hereby appropriated and authorized to be incurred for salaries, wages, and other expenses of the agencies and offices of the state and for other specified purposes for the fiscal biennium beginning July 1, 1997, and ending June 30, 1999, except as otherwise provided, out of the several funds of the state hereinafter named.

(2) Unless the context clearly requires otherwise, the definitions in this section apply throughout this act.

(a) "Fiscal year 1998" or "FY 1998" means the fiscal year ending June 30, 1998.

(b) "Fiscal year 1999" or "FY 1999" means the fiscal year ending June 30, 1999.

(c) "FTE" means full time equivalent.

(d) "Lapse" or "revert" means the amount shall return to an unappropriated status.

(e) "Provided solely" means the specified amount may be spent only for the specified purpose. Unless otherwise specifically authorized in this act, any portion of an amount provided solely for a specified purpose which is unnecessary to fulfill the specified purpose shall lapse.

**PART I  
GENERAL GOVERNMENT**

**Sec. 101.** 1997 c 149 s 103 (uncodified) is amended to read as follows:  
**FOR THE JOINT LEGISLATIVE AUDIT AND REVIEW COMMITTEE**

General Fund Appropriation (FY 1998) .....	\$	<del>((1,524,000))</del>	<u>1,421,000</u>
General Fund Appropriation (FY 1999) .....	\$	<del>((1,837,000))</del>	<u>1,425,000</u>
<b>TOTAL APPROPRIATION .....</b>	<b>\$</b>	<b><del>((3,361,000))</del></b>	<b><u>2,846,000</u></b>

The appropriations in this section are subject to the following conditions and limitations:

~~(((1)) \$103,000 of the general fund fiscal year 1998 appropriation and \$412,000 of the general fund fiscal year 1999 appropriation are provided solely to implement Engrossed Substitute Senate Bill No. 5633 (performance audit of the department of transportation). If the bill is not enacted by June 30, 1997, the amounts provided in this subsection shall lapse.~~

—((2)) \$50,000 of the general fund appropriation for fiscal year 1998 is provided solely to implement Substitute Senate Bill No. 5071 (school district territory). If the bill is not enacted by June 30, 1997, the amount provided in this subsection shall lapse.

**Sec. 102.** 1997 c 149 s 118 (uncodified) is amended to read as follows:  
**FOR THE GOVERNOR'S OFFICE OF INDIAN AFFAIRS**

General Fund Appropriation (FY 1998) .....	\$	<del>((185,000))</del>	<u>230,000</u>
General Fund Appropriation (FY 1999) .....	\$	<del>((185,000))</del>	<u>233,000</u>
<b>TOTAL APPROPRIATION .....</b>	<b>\$</b>	<b><del>((373,000))</del></b>	<b><u>463,000</u></b>

**NEW SECTION. Sec. 103. FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT**

General Fund—State Appropriation (FY 1998) .....	\$	57,361,000
General Fund—State Appropriation (FY 1999) .....	\$	56,351,000
General Fund—Federal Appropriation .....	\$	155,278,000
General Fund—Private/Local Appropriation .....	\$	6,903,000
Public Safety and Education Account		
Appropriation .....	\$	8,781,000
Public Works Assistance Account		
Appropriation .....	\$	2,223,000
Building Code Council Account Appropriation .....	\$	1,318,000
Administrative Contingency Account		
Appropriation .....	\$	1,776,000

Low-Income Weatherization Assistance Account		
Appropriation .....	\$	923,000
Violence Reduction and Drug Enforcement Account		
Appropriation .....	\$	6,042,000
Manufactured Home Installation Training Account		
Appropriation .....	\$	250,000
Washington Housing Trust Account		
Appropriation .....	\$	7,999,000
Public Facility Construction Loan Revolving Account		
Appropriation .....	\$	515,000
TOTAL APPROPRIATION .....	\$	305,720,000

The appropriations in this section are subject to the following conditions and limitations:

(1) \$3,282,500 of the general fund—state appropriation for fiscal year 1998 and \$3,282,500 of the general fund—state appropriation for fiscal year 1999 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 biennium.

(2) \$155,000 of the general fund—state appropriation for fiscal year 1998 and \$155,000 of the general fund—state appropriation for fiscal year 1999 are provided solely for a contract with the Washington manufacturing extension partnership.

(3) \$9,964,000 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 1998 as follows:

(a) \$3,603,250 to local units of governments to continue the multi-jurisdictional narcotics task forces;

(b) \$500,000 to the department to continue the state-wide drug prosecution assistance program in support of multijurisdictional narcotics task forces;

(c) \$1,306,075 to the Washington state patrol for coordination, investigative, and supervisory support to the multijurisdictional narcotics task forces and for methamphetamine education and response;

(d) \$240,000 to the department for grants to support tribal law enforcement needs;

(e) \$900,000 to drug courts in eastern and western Washington;

(f) \$300,000 to the department for grants to provide sentencing alternatives training programs to defenders;

(g) \$200,000 for grants to support substance-abuse treatment in county jails;

(h) \$517,075 to the department for legal advocacy for victims of domestic violence and for training of local law enforcement officers and prosecutors on domestic violence laws and procedures;

- (i) \$903,000 to the department to continue youth violence prevention and intervention projects;
- (j) \$91,000 for the governor's council on substance abuse;
- (k) \$99,000 for program evaluation and monitoring;
- (l) \$100,000 for the department of corrections for a feasibility study of replacing or updating the offender based tracking system.
- (m) \$498,200 for development of a state-wide system to track criminal history records; and
- (n) No more than \$706,400 to the department for grant administration and reporting.

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 section. If moneys in excess of those appropriated in this section 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 a 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 fiscal year, the department shall estimate and request authority to spend any funds remaining in reserve as a result of this subsection.

(4) \$1,000,000 of the general fund fiscal year 1998 appropriation and \$1,000,000 of the general fund fiscal year 1999 appropriation are provided solely to implement Engrossed Substitute House Bill No. 1576 (buildable lands) or Senate Bill No. 6094 (growth management). If neither bill is enacted by June 30, 1997, the amounts provided in this subsection shall lapse.

(5) \$4,800,000 of the public safety and education account appropriation, \$1,000,000 of the fiscal year 1998 general fund—state appropriation, and \$1,000,000 of the fiscal year 1999 general fund—state appropriation are provided solely for indigent civil legal representation services contracts and contracts administration. The amounts provided in this subsection are contingent upon enactment of section 2 of Engrossed Substitute House Bill No. 2276 (civil legal services for indigent persons). If section 2 of the bill is not enacted by June 30, 1997, the amount provided in this subsection shall lapse.

(6) \$643,000 of the general fund—state fiscal year 1998 appropriation and \$643,000 of the general fund—state fiscal year 1999 appropriation are provided solely to increase payment rates for contracted early childhood education assistance program providers. It is the legislature's intent that these amounts shall be used primarily to increase compensation for persons employed in direct, front-line service delivery.

(7) \$75,000 of the general fund—state fiscal year 1998 appropriation and \$75,000 of the general fund—state fiscal year 1999 appropriation are provided solely as a grant for the community connections program in Walla Walla county.

(8) \$300,000 of the general fund—state fiscal year 1998 appropriation and \$300,000 of the general fund—state fiscal year 1999 appropriation are provided solely to contract with the Washington state association of court-appointed special advocates/guardians ad litem (CASA/GAL) to establish pilot programs in three counties to recruit additional community volunteers to represent the interests of children in dependency proceedings. Of this amount, a maximum of \$30,000 shall be used by the department to contract for an evaluation of the effectiveness of CASA/GAL in improving outcomes for dependent children. The evaluation shall address the cost-effectiveness of CASA/GAL and to the extent possible, identify savings in other programs of the state budget where the savings resulted from the efforts of the CASA/GAL volunteers. The department shall report to the governor and legislature by October 15, 1998.

(9) \$75,000 of the general fund—state appropriation for fiscal year 1999 is provided solely for state sponsorship of the "BIO 99" international biotechnology conference and exhibition in the Seattle area in 1999.

(10) \$698,000 of the general fund—state appropriation for fiscal year 1998, \$697,000 of the general fund—state appropriation for fiscal year 1999, and \$1,101,000 of the administrative contingency account appropriation are provided solely for contracting with associate development organizations.

(11) \$50,000 of the general fund—state appropriation for fiscal year 1998 and \$50,000 of the general fund—state appropriation for fiscal year 1999 are provided solely to expand the long-term care ombudsman program.

(12) \$60,000 of the general fund—state appropriation for fiscal year 1998 and \$60,000 of the general fund—state appropriation for fiscal year 1999 are provided solely for implementation of the Puget Sound work plan action item DCTED-01.

(13) \$20,000 of the general fund—state appropriation for fiscal year 1998 is provided solely for a task force on tourism promotion and development. The task force shall report to the legislature on its findings and recommendations by January 31, 1998.

(14) \$61,000 of the general fund—state appropriation for fiscal year 1998 and \$60,000 of the general fund—state appropriation for fiscal year 1999 are provided solely for the pacific northwest economic region (PNWER).

(15) \$123,000 of the general fund—state appropriation for fiscal year 1998 and \$124,000 of the general fund—state appropriation for fiscal year 1999 are provided solely for the community development finance program.

(16) Within the appropriations provided in this section, the department shall conduct a study of possible financial incentives to assist in revitalization of commercial areas and report its findings and recommendations to the appropriate committees of the legislature by November 15, 1997.

**Sec. 104.** 1997 c 149 s 127 (uncodified) is amended to read as follows:

**FOR THE OFFICE OF FINANCIAL MANAGEMENT**

General Fund—State Appropriation (FY 1998) . . . . \$	((40,178,000))
	<u>10,530,000</u>

General Fund—State Appropriation (FY 1999) . . . . \$	<del>((9,916,000))</del>
	<u>10,253,000</u>
General Fund—Federal Appropriation . . . . . \$	23,331,000
TOTAL APPROPRIATION . . . . . \$	<del>((43,425,000))</del>
	<u>44,114,000</u>

~~((The appropriations in this section are subject to the following conditions and limitations: \$125,000 of the general fund—state appropriation for fiscal year 1998 and \$125,000 of the general fund—state appropriation for fiscal year 1999 are provided solely for staff support for the implementation of the Washington educational network. Funds shall be transferred to the appropriate agency as required by Substitute House Bill No. 1698 or Substitute Senate Bill No. 5002 or substantially similar legislation (K-20 telecommunications);))~~

Sec. 105. 1997 c 149 s 149 (uncodified) is amended to read as follows:

**FOR THE MILITARY DEPARTMENT**

General Fund—State Appropriation (FY 1998) . . . . \$	8,151,000
General Fund—State Appropriation (FY 1999) . . . . \$	<del>((11,735,000))</del>
	<u>8,154,000</u>
General Fund—Federal Appropriation . . . . . \$	34,314,000
General Fund—Private/Local Appropriation . . . . . \$	238,000
Flood Control Assistance Account Appropriation . . \$	3,000,000
Enhanced 911 Account Appropriation . . . . . \$	26,782,000
Disaster Response Account—State Appropriation . . \$	23,977,000
Disaster Response Account—Federal Appropriation \$	95,419,000
TOTAL APPROPRIATION . . . . . \$	<del>((203,616,000))</del>
	<u>200,035,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) ~~(((\$3,581,000 of the general fund—state appropriation for fiscal year 1999;))~~ \$3,000,000 of the flood control assistance account appropriation(;) and \$6,197,000 of the general fund—federal appropriation are provided solely for deposit in the disaster response account to cover costs pursuant to subsection (2) of this section.

(2) \$23,977,000 of the disaster response account—state appropriation is provided solely for the state share of response and recovery costs associated with federal emergency management agency (FEMA) disaster number 1079 (November/December 1995 storms), FEMA disaster 1100 (February 1996 floods), FEMA disaster 1152 (November 1996 ice storm), FEMA disaster 1159 (December 1996 holiday storm), FEMA disaster 1172 (March 1997 floods) and to assist local governmental entities with the matching funds necessary to earn FEMA funds for FEMA disaster 1100 (February 1996 floods).

(3) \$100,000 of the general fund—state fiscal year 1998 appropriation and \$100,000 of the general fund—state fiscal year 1999 appropriation are provided

solely for the implementation of a conditional scholarship program pursuant to chapter 28B.103 RCW.

(4) \$35,000 of the general fund—state fiscal year 1998 appropriation and \$35,000 of the general fund—state fiscal year 1999 appropriation are provided solely for the north county emergency medical service.

Sec. 106. 1997 c 149 s 151 (uncodified) is amended to read as follows:

**FOR THE GROWTH PLANNING HEARINGS BOARD**

General Fund Appropriation (FY 1998) . . . . .	\$	<del>((1,247,000))</del>
		<u>1,314,000</u>
General Fund Appropriation (FY 1999) . . . . .	\$	<del>((1,252,000))</del>
		<u>1,320,000</u>
TOTAL APPROPRIATION . . . . .	\$	<del>((2,499,000))</del>
		<u>2,634,000</u>

**PART II  
HUMAN SERVICES**

NEW SECTION. Sec. 201. **FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES.** (1) Appropriations made in part II of 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 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 providing appropriation authority, and an equal amount of appropriated state general fund moneys shall lapse. Upon the lapsing of any moneys under this subsection, the office of financial management shall notify the legislative fiscal committees. As used in this subsection, "unrestricted federal moneys" includes block grants and other funds that federal law does not require to be spent on specifically defined projects or matched on a formula basis by state funds.

(3) The appropriations in sections 202 through 208 of this act shall be expended for the programs and in the amounts listed in those sections.

NEW SECTION. Sec. 202. **FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—CHILDREN AND FAMILY SERVICES PROGRAM**

General Fund—State Appropriation (FY 1998) . . . . .	\$	196,437,000
--	----	-------------

General Fund—State Appropriation (FY 1999) . . . . .	\$	208,861,000
General Fund—Federal Appropriation . . . . .	\$	252,269,000
General Fund—Private/Local Appropriation . . . . .	\$	400,000
Violence Reduction and Drug Enforcement Account		
Appropriation . . . . .	\$	4,230,000
<b>TOTAL APPROPRIATION . . . . .</b>	<b>\$</b>	<b>662,197,000</b>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$16,510,000 of the general fund—state appropriation for fiscal year 1998 and \$17,508,000 of the general fund—state appropriation for fiscal year 1999 are provided solely for purposes consistent with the maintenance of effort requirements under the federal temporary assistance for needy families program established under P.L. 104-193.

(2) \$837,000 of the violence reduction and drug enforcement account appropriation and \$7,228,000 of the general fund—federal appropriation are provided solely for the operation of the family policy council, the community public health and safety networks, and delivery of services authorized under the federal family preservation and support act. Within the funds provided, the family policy council shall contract for an evaluation of the community networks with the institute for public policy and shall provide for audits of ten networks. Within the funds provided, the family policy council may build and maintain a geographic information system database tied to community network geography.

(3) \$577,000 of the general fund—state fiscal year 1998 appropriation and \$577,000 of the general fund—state fiscal year 1999 appropriation are provided solely to contract for the operation of one pediatric interim care facility. The facility shall provide residential care for up to twelve children through two years of age. Seventy-five percent of the children served by the facility must be in need of special care as a result of substance abuse by their mothers. The facility also shall provide on-site training to biological, adoptive, or foster parents. The facility shall provide at least three months of consultation and support to parents accepting placement of children from the facility. The facility may recruit new and current foster and adoptive parents for infants served by the facility. The department shall not require case management as a condition of the contract.

(4) \$481,000 of the general fund—state fiscal year 1998 appropriation and \$481,000 of the general fund—state fiscal year 1999 appropriation are provided solely for up to three nonfacility-based programs for the training, consultation, support, and recruitment of biological, foster, and adoptive parents of children through age three in need of special care as a result of substance abuse by their mothers, except that each program may serve up to three medically fragile nonsubstance-abuse-affected children. In selecting nonfacility-based programs, preference shall be given to programs whose federal or private funding sources have expired or that have successfully performed under the existing pediatric interim care program.

(5) \$640,000 of the general fund—state appropriation for fiscal year 1998 and \$640,000 of the general fund—state appropriation for fiscal year 1999 are provided solely to fund Second Substitute Senate Bill No. 5710 (juvenile care and treatment), including section 2 of the bill. Amounts provided in this subsection to implement Second Substitute Senate Bill No. 5710 must be used to serve families who are screened from the child protective services risk assessment process. Services shall be provided through contracts with community-based organizations. If neither bill is enacted by June 30, 1997, the amounts provided in this subsection shall lapse.

(6) \$594,000 of the general fund—state appropriation for fiscal year 1998, \$556,000 of the general fund—state appropriation for fiscal year 1999, and \$290,000 of the general fund—federal appropriation are provided solely to fund the provisions of Engrossed Second Substitute House Bill No. 2046 (foster parent liaison). The department shall establish a foster parent liaison in each department of social and health services region of the state and contract with a private provider to implement a recruitment and retention program for foster parents and adoptive families. The department shall provide a minimum of two hundred additional adoptive and foster home placements by June 30, 1998. If the bill is not enacted by June 30, 1997, the amounts in this subsection shall lapse.

(7) \$433,000 of the fiscal year 1998 general fund—state appropriation, \$395,000 of the fiscal year 1999 general fund—state appropriation, and \$894,000 of the general fund—federal appropriation are provided solely to increase the rate paid to private child-placing agencies.

(8) \$580,000 of the general fund—state appropriation for fiscal year 1998 and \$580,000 of the general fund—state appropriation for fiscal year 1999 are provided solely for development and expansion of child care training requirements and optional training programs. The department shall adopt rules to require annual training in early childhood development of all directors, supervisors, and lead staff at child care facilities. Directors, supervisors, and lead staff at child care facilities include persons licensed as family child care providers, and persons employed at child care centers or school age child care centers. The department shall establish a program to fund scholarships and grants to assist persons in meeting these training requirements. The department shall also develop criteria for approving training programs and establish a system for tracking who has received the required level of training. In adopting rules, developing curricula, setting up systems, and administering scholarship programs, the department shall consult with the child care coordinating committee and other community stakeholders.

(9) The department shall provide a report to the legislature by November 1997 on the growth in additional rates paid to foster parents beyond the basic monthly rate. This report shall explain why exceptional, personal, and special rates are being paid for an increasing number of children and why the amount paid for these rates per child has risen in recent years. This report must also recommend methods by which the legislature may improve the current foster parent compensation

system, allow for some method of controlling the growth in costs per case, and improve the department's and the legislature's ability to forecast the program's needs in future years.

(10) \$100,000 of the general fund—state appropriation for fiscal year 1998 and \$100,000 of the general fund—state appropriation for fiscal year 1999 are provided solely for legal costs associated with the defense of vendors operating a secure treatment facility, for actions arising from the good faith performance of treatment services for behavioral difficulties or needs.

(11) \$2,745,000 of the fiscal year 1998 general fund—state appropriation, \$2,745,000 of the fiscal year 1999 general fund—state appropriation, and \$1,944,000 of the general fund—federal appropriation are provided solely for the category of services titled "intensive family preservation services."

(12) \$2,200,000 of the fiscal year 1998 general fund—state appropriation and \$2,200,000 of the fiscal year 1999 general fund—state appropriation are provided solely to continue existing continuum of care and street youth projects.

(13) \$1,456,000 of the general fund—state appropriation for fiscal year 1998, \$1,474,000 of the general fund—state appropriation for fiscal year 1999 and \$1,141,000 of the general fund—federal appropriation are provided solely for the improvement of quality and capacity of the child care system and related consumer education. The activities funded by this appropriation shall include, but not be limited to: Expansion of child care resource and referral network services to serve additional families, to provide technical assistance to child care providers, and to cover currently unserved areas of the state; development of and incentives for child care during nonstandard work hours; and the development of care for infants, toddlers, preschoolers, and school age youth. These amounts are provided in addition to funding for child care training and fire inspections of child care facilities. These activities shall also improve the quality and capacity of the child care system.

**NEW SECTION. Sec. 203. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—JUVENILE REHABILITATION PROGRAM**

**(1) COMMUNITY SERVICES**

General Fund—State Appropriation (FY 1998) . . . . .	\$	32,305,000
General Fund—State Appropriation (FY 1999) . . . . .	\$	32,348,000
General Fund—Federal Appropriation . . . . .	\$	16,125,000
General Fund—Private/Local Appropriation . . . . .	\$	378,000
Violence Reduction and Drug Enforcement Account		
Appropriation . . . . .	\$	11,256,000
<b>TOTAL APPROPRIATION . . . . .</b>	<b>\$</b>	<b>92,412,000</b>

The appropriations in this subsection are subject to the following conditions and limitations:

(a) \$527,000 of the violence reduction and drug enforcement account appropriation is provided solely for deposit in the county criminal justice assistance account solely for costs to the criminal justice system associated with the

implementation of Engrossed Third Substitute House Bill No. 3900 (revising the juvenile code). If Engrossed Third Substitute House Bill No. 3900 is not enacted by June 30, 1997, the amount provided in this subsection shall lapse. The amount provided in this subsection is intended to provide funding for county adult court costs associated with the implementation of Engrossed Third Substitute House Bill No. 3900 and shall be distributed in accordance with RCW 82.14.310.

(b) \$2,917,000 of the violence reduction and drug enforcement account is provided solely for the implementation of Engrossed Third Substitute Senate Bill No. 3900 (revising the juvenile code). The amount provided in this subsection is intended to provide funding for county impacts associated with the implementation of Third Substitute Senate Bill No. 3900 and shall be distributed to counties as prescribed in the current consolidated juvenile services (CJS) formula. If the bill is not enacted by June 30, 1997, the amounts provided shall lapse.

(c) \$2,350,000 of the general fund—state fiscal year 1998 appropriation and \$2,350,000 of the general fund—state fiscal year 1999 appropriation are provided solely for an early intervention program to be administered at the county level. Moneys shall be awarded on a competitive basis to counties that have submitted plans for implementation of an early intervention program consistent with proven methodologies currently in place in the state. 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.

(d) \$1,221,000 of the violence reduction and drug enforcement appropriation is provided solely to implement alcohol and substance abuse treatment for locally committed offenders. The juvenile rehabilitation administration shall award these moneys on a competitive basis to counties that have submitted a plan for the provision of treatment 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. If Engrossed Third Substitute House Bill No. 3900 (juvenile code revisions) is not enacted by June 30, 1997, the amount provided in this subsection shall lapse.

(e) \$100,000 of the general fund—state fiscal year 1998 appropriation and \$100,000 of the general fund—state fiscal year 1999 appropriation are provided solely for the juvenile rehabilitation administration to contract with the institute for public policy for the responsibilities assigned in Engrossed Third Substitute House Bill No. 3900 (juvenile code revisions). If the bill is not enacted by June 30, 1997, the amounts provided in this subsection shall lapse.

(f) \$400,000 of the violence reduction and drug enforcement account appropriation is provided solely for the development of standards measuring the effectiveness of chemical dependency treatment and for conducting evaluations of chemical dependency programs pursuant to Engrossed Third Substitute House Bill No. 3900 (revising the juvenile code). If the bill is not enacted by June 30, 1997,

the amount provided in this subsection shall lapse. The juvenile rehabilitation administration shall consult with the division of alcohol and substance abuse and contract with the University of Washington to develop the standards and conduct the evaluations.

(g) \$150,000 of the general fund—state fiscal year 1998 appropriation and \$150,000 of the general fund—state fiscal year 1999 appropriation are provided solely for a contract to expand the services of the teamchild project to additional sites. Priority use of these funds shall be to provide teamchild service to early repeat offenders to help ensure they receive appropriate child welfare and educational services.

(2) INSTITUTIONAL SERVICES

General Fund—State Appropriation (FY 1998) . . . . .	\$	44,782,000
General Fund—State Appropriation (FY 1999) . . . . .	\$	44,662,000
General Fund—Private/Local Appropriation . . . . .	\$	727,000
Violence Reduction and Drug Enforcement Account		
Appropriation . . . . .	\$	15,281,000
TOTAL APPROPRIATION . . . . .	\$	105,452,000

The appropriations in this subsection are subject to the following conditions and limitations: \$3,680,000 of the violence reduction and drug enforcement account appropriation is provided solely for the implementation of Engrossed Third Substitute House Bill No. 3900 (juvenile code revisions). If the bill is not enacted by June 30, 1997, the amount provided in this subsection shall lapse.

(3) PROGRAM SUPPORT

General Fund—State Appropriation (FY 1998) . . . . .	\$	1,922,000
General Fund—State Appropriation (FY 1999) . . . . .	\$	1,610,000
General Fund—Federal Appropriation . . . . .	\$	156,000
Violence Reduction and Drug Enforcement Account		
Appropriation . . . . .	\$	421,000
TOTAL APPROPRIATION . . . . .	\$	4,109,000

The appropriations in this subsection are subject to the following conditions and limitations:

(a) \$92,000 of the general fund—state fiscal year 1998 appropriation and \$36,000 of the general fund—state fiscal year 1999 appropriation are provided solely for the implementation of Substitute Senate Bill No. 5759 (risk classification). If the bill is not enacted by June 30, 1997, the amounts provided shall lapse.

(b) \$206,000 of the general fund—state fiscal year 1998 appropriation is provided solely for the implementation of Engrossed Second Substitute Senate Bill No. 5710 (juvenile care and treatment). If the bill is not enacted by June 30, 1997, the amount provided shall lapse.

(c) \$97,000 of the general fund—state fiscal year 1998 appropriation and \$36,000 of the general fund—state fiscal year 1999 appropriation are provided solely for the implementation of Engrossed Third Substitute House Bill No. 3900

(juvenile code revisions). If the bill is not enacted by June 30, 1997, the amounts provided shall lapse.

(d) Within the amounts provided in this subsection, the juvenile rehabilitation administration (JRA) shall develop by January 1, 1998, a staffing model for noncustody functions at JRA institutions and work camps. The models should, whenever possible, reflect the most efficient practices currently being used within the system.

\*Sec. 204. 1997 c 149 s 207 (unclassified) is amended to read as follows:

**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—  
ECONOMIC SERVICES PROGRAM**

General Fund—State Appropriation (FY 1998) . . . . .	\$	543,150,000
General Fund—State Appropriation (FY 1999) . . . . .	\$	529,985,000
General Fund—Federal Appropriation . . . . .	\$	952,618,000
<b>TOTAL APPROPRIATION . . . . .</b>	<b>\$</b>	<b>2,025,753,000</b>

The appropriations in this section are subject to the following conditions and limitations:

**(1) General assistance—unemployable recipients who are assessed as needing alcohol or drug treatment shall be assigned a protective payee to prevent the diversion of cash assistance toward purchasing alcohol or other drugs.**

(2) The legislature finds that, with the passage of the federal personal responsibility and work opportunity act and Engrossed House Bill No. 3901, the temporary assistance for needy families is no longer an entitlement. The legislature declares that the currently appropriated level for the program is sufficient for the next few budget cycles. To the extent, however, that currently appropriated amounts exceed costs during the 1997-99 biennium, the department is encouraged to set aside excess federal funds for use in future years.

(3) \$485,000 of the general fund—state fiscal year 1998 appropriation, \$3,186,000 of the general fund—state fiscal year 1999 appropriation, and \$3,168,000 of the general fund—federal appropriation are provided solely to continue to implement the previously competitively procured electronic benefits transfer system through the western states EBT alliance for distribution of cash grants and food stamps so as to meet the requirements of P.L. 104-193.

(4) \$50,000 of the fiscal year 1998 general fund—state appropriation is provided solely for a study of child care affordability as directed in section 403 of Engrossed House Bill No. 3901 (implementing welfare reform). The study shall be performed by the Washington institute for public policy. If the bill is not enacted by June 30, 1997, the amount provided in this subsection shall lapse.

(5) \$500,000 of the fiscal year 1998 general fund—state appropriation and \$500,000 of the fiscal year 1999 general fund—state appropriation are provided solely for an evaluation of the WorkFirst program as directed in section 705 of Engrossed House Bill No. 3901 (implementing welfare reform). The study shall be performed by the joint legislative audit and review committee. If the bill is not enacted by June 30, 1997, the amount provided in this subsection shall lapse.

(6) \$73,129,000 of the general fund—federal appropriation is provided solely for child care assistance for low-income families in the WorkFirst program and for low-income working families as authorized in Engrossed House Bill No. 3901 (implementing welfare reform). All child care assistance provided shall be subject to a monthly copay to be paid by the family receiving the assistance.

(a) The monthly copay required shall be a minimum of ten dollars for families with incomes below seventy-four percent of the federal poverty level adjusted for family size. For families with incomes at or above seventy-four percent of the federal poverty level adjusted for family size, the monthly copay shall be the greater of twenty dollars or forty-seven percent of the family's income above one hundred percent of the federal poverty level adjusted for family size. Child care assistance shall not be provided to families with incomes above one hundred seventy-five percent of the federal poverty level adjusted for family size.

(b) The copay schedule defined in (a) of this subsection shall be in effect unless the department establishes a waiting list for the child care assistance program authorized in Engrossed House Bill No. 3901 (implementing welfare reform) or unless the quarterly reports required by section 321 of the bill indicate that child care expenditures will exceed appropriations made for that purpose at the end of the fiscal year.

(c) If either of the conditions in (b) of this subsection occurs, the monthly copay required shall be a minimum of ten dollars per month for families with incomes below seventy-four percent of the federal poverty level adjusted for family size. For families with incomes at or above seventy-four percent of the federal poverty level adjusted for family size, the monthly copay shall be the greater of ten dollars or thirty percent of the family's income above seventy-four percent of the federal poverty level adjusted for family size. For families with incomes at or above one hundred percent of the federal poverty level adjusted for family size, the monthly copay shall be the greater of one hundred dollars or twenty-nine percent of the family's income in excess of seventy-four percent of the federal poverty level adjusted for family size. For families with incomes at or above one hundred thirty-one percent of the federal poverty level adjusted for family size, the monthly copay shall be fifty percent of the family's income in excess of one hundred percent of the federal poverty level adjusted for family size. Child care assistance shall not be provided to families with incomes above one hundred seventy-five percent of the federal poverty level adjusted for family size.

(7) \$7,624,000 of the fiscal year 1998 general fund—state appropriation, \$18,489,000 of the fiscal year 1999 general fund—state appropriation, and \$29,781,000 of the general fund—federal appropriation are provided solely for implementation of Engrossed House Bill No. 3901 (implementing welfare reform), including sections 404 and 405. If the bill is not enacted by June 30, 1997, the amounts provided in this subsection shall lapse. The level of benefits in the food

program for legal immigrants authorized in the bill shall be equivalent to benefits provided by the federal food stamp program.

(8) \$89,722,000 of the fiscal year 1998 general fund—state appropriation and \$75,466,000 of the fiscal year 1999 general fund—state appropriation are provided solely for cash assistance to recipients in the general assistance—unemployable program. The department shall take any and all actions necessary to maintain expenditures within these amounts.

(9) \$55,995,000 of the fiscal year 1998 general fund—state appropriation, \$55,995,000 of the fiscal year 1999 general fund—state appropriation, and \$184,510,000 of the general fund—federal appropriation are provided solely to administer a low-income child care program as authorized in Engrossed House Bill No. 3901 (implementing welfare reform). The child care program funds shall be allotted as follows:

(a) Each six-month period shall have \$27,997,500 general fund—state and \$46,127,500 general fund—federal funds allotted to be spent during that six-month period for low-income child care assistance.

(b) The department may spend up to the allotted amount for child care assistance during each six-month period. Any funds not spent during the six-month period may be held over and allotted in the next six-month period, subject to the provisions of subsection (6) of this section.

(c) Federal funds allotted for child care but not spent in fiscal year 1998 may be transferred to fiscal year 1999 for allotment but state funds must be spent in the year appropriated.

(d) The department shall operate the low-income child care assistance program within funds appropriated by the legislature for that purpose.

\*Sec. 204 was partially vetoed. See message at end of chapter.

Sec. 205, 1997 c 149 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 1998) . . . . \$	((14,714,000))
	<u>14,466,000</u>
General Fund—State Appropriation (FY 1999) . . . . \$	((14,829,000))
	<u>14,334,000</u>
General Fund—Federal Appropriation . . . . . \$	80,497,000
General Fund—Private/Local Appropriation . . . . . \$	630,000
Violence Reduction and Drug Enforcement Account	
Appropriation . . . . . \$	72,900,000
TOTAL APPROPRIATION . . . . . \$	(1,183,570,000))
	<u>182,827,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$2,062,000 of the general fund—federal appropriation and \$7,482,000 of the violence reduction and drug enforcement account appropriation are provided

solely for the grant programs for school districts and educational service districts set forth in RCW 28A.170.080 through 28A.170.100, including state support activities, as administered through the office of the superintendent of public instruction.

(2) \$1,902,000 of the general fund—state fiscal year 1998 appropriation, \$1,902,000 of the general fund—state fiscal year 1999 appropriation, and \$1,592,000 of the general fund—federal appropriation are provided solely for alcohol and substance abuse assessment, treatment, including treatment for drug affected infants and toddlers, and child care services for clients of the division of children and family services. Assessment shall be provided by approved chemical dependency treatment programs as requested by child protective services personnel in the division of children and family services. Child care shall be provided as deemed necessary by the division of children and family services while parents requiring alcohol and substance abuse treatment are attending treatment programs.

(3) \$760,000 of the fiscal year 1998 general fund—state appropriation and \$760,000 of the fiscal year 1999 general fund—state appropriation are provided solely to fund a program serving mothers of children affected by fetal alcohol syndrome and related conditions, known as the birth-to-three program. The program may be operated in two cities in the state.

~~((4) \$248,000 of the fiscal year 1998 general fund—state appropriation and \$495,000 of the fiscal year 1999 general fund—state appropriation are provided solely to implement Engrossed Third Substitute House Bill No. 3900 (revising the juvenile code). If the bill is not enacted by June 30, 1997, the amounts provided in this subsection shall lapse.))~~

\*Sec. 206. 1997 c 149 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 1998) . . . . .	\$	24,572,000
General Fund—State Appropriation (FY 1999) . . . . .	\$	23,956,000
General Fund—Federal Appropriation . . . . .	\$	40,352,000
General Fund—Private/Local Appropriation . . . . .	\$	270,000
TOTAL APPROPRIATION . . . . .	\$	89,150,000

The appropriations in this section are subject to the following conditions and limitations:

(1) The department may transfer up to \$1,289,000 of the general fund—state appropriation for fiscal year 1998, \$1,757,000 of the general fund—state appropriation for fiscal year 1999, and \$2,813,000 of the general fund—federal appropriation to the administration and supporting services program from various other programs to implement administrative reductions.

(2) The secretary of social and health services and the director of labor and industries shall report to the appropriate fiscal and policy committees of the legislature by July 1, 1997, and every six months thereafter on the measurable changes in employee injury and time-loss rates that have occurred in the state

developmental disabilities, juvenile rehabilitation, and mental health institutions as a result of the upfront loss-control discount agreement between the agencies.

**(3) The department shall not expend any funding for staffing or publication of the sexual minority initiative.**

(4) \$60,000 of the general fund—state appropriation for fiscal year 1998 is provided solely for a welfare fraud pilot program as described by House Bill No. 1822 (welfare fraud investigation).

(5) \$55,000 of the fiscal year 1998 general fund—state appropriation, \$64,000 of the fiscal year 1999 general fund—state appropriation, and \$231,000 of the general fund—federal appropriation are provided solely for implementation of Engrossed House Bill No. 3901 (implementing welfare reform). If the bill is not enacted by June 30, 1997, the amounts provided in this subsection shall lapse.

\*Sec. 206 was partially vetoed. See message at end of chapter.

\*Sec. 207. 1997 c 149 s 212 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—  
CHILD SUPPORT PROGRAM**

General Fund—State Appropriation (FY 1998) . . . . .	\$	21,122,000
General Fund—State Appropriation (FY 1999) . . . . .	\$	20,877,000
General Fund—Federal Appropriation . . . . .	\$	145,739,000
General Fund—Private/Local Appropriation . . . . .	\$	33,207,000
TOTAL APPROPRIATION . . . . .	\$	220,945,000

The appropriations provided in this section are subject to the following conditions and limitations:

(1) The department shall contract with private collection agencies to pursue collection of AFDC child support arrearages in cases that might otherwise consume a disproportionate share of the department's collection efforts. The department's child support collection staff shall determine which cases are appropriate for referral to private collection agencies. In determining appropriate contract provisions, the department shall consult with other states that have successfully contracted with private collection agencies to the extent allowed by federal support enforcement regulations.

**(2) The department shall request a waiver from federal support enforcement regulations to replace the current program audit criteria, which is process-based, with performance measures based on program outcomes.**

(3) The amounts appropriated in this section for child support legal services shall be expended only by means of contracts with local prosecutor's offices.

(4) \$305,000 of the general fund—state fiscal year 1998 appropriation, \$494,000 of the general fund—state fiscal year 1999 appropriation, and \$1,408,000 of the general fund—federal appropriation are provided solely to implement Engrossed House Bill No. 3901 (implementing welfare reform). If the bill is not enacted by June 30, 1997, the amounts provided in this subsection shall lapse.

\*Sec. 207 was partially vetoed. See message at end of chapter.

Sec. 208. 1997 c 149 s 213 (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 1998) . . . . .	\$	47,435,000
General Fund—State Appropriation (FY 1999) . . . . .	\$	47,514,000
General Fund—Federal Appropriation . . . . .	\$	54,366,000
Health Services Account Appropriation . . . . .	\$	1,502,000
Violence Reduction and Drug Enforcement Account		
Appropriation . . . . .	\$	2,215,000
<b>TOTAL APPROPRIATION . . . . .</b>	<b>\$</b>	<b>153,032,000</b>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$22,893,000 of the general fund—state appropriation for fiscal year 1998, \$22,835,000 of the general fund—state appropriation for fiscal year 1999, \$35,431,000 of the general fund—federal appropriation, \$2,215,000 of the violence reduction and drug enforcement account appropriation, and \$1,502,000 of the health services account appropriation are provided solely to increase the rates of contracted service providers. The department need not provide all vendors with the same percentage rate increase. Rather, the department is encouraged to use these funds to help assure an adequate supply of qualified vendors. Vendors providing services in markets where recruitment and retention of qualified providers is a problem may receive larger rate increases than other vendors. It is the legislature's intent that these amounts shall be used primarily to increase compensation for persons employed in direct, front-line service delivery. Any rate increases granted as a result of this section must be implemented so that the carry-forward costs into the 1999-01 biennium do not exceed the amounts provided in this subsection. Within thirty days of granting a vendor rate increase under this section, the department shall report the following information to the fiscal committees of the legislature: (a) The amounts and effective dates of any increases granted; (b) the process and criteria used to determine the increases; and (c) any data used in that process. In accordance with RCW 43.88.110(1), the department and the office of financial management shall allot funds appropriated in this section to the programs and budget units from which the funds will be expended. Such allotments shall be completed no later than September 15, 1997.

(2) \$263,000 of the fiscal year 1998 general fund—state appropriation, \$349,000 of the fiscal year 1999 general fund—state appropriation, and \$1,186,000 of the general fund—federal appropriation are provided solely for implementation of Engrossed House Bill No. 3901 (implementing welfare reform). If the bill is not enacted by June 30, 1997, the amounts provided in this subsection shall lapse.

Sec. 209. 1997 c 149 s 220 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF VETERANS AFFAIRS**

**(1) HEADQUARTERS**

General Fund Appropriation (FY 1998) . . . . .	\$	<del>((1,339,000))</del>
		<b>1,409,000</b>

General Fund Appropriation (FY 1999) . . . . .	\$	<del>((1,334,000))</del>
		<u>1,404,000</u>
Industrial Insurance Premium Refund Account		
Appropriation . . . . .	\$	80,000
Charitable, Educational, Penal, and Reformatory		
Institutions Account Appropriation . . . . .	\$	4,000
TOTAL APPROPRIATION . . . . .	\$	<del>((2,757,000))</del>
		<u>2,897,000</u>

(2) FIELD SERVICES

General Fund—State Appropriation (FY 1998) . . . . .	\$	2,418,000
General Fund—State Appropriation (FY 1999) . . . . .	\$	2,420,000
General Fund—Federal Appropriation . . . . .	\$	26,000
General Fund—Private/Local Appropriation . . . . .	\$	85,000
TOTAL APPROPRIATION . . . . .	\$	4,949,000

(3) INSTITUTIONAL SERVICES

General Fund—State Appropriation (FY 1998) . . . . .	\$	6,101,000
General Fund—State Appropriation (FY 1999) . . . . .	\$	5,369,000
General Fund—Federal Appropriation . . . . .	\$	19,556,000
General Fund—Private/Local Appropriation . . . . .	\$	14,583,000
TOTAL APPROPRIATION . . . . .	\$	45,609,000

**\*NEW SECTION. Sec. 210. FOR THE STATE HEALTH CARE AUTHORITY**

General Fund—State Appropriation (FY 1998) . . . . .	\$	6,316,000
General Fund—State Appropriation (FY 1999) . . . . .	\$	6,317,000
State Health Care Authority Administration		
Account Appropriation . . . . .	\$	14,719,000
Health Services Account Appropriation . . . . .	\$	330,628,000
TOTAL APPROPRIATION . . . . .	\$	357,980,000

The appropriations in this section are subject to the following conditions and limitations:

(1) The general fund—state appropriations are provided solely for health care services provided through local community clinics.

(2) Within funds appropriated in this section and sections 205 and 206 of chapter 149, Laws of 1997, the health care authority shall continue to provide an enhanced basic health plan subsidy option for foster parents licensed under chapter 74.15 RCW and workers in state-funded homecare programs. Under this enhanced subsidy option, foster parents and homecare workers with family incomes below 200 percent of the federal poverty level shall be allowed to enroll in the basic health plan at a cost of ten dollars per covered worker per month.

(3) Effective October 1997, the health care authority shall require organizations and individuals that are paid to deliver basic health plan services to contribute a minimum of thirty dollars per enrollee per month if the organization

or individual chooses to sponsor an individual's enrollment in the subsidized basic health plan.

(4) \$150,000 of the health services account appropriation is provided solely to implement health care savings accounts. If legislation requiring a pilot project of such accounts is not enacted by June 30, 1997, the amount provided in this subsection shall lapse.

(5) *The health care authority shall report to the fiscal committees of the legislature by December 1, 1997, on the number of basic health plan enrollees who are illegal aliens but are not resident citizens, legal aliens, legal refugees, or legal asylees.*

(6) \$270,000 of the health services account appropriation is provided solely to pay commissions to agents and brokers in accordance with RCW 70.47.015(5) for application assistance provided to persons on the reservation list as of June 30, 1997, who enroll in the subsidized basic health plan on or after July 1, 1997.

\*Sec. 210 was partially vetoed. See message at end of chapter.

Sec. 211. 1997 c 149 s 218 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF LABOR AND INDUSTRIES**

General Fund Appropriation (FY 1998) .....	\$	6,805,000
General Fund Appropriation (FY 1999) .....	\$	6,848,000
Public Safety and Education Account—		
State Appropriation .....	\$	16,246,000
Public Safety and Education Account—		
Federal Appropriation .....	\$	6,002,000
Public Safety and Education Account—		
Private/Local Appropriation .....	\$	2,014,000
Electrical License Account Appropriation .....	\$	22,542,000
Farm Labor Revolving Account Appropriation .....	\$	28,000
Worker and Community Right-to-Know Account		
Appropriation .....	\$	2,187,000
Public Works Administration Account		
Appropriation .....	\$	1,975,000
Accident Account—State Appropriation .....	\$	<del>((146,849,000))</del>
		<u>146,901,000</u>
Accident Account—Federal Appropriation .....	\$	9,112,000
Medical Aid Account—State Appropriation .....	\$	<del>((155,220,000))</del>
		<u>155,276,000</u>
Medical Aid Account—Federal Appropriation .....	\$	1,592,000
Plumbing Certificate Account Appropriation .....	\$	<del>((846,000))</del>
		<u>947,000</u>
Pressure Systems Safety Account Appropriation .....	\$	2,106,000
TOTAL APPROPRIATION .....	\$	<del>((380,372,000))</del>
		<u>380,581,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) Expenditures of funds appropriated in this section for the information systems projects identified in agency budget requests as "claims service delivery", "electrical permitting and inspection system", and "credentialing information system" are conditioned upon compliance with section 902 of this act.

(2) Pursuant to RCW 7.68.015, the department shall operate the crime victims compensation program within the public safety and education account funds appropriated in this section. In the event that cost containment measures are necessary, the department may (a) institute copayments for services; (b) develop preferred provider and managed care contracts; (c) coordinate with the department of social and health services to use the public safety and education account as matching funds for federal Title XIX reimbursement, to the extent this maximizes total funds available for services to crime victims.

(3) \$54,000 of the general fund appropriation for fiscal year 1998 and \$54,000 of the general fund appropriation for fiscal year 1999 are provided solely for an interagency agreement to reimburse the board of industrial insurance appeals for crime victims appeals.

(4) The secretary of social and health services and the director of labor and industries shall report to the appropriate fiscal and policy committees of the legislature by July 1, 1997, and every six months thereafter on the measurable changes in employee injury and time-loss rates that have occurred in the state developmental disabilities, juvenile rehabilitation, and mental health institutions as a result of the upfront loss-control discount agreement between the agencies.

~~(5) ((\$43,000 of the general fund state appropriation for fiscal year 1998, \$35,000 of the general fund state appropriation for fiscal year 1999, \$20,000 of the electrical license account appropriation, and \$58,000 of the plumbing certificate account appropriation are provided solely for the implementation of Engrossed House Bill No. 3901 (implementing welfare reform). If the bill is not enacted by June 30, 1997, the amount provided shall lapse.~~

~~—(6))~~ The expenditures of the elevator, factory assembled structures, and contractors' registration and compliance programs may not exceed the revenues generated by these programs.

(6) \$101,000 of the plumbing certificate account appropriation is provided solely for the implementation of Substitute Senate Bill No. 5749 (pipe installer). If the bill is not enacted by June 30, 1997, the amount provided shall lapse.

(7) \$56,000 of the medical aid account appropriation and \$52,000 of the accident account appropriation are provided solely for evaluating agency operational improvements.

(8) \$593,000 of nonappropriated funds from the medical aid account shall be provided solely for allocation to the joint legislative audit and review committee for a performance audit and operations review of the state workers' compensation system pursuant to Substitute Senate Bill No. 6030.

Sec. 212. 1997 c 149 s 221 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF HEALTH**

General Fund—State Appropriation (FY 1998) . . . . .	\$	<del>((53,955,000))</del> <u>62,996,000</u>
General Fund—State Appropriation (FY 1999) . . . . .	\$	<del>((57,462,000))</del> <u>65,741,000</u>
General Fund—Federal Appropriation . . . . .	\$	259,139,000
General Fund—Private/Local Appropriation . . . . .	\$	24,351,000
Hospital Commission Account Appropriation . . . . .	\$	3,089,000
Health Professions Account Appropriation . . . . .	\$	36,038,000
Emergency Medical and Trauma Care Services Account Appropriation . . . . .	\$	21,042,000
Safe Drinking Water Account Appropriation . . . . .	\$	2,494,000
<u>Death Investigations Account Appropriation</u> . . . . .	\$	<u>1,000,000</u>
Drinking Water Assistance Account—Federal Appropriation . . . . .	\$	5,385,000
Waterworks Operator Certification Appropriation . . . . .	\$	588,000
Water Quality Account Appropriation . . . . .	\$	3,065,000
Violence Reduction and Drug <del>((Education))</del> <u>Enforcement</u> Account Appropriation . . . . .	\$	469,000
State Toxics Control Account Appropriation . . . . .	\$	2,854,000
Medical Test Site Licensure Account Appropriation . . . . .	\$	1,624,000
Youth Tobacco Prevention Account Appropriation . . . . .	\$	1,812,000
Health Services Account Appropriation . . . . .	\$	<del>((24,224,000))</del> <u>12,474,000</u>
<b>TOTAL APPROPRIATION . . . . .</b>	<b>\$</b>	<b><del>((497,591,000))</del> <u>504,161,000</u></b>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$2,134,000 of the health professions account appropriation is provided solely for the development and implementation of a licensing and disciplinary management system. Expenditures are conditioned upon compliance with section 902 of this act. These funds shall not be expended without appropriate project approval by the department of information systems.

(2) Funding provided in this section for the drinking water program data management system shall not be expended without appropriate project approval by the department of information systems. Expenditures are conditioned upon compliance with section 902 of this act.

(3) The department is authorized to raise existing fees charged to the nursing professions and midwives, by the pharmacy board, and for boarding home licenses, in excess of the fiscal growth factor established by Initiative Measure No. 601, if necessary, to meet the actual costs of conducting business.

(4) \$1,633,000 of the general fund—state fiscal year 1998 appropriation and \$1,634,000 of the general fund—state fiscal year 1999 appropriation are provided solely for the implementation of the Puget Sound water work plan and agency action items, DOH-01, DOH-02, DOH-03, DOH-04, DOH-05, DOH-06, DOH-07, DOH-08, DOH-09, DOH-10, DOH-11, and DOH-12.

(5) \$10,000,000 of the health services account appropriation is provided solely for distribution to local health departments for distribution on a per capita basis. Prior to distributing these funds, the department shall adopt rules and procedures to ensure that these funds are not used to replace current local support for public health programs.

(6) \$500,000 of the general fund—state appropriation for fiscal year 1998 and \$500,000 of the general fund—state appropriation for fiscal year 1999 are provided solely for operation of a youth suicide prevention program at the state level, including a state-wide public educational campaign to increase knowledge of suicide risk and ability to respond and provision of twenty-four hour crisis hotlines, staffed to provide suicidal youth and caregivers a source of instant help.

(7) 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.

(8) \$259,000 of the health professions account appropriation is provided solely to implement Engrossed House Bill No. 3901 (implementing welfare reform). If the bill is not enacted by June 30, 1997, the amounts provided in this subsection shall lapse.

(9) \$150,000 of the general fund—state fiscal year 1998 appropriation and \$150,000 of the general fund—state fiscal year 1999 appropriation are provided solely for community-based oral health grants that may fund sealant programs, education, prevention, and other oral health interventions. The grants may be awarded to state or federally funded community and migrant health centers, tribal clinics, or public health jurisdictions. Priority shall be given to communities with established oral health coalitions. Grant applications for oral health education and prevention grants shall include (a) an assessment of the community's oral health

education and prevention needs; (b) identification of the population to be served; and (c) a description of the grant program's predicted outcomes.

(10) \$21,042,000 of the emergency medical and trauma care services account appropriation is provided solely for implementation of Substitute Senate Bill No. 5127 (trauma care services). If the bill is not enacted by June 30, 1997, the amount provided in this subsection shall lapse.

(11) \$500,000 of the general fund—state appropriation for fiscal year 1998 and \$500,000 of the general fund—state appropriation for fiscal year 1999 are provided solely for family support and provider training services for children with special health care needs.

(12) \$300,000 of the general fund—federal appropriation is provided solely for an abstinence education program which complies with P.L. 104-193. \$400,000 of the general fund—federal appropriation is provided solely for abstinence education projects at the office of the superintendent of public instruction and shall be transferred to the office of the superintendent of public instruction for the 1998-99 school year. The department shall apply for abstinence education funds made available by the federal personal responsibility and work opportunity act of 1996 and implement a program that complies with the requirements of that act.

(13) \$50,000 of the general fund—state appropriation for fiscal year 1998 and \$50,000 of the general fund—state appropriation for fiscal year 1999 are provided solely for the implementation of Second Substitute House Bill No. 1191 (mandated health benefit review). If the bill is not enacted by June 30, 1997, the amounts provided in this section shall lapse.

(14) \$100,000 of the general fund—state appropriation for fiscal year 1998 and \$100,000 of the general fund—state appropriation for fiscal year 1999 are provided solely for the volunteer retired provider program. Funds shall be used to increase children's access to dental care services in rural and underserved communities by paying malpractice insurance and professional licensing fees for retired dentists participating in the program.

(15) \$852,000 of the drinking water assistance account—federal appropriation is provided solely for an interagency agreement with the department of community, trade, and economic development to administer, 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.

~~(16) ((Amounts provided in this section are sufficient to operate the AIDS prescription drug program. To operate the program within the appropriated amount, the department shall limit new enrollments, manage access to the most expensive drug regimens, establish waiting lists and priority rankings, assist clients in accessing drug assistance programs sponsored by drug manufacturers, or pursue other means of managing expenditures by the program.))~~ \$3,347,000 of the fiscal year 1998 general fund—state appropriation and \$3,347,000 of the fiscal year 1999 general fund—state appropriation are provided solely for the AIDS prescription drug program and HIV intervention program. The department shall operate the

program within total appropriations. The department shall take such actions as are necessary to control expenditures, including administrative efficiencies such as reductions to provider reimbursement rates, modifications to financial eligibility, modifications to the scope of services, and client cost sharing mechanisms. The department shall identify program policy changes required to manage within the amounts provided.

(17) Funding provided in this section is sufficient to implement section 8 of Engrossed Substitute House Bill No. 2264 (eliminating the health care policy board).

(18) ~~(\$4,150,000 of the health services account)~~ \$2,075,000 of the fiscal year 1998 general fund—state appropriation and \$2,075,000 of the fiscal year 1999 general fund—state appropriation ((is)) are provided solely for the Washington poison center.

(19) \$1,000,000 of the death investigations account appropriation is provided solely for the implementation of state-wide child mortality reviews. Local health jurisdictions shall coordinate child mortality reviews for children from birth to eighteen years of age, develop local child mortality review protocols, and serve as the appointing authority and lead agency for local child death review teams. The department of health shall develop standard aggregate data elements, collect and analyze local child mortality review data, provide technical assistance to local child mortality review teams, and approve local child death review protocols. If House Bill No. 1269 (death investigations account) is not enacted by June 30, 1997, the amount provided in this subsection shall lapse.

(20) \$1,125,000 of the fiscal year 1998 general fund—state appropriation and \$1,125,000 of the fiscal year 1999 general fund—state appropriation are provided solely for deposit in the county public health account.

(21) \$60,000 of the general fund—state appropriation for fiscal year 1998 and \$60,000 of the general fund—state appropriation for fiscal year 1999 are provided solely for attorney general services and such other activities not covered by fee revenues as are necessary for implementation of Engrossed Substitute House Bill No. 2264 (health care policy). If the bill is not enacted by June 30, 1997, the amounts provided in this subsection shall lapse.

(22) \$250,000 of the fiscal year 1998 general fund—state appropriation \$250,000 of the fiscal year 1999 general fund—state appropriation are provided solely for operation of a naturopathic health clinic constructed in 1996.

\*Sec. 213. 1997 c 149 s 222 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF CORRECTIONS**

**(1) ADMINISTRATION AND PROGRAM SUPPORT**

General Fund Appropriation (FY 1998) .....	\$	13,926,000
General Fund Appropriation (FY 1999) .....	\$	13,910,000
Violence Reduction and Drug Enforcement Account		
Appropriation .....	\$	500,000
<b>TOTAL APPROPRIATION .....</b>	<b>\$</b>	<b>28,336,000</b>

The appropriations in this subsection are subject to the following conditions and limitations:

(a) \$187,000 of the general fund fiscal year 1998 appropriation and \$155,000 of the general fund fiscal year 1999 appropriation are provided solely for implementation of Substitute Senate Bill No. 5759 (risk classification). If the bill is not enacted by July 1, 1997, the amounts provided shall lapse.

(b) \$500,000 of the violence reduction and drug enforcement account appropriation is provided solely for a feasibility study regarding the replacement of the department's offender based tracking system.

**(2) INSTITUTIONAL SERVICES**

<u>General Fund—State Appropriation (FY 1998)</u> .....	\$ 291,745,000
<u>General Fund—State Appropriation (FY 1999)</u> .....	\$ 304,000,000
<u>General Fund—Federal Appropriation</u> .....	\$ 18,097,000
<u>Industrial Insurance Premium Rebate Account</u>	
<u>Appropriation</u> .....	\$ 673,000
<u>Violence Reduction and Drug Enforcement Account</u>	
<u>Appropriation</u> .....	\$ 1,614,000
<u>TOTAL APPROPRIATION</u> .....	\$ 616,129,000

The appropriations in this subsection are subject to the following conditions and limitations:

(a) 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.

(b) \$4,839,000 of the general fund—state fiscal year 1998 appropriation and \$6,481,000 of the general fund—state fiscal year 1999 appropriation are provided solely for the criminal justice costs associated with the implementation of Engrossed Third Substitute House Bill No. 3900 (revising the juvenile code). If Engrossed Third Substitute House Bill No. 3900 is not enacted by June 30, 1997, the amounts provided shall lapse.

(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) It is the intent of the legislature that the department reduce health care expenditures in the 1997-99 biennium using the scenario identified in the health services delivery system study which limited health care costs to \$43,000,000 in fiscal year 1998 and \$40,700,000 in fiscal year 1999. The department shall consult with direct health care service providers and health care staff in implementing this scenario.

(e) \$296,000 of the general fund—state appropriation for fiscal year 1998 and \$297,000 of the general fund—state appropriation for fiscal year 1999 are provided solely to increase payment rates for contracted education providers. It is the

legislature's intent that these amounts shall be used primarily to increase compensation for persons employed in direct, front-line service delivery.

(f) The department may expend funds generated by contractual agreements entered into for mitigation of severe overcrowding in local jails. If any funds are generated in excess of actual costs, they 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.

(3) COMMUNITY CORRECTIONS

General Fund Appropriation (FY 1998) .....	\$	<del>((89,364,000))</del>
		<u>89,377,000</u>
General Fund Appropriation (FY 1999) .....	\$	<del>((90,416,000))</del>
		<u>90,495,000</u>
TOTAL APPROPRIATION .....	\$	<del>((179,780,000))</del>
		<u>179,872,000</u>

The appropriations in this subsection are subject to the following conditions and limitations:

(a) ~~\$((+4,000))~~ 27,000 of the general fund fiscal year 1998 appropriation and ~~\$((+106,000))~~ 185,000 of the general fund fiscal year 1999 appropriation are provided solely for the criminal justice costs associated with the implementation of ~~((RCW 13.04.030 as amended by))~~ Engrossed Third Substitute House Bill No. 3900 (revising the juvenile code). If ~~((RCW 13.04.030 is not amended by))~~ Engrossed Third Substitute House Bill No. 3900 is not enacted by June 30, 1997, the amounts provided shall lapse.

(b) 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.

(c) \$467,000 of the general fund appropriation for fiscal year 1998 and \$505,000 of the general fund appropriation for fiscal year 1999 are provided solely to increase payment rates for contracted education providers and contracted work release facilities. It is the legislature's intent that these amounts shall be used primarily to increase compensation for persons employed in direct, front-line service delivery.

(4) CORRECTIONAL INDUSTRIES

General Fund Appropriation (FY 1998) .....	\$	4,055,000
General Fund Appropriation (FY 1999) .....	\$	4,167,000
TOTAL APPROPRIATION .....	\$	8,222,000

The appropriations in this subsection are subject to the following conditions and limitations:

(a) \$100,000 of the general fund fiscal year 1998 appropriation and \$100,000 of the general fund fiscal year 1999 appropriation 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.

(b) \$50,000 of the general fund appropriation for fiscal year 1998 and \$50,000 of the general fund appropriation for fiscal year 1999 are provided solely for the correctional industries board of directors to hire one staff person, responsible directly to the board, to assist the board in fulfilling its duties.

**(5) INTERAGENCY PAYMENTS**

General Fund Appropriation (FY 1998) .....	\$	6,945,000
General Fund Appropriation (FY 1999) .....	\$	6,444,000
<b>TOTAL APPROPRIATION .....</b>	<b>\$</b>	<b>13,389,000</b>

\*Sec. 213 was partially vetoed. See message at end of chapter.

Sec. 214. 1997 c 149 s 225 (uncodified) is amended to read as follows:

**FOR THE EMPLOYMENT SECURITY DEPARTMENT**

<u>General Fund—State Appropriation (FY 1998) .....</u>	<u>\$</u>	<u>1,260,000</u>
<u>General Fund—State Appropriation (FY 1999) .....</u>	<u>\$</u>	<u>1,261,000</u>
General Fund—Federal Appropriation .....	\$	173,595,000
General Fund—Private/Local Appropriation .....	\$	24,842,000
Unemployment Compensation Administration Account—		
Federal Appropriation .....	\$	181,985,000
Administrative Contingency Account		
Appropriation .....	\$	12,579,000
Employment Service Administrative Account		
Appropriation .....	\$	13,176,000
Employment & Training Trust Account		
Appropriation .....	\$	600,000
<b>TOTAL APPROPRIATION .....</b>	<b>\$</b>	<b>((406,777,000))</b>
		<u>409,298,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) Expenditures of funds appropriated in this section for the information systems projects identified in agency budget requests as "claims and adjudication call centers", "data/wage quality initiative", and "one stop information connectivity" are conditioned upon compliance with section 902 of this act.

(2) \$600,000 of the employment and training trust account appropriation is provided solely for the account's share of unemployment insurance tax collection costs.

(3) \$1,126,000 of the general fund—federal appropriation is provided solely for the continuation of job placement centers colocated on community and technical college campuses.

(4) The employment security department shall spend no more than \$25,049,511 of the unemployment compensation administration account—federal appropriation for the general unemployment insurance development effort

(GUIDE) project, except that the department may exceed this amount by up to \$2,600,000 to offset the cost associated with any vendor-caused delay. The additional spending authority is contingent upon the department fully recovering these moneys from any project vendors failing to perform in full. Authority to spend the amount provided by this subsection is conditioned on compliance with section 902 of this act.

(5) ~~(\$114,000 of the administrative contingency account appropriation is provided solely for the King county reemployment support center.)~~ \$60,000 of the general fund—state fiscal year 1998 appropriation and \$61,000 of the general fund—state fiscal year 1999 appropriation are provided solely for the King county reemployment support center.

(6) \$1,200,000 of the general fund—state fiscal year 1998 appropriation and \$1,200,000 of the general fund—state fiscal year 1999 appropriation are provided solely for labor market information and employer outreach activities.

**PART III  
NATURAL RESOURCES**

**NEW SECTION. Sec. 301. FOR THE COLUMBIA RIVER GORGE COMMISSION**

General Fund—State Appropriation (FY 1998) . . . . .	\$	213,000
General Fund—State Appropriation (FY 1999) . . . . .	\$	222,000
General Fund—Private/Local Appropriation . . . . .	\$	435,000
<b>TOTAL APPROPRIATION . . . . .</b>	<b>\$</b>	<b>870,000</b>

The appropriations in this section are subject to the following condition and limitation: \$120,000 of the general fund—state appropriation for fiscal year 1998, \$120,000 of the general fund—state appropriation for fiscal year 1999, and \$240,000 of the general fund—local appropriation are provided solely for each Columbia river gorge county to receive an \$80,000 grant for the purposes of implementing the scenic area management plan. If a Columbia river gorge county has not adopted an ordinance to implement the scenic area management plan in accordance with the national scenic area act (P.L. 99-663), then the grant funds for that county may be used by the commission to implement the plan for that county.

\*Sec. 302. 1997 c 149 s 302 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF ECOLOGY**

General Fund—State Appropriation (FY 1998) . . . . .	\$	<del>((27,749,000))</del>
		<u>27,748,000</u>
General Fund—State Appropriation (FY 1999) . . . . .	\$	<del>((27,794,000))</del>
		<u>27,795,000</u>
General Fund—Federal Appropriation . . . . .	\$	45,315,000
General Fund—Private/Local Appropriation . . . . .	\$	643,000
Special Grass Seed Burning Research Account		
Appropriation . . . . .	\$	42,000
Reclamation Revolving Account Appropriation . . . . .	\$	2,441,000

Flood Control Assistance Account Appropriation . . . . .	\$	4,850,000
State Emergency Water Projects Revolving Account Appropriation . . . . .	\$	319,000
Waste Reduction/Recycling/Litter Control Appropriation . . . . .	\$	10,316,000
State and Local Improvements Revolving Account (Waste Facilities) Appropriation . . . . .	\$	601,000
State and Local Improvements Revolving Account (Water Supply Facilities) Appropriation . . . . .	\$	1,366,000
Basic Data Account Appropriation . . . . .	\$	182,000
Vehicle Tire Recycling Account Appropriation . . . . .	\$	1,194,000
Water Quality Account Appropriation . . . . .	\$	2,892,000
Wood Stove Education and Enforcement Account Appropriation . . . . .	\$	1,055,000
Worker and Community Right-to-Know Account Appropriation . . . . .	\$	469,000
State Toxics Control Account Appropriation . . . . .	\$	((53,160,000))
		<u>53,715,000</u>
Local Toxics Control Account Appropriation . . . . .	\$	4,342,000
Water Quality Permit Account Appropriation . . . . .	\$	20,378,000
Underground Storage Tank Account Appropriation . . . . .	\$	2,443,000
Solid Waste Management Account Appropriation . . . . .	\$	1,021,000
Hazardous Waste Assistance Account Appropriation . . . . .	\$	3,615,000
Air Pollution Control Account Appropriation . . . . .	\$	16,224,000
Oil Spill Administration Account Appropriation . . . . .	\$	6,958,000
Air Operating Permit Account Appropriation . . . . .	\$	4,033,000
Freshwater Aquatic Weeds Account Appropriation . . . . .	\$	1,829,000
Oil Spill Response Account Appropriation . . . . .	\$	7,078,000
Metals Mining Account Appropriation . . . . .	\$	42,000
Water Pollution Control Revolving Account—State Appropriation . . . . .	\$	349,000
Water Pollution Control Revolving Account—Federal Appropriation . . . . .	\$	1,726,000
Biosolids Permit Account Appropriation . . . . .	\$	567,000
Environmental Excellence Account Appropriation . . . . .	\$	247,000
TOTAL APPROPRIATION . . . . .	\$	((251,240,000))
		<u>251,795,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$3,211,000 of the general fund—state appropriation for fiscal year 1998, \$3,211,000 of the general fund—state appropriation for fiscal year 1999, \$394,000 of the general fund—federal appropriation, \$2,017,000 of the oil spill administration account, \$819,000 of the state toxics control account appropriation,

and \$3,591,000 of the water quality permit fee account are provided solely for the implementation of the Puget Sound work plan and agency action items DOE-01, DOE-02, DOE-03, DOE-04, DOE-05, DOE-06, DOE-07, DOE-08, and DOE-09.

(2) \$2,000,000 of the state toxics control account appropriation is provided solely for the following purposes:

(a) To conduct remedial actions for sites for which there are no potentially liable persons, for which potentially liable persons cannot be found, or for which potentially liable persons are unable to pay for remedial actions; and

(b) To provide funding to assist potentially liable persons under RCW 70.105D.070(2)(d)(xi) to pay for the cost of the remedial actions; and

(c) To conduct remedial actions for sites for which potentially liable persons have refused to conduct remedial actions required by the department; and

(d) To contract for services as necessary to support remedial actions.

**(3) \$1,500,000 of the general fund—state appropriation for fiscal year 1998 and \$1,900,000 of the general fund—state appropriation for fiscal year 1999 are provided solely for the processing of water right permit applications, continued implementation of water resources data management systems, and providing technical and data support to local watershed planning efforts in accordance with sections 101 through 116 of Second Substitute House Bill No. 2054 (water resource management). If any of sections 101 through 116 and 701 through 716 of Second Substitute House Bill No. 2054 is not enacted by June 30, 1997, the amounts provided in this subsection shall lapse.**

**(4) \$2,500,000 of the general fund—state appropriation for fiscal year 1998 and \$2,500,000 of the general fund—state appropriation for fiscal year 1999 are appropriated for grants to local WRIA planning units established in accordance with sections 101 through 116 of Second Substitute House Bill No. 2054 (water resource management). If any of sections 101 through 116 and 701 through 716 of Second Substitute House Bill No. 2054 is not enacted by June 30, 1997, the amounts provided in this subsection shall lapse.**

**(5) \$200,000 of the general fund—state appropriation for fiscal year 1998 is provided solely for the implementation of Engrossed Substitute House Bill No. 1111 (water rights). If the bill is not enacted by June 30, 1997, the amount provided in this subsection shall lapse.**

**(6) \$200,000 of the general fund—state appropriation for fiscal year 1998 is provided solely for the implementation of Engrossed Substitute House Bill No. 1118 (reopening a water rights claim filing period). If the bill is not enacted by June 30, 1997, the amount provided in this subsection shall lapse.**

(7) \$3,600,000 of the general fund—state appropriation for fiscal year 1998 and \$3,600,000 of the general fund—state appropriation for fiscal year 1999 are provided solely for the auto emissions inspection and maintenance program. Expenditures of the amounts provided in this subsection are contingent upon a like amount being deposited in the general fund from the auto emission inspection fees in accordance with RCW 70.120.170(4).

(8) \$170,000 of the oil spill administration 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 in order to develop an educational program that targets small spills from commercial fishing vessels, ferries, cruise ships, ports, and marinas.

(9) The merger of the office of marine safety into the department of ecology shall be accomplished in a manner that will maintain a priority focus on oil spill prevention, as well as maintain a strong oil spill response capability. The merged program shall be established to provide a high level of visibility and ensure that there shall not be a diminution of the existing level of effort from the merged programs.

(10) The entire environmental excellence account appropriation is provided solely for the implementation of Engrossed Second Substitute House Bill No. 1866 (environmental excellence). If the bill is not enacted by June 30, 1997, the amount provided in this subsection shall lapse. In implementing the bill, the department shall organize the needed expertise to process environmental excellence applications after an application has been received.

(11) \$200,000 of the freshwater aquatic weeds account appropriation is provided solely to address saltcedar weed problems.

(12) ~~(\$4,498,000 of the waste reduction/recycling/litter control account appropriation is provided for fiscal year 1998 to be expended in accordance with Second Substitute Senate Bill No. 5842 (litter control and recycling):)~~ \$4,498,000 of the waste reduction, recycling, and litter control account appropriation is provided for fiscal year 1998 and \$5,818,000 is provided for fiscal year 1999 to be expended in the following ratios: Fifty percent for a litter patrol program to employ youth and correctional work crews to remove litter from places that are most visible to the public; twenty percent for grants to local governments for litter cleanup under RCW 70.93.250; and thirty percent for public education and awareness programs and programs to foster local waste reduction and recycling efforts. From the amounts provided ~~((for fiscal year 1998))~~ in this subsection, the department shall provide \$352,000 through an interagency agreement to the department of corrections to hire correctional crews to remove litter in areas that are not accessible to youth crews. ~~(\$5,818,000 of the waste reduction/recycling/litter control account appropriation is provided for fiscal year 1999. The amount provided for fiscal year 1999 is to remain in unallotted status until the recommendations of the task force established in Second Substitute Senate Bill No. 5842 are acted upon by the legislature during the 1998 legislative session. If Substitute Senate Bill No. 5842 is not enacted by June 30, 1997, the amount provided for fiscal year 1999 shall lapse:)~~

(13) The entire biosolids permit account appropriation is provided solely for implementation of Engrossed Senate Bill No. 5590 (biosolids management). If the bill is not enacted by June 30, 1997, the entire appropriation is null and void.

(14) \$29,000 of the general fund—state appropriation for fiscal year 1998 and \$99,000 of the general fund—state appropriation for fiscal year 1999 are provided solely for the implementation of Substitute House Bill No. 1985 (landscape management plans). If the bill is not enacted by June 30, 1997, the amounts provided in this subsection shall lapse.

(15) \$60,000 of the freshwater aquatic weeds account appropriation is provided solely for a grant to the department of fish and wildlife to control and eradicate purple loosestrife using the most cost-effective methods available, including chemical control where appropriate.

(16) \$250,000 of the flood control assistance account appropriation is provided solely as a reappropriation to complete the Skokomish valley flood reduction plan. The amount provided in this subsection shall be reduced by the amount expended from this account for the Skokomish valley flood reduction plan during the biennium ending June 30, 1997.

**(17) The number of special purpose vehicles in the department's fleet on July 1, 1997, shall be reduced by fifty percent as of June 30, 1999. Special purpose vehicles may be replaced by fuel efficient economy vehicles or not replaced at all depending on the vehicle requirements of the agency. An exception to this reduction in the number of special purpose vehicles is provided for those special purpose vehicles used by the department's youth corps program. Special purpose vehicle is defined as a four-wheel drive off-road motor vehicle.**

(18) \$600,000 of the flood control assistance account appropriation is provided solely to complete flood control projects that were awarded funds during the 1995-97 biennium. These funds shall be spent only to complete projects that could not be completed during the 1995-97 biennium due to delays caused by weather or delays in the permitting process.

**(19) \$113,000 of the general fund—state appropriation for fiscal year 1998 and \$112,000 of the general fund—state appropriation for fiscal year 1999 are provided solely for implementation of Substitute Senate Bill No. 5505 (assistance to water applicants). If the bill is not enacted by June 30, 1997, the amounts provided in this subsection shall lapse.**

**(20) \$70,000 of the general fund—state appropriation for fiscal year 1998 and \$70,000 of the general fund—state appropriation for fiscal year 1999 are provided solely for implementation of Substitute Senate Bill No. 5785 (consolidation of groundwater rights). If the bill is not enacted by June 30, 1997, the amounts provided in this subsection shall lapse.**

**(21) \$20,000 of the general fund—state appropriation for fiscal year 1998 and \$20,000 of the general fund—state appropriation for fiscal year 1999 are provided solely for implementation of Substitute Senate Bill No. 5276 (water right applications). If the bill is not enacted by June 30, 1997, the amounts provided in this subsection shall lapse.**

**(22) \$35,000 of the general fund—state appropriation for fiscal year 1998 and \$35,000 of the general fund—state appropriation for fiscal year 1999 are**

provided solely for implementation of Substitute Senate Bill No. 5030 (lakewater irrigation). If the bill is not enacted by June 30, 1997, the amounts provided in this subsection shall lapse.

(23) \$500,000 of the general fund—state appropriation for fiscal year 1998 and \$500,000 of the general fund—state appropriation for fiscal year 1999 are provided solely for the continuation of the southwest Washington coastal erosion study.

\*Sec. 302 was partially vetoed. See message at end of chapter.

Sec. 303. 1997 c 149 s 303 (uncodified) is amended to read as follows:

**FOR THE STATE PARKS AND RECREATION COMMISSION**

General Fund—State Appropriation (FY 1998) . . . . .	\$	<del>((21,026,000))</del>
		<u>20,526,000</u>
General Fund—State Appropriation (FY 1999) . . . . .	\$	<del>((20,835,000))</del>
		<u>20,335,000</u>
General Fund—Federal Appropriation . . . . .	\$	2,428,000
General Fund—Private/Local Appropriation . . . . .	\$	59,000
Winter Recreation Program Account Appropriation . . . . .	\$	759,000
Off Road Vehicle Account Appropriation . . . . .	\$	251,000
Snowmobile Account Appropriation . . . . .	\$	2,290,000
Aquatic Lands Enhancement Account Appropriation . . . . .	\$	321,000
Public Safety and Education Account Appropriation . . . . .	\$	48,000
Industrial Insurance Premium Refund Appropriation . . . . .	\$	10,000
Waste Reduction/Recycling/Litter Control		
Appropriation . . . . .	\$	34,000
Water Trail Program Account Appropriation . . . . .	\$	14,000
Parks Renewal and Stewardship Account Appropriation . . . . .	\$	25,344,000
TOTAL APPROPRIATION . . . . .	\$	<del>((73,419,000))</del>
		<u>72,419,000</u>

The appropriations in this section are subject to the following conditions and limitations:

- (1) \$189,000 of the aquatic lands enhancement account appropriation is provided solely for the implementation of the Puget Sound work plan agency action items P&RC-01 and P&RC-03.
- (2) \$264,000 of the general fund—federal appropriation is provided for boater programs state-wide and for implementation of the Puget Sound work plan.
- (3) \$45,000 of the general fund—state appropriation for fiscal year 1998 is provided solely for a feasibility study of a public/private effort to establish a reserve for recreation and environmental studies in southwest Kitsap county.
- (4) Within the funds provided in this section, the state parks and recreation commission shall provide to the legislature a status report on implementation of the recommendations contained in the 1994 study on the restructuring of Washington state parks. This status report shall include an evaluation of the campsite reservation system including the identification of any incremental changes in revenues associated with implementation of the system and a progress report on

other enterprise activities being undertaken by the commission. The report may also include recommendations on other revenue generating options. In preparing the report, the commission is encouraged to work with interested parties to develop a long-term strategy to support the park system. The commission shall provide this report by December 1, 1997.

(5) \$85,000 of the general fund—state appropriation for fiscal year 1998 and \$165,000 of the general fund—state appropriation for fiscal year 1999 are provided solely for development of underwater park programs and facilities. The department shall work with the underwater parks program task force to develop specific plans for the use of these funds.

**\*NEW SECTION. Sec. 304. FOR THE DEPARTMENT OF FISH AND WILDLIFE**

General Fund—State Appropriation (FY 1998) .....	\$ 36,049,000
General Fund—State Appropriation (FY 1999) .....	\$ 36,571,000
General Fund—Federal Appropriation .....	\$ 73,015,000
General Fund—Private/Local Appropriation .....	\$ 26,758,000
Off Road Vehicle Account Appropriation .....	\$ 488,000
Aquatic Lands Enhancement Account Appropriation .....	\$ 5,593,000
Public Safety and Education Account Appropriation .....	\$ 590,000
Industrial Insurance Premium Refund Appropriation .....	\$ 120,000
Recreational Fisheries Enhancement Appropriation .....	\$ 2,387,000
Warm Water Game Fish Account Appropriation .....	\$ 2,419,000
Wildlife Account Appropriation .....	\$ 52,372,000
Game Special Wildlife Account—State Appropriation .....	\$ 1,911,000
Game Special Wildlife Account—Federal Appropriation .....	\$ 10,844,000
Game Special Wildlife Account—Private/Local Appropriation .....	\$ 350,000
Oil Spill Administration Account Appropriation .....	\$ 843,000
Environmental Excellence Account Appropriation .....	\$ 20,000
Eastern Washington Pheasant Enhancement Account Appropriation .....	\$ 547,000
<b>TOTAL APPROPRIATION .....</b>	<b>\$ 250,877,000</b>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$1,181,000 of the general fund—state appropriation for fiscal year 1998 and \$1,181,000 of the general fund—state appropriation for fiscal year 1999 are provided solely for the implementation of the Puget Sound work plan agency action items DFW-01, DFW-03, DFW-04, and DFW-8 through DFW-15.

(2) \$188,000 of the general fund—state appropriation for fiscal year 1998 and \$155,000 of the general fund—state appropriation for fiscal year 1999 are provided solely for a maintenance and inspection program for department-owned dams. The department shall submit a report to the governor and the appropriate legislative committees by October 1, 1998, on the status of department-owned dams. This

report shall provide a recommendation, including a cost estimate, on whether each facility should continue to be maintained or should be decommissioned.

(3) \$832,000 of the general fund—state appropriation for fiscal year 1998 and \$825,000 of the general fund—state appropriation for fiscal year 1999 are provided solely to implement salmon recovery activities and other actions required to respond to federal listings of salmon species under the endangered species act.

(4) \$350,000 of the wildlife account appropriation, \$72,000 of the general fund—state appropriation for fiscal year 1998, and \$73,000 of the general fund—state appropriation for fiscal year 1999 are provided solely for control and eradication of class B designate weeds on department owned and managed lands. The amounts from the general fund—state appropriations are provided solely for control of spartina.

(5) \$140,000 of the wildlife account appropriation is provided solely for a cooperative effort with the department of agriculture for research and eradication of purple loosestrife on state lands.

(6) In controlling weeds on state-owned lands, the department shall use the most cost-effective methods available, including chemical control where appropriate, and the department shall report to the appropriate committees of the legislature by January 1, 1998, on control methods, costs, and acres treated during the previous year.

(7) A maximum of \$1,000,000 is provided from the wildlife fund for fiscal year 1998. The amount provided in this subsection is for the emergency feeding of deer and elk that may be starving and that are posing a risk to private property due to severe winter conditions during the winter of 1997-98. The amount expended under this subsection must not exceed the amount raised pursuant to section 3 of Substitute House Bill No. 1478. Of the amount expended under this subsection, not more than fifty percent may be from fee revenue generated pursuant to section 3 of Substitute House Bill No. 1478. If the bill is not enacted by June 30, 1997, the amount provided in this subsection shall lapse.

(8) \$193,000 of the general fund—state appropriation for fiscal year 1998, \$194,000 of the general fund—state appropriation for fiscal year 1999, and \$300,000 of the wildlife account appropriation are provided solely for the design and development of an automated license system.

(9) The department is directed to offer for sale its Cessna 421 aircraft by June 30, 1998. Proceeds from the sale shall be deposited in the wildlife account.

(10) \$500,000 of the general fund—state appropriation for fiscal year 1998 and \$500,000 of the general fund—state appropriation for fiscal year 1999 are provided solely to continue the department's habitat partnerships program during the 1997-99 biennium.

(11) \$350,000 of the general fund—state appropriation for fiscal year 1998 and \$350,000 of the general fund—state appropriation for fiscal year 1999 are provided solely for purchase of monitoring equipment necessary to fully implement mass marking of coho salmon.

(12) \$238,000 of the general fund—state appropriation for fiscal year 1998 and \$219,000 of the general fund—state appropriation for fiscal year 1999 are provided solely for the implementation of Substitute House Bill No. 1985 (landscape management plans). If the bill is not enacted by June 30, 1997, the amounts provided in this subsection shall lapse.

(13) \$150,000 of the general fund—state appropriation for fiscal year 1998 and \$150,000 of the general fund—state appropriation for fiscal year 1999 are provided solely for a contract with the United States department of agriculture to carry out animal damage control projects throughout the state related to cougars, bears, and coyotes.

(14) \$97,000 of the general fund—state appropriation for fiscal year 1998 and \$98,000 of the general fund—state appropriation for fiscal year 1999 are provided solely to implement animal damage control programs for Canada geese in the lower Columbia river basin.

(15) \$170,000 of the general fund—state appropriation for fiscal year 1998, \$170,000 of the general fund—state appropriation for fiscal year 1999, and \$360,000 of the wildlife account appropriation are provided solely to hire additional enforcement officers to address problem wildlife throughout the state.

*(16) \$197,000 of the general fund—state appropriation for fiscal year 1998 and \$196,000 of the general fund—state appropriation for fiscal year 1999 are provided solely to implement Substitute Senate Bill No. 5120 (remote site incubators). If the bill is not enacted by June 30, 1997, the amounts provided in this subsection shall lapse.*

(17) \$133,000 of the general fund—state appropriation for fiscal year 1998 and \$133,000 of the general fund—state appropriation for fiscal year 1999 are provided solely to implement Substitute Senate Bill No. 5442 (flood control permitting). If the bill is not enacted by June 30, 1997, the amounts provided in this subsection shall lapse.

(18) \$100,000 of the aquatic lands enhancement account appropriation is provided solely for grants to the regional fisheries enhancement groups.

(19) \$547,000 of the eastern Washington pheasant enhancement account appropriation is provided solely for implementation of Substitute Senate Bill No. 5104 (pheasant enhancement program). If the bill is not enacted by June 30, 1997, the amounts provided in this subsection shall lapse.

(20) \$150,000 of the general fund—state appropriation for fiscal year 1998 and \$150,000 of the general fund—state appropriation for fiscal year 1999 are provided solely to hire Washington conservation corps crews to maintain department-owned and managed lands.

(21) The entire environmental excellence account appropriation is provided solely for implementation of Engrossed Second Substitute House Bill No. 1866 (environmental excellence). If the bill is not enacted by June 30, 1997, the entire appropriation is null and void.

(22) \$156,000 of the recreational fisheries enhancement appropriation is provided solely for Substitute Senate Bill No. 5102 (fishing license surcharge). If the bill is not enacted by June 30, 1997, the amount provided in this subsection shall lapse.

(23) \$25,000 of the general fund—state appropriation for fiscal year 1998 and \$25,000 of the general fund—state appropriation for fiscal year 1999 are provided solely for staffing and operation of the Tennant Lake interpretive center.

\*Sec. 304 was partially vetoed. See message at end of chapter.

Sec. 305. 1997 c 149 s 308 (uncodified) is each amended to read as follows:

**FOR THE DEPARTMENT OF NATURAL RESOURCES**

General Fund—State Appropriation (FY 1998) . . . . .	\$	<del>((25,117,000))</del>
		<u>23,767,000</u>
General Fund—State Appropriation (FY 1999) . . . . .	\$	<del>((25,518,000))</del>
		<u>24,168,000</u>
General Fund—Federal Appropriation . . . . .	\$	1,156,000
General Fund—Private/Local Appropriation . . . . .	\$	422,000
Forest Development Account Appropriation . . . . .	\$	49,923,000
Off Road Vehicle Account Appropriation . . . . .	\$	3,628,000
Surveys and Maps Account Appropriation . . . . .	\$	2,088,000
Aquatic Lands Enhancement Account Appropriation . . . . .	\$	4,869,000
Resources Management Cost Account Appropriation . . . . .	\$	89,613,000
Waste Reduction/Recycling/Litter Control		
Appropriation . . . . .	\$	450,000
Surface Mining Reclamation Account Appropriation . . . . .	\$	1,420,000
Aquatic Land Dredged Material Disposal Site Account		
Appropriation . . . . .	\$	751,000
Natural Resources Conservation Areas Stewardship		
Account Appropriation . . . . .	\$	77,000
Air Pollution Control Account Appropriation . . . . .	\$	890,000
Metals Mining Account Appropriation . . . . .	\$	62,000
TOTAL APPROPRIATION . . . . .	\$	<del>((205,984,000))</del>
		<u>203,284,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$7,017,000 of the general fund—state appropriation for fiscal year 1998 and \$6,900,000 of the general fund—state appropriation for fiscal year 1999 are provided solely for emergency fire suppression.

(2) \$18,000 of the general fund—state appropriation for fiscal year 1998, \$18,000 of the general fund—state appropriation for fiscal year 1999, and \$957,000 of the aquatic lands enhancement account appropriation are provided solely for the implementation of the Puget Sound work plan agency action items DNR-01, DNR-02, and DNR-04.

(3) \$450,000 of the resource management cost account appropriation is provided solely for the control and eradication of class B designate weeds on state lands. The department shall use the most cost-effective methods available, including chemical control where appropriate, and report to the appropriate committees of the legislature by January 1, 1998, on control methods, costs, and acres treated during the previous year.

(4) ~~\$(2,682,000)~~ 1,332,000 of the general fund—state appropriation for fiscal year 1998 and ~~\$(3,063,000)~~ 1,713,000 of the general fund—state appropriation for fiscal year 1999 are provided solely for fire protection activities.

(5) \$541,000 of the general fund—state appropriation for fiscal year 1998 and \$549,000 of the general fund—state appropriation for fiscal year 1999 are provided solely for the stewardship of natural area preserves, natural resource conservation areas, and the operation of the natural heritage program.

(6) \$2,300,000 of the aquatic lands enhancement account appropriation is provided for the department's portion of the Eagle Harbor settlement.

(7) \$195,000 of the general fund—state appropriation for fiscal year 1998 and \$220,000 of the general fund—state appropriation for fiscal year 1999 are provided solely for the implementation of Substitute House Bill No. 1985 (landscape management plans). If the bill is not enacted by June 30, 1997, the amounts provided in this subsection shall lapse.

(8) \$600,000 of the general fund—state appropriation for fiscal year 1998 and \$600,000 of the general fund—state appropriation for fiscal year 1999 are provided solely for the cooperative monitoring, evaluation, and research projects related to implementation of the timber-fish-wildlife agreement.

(9) \$6,568,000 of the forest development account appropriation is provided solely for silviculture activities on forest board lands. To the extent that forest board counties apply for reconveyance of lands pursuant to Substitute Senate Bill No. 5325 (county land transfers), the amount provided in this subsection shall be reduced by an amount equal to the estimated silvicultural expenditures planned in each county that applies for reconveyance.

**PART V  
EDUCATION**

**\*NEW SECTION. Sec. 501. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR STATE ADMINISTRATION**

General Fund—State Appropriation (FY 1998) . . . . .	\$ 20,758,000
General Fund—State Appropriation (FY 1999) . . . . .	\$ 40,775,000
General Fund—Federal Appropriation . . . . .	\$ 49,439,000
Public Safety and Education Account	
Appropriation . . . . .	\$ 2,598,000
Violence Reduction and Drug Enforcement Account	
Appropriation . . . . .	\$ 3,672,000
Education Savings Account Appropriation . . . . .	\$ 39,312,000
<b>TOTAL APPROPRIATION . . . . .</b>	<b>\$ 156,554,000</b>

The appropriations in this section are subject to the following conditions and limitations:

(1) AGENCY OPERATIONS

(a) \$394,000 of the general fund—state appropriation for fiscal year 1998 and \$394,000 of the general fund—state appropriation for fiscal year 1999 are provided solely for the operation and expenses of the state board of education, including basic education assistance activities.

(b)(i) \$250,000 of the general fund—state appropriation for fiscal year 1998 and \$250,000 of the general fund—state appropriation for fiscal year 1999 are provided solely for enhancing computer systems and support in the office of superintendent of public instruction. These amounts shall be used to: Make a database of school information available electronically to schools, state government, and the general public; reduce agency and school district administrative costs through more effective use of technology; and replace paper reporting and publication to the extent feasible with electronic media. The superintendent, in cooperation with the commission on student learning, shall develop a state student record system including elements reflecting student achievement. The system shall be made available to the office of financial management and the legislature with suitable safeguards of student confidentiality. The superintendent shall report to the office of financial management and the legislative fiscal committees by December 1 of each year of the biennium on the progress and plans for the expenditure of these amounts.

(ii) The superintendent, in cooperation with the commission on student learning, shall develop a feasibility plan for a state student record system, including elements reflecting student academic achievement on goals 1 and 2 under RCW 28A.150.210. The feasibility plan shall be made available to the office of financial management and the fiscal and education committees of the legislature for approval before a student records database is established, and shall identify data elements to be collected and suitable safeguards of student confidentiality and proper use of database records, with particular attention to eliminating unnecessary and intrusive data about nonacademic related information.

(c) \$348,000 of the public safety and education account appropriation is provided solely for administration of the traffic safety education program, including in-service training related to instruction in the risks of driving while under the influence of alcohol and other drugs.

(d) \$50,000 of the general fund—state appropriation for fiscal year 1998 and \$50,000 of the general fund—state appropriation for fiscal year 1999 are provided solely to implement Substitute Senate Bill No. 5394 (school audit resolutions).

*(e) The superintendent of public instruction shall not accept, allocate, or expend any federal funds to implement the federal goals 2000 program.*

(2) STATE-WIDE PROGRAMS

(a) \$2,174,000 of the general fund—state appropriation is provided for in-service training and educational programs conducted by the Pacific Science Center.

(b) \$63,000 of the general fund—state appropriation is provided for operation of the Cispus environmental learning center.

(c) \$2,754,000 of the general fund—state appropriation is provided for educational centers, including state support activities. \$100,000 of this amount is provided to help stabilize funding through distribution among existing education centers that are currently funded by the state at an amount less than \$100,000 a biennium.

(d) \$100,000 of the general fund—state appropriation is provided for an organization in southwest Washington that received funding from the Spokane educational center in the 1995-97 biennium and provides educational services to students who have dropped out.

(e) \$2,500,000 of the general fund—state fiscal year 1998 appropriation and \$2,500,000 of the general fund—state fiscal year 1999 appropriation are provided solely for implementation of reading initiatives to improve reading in early grades as enacted by the 1997 legislature. Of this amount:

(i) *\$700,000 is provided solely to implement Second Substitute Senate Bill No. 5508 to fund the standardized norm-referenced third grade reading test; and*

(ii) \$4,300,000 is provided solely to implement Engrossed Substitute House Bill No. 2042. Funds shall be used solely for the selection of the second grade reading tests in accordance with section 2 of the bill, and grants to school districts in accordance with sections 4 and 7 of the bill.

(f) \$3,672,000 of the violence reduction and drug enforcement account appropriation and \$2,250,000 of the public safety education account appropriation are provided solely for matching grants to enhance security in schools. Not more than seventy-five percent of a district's total expenditures for school security in any school year may be paid from a grant under this subsection. The grants shall be expended solely for the costs of employing or contracting for building security monitors in schools during school hours and school events. Of the amount provided in this subsection, at least \$2,850,000 shall be spent for grants to districts that, during the 1988-89 school year, employed or contracted for security monitors in schools during school hours. However, these grants may be used only for increases in school district expenditures for school security over expenditure levels for the 1988-89 school year.

(g) \$200,000 of the general fund—state appropriation for fiscal year 1998, \$200,000 of the general fund—state appropriation for fiscal year 1999, and \$400,000 of the general fund—federal appropriation transferred from the department of health are provided solely for a program that provides grants to school districts for media campaigns promoting sexual abstinence and addressing the importance of delaying sexual activity, pregnancy, and childbearing until individuals are ready to nurture and support their children. Grants to the school districts shall be for projects that are substantially designed and produced by students. The grants shall require a local private sector match equal to one-half of the state grant, which may include in-kind contribution of technical or other

assistance from consultants or firms involved in public relations, advertising broadcasting, and graphics or video production or other related fields.

(h) \$1,500,000 of the general fund—state appropriation for fiscal year 1998 and \$1,500,000 of the general fund—state appropriation for fiscal year 1999 are provided solely for school district petitions to juvenile court for truant students as provided in RCW 28A.225.030 and 28A.225.035. Allocation of this money to school districts shall be based on the number of petitions filed.

(i) \$300,000 of the general fund—state appropriation is provided for alcohol and drug prevention programs pursuant to RCW 66.08.180.

(j)(i) \$19,656,000 of the education savings account appropriation for fiscal year 1998 and \$19,656,000 of the education savings account appropriation for fiscal year 1999 are provided solely for matching grants and related state activities to provide school district consortia with programs utilizing technology to improve learning. A maximum of \$100,000 each fiscal year of this amount is provided for administrative support and oversight of the K-20 network by the superintendent of public instruction. The superintendent of public instruction shall convene a technology grants committee representing private sector technology, school districts, and educational service districts to recommend to the superintendent grant proposals that have the best plans for improving student learning through innovative curriculum using technology as a learning tool and evaluating the effectiveness of the curriculum innovations. After considering the technology grants committee recommendations, the superintendent shall make matching grant awards, including granting at least fifteen percent of funds on the basis of criteria in (ii)(A) through (C) of this subsection (2)(j).

(ii) Priority for award of funds will be to (A) school districts most in need of assistance due to financial limits, (B) school districts least prepared to take advantage of technology as a means of improving student learning, and (C) school districts in economically distressed areas. The superintendent of public instruction, in consultation with the technology grants committee, shall propose options to the committee for identifying and prioritizing districts according to criteria in (i) and (ii) of this subsection (2)(j).

(iii) Options for review criteria to be considered by the superintendent of public instruction include, but are not limited to, free and reduced lunches, levy revenues, ending fund balances, equipment inventories, and surveys of technology preparedness. An "economically distressed area" is (A) a county with an unemployment rate that is at least twenty percent above the state-wide average for the previous three years; (B) a county that has experienced sudden and severe or long-term and severe loss of employment, or erosion of its economic base resulting in decline of its dominant industries; or (C) a district within a county which (I) has at least seventy percent of its families and unrelated individuals with incomes below eighty percent of the county's median income for families and unrelated individuals; and (II) has an unemployment rate which is at least forty percent higher than the county's unemployment rate.

(k) \$50,000 of the general fund—state appropriations is provided as matching funds for district contributions to provide analysis of the efficiency of school district business practices. The superintendent of public instruction shall establish criteria, make awards, and provide a report to the fiscal committees of the legislature by December 15, 1997, on the progress and details of analysis funded under this subsection (2)(k).

(l) \$19,977,000 of the general fund—state appropriation for fiscal year 1999 is provided solely for the purchase of classroom instructional materials and supplies. The superintendent shall allocate the funds at a maximum rate of \$20.82 per full-time equivalent student, beginning September 1, 1998, and ending June 30, 1999. The expenditure of the funds shall be determined at each school site by the school building staff, parents, and the community. School districts shall distribute all funds received to school buildings without deduction.

(m) \$15,000 of the general fund—state appropriation is provided solely to assist local districts vocational education programs in applying for low frequency FM radio licenses with the federal communications commission.

(n) \$35,000 of the general fund—state appropriation is provided solely to the state board of education to design a program to encourage high school students and other adults to pursue careers as vocational education teachers in the subject matter of agriculture.

(o) \$25,000 of the general fund—state appropriation for fiscal year 1998 and \$25,000 of the general fund—state appropriation for fiscal year 1999 are provided solely for allocation to the primary coordinators of the state geographic alliance to improve the teaching of geography in schools.

(p) \$1,000,000 of the general fund—state appropriation is provided for state administrative costs and start-up grants for alternative programs and services that improve instruction and learning for at-risk and expelled students consistent with the objectives of Engrossed House Bill No. 1581 (disruptive students/offenders). Each grant application shall contain proposed performance indicators and an evaluation plan to measure the success of the program and its impact on improved student learning. Applications shall contain the applicant's plan for maintaining the program and/or services after the grant period, shall address the needs of students who cannot be accommodated within the framework of existing school programs or services and shall address how the applicant will serve any student within the proposed program's target age range regardless of the reason for truancy, suspension, expulsion, or other disciplinary action. Up to \$50,000 per year may be used by the superintendent of public instruction for grant administration. The superintendent shall submit an evaluation of the alternative program start-up grants provided under this section, and section 501(2)(q), chapter 283, Laws of 1996, to the fiscal and education committees of the legislature by November 15, 1998. Grants shall be awarded to applicants showing the greatest potential for improved student learning for at-risk students including:

- (i) Students who have been suspended, expelled, or are subject to other disciplinary actions;
- (ii) Students with unexcused absences who need intervention from community truancy boards or family support programs;
- (iii) Students who have left school; and
- (iv) Students involved with the court system.

The office of the superintendent of public instruction shall prepare a report describing student recruitment, program offerings, staffing practices, and available indicators of program effectiveness of alternative education programs funded with state and, to the extent information is available, local funds. The report shall contain a plan for conducting an evaluation of the educational effectiveness of alternative education programs.

(q) \$1,600,000 of the general fund—state appropriation is provided for grants for magnet schools to be distributed as recommended by the superintendent of public instruction pursuant to chapter 232, section 516(13), Laws of 1992.

(r) \$4,300,000 of the general fund—state appropriation is provided for complex need grants. Grants shall be provided according to amounts shown in LEAP Document 30C as developed on April 27, 1997, at 03:00 hours.

\*Sec. 501 was partially vetoed. See message at end of chapter.

**NEW SECTION. Sec. 502. 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, chapter 149, Laws of 1997:

(a) Salary allocations for certificated instructional staff units shall be determined for each district by multiplying the district's certificated instructional derived base salary shown on LEAP Document 12D, by the district's average staff mix factor for basic education and special education certificated instructional staff in that school year, computed using LEAP Document 1A; 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 12D.

(2) For the purposes of this section:

(a) "Basic education certificated instructional staff" is defined as provided in RCW 28A.150.100 and "special education certificated staff" means staff assigned to the state-supported special education program pursuant to chapter 28A.155 RCW in positions requiring a certificate;

(b) "LEAP Document 1A" means the computerized tabulation establishing staff mix factors for certificated instructional staff according to education and years of experience, as developed by the legislative evaluation and accountability program committee on April 8, 1991, at 13:35 hours; and

(c) "LEAP Document 12D" means the computerized tabulation of 1997-98 and 1998-99 school year salary allocations for certificated administrative staff and

classified staff and derived base salaries for certificated instructional staff as developed by the legislative evaluation and accountability program committee on March 21, 1997 at 16:37 hours.

(3) Incremental fringe benefit factors shall be applied to salary adjustments at a rate of 19.58 percent for certificated staff and 15.15 percent for classified staff for both years of the biennium.

(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:

**STATE-WIDE SALARY ALLOCATION SCHEDULE  
FOR THE 1997-98 AND 1998-99 SCHOOL YEARS**

Years of Service	BA	BA+15	BA+30	BA+45	BA+90
0	22,950	23,570	24,212	24,855	26,920
1	23,702	24,342	25,005	25,690	27,816
2	24,469	25,129	25,812	26,563	28,725
3	25,275	25,955	26,657	27,450	29,650
4	26,095	26,818	27,540	28,375	30,632
5	26,953	27,695	28,437	29,336	31,629
6	27,847	28,586	29,370	30,333	32,661
7	28,756	29,513	30,316	31,341	33,727
8	29,678	30,477	31,299	32,408	34,827
9		31,475	32,337	33,487	35,962
10			33,388	34,621	37,129
11				35,788	38,351
12				36,918	39,605
13					40,890
14					42,182
15 or more					43,279

Years of Service	BA+135	MA	MA+45	MA+90 or PHD
0	28,251	27,516	29,581	30,912
1	29,165	28,351	30,477	31,825
2	30,115	29,224	31,386	32,774
3	31,100	30,111	32,311	33,761
4	32,123	31,036	33,293	34,783
5	33,180	31,996	34,290	35,840
6	34,250	32,994	35,322	36,911
7	35,377	34,002	36,388	38,038
8	36,537	35,069	37,488	39,198
9	37,730	36,147	38,623	40,391
10	38,956	37,282	39,790	41,617

11	40,214	38,449	41,012	42,875
12	41,525	39,662	42,266	44,186
13	42,867	40,917	43,551	45,528
14	44,260	42,210	44,927	46,921
15 or more	45,411	43,307	46,095	48,141

(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 chapter 90, Laws of 1997.

(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 salary allocation schedules established in this section are for allocation purposes only except as provided in RCW 28A.400.200(2).

**\*NEW SECTION. Sec. 503. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR SCHOOL EMPLOYEE COMPENSATION ADJUSTMENTS**

General Fund Appropriation (FY 1998) . . . . .	\$	79,966,000
General Fund Appropriation (FY 1999) . . . . .	\$	116,310,000
<b>TOTAL APPROPRIATION . . . . .</b>	<b>\$</b>	<b>196,276,000</b>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$176,525,000 is provided for a cost of living adjustment of 3.0 percent effective September 1, 1997, for state formula staff units. The appropriations

include associated incremental fringe benefit allocations at rates of 19.58 percent for certificated staff and 15.15 percent for classified staff.

(a) The appropriations in this section include the increased portion of salaries and incremental fringe benefits for all relevant state-funded school programs in part V of this act. Salary adjustments for state employees in the office of superintendent of public instruction and the education reform program are provided in part VII of this act. Increases for general apportionment (basic education) are based on the salary allocation schedules and methodology in section 502 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 section 502 of this act.

(b) The appropriations in this section provide salary increase and incremental fringe benefit allocations based on formula adjustments as follows:

(i) For pupil transportation, an increase of \$0.60 per weighted pupil-mile for the 1997-98 school year and maintained for the 1998-99 school year;

(ii) For education of highly capable students, an increase of \$6.81 per formula student for the 1997-98 school year and maintained for the 1998-99 school year; and

(iii) For transitional bilingual education, an increase of \$17.69 per eligible bilingual student for the 1997-98 school year and maintained for the 1998-99 school year; and

(iv) For learning assistance, an increase of \$8.74 per entitlement unit for the 1997-98 school year and maintained for the 1998-99 school year.

(c) The appropriations in this section include \$912,000 for salary increase adjustments for substitute teachers at a rate of \$10.64 per unit in the 1997-98 school year and maintained in the 1998-99 school year.

(2) \$19,751,000 is provided for adjustments to insurance benefit allocations. The maintenance rate for insurance benefit allocations is \$314.51 per month for the 1997-98 and 1998-99 school years. The appropriations in this section provide increases of \$2.83 per month for the 1997-98 school year and \$18.41 per month for the 1998-99 school year at the following rates:

(a) For pupil transportation, an increase of \$0.03 per weighted pupil-mile for the 1997-98 school year and \$0.19 for the 1998-99 school year;

(b) For education of highly capable students, an increase of \$0.20 per formula student for the 1997-98 school year and \$1.35 for the 1998-99 school year;

(c) For transitional bilingual education, an increase of \$4.46 per eligible bilingual student for the 1997-98 school year and \$3.44 for the 1998-99 school year; and

(d) For learning assistance, an increase of \$.36 per funded unit for the 1997-98 school year and \$2.70 for the 1998-99 school year.

(3) The rates specified in this section are subject to revision each year by the legislature.

(4)(a) For the 1997-98 school year, the superintendent shall prepare a report showing the allowable derived base salary for certificated instructional staff in accordance with RCW 28A.400.200 and LEAP Document 12D, and the actual derived base salary paid by each school district as shown on the S-275 report and shall make the report available to the fiscal committees of the legislature no later than February 15, 1998.

*(b) For the 1998-99 school year, the superintendent shall reduce the percent of salary increase funds provided in this section for certificated instructional staff in the basic education and special education programs by the percentage by which a district exceeds the allowable derived base salary for certificated instructional staff as shown on LEAP Document 12D.*

*(5) Cost-of-living funds provided to school districts under this section for classified staff shall be distributed to each and every formula funded employee at 3.0 percent, effective September 1, 1997.*

\*Sec. 503 was partially vetoed. See message at end of chapter.

**NEW SECTION. Sec. 504. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR LOCAL EFFORT ASSISTANCE**

General Fund Appropriation (FY 1998) . . . . .	\$	84,347,000
General Fund Appropriation (FY 1999) . . . . .	\$	89,605,000
TOTAL APPROPRIATION . . . . .	\$	173,952,000

Sec. 505. 1997 c 149 s 512 (uncodified) is amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR INSTITUTIONAL EDUCATION PROGRAMS**

General Fund—State Appropriation (FY 1998) . . . . .	\$	<del>((18,327,000))</del>
		<u>18,026,000</u>
General Fund—State Appropriation (FY 1999) . . . . .	\$	<del>((19,131,000))</del>
		<u>18,983,000</u>
General Fund—Federal Appropriation . . . . .	\$	8,548,000
TOTAL APPROPRIATION . . . . .	\$	<del>((46,006,000))</del>
		<u>45,557,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) The general fund—state appropriation for fiscal year 1998 includes such funds as are necessary for the remaining months of the 1996-97 school year.

(2) State funding provided under this section is based on salaries and other expenditures for a 220-day school year. The superintendent of public instruction shall monitor school district expenditure plans for institutional education programs to ensure that districts plan for a full-time summer program.

(3) 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) ~~\$(758,000)~~ 341,000 of the general fund—state fiscal year 1998 appropriation and ~~\$(704,000)~~ 407,000 of the general fund—state fiscal year 1999 appropriation are provided solely for the implementation of Engrossed Third Substitute House Bill No. 3900 (revising the juvenile code). If the bill is not enacted by June 30, 1997, the amounts provided in this subsection shall lapse.

**\*NEW SECTION. Sec. 506. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—EDUCATION REFORM PROGRAMS**

General Fund Appropriation (FY 1998) . . . . .	\$	18,905,000
General Fund Appropriation (FY 1999) . . . . .	\$	21,868,000
TOTAL APPROPRIATION . . . . .	\$	40,773,000

The appropriations in this section are subject to the following conditions and limitations:

(1) \$18,103,000 is provided for the operation of the commission on student learning and the development and implementation of student assessments. The commission shall cooperate with the superintendent of public instruction in defining measures of student achievement to be included in the student record system developed by the superintendent pursuant to section 501(1)(b) of this act.

(2) \$2,190,000 is provided solely for training of paraprofessional classroom assistants and certificated staff who work with classroom assistants as provided in RCW 28A.415.310.

(3) \$2,970,000 is provided for mentor teacher assistance, including state support activities, under RCW 28A.415.250 and 28A.415.260. Funds for the teacher assistance program shall be allocated to school districts based on the number of beginning teachers.

(4) \$4,050,000 is provided 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.

(5) \$7,200,000 is provided for grants to school districts to provide a continuum of care for children and families to help children become ready to learn. Grant proposals from school districts shall contain local plans designed collaboratively with community service providers. If a continuum of care program exists in the area in which the school district is located, the local plan shall provide for coordination with existing programs to the greatest extent possible. Grant funds shall be allocated pursuant to RCW 70.190.040.

(6) \$5,000,000 is provided solely for the meals for kids program under RCW 28A.235.145 through 28A.235.155.

(7) \$1,260,000 is provided for technical assistance related to education reform through the office of the superintendent of public instruction, in consultation with

the commission on student learning, as specified in RCW 28A.300.130 (center for the improvement of student learning).

*(8) The superintendent of public instruction shall not accept, allocate, or expend any federal funds to implement the federal goals 2000 program.*

\*Sec. 506 was partially vetoed. See message at end of chapter.

\*Sec. 507. 1997 c 149 s 515 (uncodified) is amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR TRANSITIONAL BILINGUAL PROGRAMS**

General Fund Appropriation (FY 1998) . . . . .	\$	31,146,000
General Fund Appropriation (FY 1999) . . . . .	\$	33,414,000
TOTAL APPROPRIATION . . . . .	\$	64,560,000

The appropriations in this section are subject to the following conditions and limitations:

(1) The appropriation for fiscal year 1998 provides such funds as are necessary for the remaining months of the 1996-97 school year.

(2) The superintendent of public instruction shall study the formula components proposed for the 1998-99 school year and prepare a report to the legislature no later than January 15, 1998.

(3) The superintendent shall distribute a maximum of \$643.78 per eligible bilingual student in the 1997-98 school year, exclusive of salary and benefit adjustments provided in section ((504)) 503 of this act.

(4) A student shall be eligible for funding under this section if the student is enrolled in grades K-12 pursuant to WAC 392-121-106 and is receiving specialized instruction pursuant to chapter 28A.180 RCW.

(5) The superintendent shall distribute a maximum of \$643.78 per eligible weighted bilingual student in the 1998-99 school year exclusive of salary and benefit adjustments provided in section 503 of this act.

(6) The following factors shall be used to calculate weightings for the 1998-99 school year.

<u>(a) Grades Level</u>	
<u>(i) K-5</u> . . . . .	<u>.35</u>
<u>(ii) 6-8</u> . . . . .	<u>.50</u>
<u>(iii) 9-12</u> . . . . .	<u>.72</u>
<u>(b) Time in Program</u>	
<u>(i) Up to 1 year</u> . . . . .	<u>.82</u>
<u>(ii) 1 to 2 years</u> . . . . .	<u>.62</u>
<u>(iii) 2 to 3 years</u> . . . . .	<u>.41</u>
<u>(iv) more than 3 years</u> . . . . .	<u>.21</u>

(c) The grade level weight and time in program weight shall be summed for each eligible student and the result shall be multiplied by the rate per weighted student specified in subsection (4) of this section.

(d) Time in program under (b) of this subsection shall be calculated in accordance with WAC 392-160-035.

\*Sec. 507 was partially vetoed. See message at end of chapter.

**NEW SECTION. Sec. 508. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—LOCAL ENHANCEMENT FUNDS**

General Fund Appropriation (FY 1998) . . . . .	\$	49,815,000
General Fund Appropriation (FY 1999) . . . . .	\$	56,962,000
<b>TOTAL APPROPRIATION . . . . .</b>	<b>\$</b>	<b>106,777,000</b>

The appropriations in this section are subject to the following conditions and limitations:

(1) A maximum of \$50,841,000 is provided for learning improvement allocations to school districts to enhance the ability of instructional staff to teach and assess the essential academic learning requirements for reading, writing, communication, and math in accordance with the timelines and requirements established under RCW 28A.630.885. However, special emphasis shall be given to the successful teaching of reading. Allocations under this section shall be subject to the following conditions and limitations:

(a) In accordance with the timetable for the implementation of the assessment system by the commission on student learning, the allocations for the 1997-98 and 1998-99 school years shall be at a maximum annual rate per full-time equivalent student of \$36.69 for students enrolled in grades K-4, \$30.00 for students enrolled in grades 5-7, and \$22.95 for students enrolled in grades 8-12. Allocations shall be made on the monthly apportionment schedule provided in RCW 28A.510.250.

(b) A district receiving learning improvement allocations shall:

(i) Develop and keep on file at each building a student learning improvement plan to achieve the student learning goals and essential academic learning requirements and to implement the assessment system as it is developed. The plan shall delineate how the learning improvement allocations will be used to accomplish the foregoing. The plan shall be made available to the public upon request;

(ii) Maintain a policy regarding the involvement of school staff, parents, and community members in instructional decisions;

(iii) File a report by October 1, 1998, and October 1, 1999, with the office of the superintendent of public instruction, in a format developed by the superintendent that: Enumerates the activities funded by these allocations; the amount expended for each activity; describes how the activity improved understanding, teaching, and assessment of the essential academic learning requirements by instructional staff; and identifies any amounts expended from this allocation for supplemental contracts; and

(iv) Provide parents and the local community with specific information on the use of this allocation by including in the annual performance report required in RCW 28A.320.205, information on how funds allocated under this subsection were spent and the results achieved.

(c) The superintendent of public instruction shall compile and analyze the school district reports and present the results to the office of financial management and the appropriate committees of the legislature no later than November 15, 1998, and November 15, 1999.

(2) \$55,937,000 is provided for local education program enhancements to meet educational needs as identified by the school district, including alternative education programs. This amount includes such amounts as are necessary for the remainder of the 1996-97 school year. Allocations for the 1997-98 and 1998-99 school year shall be at a maximum annual rate of \$29.86 per full-time equivalent student as determined pursuant to subsection (3) of this section. Allocations shall be made on the monthly apportionment payment schedule provided in RCW 28A.510.250.

(3) Allocations provided under this section shall be based on school district annual average full-time equivalent enrollment in grades kindergarten through twelve: PROVIDED, That for school districts enrolling not more than one hundred average annual full-time equivalent students, and for small school plants within any school district designated as remote and necessary schools, the allocations shall be as follows:

(a) Enrollment of not more than 60 average annual full-time equivalent students in grades kindergarten through six shall generate funding based on sixty full-time equivalent students;

(b) Enrollment of not more than 20 average annual full-time equivalent students in grades seven and eight shall generate funding based on twenty full-time equivalent students; and

(c) Enrollment of not more than 60 average annual full-time equivalent students in grades nine through twelve shall generate funding based on sixty full-time equivalent students.

(4) Funding provided pursuant to this section does not fall within the definition of basic education for purposes of Article IX of the state Constitution and the state's funding duty thereunder.

(5) Receipt by a school district of one-fourth of the district's allocation of funds under this section, shall be conditioned on a finding by the superintendent that:

(a) The district is enrolled as a medicaid service provider and is actively pursuing federal matching funds for medical services provided through special education programs, pursuant to RCW 74.09.5241 through 74.09.5256 (Title XIX funding); and

(b) The district is filing truancy petitions as required under chapter 312, Laws of 1995 and RCW 28A.225.030.

**NEW SECTION. Sec. 509. FOR THE STATE BOARD OF EDUCATION**

Education Savings Account Appropriation to the

Common School Construction Account . . . . . \$ 12,621,000

**PART VI  
HIGHER EDUCATION**

**NEW SECTION. Sec. 601.** The appropriations in sections 603 through 609 of this act are subject to the following conditions and limitations:

(1) "Institutions" means the institutions of higher education receiving appropriations under sections 603 through 609 of this act.

(2)(a) The salary increases provided or referenced in this subsection shall be the allowable salary increases provided at institutions of higher education, excluding increases associated with normally occurring promotions and increases related to faculty and professional staff retention, and excluding increases associated with employees under the jurisdiction of chapter 41.56 RCW pursuant to the provisions of RCW 28B.16.015.

(b) Each institution of higher education shall provide to each classified staff employee as defined by the office of financial management a salary increase of 3.0 percent on July 1, 1997. Each institution of higher education shall provide to instructional and research faculty, exempt professional staff, academic administrators, academic librarians, counselors, teaching and research assistants as classified by the office of financial management, and all other nonclassified staff, including those employees under RCW 28B.16.015, an average salary increase of 3.0 percent on July 1, 1997. For employees under the jurisdiction of chapter 41.56 RCW pursuant to the provisions of RCW 28B.16.015, distribution of the salary increases will be in accordance with the applicable collective bargaining agreement. However, an increase shall not be provided to any classified employee whose salary is above the approved salary range maximum for the class to which the employee's position is allocated. To collect consistent data for use by the legislature, the office of financial management, and other state agencies for policy and planning purposes, institutions of higher education shall report personnel data to be used in the department of personnel's human resource data warehouse in compliance with uniform reporting procedures established by the department of personnel.

(c) Each institution of higher education receiving appropriations under sections 604 through 609 of this act may provide to instructional and research faculty, exempt professional staff, academic administrators, academic librarians, counselors, teaching and research assistants, as classified by the office of financial management, and all other nonclassified staff, but not including employees under RCW 28B.16.015, an additional average salary increase of 1.0 percent on July 1, 1997, and an average salary increase of 2.0 percent on July 1, 1998. Any salary increases authorized under this subsection (2)(c) shall not be included in an institution's salary base. It is the intent of the legislature that general fund—state support for an institution shall not increase during the current or any future biennium as a result of any salary increases authorized under this subsection (2)(c).

(d) Specific salary increases authorized in sections 603 through 609 of this act are in addition to any salary increase provided in this subsection.

(3)(a) Each institution receiving appropriations under sections 604 through 609 of this act shall submit plans for achieving measurable and specific improvements in academic years 1997-98 and 1998-99 to the higher education coordinating board. The plans, to be prepared at the direction of the board, shall be submitted by August 15, 1997 (for academic year 1997-98) and June 30, 1998 (for academic year 1998-99). The following measures and goals will be used for the 1997-99 biennium:

	Goal
(i) Undergraduate graduation efficiency index:	
For students beginning as freshmen	95
For transfer students	90
(ii) Undergraduate student retention, defined as the percentage of all undergraduate students who return for the next year at the same institution, measured from fall to fall:	
Research universities	95%
Comprehensive universities and college	90%
(iii) Graduation rates, defined as the percentage of an entering freshmen class at each institution that graduates within five years:	
Research universities	65%
Comprehensive universities and college	55%

(iv) A measure of faculty productivity, with goals and targets in accord with the legislative intent to achieve measurable and specific improvements, to be determined by the higher education coordinating board, in consultation with the institutions receiving appropriations under sections 604 through 609 of this act.

(v) An additional measure and goal to be selected by the higher education coordinating board for each institution, in consultation with each institution.

(b) Academic year 1995-96 shall be the baseline year against which performance in academic year 1997-98 shall be measured. Academic year 1997-98 shall be the baseline year against which performance in academic year 1998-99 shall be measured. The difference between each institution's baseline year and the state-wide performance goals shall be calculated and shall be the performance gap for each institution for each measure for each year. The higher education coordinating board shall set performance targets for closing the performance gap for each measure for each institution. Performance targets shall be set at levels that reflect meaningful and substantial progress towards the state-wide performance goals. Each institution shall report to the higher education coordinating board on its actual performance achievement for each measure for academic year 1997-98 by June 30, 1998, except that performance reporting for the student retention measure shall be completed by October 15, 1998.

(4) The state board for community and technical colleges shall develop an implementation plan for measurable and specific improvements in productivity, efficiency, and student retention in academic years 1997-98 and 1998-99 consistent

with the performance management system developed by the work force training and education coordinating board and for the following long-term performance goals:

	Goal
(a) Hourly wages for vocational graduates	\$12/hour
(b) Academic students transferring to Washington higher education institutions	67%
(c) Core course completion rates	85%
(d) Graduation efficiency index	95

(5) The state's public institutions of higher education increasingly are being called upon to become more efficient in conducting the business operations necessary to support the carrying out of their academic missions. The legislature recognizes that state laws and regulations may have the unintended effect of acting as barriers to efficient operation in some instances, and desires to encourage the institutions of higher education to think beyond the constraints of current law in identifying opportunities for improved efficiency. Accordingly, the legislature requests that the institutions of higher education, working together through the council of presidents' office and the state board for community and technical colleges, identify opportunities for changes in state law that would form the basis for a new efficiency compact with the state, for consideration no later than the 1999 legislative session.

**\*NEW SECTION. Sec. 602.** (1) The appropriations in sections 603 through 609 of this act provide state general fund support or employment and training trust account support for full-time equivalent student enrollments at each institution of higher education. Listed below are the annual full-time equivalent student enrollments by institution assumed in this act.

	1997-98 Annual Average	1998-99 Annual Average
<b>University of Washington</b>		
Main campus	31,297	31,527
Bothell branch	775	895
Tacoma branch	847	992
<b>Washington State University</b>		
Main campus	17,403	17,723
Spokane branch	352	442
Tri-Cities branch	754	814
Vancouver branch	851	971
Central Washington University	7,346	7,446
Eastern Washington University	7,739	7,739

The Evergreen State College	3,496	3,576
Western Washington University	10,188	10,338
State Board for Community and Technical Colleges	116,426	118,526
Higher Education Coordinating Board	50	50

*(2) The legislature intends to reduce general fund—state support for student enrollments by average instructional funding as calculated by the higher education coordinating board for enrollments below the budgeted levels in subsection (1) of this section, except that, for campuses with less than 1,500 budgeted full-time equivalent (FTE) student enrollments, enrollment targets shall be set at 95 percent of the budgeted enrollment level, and except that underenrollment at Eastern Washington University shall be administered in accordance with section 606(5) of this act.*

\*Sec. 602 was partially vetoed. See message at end of chapter.

**NEW SECTION. Sec. 603. FOR THE STATE BOARD FOR COMMUNITY AND TECHNICAL COLLEGES**

General Fund—State Appropriation (FY 1998) . . . .	\$	382,891,000
General Fund—State Appropriation (FY 1999) . . . .	\$	420,961,000
General Fund—Federal Appropriation . . . . .	\$	11,404,000
Employment and Training Trust Account		
Appropriation . . . . .	\$	26,346,000
<b>TOTAL APPROPRIATION . . . . .</b>	<b>\$</b>	<b>841,602,000</b>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$2,718,000 of the general fund—state appropriation for fiscal year 1998 and \$4,079,000 of the general fund—state appropriation for fiscal year 1999 shall be held in reserve by the board. These funds are provided for improvements in productivity, efficiency, and student retention. The board may approve the fiscal year 1998 allocation of funds under this subsection upon completion of an implementation plan. The implementation plan shall be submitted by the board to the appropriate legislative committees and the office of financial management in accordance with section 601(4) of this act by September 1, 1997. The board may approve the fiscal year 1999 allocation of funds under this subsection based on the board's evaluation of:

(a) College performance compared to the goals for productivity, efficiency, and student retention as submitted in the plan required in section 601(4) of this act; and

(b) The quality and effectiveness of the strategies the colleges propose to achieve continued improvement in quality and efficiency during the 1998-99 academic year.

(2) \$2,553,000 of the general fund—state appropriation for fiscal year 1998, \$28,761,000 of the general fund—state appropriation for fiscal year 1999, and the

entire employment and training trust account appropriation are provided solely as special funds for training and related support services, including financial aid, child care, and transportation, as specified in chapter 226, Laws of 1993 (employment and training for unemployed workers) and Substitute House Bill No. 2214.

(a) Funding is provided to support up to 7,200 full-time equivalent students in each fiscal year.

(b) The state board for community and technical colleges shall submit a plan for the allocation of the full-time equivalent students provided in this subsection to the workforce training and education coordinating board for review and approval.

(3) \$1,441,000 of the general fund—state appropriation for fiscal year 1998 and \$1,441,000 of the general fund—state appropriation for fiscal year 1999 are provided solely for 500 FTE enrollment slots to implement RCW 28B.50.259 (timber-dependent communities).

(4) \$1,862,500 of the general fund—state appropriation for fiscal year 1998 and \$1,862,500 of the general fund—state appropriation for fiscal year 1999 are provided solely for assessment of student outcomes at community and technical colleges.

(5) \$706,000 of the general fund—state appropriation for fiscal year 1998 and \$706,000 of general fund—state appropriation for fiscal year 1999 are provided solely to recruit and retain minority students and faculty.

(6) Up to \$1,035,000 of the general fund—state appropriation for fiscal year 1998 and up to \$2,102,000 of the general fund—state appropriation for fiscal year 1999 may be used in combination with salary and benefit savings from faculty turnover to provide faculty salary increments and associated benefits. To the extent general salary increase funding is used to pay faculty increments, the general salary increase shall be reduced by the same amount.

(7) To address part-time faculty salary disparities and to increase the ratio of full-time to part-time faculty instructors, the board shall provide salary increases to part-time instructors or hire additional full-time instructional staff under the following conditions and limitations: (a) The amount used for such purposes shall not exceed an amount equivalent to an additional salary increase of 1.0 percent on July 1, 1997, and an additional salary increase of 2.0 percent on July 1, 1998, for instructional faculty as classified by the office of financial management; and (b) at least \$2,934,000 shall be spent for the purposes of this subsection.

(8) \$83,000 of the general fund—state appropriation for fiscal year 1998 and \$1,567,000 of the general fund—state appropriation for fiscal year 1999 are provided for personnel and expenses to develop curricula, library resources, and operations of Cascadia Community College. It is the legislature's intent to use the opportunity provided by the establishment of the new institution to conduct a pilot project of budgeting based on instructional standards and outcomes. The college shall use a portion of the available funds to develop a set of measurable standards and outcomes as the basis for budget development in the 1999-01 biennium.

(9) The technical colleges may increase tuition and fees to conform with the percentage increase in community college operating fees enacted by the 1997 legislature. The community colleges may charge up to the maximum level authorized for services and activities fees in RCW 28B.15.069.

(10) Community and technical colleges with below-average faculty salaries may use funds identified by the state board in the 1997-98 and 1998-99 operating allocations to increase faculty salaries no higher than the system-wide average.

(11) \$1,000,000 of the general fund—state appropriation for fiscal year 1998 and \$1,000,000 of the general fund—state appropriation for fiscal year 1999 are provided solely for tuition support for students enrolled in work-based learning programs.

**NEW SECTION. Sec. 604. FOR UNIVERSITY OF WASHINGTON**

General Fund Appropriation (FY 1998) .....	\$	283,923,000
General Fund Appropriation (FY 1999) .....	\$	289,807,000
Death Investigations Account Appropriation .....	\$	1,810,000
Industrial Insurance Premium Refund Account		
Appropriation .....	\$	514,000
Accident Account Appropriation .....	\$	4,969,000
Medical Aid Account Appropriation .....	\$	4,989,000
<b>TOTAL APPROPRIATION .....</b>	<b>\$</b>	<b>586,012,000</b>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$2,019,000 of the general fund appropriation for fiscal year 1998 and \$3,029,000 of the general fund appropriation for fiscal year 1999 shall be placed in reserve. The office of financial management shall approve the allotment of amounts under this subsection upon notification by the higher education coordinating board. These amounts are provided for the preparation of plans and for the achievement of measurable and specific improvements towards performance and accountability goals as outlined in section 60I(3) of this act.

(2) \$800,000 of the general fund appropriation for fiscal year 1998 and \$1,896,000 of the general fund appropriation for fiscal year 1999 are provided solely to support additional upper-division and graduate level enrollments at the Tacoma branch campus above the 1996-97 budgeted FTE level.

(3) \$593,000 of the general fund appropriation for fiscal year 1998 and \$1,547,000 of the general fund appropriation for fiscal year 1999 are provided solely to support additional upper-division and graduate level enrollments at the Bothell branch campus above the 1996-97 budgeted FTE level.

(4) \$186,000 of the general fund appropriation for fiscal year 1998 and \$186,000 of the general fund appropriation for fiscal year 1999 are provided solely for assessment of student outcomes.

(5) \$324,000 of the general fund appropriation for fiscal year 1998 and \$324,000 of the general fund appropriation for fiscal year 1999 are provided solely to recruit and retain minority students and faculty.

(6) \$130,000 of the general fund appropriation for fiscal year 1998 and \$130,000 of the general fund appropriation for fiscal year 1999 are provided solely for the implementation of the Puget Sound work plan agency action item UW-01.

(7) \$1,200,000 of the general fund appropriation for fiscal year 1998 and \$1,200,000 of the general fund appropriation for fiscal year 1999 are provided solely for competitively offered faculty recruitment and retention salary adjustments. The university shall provide a report in their 1999-01 biennial operating budget request submittal on the effective expenditure of funds for the purposes of this subsection.

(8) \$47,000 of the fiscal year 1998 general fund appropriation and \$47,000 of the fiscal year 1999 general fund appropriation are provided solely to employ a fossil preparator/educator in the Burke Museum. The entire amounts provided in this subsection shall be provided directly to the Burke Museum.

(9) \$75,000 of the general fund appropriation for fiscal year 1998 and \$75,000 of the general fund appropriation for fiscal year 1999 are provided solely for enhancements to research capabilities at the Olympic natural resources center.

**NEW SECTION. Sec. 605. FOR WASHINGTON STATE UNIVERSITY**

General Fund Appropriation (FY 1998) .....	\$	166,644,000
General Fund Appropriation (FY 1999) .....	\$	172,819,000
Air Pollution Control Account Appropriation .....	\$	206,000
<b>TOTAL APPROPRIATION .....</b>	<b>\$</b>	<b>339,669,000</b>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$1,204,000 of the general fund appropriation for fiscal year 1998 and \$1,807,000 of the general fund appropriation for fiscal year 1999 shall be placed in reserve. The office of financial management shall approve the allotment of amounts under this subsection upon notification by the higher education coordinating board. These amounts are provided for the preparation of plans and for the achievement of measurable and specific improvements towards performance and accountability goals as outlined in section 601(3) of this act.

(2) \$1,059,000 of the general fund appropriation for fiscal year 1999 is provided solely to support additional upper-division and graduate level enrollments at the Vancouver branch campus above the 1996-97 budgeted FTE level.

(3) \$263,000 of the general fund appropriation for fiscal year 1998 and \$789,000 of the general fund appropriation for fiscal year 1999 are provided solely to support additional upper-division and graduate level enrollments at the Tri-Cities branch campus above the 1996-97 budgeted FTE level.

(4) \$971,000 of the general fund appropriation for fiscal year 1999 is provided solely to support additional upper-division and graduate level enrollments at the Spokane branch campus above the 1996-97 budgeted FTE level.

(5) \$186,000 of the general fund appropriation for fiscal year 1998 and \$186,000 of the general fund appropriation for fiscal year 1999 are provided solely for assessment of student outcomes.

(6) \$140,000 of the general fund appropriation for fiscal year 1998 and \$140,000 of the general fund appropriation for fiscal year 1999 are provided solely to recruit and retain minority students and faculty.

(7) \$157,000 of the general fund appropriation for fiscal year 1998 and \$157,000 of the general fund appropriation for fiscal year 1999 are provided solely for the implementation of the Puget Sound work plan agency action item WSU-01.

(8) \$600,000 of the general fund appropriation for fiscal year 1998 and \$600,000 of the general fund appropriation for fiscal year 1999 are provided solely for competitively offered faculty recruitment and retention salary adjustments. The university shall provide a report in their 1999-01 biennial operating budget request submittal on the effective expenditure of funds for the purposes of this subsection.

(9) \$50,000 of the general fund appropriation for fiscal year 1998 and \$50,000 of the general fund appropriation for fiscal year 1999 are provided solely for yellow star thistle research.

(10) \$55,000 of the general fund appropriation for fiscal year 1998 and \$55,000 of the general fund appropriation for fiscal year 1999 are provided solely for the Goldendale distance learning center.

**NEW SECTION. Sec. 606. FOR EASTERN WASHINGTON UNIVERSITY**

General Fund Appropriation (FY 1998) .....	\$	39,211,000
General Fund Appropriation (FY 1999) .....	\$	39,489,000
TOTAL APPROPRIATION .....	\$	78,700,000

The appropriations in this section are subject to the following conditions and limitations:

(1) \$285,000 of the general fund appropriation for fiscal year 1998 and \$428,000 of the general fund appropriation for fiscal year 1999 shall be placed in reserve. The office of financial management shall approve the allotment of amounts under this subsection upon notification by the higher education coordinating board. These amounts are provided for the preparation of plans and for the achievement of measurable and specific improvements towards performance and accountability goals as outlined in section 601(3) of this act.

(2) \$186,000 of the general fund appropriation for fiscal year 1998 and \$186,000 of the general fund appropriation for fiscal year 1999 are provided solely for assessment of student outcomes.

(3) \$93,000 of the general fund appropriation for fiscal year 1998 and \$93,000 of the general fund appropriation for fiscal year 1999 are provided solely to recruit and retain minority students and faculty.

(4) \$53,000 of the general fund—state appropriation for fiscal year 1998 and \$54,000 of the general fund—state appropriation for fiscal year 1999 are provided solely for competitively offered faculty recruitment and retention salary adjustments. The university shall provide a report in their 1999-01 biennial operating budget request submittal on the effective expenditure of funds for the purposes of this subsection.

(5) \$3,188,000 of the general fund appropriation for fiscal year 1998 and \$3,188,000 of the general fund appropriation for fiscal year 1999 shall be placed in reserve pending attainment of budgeted enrollments of 6,942 FTEs. The office of financial management shall approve the allotment of funds under this subsection at the annual rate of \$4,000 for annual student FTEs in excess of 6,942 based on tenth day quarterly enrollment and the office of financial management's quarterly budget driver report. In addition, allotments of reserve funds in this section shall be approved by the office of financial management upon approval by the higher education coordinating board for (a) actions that will result in additional enrollment growth, and (b) contractual obligations in fiscal year 1998 to the extent such funds are required.

**NEW SECTION. Sec. 607. FOR CENTRAL WASHINGTON UNIVERSITY**

General Fund Appropriation (FY 1998) . . . . .	\$	37,214,000
General Fund Appropriation (FY 1999) . . . . .	\$	38,616,000
TOTAL APPROPRIATION . . . . .	\$	75,830,000

The appropriations in this section are subject to the following conditions and limitations:

(1) \$269,000 of the general fund appropriation for fiscal year 1998 and \$403,000 of the general fund appropriation for fiscal year 1999 shall be placed in reserve. The office of financial management shall approve the allotment of amounts under this subsection upon notification by the higher education coordinating board. These amounts are provided for the preparation of plans and for the achievement of measurable and specific improvements towards performance and accountability goals as outlined in section 601(3) of this act.

(2) \$186,000 of the general fund appropriation for fiscal year 1998 and \$186,000 of the general fund appropriation for fiscal year 1999 are provided solely for assessment of student outcomes.

(3) \$70,000 of the general fund appropriation for fiscal year 1998 and \$70,000 of the general fund appropriation for fiscal year 1999 are provided solely to recruit and retain minority students and faculty.

(4) \$51,000 of the general fund appropriation for fiscal year 1998 and \$51,000 of the general fund appropriation for fiscal year 1999 are provided solely for competitively offered faculty recruitment and retention salary adjustments. The college shall provide a report in their 1999-01 biennial operating budget request submittal on the effective expenditure of funds for the purposes of this subsection.

**NEW SECTION. Sec. 608. FOR THE EVERGREEN STATE COLLEGE**

General Fund Appropriation (FY 1998) . . . . .	\$	20,151,000
General Fund Appropriation (FY 1999) . . . . .	\$	20,518,000
TOTAL APPROPRIATION . . . . .	\$	40,669,000

The appropriations in this section is subject to the following conditions and limitations:

(1) \$144,000 of the general fund appropriation for fiscal year 1998 and \$217,000 of the general fund appropriation for fiscal year 1999 shall be placed in reserve. The office of financial management shall approve the allotment of amounts under this subsection upon notification by the higher education coordinating board. These amounts are provided for the preparation of plans and for the achievement of measurable and specific improvements towards performance and accountability goals as outlined in section 601(3) of this act.

(2) \$186,000 of the general fund appropriation for fiscal year 1998 and \$186,000 of the general fund appropriation for fiscal year 1999 are provided solely for assessment of student outcomes.

(3) \$47,000 of the general fund appropriation for fiscal year 1998 and \$47,000 of the general fund appropriation for fiscal year 1999 are provided solely to recruit and retain minority students and faculty.

(4) \$29,000 of the general fund appropriation for fiscal year 1998 and \$29,000 of the general fund appropriation for fiscal year 1999 are provided solely for competitively offered faculty recruitment and retention salary adjustments. The college shall provide a report in their 1999-01 biennial operating budget request submittal on the effective expenditure of funds for the purposes of this subsection.

**NEW SECTION. Sec. 609. FOR WESTERN WASHINGTON UNIVERSITY**

General Fund Appropriation (FY 1998) . . . . .	\$	47,822,000
General Fund Appropriation (FY 1999) . . . . .	\$	48,855,000
TOTAL APPROPRIATION . . . . .	\$	96,677,000

The appropriations in this section are subject to the following conditions and limitations:

(1) \$342,000 of the general fund appropriation for fiscal year 1998 and \$514,000 of the general fund appropriation for fiscal year 1999 shall be placed in reserve. The office of financial management shall approve the allotment of amounts under this subsection upon notification by the higher education coordinating board. These amounts are provided for the preparation of plans and for the achievement of measurable and specific improvements towards performance and accountability goals as outlined in section 601(3) of this act.

(2) \$186,000 of the general fund appropriation for fiscal year 1998 and \$186,000 of the general fund appropriation for fiscal year 1999 are provided solely for assessment of student outcomes.

(3) \$93,000 of the general fund appropriation for fiscal year 1998 and \$93,000 of the general fund appropriation for fiscal year 1999 are provided solely to recruit and retain minority students and faculty.

(4) \$66,000 of the general fund appropriation for fiscal year 1998 and \$67,000 of the general fund appropriation for fiscal year 1999 are provided solely for competitively offered faculty recruitment and retention salary adjustments. The university shall provide a report in their 1999-01 biennial operating budget request submittal on the effective expenditure of funds for the purposes of this subsection.

Sec. 610. 1997 c 149 s 610 (uncodified) is amended to read as follows:

**FOR THE HIGHER EDUCATION COORDINATING BOARD—POLICY COORDINATION AND ADMINISTRATION**

General Fund—State Appropriation (FY 1998) . . . . \$	2,734,000
General Fund—State Appropriation (FY 1999) . . . . \$	2,615,000
General Fund—Federal Appropriation . . . . . \$	693,000
TOTAL APPROPRIATION . . . . . \$	6,042,000

The appropriations in this section are provided to carry out the accountability, performance measurement, policy coordination, planning, studies and administrative functions of the board and are subject to the following conditions and limitations:

(1) The board shall set performance targets, review, recommend changes if necessary, and approve plans defined in section 601(3)(a) of this act for achieving measurable and specific improvements in academic years 1997-98 and 1998-99. By October 1, 1997, the board shall notify the office of financial management to allot institutions' fiscal year 1998 performance funds held in reserve, based upon the adequacy of plans prepared by the institutions.

(2) The board shall develop criteria to assess institutions' performance and shall use those criteria in determining the allotment of performance and accountability funds. The board shall evaluate each institution's achievement of performance targets for the 1997-98 academic year and, by August 1, 1998, the board shall notify the office of financial management to allot institutions' fiscal year 1999 performance funds held in reserve, based upon each institution's performance, except for performance funds held for achievement of the student retention measure. For the student retention measure, the board shall notify the office of financial management by November 1, 1998, to allot institutions' fiscal year 1999 performance funds held in reserve, based upon each institution's performance.

(3) By January, 1999, the board shall recommend to the office of financial management and appropriate legislative committees any recommended additions, deletions, or revisions to the performance and accountability measures in sections 601(3) of this act as part of the next master plan for higher education. The recommendations shall be developed in consultation with the institutions of higher education and may include additional performance indicators to measure successful student learning and other student outcomes for possible inclusion in the 1999-01 operating budget.

(4) \$280,000 of the general fund—state appropriation for fiscal year 1998 and \$280,000 of the general fund—state appropriation for fiscal year 1999 are provided solely for enrollment to implement RCW 28B.80.570 through 28B.80.585 (rural natural resources impact areas). The number of students served shall be 50 full-time equivalent students per fiscal year. The board shall ensure that enrollments reported under this subsection meet the criteria outlined in RCW 28B.80.570 through 28B.80.585.

(5) \$70,000 of the general fund—state appropriation for fiscal year 1998 and \$70,000 of the general fund—state appropriation for fiscal year 1999 are provided to develop a competency based admissions system for higher education institutions. The board shall complete the competency based admissions system and issue a report outlining the competency based admissions system by January 1999.

(6) \$500,000 of the general fund—state appropriation for fiscal year 1998 and \$500,000 of the general fund—state appropriation for fiscal year 1999 are provided solely for activities related to higher education facilities planning, project monitoring, and access issues related to capital facilities. Of this amount, \$50,000 is provided for a study of higher education needs of Okanogan county and surrounding communities with consideration given to alternative approaches to educational service delivery, facility expansion, relocation or partnership, and long-term growth and future educational demands of the region.

(7) \$150,000 of the general fund—state appropriation for fiscal year 1998 is provided solely as one-time funding for computer upgrades.

**\*NEW SECTION. Sec. 611. FOR THE HIGHER EDUCATION COORDINATING BOARD—FINANCIAL AID AND GRANT PROGRAMS**

General Fund—State Appropriation (FY 1998) . . . .	\$	89,369,000
General Fund—State Appropriation (FY 1999) . . . .	\$	96,209,000
General Fund—Federal Appropriation . . . . .	\$	8,255,000
TOTAL APPROPRIATION . . . . .	\$	193,833,000

The appropriations in this section are subject to the following conditions and limitations:

(1) \$527,000 of the general fund—state appropriation for fiscal year 1998 and \$526,000 of the general fund—state appropriation for fiscal year 1999 are provided solely for the displaced homemakers program.

(2) \$216,000 of the general fund—state appropriation for fiscal year 1998 and \$220,000 of the general fund—state appropriation for fiscal year 1999 are provided solely for the western interstate commission for higher education.

(3) \$118,000 of the general fund—state appropriation for fiscal year 1998 and \$118,000 of the general fund—state appropriation for fiscal year 1999 are provided solely for the health personnel resources plan.

(4) \$1,000,000 of the general fund—state appropriation for fiscal year 1998 and \$1,000,000 of the general fund—state appropriation for fiscal year 1999 are provided solely for the scholarships and loans program under chapter 28B.115 RCW, the health professional conditional scholarship program. This amount shall be deposited to the health professional loan repayment and scholarship trust fund to carry out the purposes of the program.

(5) \$86,783,000 of the general fund—state appropriation for fiscal year 1998 and \$93,728,000 of the general fund—state appropriation for fiscal year 1999 are provided solely for student financial aid, including all administrative costs. The

amounts in (a), (b), and (c) of this subsection are sufficient to implement Second Substitute House Bill No. 1851 (higher education financial aid). Of these amounts:

(a) \$67,266,000 of the general fund—state appropriation for fiscal year 1998 and \$73,968,000 of the general fund—state appropriation for fiscal year 1999 are provided solely for the state need grant program.

*(i) Unless an alternative method for distribution of the state need grant is enacted which distributes grants based on tuition costs, for the purposes of determination of eligibility for state need grants for the 1998-99 academic year, the higher education coordinating board shall establish family income equivalencies for independent students having financial responsibility for children and independent students with no financial responsibility for children, respectively, based on the United States bureau of labor statistics' low budget standard for persons in the 20-35 year age group, in accordance with the recommendations of the 1996 student financial aid policy advisory committee.*

(ii) 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.

(b) \$15,350,000 of the general fund—state appropriation for fiscal year 1998 and \$15,350,000 of the general fund—state appropriation for fiscal year 1999 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;

(c) \$2,420,000 of the general fund—state appropriation for fiscal year 1998 and \$2,420,000 of the general fund—state appropriation for fiscal year 1999 are provided solely for educational opportunity grants. For the purpose of establishing eligibility for the equal opportunity grant program for placebound students under RCW 28B.101.020, Thurston county lies within the branch campus service area of the Tacoma branch campus of the University of Washington;

(d) A maximum of 2.1 percent of the general fund—state appropriation for fiscal year 1998 and 2.1 percent of the general fund—state appropriation for fiscal year 1999 may be expended for financial aid administration, excluding the four percent state work study program administrative allowance provision;

(e) \$230,000 of the general fund—state appropriation for fiscal year 1998 and \$201,000 of the general fund—state appropriation for fiscal year 1999 are provided solely for the educator's excellence awards. Any educator's excellence moneys not awarded by April 1st of each year may be transferred by the board to either the Washington scholars program or, in consultation with the workforce training and education coordinating board, to the Washington award for vocational excellence;

(f) \$1,011,000 of the general fund—state appropriation for fiscal year 1998 and \$1,265,000 of the general fund—state appropriation for fiscal year 1999 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 either the educator's excellence awards or, in consultation with the

workforce training and education coordinating board, to the Washington award for vocational excellence;

(g) \$456,000 of the general fund—state appropriation for fiscal year 1998 and \$474,000 of the general fund—state appropriation for fiscal year 1999 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 either the educator's excellence awards or the Washington scholars program;

(h) \$51,000 of the general fund—state appropriation for fiscal year 1998 and \$51,000 of the general fund—state appropriation for fiscal year 1999 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. No organization may receive more than one \$2,000 matching grant; and

(6) \$175,000 of the general fund—state appropriation for fiscal year 1998 and \$175,000 of the general fund—state appropriation for fiscal year 1999 are provided solely to implement Engrossed Second Substitute House Bill No. 1372 or Second Substitute Senate Bill No. 5106 (Washington advanced college tuition payment program). If neither Engrossed Second Substitute House Bill No. 1372 nor Second Substitute Senate Bill No. 5106 is enacted by June 30, 1997, the amounts provided in this subsection shall lapse.

(7) \$187,000 of the general fund—state appropriation for fiscal year 1998 and \$188,000 of the general fund—state appropriation for fiscal year 1999 are provided solely for a demonstration project in the 1997-99 biennium to provide undergraduate fellowships based upon the graduate fellowship program.

(8) Funding is provided in this section for the development of three models for tuition charges for distance learning programs. Institutions involved in distance education or extended learning shall provide information to the board on the usage, cost, and revenue generated by such programs.

\*Sec. 611 was partially vetoed. See message at end of chapter.

**PART VII  
SPECIAL APPROPRIATIONS**

Sec. 701. 1997 c 149 s 709 (uncodified) is amended to read as follows:

**FOR THE OFFICE OF FINANCIAL MANAGEMENT—EMERGENCY FUND**

General Fund Appropriation (FY 1998) . . . . .	\$	<del>((500,000))</del>
		<u>850,000</u>
General Fund Appropriation (FY 1999) . . . . .	\$	<del>((500,000))</del>
		<u>850,000</u>
TOTAL APPROPRIATION . . . . .	\$	<del>((1,000,000))</del>
		<u>1,700,000</u>

The appropriation in this section is for the governor's emergency fund for the critically necessary work of any agency.

**\*NEW SECTION, Sec. 702. YEAR 2000 ALLOCATIONS. 1997 c 149 s 710 (uncodified) is repealed.**

\*Sec. 702 was vetoed. See message at end of chapter.

**NEW SECTION, Sec. 703. SALARY COST OF LIVING ADJUSTMENT**

General Fund—State Appropriation (FY 1998) . . . . \$	31,031,000
General Fund—State Appropriation (FY 1999) . . . . \$	31,421,000
General Fund—Federal Appropriation . . . . . \$	17,578,000
Salary and Insurance Increase Revolving Account	
Appropriation . . . . . \$	48,678,000
<b>TOTAL APPROPRIATION . . . . . \$</b>	<b>128,708,000</b>

The appropriations in this section shall be expended solely for the purposes designated in this section and are subject to the conditions and limitations in this section:

(1) In addition to the purposes set forth in subsections (2) and (3) of this section, appropriations in this section are provided solely for a 3.0 percent salary increase effective July 1, 1997, for all classified employees, including those employees in the Washington management service, and exempt employees under the jurisdiction of the personnel resources board.

(2) The appropriations in this section are sufficient to fund a 3.0 percent salary increase effective July 1, 1997, for general government, legislative, and judicial employees exempt from merit system rules whose salaries are not set by the commission on salaries for elected officials.

(3) The salary and insurance increase revolving account appropriation in this section includes funds sufficient to fund a 3.0 percent salary increase effective July 1, 1997, for ferry workers consistent with the 1997-99 transportation appropriations act.

(4) No salary increase may be paid under this section to any person whose salary has been Y-rated pursuant to rules adopted by the personnel resources board.

**NEW SECTION, Sec. 704. FOR THE OFFICE OF FINANCIAL MANAGEMENT—COMPENSATION ACTIONS OF PERSONNEL RESOURCES BOARD**

General Fund Appropriation (FY 1998) . . . . . \$	5,289,000
General Fund Appropriation (FY 1999) . . . . . \$	10,642,000
Salary and Insurance Increase Revolving	
Account Appropriation . . . . . \$	8,862,000
<b>TOTAL APPROPRIATION . . . . . \$</b>	<b>24,793,000</b>

The appropriations in this section shall be expended solely for the purposes designated in this section and are subject to the conditions and limitations in this section.

(1) Funding is provided to fully implement the recommendations of the Washington personnel resources board consistent with the provisions of chapter 319, Laws of 1996.

(2) Implementation of the salary adjustments for the various clerical classes, physicians, dental classifications, pharmacists, maintenance custodians, medical records technicians, fish/wildlife biologists, fish/wildlife enforcement, habitat technicians, and fiscal technician classifications will be effective July 1, 1997. Implementation of the salary adjustments for safety classifications, park rangers, park aides, correctional officers/sergeants, community corrections specialists, tax information specialists, industrial relations specialists, electrical classifications at the department of labor and industries, fingerprint technicians, some labor relations classifications, health benefits specialists, foresters/land managers, and liquor enforcement officers will be effective July 1, 1998.

**NEW SECTION. Sec. 705. FOR THE STATE HEALTH CARE AUTHORITY—HEALTH CARE CONTINGENCY RESERVE**

General Fund Appropriation (FY 1998) . . . . . \$ 1,000,000

The appropriation in this section is subject to the following conditions and limitations: The appropriation is provided for deposit in the public employees' and retirees' insurance account to provide a contingency reserve.

**\*NEW SECTION. Sec. 706. REGULATORY REFORM. 1997 c 149 s 719 (uncodified) is repealed.**

\*Sec. 706 was vetoed. See message at end of chapter.

**PART VIII  
OTHER TRANSFERS AND APPROPRIATIONS**

**Sec. 801. 1997 c 149 s 801 (uncodified) is amended to read as follows:  
FOR THE STATE TREASURER—STATE REVENUES FOR DISTRIBUTION**

General Fund Appropriation for fire insurance		
premiums distribution . . . . .	\$	6,617,250
General Fund Appropriation for public utility		
district excise tax distribution . . . . .	\$	35,183,803
General Fund Appropriation for prosecuting attorneys		
salaries . . . . .	\$	2,960,000
General Fund Appropriation for motor vehicle excise		
tax distribution . . . . .	\$	84,721,573
General Fund Appropriation for local mass transit		
assistance . . . . .	\$	383,208,166
General Fund Appropriation for camper and travel		
trailer excise tax distribution . . . . .	\$	3,904,937
General Fund Appropriation for boating		
safety/education and law enforcement		
distribution . . . . .	\$	3,616,000

Aquatic Lands Enhancement Account Appropriation for harbor improvement revenue distribution . . . . .	\$	142,000
Liquor Excise Tax Account Appropriation for liquor excise tax distribution . . . . .	\$	22,287,746
Liquor Revolving Fund Appropriation for liquor profits distribution . . . . .	\$	36,989,000
Timber Tax Distribution Account Appropriation for distribution to "Timber" counties . . . . .	\$	107,146,000
Municipal Sales and Use Tax Equalization Account Appropriation . . . . .	\$	66,860,014
County Sales and Use Tax Equalization Account Appropriation . . . . .	\$	11,843,224
Death Investigations Account Appropriation for distribution to counties for publicly funded autopsies . . . . .	\$	1,266,000
County Criminal Justice Account Appropriation . . . . .	\$	<del>((80,552,471))</del>
		<u>80,634,471</u>
Municipal Criminal Justice Account Appropriation . . . . .	\$	32,042,450
County Public Health Account Appropriation . . . . .	\$	43,773,588
<b>TOTAL APPROPRIATION . . . . .</b>	<b>\$</b>	<b><del>((923,114,222))</del></b>
		<u>923,196,222</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. 1997 c 149 s 803 (uncodified) is amended to read as follows:

**FOR THE STATE TREASURER—TRANSFERS**

General Fund: For transfer to the Water Quality Account . . . . .	\$	26,607,000
General Fund: For transfer to the Flood Control Assistance Account . . . . .	\$	4,000,000
State Convention and Trade Center Account: For transfer to the State Convention and Trade Center Operations Account . . . . .	\$	3,877,000
Water Quality Account: For transfer to the Water Pollution Control Account. Transfers shall be made at intervals coinciding with deposits of federal capitalization grant money into the account. The amounts transferred shall not exceed the match required for each federal deposit . . . . .	\$	21,688,000
State Treasurer's Service Account: For transfer to the general fund on or before June 30, 1999 an amount up to \$3,600,000 in excess of the cash		

requirements of the State Treasurer's Service Account . . . . .	\$	3,600,000
<del>((Health Services Account: For transfer to the County Public Health Account . . . . .</del>	<del>\$</del>	<del>2,250,000))</del>
Public Works Assistance Account: For transfer to the Drinking Water Assistance Account . . . . .	\$	9,949,000
<u>County Sales and Use Tax Equalization Account: For transfer to the County Public Health Account . . . . .</u>	<u>\$</u>	<u>1,686,000</u>

**PART IX  
MISCELLANEOUS**

**Sec. 901.** RCW 43.79.445 and 1995 c 398 s 9 are each amended to read as follows:

There is established an account in the state treasury referred to as the "death investigations(!) account" which shall exist for the purpose of receiving, holding, investing, and disbursing funds appropriated or provided in RCW 70.58.107 and any moneys appropriated or otherwise provided thereafter.

Moneys in the death investigations(!) account shall be disbursed by the state treasurer once every year on December 31 and at any other time determined by the treasurer. The treasurer shall make disbursements to: The state toxicology laboratory, counties for the cost of autopsies, the University of Washington to fund the state forensic pathology fellowship program, the state patrol for providing partial funding for the state dental identification system, the criminal justice training commission for training county coroners, medical examiners and their staff, and the state forensic investigations council. Funds from the death investigations account may be appropriated during the 1997-99 biennium for the purposes of state-wide child mortality reviews administered by the department of health.

The University of Washington and the Washington state forensic investigations council shall jointly determine the yearly amount for the state forensic pathology fellowship program established by RCW 28B.20.426.

**\*NEW SECTION. Sec. 902.** *No funding appropriated in this act shall be expended to support the governor's council on environmental education.*

\*Sec. 902 was vetoed. See message at end of chapter.

**PART X  
GENERAL GOVERNMENT**

**Sec. 1001.** 1996 c 283 s 106 (uncodified) is amended to read as follows:

**FOR THE LAW LIBRARY**

General Fund Appropriation (FY 1996) . . . . .	\$	1,607,000
General Fund Appropriation (FY 1997) . . . . .	\$	<del>((1,597,000))</del>
		<u>1,608,000</u>

TOTAL APPROPRIATION . . . . . \$ ~~((3,204,000))~~  
3,215,000

Sec. 1002. 1996 c 283 s 109 (uncodified) is amended to read as follows:

**FOR THE ADMINISTRATOR FOR THE COURTS**

General Fund Appropriation (FY 1996) . . . . .	\$	11,658,000
General Fund Appropriation (FY 1997) . . . . .	\$	11,832,000
<u>Public Safety and Education Account—State</u>		
Appropriation . . . . .	\$	36,605,000
<u>Public Safety and Education Account—Private/Local</u>		
<u>Appropriation . . . . .</u>	<u>\$</u>	<u>4,000</u>
Violence Reduction and Drug Enforcement Account		
Appropriation . . . . .	\$	35,000
Judicial Information Systems Account		
Appropriation . . . . .	\$	13,074,000
TOTAL APPROPRIATION . . . . .	\$	<del>((73,204,000))</del> <u>73,208,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) Funding provided in the judicial information systems account shall be used to fund computer systems for the supreme court, the court of appeals, and the office of the administrator for the courts. Expanding services to the courts, technology improvements, and criminal justice proposals shall receive priority consideration for the use of these funds.

(2) \$63,000 of the general fund appropriation is provided solely to implement Second Substitute Senate Bill No. 5235 (judgeship for Clark county). If the bill is not enacted by June 30, 1995, the amount provided in this subsection shall lapse.

(3) \$6,510,000 of the public safety and education account appropriation is provided solely for the continuation of treatment alternatives to street crimes (TASC) programs in Pierce, Snohomish, Clark, King, Spokane, and Yakima counties.

~~(4) ((\$9,326,000) of the public safety and education account is provided solely for the indigent appeals program.~~

~~—(5))~~ (5) \$26,000 of the public safety and education account and \$1,385,000 of the judicial information systems account are to implement Engrossed Substitute Senate Bill No. 5219 (domestic violence). If the bill is not enacted by June 30, 1995, the amounts provided in this subsection shall lapse.

~~((6))~~ (5) \$138,000 of the public safety and education account is provided solely for Thurston county impact costs.

~~((7))~~ (6) \$223,000 of the public safety and education account is provided solely for the gender and justice commission.

~~((8))~~ (7) \$308,000 of the public safety and education account appropriation is provided solely for the minority and justice commission.

~~((9))~~ (8) No moneys appropriated in this section may be expended by the administrator for the courts for payments in excess of fifty percent of the employer contribution on behalf of superior court judges for insurance and health care plans and federal social security and medicare and medical aid benefits. Consistent with Article IV, section 13 of the state Constitution and 1996 Attorney General's Opinion No. 2, it is the intent of the legislature that the cost of these employer contributions shall be shared equally between the state and the county or counties in which the judges serve. The administrator for the courts shall establish procedures for the collection and disbursement of these employer contributions.

~~((+))~~ (9) \$35,000 of the violence reduction and drug enforcement account appropriation is provided solely to contract with the Washington state institute for public policy to collect data and information from jurisdictions within the state of Washington and outside the state of Washington, including other nations, that have experience with developing protocols and training standards for investigating child sexual abuse. The Washington state institute for public policy shall report to the legislature on the results of this study no later than December 1, 1996.

Sec. 1003. 1995 2nd sp.s. c 18 s 116 (uncodified) is amended to read as follows:

**FOR THE LIEUTENANT GOVERNOR**

General Fund Appropriation (FY 1996) . . . . .	\$	242,000
General Fund Appropriation (FY 1997) . . . . .	\$	<del>((243,000))</del>
		<u>276,000</u>
TOTAL APPROPRIATION . . . . .	\$	<del>((485,000))</del>
		<u>518,000</u>

Sec. 1004. 1996 c 283 s 113 (uncodified) is amended to read as follows:

**FOR THE PUBLIC DISCLOSURE COMMISSION**

General Fund Appropriation (FY 1996) . . . . .	\$	1,125,000
General Fund Appropriation (FY 1997) . . . . .	\$	<del>((1,051,000))</del>
		<u>1,183,000</u>

**Industrial Insurance Premium Refund Account**

Appropriation . . . . .	\$	725
TOTAL APPROPRIATION . . . . .	\$	<del>((2,176,725))</del>
		<u>2,308,725</u>

Sec. 1005. 1996 c 283 s 114 (uncodified) is amended to read as follows:

**FOR THE SECRETARY OF STATE**

General Fund Appropriation (FY 1996) . . . . .	\$	10,857,000
General Fund Appropriation (FY 1997) . . . . .	\$	<del>((5,992,000))</del>
		<u>6,182,000</u>

**Archives and Records Management Account**

Appropriation . . . . .	\$	5,215,000
-------------------------	----	-----------

**Department of Personnel Service Account**

Appropriation . . . . .	\$	647,000
-------------------------	----	---------

TOTAL APPROPRIATION . . . . . \$ ((22,711,000))  
22,901,000

The appropriations in this section are subject to the following conditions and limitations:

(1) \$5,559,975 of the general fund appropriation is provided solely to reimburse counties for the state's share of primary and general election costs and the costs of conducting mandatory recounts on state measures.

(2) \$((5,233,762)) 5,403,762 of the general fund appropriation is provided solely for the verification of initiative and referendum petitions, maintenance of related voter registration records, legal advertising of state measures, and the publication and distribution of the voters and candidates pamphlet.

(3) \$140,000 of the general fund appropriation is provided solely for the state's participation in the United States census block boundary suggestion program.

(4) \$1,440,000 of the archives and records management account appropriation is provided solely for records services to local governments under Senate Bill No. 6718 and shall be paid solely out of revenue collected under that bill. If the bill is not enacted by June 30, 1996, the amount provided in this subsection shall lapse.

(5) \$10,000 of the archives and records management account appropriation is provided solely for the purposes of Substitute House Bill No. 1497 (preservation of electronic public records).

(6) \$20,000 of the general fund appropriation for fiscal year 1997 is provided solely for the state's participation in the United States census block boundary suggestion program to update precinct and other geographical data to facilitate the 2000 census and redistricting process.

Sec. 1006. 1996 c 283 s 116 (uncodified) is amended to read as follows:

**FOR THE STATE AUDITOR**

General Fund Appropriation (FY 1996) . . . . .	\$	78,000
General Fund Appropriation (FY 1997) . . . . .	\$	430,000
Auditing Services Revolving Account		
Appropriation . . . . .	\$	((11,814,000))
		<u>11,965,000</u>
TOTAL APPROPRIATION . . . . .	\$	((12,322,000))
		<u>12,473,000</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) The state auditor, in consultation with the legislative budget committee, shall conduct a performance audit of the state investment board. In conducting the audit, the state auditor shall: (a) Establish and publish a schedule of the performance audit and shall solicit public comments relative to the operations of

the state investment board at least three months prior to conducting the scheduled performance audit; (b) under the provisions of chapter 39.29 RCW, obtain and utilize a private firm to conduct the audit. The firm selected shall utilize professional staff possessing the education, training, and practical experience in auditing private and governmental entities responsible for the investment of funds necessary to capably conduct the audit required by this subsection. The firm selected for the audit shall determine the extent to which the state investment board is operating consistently with the performance audit measures developed by the state auditor, acting together with the board, the legislative budget committee, the office of financial management, the state treasurer, and other state agencies, as appropriate. The audit measures shall incorporate appropriate institutional investment industry criteria for measuring management practices and operations. The firm shall recommend in its report any actions deemed appropriate that the board can take to operate more consistently with such measures. The cost of the performance audit conducted shall be paid by the board from nonappropriated investment earnings.

(3) \$486,000 of the general fund appropriation is provided solely for staff and related costs to audit special education programs that exhibit unusual rates of growth, extraordinarily high costs, or other characteristics requiring attention of the state safety net committee. The auditor shall consult with the superintendent of public instruction regarding training and other staffing assistance needed to provide expertise to the audit staff.

**Sec. 1007. 1996 c 283 s 121 (uncodified) is amended to read as follows:  
FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT**

General Fund—State Appropriation (FY 1996) . . . . .	\$	49,164,000
General Fund—State Appropriation (FY 1997) . . . . .	\$	((55,149,000))
		<u>55,441,000</u>
General Fund—Federal Appropriation . . . . .	\$	149,005,000
General Fund—Private/Local Appropriation . . . . .	\$	((4,290,000))
		<u>4,499,000</u>
Public Safety and Education Account		
Appropriation . . . . .	\$	8,764,000
Waste Reduction, Recycling, and Litter Control		
Account Appropriation . . . . .	\$	2,206,000
Washington Marketplace Program Account		
Appropriation . . . . .	\$	150,000
Public Works Assistance Account		
Appropriation . . . . .	\$	1,166,000
Building Code Council Account		
Appropriation . . . . .	\$	1,289,000
Administrative Contingency Account		
Appropriation . . . . .	\$	1,776,000

Low-Income Weatherization Assistance Account		
Appropriation .....	\$	923,000
Violence Reduction and Drug Enforcement Account		
Appropriation .....	\$	6,027,000
Manufactured Home Installation Training Account		
Appropriation .....	\$	250,000
Washington Housing Trust Account		
Appropriation .....	\$	7,986,000
Public Facility Construction Revolving Account		
Appropriation .....	\$	238,000
Solid Waste Management Account Appropriation .....	\$	700,000
Vehicle Tire Recycling Account Appropriation .....	\$	499,000
Growth Management Planning and Environmental		
Review Fund Appropriation .....	\$	3,000,000
TOTAL APPROPRIATION .....	\$	<del>((293,582,000))</del>
		<u>293,083,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$6,065,000 of the general fund—state appropriation is 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 1993-95 biennium.

(2) \$538,000 of the general fund—state appropriation is provided solely to implement Substitute House Bill No. 1724 (growth management).

(3) \$1,000,000 of the general fund—state appropriation is provided to offset reductions in federal community services block grant funding for community action agencies. The department shall set aside \$3,800,000 of federal community development block grant funds for distribution to local governments to allocate to community action agencies state-wide.

(4) \$8,915,000 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 1996 as follows:

(a) \$3,603,250 to local units of government to continue multijurisdictional drug task forces;

(b) \$934,000 to the Washington state patrol for coordination, technical assistance, and investigative and supervisory staff support for multijurisdictional narcotics task forces;

(c) \$456,000 to the department to continue the state-wide drug prosecution assistance program;

(d) \$93,000 to the department to continue a substance-abuse treatment in jails program, to test the effect of treatment on future criminal behavior;

(e) \$744,000 to the department to continue the youth violence prevention and intervention projects;

(f) \$240,000 to the department for grants to support tribal law enforcement needs;

(g) \$495,000 is provided to the Washington state patrol for a state-wide integrated narcotics system;

(h) \$538,000 to the department for grant administration and program evaluation, monitoring, and reporting, pursuant to federal requirements;

(i) \$51,000 to the Washington state patrol for data collection;

(j) \$445,750 to the office of financial management for the criminal history records improvement program;

(k) \$42,000 to the department to support local services to victims of domestic violence;

(l) \$300,000 to the department of community, trade, and economic development for domestic violence legal advocacy;

(m) \$300,000 to the department of community, trade, and economic development for grants to provide a defender training program; and

(n) \$673,000 to the department of corrections for the expansion of correctional industries projects that place inmates in a realistic working and training environment.

(5) \$8,699,000 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 1997 as follows:

(a) \$3,600,000 to local units of government to continue multijurisdictional narcotics task forces;

(b) \$934,000 to the Washington state patrol for coordination, technical assistance, and investigative and supervisory support staff for multijurisdictional narcotics task forces;

(c) \$500,000 to the department to continue the state-wide drug prosecution assistance program in support of multijurisdictional narcotics task forces;

(d) \$450,000 to drug courts in eastern and western Washington;

(e) \$744,000 to the department to continue the youth violence prevention and intervention projects;

(f) \$93,000 to the department to continue a substance-abuse treatment in jails program to test the effect of treatment on future criminal behavior;

(g) \$42,000 to the department to provide training to local law enforcement officers, prosecutors, and domestic violence experts on domestic violence laws and procedures;

(h) \$300,000 to the department to support local services to victims of domestic violence;

(i) \$240,000 to the department for grants to support tribal law enforcement needs;

(j) \$300,000 to the department for grants to provide juvenile sentencing alternative training programs to defenders;

(k) \$560,000 to the department for grant administration, evaluation, monitoring, and reporting on Byrne grant programs, and the governor's council on substance abuse;

(l) \$435,000 to the office of financial management for the criminal history records improvement program;

(m) \$51,000 to the Washington state patrol for data collection; and

(n) \$450,000 to the department of corrections for the expansion of correctional industries projects that place inmates in a realistic working and training environment.

If additional funds become available or if any funds remain unexpended for the drug control and system improvement formula grant program under this subsection, up to \$95,000 additional may be used for the operation of the governor's council on substance abuse, including implementation of the recommendations of the legislative budget committee report on drug and alcohol abuse programs.

(6) \$3,960,000 of the public safety and education account appropriation is provided solely for the office of crime victims' advocacy.

(7) \$216,000 of the general fund—state appropriation is provided solely to implement Engrossed Substitute House Bill No. 1010 (regulatory reform). If the bill is not enacted by June 30, 1995, the amount provided in this subsection shall lapse.

(8) \$200,000 of the general fund—state appropriation is provided solely as a grant for the community connections program in Walla Walla county.

(9) \$30,000 of the Washington housing trust account appropriation is provided solely for the department to conduct an assessment of the per square foot cost associated with constructing or rehabilitating buildings financed by the housing trust fund for low-income housing. The department may contract with specially trained teams to conduct this assessment. The department shall report to the legislature by December 31, 1995. The report shall include:

(a) The per square foot cost of each type of housing unit financed by the housing trust fund;

(b) An assessment of the factors that affect the per square foot cost;

(c) Recommendations for reducing the per square foot cost, if possible;

(d) Guidelines for housing costs per person assisted; and

(e) Other relevant information.

(10) \$350,000 of the general fund—state appropriation is provided solely for the retired senior volunteer program.

(11) \$300,000 of the general fund—state appropriation is provided solely to implement House Bill No. 1687 (court-appointed special advocates). If the bill is not enacted by June 30, 1995, the amount provided in this subsection shall lapse.

(12) \$50,000 of the general fund—state appropriation is provided solely for the purpose of a feasibility study of the infrastructure, logistical, and informational needs for the region involving Washington, Oregon, and British Columbia to host the summer Olympic Games in the year 2004 or 2008. The feasibility study shall be conducted using the services of a nonprofit corporation currently pursuing and having shown progress toward this purpose. The amount provided in this subsection may be expended only to the extent that it is matched on a dollar-for-dollar basis by funds for the same purpose from nonstate sources.

(13) \$100,000 of the general fund—state appropriation is provided solely as a grant to a nonprofit organization for costs associated with development of the Columbia Breaks Fire Interpretive Center.

(14) \$100,000 of the general fund—state appropriation is provided solely for the Pierce county long-term care ombudsman program.

(15) \$60,000 of the general fund—state appropriation is provided solely for the Pacific Northwest economic region.

(16) \$500,000 of the general fund—state appropriation is provided solely for distribution to the city of Burien for analysis of the proposed Port of Seattle third runway including preparation of a draft environmental impact statement and other technical studies. The amount provided in this subsection shall not be expended directly or indirectly for litigation, public relations, or any form of consulting services for the purposes of opposing the construction of the proposed third runway.

(17) Not more than \$458,000 of the general fund—state appropriation may be expended for the operation of the Pacific northwest export assistance project. The department will continue to implement a plan for assessing fees for services provided by the project. It is the intent of the legislature that the revenues raised to defray the expenditures of this program will be increased to fifty percent of the expenditures in fiscal year 1996 and seventy-five percent of the expenditures in fiscal year 1997. Beginning in fiscal year 1998, the legislature intends that this program will be fully self-supporting.

(18) \$4,804,000 of the public safety and education account appropriation is provided solely for contracts with qualified legal aid programs for civil indigent legal representation pursuant to RCW 43.08.260. It is the intent of the legislature to ensure that legal aid programs receiving funds appropriated in this act pursuant to RCW 43.08.260 comply with all applicable restrictions on use of these funds. To this end, during the 1995-97 fiscal biennium the department shall monitor compliance with the authorizing legislation, shall oversee the implementation of this subsection, and shall report directly to the appropriations committee of the house of representatives and the ways and means committee of the senate.

(a) It is the intent of the legislature to improve communications between legal aid programs and persons affected by the activities of legal aid programs. There is established for the 1995-97 fiscal biennium a task force on agricultural interests/legal aid relations. The task force shall promote better understanding and

cooperation between agricultural interests and legal aid programs and shall provide a forum for discussion of issues of common concern. The task force shall not involve itself in pending litigation.

(i) The task force shall consist of the following sixteen members: Four representatives of agricultural organizations, to be appointed by the legislator members; two individuals who represent the corresponding interests of legal clients, to be appointed by organizations designated by the three legal services programs; two representatives of Evergreen Legal Services, to be appointed by its board of directors; one representative each from Puget Sound Legal Assistance Foundation and Spokane Legal Services Center, each to be appointed by its directors; one member from each of the majority and minority caucuses of the house of representatives, to be appointed by the speaker of the house of representatives; one member from each of the majority and minority caucuses of the senate, to be appointed by the president of the senate; and two members of the supreme court-appointed access to justice board, to be appointed by the board. During fiscal year 1996, the task force shall be chaired by a legislative member, to be selected by the task force members. During fiscal year 1997, the committee shall be chaired by a nonlegislator member, to be selected by the task force members.

(ii) All costs associated with the meetings shall be borne by the individual task force members or by the organizations that the individuals represent. No task force member shall be eligible for reimbursement of expenses under RCW 43.03.050 or 43.03.060. Nothing in this subsection prevents the legal aid programs from using funds appropriated in this act to reimburse their representatives or the individuals representing legal clients.

(iii) The task force will meet at least four times during the first year of the biennium and as frequently as necessary thereafter at mutually agreed upon times and locations. Any member of the task force may place items on meeting agendas. Members present at the first two task force meetings shall agree upon a format for subsequent meetings.

(b) The legislature recognizes that farmworkers have the right to receive basic information and to consult with attorneys at farm labor camps without fear of intimidation or retaliation. It is the intent of the legislature and in the interest of the public to ensure the safety of all persons affected by legal aid programs' farm labor camp outreach activities. Legal aid program employees have the legal right to enter the common areas of a labor camp or to request permission of employees to enter their dwellings. Employees living in grower supplied housing have the right to refuse entry to anyone including attorneys unless they have a warrant. Individual employees living in employer supplied housing do not have the right to force legal aid program employees to leave common areas of housing (outside) as long as one person who resides in the associated dwellings wants that person to be there. Any legal aid program employee wishing to visit employees housed on grower property has the right to enter the driveway commonly used by the housing

occupants. This means that if agricultural employees must use a grower's personal driveway to get to their housing, legal aid program employees also may use that driveway to access the housing without a warrant so long as at least some of the housing is occupied. When conducting outreach activities that involve entry onto labor camps, legal aid programs shall establish and abide by policies regarding conduct of outreach activities. The policies shall include a requirement that legal aid program employees identify themselves to persons whom they encounter at farm labor camps. The legal aid programs shall provide copies of their current outreach policies to known agricultural organizations and shall provide copies upon request to any owner of property on which farmworkers are housed. Legal aid program employees involved in outreach activities shall attempt to inform operators of licensed farm labor camps or their agents, and known grower organizations of the approximate time frame for outreach activities and shall cooperate with operators of farm labor camps at which farmworkers are housed in assuring compliance with all pertinent laws and ordinances, including those related to trespass and harassment. Employers who believe that Evergreen Legal Services Outreach Guidelines have been violated shall promptly provide all available information on the alleged violation to the director of Evergreen Legal Services and to the chair of the Task Force on Agricultural Interests/Legal Aid Relations. Evergreen Legal Services will promptly investigate any alleged violations of the outreach guidelines and inform the complaining party of the result. If the resolution of the investigation is not satisfactory to the complainant, the matter shall be placed on the Task Force agenda for discussion at the next scheduled meeting. Employers who believe that Evergreen Legal Services staff members have trespassed should immediately contact local law enforcement authorities.

(c) It is the intent of the legislature to provide the greatest amount of legal services to the largest number of clients by discouraging inefficient use of state funding for indigent legal representation. To this end, it is the intent of the legislature that, prior to the commencement of litigation against any private employer relating to the terms and conditions of employment legal aid programs receiving funds appropriated in this act make good faith written demand for the requested relief, a good faith offer of settlement or an offer to submit to nonbinding arbitration prior to filing a lawsuit, unless the making of the offer is, in the opinion of the director of the legal services program or his/her designee, clearly prejudicial to: (i) The health, safety, or security of the client; or (ii) the timely availability of judicial relief. The director of the legal aid program may designate not more than two persons for purposes of making the determination of prejudice permitted by this section.

(d)(i) The legislature encourages legal aid programs to devote their state and nonstate funding to the basic, daily legal needs of indigent persons. No funds appropriated under this act may be used for legal representation and activities outside the scope of RCW 43.08.260.

(ii) No funds appropriated in this act may be used for lobbying as defined in RCW 43.08.260(3). Legal aid programs receiving funds appropriated in this act shall comply with all restrictions on lobbying contained in Federal Legal Services Corporation Act (P.L. 99-951) and regulations promulgated thereunder.

(e) No funds appropriated in this act may be used by legal aid programs for representation of undocumented aliens.

(f) The legislature recognizes the duty of legal aid programs to preserve inviolate and prevent the disclosure of, in the absence of knowing and voluntary client consent, client information protected by the United States Constitution, the Washington Constitution, the attorney-client privilege, or any applicable attorney rule of professional conduct. However, to the extent permitted by applicable law, legal aid programs receiving funds appropriated in this act shall, upon request, provide information on their activities to the department and to legislators for purposes of monitoring compliance with authorizing legislation and this subsection.

(g) Nothing in this subsection is intended to limit the authority of existing entities, including but not limited to the Washington state bar association, the public disclosure commission, and the Federal Legal Services Corporation, to resolve complaints or disputes within their jurisdiction.

(19) \$839,000 of the general fund—state appropriation is provided solely for energy-related functions transferred by Fourth Substitute House Bill No. 2009 (state energy office). Of this amount:

(a) \$379,000 is provided solely for expenses related to vacation leave buyout and unemployment payments resulting from the closure of the state energy office;

(b) \$44,000 is provided solely for extended insurance benefits for employees separated as a result of Fourth Substitute House Bill No. 2009. An eligible employee may receive a state subsidy of \$150 per month toward his or her insurance benefits purchased under the federal consolidated omnibus budget reconciliation act (COBRA) for a period not to exceed one year from the date of separation;

(c) \$120,000 is provided solely for costs of closing out the financial reporting systems and contract obligations of the state energy office, and to connect the department's wide area network to workstations in the energy office building; and

(d) \$296,000 is provided to match oil surcharge funding for energy policy and planning staff.

(20) \$2,614,000 of the general fund—private/local appropriation is provided solely to operate the energy facility site evaluation council.

(21) \$1,000,000 of the general fund—state appropriation is provided solely to increase state matching funds for the federal headstart program.

(22) \$2,000,000 of the general fund—federal appropriation is provided solely to develop and operate housing for low-income farmworkers. The housing assistance program shall administer the funds in accordance with chapter 43.185 RCW. The department of community, trade, and economic development shall

work in cooperation with the department of health, the department of labor and industries, and the department of social and health services to review proposals and make recommendations to the funding approval board that oversees the distribution of housing assistance program funds. An advisory group representing growers, farmworkers, and other interested parties shall be formed to assist the interagency workgroup.

(23) \$1,865,000 of the general fund—state appropriation is provided solely for the delivery of services to victims of sexual assault as provided for by Substitute House Bill No. 2579 (sexual abuse victims). The department shall establish an interagency agreement with the department of social and health services for the transfer of funds made available under the federal victims of crime act for the purposes of implementing Substitute House Bill No. 2579. If the bill is not enacted by June 30, 1996, the requirements of this subsection shall be null and void and the amount provided in this subsection shall lapse.

(24) \$1,000,000 of the general fund—state appropriation is provided solely for the tourism development program.

~~((26))~~ (25) \$3,862,000 of the general fund—state appropriation is provided solely to increase the number of children served through the early childhood education and assistance program. These funds shall be used to serve children that are on waiting lists to enroll in the federal headstart program or the state early childhood education and assistance program.

~~((27))~~ (26) \$25,000 of the general fund—state appropriation is provided solely for a grant to the city of Burien to study the feasibility of purchasing property within the city for park purposes.

~~((28))~~ (27) \$100,000 of the general fund—state appropriation is provided solely for Washington state dues for the Pacific Northwest economic region (PNWER) and to support the PNWER CATALIST program.

(28) \$50,000 of the general fund—state appropriation for fiscal year 1997 is provided solely for the state of Washington's contribution to the construction of a women veterans memorial in Washington, D.C.

Sec. 1008. 1996 c 283 s 124 (uncodified) is amended to read as follows:

**FOR THE OFFICE OF FINANCIAL MANAGEMENT**

General Fund—State Appropriation (FY 1996) . . . . .	\$	9,282,000
General Fund—State Appropriation (FY 1997) . . . . .	\$	9,588,000
General Fund—Federal Appropriation . . . . .	\$	<del>((12,432,000))</del>
		<u>13,865,000</u>
General Fund—Private/Local Appropriation . . . . .	\$	720,000
Health Services Account Appropriation . . . . .	\$	330,000
Public Safety and Education Account		
Appropriation . . . . .	\$	200,000
<b>TOTAL APPROPRIATION . . . . .</b>	<b>\$</b>	<del>((32,552,000))</del>
		<u>33,985,000</u>

The appropriations in this subsection are subject to the following conditions and limitations:

(1) \$300,000 of the general fund—state appropriation is provided solely as the state's share of funding for the "Americorps" youth employment program.

(2) By December 20, 1996, the office of financial management shall report to the government operations and fiscal committees of the legislature on the implementation of chapter 40.07 RCW, relating to the management and control of state publications. The report shall include recommendations concerning the use of alternative methods of distribution, including electronic publication, of agency reports and other publications and notices.

~~((3) \$250,000 of the general fund—state appropriation is provided solely for technical assistance to state agencies in the development of performance measurements pursuant to Engrossed Substitute Senate Bill No. 6680. If the bill is not enacted by June 30, 1996, the amount provided in this subsection shall lapse.))~~

Sec. 1009. 1996 c 283 s 132 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF INFORMATION SERVICES**

K-20 Technology Account Appropriation . . . . .	\$	27,000,000
State Building Construction Account		
Appropriation . . . . .	\$	15,300,000
TOTAL APPROPRIATION . . . . .	\$	<del>((54,300,000))</del>
		<u>42,300,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) The appropriations in this section shall be expended in accordance with Senate Bill No. 6705 (higher education technology plan).

(2) ~~\$((27,000,000))~~ 37,678,000 is appropriated from the general fund for deposit in the K-20 technology account for the purposes of this section.

(3) \$1,500,000 is appropriated from the general fund for deposit in the education and technology revolving fund for the purposes of capitalizing the revolving fund established in Senate Bill No. 6004 or House Bill No. 2197.

(4) Expenditures of the funds from the state building construction account appropriation may be made only for capital purposes. Acquisitions made from these funds shall meet the criteria of bondability guidelines published by the office of financial management in the capital budget instruction manual. Any moneys remaining unexpended from the state building construction account appropriation on June 30, 1997, shall be deposited in the K-20 technology account.

(5) If Senate Bill No. 6705 is not enacted by June 30, 1996, the appropriations in this section shall lapse.

Sec. 1010. 1996 c 283 s 133 (uncodified) is amended to read as follows:

**FOR THE LIQUOR CONTROL BOARD**

Liquor Revolving Account Appropriation . . . . .	\$	<del>((13,604,000))</del>
		<u>113,652,000</u>

Liquor Control Board Construction and Maintenance

<u>Account Appropriation</u> . . . . .	\$	534,000
<b>TOTAL APPROPRIATION</b> . . . . .	\$	<b>114,186,000</b>

The appropriation in this section is subject to the following conditions and limitations: \$143,000 of the liquor control revolving account appropriation for administrative expenses is provided solely for implementation of House Bill No. 2341 (credit card sales pilot program). If the bill is not enacted by June 30, 1996, this amount shall lapse.

**Sec. 1011.** 1996 c 283 s 135 (uncodified) is amended to read as follows:

**FOR THE MILITARY DEPARTMENT**

General Fund—State Appropriation (FY 1996) . . . . .	\$	7,594,000
General Fund—State Appropriation (FY 1997) . . . . .	\$	<del>((7,597,000))</del>
		<u>26,803,000</u>
General Fund—Federal Appropriation . . . . .	\$	<del>((+29,215,000))</del>
		<u>127,215,000</u>
General Fund—Private/Local Appropriation . . . . .	\$	237,000
Enhanced 911 Account Appropriation . . . . .	\$	26,781,000
Industrial Insurance Premium Refund Account		
Appropriation . . . . .	\$	34,000
Flood Control Assistance Account Appropriation . . . . .	\$	<del>((23,181,000))</del>
		<u>20,181,000</u>
<u>Disaster Response Account—State</u>		
<u>Appropriation</u> . . . . .	\$	3,226,000
Disaster Response Account—Federal		
Appropriation . . . . .	\$	18,871,000
		<del>((+194,639,000))</del>
		<u>230,942,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$205,238 of the total appropriation is provided solely to pay loan obligations on the energy partnership contract number 90-07-01. This obligation includes unpaid installments from September 1993 through June 1997. This amount may be reduced by any payments made in the 1993-95 Biennium on installments made in the 1993-95 Biennium on installments due between September 1993 and June 1995.

(2) \$70,000 of the general fund—state appropriation is provided solely for the north county emergency medical service.

(3) ~~\$((23,181,000))~~ 20,181,000 of the flood control assistance account appropriation is provided solely for state and local response and recovery cost associated with federal emergency management agency (FEMA) Disaster Number 1079 (November/December 1995 storms), FEMA Disaster 1100, (February 1996 floods), and for prior biennia disaster recovery costs. ~~((Of this amount, \$1,078,000~~

is for prior disasters, \$3,618,000 is for the November/December 1995 storms, and \$18,485,000 is for the February 1996 floods:))

(4) \$3,226,000 of the disaster response account—state appropriation is provided solely for the state share of response and recovery costs associated with federal emergency management agency (FEMA) disaster number 1152 (November 1996 ice storm), FEMA disaster 1159 (December 1996 holiday storm), and FEMA 1172 (March 1997 floods).

(5) \$18,006,000 of the general fund—state appropriation for fiscal year 1997 is provided solely for deposit in the disaster response account to cover costs associated with natural disasters sustained in the 1995-97 biennium.

Sec. 1012. 1995 2nd sp.s. c 18 s 145 (uncodified) is amended to read as follows:

**FOR THE INSURANCE COMMISSIONER**

General Fund—Federal Appropriation . . . . .	\$	((104,000))
		<u>141,000</u>
Insurance Commissioner's Regulatory Account		
Appropriation . . . . .	\$	((20,126,000))
		<u>20,194,000</u>
<b>TOTAL APPROPRIATION . . . . .</b>	<b>\$</b>	<b>((20,230,000))</b>
		<u>20,335,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) The insurance commissioner shall obtain the approval of the department of information services for any feasibility plan for proposed technology improvements.

(2) \$895,000 of the insurance commissioner's regulatory account appropriation is provided solely for implementing Engrossed Substitute House Bill No. 1010 (regulatory reform). If the bill is not enacted by June 30, 1995, the amount provided in this subsection shall lapse.

**PART XI  
HUMAN SERVICES**

Sec. 1101. 1996 c 283 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 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 providing appropriation authority, and an equal amount of appropriated state general fund moneys shall lapse. Upon the lapsing of any moneys under this subsection, the office of financial management shall notify the legislative fiscal committees. As used in this subsection, "unrestricted federal moneys" includes block grants and other funds that federal law does not require to be spent on specifically defined projects or matched on a formula basis by state funds.

(3) The appropriations in sections 202 through ~~((211))~~ 213 of chapter 18, Laws of 1995 2nd sp. sess. as amended, shall be expended for the programs and in the amounts listed in those sections. However, after May 1, ~~((1996))~~ 1997, unless specifically prohibited by this act, the department may transfer ~~((general fund—state appropriations for fiscal year 1996))~~ moneys among programs after approval by the director of financial management. 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 the appropriation levels.

(4) The department shall use up to \$4,987,000 by which general fund—state expenditures are below allotted levels to replace federal social service block grant funds during fiscal year 1996.

**Sec. 1102.** 1996 c 283 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 1996) . . . . .	\$	146,537,000
General Fund—State Appropriation (FY 1997) . . . . .	\$	<del>((173,376,000))</del>
		<u>180,159,000</u>
General Fund—Federal Appropriation . . . . .	\$	<del>((272,379,000))</del>
		<u>274,431,000</u>
General Fund—Private/Local Appropriation . . . . .	\$	400,000
Violence Reduction and Drug Enforcement Account		
Appropriation . . . . .	\$	5,719,000
TOTAL APPROPRIATION . . . . .	\$	<del>((598,411,000))</del>
		<u>607,246,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$1,660,000 of the general fund—state appropriation for fiscal year 1996 and \$10,086,000 of the general fund—federal appropriation are provided solely for the modification of the case and management information system (CAMIS).

Authority to expend these funds is conditioned on compliance with section 902 of this act.

(2) ~~\$(5,524,000)~~ 1,524,000 of the general fund—state appropriation is provided solely to implement the division's responsibilities under Engrossed Second Substitute Senate Bill No. 5439 (nonoffender at-risk youth). Of this amount:

(a) \$150,000 of the general fund—state appropriation is provided in fiscal year 1996 to develop a plan for children at risk. The department shall work with a variety of service providers and community representatives, including the community public health and safety networks, and shall present the plan to the legislature and the governor by December 1, 1995. The plan shall contain a strategy for the development of an intensive treatment system with outcome-based information on the level of services that are achievable under an annual appropriation of \$5,000,000, \$7,000,000, and \$9,000,000; address the issue of chronic runaways; and determine caseload impacts.

(b) \$219,000 of the general fund—state appropriation is provided in fiscal year 1996 and ~~\$(4,678,000)~~ 678,000 of the general fund—state appropriation is provided in fiscal year 1997 for crisis residential center training and administrative duties and secure crisis residential center contracts.

(c) \$266,000 of the general fund—state appropriation is provided for the multidisciplinary teams and \$211,000 of the general fund—state appropriation is provided in fiscal year 1997 for family reconciliation services.

(d) The state may enter into agreements with the counties to provide residential and treatment services to runaway youth at a rate of reimbursement to be negotiated by the state and county.

(3) \$1,997,000 of the violence reduction and drug enforcement account appropriation and \$8,421,000 of the general fund—federal appropriation are provided solely for the operation of the family policy council, the community public health and safety networks, and delivery of services authorized under the federal family preservation and support act. Of these amounts:

(a) \$1,060,000 of the violence reduction and drug enforcement account appropriation is provided solely for distribution to the community public health and safety networks for planning in fiscal year 1996.

(b) \$937,000 of the violence reduction and drug enforcement account appropriation is provided for staff in the children and family services division of the department of social and health services to support family policy council activities. The family policy council is directed to provide training, design, technical assistance, consultation, and direct service dollars to the networks. Of this amount, \$300,000 is provided for the evaluation activities outlined in RCW 70.190.050, to be conducted exclusively by the Washington state institute for public policy. To the extent that private funds can be raised for the evaluation activities, the state funding may be retained by the department to support the family policy council activities.

(c) \$8,421,000 of the general fund—federal appropriation is provided solely for the delivery of services authorized by the federal family preservation and support act.

(4) \$2,575,000 of the general fund—state appropriation is provided solely to implement Engrossed Substitute Senate Bill No. 5885 (family preservation services). If the bill is not enacted by June 30, 1995, the amount provided in this subsection shall lapse. Of this amount:

(a) \$75,000 is provided in fiscal year 1996 to develop an implementation and evaluation plan for providing intensive family preservation services and family preservation services. The department shall present the plan to the legislature and the governor no later than December 1, 1995. The plan shall contain outcome based information on the level of services that are achievable under an annual appropriation of \$3,000,000, \$5,000,000, and \$7,000,000; and

(b) \$2,500,000 is provided in fiscal year 1997 for additional family preservation services based upon the report.

(5) \$4,646,000 of the general fund—state is provided solely to increase payment rates to contracted social services providers. It is the legislature's intent that these funds shall be used primarily to increase compensation for persons employed in direct, front-line service delivery.

(6) \$2,672,000 of the general fund—state is provided solely to increase payment rates to contracted social services child care providers. It is the legislature's intent that these funds shall be used primarily to increase compensation for persons employed in direct, front-line service delivery.

(7) \$854,000 of the violence reduction and drug enforcement account appropriation and \$300,000 of the general fund—state appropriation are provided solely to contract for the operation of one pediatric interim care facility. The facility shall provide residential care for up to twelve children through two years of age. Seventy-five percent of the children served by the facility must be in need of special care as a result of substance abuse by their mothers. The facility also shall provide on-site training to biological, adoptive, or foster parents. The facility shall provide at least three months of consultation and support to parents accepting placement of children from the facility. The facility may recruit new and current foster and adoptive parents for infants served by the facility. The department shall not require case management as a condition of the contract.

(8) \$700,000 of the general fund—state appropriation and \$262,000 of the violence reduction and drug enforcement account appropriation are provided solely for up to three nonfacility-based programs for the training, consultation, support, and recruitment of biological, foster, and adoptive parents of children through age three in need of special care as a result of substance abuse by their mothers, except that each program may serve up to three medically fragile nonsubstance-abuse-affected children. In selecting nonfacility-based programs, preference shall be given to programs whose federal or private funding sources have expired or have successfully performed under the existing pediatric interim care program.

(9) \$5,613,000 of the general fund—state appropriation is provided solely for implementation of chapter 312, Laws of 1995 and Second Substitute House Bill No. 2217 (at-risk youth). If the bill is not enacted by June 30, 1996, the amount provided in this subsection shall lapse. Of this amount:

(a) \$1,000,000 of the general fund—state appropriation is provided solely for court-ordered secure treatment of at-risk youth as provided for in section 3 of Second Substitute House Bill No. 2217 (at-risk youth);

(b) \$573,000 of the general fund—state appropriation is provided solely for increased family reconciliation services;

(c) \$500,000 of the general fund—state appropriation is provided solely for therapeutic child care;

(d) \$2,300,000 of the general fund—state appropriation is provided solely for the juvenile court administrators to process petitions for truancy, children in need of services, and at-risk youth;

(e) \$240,000 of the general fund—state appropriation is provided solely for crisis residential center assessments of at-risk youth; and

(f) \$1,000,000 of the general fund—state appropriation shall be allocated to the superintendent of public instruction for competitive grants to assist the operation of community truancy boards established by school districts pursuant to RCW 28A.225.025.

(10) \$2,000,000 of the general fund—state appropriation is provided solely for implementation of chapter 311, Laws of 1995 (Engrossed Substitute Senate Bill No. 5885, services to families). Of this amount, \$1,000,000 is provided solely to expand the category of services titled "intensive family preservation services," and \$1,000,000 is provided solely to create a new category of services titled "family preservation services."

(11) \$327,000 of the general fund—state appropriation is provided solely for transfer to the public health and safety networks. Each public health and safety network may receive up to \$2,600 general fund—state and up to \$2,500 general fund—federal per month for the purposes of infrastructure funding, including planning, network meeting support, fiscal agent payments, and liability insurance. Funding may be provided only after the network's plan is submitted to the family policy council and only after the plan is approved.

(12) \$4,941,000 of the general fund—state appropriation and \$4,941,000 of the general fund—federal appropriation are provided solely to increase the availability of employment child care to low-income families.

(13) Of the general fund—state appropriation for fiscal year 1997, \$16,766,000 is allocated for purposes consistent with the maintenance of effort requirements under the federal temporary assistance for needy families program established under P.L. 104-193.

**Sec. 1103.** 1996 c 283 s 203 (uncodified) is amended to read as follows:  
**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—  
JUVENILE REHABILITATION PROGRAM**

(1) COMMUNITY SERVICES

General Fund—State Appropriation (FY 1996) . . . . .	\$	25,622,000
General Fund—State Appropriation (FY 1997) . . . . .	\$	<del>((29,828,000))</del>
		<u>29,345,000</u>
General Fund—Federal Appropriation . . . . .	\$	<del>((20,191,000))</del>
		<u>18,008,000</u>
General Fund—Private/Local Appropriation . . . . .	\$	<del>((286,000))</del>
		<u>269,000</u>
Violence Reduction and Drug Enforcement Account		
Appropriation . . . . .	\$	<del>((5,695,000))</del>
		<u>3,211,000</u>
TOTAL APPROPRIATION . . . . .		
	\$	<del>((81,622,000))</del>
		<u>76,455,000</u>

The appropriations in this subsection are subject to the following conditions and limitations:

(a) \$650,000 of the general fund—state appropriation for fiscal year 1996 and \$650,000 of the general fund—state appropriation for fiscal year 1997 are provided solely for operation of learning and life skills centers established pursuant to chapter 152, Laws of 1994.

(b) \$1,379,000 of the general fund—state appropriation and \$134,000 of the violence reduction and drug enforcement account appropriation are provided solely to increase payment rates to contracted social services providers. It is the legislature's intent that these funds shall be used primarily to increase compensation for persons employed in direct, front-line service delivery.

(c) \$2,350,000 of the general fund—state appropriation is provided solely for an early intervention program to be administered at the county level. Funds shall be awarded on a competitive basis to counties which have submitted a plan for implementation of an early intervention program consistent with proven methodologies currently in place in the state. 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.

(2) INSTITUTIONAL SERVICES

General Fund—State Appropriation (FY 1996) . . . . .	\$	28,727,000
General Fund—State Appropriation (FY 1997) . . . . .	\$	<del>((32,511,000))</del>
		<u>44,527,000</u>
General Fund—Federal Appropriation . . . . .	\$	<del>((24,915,000))</del>
		<u>11,879,000</u>
General Fund—Private/Local Appropriation . . . . .	\$	<del>((830,000))</del>
		<u>747,000</u>
Violence Reduction and Drug Enforcement Account		
Appropriation . . . . .	\$	<del>((10,894,000))</del>
		<u>9,202,000</u>

TOTAL APPROPRIATION .....	\$	<del>((97,877,000))</del>	<u>95,082,000</u>
<b>(3) PROGRAM SUPPORT</b>			
General Fund—State Appropriation (FY 1996) .....	\$	1,231,000	
General Fund—State Appropriation (FY 1997) .....	\$	<del>((1,236,000))</del>	
			<u>1,599,000</u>
General Fund—Federal Appropriation .....	\$	<del>((881,000))</del>	
			<u>518,000</u>
Violence Reduction and Drug Enforcement Account			
Appropriation .....	\$	421,000	
TOTAL APPROPRIATION .....	\$		3,769,000
<b>(4) SPECIAL PROJECTS</b>			
General Fund—Federal Appropriation .....	\$	107,000	
Violence Reduction and Drug Enforcement Account			
Appropriation .....	\$	1,177,000	
TOTAL APPROPRIATION .....	\$		1,284,000

**Sec. 1104.** 1996 c 283 s 204 (uncodified) is amended to read as follows:  
**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—  
 MENTAL HEALTH PROGRAM**

<b>(1) COMMUNITY SERVICES/REGIONAL SUPPORT NETWORKS</b>			
General Fund—State Appropriation (FY 1996) .....	\$	160,689,000	
General Fund—State Appropriation (FY 1997) .....	\$	<del>((165,967,000))</del>	
			<u>159,141,000</u>
General Fund—Federal Appropriation .....	\$	<del>((232,449,000))</del>	
			<u>265,995,000</u>
General Fund—Private/Local Appropriation .....	\$	4,000,000	
Health Services Account Appropriation .....	\$	<del>((19,517,000))</del>	
			<u>18,327,000</u>
TOTAL APPROPRIATION .....	\$	<del>((582,622,000))</del>	<u>608,152,000</u>

The appropriations in this subsection are subject to the following conditions and limitations:

(a) \$8,160,000 of the general fund—state appropriation and \$279,000 of the health services account appropriation are provided solely to increase payment rates to contracted social services providers. It is the legislature's intent that these funds shall be used primarily to increase compensation for persons employed in direct, front-line service delivery.

(b) Regional support networks shall use portions of the general fund—state appropriation for implementation of working agreements with the vocational rehabilitation program which will maximize the use of federal funding for vocational programs.

(c) From the general fund—state appropriation in this section, the secretary of social and health services shall assure that regional support networks reimburse the

aging and adult services program for the general fund—state cost of medicaid personal care services that are used by enrolled regional support network consumers by reason of their psychiatric disability. The secretary of social and health services shall convene representatives from the aging and adult services program, the mental health division, and the regional support networks to establish an equitable and efficient mechanism for accomplishing this reimbursement.

(d) \$1,000,000 of the general fund—state appropriation is provided solely to implement the division's responsibilities under Engrossed Second Substitute Senate Bill No. 5439 (nonoffender at-risk youth).

(e) At least 30 days prior to entering contracts that would capitate payments for voluntary psychiatric hospitalizations, the mental health division shall report the proposed capitation rates, and the assumptions and calculations by which they were established, to the budget and forecasting divisions of the office of financial management, the appropriations committee of the house of representatives, and the ways and means committee of the senate.

(f) \$2,474,000 of the general fund—state appropriation for fiscal year 1997 and \$2,526,000 of the general fund—federal appropriation are provided solely for medicare cross over payments. These amounts provide funding to implement the federal court order in South Sound Radiologists v. Quasim, C95-121WP (1996), which ruled that payments should be made at 50 percent of the medicare amount, regardless of medicaid limits. These payments shall be made by the state directly to service providers.

(2) INSTITUTIONAL SERVICES

General Fund—State Appropriation (FY 1996) . . . . .	\$	52,673,000
General Fund—State Appropriation (FY 1997) . . . . .	\$	((56,293,000))
		<u>59,527,000</u>
General Fund—Federal Appropriation . . . . .	\$	((19,325,000))
		<u>126,954,000</u>
General Fund—Private/Local Appropriation . . . . .	\$	((39,130,000))
		<u>28,587,000</u>
Industrial Insurance Premium Refund Account		
Appropriation . . . . .	\$	747,000
TOTAL APPROPRIATION . . . . .	\$	((268,168,000))
		<u>268,488,000</u>

The appropriations in this subsection are subject to the following conditions and limitations:

(a) The mental health program at Western state hospital shall continue to utilize labor provided by the Tacoma prerelease program of the department of corrections.

(b) 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.

(3) CIVIL COMMITMENT

General Fund Appropriation (FY 1996) .....	\$	3,470,000
General Fund Appropriation (FY 1997) .....	\$	<del>((3,533,000))</del>
		<u>4,106,000</u>
TOTAL APPROPRIATION .....	\$	<del>((7,003,000))</del>
		<u>7,576,000</u>

(4) SPECIAL PROJECTS

General Fund—Federal Appropriation .....	\$	6,341,000
General Fund—State Appropriation (FY 1997) .....	\$	950,000
TOTAL APPROPRIATION .....	\$	7,291,000

The appropriations in this subsection are subject to the following conditions and limitations: The general fund—state appropriation in this section is provided solely for continued operation of the primary intervention program, in the school districts in which those projects previously operated, to the extent they continue to meet contract terms and performance standards.

(5) PROGRAM SUPPORT

General Fund—State Appropriation (FY 1996) .....	\$	2,549,000
General Fund—State Appropriation (FY 1997) .....	\$	<del>((2,544,000))</del>
		<u>2,550,000</u>
General Fund—Federal Appropriation .....	\$	<del>((1,511,000))</del>
		<u>1,517,000</u>
TOTAL APPROPRIATION .....	\$	<del>((6,604,000))</del>
		<u>6,616,000</u>

**Sec. 1105. 1996 c 283 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 1996) .....	\$	121,641,000
General Fund—State Appropriation (FY 1997) .....	\$	<del>((126,500,000))</del>
		<u>129,191,000</u>
General Fund—Federal Appropriation .....	\$	<del>((170,481,000))</del>
		<u>173,060,000</u>
Health Services Account Appropriation .....	\$	<del>((4,679,000))</del>
		<u>4,879,000</u>
TOTAL APPROPRIATION .....	\$	<del>((423,301,000))</del>
		<u>428,771,000</u>

(2) INSTITUTIONAL SERVICES

General Fund—State Appropriation (FY 1996) .....	\$	62,152,000
General Fund—State Appropriation (FY 1997) .....	\$	<del>((62,291,000))</del>
		<u>62,691,000</u>
General Fund—Federal Appropriation .....	\$	<del>((140,652,000))</del>
		<u>140,252,000</u>
General Fund—Private/Local Appropriation .....	\$	9,100,000
TOTAL APPROPRIATION .....	\$	274,195,000

(3) PROGRAM SUPPORT

General Fund—State Appropriation (FY 1996) . . . . .	\$	2,964,000
General Fund—State Appropriation (FY 1997) . . . . .	\$	<del>((3,000,000))</del>
		<u>3,170,000</u>
General Fund—Federal Appropriation . . . . .	\$	<del>((940,000))</del>
		<u>1,014,000</u>
TOTAL APPROPRIATION . . . . .	\$	<del>((6,904,000))</del>
		<u>7,148,000</u>

(4) SPECIAL PROJECTS

General Fund—Federal Appropriation . . . . .	\$	7,878,000
--	----	-----------

(5) The appropriations in this section are subject to the following conditions and limitations:

(a) \$6,569,000 of the general fund—state appropriation and \$19,000 of the health services account appropriation and \$4,298,000 of the general fund—federal appropriation are provided solely to increase payment rates to contracted social services providers. It is the legislature's intent that these funds shall be used primarily to increase compensation for persons employed in direct, front-line service delivery.

(b) \$1,447,000 of the general fund—state appropriation is provided solely for employment or other day programs for eligible persons who complete a high school curriculum during the 1995-97 biennium.

(c) \$500,000 of the health services account appropriation is provided solely for fiscal year 1996 and \$3,500,000 of the health services account appropriation is provided solely for fiscal year 1997 for family support services for families who need but are currently unable to receive such services because of funding limitations. The fiscal year 1996 amount shall be prioritized for unserved families who have the most critical need for assistance. The fiscal year 1997 amount shall be distributed among unserved families according to priorities developed in consultation with organizations representing families of people with developmental disabilities.

(d) The secretary of social and health services shall investigate and by November 15, 1995, report to the appropriations committee of the house of representatives and the ways and means committee of the senate on the feasibility of obtaining a federal managed-care waiver under which growth which would otherwise occur in state and federal spending for the medicaid personal care and targeted case management programs is instead capitated and used to provide a flexible array of employment, day program, and in-home supports.

(e) \$1,015,000 of the program support general fund—state appropriation is provided solely for distribution among the five regional deaf centers for services for the deaf and hard of hearing.

(f) \$25,000 of the program support general fund—state appropriation is provided solely for a vendor rate increase in fiscal year 1997 for an organization

specializing in the provision of case management and support services to persons with both deafness and blindness.

(6) \$200,000 of the health services account appropriation and the associated general fund—federal match is provided solely for the enrollment in the basic health plan of home care workers below 200 percent of the federal poverty level who are employed through state contracts.

Sec. 1106. 1996 c 283 s 206 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—AGING AND ADULT SERVICES PROGRAM**

<u>General Fund—State Appropriation (FY 1996)</u> . . . . .	\$	<u>378,972,000</u>
General Fund—State Appropriation (FY 1997) . . . . .	\$	<del>((385,377,000))</del>
		<u>377,103,000</u>
General Fund—Federal Appropriation . . . . .	\$	<del>((773,530,000))</del>
		<u>763,686,000</u>
Health Services Account—State Appropriation . . . . .	\$	<del>((6,858,000))</del>
		<u>1,301,000</u>
TOTAL APPROPRIATION . . . . .	\$	<del>((1,534,820,000))</del>
		<u>1,521,062,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$6,492,000 of the general fund—state appropriation is provided solely to increase payment rates to contracted social services providers. It is the legislature's intent that these funds shall be used primarily to increase compensation for persons employed in direct, front-line service delivery.

(2) The department shall seek a federal plan amendment to increase the home maintenance needs allowance for unmarried COPEs recipients only to 100 percent of the federal poverty level. No changes shall be implemented in COPEs home maintenance needs allowances until the amendment has been approved.

(3) The secretary of social and health services shall transfer funds appropriated under section 207(2) of this act to this section for the purpose of integrating and streamlining programmatic and financial eligibility determination for long-term care services.

(4) A maximum of \$2,603,000 of the general fund—state appropriation and \$2,670,000 of the general fund—federal appropriation for fiscal year 1996 and \$5,339,000 of the general fund—state appropriation and \$5,380,000 of the general fund—federal appropriation for fiscal year 1997 are provided to fund the medicaid share of any prospective payment rate adjustments as may be necessary in accordance with RCW 74.46.460.

(5) The entire health services account appropriation and the associated general fund—federal match is provided solely for the enrollment in the basic health plan of home care workers below 200 percent of the federal poverty level who are employed through state contracts. Enrollment for workers with family incomes at or above 200 percent of poverty shall be covered with general fund—state and

matching general fund—federal revenues that have previously been appropriated for health benefits coverage, to the extent that these funds have not been contractually obligated prior to March 1, 1996, for worker wage increases.

(6) By November 1, 1996, the department of social and health services and the health care authority shall report to the appropriate committees of the legislature on (a) the extent, if any, to which previously appropriated general fund—state and matching general fund—federal funds are insufficient to provide basic health plan enrollment coverage for homecare workers above 200 percent of the federal poverty level; and (b) recommended procedural and, if necessary, statutory changes needed to minimize the administrative costs and complexity of basic health plan enrollment by employer groups.

(7) \$126,000 of the general fund—state appropriation for fiscal year 1997 is provided solely for adult day health services for persons with AIDS. These services shall be provided through a state-only program by a single agency specializing in long-term care for persons with AIDS.

(8) \$403,000 of the general fund—state appropriation for fiscal year 1996 and \$698,000 of the general fund—state appropriation for fiscal year 1997 are provided solely to reimburse the medical assistance administration for medicaid services used by persons not previously eligible for medical assistance services who become so as a result of transferring from the chore services to the COPES program.

Sec. 1107. 1996 c 283 s 207 (uncodified) is amended to read as follows:  
**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—  
ECONOMIC SERVICES PROGRAM**

**(1) GRANTS AND SERVICES TO CLIENTS**

General Fund—State Appropriation (FY 1996) . . . . .	\$	379,619,000
General Fund—State Appropriation (FY 1997) . . . . .	\$	<del>((389,585,000))</del>
		<u>379,393,000</u>
General Fund—Federal Appropriation . . . . .	\$	<del>((636,859,000))</del>
		<u>611,058,000</u>
<b>TOTAL APPROPRIATION . . . . .</b>	<b>\$</b>	<del><b>((1,406,063,000))</b></del>
		<u><b>1,370,070,000</b></u>

The appropriations in this subsection are subject to the following conditions and limitations:

~~(a) ((Payment levels in the programs for aid to families with dependent children, general assistance, and refugee assistance shall contain an energy allowance to offset the costs of energy. The allowance shall be excluded from consideration as income for the purpose of determining eligibility and benefit levels of the food stamp program to the maximum extent such exclusion is authorized under federal law and RCW 74.08.046. To this end, up to \$300,000,000 of the income assistance payments is so designated for exemptions of the following amounts:~~

Family size: ~~1 2 3 4 5 6 7 8 or more~~

Exemption: ~~— \$55 71 86 102 117 133 154 170~~

~~(b))~~ \$18,000 of the general fund—state appropriation for fiscal year 1996 and \$37,000 of the general fund—state appropriation for fiscal year 1997 are provided solely to increase payment rates to contracted social services providers. It is the legislature's intent that these funds shall be used primarily to increase compensation for persons employed in direct, front-line service delivery.

~~((e))~~ (b) During the 1995-97 fiscal biennium, the department of social and health services shall provide assistance under the general assistance for children program to needy families with legal immigrants permanently residing in the United States under color of law who are not eligible under federal law for aid to families with dependent children benefits solely due to their immigration status. Assistance to needy families shall be in the same amount as benefits under the aid to families with dependent children program. The families must be otherwise eligible for aid to families with dependent children including consideration of the current alien sponsor deeming rules. The department is authorized to use state general funds appropriated in this section to provide such benefits.

(2) PROGRAM SUPPORT

General Fund—State Appropriation (FY 1996) . . . . \$	112,427,000
General Fund—State Appropriation (FY 1997) . . . . \$	<del>((109,168,000))</del>
	<u>113,799,000</u>
General Fund—Federal Appropriation . . . . . \$	<del>((200,555,000))</del>
	<u>203,912,000</u>
Health Services Account Appropriation . . . . . \$	750,000
TOTAL APPROPRIATION . . . . . \$	<del>((422,900,000))</del>
	<u>430,888,000</u>

The appropriations in this subsection are subject to the following conditions and limitations:

(a) \$16,000 of the general fund—state appropriation for fiscal year 1996 and \$34,000 of the general fund—state appropriation for fiscal year 1997 are provided solely to increase payment rates to contracted social service providers. It is the legislature's intent that these funds shall be used primarily to increase compensation for persons employed in direct, front-line service delivery.

(b) The department shall report to the fiscal committees of the legislature no later than December 20, 1995, concerning the number and dollar value of contracts for services provided as part of the job opportunities and basic skills program. This report shall indicate the criteria used in the choice of state agencies or private entities for a particular contract, the total value of contracts with state agencies, and the total value of contracts with private entities. The report shall also indicate what, if any, performance criteria are included in job opportunities and basic skills program contracts.

(c) The department shall:

(i) Coordinate with other state agencies, including but not limited to the employment security department, to ensure that persons receiving federal or state funds are eligible in terms of citizenship and residency status; and

(ii) Systematically use all processes available to verify eligibility in terms of the citizenship and residency status of applicants and recipients for public assistance.

**Sec. 1108.** 1996 c 283 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 1996) . . . . \$	8,199,000
General Fund—State Appropriation (FY 1997) . . . . \$	<del>((11,990,000))</del>
	<u>13,041,000</u>
General Fund—Federal Appropriation . . . . . \$	<del>((77,594,000))</del>
	<u>76,848,000</u>
Violence Reduction and Drug Enforcement Account	
Appropriation . . . . . \$	71,900,000
Health Services Account Appropriation . . . . . \$	969,000
TOTAL APPROPRIATION . . . . . \$	<del>((170,652,000))</del>
	<u>170,957,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$9,544,000 of the total appropriation is provided solely for the grant programs for school districts and educational service districts set forth in RCW 28A.170.080 through 28A.170.100, including state support activities, as administered through the office of the superintendent of public instruction.

(2) \$400,000 of the health services account appropriation is provided solely to implement Second Substitute Senate bill No. 5688 (fetal alcohol syndrome). If the bill is not enacted by June 30, 1995, the amount provided in this subsection shall lapse.

(3) \$502,000 of the general fund—state appropriation and \$435,000 of the violence reduction and drug enforcement account appropriation for fiscal year 1996 and \$1,015,000 of the general fund—state appropriation and \$1,023,000 of the violence reduction and drug enforcement account appropriation for fiscal year 1997 are provided solely to increase payment rates to contracted and subcontract social services providers. It is the legislature's intent that these funds shall be used primarily to increase compensation for persons employed in direct, front-line service delivery.

(4) \$552,000 of the general fund—state appropriation is provided solely to implement the division's responsibilities under Engrossed Second Substitute Senate Bill No. 5439 (nonoffender at-risk youth).

(5) \$1,387,000 of the general fund—state appropriation and \$363,000 of the general fund—federal appropriation are provided solely for detoxification and stabilization services, inpatient treatment, and recovery house treatment for at-risk

youth. If Second Substitute House Bill No. 2217 (at-risk youth) is not enacted by June 30, 1996, the amount provided in this subsection shall lapse.

(6) \$1,902,000 of the general fund—state appropriation and \$796,000 of the general fund—federal appropriation are provided solely for alcohol and substance abuse assessment, treatment, and child care services for clients of the division of children and family services. Assessment shall be provided by approved chemical dependency treatment programs as requested by child protective services personnel in the division of children and family services. Treatment shall be outpatient treatment for parents of children who are under investigation by the division of children and family services. Child care shall be provided as deemed necessary by the division of children and family services while parents requiring alcohol and substance abuse treatment are attending treatment programs.

**Sec. 1109. 1996 c 283 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 1996) . . . . \$	669,448,000
General Fund—State Appropriation (FY 1997) . . . . \$	((658,055,000))
	<u>668,440,000</u>
General Fund—Federal Appropriation . . . . . \$	((1,774,688,000))
	<u>1,782,340,000</u>
General Fund—Private/Local Appropriation . . . . . \$	((199,160,000))
	<u>202,067,000</u>
Health Services Account Appropriation . . . . . \$	((207,272,000))
	<u>192,111,000</u>
<b>TOTAL APPROPRIATION . . . . . \$</b>	<b>((3,508,623,000))</b>
	<u><b>3,514,406,000</b></u>

The appropriations in this section are subject to the following conditions and limitations:

(1) The department shall continue to make use of the special eligibility category created for children through age 18 and in households with incomes below 200 percent of the federal poverty level made eligible for medicaid as of July 1, 1994. The department shall also continue to provide consistent reporting on other medicaid children served through the basic health plan.

(2) The department shall contract for the services of private debt collection agencies to maximize financial recoveries from third parties where it is not cost-effective for the state to seek the recovery directly.

(3) It is the intent of the legislature that Harborview medical center continue to be an economically viable component of the health care system and that the state's financial interest in Harborview medical center be recognized.

(4) \$3,682,000 of the general fund—state appropriation for fiscal year 1996 and \$7,844,000 of the general fund—state appropriation for fiscal year 1997 are provided solely to increase payment rates to contracted medical services providers.

(5)(a) Pursuant to RCW 74.09.700, the medically needy program shall be limited to include only the following groups: Those persons who, except for income and resources, would be eligible for the medicaid categorically needy aged, blind, or disabled programs and medically needy persons under age 21 or over age 65 in institutions for mental diseases or in intermediate care facilities for the mentally retarded. Existing departmental rules concerning income, resources, and other aspects of eligibility for the medically needy program shall continue to apply to these groups. The medically needy program will not provide coverage for caretaker relatives of medicaid-eligible children or for adults in families with dependent children who, except for income and resources, would be eligible for the medicaid categorically needy aid to families with dependent children program.

(b) Notwithstanding (a) of this subsection, the medically needy program shall provide coverage until December 31, 1995, to those persons who, except for income and resources, would be eligible for the medicaid aid to families with dependent children program.

(6) These appropriations may not be used for any purpose related to a supplemental discount drug program or agreement created under WAC 388-91-007 and 388-91-010.

(7) Funding is provided in this section for the adult dental program for Title XIX categorically eligible and medically needy persons and to provide foot care services by podiatric physicians and surgeons.

(8) \$160,000 of the general fund—state appropriation and \$160,000 of the general fund—federal appropriation are provided solely for the prenatal triage clearinghouse to provide access and outreach to reduce infant mortality.

(9) \$3,128,000 of the general fund—state appropriation is provided solely for treatment of low-income kidney dialysis patients.

(10) Funding is provided in this section to fund payment of insurance premiums for persons with human immunodeficiency virus who are not eligible for medicaid.

(11) Not more than \$11,410,000 of the general fund—state appropriation during fiscal year 1996 and \$11,410,000 of the health services account appropriation during fiscal year 1997 may be expended for the purposes of operating the medically indigent program. Funding is provided solely for emergency transportation and acute emergency hospital services, including emergency room physician services and related inpatient hospital physician services. In any twelve-month period, funding for such services is to be provided to an eligible individual for a maximum of three months following a hospital admission and only after \$2,000 of emergency medical expenses have been incurred.

(12) \$21,525,000 of the health services account appropriation and \$21,031,000 of the general fund—federal appropriation are provided solely to increase access to dental services and to increase the use of preventative dental services for title XIX categorically eligible children.

(13) After considering administrative and cost factors, the department shall adopt measures to realize savings in the purchase of prescription drugs, hearing aids, home health services, wheelchairs and other durable medical equipment, and disposable supplies. Such measures may include, but not be limited to, point-of-sale pharmacy adjudication systems, modification of reimbursement methodologies or payment schedules, selective contracting, and inclusion of such services in managed care rates.

(14) As part of the long-term care reforms contained in Engrossed Second Substitute House Bill No. 1908, after receiving acute inpatient hospital care, eligible clients shall be transferred from the high cost institutional setting to the least restrictive, least costly, and most appropriate facility as soon as medically reasonable. Physical medicine and rehabilitation services (acute rehabilitation) shall take place in the least restrictive environment, at the least cost and in the most appropriate facility as determined by the department in coordination with appropriate health care professionals and facilities. Facilities providing physical medicine and rehabilitation services must meet the quality care certification standards required of acute rehabilitation hospitals and rehabilitation units of hospitals.

(15) The department is authorized to provide no more than five chiropractic service visits per person per year for those eligible recipients with acute conditions.

(16) The department shall achieve an actual reduction in the per capita rates paid to managed care plans in calendar year 1997 by taking actions including but not limited to the following: (a) Selectively contracting with only those managed care plans in a given geographic area that offer the lowest price, while meeting specified standards of service quality and network adequacy; (b) revising program procedures, through a federal waiver if necessary, so that recipients are required to enroll in only one managed care plan during a contract period, except for documented good cause; and (c) disproportionately assigning recipients who do not designate a plan preference to plans offering more competitive rates.

(17) By July 1, 1996, the department shall report to the committees on health care and appropriations of the house of representatives, and to the committees on health and long-term care and ways and means of the senate, on the projected costs and benefits of (a) alternative point-of-service copay requirements for recipients with incomes at various percentages of the federal poverty level; and (b) alternative premium-sharing requirements for recipients with incomes at or above 100 percent of the federal poverty level.

(18) \$4,600,000 of the general fund—state appropriation is provided solely to compensate designated trauma centers for trauma services provided to medically indigent and general assistance clients who have an index of severity score of 16 or higher. Such compensation is to be provided (a) through reimbursement at the medicaid rate; or (b) through a direct payment to governmental hospitals. To be eligible for this higher compensation, the trauma center must (i) be designated a Level I through V trauma center by the department of health; (ii) provide complete

trauma care data to the trauma care registry in accordance with WAC 246-976-430; (iii) establish an internal quality assurance trauma program that complies with WAC 246-976-880; and (iv) encourage and assist medically indigent and charity care patients to enroll in the basic health plan.

Sec. 1110. 1995 2nd sp.s. c 18 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 1996) . . . . .	\$	7,741,000
General Fund—State Appropriation (FY 1997) . . . . .	\$	<del>((7,846,000))</del>
		<u>7,853,000</u>
General Fund—Federal Appropriation . . . . .	\$	<del>((73,180,000))</del>
		<u>73,206,000</u>
General Fund—Private/Local Appropriation . . . . .	\$	2,904,000
TOTAL APPROPRIATION . . . . .	\$	<del>((91,671,000))</del>
		<u>91,704,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$39,000 of the general fund—state appropriation is provided solely to increase payment rates to contracted social services providers. It is the legislature's intent that these funds shall be used primarily to increase compensation for persons employed in the direct delivery of service to clients.

(2) The division of vocational rehabilitation shall negotiate cooperative interagency agreements with local organizations, including higher education institutions, mental health regional support networks, and county developmental disabilities programs to improve and expand employment opportunities for people with severe disabilities served by those local agencies.

(3) \$310,000 of the general fund—state appropriation and \$1,144,000 of the general fund—federal appropriation are provided solely for vocational rehabilitation services for individuals with developmental disabilities who complete a high school curriculum during the 1995-97 biennium.

Sec. 1111. 1996 c 283 s 210 (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 1996) . . . . .	\$	25,933,000
General Fund—State Appropriation (FY 1997) . . . . .	\$	<del>((25,934,000))</del>
		<u>26,114,000</u>
General Fund—Federal Appropriation . . . . .	\$	<del>((41,503,000))</del>
		<u>41,630,000</u>
General Fund—Private/Local Appropriation . . . . .	\$	270,000
TOTAL APPROPRIATION . . . . .	\$	<del>((93,640,000))</del>
		<u>93,947,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) The secretary of social and health services and the director of labor and industries shall report to the appropriate fiscal and policy committees of the legislature by July 1, 1995, and every six months thereafter, on the measurable changes in employee injury and time-loss rates that have occurred in the state developmental disabilities, juvenile rehabilitation, and mental health institutions as a result of the upfront loss-control discount agreement between the agencies.

(2) \$500,000 of the general fund—state appropriation and \$300,000 of the general fund—federal appropriation are provided solely to implement Engrossed Substitute House Bill No. 1010 (regulatory reform). The department may transfer all or a portion of these amounts to the appropriate divisions of the department for this purpose. If Engrossed Substitute House Bill No. 1010 (regulatory reform) is not enacted by June 30, 1995, the amounts provided in this subsection shall lapse.

(3) By December 1, 1996, the department of personnel and the department of social and health services shall jointly report to the legislature on strategies for increasing, within existing funds, supported employment opportunities in state government for persons with developmental and other substantial and chronic disabilities. In developing the report, the departments shall consult with employee representatives, organizations involved in job training and placement for persons with severe disabilities, and other state and local governments that have successfully offered supported employment opportunities for their citizens with disabilities.

**Sec. 1112.** 1996 c 283 s 211 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—  
CHILD SUPPORT PROGRAM**

General Fund—State Appropriation (FY 1996) . . . .	\$	19,019,000
General Fund—State Appropriation (FY 1997) . . . .	\$	<del>((18,820,000))</del>
		<u>19,297,000</u>
General Fund—Federal Appropriation . . . . .	\$	<del>((139,220,000))</del>
		<u>140,206,000</u>
General Fund—Local Appropriation . . . . .	\$	<del>((32,289,000))</del>
		<u>32,563,000</u>
<b>TOTAL APPROPRIATION . . . . .</b>	<b>\$</b>	<del><b>((209,348,000))</b></del>
		<u><b>211,085,000</b></u>

The appropriations in this section are subject to the following conditions and limitations:

(1) The department shall contract with private collection agencies to pursue collection of AFDC child support arrearages in cases that might otherwise consume a disproportionate share of the department's collection efforts. The department's child support collection staff shall determine which cases are appropriate for referral to private collection agencies. In determining appropriate contract provisions, the department shall consult with other states that have successfully

contracted with private collection agencies to the extent allowed by federal support enforcement regulations.

(2) The department shall request a waiver from federal support enforcement regulations to replace the current program audit criteria, which is process-based, with performance measures based on program outcomes.

(3) The amounts appropriated in this section for child support legal services shall only be expended by means of contracts with local prosecutor's offices.

Sec. 1113. 1995 2nd sp.s. c 18 s 213 (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 1996) . . . . \$	21,112,000
General Fund—State Appropriation (FY 1997) . . . . \$	<del>((20,668,000))</del>
	<u>22,118,000</u>
General Fund—Federal Appropriation . . . . . \$	16,281,000
TOTAL APPROPRIATION . . . . . \$	<del>((58,061,000))</del>
	<u>59,511,000</u>

Sec. 1114. 1995 2nd sp.s. c 18 s 214 (uncodified) is amended to read as follows:

**FOR THE STATE HEALTH CARE POLICY BOARD**

General Fund—Private/Local Appropriation . . . . . \$	110,000
Health Services Account Appropriation . . . . . \$	<del>((4,229,000))</del>
	<u>3,913,000</u>
TOTAL APPROPRIATION . . . . . \$	<del>((4,339,000))</del>
	<u>4,023,000</u>

Sec. I115. 1996 c 283 s 212 (uncodified) is amended to read as follows:

**FOR THE STATE HEALTH CARE AUTHORITY**

General Fund—State Appropriation (FY 1996) . . . . \$	3,403,000
General Fund—State Appropriation (FY 1997) . . . . \$	3,403,000
State Health Care Authority Administrative Account Appropriation . . . . . \$	15,744,000
Health Services Account Appropriation . . . . . \$	<del>((247,010,000))</del>
	<u>243,010,000</u>
TOTAL APPROPRIATION . . . . . \$	<del>((269,560,000))</del>
	<u>265,560,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$6,806,000 of the general fund appropriation and \$5,590,000 of the health services account appropriation are provided solely for health care services provided through local community clinics.

(2) \$1,189,000 of the health care authority administrative fund appropriation is provided to accommodate additional enrollment from school districts that

voluntarily choose to purchase employee benefits through public employee benefits board programs. The office of financial management is directed to monitor K-12 enrollment in PEBB plans and to reduce allotments proportionally if the number of K-12 active employees enrolled after January 1995 is less than 11,837.

(3) By November 1, 1996, the health care authority shall report to the health care and fiscal committees of the legislature on potential program adjustments to the basic health plan to achieve reductions in anticipated health services account expenditures. Options addressed in the report shall include, but not be limited to: (a) Reductions in the maximum income eligibility level; (b) changes in the premium subsidy schedule; (c) increasing required copayments; and (d) reducing the number of contracting health plans. For each option, the report shall describe anticipated 1997-99 savings from the proposed change, and the potential impact on health insurance access and health status.

(4) The state health care authority administrative account appropriation includes sufficient funds to study options for expanding state and school district retiree access to health benefits purchased through the health care authority and the fiscal impacts of each option. The health care authority shall conduct this study in conjunction with the state actuary, the office of financial management, and the fiscal committees of the legislature.

(5) \$79,000 of the state health care authority administrative account appropriation is provided to implement Substitute House Bill No. 2186 (public employees long-term care).

(6) By November 1, 1996, the department of social and health services and the health care authority shall report to the appropriate committees of the legislature on (a) the extent, if any, to which previously appropriated general fund—state and matching general fund—federal funds are insufficient to provide basic health plan enrollment coverage for homecare workers at or above 200 percent of the federal poverty level; and (b) recommended procedural and, if necessary, statutory changes needed to minimize the administrative costs and complexity of basic health plan enrollment by employer groups.

(7) ~~\$(949,000)~~ 219,000 of the health services account appropriation is provided for enhanced basic health plan subsidies for foster parents licensed under chapter 74.15 RCW. Under this enhanced subsidy option, foster parents with family incomes below 200 percent of the federal poverty level shall be allowed to enroll in the basic health plan at a cost of \$10 per month per parent. The health care authority shall endeavor to provide this enhanced subsidy to a monthly average of 1,000 foster parents during state fiscal year 1997, and no more than 2,000 shall be enrolled by the end of the 1995-97 biennium.

Sec. 1116. 1996 c 283 s 214 (uncodified) is amended to read as follows:

**FOR THE CRIMINAL JUSTICE TRAINING COMMISSION**

Death Investigations Account Appropriation . . . . . \$	38,000
Public Safety and Education Account	

Appropriation .....	\$	((11,036,000))
		<u>11,572,000</u>
Violence Reduction and Drug Enforcement Account		
Appropriation .....	\$	344,000
TOTAL APPROPRIATION .....	\$	((11,418,000))
		<u>11,954,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$28,000 of the public safety and education account is provided solely to implement Engrossed Second Substitute Senate Bill No. 5219 (domestic violence). If the bill is not enacted by June 30, 1995, the amount provided in this subsection shall lapse.

(2) \$45,000 of the public safety and education account appropriation is provided solely for the implementation of Second Substitute House Bill No. 2323 (law enforcement training). If the bill is not enacted by June 30, 1996, the amount provided in this subsection shall lapse.

(3) \$27,000 of the public safety and education account appropriation is provided solely for the implementation of the reporting requirements contained in section 6 of House Bill No. 2472. If the bill is not enacted by June 30, 1996, the amount provided in this subsection shall lapse.

**Sec. 1117.** 1996 c 283 s 215 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF LABOR AND INDUSTRIES**

General Fund Appropriation (FY 1996) .....	\$	5,270,000
General Fund Appropriation (FY 1997) .....	\$	5,711,000
Public Safety and Education Account—State		
Appropriation .....	\$	((19,990,000))
		<u>18,982,000</u>
Public Safety and Education Account—Federal		
Appropriation .....	\$	((6,002,000))
		<u>7,024,000</u>
Public Safety and Education Account—Private/Local		
Appropriation .....	\$	((972,000))
		<u>1,980,000</u>
Electrical License Account Appropriation .....	\$	20,125,000
Farm Labor Revolving Account—Private/Local		
Appropriation .....	\$	28,000
Worker and Community Right-to-Know Account		
Appropriation .....	\$	2,138,000
Public Works Administration Account		
Appropriation .....	\$	1,928,000
Accident Account—State Appropriation .....	\$	((139,991,000))
		<u>139,240,000</u>

Accident Account—Federal Appropriation . . . . .	\$	((9,112,000))
		<u>9,924,000</u>
Medical Aid Account—State Appropriation . . . . .	\$	((150,284,000))
		<u>150,152,000</u>
Medical Aid Account—Federal Appropriation . . . . .	\$	((1,592,000))
		<u>1,734,000</u>
Plumbing Certificate Account Appropriation . . . . .	\$	682,000
Pressure Systems Safety Account Appropriation ..	\$	2,053,000
TOTAL APPROPRIATION . . . . .	\$	((365,878,000))
		<u>366,971,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) Expenditures of funds appropriated in this section for the information systems projects identified in agency budget requests as "crime victims—prime migration" and "document imaging—field offices" are conditioned upon compliance with section 902 of this act. In addition, funds for the "document imaging—field offices" project shall not be released until the required components of a feasibility study are completed and approved by the department of information services.

(2) Pursuant to RCW 7.68.015, the department shall operate the crime victims compensation program within the public safety and education account funds appropriated in this section. In the event that cost containment measures are necessary, the department may (a) Institute copayments for services; (b) develop preferred provider and managed care contracts; and (c) coordinate with the department of social and health services to use public safety and education account funds as matching funds for federal Title XIX reimbursement, to the extent this maximizes total funds available for services to crime victims.

(3) \$108,000 of the general fund appropriation is provided solely for an interagency agreement to reimburse the board of industrial insurance appeals for crime victims appeals.

(4) The secretary of social and health services and the director of labor and industries shall report to the appropriate fiscal and policy committees of the legislature by July 1, 1995, and every six months thereafter, on the measurable changes in employee injury and time-loss rates that have occurred in the state developmental disabilities, juvenile rehabilitation, and mental health institutions as a result of the upfront loss-control discount agreement between the agencies.

~~((6))~~ (5) \$450,000 of the accident account—state appropriation and \$450,000 of the medical aid account—state appropriation are provided solely to implement an on-line claims data access system that will include all employers in the retrospective rating plan program.

~~((7))~~ (6) Within the appropriations provided in this section, the department shall implement an integrated state-wide on-line verification system for pharmacy providers. The system shall be implemented by means of contracts that are

competitively bid. Until this system is implemented, no department rules may take effect that reduce the dispensing fee for industrial insurance pharmacy services in effect on January 1, 1995.

(8) \$4,000 of the accident account—state appropriation and \$4,000 of the medical aid—state appropriation is provided solely for the implementation of Senate Bill No. 6223 or House Bill No. 2498 (construction trade procedures). If neither bill is enacted by June 30, 1996, these amounts shall lapse.

(9) \$38,000 of the accident account—state appropriation and \$37,000 of the medical aid—state appropriation is provided solely for the implementation of Senate Bill No. 6225 or House Bill No. 2499 (employer assessments). If neither bill is enacted by June 30, 1996, these amounts shall lapse.

(10) \$7,000 of the accident account—state appropriation and \$6,000 of the medical aid—state appropriation is provided solely for the implementation of Senate Bill No. 6224 or House Bill No. 2496 (disability pilot project). If neither bill is enacted by June 30, 1996, these amounts shall lapse.

(11) \$443,000 of the public safety and education account appropriation is provided solely for the implementation of Substitute House Bill No. 2358 (crime victim and witness programs). If the bill is not enacted by June 30, 1996, the amount provided in this subsection shall lapse.

(12) \$121,000 of the accident account—state appropriation and \$121,000 of the medical aid account—state appropriation are provided solely for the implementation of House Bill No. 2322 (family farm exemptions). If the bill is not enacted by June 30, 1996, the amounts provided in this subsection shall lapse.

(13) \$271,000 of the accident account—state appropriation and \$271,000 of the medical aid account—state appropriation are provided solely for the implementation of Second Substitute Senate Bill No. 5516 (drug free workplaces). If the bill is not enacted by June 30, 1996, the amounts provided in this subsection shall lapse.

**Sec. 1118.** 1996 c 283 s 216 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF VETERANS AFFAIRS**

**(1) HEADQUARTERS**

General Fund Appropriation (FY 1996) . . . . .	\$	1,227,000
General Fund Appropriation (FY 1997) . . . . .	\$	<del>((1,226,000))</del>
		<u>1,249,000</u>
<b>Industrial Insurance Refund Account</b>		
Appropriation . . . . .	\$	25,000
<b>Charitable, Educational, Penal, and Reformatory</b>		
Institutions Account Appropriation . . . . .	\$	4,000
<b>TOTAL APPROPRIATION</b> . . . . .	\$	<del>((2,482,000))</del>
		<u>2,505,000</u>

**(2) FIELD SERVICES**

General Fund—State Appropriation (FY 1996) . . . . .	\$	1,853,000
General Fund—State Appropriation (FY 1997) . . . . .	\$	2,257,000

WASHINGTON LAWS, 1997

Ch. 454

General Fund—Federal Appropriation . . . . .	\$	381,000
General Fund—Private/Local Appropriation . . . . .	\$	85,000
TOTAL APPROPRIATION ..	\$	4,576,000

(3) VETERANS HOME

General Fund—State Appropriation (FY 1996) . . . . .	\$	3,893,000
General Fund—State Appropriation (FY 1997) . . . . .	\$	<del>((3,788,000))</del>
		<u>2,559,000</u>
General Fund—Federal Appropriation . . . . .	\$	<del>((11,470,000))</del>
		<u>11,469,000</u>
General Fund—Private/Local Appropriation . . . . .	\$	<del>((7,392,000))</del>
		<u>8,622,000</u>
TOTAL APPROPRIATION ..	\$	26,543,000

(4) SOLDIERS HOME

General Fund—State Appropriation (FY 1996) . . . . .	\$	2,927,000
General Fund—State Appropriation (FY 1997) . . . . .	\$	<del>((2,825,000))</del>
		<u>2,541,000</u>
General Fund—Federal Appropriation . . . . .	\$	<del>((5,975,000))</del>
		<u>6,510,000</u>
General Fund—Private/Local Appropriation . . . . .	\$	<del>((5,312,000))</del>
		<u>5,061,000</u>
TOTAL APPROPRIATION ..	\$	17,039,000

Sec. 1119. 1996 c 283 s 217 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF HEALTH**

General Fund—State Appropriation (FY 1996) . . . . .	\$	44,328,000
General Fund—State Appropriation (FY 1997) . . . . .	\$	<del>((44,639,000))</del>
		<u>45,912,000</u>
General Fund—Federal Appropriation . . . . .	\$	<del>((234,275,000))</del>
		<u>240,075,000</u>
General Fund—Private/Local Appropriation . . . . .	\$	25,476,000
Hospital Commission Account Appropriation . . . . .	\$	3,019,000
Medical Disciplinary Account Appropriation . . . . .	\$	1,798,000
Health Professions Account Appropriation . . . . .	\$	32,964,000
Industrial Insurance Account Appropriation . . . . .	\$	62,000
Safe Drinking Water Account Appropriation . . . . .	\$	2,751,000
Public Health Services Account Appropriation . . . . .	\$	23,753,000
Waterworks Operator Certification		
Appropriation . . . . .	\$	605,000
Water Quality Account Appropriation . . . . .	\$	3,079,000
State Toxics Control Account Appropriation . . . . .	\$	2,824,000
Violence Reduction and Drug Enforcement Account		
Appropriation . . . . .	\$	469,000
Medical Test Site Licensure Account		
Appropriation . . . . .	\$	1,822,000

Youth Tobacco Prevention Account Appropriation	\$	1,412,000
Health Services Account Appropriation . . . . .	\$	((19,081,000))
		<u>18,081,000</u>
State and Local Improvements Revolving Account—Water Supply Facilities Appropriation . . . . .	\$	40,000
TOTAL APPROPRIATION . . . . .	\$	((442,397,000))
		<u>448,470,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$2,466,000 of the general fund—state appropriation is provided for the implementation of the Puget Sound water quality management plan.

(2) \$10,000,000 of the public health services account appropriation is provided solely for distribution to local health departments for distribution on a per capita basis. Prior to distributing these funds, the department shall adopt rules and procedures to ensure that these funds are not used to replace current local support for public health programs.

(3) \$4,750,000 of the public health account appropriation is provided solely for distribution to local health departments for capacity building and community assessment and mobilization.

(4) \$2,000,000 of the health services account appropriation is provided solely for public health information systems development. Authority to expend this amount is conditioned on compliance with section 902 of this act.

(5) \$1,000,000 of the health services account appropriation is provided solely for state level capacity building.

(6) \$1,000,000 of the health services account appropriation is provided solely for training of public health professionals.

(7) \$200,000 of the health services account appropriation is provided solely for the American Indian health plan.

(8) \$1,640,000 of the health services account appropriation is provided solely for health care quality assurance and health care data standards activities as required by Engrossed Substitute House Bill No. 1589 (health care quality assurance).

(9) \$1,000,000 of the health services account appropriation is provided solely for development of a youth suicide prevention program at the state level, including a state-wide public educational campaign to increase knowledge of suicide risk and ability to respond and provision of twenty-four hour crisis hotlines, staffed to provide suicidal youth and caregivers a source of instant help.

(10) 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.

(11) \$981,000 of the general fund—state appropriation and \$469,000 of the general fund—private/local appropriation are provided solely for implementing Engrossed Substitute House Bill No. 1010 (regulatory reform). If the bill is not enacted by June 30, 1995, the amounts provided in this subsection shall lapse.

(12) The department is authorized to raise existing fees for nursing assistants and hypnotherapists in excess of the fiscal growth factor established by Initiative 601, if necessary, in order to meet the actual costs of investigative and legal services due to disciplinary activities.

(13) \$750,000 of the general fund—federal appropriation is provided solely for one-time costs for a health clinic for immigrants to be managed by a local public health entity.

(14) \$70,000 of the general fund—state appropriation is provided solely for implementing Engrossed Substitute House Bill No. 1908 (chapter 18, Laws of 1995 1st sp. sess., long-term care reform).

~~((+7))~~ (15)(a) Within available resources, the department of health may use any of the following strategies for raising public awareness on the causes and nature of osteoporosis, personal risk factors, value of prevention and early detection, and options for diagnosing and treating the disease:

(i) An outreach campaign utilizing print, radio, and television public service announcements, advertisements, posters, and other materials;

(ii) Community forums;

(iii) Health information and risk factor assessment at public events;

(iv) Targeting at-risk populations;

(v) Providing reliable information to policy makers;

(vi) Distributing information through county health departments, schools, area agencies on aging, employer wellness programs, physicians, hospitals and health maintenance organizations, women's groups, nonprofit organizations, community-based organizations, and departmental regional offices.

(b) The secretary of health may accept grants, services, and property from the federal government, foundations, organizations, medical schools, and other entities as may be available for the purposes of fulfilling the obligations of this program.

~~((+8))~~ (16) \$8,000 of the general fund—state appropriation is provided for a study to be completed by the board of health on the current and potential use of telemedicine in the state, including recommended changes in rules and statutes.

The study shall be completed by November 1, 1997, and a report submitted to the appropriate committees of the legislature.

(17) \$1,273,000 of the general fund—state appropriation for fiscal year 1997 is provided solely for the HIV/AIDS prescription drug program.

Sec. 1120. 1996 c 283 s 218 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF CORRECTIONS**

The appropriations in this section shall be expended for the programs and in the amounts listed. However, after May 1, ~~((+1996))~~ 1997, unless specifically prohibited by this act, the department may transfer ~~((general fund—state appropriations for fiscal year 1996))~~ moneys among programs after approval by the director of financial management. 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 the appropriation levels.

**(1) ADMINISTRATION AND PROGRAM SUPPORT**

General Fund Appropriation (FY 1996) . . . . .	\$	12,255,000
General Fund Appropriation (FY 1997) . . . . .	\$	12,171,000
Industrial Insurance Premium Refund Account		
Appropriation . . . . .	\$	631,000
TOTAL APPROPRIATION . . . . .	\$	25,057,000

The appropriations in this subsection are subject to the following conditions and limitations:

(a) The department may expend funds generated by contractual agreements entered into for mitigation of severe overcrowding in local jails. If any funds are generated in excess of actual costs, they 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 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.

(c) Appropriations in this section provide sufficient funds to implement the provisions of Second Engrossed Second Substitute House Bill 2010 (corrections cost-efficiency and inmate responsibility omnibus act).

(d) In treating sex offenders at the Twin Rivers corrections center, the department of corrections shall prioritize treatment services to reduce recidivism and shall develop and implement an evaluation tool that: (i) States the purpose of the treatment; (ii) measures the amount of treatment provided; (iii) identifies the measure of success; and (iv) determines the level of successful and unsuccessful outcomes. The department shall report to the legislature by December 1, 1995, on how treatment services were prioritized among categories of offenses and provide a description of the evaluation tool and its incorporation into the treatment program.

(e) \$121,000 of the general fund—state fiscal year 1997 appropriation is provided solely for the department to develop and implement a centralized educational data base (education automation project), pursuant to chapter 19, Laws of 1995 1st sp. sess.

(2) INSTITUTIONAL SERVICES

General Fund—State Appropriation (FY 1996) . . . . \$	<del>((262,352,000))</del>
	<u>262,343,000</u>
General Fund—State Appropriation (FY 1997) . . . . \$	<del>((270,160,000))</del>
	<u>274,117,000</u>
General Fund—Federal Appropriation . . . . . \$	2,153,000
Violence Reduction and Drug Enforcement Account	
Appropriation . . . . . \$	1,214,000
TOTAL APPROPRIATION . . . . . \$	<del>((535,879,000))</del>
	<u>539,827,000</u>

The appropriations in this subsection are subject to the following conditions and limitations:

~~((a))~~ \$196,000 of the general fund—state fiscal year 1997 appropriation is provided solely for costs associated with data entry activities related to the department's efforts at managing health care costs, pursuant to chapter 19, Laws of 1995 1st sp. sess. and chapter 6, Laws of 1994 sp. sess.

~~((b))~~ \$17,000 of the general fund—state appropriation is provided solely to implement Substitute House Bill No. 2711 (illegal alien offender camps). If the bill is not enacted by June 30, 1996, the amount provided in this subsection shall lapse.)

(3) COMMUNITY CORRECTIONS

General Fund Appropriation (FY 1996) . . . . . \$	78,843,000
General Fund Appropriation (FY 1997) . . . . . \$	<del>((80,290,000))</del>
	<u>79,576,000</u>
Violence Reduction and Drug Enforcement Account	
Appropriation . . . . . \$	400,000
TOTAL APPROPRIATION . . . . . \$	<del>((159,533,000))</del>
	<u>158,819,000</u>

The appropriations in this subsection are subject to the following conditions and limitations:

(a) \$72,000 of the general fund—state fiscal year 1997 appropriation is provided solely for the implementation of Substitute House Bill No. 2533 (supervision of misdemeanants). If the bill is not enacted by June 30, 1996, the amount shall lapse.

(b) \$38,000 of the general fund—state fiscal year 1997 appropriation is provided solely for the implementation of Substitute Senate Bill No. 6274 (supervision of sex offenders). If the bill is not enacted by June 30, 1996, the amount provided in this subsection shall lapse.

(4) CORRECTIONAL INDUSTRIES

General Fund Appropriation (FY 1996) . . . . .	\$	3,330,000
General Fund Appropriation (FY 1997) . . . . .	\$	3,603,000
<b>TOTAL APPROPRIATION . . . . .</b>	<b>\$</b>	<b>6,933,000</b>

The appropriations in this subsection are subject to the following conditions and limitations: \$100,000 of the general fund fiscal year 1997 appropriation is provided solely for transfer to the jail industries board. The board shall use the amount specified in this subsection 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 Appropriation (FY 1996) . . . . .	\$	6,223,000
General Fund Appropriation (FY 1997) . . . . .	\$	6,223,000
<b>TOTAL APPROPRIATION . . . . .</b>	<b>\$</b>	<b>12,446,000</b>

Sec. 1121. 1996 c 283 s 220 (uncodified) is amended to read as follows:

**FOR THE EMPLOYMENT SECURITY DEPARTMENT**

General Fund—State Appropriation (FY 1996) . . . .	\$	834,000
General Fund—State Appropriation (FY 1997) . . . .	\$	5,279,000
General Fund—Federal Appropriation . . . . .	\$	190,936,000
General Fund—Private/Local Appropriation . . . . .	\$	21,965,000
Unemployment Compensation Administration		
Account—Federal Appropriation . . . . .	\$	177,891,000
Administrative Contingency Account—State		
Appropriation . . . . .	\$	<del>((8,735,000))</del>
		<u>9,235,000</u>
Employment Services Administrative Account—		
State Appropriation . . . . .	\$	12,294,000
Employment and Training Trust Account		
Appropriation . . . . .	\$	9,294,000
<b>TOTAL APPROPRIATION . . . . .</b>	<b>\$</b>	<del>((427,228,000))</del>
		<u>427,728,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) The employment security department shall spend no more than \$25,049,511 of the unemployment compensation administration account—federal appropriation for the general unemployment insurance development effort (GUIDE) project, except that the department may exceed this amount by up to \$2,600,000 to offset the cost associated with any vendor-caused delay. The additional spending limitation is further conditioned on the department seeking full recovery of these moneys from any vendors failing to perform in full. Authority to expend this amount is conditioned on compliance with section 902 of this act.

(2) The employment and training trust account appropriation shall not be expended until a plan for such expenditure is reviewed and approved by the work force training and education coordinating board for consistency with chapter 226,

Laws of 1993 (employment and training for unemployed workers), and the comprehensive plan for work force training provided in RCW 28C.18.060(4).

(3) \$95,000 of the employment services administrative account—federal appropriation is provided solely for a study of the financing provisions of the state's unemployment insurance law pursuant to Engrossed Senate Bill No. 5925.

(4) \$500,000 of the general fund—state fiscal year 1996 appropriation and \$4,945,000 of the general fund—state fiscal year 1997 appropriation are provided solely for the department to administer a comprehensive set of summer employment and training programs to disadvantaged youth. In administering this program, the department shall adhere to the following guidelines: (a) Coordinate with the work force training and education board and the service delivery areas in program development and implementation; (b) maximize employment and training opportunities for youth, while at the same time minimize state fiscal resources required; (c) adhere to the state's comprehensive plan for work force training; (d) support the state's one-stop approach to service delivery; (e) maintain low administrative overhead; (f) support the school-to-work transition system; and (g) submit an evaluation of the program by February 1, 1997. The evaluation shall identify: (i) The number of participants in the program by service delivery area; (ii) demographic information on the participants; (iii) the benefits to clients participating in employment and training programs; and (iv) recommendations on the merits of continuing the program.

**PART XII  
NATURAL RESOURCES**

**Sec. 1201.** 1996 c 283 s 301 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF ECOLOGY**

General Fund—State Appropriation (FY 1996) . . . . .	\$	22,289,000
General Fund—State Appropriation (FY 1997) . . . . .	\$	<del>((21,409,000))</del>
		<u>21,781,000</u>
General Fund—Federal Appropriation . . . . .	\$	41,534,000
General Fund—Private/Local Appropriation . . . . .	\$	1,385,000
Special Grass Seed Burning Research Account		
Appropriation . . . . .	\$	42,000
Reclamation Revolving Account Appropriation . . . . .	\$	2,664,000
Flood Control Assistance Account Appropriation . . . . .	\$	10,031,000
State Emergency Water Projects Revolving Account		
Appropriation . . . . .	\$	312,000
Industrial Insurance Premium Refund Account		
Appropriation . . . . .	\$	<del>((189,000))</del>
		<u>273,000</u>
Waste Reduction, Recycling, and Litter Control		
Account Appropriation . . . . .	\$	5,561,000
State and Local Improvements Revolving Account—		
Waste Disposal Appropriation . . . . .	\$	1,000,000

State and Local Improvements Revolving Account—	
Water Supply Facilities Appropriation . . . . .	\$ 1,344,000
Basic Data Account Appropriation . . . . .	\$ 182,000
Vehicle Tire Recycling Account Appropriation . . . . .	\$ 5,759,000
Water Quality Account Appropriation . . . . .	\$ 3,583,000
Worker and Community Right to Know Account	
Appropriation . . . . .	\$ 408,000
State Toxics Control Account Appropriation . . . . .	\$ ((50,024,000))
	<u>50,129,000</u>
Local Toxics Control Account Appropriation . . . . .	\$ 3,842,000
Water Quality Permit Account Appropriation . . . . .	\$ 19,600,000
Underground Storage Tank Account	
Appropriation . . . . .	\$ 2,336,000
Solid Waste Management Account Appropriation . . . . .	\$ 3,631,000
Hazardous Waste Assistance Account	
Appropriation . . . . .	\$ 3,476,000
Air Pollution Control Account Appropriation . . . . .	\$ ((16,221,000))
	<u>16,421,000</u>
Oil Spill Administration Account Appropriation . . . . .	\$ 2,939,000
Water Right Permit Processing Account	
Appropriation . . . . .	\$ 750,000
Wood Stove Education Account Appropriation . . . . .	\$ 1,251,000
Air Operating Permit Account Appropriation . . . . .	\$ ((4,548,000))
	<u>4,348,000</u>
Freshwater Aquatic Weeds Account Appropriation . . . . .	\$ ((2,047,000))
	<u>2,497,000</u>
Oil Spill Response Account Appropriation . . . . .	\$ 7,060,000
Metals Mining Account Appropriation . . . . .	\$ 300,000
Water Pollution Control Revolving Account—State	
Appropriation . . . . .	\$ ((165,000))
	<u>192,000</u>
Water Pollution Control Revolving Account—Federal	
Appropriation . . . . .	\$ ((1,419,000))
	<u>1,553,000</u>
TOTAL APPROPRIATION . . . . .	\$ ((237,301,000))
	<u>238,473,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$5,933,000 of the general fund—state appropriation is provided solely for the implementation of the Puget Sound water quality management plan. In addition, \$394,000 of the general fund—federal appropriation, \$819,000 of the state toxics control account appropriation, \$3,591,000 of the water quality permit fee account appropriation, and \$2,715,000 of the oil spill administration account

appropriation may be used for the implementation of the Puget Sound water quality management plan.

(2) \$150,000 of the state toxics control account appropriation and \$150,000 of the local toxics control account appropriation are provided solely for implementing Engrossed Substitute House Bill No. 1810 (hazardous substance cleanup). If the bill is not enacted by June 30, 1995, the amount provided in this subsection shall lapse.

(3) \$581,000 of the general fund—state appropriation, \$170,000 of the air operating permit account appropriation, \$80,000 of the water quality permit account appropriation, and \$63,000 of the state toxics control account appropriation are provided solely for implementing Engrossed Substitute House Bill No. 1010 (regulatory reform). If the bill is not enacted by June 30, 1995, the amount provided in this subsection shall lapse.

(4) \$2,000,000 of the state toxics control account appropriation is provided solely for the following purposes:

(a) To conduct remedial actions for sites for which there are no potentially liable persons or for which potentially liable persons cannot be found;

(b) To provide funding to assist potentially liable persons under RCW 70.105D.070(2)(d)(xi) to pay for the cost of the remedial actions; and

(c) To conduct remedial actions for sites for which potentially liable persons have refused to comply with the orders issued by the department under RCW 70.105D.030 requiring the persons to provide the remedial action.

(5) \$250,000 of the flood control assistance account is provided solely for a grant or contract to the lead local entity for technical analysis and coordination with the Army Corps of Engineers and local agencies to address the breach in the south jetty at the entrance of Grays Harbor.

(6) \$70,000 of the general fund—state appropriation, \$90,000 of the state toxics control account appropriation, and \$55,000 of the air pollution control account appropriation are provided solely to implement Engrossed Substitute House Bill No. 1724 (growth management). If the bill is not enacted by June 30, 1995, the amounts provided in this subsection shall lapse.

(7) If Engrossed Substitute House Bill No. 1125 (dam safety inspections), or substantially similar legislation, is not enacted by June 30, 1995, then the department shall not expend any funds appropriated in this section for any regulatory activity authorized under RCW 90.03.350 with respect to hydroelectric facilities which require a license under the federal power act, 16 ASCUS Sec. 791a et seq. If Engrossed Substitute House Bill No. 1125, or substantially similar legislation, is enacted by June 30, 1995, then the department may apply all available funds appropriated under this section for regulatory activity authorized under RCW 90.03.350 for the purposes of inspecting and regulating the safety of dams under the exclusive jurisdiction of the state.

(8) \$425,000 of the general fund—state appropriation and \$525,000 of the general fund—federal appropriation are provided solely for the Padilla Bay national estuarine research reserve and interpretive center.

(9) The water right permit processing account is hereby created in the state treasury. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used solely for water right permit processing and expenses associated with the Yakima adjudication.

(10) \$1,298,000 of the general fund—state appropriation, \$188,000 of the general fund—federal appropriation, and \$883,000 of the water quality account appropriation are provided solely to coordinate and implement the activities required by the Puget Sound water quality management plan and to perform the powers and duties under chapter 90.70 RCW.

~~((+2))~~ (11) \$331,000 of the flood control assistance account appropriation is provided solely for the implementation of flood reduction plans. Of this amount, \$250,000 is to implement the Mason county flood reduction plan and \$81,000 is to implement the Chelan/Douglas county flood reduction plan.

~~((+3))~~ (12) Within the air pollution control account appropriation, the department shall continue monitoring air quality in the Northport area.

~~((+4))~~ (13) \$60,000 of the freshwater aquatic weeds account appropriation is provided solely for a grant to the department of fish and wildlife to control and eradicate purple loosestrife using the most cost-effective methods available, including chemical control where appropriate.

~~((+5))~~ (14) Within the funds appropriated in this section, the department shall prepare a report regarding the feasibility of pollution reduction target measures for point source facilities that are based on actual facility outputs rather than technologies used within a facility. In preparing the report the department shall create and seek recommendations from an advisory committee consisting of business, local government, and environmental representatives. The department shall submit the report to the appropriate committees of the legislature by November 30, 1996.

~~((+6))~~ (15) \$700,000 of the flood control assistance account appropriation is provided solely for the study and abatement of coastal erosion in the region of Willapa bay, Grays Harbor, and the lower Columbia river.

~~((+7))~~ (16) \$5,000,000 of the flood control assistance account appropriation is provided solely for grants to assist local governments in repairing or replacing dikes and levees ~~((damaged in the November 1995 and February 1996 flood events))~~ and updating local flood control plans, implementation of local flood control plans, and the development and implementation of public awareness measures.

~~((+8))~~ (17) \$500,000 of the local toxics control account appropriation is provided solely to satisfy nonfederal cost-sharing requirements for the Puget Sound confined disposal site feasibility study to be conducted jointly with the United States army corps of engineers. The study will address site design, construction

standards, operational requirements, and funding necessary to establish a disposal site for contaminated aquatic sediments.

~~((19))~~ (18) \$1,100,000 of the air pollution control account appropriation is provided solely for grants to local air pollution control authorities to expedite the redesignation of nonattainment areas. These funds shall not be used to supplant existing local funding sources for air pollution control authority programs. Of the amount allocated to the southwest Washington air pollution control authority, \$25,000 is provided solely for the University of Washington to review a study by the southwest air pollution control authority on sources contributing to atmospheric ozone.

~~((20))~~ (19) \$250,000 of the water right permit processing account appropriation is provided solely for additional staff and associated costs to support the Yakima county superior court in adjudicating water rights in the Yakima river basin.

~~((21))~~ (20) \$590,000 of the general fund—state appropriation, \$65,000 of the waste reduction, recycling, and litter control account appropriation, \$65,000 of the state toxics control account appropriation, \$250,000 of the air pollution control account appropriation, and \$130,000 of the water pollution control revolving account—federal appropriation are provided solely for implementation of the department's information integration project.

~~((22))~~ (21) \$300,000 of the general fund—state appropriation is provided solely for payment of attorneys' fees pursuant to *Rettkowski v. Washington*, (cause no. 62718-5).

**Sec. 1202.** 1996 c 283 s 302 (uncodified) is amended to read as follows:

**FOR THE STATE PARKS AND RECREATION COMMISSION**

General Fund—State Appropriation (FY 1996) . . . . .	\$	18,145,000
General Fund—State Appropriation (FY 1997) . . . . .	\$	<del>((18,202,000))</del>
		<u>21,602,000</u>
General Fund—Federal Appropriation . . . . .	\$	1,930,000
General Fund—Private/Local Appropriation . . . . .	\$	31,000
Winter Recreation Program Account		
Appropriation . . . . .	\$	725,000
Off Road Vehicle Account Appropriation . . . . .	\$	241,000
Snowmobile Account Appropriation . . . . .	\$	2,174,000
Aquatic Lands Enhancement Account		
Appropriation . . . . .	\$	313,000
Public Safety and Education Account		
Appropriation . . . . .	\$	48,000
Industrial Insurance Premium Refund Account		
Appropriation . . . . .	\$	10,000
Waste Reduction, Recycling, and Litter Control		
Account Appropriation . . . . .	\$	34,000
Water Trail Program Account Appropriation . . . . .	\$	26,000

Parks Renewal and Stewardship Account

Appropriation .....	\$	<del>((23,893,000))</del>
		<u>21,493,000</u>
<b>TOTAL APPROPRIATION .....</b>	<b>\$</b>	<b><del>((65,772,000))</del></b>
		<b><u>66,772,000</u></b>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$189,000 of the aquatic lands enhancement account appropriation is provided solely to implement the Puget Sound water quality plan.

(2) The general fund—state appropriation and the parks renewal and stewardship account appropriation are provided to maintain full funding and continued operation of all state parks and state parks facilities.

(3) \$1,800,000 of the general fund—state appropriation is provided solely for the Washington conservation corps program established under chapter 43.220 RCW.

(4) \$3,591,000 of the parks renewal and stewardship account appropriation is provided for the operation of a centralized reservation system, to expand marketing, to enhance concession review, and for other revenue generating activities.

~~((5) \$100,000 of the general fund—state appropriation is provided solely for a state match to local funds to prepare a master plan for Mt. Spokane state park.)~~

Sec. 1203. 1995 2nd sp.s. c 18 s 306 (uncodified) is amended to read as follows:

**FOR THE ENVIRONMENTAL HEARINGS OFFICE**

General Fund Appropriation (FY 1996) .....	\$	715,000
General Fund Appropriation (FY 1997) .....	\$	<del>((713,000))</del>
		<u>738,000</u>
<b>TOTAL APPROPRIATION .....</b>	<b>\$</b>	<b><del>((1,428,000))</del></b>
		<b><u>1,453,000</u></b>

Sec. 1204. 1996 c 283 s 304 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF FISH AND WILDLIFE**

General Fund—State Appropriation (FY 1996) .....	\$	33,187,000
General Fund—State Appropriation (FY 1997) .....	\$	<del>((33,701,000))</del>
		<u>36,019,000</u>
General Fund—Federal Appropriation .....	\$	<del>((54,098,000))</del>
		<u>57,578,000</u>
General Fund—Private/Local Appropriation .....	\$	<del>((15,986,000))</del>
		<u>19,837,000</u>
Off Road Vehicle Account Appropriation .....	\$	476,000
Aquatic Lands Enhancement Account		
Appropriation .....	\$	<del>((5,412,000))</del>
		<u>5,421,000</u>

Public Safety and Education Account		
Appropriation .....	\$	590,000
Industrial Insurance Premium Refund Account		
Appropriation .....	\$	((156,000))
		<u>400,000</u>
Recreational Fisheries Enhancement Account		
Appropriation .....	\$	2,217,000
Wildlife Account Appropriation .....	\$	((50,003,000))
		<u>50,653,000</u>
Special Wildlife Account Appropriation .....	\$	((1,884,000))
		<u>2,634,000</u>
Oil Spill Administration Account		
Appropriation .....	\$	831,000
Warm Water Game Fish Account Appropriation .....	\$	980,000
TOTAL APPROPRIATION .....	\$	((199,521,000))
		<u>210,823,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$1,532,000 of the general fund—state appropriation is provided solely to implement the Puget Sound water quality management plan.

(2) \$250,000 of the general fund—state appropriation is provided solely for attorney general costs on behalf of the department of fisheries, department of natural resources, department of health, and the state parks and recreation commission in defending the state and public interests in tribal shellfish litigation (*United States v. Washington*, subproceeding 89-3). The attorney general costs shall be paid as an interagency reimbursement.

(3) \$350,000 of the wildlife account appropriation and \$145,000 of the general fund—state appropriation are provided solely for control and eradication of class B designate weeds on department owned and managed lands. The general fund—state appropriation is provided solely for control of spartina. The department shall use the most cost-effective methods available, including chemical control where appropriate, and report to the appropriate committees of the legislature by January 1, 1997, on control methods, costs, and acres treated during the previous year.

(4) \$250,000 of the general fund—state appropriation is provided solely for costs associated with warm water fish production. Expenditure of this amount shall be consistent with the goals established under RCW 77.12.710 for development of a warm water fish program. No portion of this amount may be expended for any type of feasibility study.

(5) \$634,000 of the general fund—state appropriation and \$50,000 of the wildlife account appropriation are provided solely to implement Engrossed Substitute House Bill No. 1010 (regulatory reform). If the bill is not enacted by June 30, 1995, the amount provided in this subsection shall lapse.

(6) \$2,000,000 of the general fund—state appropriation is provided solely for implementation of Second Substitute Senate Bill No. 5157 (mass marking), chapter 372, Laws of 1995, under the following conditions:

(a) If, by October 1, 1995, the state reaches agreement with Canada on a marking and detection program, implementation will begin with the 1994 Puget Sound brood coho.

(b) If, by October 1, 1995, the state does not reach agreement with Canada on a marking and detection program, a pilot project shall be conducted with 1994 Puget Sound brood coho.

(c) Full implementation will begin with the 1995 brood coho.

(d) \$700,000 of the department's equipment funding and \$300,000 of the department's administration funding will be redirected toward implementation of Second Substitute Senate Bill No. 5157 during the 1995-97 biennium.

(7) The department shall request a reclassification study be conducted by the personnel resources board for hatchery staff. Any implementation of the study, if approved by the board, shall be pursuant to section 911 of this act.

(8) Within the appropriations in this section, the department shall maintain the Issaquah hatchery at the current 1993-95 operational level.

(9) \$140,000 of the wildlife account appropriation is provided solely for a cooperative effort with the department of agriculture for research and eradication of purple loosestrife on state lands. The department shall use the most cost-effective methods available, including chemical control where appropriate, and report to the appropriate committees of the legislature by January 1, 1997, on control methods, costs, and acres treated during the previous year.

(10) \$110,000 of the aquatic lands enhancement account appropriation may be used for publishing a brochure concerning hydraulic permit application requirements for the control of spartina and purple loosestrife.

(11) \$530,000 of the general fund—state appropriation is provided solely for providing technical assistance to landowners and for reviewing plans submitted to the state pursuant to the forest practices board's proposed rules for the northern spotted owl. If the rules are not adopted by September 1, 1996, the amount provided in this subsection shall lapse.

(12) \$145,000 of the general fund—state appropriation is provided solely for the fish and wildlife commission to support additional commission meetings, briefings, and other activities necessary to ensure effective implementation of Referendum No. 45 during the 1995-97 biennium.

(13) \$980,000 of the warm water game fish account appropriation is provided solely for implementation of the warm water game fish enhancement program pursuant to Fourth Substitute Senate Bill No. 5159. If the bill or substantially similar legislation is not enacted by June 30, 1996, the amount provided in this subsection shall lapse.

(14) \$15,000 of the fiscal year 1997 general fund—state appropriation and \$85,000 of the wildlife account appropriation are provided solely for the payment

of claims during fiscal year 1997 arising from damages to crops by wildlife, pursuant to Second Substitute Senate Bill No. 6146 (wildlife claims). If the bill is not enacted by June 30, 1996, the amounts provided in this subsection shall lapse.

(15) ~~\$(813,000)~~ 1,319,000 of the general fund—state appropriation is provided solely to operate Columbia river fish hatcheries for which federal funding has been reduced.

(16) \$1,438,000 of the fiscal year 1997 general fund—state appropriation is provided solely for the emergency feeding of deer and elk that may be starving and that are posing a risk to private property due to severe winter conditions during the winter of 1996-97.

(17) Up to \$400,000 of the wildlife account appropriation may be expended for unanticipated unemployment compensation costs to the extent that additional revenues are realized from audits of license vendors.

Sec. 1205. 1996 c 283 s 305 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF NATURAL RESOURCES**

General Fund—State Appropriation (FY 1996) . . . . .	\$	20,325,000
General Fund—State Appropriation (FY 1997) . . . . .	\$	<del>((20,424,000))</del>
		<u>28,739,000</u>
General Fund—Federal Appropriation . . . . .	\$	3,024,000
General Fund—Private/Local Appropriation . . . . .	\$	414,000
Forest Development Account Appropriation . . . . .	\$	41,608,000
Off Road Vehicle Account Appropriation . . . . .	\$	3,074,000
Surveys and Maps Account Appropriation . . . . .	\$	1,788,000
Aquatic Lands Enhancement Account Appropriation . . . . .	\$	2,512,000
Resource Management Cost Account Appropriation . . . . .	\$	11,624,000
Waste Reduction, Recycling, and Litter Control		
Account Appropriation . . . . .	\$	440,000
Surface Mining Reclamation Account		
Appropriation . . . . .	\$	1,273,000
Wildlife Account Appropriation . . . . .	\$	1,300,000
Water Quality Account Appropriation . . . . .	\$	6,000,000
Aquatic Land Dredged Material Disposal Site		
Account Appropriation . . . . .	\$	734,000
Natural Resources Conservation Areas Stewardship		
Account Appropriation . . . . .	\$	1,003,000
Air Pollution Control Account Appropriation . . . . .	\$	921,000
Watershed Restoration Account Appropriation . . . . .	\$	1,600,000
Metals Mining Account Appropriation . . . . .	\$	41,000
Industrial Insurance Premium Refund Account		
Appropriation . . . . .	\$	62,000
TOTAL APPROPRIATION . . . . .	\$	<del>((18,167,000))</del>
		<u>126,482,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) ~~\$(7,998,000)~~ 12,113,000 of the general fund—state appropriation is provided solely for the emergency fire suppression subprogram.

(2) \$36,000 of the general fund—state appropriations is provided solely for the implementation of the Puget Sound water quality management plan. In addition, \$957,000 of the aquatics lands enhancement account is provided for the implementation of the Puget Sound water quality management plan.

(3) \$450,000 of the resource management cost account appropriation is provided solely for the control and eradication of class B designate weeds on state lands. The department shall use the most cost-effective methods available, including chemical control where appropriate, and report to the appropriate committees of the legislature by January 1, 1997, on control methods, costs, and acres treated during the previous year.

(4) \$22,000 of the general fund—state appropriation is provided solely to implement Substitute House Bill No. 1437 (amateur radio repeater sites). If the bill is not enacted by June 30, 1995, the amount provided in this subsection shall lapse.

(5) \$49,000 of the air pollution control account appropriation is provided solely to implement Substitute House Bill No. 1287 (silvicultural burning). If the bill is not enacted by June 30, 1995, the amount provided in this subsection shall lapse.

(6) \$290,000 of the general fund—state appropriation, \$10,000 of the surface mining reclamation account appropriation, and \$29,000 of the air pollution control account appropriation are provided solely to implement Engrossed Substitute House Bill No. 1010 (regulatory reform). If this bill is not enacted by June 30, 1995, the amounts provided in this subsection shall lapse.

(7) By September 30, 1995, the agency shall report to the appropriate fiscal committees of the legislature on fire suppression costs incurred during the 1993-95 biennium. The report shall provide the following information: (a) An object breakdown of costs for the 1993-95 fire suppression subprogram; (b) the amount of reimbursement provided for personnel, services, and equipment outside the agency; (c) FTE levels and salary amounts by fund of positions backfilled as a result of the fires; (d) overtime costs paid to agency personnel; (e) equipment replacement costs, and (f) final allocation of costs for the Hatchery and Tyee fires between the United States forest service, local governments, and the state.

(8) By December 1, 1995, the department shall report to the house committee on natural resources and the senate committee on natural resources on measures taken to improve the health of the Loomis state forest.

(9) \$13,000 of the general fund—state appropriation is provided solely to pay a portion of the rent charged to nonprofit television reception improvement districts pursuant to chapter 294, Laws of 1994.

(10) \$1,200,000 of the general fund—state appropriation is provided solely for cooperative monitoring, evaluation, and research projects related to implementation of the timber-fish-wildlife agreement.

(11) Up to \$572,000 of the general fund—state appropriation may be expended for the natural heritage program.

(12) \$13,600,000 of which \$1,600,000 is from the watershed restoration account appropriation, \$1,300,000 is from the wildlife account appropriation, \$2,500,000 is from the resource management cost account appropriation, \$500,000 is from the forest development account appropriation, \$6,000,000 is from the water quality account appropriation, and \$1,700,000 is from the general fund—federal appropriation, is provided solely for the jobs in the environment program and/or the watershed restoration partnership program.

(a) These funds shall be used to:

(i) Restore and protect watersheds in accordance with priorities established to benefit fish stocks in critical or depressed condition as determined by the watershed coordinating council;

(ii) Conduct watershed restoration and protection projects primarily on state lands in coordination with federal, local, tribal, and private sector efforts; and

(iii) Create market wage jobs in environmental restoration for displaced natural resource impact area workers, as defined under Second Substitute Senate Bill No. 5342 (rural natural resource impact areas).

(b) Except as provided in subsection (c) of this section, these amounts are solely for projects jointly selected by the department of natural resources and the department of fish and wildlife. Funds may be expended for planning, design, and engineering for projects that restore and protect priority watersheds identified by the watershed coordinating council and conform to priorities for fish stock recovery developed through watershed analysis conducted by the department of natural resources and the department of fish and wildlife. Funds expended shall be used for specific projects and not for on-going operational costs. Eligible projects include, but are not limited to, closure or improvement of forest roads, repair of culverts, clean-up of stream beds, removal of fish barriers, installation of fish screens, fencing of streams, and construction and planting of fish cover.

(c) The department of natural resources and the department of fish and wildlife, in consultation with the watershed coordinating council, the office of financial management, and other appropriate agencies, shall report to the appropriate committees of the legislature on January 1, 1996, and annually thereafter, on any expenditures made from these amounts and a plan for future use of the moneys provided in this subsection. The plan shall include a prioritized list of watersheds and future watershed projects. The plan shall also consider future funding needs, the availability of federal funding, and the integration and coordination of existing watershed and protection programs.

(d) All projects shall be consistent with any development regulations or comprehensive plans adopted under the growth management act for the project areas. No funds shall be expended to acquire land through condemnation.

(e) Funds from the wildlife account appropriation shall be available only to the extent that the department of fish and wildlife sells surplus property.

(f) Funds from the resource management cost account appropriation shall only be used for projects on trust lands. Funds from the forest development account shall only be used for projects on county forest board lands.

(g) Projects under contract as of June 1, 1995 will be given first priority.

(13) \$3,662,000 of the forest development account appropriation is provided solely to prepare forest board lands for harvest. To the extent possible, the department shall use funds provided in this subsection to hire unemployed timber workers to perform silviculture activities, address forest health concerns, and repair damages on these lands.

(14) \$375,000 of the water quality account appropriation is provided solely for a grant to the department of ecology for continuing the Washington conservation corps program in fiscal year 1997.

(15) \$1,306,000 of the resource management cost account appropriation is provided solely for forest-health related management activities at the Loomis state forest.

(16) \$363,000 of the natural resources conservation areas stewardship account appropriation is provided solely for site-based management of state-owned natural area preserves and natural resource conservation areas.

Sec. 1206. 1996 c 283 s 306 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF AGRICULTURE**

General Fund—State Appropriation (FY 1996) . . . . .	\$	7,100,000
General Fund—State Appropriation (FY 1997) . . . . .	\$	<del>((7,157,000))</del>
		<u>7,372,000</u>
General Fund—Federal Appropriation . . . . .	\$	<del>((5,168,000))</del>
		<u>5,343,000</u>
General Fund—Private/Local Appropriation . . . . .	\$	406,000
Aquatic Lands Enhancement Account		
Appropriation . . . . .	\$	800,000
Industrial Insurance Premium Refund Account		
Appropriation . . . . .	\$	178,000
State Toxics Control Account Appropriation . . . . .	\$	1,088,000
TOTAL APPROPRIATION . . . . .	\$	<del>((21,897,000))</del>
		<u>22,287,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$300,000 of the general fund—state appropriation is provided solely for consumer protection activities of the department's weights and measures program.

Moneys provided in this subsection may not be used for device inspection of the weights and measures program.

(2) \$142,000 of the general fund—state appropriation is provided solely for the implementation of Engrossed Substitute House Bill No. 1010 (regulatory reform). If the bill is not enacted by June 30, 1995, the amount provided in this subsection shall lapse.

(3) \$100,000 of the general fund—state appropriation is provided solely for grasshopper and mormon cricket control.

(4) \$200,000 of the general fund—state appropriation is provided solely for the agricultural showcase.

(5) \$~~(724,000)~~ 939,000 of the general fund—state appropriation and \$~~(891,000)~~ 1,066,000 of the general fund—federal appropriation are provided solely to monitor and eradicate the Asian gypsy moth.

(6) \$71,000 of the general fund—state appropriation is provided solely to implement the Puget Sound water quality management plan.

**PART XIII  
TRANSPORTATION**

Sec. 1301. 1996 c 283 s 402 (uncodified) is amended to read as follows:

**FOR THE STATE PATROL**

General Fund—State Appropriation (FY 1996) . . . . .	\$	8,011,000
General Fund—State Appropriation (FY 1997) . . . . .	\$	<del>((11,232,000))</del>
		<u>12,321,000</u>
General Fund—Federal Appropriation . . . . .	\$	<del>((1,035,000))</del>
		<u>1,650,000</u>
General Fund—Private/Local Appropriation . . . . .	\$	<del>((254,000))</del>
		<u>271,000</u>
Public Safety and Education Account		
Appropriation . . . . .	\$	4,492,000
County Criminal Justice Assistance		
Appropriation . . . . .	\$	3,572,000
Municipal Criminal Justice Assistance Account		
Appropriation . . . . .	\$	1,430,000
Fire Services Trust Account Appropriation . . . . .	\$	90,000
Fire Services Training Account Appropriation . . . . .	\$	1,740,000
State Toxics Control Account Appropriation . . . . .	\$	425,000
Violence Reduction and Drug Enforcement		
Account Appropriation . . . . .	\$	2,133,000
	\$	<del>((34,414,000))</del>
		<u>36,135,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) Expenditures from the nonappropriated fingerprint identification account for the automation of pre-employment background checks for public and private

employers and background checks for firearms dealers and firearm purchasers are subject to office of financial management approval of a completed feasibility study.

(2) Expenditures from the county criminal justice assistance account appropriation and municipal criminal justice assistance account appropriation in this section shall be expended solely for enhancements to crime lab services.

(3) The Washington state patrol shall report to the department of information services and office of financial management by October 30, 1995, on the implementation and financing plan for the state-wide integrated narcotics system.

(4) \$300,000 of the violence reduction and drug enforcement account appropriation is provided solely for enhancements to the organized crime intelligence unit.

(5) \$813,000 of the general fund—state fiscal year 1996 appropriation and ~~\$(3,247,000))~~ 4,336,000 of the general fund—state fiscal year 1997 appropriation are provided solely for the implementation of Second Substitute Senate Bill No. 6272 (background checks for school employees). If the bill is not enacted by June 30, 1996, the amounts provided in this subsection shall lapse. Expenditures of the amounts specified in this subsection shall be expended at the following rate: As the state patrol initiates the fingerprint process on a school employee, sixty-six dollars shall be transferred from the amounts specified in this subsection into the fingerprint identification account. Upon completion of the background check, seven dollars of this amount shall be transferred by the state patrol to the superintendent of public instruction for final disposition of the records check.

**PART XIV  
EDUCATION**

**Sec. 1401.** 1996 c 283 s 501 (uncodified) is amended to read as follows:  
**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR STATE ADMINISTRATION**

General Fund—State Appropriation (FY 1996) . . . . \$	18,421,000
General Fund—State Appropriation (FY 1997) . . . . \$	<del>((37,689,000))</del>
	<u>40,014,000</u>
General Fund—Federal Appropriation . . . . . \$	39,791,000
Health Services Account Appropriation . . . . . \$	850,000
Public Safety and Education Account	
Appropriation . . . . . \$	3,138,000
Violence Reduction and Drug Enforcement Account	
Appropriation . . . . . \$	3,122,000
TOTAL APPROPRIATION . . . . . \$	<del>((103,011,000))</del>
	<u>105,336,000</u>

The appropriations in this section are subject to the following conditions and limitations:

**(1) AGENCY OPERATIONS**

(a) \$770,000 of the general fund—state appropriation is provided solely for the operation and expenses of the state board of education, including basic education assistance activities.

(b) \$659,000 of the general fund—state appropriation is provided solely for investigation activities of the office of professional practices.

(c) \$1,700,000 of the general fund—state appropriation is provided solely to reprogram computer applications for collecting and processing school fiscal, personnel, and student data and for calculating apportionment payments and to upgrade agency computer hardware. A maximum of \$600,000 of this amount shall be used for computer hardware.

By December 15, 1995, and before implementation of a new state-wide data system, the superintendent shall present a plan to the house of representatives and senate education and fiscal committees which identifies state data base uses that could involve potentially sensitive data on students and parents. The plan shall detail methods that the superintendent shall employ internally and recommend to school organizations to insure integrity and proper use of data in any student data base, with particular attention to eliminating unnecessary and intrusive data about nonschool related information.

(d) \$338,000 of the public safety and education account appropriation is provided solely for administration of the traffic safety education program, including in-service training related to instruction in the risks of driving while under the influence of alcohol and other drugs.

(e) The superintendent of public instruction shall develop standards and rules for disposal of surplus technology equipment accounting for proper depreciation and maximum benefit to the district from the disposal.

## (2) STATE-WIDE PROGRAMS

(a) \$2,174,000 of the general fund—state appropriation is provided for in-service training and educational programs conducted by the Pacific Science Center.

(b) \$63,000 of the general fund—state appropriation is provided for operation of the Cispus environmental learning center.

(c) \$2,654,000 of the general fund—state appropriation is provided for educational centers, including state support activities.

(d) \$3,093,000 of the general fund—state appropriation is provided for grants for magnet schools to be distributed as recommended by the superintendent of public instruction pursuant to chapter 232, section 516(13), Laws of 1992.

(e) \$4,370,000 of the general fund—state appropriation is provided for complex need grants. Grants shall be provided according to funding ratios established in LEAP Document 30C as developed on May 21, 1995, at 23:46 hours.

(f) \$3,050,000 of the drug enforcement and education account appropriation and \$2,800,000 of the public safety and education account appropriation are provided solely for matching grants to enhance security in schools. Not more than seventy-five percent of a district's total expenditures for school security in any

school year may be paid from a grant under this subsection. The grants shall be expended solely for the costs of employing or contracting for building security monitors in schools during school hours and school events. Of the amount provided in this subsection, at least \$2,850,000 shall be spent for grants to districts that, during the 1988-89 school year, employed or contracted for security monitors in schools during school hours. However, these grants may be used only for increases in school district expenditures for school security over expenditure levels for the 1988-89 school year.

(g) Districts receiving allocations from subsections (2) (d) and (e) of this section shall submit an annual report to the superintendent of public instruction on the use of all district resources to address the educational needs of at-risk students in each school building. The superintendent of public instruction shall make copies of the reports available to the office of financial management and the legislature.

(h) \$500,000 of the general fund—federal appropriation is provided for plan development and coordination as required by the federal goals 2000: Educate America Act. The superintendent shall collaborate with the commission on student learning for the plan development and coordination and submit quarterly reports on the plan development to the education committees of the legislature.

(i) \$850,000 of the health services account appropriation is provided solely for media productions by students to focus on issues and consequences of teenage pregnancy and child rearing. The projects shall be consistent with the provisions of Engrossed Second Substitute House Bill No. 2798 as passed by the 1994 legislature, including a local/private or public sector match equal to fifty percent of the state grant; and shall be awarded to schools or consortia not granted funds in 1993-94. \$450,000 of this amount is for costs of new projects not funded in the 1995-96 school year.

(j) \$7,000 of the general fund—state appropriation is provided to the state board of education to establish teacher competencies in the instruction of braille to legally blind and visually impaired students.

(k) \$50,000 of the general fund—state appropriation is provided solely for matching grants to school districts for analysis of budgets for classroom-related activities as specified in chapter 230, Laws of 1995.

(l) \$3,050,000 of the general fund—state appropriation is provided solely to implement Engrossed Second Substitute Senate Bill No. 5439 (nonoffender at-risk youth). Of that amount, \$50,000 is provided for a contract in fiscal year 1996 to the Washington state institute for public policy to conduct an evaluation and review as outlined in section 81 of Engrossed Second Substitute Senate Bill No. 5439. Allocation of the remaining amount shall be based on the number of petitions filed in each district.

(m) \$300,000 of the general fund—state appropriation is provided for alcohol and drug prevention programs pursuant to RCW 66.08.180.

(n) \$1,500,000 of the general fund—state appropriation is provided for implementation of Engrossed Second Substitute House Bill No. 2909 (reading

literacy). Of this amount: (i) \$100,000 is for the center for the improvement of student learning's activities related to identifying effective reading programs, providing information on effective reading programs, and developing training programs for educators on effective reading instruction and assessment; (ii) \$500,000 is for grants as specified in section 2 of the bill to provide incentives for the use of the effective reading programs; and (iii) \$900,000 is for reading instruction and reading assessment training programs for educators as specified in section 3 of the bill.

(o) \$5,000,000 of the general fund—state appropriation is provided to update high-technology vocational education equipment in the 1996-97 school year. Of this amount, \$303,000 shall be allocated to skill centers. The superintendent shall allocate the remaining funds at a maximum rate of \$91.46 per full-time equivalent vocational education student excluding skill center students. The funds shall be allocated prior to June 30, 1997.

(p) \$10,000,000 of the general fund—state appropriation is provided solely for technology grants to school districts and for per diem and travel costs of the technology education committee for school years 1995-96 and 1996-97. A district is eligible for a grant if it either has ongoing programs emphasizing specific approaches to learning assisted by technology or it is identified by the center for the improvement of student learning based on best practices; and

(i) The district is part of a consortium, of at least two school districts, formed to pool resources to maximize technology related acquisitions, to start up new programs or new staff development, and to share advantages of the consortium with other districts;

(ii) The district will match state funds, on an equal value basis, with a combination of:

(A) Contributions through partnerships with technology companies, educational service districts, institutions of higher education, community and technical colleges, or any other organization with expertise in applications of technology to learning which are willing to assist school districts in applying technology to the learning process through in-kind assistance; and

(B) School district funds; and

(iii) The district has plans and means for evaluating the improvement in student learning resulting from the technology-based strategies of the district.

To the extent that funds are available, school districts that meet the criteria of this subsection shall be provided grants under this subsection in the order they are prioritized by the technology education committee and for no more than \$600 per student in the proposed program.

The superintendent of public instruction shall appoint a technology education committee to develop an application and review process for awarding the technology grants established in this subsection. The committee shall be appointed by the superintendent and shall consist of five representatives from technology companies, five technology coordinators representing educational service districts,

and five school district representatives. Committee members shall serve without additional compensation but shall be eligible for per diem and mileage allowances pursuant to RCW 43.03.050 and 43.03.060. The superintendent shall award the first round of technology grants based on the recommendation of the technology education committee by July 1, 1996. No more than fifty percent of funds provided in this appropriation shall be allocated in the first round of awards.

(q) \$2,000,000 of the general fund—state appropriation is provided for start-up grants to establish alternative programs for students who have been truant, suspended, or expelled or are subject to other disciplinary actions in accordance with section 10 of Substitute House Bill No. 2640 (changing truancy provisions).

(r) \$50,000 of the general fund—state appropriation is provided solely for allocation to the primary coordinators of the state geographic alliance for the purpose of improving the teaching of geography in the common school system.

(s) \$100,000 of the general fund—state appropriation is provided solely for a contract for a feasibility analysis and implementation plan to provide the resources of a skill center for students in the area served by the north central educational service district.

(t) \$1,000,000 of the general fund—state appropriation is provided for conflict resolution and anger management training.

(u) \$2,325,000 of the general fund—state appropriation is provided solely for allocation to the north central Washington skills center for payment of long-term leases, remodeling, equipment, supplies, and materials.

Sec. 1402. 1996 c 283 s 502 (uncodified) is amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR GENERAL APPORTIONMENT (BASIC EDUCATION)**

General Fund Appropriation (FY 1996) . . . . .	\$	3,166,013,000
General Fund Appropriation (FY 1997) . . . . .	\$	<del>((3,261,992,000))</del>
		<u>3,253,778,000</u>
TOTAL APPROPRIATION . . . . .	\$	<del>((6,428,005,000))</del>
		<u>6,419,791,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) The appropriation includes such funds as are necessary for the remaining months of the 1994-95 school year.

(2) Allocations for certificated staff salaries for the 1995-96 and 1996-97 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; and

(iii) An additional 5.3 certificated instructional staff units for grades K-3. Any funds allocated for these additional certificated units shall not be considered as basic education funding;

(A) Funds provided under this subsection (2)(a)(iii) in excess of the amount required to maintain the statutory minimum ratio established under RCW 28A.150.260(2)(b) shall be allocated only if the district documents an actual ratio equal to or greater than 54.3 certificated instructional staff per thousand full-time equivalent students in grades K-3. For any school district documenting a lower certificated instructional staff ratio, the allocation shall be based on the district's actual grades K-3 certificated instructional staff ratio achieved in that school year, or the statutory minimum ratio established under RCW 28A.150.260(2)(b), if greater;

(B) Districts at or above 51.0 certificated instructional staff per one thousand full-time equivalent students in grades K-3 may dedicate up to 1.3 of the 54.3 funding ratio to employ additional classified instructional assistants assigned to basic education classrooms in grades K-3. For purposes of documenting a district's staff ratio under this section, funds used by the district to employ additional classified instructional assistants shall be converted to a certificated staff equivalent and added to the district's actual certificated instructional staff ratio. Additional classified instructional assistants, for the purposes of this subsection, shall be determined using the 1989-90 school year as the base year;

(C) Any district maintaining a ratio equal to or greater than 54.3 certificated instructional staff per thousand full-time equivalent students in grades K-3 may use allocations generated under this subsection (2)(a)(iii) in excess of that required to maintain the minimum ratio established under RCW 28A.150.260(2)(b) to employ additional basic education certificated instructional staff or classified instructional assistants in grades 4-6. Funds allocated under this subsection (2)(a)(iii) shall only be expended to reduce class size in grades K-6. No more than 1.3 of the certificated instructional funding ratio amount may be expended for provision of classified instructional assistants; and

(iv) Forty-six certificated instructional staff units per thousand full-time equivalent students in grades 4-12; and

(b) For school districts with a minimum enrollment of 250 full-time equivalent students whose full-time equivalent student enrollment count in a given month exceeds the first of the month full-time equivalent enrollment count by 5 percent, an additional state allocation of 110 percent of the share that such increased

enrollment would have generated had such additional full-time equivalent students been included in the normal enrollment count for that particular month;

(c) On the basis of full-time equivalent enrollment in:

(i) Vocational education programs approved by the superintendent of public instruction, 0.92 certificated instructional staff units and 0.08 certificated administrative staff units for each 18.3 full-time equivalent vocational students;

(ii) Skills center programs approved 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; and

(iii) Indirect cost charges to vocational-secondary programs shall not exceed 10 percent;

(d) For districts enrolling not more than twenty-five average annual full-time equivalent students in grades K-8, and for small school plants within any school district which have been judged to be remote and necessary by the state board of education and enroll not more than twenty-five average annual full-time equivalent students in grades K-8:

(i) For those enrolling no students in grades seven and eight, 1.76 certificated instructional staff units and 0.24 certificated administrative staff units for enrollment of not more than five students, plus one-twentieth of a certificated instructional staff unit for each additional student enrolled; and

(ii) For those enrolling students in grades 7 or 8, 1.68 certificated instructional staff units and 0.32 certificated administrative staff units for enrollment of not more than five students, plus one-tenth of a certificated instructional staff unit for each additional student enrolled;

(e) For specified enrollments in districts enrolling more than twenty-five but not more than one hundred average annual full-time equivalent students in grades K-8, and for small school plants within any school district which enroll more than twenty-five average annual full-time equivalent students in grades K-8 and have been judged to be remote and necessary by the state board of education:

(i) For enrollment of up to sixty annual average full-time equivalent students in grades K-6, 2.76 certificated instructional staff units and 0.24 certificated administrative staff units; and

(ii) For enrollment of up to twenty annual average full-time equivalent students in grades 7 and 8, 0.92 certificated instructional staff units and 0.08 certificated administrative staff units;

(f) For districts operating no more than two high schools with enrollments of less than three hundred average annual full-time equivalent students, for enrollment in grades 9-12 in each such school, other than alternative schools:

(i) For remote and necessary schools enrolling students in any grades 9-12 but no more than twenty-five average annual full-time equivalent students in grades K-12, four and one-half certificated instructional staff units and one-quarter of a certificated administrative staff unit;

(ii) For all other small high schools under this subsection, nine certificated instructional staff units and one-half of a certificated administrative staff unit for the first sixty average annual full time equivalent students, and additional staff units based on a ratio of 0.8732 certificated instructional staff units and 0.1268 certificated administrative staff units per each additional forty-three and one-half average annual full time equivalent students.

Units calculated under (f)(ii) of this subsection shall be reduced by certificated staff units at the rate of forty-six certificated instructional staff units and four certificated administrative staff units per thousand vocational full-time equivalent students.

(g) For each nonhigh school district having an enrollment of more than seventy annual average full-time equivalent students and less than one hundred eighty students, operating a grades K-8 program or a grades 1-8 program, an additional one-half of a certificated instructional staff unit;

(h) For each nonhigh school district having an enrollment of more than fifty annual average full-time equivalent students and less than one hundred eighty students, operating a grades K-6 program or a grades 1-6 program, an additional one-half of a certificated instructional staff unit.

(3) Allocations for classified salaries for the 1995-96 and 1996-97 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;

(h) 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 20.71 percent in the 1995-96 school year and 20.71 percent in the 1996-97 school year of certificated salary allocations provided under subsection (2) of this section, and a rate of 18.77 percent in the 1995-96 school year and 18.77 percent in the 1996-97 school year of classified salary allocations provided under subsection (3) of this section.

(5) Insurance benefit allocations shall be calculated at the rates specified in section 504(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 \$7,656 per certificated staff unit in the 1995-96 school year and a maximum of \$7,786 per certificated staff unit in the 1996-97 school year.

(b) For nonemployee-related costs associated with each vocational certificated staff unit allocated under subsection (2)(c) of this section, there shall be provided a maximum of \$14,587 per certificated staff unit in the 1995-96 school year and a maximum of \$14,835 per certificated staff unit in the 1996-97 school year.

(7) Allocations for substitute costs for classroom teachers shall be distributed at a maximum rate of \$341 for the 1995-96 school year and \$341 per year for the 1996-97 school year per allocated classroom teacher excluding salary adjustments made 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 state-wide for the 1994-95 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 \$5,820,000 outside the basic education formula during fiscal years 1996 and 1997 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 \$431,000 may be expended in fiscal year 1996 and a maximum of \$444,000 may be expended in fiscal year 1997;

(b) For summer vocational programs at skills centers, a maximum of \$1,938,000 may be expended in fiscal year 1996 and a maximum of \$1,948,000 may be expended in fiscal year 1997;

(c) A maximum of \$309,000 may be expended for school district emergencies; and

(d) A maximum of \$250,000 may be expended for fiscal year 1996 and a maximum of \$500,000 may be expended for fiscal year 1997 for programs providing skills training for secondary students who are at risk of academic failure

or who have dropped out of school and are enrolled in the 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 the purposes of RCW 84.52.0531, the increase per full-time equivalent student in state basic education appropriations provided under this act, including appropriations for salary and benefits increases, is 2.2 percent from the 1994-95 school year to the 1995-96 school year, and 1.3 percent from the 1995-96 school year to the 1996-97 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.

Sec. 1403. 1996 c 283 s 504 (uncodified) is amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR SCHOOL EMPLOYEE COMPENSATION ADJUSTMENTS**

General Fund Appropriation (FY 1996) . . . . .	\$	96,201,000
General Fund Appropriation (FY 1997) . . . . .	\$	<del>((122,763,000))</del>
		<u>122,394,000</u>
<b>TOTAL APPROPRIATION . . . . .</b>	<b>\$</b>	<b><del>((218,964,000))</del></b>
		<u>218,595,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$217,835,000 is provided for cost of living adjustments of 4.0 percent effective September 1, 1995, for state-formula staff units. The appropriation includes associated incremental fringe benefit allocations for both years at rates 20.07 percent for certificated staff and 15.27 percent for classified staff.

(a) The appropriation in this section includes the increased portion of salaries and incremental fringe benefits for all relevant state funded school programs in PART V of this act. Salary adjustments for state employees in the office of superintendent of public instruction and the education reform program are provided in the Special Appropriations sections of this act. Increases for general apportionment (basic education) are based on the salary allocation schedules and methodology in section 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 section 503 of this act.

(b) The appropriation in this section provides salary increase and incremental fringe benefit allocations for the following programs based on formula adjustments as follows:

(i) For pupil transportation, an increase of \$0.77 per weighted pupil-mile for the 1995-96 school year and maintained for the 1996-97 school year;

(ii) For learning assistance, an increase of \$11.24 per eligible student for the 1995-96 school year and maintained for the 1996-97 school year;

(iii) For education of highly capable students, an increase of \$8.76 per formula student for the 1995-96 school year and maintained for the 1996-97 school year; and

(iv) For transitional bilingual education, an increase of \$22.77 per eligible bilingual student for the 1995-96 school year and maintained for the 1996-97 school year.

(2) The maintenance rate for insurance benefits shall be \$313.95 for the 1995-96 school year and \$314.51 for the 1996-97 school year. Funding for insurance benefits is included within appropriations made in other sections of Part V of this act.

(3) Effective September 1, 1995, a maximum of \$1,129,000 is provided for a 4 percent increase in the state allocation for substitute teachers in the general apportionment programs.

(4) The rates specified in this section are subject to revision each year by the legislature.

**Sec. 1404. 1996 c 283 s 505 (uncodified) is amended to read as follows:  
FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR PUPIL  
TRANSPORTATION**

General Fund Appropriation (FY 1996) . . . . .	\$	154,391,000
General Fund Appropriation (FY 1997) . . . . .	\$	((174,362,000))
		<u>172,633,000</u>
TOTAL APPROPRIATION . . . . .	\$	((328,753,000))
		<u>327,024,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) The appropriation includes such funds as are necessary for the remaining months of the 1994-95 school year.

(2) A maximum of \$1,347,000 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. The 1994 travel time to contiguous school district study shall be continued and a report submitted to the fiscal committees of the legislature by December 1, 1995.

(3) A maximum of \$40,000 is provided to complete the computerized state map project containing school bus routing information. This information and available data on school buildings shall be consolidated. Data formats shall be compatible with the geographic information system (GIS) and included insofar as possible in the GIS system.

(4) \$180,000 is provided solely for the transportation of students enrolled in "choice" programs. Transportation shall be limited to low-income students who are transferring to "choice" programs solely for educational reasons.

(5) Beginning with the 1995-96 school year, the superintendent of public instruction shall implement a state bid process for the purchase of school buses pursuant to Grossed Substitute Senate Bill No. 5408.

(6) Of this appropriation, a maximum of \$8,963,000 may be allocated in the 1995-96 school year for hazardous walking conditions. The superintendent shall ensure that the conditions specified in RCW 28A.160.160(4) for state funding of hazardous walking conditions for any district are fully and strictly adhered to, and that no funds are allocated in any instance in which a district is not actively and to the greatest extent possible engaged in efforts to mitigate hazardous walking conditions.

(7) For the 1996-97 school year, a maximum of \$13,546,000 may be allocated for transportation services in accordance with Senate Bill No. 6684 (student safety to and from school). A district's allocation shall be based on the number of enrolled students in grades kindergarten through five living within one radius mile from their assigned school multiplied by 1.29. "Enrolled students in grades kindergarten through five" for purposes of this section means the number of kindergarten through five students, living within one radius mile, who are enrolled during the week that each district's bus ridership count is taken.

(8) The minimum load factor in the operations formula shall be calculated based on all students transported to and from school.

(9) For the 1996-97 school year, the superintendent of public instruction shall revise the expected bus lifetimes used for determining bus reimbursement and depreciation payments in the following manner:

- (a) The twenty-year bus category shall be reduced to eighteen years; and
- (b) The fifteen-year bus category shall be reduced to thirteen years.

Sec. 1405. 1996 c 283 s 506 (uncodified) is amended to read as follows:

**SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR SPECIAL EDUCATION PROGRAMS**

General Fund—State Appropriation (FY 1996) . . . .	\$	379,771,000
General Fund—State Appropriation (FY 1997) . . . .	\$	<del>((368,149,000))</del>
		<u>355,111,000</u>
General Fund—Federal Appropriation . . . . .	\$	98,684,000
TOTAL APPROPRIATION . . . . .	\$	<del>((846,604,000))</del>
		<u>833,566,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) The general fund—state appropriation includes such funds as are necessary for the remaining months of the 1994-95 school year.

(2) In recognition of the need for increased flexibility at the local district level to facilitate the provision of appropriate education to children in need of special education, and the need for substantive educational reform for a significant portion of the school population, the funding formula for special education is modified. These changes result from a 1994 study and recommendations by the institute for public policy and the legislative budget committee, aided by the office of the superintendent of public instruction and the state-wide task force for the development of special education funding alternatives. The new formula is for allocation purposes only and is not intended to prescribe or imply any particular pattern of special education service delivery other than that contained in a properly formulated, locally determined, individualized education program.

(3) The superintendent of public instruction shall distribute state funds to school districts based on two categories, the mandatory special education program for special education students ages three to twenty-one and the optional birth through age two program for developmentally delayed infants and toddlers. The superintendent shall review current state eligibility criteria for the fourteen special education categories and consider changes which would reduce assessment time and administrative costs associated with the special education program.

(4) For the 1995-96 and 1996-97 school years, the superintendent shall distribute state funds to each district based on the sum of:

(a) A district's annual average headcount enrollment of developmentally delayed infants and toddlers ages birth through two, times the district's average basic education allocation per full-time equivalent student, times 1.15; and

(b) A district's annual average full-time equivalent basic education enrollment times the enrollment percent, times the district's average basic education allocation per full-time equivalent student times 0.9309.

(5) The definitions in this subsection apply throughout this section.

(a) "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 (i.e., 49/1000 certificated instructional staff in grades K-3, and 46/1000 in grades 4-12), and shall not include enhancements for K-3, secondary vocational education, or small schools.

(b) "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).

(c) "Enrollment percent" shall mean the district's resident special education annual average enrollment including those students counted under the special

education demonstration projects, excluding the birth through age two enrollment, as a percent of the district's annual average full-time equivalent basic education enrollment. For the 1995-96 and the 1996-97 school years, each district's enrollment percent shall be:

(i) For districts whose enrollment percent for 1994-95 was at or below 12.7 percent, the lesser of the district's actual enrollment percent for the school year for which the allocation is being determined or 12.7 percent.

(ii) For districts whose enrollment percent for 1994-95 was above 12.7 percent, the lesser of:

(A) The district's actual enrollment percent for the school year for which the special education allocation is being determined; or

(B) The district's actual enrollment percent for the school year immediately prior to the school year for which the special education allocation is being determined if not less than 12.7 percent; or

(C) For 1995-96, the 1994-95 enrollment percent reduced by 25 percent of the difference between the district's 1994-95 enrollment percent and 12.7. For 1996-97, the 1994-95 enrollment percent reduced by 50 percent of the difference between the district's 1994-95 enrollment percent and 12.7.

(6) 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 12.7, and shall be calculated in the aggregate rather than individual district units. For purposes of subsection (5) of this section, the average basic education allocation per full-time equivalent student shall be calculated in the aggregate rather than individual district units.

(7) A minimum of \$4.5 million of the general fund—federal appropriation shall be expended for safety net funding to meet the extraordinary needs of individual special education students.

(8) From the general fund—state appropriation, \$14,600,000 is provided for the 1995-96 school year, and (~~(\$15,850,000)~~) a maximum of \$12,000,000 for the 1996-97 school year, for safety net purposes for districts with demonstrable funding needs for special education beyond the combined amounts provided in subsection (4) of this section. The superintendent of public instruction shall, by rule, establish procedures and standards for allocation of safety net funds. In the 1995-96 school year, school districts shall submit their requests for safety net funds to the appropriate regional committee established by the superintendent of public instruction. Regional committees shall make recommendations to the state oversight committee for approval. For the 1996-97 school year, requests for safety net funds under this subsection shall be submitted to the state oversight committee. The following conditions and limitations shall be applicable to school districts requesting safety net funds:

(a) For a school district requesting state safety net funds due to special characteristics of the district and costs of providing services which differ

significantly from the assumptions contained in the funding formula, the procedures and standards shall permit relief only if a district can demonstrate at a minimum that:

(i) Individualized education plans are appropriate and are properly and efficiently prepared and formulated;

(ii) The district is making a reasonable effort to provide appropriate program services for special education students utilizing state funds generated by the apportionment and special education funding formulas;

(iii) The district's programs are operated in a reasonably efficient manner and that the district has adopted a plan of action to contain or eliminate any unnecessary, duplicative, or inefficient practices;

(iv) Indirect costs charged to this program do not exceed the allowable percent for the federal special education program;

(v) Any available federal funds are insufficient to address the additional needs; and

(vi) The costs of any supplemental contracts are not charged to this program for purposes of making these determinations.

(b) For districts requesting safety net funds due to federal maintenance of effort requirements, as a result of changes in the state special education formula, the procedures and standards shall permit relief only if a district can demonstrate at a minimum that:

(i) Individualized education plans are appropriate and are properly and efficiently prepared and formulated; and

(ii) The district is making a reasonable effort to provide appropriate program services for special education students utilizing state funds generated by the apportionment and special education funding formulas.

(c) For districts requesting safety net funds due to federal maintenance of effort requirements as a result in changes in the state special education formula, amounts provided for this purpose shall be calculated by the superintendent of public instruction and adjusted periodically based on the most current information available to the superintendent. The amount provided shall not exceed the lesser of:

(i) The district's 1994-95 state excess cost allocation for resident special education students minus the relevant school year's state special education formula allocation;

(ii) The district's 1994-95 state excess cost allocation per resident special education student times the number of formula funded special education students for the relevant school year minus the relevant school year's special education formula allocation;

(iii) The amount requested by the district; or

(iv) The amount awarded by the state oversight committee.

(9)(a) For purposes of making safety net determinations pursuant to subsection (8) of this section, the superintendent shall make available to each school district, from available data, prior to June 1st of each year:

(i) The district's 1994-95 enrollment percent;

(ii) For districts with a 1994-95 enrollment percent over 12.7 percent, the maximum 1995-96 enrollment percent, and prior to 1996-97 the maximum 1996-97 enrollment percent;

(iii) The estimate to be used for purposes of subsection (8) of this section of each district's 1994-95 special education allocation showing the excess cost and the basic education portions; and

(iv) If necessary, a process for each district to estimate the 1995-96 school year excess cost allocation for special education and the portion of the basic education allocation formerly included in the special education allocation. This process may utilize the allocations generated pursuant to subsection (4) of this section, each district's 1994-95 estimated basic education backout percent for the 1994-95 school year, and state compensation increases for 1995-96.

(b) The superintendent, in consultation with the state auditor, shall take all necessary steps to successfully transition to the new formula and minimize paperwork at the district level associated with federal maintenance of effort calculations. The superintendent shall develop such rules and procedures as are necessary to implement this process for the 1995-96 school year, and may use the same process.

(10) Prior to adopting any standards, procedures, or processes required to implement this section, the superintendent shall consult with the office of financial management and the fiscal committees of the legislature.

(11) Membership of the regional committees, in the 1995-96 school year, may include, but not be limited to:

(a) A representative of the superintendent of public instruction;

(b) One or more representatives from school districts including board members, superintendents, special education directors, and business managers; and

(c) One or more staff from an educational service district.

(12) The state oversight committee appointed by the superintendent of public instruction shall consist of:

(a) Staff of the office of superintendent of public instruction;

(b) Staff of the office of the state auditor;

(c) Staff from the office of the financial management; and

(d) One or more representatives from school districts or educational service districts knowledgeable of special education programs and funding.

(13) The institute for public policy, in cooperation with the superintendent of public instruction, the office of financial management, and the fiscal committees of the legislature, shall evaluate the operation of the safety nets under subsections (7) and (8) of this section and shall prepare an interim report by December 15, 1995, and a final report on the first school year of operation by October 15, 1996.

(14) A maximum of \$678,000 may be expended from the general fund—state appropriation to fund 5.43 full-time equivalent teachers and 2.1 full-time equivalent aides at Children's orthopedic hospital and medical center. This amount is in lieu of money provided through the home and hospital allocation and the special education program.

(15) \$1,000,000 of the general fund—federal appropriation is provided solely 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.

(16) Not more than \$80,000 of the general fund—federal appropriation shall be expended for development of an inservice training program to identify students with dyslexia who may be in need of special education.

(17) A maximum of \$933,600 of the general fund—state appropriation in fiscal year 1996 and a maximum of \$933,600 of the general fund—state appropriation for fiscal year 1997 may be expended for state special education coordinators housed at each of the educational service districts. Employment and functions of the special education coordinators shall be determined in consultation with the superintendent of public instruction.

Sec. 1406. 1996 c 283 s 507 (uncodified) is amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR TRAFFIC SAFETY EDUCATION PROGRAMS**

Public Safety and Education Account

Appropriation .....	\$	<del>((16,928,000))</del>
		<u>16,824,000</u>

The appropriation in this section is subject to the following conditions and limitations:

(1) The appropriation includes such funds as are necessary for the remaining months of the 1994-95 school year.

(2) A maximum of \$507,000 shall be expended for regional traffic safety education coordinators.

(3) The maximum basic state allocation per student completing the program shall be \$137.16 in the 1995-96 and 1996-97 school years.

(4) Additional allocations to provide tuition assistance for students from low-income families who complete the program shall be a maximum of \$66.81 per eligible student in the 1995-96 and 1996-97 school years.

Sec. 1407. 1996 c 283 s 509 (uncodified) is amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR LOCAL EFFORT ASSISTANCE**

General Fund Appropriation (FY 1996) .....	\$	76,871,000
General Fund Appropriation (FY 1997) .....	\$	<del>((82,806,000))</del>
		<u>82,831,000</u>

TOTAL APPROPRIATION . . . . . \$ ((159,677,000))  
159,702,000

**Sec. 1408.** 1996 c 283 s 511 (uncodified) is amended to read as follows:  
**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR INSTITUTIONAL EDUCATION PROGRAMS**

General Fund—State Appropriation (FY 1996) . . . . \$ 15,798,000  
 General Fund—State Appropriation (FY 1997) . . . . \$ ((17,928,000))  
16,235,000  
 General Fund—Federal Appropriation . . . . . \$ 8,548,000  
 TOTAL APPROPRIATION . . . . . \$ ((42,274,000))  
40,581,000

The appropriations in this section are subject to the following conditions and limitations:

- (1) The general fund—state appropriation includes such funds as are necessary for the remaining months of the 1994-95 school year.
- (2) State funding provided under this section is based on salaries and other expenditures for a 220-day school year. The superintendent of public instruction shall monitor school district expenditure plans for institutional education programs to ensure that districts plan for a full-time summer program.
- (3) 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 and other state funding assumptions shall be those specified in the legislative budget notes.

**Sec. 1409.** 1996 c 283 s 512 (uncodified) is amended to read as follows:  
**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR PROGRAMS FOR HIGHLY CAPABLE STUDENTS**

General Fund Appropriation (FY 1996) . . . . . \$ 4,200,000  
 General Fund Appropriation (FY 1997) . . . . . \$ ((4,254,000))  
4,217,000  
 TOTAL APPROPRIATION . . . . . \$ ((8,454,000))  
8,417,000

The appropriation in this section is subject to the following conditions and limitations:

- (1) The appropriation includes such funds as are necessary for the remaining months of the 1994-95 school year.
- (2) Allocations for school district programs for highly capable students shall be distributed for up to one and one-half percent of each district's full-time equivalent basic education act enrollment.
- (3) \$436,000 of the appropriation is for the Centrum program at Fort Worden state park.

**Sec. 1410.** 1996 c 283 s 514 (uncodified) is amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR TRANSITIONAL BILINGUAL PROGRAMS**

General Fund Appropriation (FY 1996) . . . . .	\$	26,378,000
General Fund Appropriation (FY 1997) . . . . .	\$	<del>((28,432,000))</del>
		<u>28,221,000</u>
TOTAL APPROPRIATION . . . . .	\$	<del>((54,810,000))</del>
		<u>54,599,000</u>

The appropriation in this section is subject to the following conditions and limitations:

(1) The appropriation provides such funds as are necessary for the remaining months of the 1994-95 school year.

(2) The superintendent shall distribute a maximum of \$623.21 per eligible bilingual student in the 1995-96 school year and \$623.31 in the 1996-97 school year.

Sec. 1411. 1996 c 283 s 515 (uncodified) is amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR THE LEARNING ASSISTANCE PROGRAM**

General Fund Appropriation (FY 1996) . . . . .	\$	56,417,000
General Fund Appropriation (FY 1997) . . . . .	\$	<del>((58,210,000))</del>
		<u>57,451,000</u>
TOTAL APPROPRIATION . . . . .	\$	<del>((114,627,000))</del>
		<u>113,868,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) The appropriation provides such funds as are necessary for the remaining months of the 1994-95 school year.

(2) For making the calculation of the percentage of students scoring in the lowest quartile as compared with national norms, beginning with the 1991-92 school year, the superintendent shall multiply each school district's 4th and 8th grade test results by 0.86.

(3) Funding for school district learning assistance programs shall be allocated at a maximum rate of \$366.74 per unit for the 1995-96 school year and a maximum of \$366.81 per unit in the 1996-97 school year. School districts may carryover up to 10 percent of funds allocated under this program; however, carryover funds shall be expended for the learning assistance program.

(a) A school district's units for the 1995-96 school year shall be the sum of the following:

(i) The 1995-96 full-time equivalent enrollment in kindergarten through 6th grade, times the 5-year average 4th grade test result as adjusted pursuant to subsection (2) of this section, times 0.96; and

(ii) The 1995-96 full-time equivalent enrollment in grades 7 through 9, times the 5-year average 8th grade test result as adjusted pursuant to subsection (2) of this section, times 0.96; and

(iii) If the district's percentage of October 1994 headcount enrollment in grades K-12 eligible for free and reduced price lunch exceeds 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 1995-96 K-12 annual average full-time equivalent enrollment times 11.68 percent.

(b) A school district's units for the 1996-97 school year shall be the sum of the following:

(i) The 1996-97 full-time equivalent enrollment in kindergarten through 6th grade, times the 5-year average 4th grade test result as adjusted pursuant to subsection (2) of this section, times 0.92; and

(ii) The 1996-97 full-time equivalent enrollment in grades 7 through 9, times the 5-year average 8th grade test result as adjusted pursuant to subsection (2) of this section, times 0.92; and

(iii) If the district's percentage of October 1995 headcount enrollment in grades K-12 eligible for free and reduced price lunch exceeds 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 1996-97 K-12 annual average full-time equivalent enrollment times 22.30 percent.

**Sec. 1412.** 1996 c 283 s 516 (uncodified) is amended to read as follows:  
**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—LOCAL ENHANCEMENT FUNDS**

General Fund Appropriation (FY 1996) . . . . .	\$	56,846,000
General Fund Appropriation (FY 1997) . . . . .	\$	((58,123,000))
		<u>58,076,000</u>
TOTAL APPROPRIATION . . . . .	\$	((114,969,000))
		<u>114,922,000</u>

The appropriation in this section is subject to the following conditions and limitations:

(1) The appropriation provides such funds as are necessary for the remaining months of the 1994-95 school year.

(2) School districts receiving moneys pursuant to this section shall expend at least fifty-eight percent of such moneys in school buildings for building based planning, staff development, and other activities to improve student learning, consistent with the student learning goals in RCW 28A.150.210 and RCW 28A.630.885. Districts receiving the moneys shall have a policy regarding the involvement of school staff, parents, and community members in instructional decisions. Each school using the moneys shall, by the end of the 1995-96 school year, develop and keep on file a building plan to attain the student learning goals and essential academic learning requirements and to implement the assessment system as it is developed. The remaining forty-two percent of such moneys may be used to meet other educational needs as identified by the school district. Program enhancements funded pursuant to this section do not fall within the definition of basic education for purposes of Article IX of the state Constitution

and the state's funding duty thereunder, nor shall such funding constitute levy reduction funds for purposes of RCW 84.52.0531.

(3) Forty-two percent of the allocations to school districts shall be calculated on the basis of full-time enrollment at an annual rate per student of up to \$26.30 for the 1995-96 and 1996-97 school years. For school districts enrolling not more than one hundred average annual full-time equivalent students, and for small school plants within any school district designated as remote and necessary schools, the allocations shall be as follows:

(a) Enrollment of not more than 60 average annual full-time equivalent students in grades kindergarten through six shall generate funding based on sixty full-time equivalent students;

(b) Enrollment of not more than 20 average annual full-time equivalent students in grades seven and eight shall generate funding based on twenty full-time equivalent students; and

(c) Enrollment of not more than 60 average annual full-time equivalent students in grades nine through twelve shall generate funding based on sixty full-time equivalent students.

(4) Fifty-eight percent of the allocations to school districts shall be calculated on the basis of full-time enrollment at an annual rate per student of up to \$36.69 for the 1995-96 and 1996-97 fiscal years. The state schools for the deaf and the blind may qualify for allocations of funds under this subsection. For school districts enrolling not more than one hundred average annual full-time equivalent students, and for small school plants within any school district designated as remote and necessary schools, the allocations shall be as follows:

(a) Enrollment of not more than 60 average annual full-time equivalent students in grades kindergarten through six shall generate funding based on sixty full-time equivalent students;

(b) Enrollment of not more than 20 average annual full-time equivalent students in grades seven and eight shall generate funding based on twenty full-time equivalent students; and

(c) Enrollment of not more than 60 average annual full-time equivalent students in grades nine through twelve shall generate funding based on sixty full-time equivalent students.

(5) Beginning with the 1995-96 school year, to provide parents, the local community, and the legislature with information on the student learning improvement block grants, schools receiving funds for such purpose shall include, in the annual performance report required in RCW 28A.320.205, information on how the student learning improvement block grant moneys were spent and what results were achieved. Each school district shall submit the reports to the superintendent of public instruction and the superintendent shall provide the legislature with an annual report.

(6) Receipt by a school district of one-fourth of the district's allocation of funds under this section, shall be conditioned on a finding by the superintendent that the district is enrolled as a medicaid service provider and is actively pursuing

federal matching funds for medical services provided through special education programs, pursuant to RCW 74.09.5241 through 74.09.5256 (Title XIX funding).

**NEW SECTION. Sec. 1413.** A new section is added to 1995 2nd sp.s. c 18 (uncodified) to read as follows:

**FOR THE STATE BOARD OF EDUCATION—COMMON SCHOOL CONSTRUCTION**

General Fund Appropriation to the Common

School Construction Fund . . . . . \$ 62,379,000

**PART XV  
HIGHER EDUCATION**

**Sec. 1501.** 1996 c 283 s 602 (uncodified) is amended to read as follows:

The appropriations in sections 603 through 609 of this act provide state general fund support or employment and training trust account support for student full-time equivalent enrollments at each institution of higher education. Listed below are the annual full-time equivalent student enrollments by institution assumed in this act.

	1995-96 Annual Average FTE	1996-97 Annual Average FTE
<b>University of Washington</b>		
Main campus . . . . .	29,857	30,455
Evening Degree Program . . . . .	571	617
Tacoma branch . . . . .	588	747
Bothell branch . . . . .	533	685
<b>Washington State University</b>		
Main campus . . . . .	16,205	17,403
Spokane branch . . . . .	283	352
Tri-Cities branch . . . . .	624	724
Vancouver branch . . . . .	723	851
Central Washington University . . . . .	6,903	7,256
Eastern Washington University . . . . .	7,656	((7,825))
		<u>7,739</u>
The Evergreen State College . . . . .	3,278	3,406
Western Washington University . . . . .	9,483	10,038
State Board for Community and Technical Colleges . . . . .	111,986	114,326
Higher Education Coordinating Board . . . . .	50	50

**Sec. 1502.** 1996 c 283 s 603 (uncodified) is amended to read as follows:

**FOR THE STATE BOARD FOR COMMUNITY AND TECHNICAL COLLEGES**

General Fund—State Appropriation (FY 1996) . . . . \$	345,763,000
General Fund—State Appropriation (FY 1997) . . . . \$	<del>((358,240,000))</del>
	<u>360,350,000</u>
General Fund—Federal Appropriation . . . . . \$	11,404,000
Employment and Training Trust Account	
Appropriation . . . . . \$	58,575,000
<b>TOTAL APPROPRIATION . . . . . \$</b>	<del>((773,982,000))</del>
	<u>776,092,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$2,883,000 of the general fund appropriation is provided solely for 500 supplemental FTE enrollment slots to implement RCW 28B.50.259 (timber-dependent communities).

(2) \$58,575,000 of the employment and training trust account appropriation is provided solely for training and related support services specified in chapter 226, Laws of 1993 (employment and training for unemployed workers). Of this amount:

(a) \$41,090,000 is to provide enrollment opportunity for 6,100 full-time equivalent students in fiscal year 1996 and 7,200 full-time equivalent students in fiscal year 1997. The state board for community and technical colleges shall submit to the work force training and education coordinating board for review and approval a plan for the allocation of the full-time equivalents provided in this subsection.

(b) \$8,403,000 is to provide child care assistance, transportation, and financial aid for the student enrollments funded in (a) of this subsection.

(c) \$7,632,000 is to provide financial assistance for student enrollments funded in (a) of this subsection in order to enhance program completion for those enrolled students whose unemployment benefit eligibility will be exhausted or reduced before their training program is completed. The state board for community and technical colleges shall submit to the work force training and education coordinating board for review and approval a plan for eligibility and disbursement criteria to be used in determining the award of moneys provided in this subsection.

(d) \$750,000 is provided solely for an interagency agreement with the work force training and education coordinating board for an independently contracted net-impact study to determine the overall effectiveness and outcomes of retraining and other services provided under chapter 226, Laws of 1993, (employment and training for unemployed workers). The net-impact study shall be completed and delivered to the legislature no later than December 31, 1996.

(e) \$700,000 is to provide the operating resources for seven employment security department job service centers located on community and technical college campuses.

(3) \$3,725,000 of the general fund appropriation is provided solely for assessment of student outcomes at community and technical colleges.

(4) \$1,412,000 of the general fund appropriation is provided solely to recruit and retain minority students and faculty.

(5) \$3,296,720 of the general fund appropriation is provided solely for instructional equipment.

(6) \$688,000 of the general fund appropriation is provided for new building operations and maintenance and shall be placed in reserve and expended only pursuant to allotment authority provided by the office of financial management.

(7) Up to \$4,200,000 of the appropriations in this section may be used in combination with salary and benefit savings from faculty turnover to provide faculty salary increments.

(8) The technical colleges may increase tuition and fees to conform with the percentage increase in community college operating fees authorized in Substitute Senate Bill No. 5325.

(9) \$4,200,000 of the general fund—state appropriation is provided solely for transitional costs and accreditation requirements associated with the transfer of the technical colleges to the community college system. Colleges shall apply funding for distance learning and technology resources to address accreditation requirements in a cost-effective manner. Colleges are encouraged to negotiate with accreditation agencies for the acceptance of new educational technologies to meet accreditation standards.

(10) Up to \$50,000, if matched by an equal amount from private sources, may be used to initiate an international trade education consortium, composed of selected community colleges, to fund and promote international trade education and training services in a variety of locations throughout the state, which services shall include specific business skills needed to develop and sustain international business opportunities that are oriented toward vocational, applied skills. The board shall report to appropriate legislative committees on these efforts at each regular session of the legislature.

(11) \$2,000,000 of the general fund—state appropriation is provided solely for productivity enhancements in student services and instruction that facilitate student progress, and innovation proposals that provide greater student access and learning opportunities. The state board for community and technical colleges shall report to the governor and legislature by October 1, 1997, on implementation of productivity and innovation programs supported by these funds.

(12) \$1,500,000 of the general fund—state appropriation is provided solely for competitive grants to community and technical colleges to assist the colleges in serving disabled students. The state board for community and technical colleges shall award grants to colleges based on severity of need.

(13) \$2,700,000 of the general fund—state appropriation is provided solely for the costs associated with standardizing part-time health benefits per Substitute Senate Bill No. 6583.

(14) By November 15, 1996, the board, in consultation with full- and part-time faculty groups, shall develop a plan and submit recommendations to the legislature to address compensation and staffing issues concerning inter- and intra-institutional salary disparities for full and part-time faculty. The board shall develop and submit to the governor and the legislature a ten-year implementation plan that: (a) Reflects the shared responsibility of the institutions and the legislature to address these issues; (b) reviews recent trends in the use of part-time faculty and makes recommendations to the legislature for appropriate ratios of part-time to full-time faculty staff; and (c) considers educational quality, long-range cost considerations, flexibility in program delivery, employee working conditions, and differing circumstances pertaining to local situations.

Sec. 1503. 1996 c 283 s 604 (uncodified) is amended to read as follows:

**FOR THE UNIVERSITY OF WASHINGTON**

General Fund Appropriation (FY 1996) . . . . .	\$	259,062,000
General Fund Appropriation (FY 1997) . . . . .	\$	<del>((267,933,000))</del>
		<u>268,643,000</u>
Death Investigations Account Appropriation . . . . .	\$	1,685,000
Accident Account Appropriation . . . . .	\$	4,348,000
Medical Aid Account Appropriation . . . . .	\$	4,343,000
Health Services Account Appropriation . . . . .	\$	6,247,000
TOTAL APPROPRIATION . . . . .	\$	<del>((543,678,000))</del>
		<u>544,328,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$10,501,000 of the general fund—state appropriation is provided solely to operate upper-division and graduate level courses offered at the Tacoma branch campus. Of this amount ~~((:-(a)))~~, \$237,000 is provided solely for continuation of the two-plus-two program operated jointly with the Olympic Community College ~~((; and (b) \$700,000 is provided solely for building maintenance, equipment purchase, and moving costs and shall be placed in reserve and expended only pursuant to allotment authority provided by the office of financial management))~~.

(2) \$9,665,000 of the general fund appropriation is provided solely to operate upper-division and graduate level courses offered at the Bothell branch campus.

(3) \$2,300,000 of the health services account appropriation is provided solely for the implementation of chapter 492, Laws of 1993 (health care reform) to increase the supply of primary health care providers.

(4) \$300,000 of the health services account appropriation is provided solely to expand community-based training for physician assistants.

(5) \$300,000 of the health services account appropriation is provided solely for the advanced registered nurse program.

(6) \$2,909,000 of the health services account appropriation is provided solely for health benefits for teaching and research assistants pursuant to RCW 28B.10.660 (graduate service appointment health insurance).

(7) \$372,000 of the general fund appropriation is provided solely for assessment of student outcomes.

(8) \$648,000 of the general fund appropriation is provided solely to recruit and retain minority students and faculty.

(9) \$1,471,000 of the general fund appropriation is provided for new building operations and maintenance and shall be placed in reserve and expended only pursuant to allotment authority provided by the office of financial management.

(10) \$500,000 of the general fund appropriation is provided solely for enhancements to the mathematics, engineering and science achievement (MESA) program.

(11) \$227,000 of the general fund appropriation is provided solely for implementation of the Puget Sound water quality management plan.

(12) The university shall begin implementation of the professional staff and librarian market gap remedy plan II, which was submitted to the legislature in response to section 603(3), chapter 24, Laws of 1993 sp. sess. and section 603(3), chapter 6, Laws of 1994 sp. sess. As part of the implementation of the plan, an average salary increase of 5.0 percent may be provided to librarians and professional staff on July 1, 1995, to meet salary gaps as described in the plan.

(13) \$184,000 of the health services account appropriation is provided solely for participation of the University of Washington dental school in migrant/ community health centers in the Yakima valley.

(14) At least \$50,000 of the general fund appropriation shall be used for research at the Olympic natural resources center.

(15) \$1,718,000 of the general fund appropriation is provided solely for technological improvements to develop an integrated state-wide library system, of which \$409,000 is for system-wide network costs.

Sec. 1504. 1996 c 283 s 605 (uncodified) is amended to read as follows:

**FOR WASHINGTON STATE UNIVERSITY**

General Fund Appropriation (FY 1996) . . . . .	\$	150,272,000
General Fund Appropriation (FY 1997) . . . . .	\$	<del>((159,410,000))</del>
		<u>159,886,000</u>
<b>Industrial Insurance Premium Refund Account</b>		
Appropriation . . . . .	\$	33,000
Air Pollution Control Account Appropriation . . . . .	\$	105,000
Health Services Account Appropriation . . . . .	\$	1,400,000
<b>TOTAL APPROPRIATION . . . . .</b>	<b>\$</b>	<del><b>((311,220,000))</b></del>
		<u><b>311,696,000</b></u>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$12,008,000 of the general fund appropriation is provided solely to operate upper-division and graduate level courses and other educational services offered at the Vancouver branch campus. \$1,198,000 of this amount is provided for new building operations and maintenance and shall be placed in reserve and expended only pursuant to allotment authority provided by the office of financial management.

(2) \$7,646,000 of the general fund appropriation is provided solely to operate upper-division and graduate level courses and other educational services offered at the Tri-Cities branch campus. \$53,000 of this amount is provided for new building operations and maintenance and shall be placed in reserve and expended only pursuant to allotment authority provided by the office of financial management.

(3) \$8,042,000 of the general fund appropriation is provided solely to operate graduate and professional level courses and other educational services offered at the Spokane branch campus.

(4) \$372,000 of the general fund appropriation is provided solely for assessment of student outcomes.

(5) \$280,000 of the general fund appropriation is provided solely to recruit and retain minority students and faculty.

(6) \$1,400,000 of the health services account appropriation is provided solely for health benefits for teaching and research assistants pursuant to RCW 28B.10.660 (graduate service appointment health insurance).

(7) \$2,167,000 of the general fund appropriation is provided for new building operations and maintenance on the main campus and shall be placed in reserve and expended only pursuant to allotment authority provided by the office of financial management.

(8) \$525,000 of the general fund appropriation is provided solely to implement House Bill No. 1741 (wine and wine grape research). If the bill is not enacted by June 30, 1995, the amount provided in this subsection shall lapse.

~~(9) ((\$1,000,000 of the general fund appropriation is provided solely to implement Engrossed Second Substitute House Bill No. 1009 (pesticide research). If the bill is not enacted by June 30, 1995, the amount provided in this subsection shall lapse.~~

~~—(10))~~ \$314,000 of the general fund appropriation is provided solely for implementation of the Puget Sound water quality management plan.

~~((11))~~ (10) \$25,000 of the general fund—state appropriation is provided solely for operation of the energy efficiency programs transferred to Washington State University by House Bill No. 2009. If House Bill No. 2009 is not enacted by June 30, 1996, the amount provided in this subsection shall lapse.

~~((+2))~~ (11) \$450,000 of the general fund—state appropriation is provided solely for equipment, software, and related expenditures to support a state-wide library network.

**Sec. 1505.** 1996 c 283 s 606 (uncodified) is amended to read as follows:

**FOR EASTERN WASHINGTON UNIVERSITY**

General Fund Appropriation (FY 1996) . . . . .	\$	37,350,000
General Fund Appropriation (FY 1997) . . . . .	\$	<del>((38,394,000))</del>
		<u>38,168,000</u>
Health Services Account Appropriation . . . . .	\$	200,000
<b>TOTAL APPROPRIATION . . . . .</b>	<b>\$</b>	<b><del>((75,944,000))</del></b>
		<u>75,718,000</u>

The appropriations in this section are subject to the following conditions and limitations:

- (1) \$372,000 of the general fund appropriation is provided solely for assessment of student outcomes.
- (2) \$186,000 of the general fund appropriation is provided solely to recruit and retain minority students and faculty.
- (3) \$200,000 of the health services account appropriation is provided solely for health benefits for teaching and research assistants pursuant to RCW 28B.10.660 (graduate service appointment health insurance).
- (4) \$166,000 of the general fund—state appropriation is provided solely for new building operations and maintenance and shall be placed in reserve and expended only pursuant to allotment authority provided by the office of financial management.
- (5) \$454,000 of the general fund—state appropriation is provided solely for equipment, software, and related expenditures to support a state-wide library network.

**Sec. 1506.** 1996 c 283 s 607 (uncodified) is amended to read as follows:

**FOR CENTRAL WASHINGTON UNIVERSITY**

General Fund Appropriation (FY 1996) . . . . .	\$	33,636,000
General Fund Appropriation (FY 1997) . . . . .	\$	<del>((36,250,000))</del>
		<u>36,346,000</u>
<b>Industrial Insurance Premium Refund Account</b>		
Appropriation . . . . .	\$	10,000
Health Services Account Appropriation . . . . .	\$	140,000
<b>TOTAL APPROPRIATION . . . . .</b>	<b>\$</b>	<b><del>((70,036,000))</del></b>
		<u>70,132,000</u>

The appropriations in this section are subject to the following conditions and limitations:

- (1) \$372,000 of the general fund appropriation is provided solely for assessment of student outcomes.

(2) \$140,000 of the general fund appropriation is provided solely to recruit and retain minority students and faculty.

(3) \$140,000 of the health services account appropriation is provided solely for health benefits for teaching and research assistants pursuant to RCW 28B.10.660 (graduate service appointment health insurance).

(4) \$1,293,000 of the general fund appropriation is provided solely for equipment, software, and related expenditures to support a state-wide library network.

**Sec. 1507.** 1996 c 283 s 608 (uncodified) is amended to read as follows:

**FOR THE EVERGREEN STATE COLLEGE**

General Fund Appropriation (FY 1996) . . . . .	\$	18,436,000
General Fund Appropriation (FY 1997) . . . . .	\$	<del>((19,325,000))</del>
		<u>19,385,000</u>
TOTAL APPROPRIATION . . . . .	\$	<del>((37,761,000))</del>
		<u>37,821,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$372,000 of the general fund appropriation is provided solely for assessment of student outcomes.

(2) \$94,000 of the general fund appropriation is provided solely to recruit and retain minority students and faculty.

(3) \$58,000 of the general fund appropriation is provided for new building operations and maintenance and shall be placed in reserve and expended only pursuant to allotment authority provided by the office of financial management.

(4) \$417,000 of the general fund appropriation is provided solely for equipment, software, and related expenditures to support a state-wide library network.

**Sec. 1508.** 1996 c 283 s 609 (uncodified) is amended to read as follows:

**FOR WESTERN WASHINGTON UNIVERSITY**

General Fund Appropriation (FY 1996) . . . . .	\$	42,533,000
General Fund Appropriation (FY 1997) . . . . .	\$	<del>((45,709,000))</del>
		<u>45,827,000</u>
Health Services Account Appropriation . . . . .	\$	200,000
TOTAL APPROPRIATION . . . . .	\$	<del>((88,442,000))</del>
		<u>88,560,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$372,000 of the general fund appropriation is provided solely for assessment of student outcomes.

(2) \$186,000 of the general fund appropriation is provided solely to recruit and retain minority students and faculty.

(3) \$200,000 of the health services account appropriation is provided solely for health benefits for teaching and research assistants pursuant to RCW 28B.10.660 (graduate service appointment health insurance).

(4) \$275,000 of the general fund appropriation is provided for new building operations and maintenance and shall be placed in reserve and expended only pursuant to allotment authority provided by the office of financial management.

(5) \$873,000 of the general fund appropriation is provided solely for equipment, software, and related expenditures to support a state-wide library network.

**Sec. 1509.** 1996 c 283 s 610 (uncodified) is amended to read as follows:

**FOR THE HIGHER EDUCATION COORDINATING BOARD—POLICY COORDINATION AND ADMINISTRATION**

General Fund—State Appropriation (FY 1996) . . . . \$	1,984,000
General Fund—State Appropriation (FY 1997) . . . . \$	((2,365,000))
	<u>2,370,000</u>
General Fund—Federal Appropriation . . . . . \$	1,073,000
TOTAL APPROPRIATION . . . . . \$	((5,422,000))
	<u>5,427,000</u>

(1) 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: \$560,000 of the general fund—state appropriation is provided solely for enrollment to implement RCW 28B.80.570 through 28B.80.580 (timber dependent communities). The number of students served shall be 50 full-time equivalent students per fiscal year. The higher education coordinating board (HECB) in cooperation with the state board for community and technical college education (SBCTC) shall review the outcomes of the timber program and report to the governor and legislature by November 1, 1995. The review should include programs administered by the HECB and SBCTC. The review should address student satisfaction, academic success, and employment success resulting from expenditure of these funds. The boards should consider a broad range of recommendations, from strengthening the program with existing resources to terminating the program.

(2) \$150,000 of the general fund—state appropriation is provided solely for a study of higher education needs in North Snohomish/Island/Skagit counties. The board is directed to explore and recommend innovative approaches to providing educational programs. The board shall consider the use of technology and distance education as a means of meeting the higher education needs of the area. The study shall be completed and provided to the appropriate committees of the legislature by November 30, 1996.

(3) The higher education coordinating board, in conjunction with the office of financial management and public institutions of higher education, shall study institutional student enrollment capacity at each four-year university or college. The higher education coordinating board shall report to the governor and the

appropriate committees of the legislature the maximum student enrollment that could be accommodated with existing facilities and those under design or construction as of the 1995-97 biennium. The report shall use national standards as a basis for making comparisons, and the report shall include recommendations for increasing student access by maximizing the efficient use of facilities. The report shall also consider ways the state can encourage potential four-year college students to enroll in schools having excess capacity.

(4) \$70,000 of the general fund—state appropriation is provided solely to develop a competency-based admissions system for higher education institutions.

(5) \$50,000 of the general fund—state appropriation is provided solely for attorneys' fees and related expenses needed to defend the equal opportunity grant program.

(6) \$140,000 of the general fund—state appropriation is provided solely for the design and development of recommendations for the creation of a college tuition prepayment program. A recommended program design and draft legislation shall be submitted to the office of financial management by September 30, 1996, for consideration in the 1997 legislative session. The development of the program shall be conducted in consultation with the state investment board, the state treasurer, the state actuary, the office of financial management, private financial institutions, and other qualified parties with experience in the areas of accounting, actuary, risk management, or investment management.

(7) \$100,000 of the general fund—state appropriation is provided solely for the implementation of the assessment of prior learning experience program.

**Sec. 1510.** 1996 c 283 s 613 (uncodified) is amended to read as follows:

**FOR THE WASHINGTON STATE ARTS COMMISSION**

General Fund—State Appropriation (FY 1996) . . . . .	\$	2,236,000
General Fund—State Appropriation (FY 1997) . . . . .	\$	1,997,000
General Fund—Federal Appropriation . . . . .	\$	934,000
<u>General Fund—Private/Local Appropriation . . . . .</u>	<u>\$</u>	<u>7,000</u>
Industrial Insurance Premium Refund Account		
Appropriation . . . . .	\$	1,000
TOTAL APPROPRIATION . . . . .	\$	((5,168,000))
		<u>5,175,000</u>

**PART XVI  
SPECIAL APPROPRIATIONS**

**Sec. 1601.** 1996 c 283 s 701 (uncodified) is amended to read as follows:

**FOR THE STATE TREASURER—BOND RETIREMENT AND INTEREST,  
AND ONGOING BOND REGISTRATION AND TRANSFER CHARGES:  
FOR GENERAL FUND BOND DEBT**

General Fund Appropriation . . . . .	\$	((823,106,000))
		<u>805,100,003</u>
State Building and Construction Account		
Appropriation . . . . .	\$	((21,500,000))

		<u>15,000,000</u>
Fisheries Bond Retirement Account 1977		
Appropriation .....	\$	((291,215))
		<u>1,000</u>
Community College Capital Improvement Bond		
Redemption Fund 1972 Appropriation .....	\$	((851,225))
		<u>425,550</u>
Waste Disposal Facility Bond Redemption Fund		
Appropriation .....	\$	((19,592,375))
		<u>3,985,920</u>
Water Supply Facility Bond Redemption Fund		
Appropriation .....	\$	((1,413,613))
		<u>483,000</u>
Indian Cultural Center Bond Redemption Fund		
Appropriation .....	\$	((126,682))
		<u>63,000</u>
Social and Health Service Bond Redemption Fund		
1976 Appropriation .....	\$	((2,019,427))
		<u>0</u>
Higher Education Bond Retirement Fund 1977		
Appropriation .....	\$	((8,272,858))
		<u>2,926,261</u>
Salmon Enhancement Construction Bond Retirement		
Fund Appropriation .....	\$	((1,071,805))
		<u>274,673</u>
Fire Service Training Center Bond Retirement Fund		
Appropriation .....	\$	((754,844))
		<u>378,000</u>
Higher Education Bond Retirement Account 1988		
Appropriation .....	\$	((4,000,000))
		<u>2,000,000</u>
State General Obligation Bond Retirement Fund .....	\$	788,886,959
TOTAL APPROPRIATION .....	\$	((1,671,887,006))
		<u>1,622,132,000</u>

The general fund appropriation is for deposit into the account listed in section 801 of this act.

**Sec. 1602.** 1996 c 283 s 702 (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 BY  
 ENTERPRISE ACTIVITIES**

State Convention and Trade Center Account		
Appropriation .....	\$	((24,179,295))

	<u>24,501,328</u>
Higher Education Reimbursement Enterprise Account	
Appropriation . . . . .	\$ 633,913
Accident Account Appropriation . . . . .	\$ ((5,548,000))
	<u>5,281,997</u>
Medical Account Appropriation . . . . .	\$ ((5,548,000))
	<u>5,281,997</u>
State General Obligation Bond Retirement Fund . . . . .	\$ 43,940,553
TOTAL APPROPRIATION . . . . .	\$ ((79,849,764))
	<u>79,639,788</u>

**Sec. 1603.** 1996 c 283 s 703 (uncodified) is amended to read as follows:  
**FOR THE STATE TREASURER—BOND RETIREMENT AND INTEREST,  
 AND ONGOING BOND REGISTRATION AND TRANSFER CHARGES:  
 FOR GENERAL OBLIGATION DEBT TO BE REIMBURSED AS  
 PRESCRIBED BY STATUTE**

General Fund Appropriation . . . . .	\$ 37,031,429
Higher Education Reimbursable Construction Account	
Appropriation . . . . .	\$ ((197,000))
	<u>50,088</u>
Community College Capital Construction Bond	
Retirement Fund 1975 Appropriation . . . . .	\$ 450,000
Higher Education Bond Retirement Fund 1979	
Appropriation . . . . .	\$ ((2,887,000))
	<u>2,038,080</u>
State General Obligation Retirement Fund . . . . .	\$ 97,323,580
TOTAL APPROPRIATION . . . . .	\$ ((137,889,007))
	<u>136,893,117</u>

**Sec. 1604.** 1996 c 283 s 705 (uncodified) is amended to read as follows:  
**FOR THE STATE TREASURER—BOND RETIREMENT AND INTEREST,  
 AND ONGOING BOND REGISTRATION AND TRANSFER CHARGES:  
 FOR BOND SALE EXPENSES**

General Fund Appropriation . . . . .	\$ 1,535,000
State Convention and Trade Center Account	
Appropriation . . . . .	\$ 15,000
State Building Construction Account	
Appropriation . . . . .	\$ 1,050,000
Higher Education Reimbursable Construction	
Account Appropriation . . . . .	\$ 3,000
TOTAL APPROPRIATION . . . . .	\$ 2,603,000
Total Bond Retirement and Interest Appropriations	
contained in sections 701 through 704 of this act . . .	\$ ((1,901,605,174))
	<u>1,841,268,300</u>

**Sec. 1605.** 1996 c 283 s 709 (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, 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) Walter Watson, claim number SCJ-92-11	\$ 6,003.00
(b) Carl L. Decker, claim number SCJ-95-02	\$ 24,948.48
(c) Bill R. Hood, claim number SCJ-95-08	\$ 71,698.72
(d) Rick Sevela, claim number SCJ-95-09	\$ 6,937.22
(e) William V. Pearson, claim number SCJ-95-12	\$ 5,929.99
(f) Craig T. Thiessen, claim number SCJ-95-13	\$ 3,540.24
(g) Douglas Bauer, claim number SCJ-95-15	\$ 40,015.86
(h) Walter A. Whyte, claim number SCJ-96-02	\$ 2,989.30
<u>(i) Allen R. Tuller, claim number SCJ-96-05</u>	<u>\$ 12,121.44</u>
<u>(j) Martial P. McCollum, claim number SCJ-96-07</u>	<u>3,000.00</u>
<u>(k) Jerry Garcia, claim number SCJ-96-11</u>	<u>\$ 61,966.00</u>
(l) Donald Smith, claim number SCJ-96-13	\$ 6,246.11
(m) Charles H. Williams, claim number SCJ-96-16	\$ 32,083.77
(n) Thomas Long, claim number SCJ-96-17	\$ 4,512.50
(o) Jeff Fossett, claim number SCJ-96-21	\$ 10,983.70
(p) Thomas Bender, claim number SCJ 96-22	\$ 9,996.94
(q) Philip Romano, claim number SCJ-96-01	\$ 6,639.48
(r) Thomas Lee, claim number SCJ-97-01	\$ 20,934.16
(s) Timothy Meyers, claim number SCJ-97-02	\$ 71,600.00
(t) Robert G. Sullivan, claim number SCJ-97-03	\$ 22,156.33
(u) Gay Dlugosh, claim number SCJ-97-04	\$ 4,158.87
<u>(v) Anthony C. Otto, on behalf of Justin Cali</u>	
<u>(claim number SCJ-97-09) and Stephen Posey</u>	
<u>(claim number SCJ-97-10)</u>	<u>\$ 16,961.28</u>

(2) Payment from the state wildlife account for damage to crops by wildlife, pursuant to RCW 77.12.280:

(a) Wilson Banner Ranch, claim number SCG-95-01	\$ 2,800.00
(b) James Koempel, claim number SCG-95-04	\$ 5,291.08
(c) Mark Kayser, claim number SCG-95-06	\$ 4,000.00
<del>(d) ((Peola Farms, Inc., claim number SCG-95-07</del>	<del>\$ 1,046.50</del>
<del>(e))</del> Bailey's Nursery, claim number SCG-96-01	\$ 125.00
<del>((f))</del> (e) Paul Gibbons, claim number SCG-96-02	\$ 2,635.73
<u>(f) Dale Kimmerly, claim number SCG-96-04</u>	<u>\$ 676.00</u>
<u>(g) Robert Blank, claim number SCG-97-01</u>	<u>\$ 2,166.00</u>

**NEW SECTION. Sec. 1606.** A new section is added to 1995 2nd sp.s. c 18 (uncodified) to read as follows:

**FOR THE STATE TREASURER—LOANS**

General Fund Appropriation—For transfer to the

Community College Capital Projects Account . . . . . \$ 950,000

**NEW SECTION. Sec. 1607.** A new section is added to 1995 2nd sp.s. c 18 (uncodified) to read as follows:

The sum of seventy-five million dollars, or so much thereof as may be available on June 30, 1997, from the total amount of unspent fiscal year 1997 state general fund appropriations is appropriated for purposes of Substitute Senate Bill No. 6045 (savings incentive account) in the manner provided in this section.

(1) Of the total amount appropriated in this section, one-half that portion that is attributable to incentive savings, not to exceed twenty-five million dollars, is appropriated to the savings incentive account for the purpose of improving the quality, efficiency, and effectiveness of agency services and shall be credited to the agency that generated the savings.

(2) The remainder of the total amount appropriated in this section, not to exceed seventy-five million dollars, is appropriated to the education savings account for purposes of education technology projects.

(3) For purposes of this section, the total amount of unspent state general fund appropriations does not include either the appropriations made in this section or any amounts included in across-the-board allotment reductions under RCW 43.88.110.

**\*NEW SECTION. Sec. 1608.** A new section is added to 1995 2nd sp.s. c 18 (uncodified) to read as follows:

**FOR THE OFFICE OF FINANCIAL MANAGEMENT—YEAR 2000 ALLOCATIONS**

General Fund—State Appropriation (FY 1997) . . . . .	\$	5,340,000
<i>General Fund—Federal Appropriation . . . . .</i>	<i>\$</i>	<i>2,883,000</i>
<i>Liquor Revolving Account Appropriation . . . . .</i>	<i>\$</i>	<i>131,000</i>
<i>Health Care Authority Administrative Account</i>		
<i>Appropriation . . . . .</i>	<i>\$</i>	<i>631,000</i>
<i>Accident Account Appropriation . . . . .</i>	<i>\$</i>	<i>1,102,000</i>
<i>Medical Aid Account Appropriation . . . . .</i>	<i>\$</i>	<i>1,102,000</i>
<i>Unemployment Compensation Administration Account—</i>		
<i>Federal Appropriation . . . . .</i>	<i>\$</i>	<i>1,313,000</i>
<i>Administrative Contingency Account Appropriation . . .</i>	<i>\$</i>	<i>948,000</i>
<i>Employment Services Administrative Account</i>		
<i>Appropriation . . . . .</i>	<i>\$</i>	<i>500,000</i>
<i>Forest Development Account Appropriation . . . . .</i>	<i>\$</i>	<i>156,000</i>
<i>Off Road Vehicle Account Appropriation . . . . .</i>	<i>\$</i>	<i>7,000</i>
<i>Surveys and Maps Account Appropriation . . . . .</i>	<i>\$</i>	<i>1,000</i>
<i>Aquatic Lands Enhancement Account Appropriation . .</i>	<i>\$</i>	<i>8,000</i>

<i>Resource Management Cost Account Appropriation . . .</i>	\$	348,000
<b>TOTAL APPROPRIATION . . . . .</b>	<b>\$</b>	<b>14,470,000</b>

The appropriations in this section are subject to the following conditions and limitations:

(1) The appropriations in this section shall be deposited in the data processing revolving account for allocation, without appropriation, by the office of financial management to agencies to complete Year 2000 date conversion maintenance on their computer systems. Agencies shall submit their estimated costs of conversion to the office of financial management by July 1, 1997.

(2) In addition to the appropriations in this section, up to \$10,000,000 of the cash balance of the data processing revolving account may be expended on agency Year 2000 date conversion costs. The \$10,000,000 will be taken from the cash balances of the data processing revolving account's two major users, as follows: \$7,000,000 from the department of information services and \$3,000,000 from the office of financial management. The office of financial management in consultation with the department of information services shall allocate these funds as needed to complete the date conversion projects.

(3) Agencies receiving these allocations shall report at a minimum to the information services board and to the governor every six months on the progress of Year 2000 maintenance efforts.

\*Sec. 1608 was partially vetoed. See message at end of chapter.

**PART XVII  
OTHER TRANSFERS AND APPROPRIATIONS**

**Sec. 1701.** 1996 c 283 s 801 (uncodified) is amended to read as follows:  
**FOR THE STATE TREASURER—BOND RETIREMENT AND INTEREST,  
AND ONGOING BOND REGISTRATION AND TRANSFER CHARGES:  
FOR GENERAL OBLIGATION DEBT SUBJECT TO THE STATUTORY  
DEBT LIMIT**

State General Obligation Bond Retirement Fund 1979		
Fund Appropriation . . . . .	\$	((784,711,959))
		<u>766,705,959</u>
Fisheries Bond Retirement Account 1977		
Appropriation . . . . .	\$	((291,215))
		<u>1,000</u>
Community College Capital Improvement Bond		
Redemption Fund 1972 Appropriation . . . . .	\$	((851,225))
		<u>425,550</u>
Waste Disposal Facility Bond Redemption Fund		
Appropriation . . . . .	\$	((19,592,375))
		<u>3,985,920</u>
Water Supply Facility Bond Redemption Fund		
Appropriation . . . . .	\$	((1,413,613))
		<u>483,000</u>

Indian Cultural Center Bond Redemption Fund		
Appropriation .....	\$	((126,682))
		<u>63,000</u>
Social and Health Service Bond Redemption Fund		
1976 Appropriation .....	\$	((2,019,427))
		<u>0</u>
Higher Education Bond Retirement Fund 1977		
Appropriation .....	\$	((8,272,858))
		<u>2,926,261</u>
Salmon Enhancement Construction Bond Retirement		
Fund Appropriation .....	\$	((1,071,805))
		<u>274,673</u>
Fire Service Training Center Bond Retirement		
Fund Appropriation .....	\$	((754,844))
		<u>378,000</u>
Higher Education Bond Retirement Account 1988		
Appropriation .....	\$	((4,000,000))
		<u>2,000,000</u>
TOTAL APPROPRIATION .....	\$	((823,106,003))
		<u>777,243,363</u>

The total expenditures from the state treasury under the appropriation in this section and the general fund appropriation in section 701 of this act shall not exceed the total appropriation in this section.

Sec. 1702. 1996 c 283 s 802 (uncodified) is amended to read as follows:

**FOR THE STATE TREASURER—BOND RETIREMENT AND INTEREST,  
AND ONGOING BOND REGISTRATION AND TRANSFER CHARGES:  
FOR GENERAL OBLIGATION DEBT TO BE REIMBURSED BY AS  
PRESCRIBED BY STATUTE**

Community College Capital Construction Bond		
Retirement Account 1975 Appropriation .....	\$	450,000
Higher Education Bond Retirement Account 1979		
Appropriation .....	\$	((2,887,000))
		<u>2,038,080</u>
State General Obligation Bond Retirement Fund 1979		
Appropriation .....	\$	134,355,007
TOTAL APPROPRIATION .....	\$	((137,692,007))
		<u>136,843,087</u>

The total expenditures from the state treasury under the appropriation in this section and the general fund appropriation in section 703 of this act shall not exceed the total appropriation in this section.

Sec. 1703. 1996 c 283 s 803 (uncodified) is amended to read as follows:

**FOR THE STATE TREASURER—STATE REVENUES FOR DISTRIBUTION**

General Fund Appropriation for fire insurance premiums distribution . . . . .	\$	((5,641,000)) <u>6,441,066</u>
General Fund Appropriation for public utility district excise tax distribution . . . . .	\$	((31,242,000)) <u>30,744,280</u>
General Fund Appropriation for prosecuting attorneys' salaries . . . . .	\$	((2,800,000)) <u>2,776,096</u>
General Fund Appropriation for motor vehicle excise tax distribution . . . . .	\$	((87,474,000)) <u>86,356,053</u>
General Fund Appropriation for local mass transit assistance . . . . .	\$	((339,007,000)) <u>344,615,340</u>
General Fund Appropriation for camper and travel trailer excise tax distribution . . . . .	\$	((3,198,000)) <u>3,416,612</u>
General Fund Appropriation for boating safety/education and law enforcement distribution . . . . .	\$	((3,365,000)) <u>3,438,513</u>
Aquatic Lands Enhancement Account Appropriation for harbor improvement revenue distribution . . . . .	\$	((130,000)) <u>143,030</u>
Liquor Excise Tax Account Appropriation for liquor excise tax distribution . . . . .	\$	((21,500,000)) <u>22,245,101</u>
Liquor Revolving Fund Appropriation for liquor profits distribution . . . . .	\$	((40,160,000)) <u>41,799,400</u>
Timber Tax Distribution Account Appropriation for distribution to "Timber" counties . . . . .	\$	((118,750,000)) <u>112,814,912</u>
Municipal Sales and Use Tax Equalization Account Appropriation . . . . .	\$	((58,181,000)) <u>61,291,408</u>
County Sales and Use Tax Equalization Account Appropriation . . . . .	\$	((12,940,000)) <u>9,208,276</u>

Death Investigations Account Appropriation for distribution to counties for publicly funded autopsies . . . . .	\$	((1,200,000)) <u>1,180,845</u>
County Criminal Justice Account Appropriation . . .	\$	((69,940,000)) <u>71,579,595</u>
Municipal Criminal Justice Account Appropriation . . . . .	\$	((27,972,000)) <u>28,196,587</u>
County Public Health Account Appropriation . . . . .	\$	((29,250,000)) <u>27,276,662</u>
<b>TOTAL APPROPRIATION . . . . .</b>	<b>\$</b>	<b>((852,750,000))</b> <b><u>853,523,776</u></b>

The appropriations in this section are subject to the following conditions and limitations: 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.

### PART XVIII MISCELLANEOUS

**NEW SECTION. Sec. 180I.** 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. 1802.** 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 the House April 26, 1997.

Passed the Senate April 26, 1997.

Approved by the Governor May 20, 1997, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State May 20, 1997.

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

"I am returning herewith, without my approval as to sections 204(1); 204(6)(a); 204(6)(b); 204(6)(c); 204(9)(d); 206(3); 207(2); 210(5); 213(2)(d); 302(3); 302(4); 302(5); 302(17); 302(22); 304(16), 501(1)(e); 501(2)(e)(i); 503(4)(b); 503(5); 506(8); 507(4); 507(5); 507(6); 602(2); 611(5)(a)(i); 702; 706; 902, and 1608, page 211, lines 24-38 and page 212, lines 1-2, Engrossed Substitute House Bill No. 2259 entitled:

"AN ACT Relating to fiscal matters;"

My reasons for vetoing these sections are as follows:

**Section 204 (1), page 17, General Assistance-Unemployable (Department of Social and Health Services — Economic Services Program)**

This subsection requires that General Assistance-Unemployable recipients needing alcohol or drug treatment be assigned a protective payee to serve as a custodian of those recipients' cash assistance payments. While I support the concept of protective payees in this program, I cannot support policy changes that would increase administrative costs

when the legislative budget significantly reduces basic cash and medical assistance benefits available to those receiving General Assistance.

**Sections 204(6)(a), 204(6)(b) and 204(6)(c), Child Care Co-pays (Department of Social and Health Services — Economic Services Program)**

Affordable child care is a crucial part of successfully moving people from welfare to work. To effectively administer a child care assistance program for low-income families within the amounts appropriated by the Legislature, the Department must have the flexibility to devise a workable co-payment schedule that keeps the program solvent while still providing the assistance necessary to keep low income parents in the work force. Therefore, I have vetoed the co-payment schedule outlined in this section, because it does not provide the Department with the necessary flexibility and may significantly increase the cost of child care for low-income families.

Instead, I will direct the Department to implement a child care program that supports the goals of the WorkFirst program to make work pay. The monthly co-pay required shall be a minimum of ten dollars for families at or below seventy-four percent of the federal poverty level adjusted for family size. For families with incomes above seventy-four percent of the federal poverty level adjusted for family size, the monthly co-pay shall be a minimum of twenty dollars or forty-seven percent of the family's income above one hundred percent of the federal poverty level adjusted for family size. Child care assistance shall not be provided to families with incomes above one hundred seventy-five percent of the federal poverty level adjusted for family size. As the program develops, we will continue to evaluate the success of this child care schedule in making work pay while holding costs within the appropriation level for the Workfirst program.

**Section 204(9)(d), page 20, Child Care (Department of Social and Health Services — Economic Services Program)**

I am committed to operating the WorkFirst program within the appropriation level as required by Engrossed House Bill 3901. However, I believe that requiring the Department of Social and Health Services to remain within a further defined appropriated level specific to child care unnecessarily restricts the administration of the WorkFirst Program. Other states have succeeded in significantly reducing welfare dependency by making large investments in child care and other support services, while making corresponding reductions in their grant programs. I do not want to foreclose that option in Washington State. Therefore I have vetoed this provision so the Department has flexibility in making strategic funding decisions as this program develops.

**Section 206(3), page 22, Diversity Initiative (Department of Social and Health Services — Administration and Supporting Services)**

This proviso would restrict the use of funding for staff or publications related to diversity initiatives. I believe agencies must take an active role in promoting diversity in the workplace, and have therefore vetoed this proviso.

**Section 207(2), page 23, Child Support Waiver (Department of Social and Health Services — Child Support Program)**

This proviso requires the Department of Social and Health Services to request a waiver from federal regulations regarding child support enforcement to allow the Department to replace current program audit criteria with performance measures based on program outcomes. This waiver is unnecessary, because the federal government has already replaced its process-based audit criteria with performance-based criteria and the Department currently operates under a performance-based agreement with the federal government. Because there is no need for a waiver, I have vetoed this proviso.

**Section 210(5), page 26, Basic Health Plan Report (State Health Care Authority)**

This section would require the State Health Care Authority (HCA) to report back to the Legislature by December 1, 1997 on the number of Basic Health Plan enrollees who are illegal aliens. Since the HCA does not currently collect this information, it would require substantial effort and expense to do so in order to report to the Legislature in five months. Because the Legislature provided no funding to collect this information, I have vetoed this proviso. I am also concerned that any plan to ask enrollees about their immigration status will prevent many of them from seeking needed health care.

**Section 213(2)(d), page 34, Health Care Expenditures (Department of Corrections – Institutional Services)**

Section 213, Subsection 2(d) states that it is the intent of the Legislature that the Department of Corrections reduce health care expenditures in the 1997-99 Biennium using the scenario identified in the 1996 Health Services Delivery System Study which limited health care costs to \$43 million in Fiscal Year 1998 and \$40.7 million in Fiscal Year 1999. I am concerned that this approach sets unrealistic and inflexible expectations with regard to health care expenditure reductions in the Department. The scenario referenced in the study suggests specific percentage reductions in certain areas such as out-patient hospitalization, which may not be achievable in the health care market. In addition, although the budget language references a limit to health care costs per year as stated in the health services delivery system study, it could be interpreted as a lid on total health care expenditures for the respective years. This may establish an unrealistic expectation, given recent changes in sentencing law that will further increase the state prison population. While I expect the Department will make every effort to reduce health care expenditures, it is in the state's interest that the Department have the flexibility to implement health care reductions in a safe and legally defensible manner.

**Section 302(3), page 40, Funding for Water Right Permit Processing, Water Resources Data Management, and Technical Assistance to Local Watershed Planning (Department of Ecology)**

This proviso stipulates that funding provided to the Department of Ecology shall lapse if sections 101 through 116 and 701 through 716 of Second Substitute House Bill 2054 are not enacted by June 30, 1997. Because I have vetoed some of these sections of Second Substitute House Bill 2054, I have also vetoed Section 302(3) of the appropriations act to lessen the confusion regarding the appropriation authority for the Department of Ecology.

**Section 302(4), page 40, Grant Funding for Regional Planning (Department of Ecology)**

Locally developed plans have been found to be an effective tool in managing water resources within a watershed by bringing together interested parties with knowledge and insights specific to the watershed. However, the local planning efforts have also relied — and will continue to rely — on technical expertise and information that state agencies can provide. For this reason, it is essential that the state provide adequate funding for the departments of Health, Fish and Wildlife, Ecology, and Community, Trade, and Economic Development. Therefore, I have vetoed this subsection and directing that the limited funds provided by the Legislature for watershed planning efforts be used in a more balanced and comprehensive fashion.

**Section 302(5), pages 40-41, Implementation of ESHB 1111, Granting Water Rights (Department of Ecology)**

This subsection stipulates that the funding provided to implement Engrossed Substitute House Bill 1111 lapses if that bill is not enacted. I have vetoed Substitute House Bill 1111 because I do not believe that its provisions are in the best interest of the state. Therefore, I have also vetoed Section 302(5) of the appropriations act to eliminate confusion regarding the expenditure authority for the Department of Ecology.

**Section 302(17), page 43, Special Purpose Vehicles (Department of Ecology)**

This subsection requires the Department of Ecology to reduce its fleet of special purpose vehicles by 50 percent as of June 30, 1999. In addition, the Department is required to replace the special purpose vehicles with fuel efficient vehicles or not replace them at all, depending on the agency's vehicle requirements. I have vetoed this restriction because it would severely impair the Department's ability to reach remote areas to attain water quality samples, respond to oil and other hazardous materials spills, and support the Washington Conservation Corps program.

**Section 302(22), pages 43-44, Implementation of SSB 5030, Lake Water Irrigation (Department of Ecology)**

This subsection stipulates that the funding provided to the Department of Ecology to implement Substitute House Bill 5030 lapses if the bill is not enacted. I have vetoed Substitute House Bill 5030, which provides a water right (contingent on a determination

that water is available) to those who have used the water from Lake Washington for irrigation purposes. The water issues facing this state need to be addressed through an integrated and comprehensive approach, rather than the piecemeal fashion advanced by Substitute Senate Bill 5030. I have vetoed Section 302(22) of the appropriations act to eliminate confusion regarding the expenditure authority for the Department of Ecology.

**Section 304(16), page 48, Implementation of SSB 5120, Remote Site Incubators (Department of Fish and Wildlife)**

This proviso stipulates that the funding provided to the Department of Fish and Wildlife under Substitute Senate Bill 5120 lapses if this bill is not enacted. I have vetoed Substitute Senate Bill 5120, which would require the Department to implement a program supporting remote site incubators across the state. Therefore, I have also vetoed Section 304(16) to eliminate confusion regarding the appropriation authority for the Department of Fish and Wildlife.

**Section 501(1)(e), page 53, Goals 2000 (Superintendent of Public Instruction -- State Administration); and Section 506(8), page 65, (Superintendent of Public Instruction -- Education Reform Programs)**

I have vetoed two subsections which would prevent the state from accepting federal Goals 2000 funding to support Washington State's education reform initiative. Goals 2000 funding supports development of state and local plans to improve student learning and is helping Washington State realize the goal of improving student achievement as envisioned in Washington's Education Reform Act of 1993.

Over \$16 million in Goals 2000 funding is expected to be available to Washington State during the 1997-99 Biennium. Of this amount, \$14 million will be available for grants to help schools develop and implement student learning improvement plans, supplementing \$50.8 million in General Fund-State appropriations approved by the Legislature for student learning improvement grants. Another \$1.0 million in Goals 2000 funding will be used to pay for the development of tests to measure student achievement, and the remaining \$0.7 million will fund state coordination and planning by the Office of Superintendent of Public Instruction.

**Section 501(2)(e)(f), page 54, Second Substitute Senate Bill 5508 (Superintendent of Public Instruction -- State Administration)**

This proviso authorizes \$700,000 for implementation of Second Substitute Senate Bill 5508, pertaining to Third Grade Reading Accountability. Because the Legislature did not approve this bill, I have vetoed this subsection of the appropriations act.

**Section 503(4)(b), page 62, Salary Increase Allocations (Superintendent of Public Instruction -- Employee Compensation Adjustments)**

Section 503(4)(b) would reduce allocations for 1998-99 state salary increases to districts that appear to be in violation of the state salary limit for teachers and other certificated instructional school employees (RCW 28A.400.200).

I understand there have been some concerns about compliance with the state salary limit, and I support Section 503(4)(a) which requires the Superintendent of Public Instruction (SPI) to compare actual and allocated salaries in the 1997-98 school year and report results to the Legislature. This report will provide valuable information to the 1998 Legislature, and will give school districts an opportunity to explain apparent violations of the salary limit.

However, I do not favor imposing penalties without further review of this issue. The proposed comparison of actual and allocated salaries is *not* synonymous with the salary limit imposed by RCW 28A.400.200. The statute limits total actual salary payments at *year-end*, whereas the comparison proposed in this subsection is based on staff employed by a school district at the *beginning of the school year* (October 1). Also, the penalty proposed by 503(4)(b) would take money away from school districts in the 1998-99 school year — a year when no state salary increase is provided. The result could be pay cuts for school employees.

Therefore, I have vetoed Section 503(4)(b) to provide an opportunity for these issues to be carefully considered before imposing penalties.

**Section 503(5), page 63, Salary Adjustments for Classified Staff (Superintendent of Public Instruction — Employee Compensation Adjustments)**

Section 503(5) would require that every state-funded classified school employee receive a three percent salary adjustment effective September 1, 1997.

I value the classified school employees who teach in classrooms, drive school buses, serve in cafeterias, and work in offices around this state. I believe they deserve more than one three-percent salary increase in the next two years. But I do not support state intervention into school salary negotiations.

The salary increase money provided for school employees has been, and should continue to be, "for allocation purposes only." Actual salaries should be set by school boards through negotiations with employees and their representatives. Section 503(5) would circumvent this process and would also burden school districts with needless paperwork to demonstrate compliance. For these reasons, I have vetoed section 503(5).

**Section 507 (4), (5), and (6), pages 65-66, Bilingual Program Formula (Superintendent of Public Instruction — Transitional Bilingual Programs)**

Section 507(4) would eliminate state support for bilingual instruction for preschool students. I have vetoed this section because I believe that this instruction serves the best interest of students and the state as a whole. Children growing up in homes where English is not the primary language face a difficult adjustment when entering the public schools. It only makes sense to help these children and their parents make this adjustment more successful. I understand there may be a question about whether state funding can be provided for these students under current law, but my veto of this section allows the legal issue to be resolved independently and leaves open an opportunity for further policy discussion about the merits of this instruction.

Section 507(5) and (6) would implement a new "weighted" bilingual funding formula based on each student's grade level and years in bilingual instruction. This may be an excellent idea, but it lacks the supporting analysis necessary for a change in a basic education program. Bilingual instruction is generally accepted as part of the program of "basic education" required to meet the state's constitutional duty to provide for the education of all children in Washington. While basic education formulas are not cast in stone, they should be changed only after careful analysis and based on findings of the Legislature. Section 507(2) requires the Superintendent of Public Instruction to study the bilingual funding formula and report to the Legislature by January 15, 1998. With the benefit of this study, the Legislature will be better prepared to propose and defend changes to the bilingual funding formula. Therefore, I have vetoed section 507(5) and (6).

**Section 602(2), page 73, Higher Education enrollment**

In this section, the Legislature states its intent to penalize higher education institutions for falling as little as one full-time equivalent (FTE) student below the FTE enrollments assumed in the 1997-99 Operating Budget. Exceptions are allowed only for Eastern Washington University and branch campuses. I fully support the expectation that institutions will operate productively and efficiently. I also proposed a sanction for enrollment under budget targets. However, sanctions for under enrollment should occur only if enrollment is below a target range from budgeted levels, not for each single FTE. Moreover, if the Legislature does intend to impose a fiscal penalty for under enrollment, more precise parameters will need to be specified, including the data sources and threshold dates used to calculate enrollment and the dollar sanction per under enrolled FTE. Therefore, I have vetoed this section because it represents an unworkable approach to addressing the issue of under enrollment.

**Section 611(5)(a)(i), page 84, Alternative Distribution of State Need Grants, (Higher Education Coordinating Board)**

Section 611(5)(a)(i) directs the Higher Education Coordinating Board (HECB) to determine eligibility for state need grants for the 1998-99 academic year based on a family income index for independent and dependent students, unless a model is developed to calculate need grant amounts based on the cost of tuition. I have vetoed this requirement, because I believe it mandates a significant change in how state need grants are distributed in a way that discourages careful deliberation of the merits of these proposals. Instead, the HECB or Legislature must take one action in order to prevent another policy from taking

effect. Using a family income index for independent and dependent students would lower the need grant eligibility threshold for independent students. This could have a significant impact on certain students' access to state financial aid, which has not been adequately assessed. If the Legislature's intent is to base need grant awards on the cost of tuition, the HECB can evaluate the effect of this policy change, prepare proposals and present recommendations by the 1998 Legislative Session. It is not necessary to link the two policies together in a way that could inhibit good debate and sound decisions.

**Section 702, page 87, Year 2000 Allocations**

This section repeals funding provided for Year 2000 maintenance of computer systems in Substitute Senate Bill 6062 for the 1997-99 Biennium. Section 1608 of Engrossed Substitute House Bill 2259 replaces this funding in the 1997 Supplemental Budget, and requires that the funds be deposited in a nonappropriated account so they can be expended in the 1997-99 Biennium. However, in some cases this approach is contrary to federal requirements for use of funds, and creates potential fund imbalances in other dedicated accounts. In order to avoid these technical problems, I have vetoed Section 702 so that the appropriations from dedicated funds originally provided for the 1997-99 Biennium remain in effect. Since this approach creates duplicate General Fund-State appropriations (one in the Fiscal Year 1997 Supplemental Budget and one in the 1997-99 biennial budget), I will place the General Fund-State appropriation for the 1997-99 Biennium in reserve and will request that it be eliminated in the Fiscal Year 1998 Supplemental Budget.

**Section 706, page 89, Regulatory Reform**

The 1997 Legislature approved two regulatory reform bills, Engrossed Second Substitute House Bill 1032, and Substitute House Bill 1076, sections of which I am signing into law. Section 706 of Engrossed Substitute House Bill 2259 repeals appropriations made in Substitute Senate Bill 6062 — which I have signed into law — designed to fund increased duties and responsibilities for agencies implementing changes to regulatory processes during the 1997-99 Biennium.

I have vetoed Section 706 of Engrossed Substitute House Bill 2259 to preserve funding needed to implement the approved sections of the two regulatory reform bills. The Office of Financial Management will allocate portions of this funding to agencies, as necessary, to implement these two bills.

**Section 902, page 93, Council on Environmental Education**

This section prohibits the use of state funds provided in Engrossed Substitute House Bill 2259 to support the Governor's Council on Environmental Education. There are eleven state agencies that work with the state's environmental community and federal agencies on environmental education related activities. Funding for the Council is necessary to promote efficient and coordinated efforts in this area. Therefore, I have vetoed section 902.

**Section 1608, page 211 line 24 - 38, page 212 line 1-2, Year 2000 Allocations (Office of Financial Management)**

In concert with the veto of Section 702, I have vetoed all but the General Fund-State appropriations in Fiscal Year 1997 for Year 2000 conversion costs contained in Section 1608 of Engrossed Substitute House Bill 2259. Allocations will be made by the Office of Financial Management directly from the dedicated funds in the 1997-99 Biennium as directed in Substitute Senate Bill 6062. The veto of the dedicated fund appropriations in ESHB 2259 simplifies the administration of the other fund allocations, avoids potential fund balance problems, and is consistent with regulations for the use of federal funds.

With the exception of sections 204(1); 204(6)(a); 204(6)(b); 204(6)(c); 204(9)(d); 206(3); 207(2); 210(5); 213(2)(d); 302(3); 302(4); 302(5); 302(17); 302(22); 304(16); 501(1)(e); 501(2)(e)(i); 503(4)(b); 503(5); 506(8); 507(4); 507(5); 507(6); 602(2); 611(5)(a)(i); 702; 706; 902, and 1608, page 211, lines 24-38 and page 212, lines 1-2, Engrossed Substitute House Bill 2259 is approved."

CHAPTER 455

[Engrossed House Bill 2255]

SUPPLEMENTAL CAPITAL BUDGET, 1997-1999

AN ACT Relating to the capital budget; amending 1997 c . . . (SSB 6063) s 123 (uncodified); adding new sections to 1997 c . . . (SSB 6063); creating a new section; making appropriations and authorizing expenditures for capital improvements; 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 and, subject to the provisions set forth in this act, the several dollar amounts hereinafter specified, or so much thereof as shall be sufficient to accomplish the purposes designated, are hereby appropriated and authorized to be incurred for capital projects during the period ending June 30, 1999, out of the several funds specified in this act.

**NEW SECTION. Sec. 2.** A new section is added to 1997 c . . . (SSB 6063) to read as follows:

**FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT**

**Housing assistance, weatherization, and affordable housing programs (88-5-015)**

The appropriation in this section is in addition to and subject to the conditions and limitations of the appropriation in section 108, chapter . . . (Substitute Senate Bill No. 6063), Laws of 1997.

**Appropriation:**

St Bldg Constr Acct—State . . . . .	\$	4,700,000
Prior Biennia (Expenditures) . . . . .	\$	0
Future Biennia (Projected Costs) . . . . .	\$	0
TOTAL . . . . .	\$	4,700,000

**NEW SECTION. Sec. 3.** A new section is added to 1997 c . . . (SSB 6063) to read as follows:

**FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT**

**Community Services Facilities Program:** For grants to nonprofit community-based family service organizations to assist in acquiring, developing, or rehabilitating buildings (98-2-007)

The appropriation in this section is in addition to and subject to the conditions and limitations of the appropriation in section 122, chapter . . . (Substitute Senate Bill No. 6063), Laws of 1997.

**Appropriation:**

St Bldg Constr Acct—State . . . . .	\$	700,000
-------------------------------------	----	---------

Prior Biennia (Expenditures) . . . . .	\$	0
Future Biennia (Projected Costs) . . . . .	\$	0
TOTAL . . . . .	\$	700,000

Sec. 4. 1997 c . . . (SSB 6063) s 123 (uncodified) is each amended to read as follows:

**FOR THE DEPARTMENT OF ((COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT)) ECOLOGY**

**Public Participation Grants**

The appropriation in this section is provided solely for the department to administer the public participation grant program pursuant to RCW 70.105D.070. In administering the grant program, the department shall award grants based upon a state-wide competitive process each year. Priority is to be given to applicants that demonstrate the ability to provide accurate technical information on complex waste management issues. Amounts provided in this section may not be spent on lobbying activities.

**Appropriation:**

**Local Toxics Control Account—**

State . . . . .	\$	435,000
Prior Biennia (Expenditures) . . . . .	\$	0
Future Biennia (Projected Costs) . . . . .	\$	0
TOTAL . . . . .	\$	435,000

NEW SECTION. Sec. 5. A new section is added to 1997 c . . . (SSB 6063) to read as follows:

**FOR THE DEPARTMENT OF GENERAL ADMINISTRATION**

**Heritage Park:** To complete the construction work necessary to establish the arc of statehood and related in-water work (98-2-003)

The appropriation in this section is subject to the review and allotment procedures under section 712, chapter . . . (Substitute Senate Bill No. 6063), Laws of 1997.

**Appropriation:**

St Bldg Constr Acct—State . . . . .	\$	4,600,000
Prior Biennia (Expenditures) . . . . .	\$	0
Future Biennia (Projected Costs) . . . . .	\$	0
TOTAL . . . . .	\$	4,600,000

NEW SECTION. Sec. 6. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

**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 the House April 26, 1997.

Passed the Senate April 26, 1997.

Approved by the Governor May 20, 1997.

Filed in Office of Secretary of State May 20, 1997.

## CHAPTER 456

[Engrossed Substitute Senate Bill 6064]

GENERAL OBLIGATION BONDS—AUTHORITY TO ISSUE FOR COSTS ASSOCIATED WITH 1997-1999 BIENNIUM—BOND RETIREMENT, REORGANIZATION, MODIFICATIONS

AN ACT Relating to state general obligation bonds and related accounts; amending RCW 28B.56.100, 28B.106.040, 43.83A.090, 43.99E.045, 43.99F.080, 43.99G.030, 43.99G.040, 43.99G.050, 43.99G.104, 43.99H.030, 43.99H.040, 43.99I.030, 43.99I.030, 43.99I.030, 43.99K.030, 47.26.506, 67.40.060, 70.48.310, 70.48A.070, 79.24.658, 43.83.160, 43.99I.020, 43.99I.040, 43.99I.090, 43.99K.010, and 43.99K.020; adding new chapters to Title 43 RCW; repealing RCW 43.99I.050; and declaring an emergency.

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

### PART I—NEW BOND AUTHORIZATION

**NEW SECTION. Sec. 1.** For the purpose of providing funds to finance the projects described and authorized by the legislature in the capital and operating appropriations acts for the 1997-99 fiscal biennium only, and all costs incidental thereto, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of nine hundred eighty-nine million dollars, or as much thereof as may be required, to finance these projects and all costs incidental thereto. Bonds authorized in this section may be sold at such price as the state finance committee shall determine. No bonds authorized in this section may be offered for sale without prior legislative appropriation of the net proceeds of the sale of the bonds.

**NEW SECTION. Sec. 2.** The proceeds from the sale of the bonds authorized in section 1 of this act shall be deposited in the state building construction account created by RCW 43.83.020. The proceeds shall be transferred as follows:

(1) Nine hundred fifteen million dollars to remain in the state building construction account created by RCW 43.83.020;

(2) One million six hundred thousand dollars to the public safety reimbursable bond account; and

(3) Forty-four million three hundred thousand dollars to the higher education construction account created by RCW 28B.14D.040.

These proceeds shall be used exclusively for the purposes specified in this section and for the payment of expenses incurred in the issuance and sale of the bonds issued for the purposes of this section, and shall be administered by the office of financial management subject to legislative appropriation.

**NEW SECTION. Sec. 3.** (1) The debt-limit general fund bond retirement account shall be used for the payment of the principal of and interest on the bonds authorized in section 2(1) of this act.

(2) The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet the bond retirement and interest requirements on the bonds authorized in section 2(1) of this act.

(3) On each date on which any interest or principal and interest payment is due on bonds issued for the purpose of section 2(1) of this act, the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the debt-limit general fund bond retirement account an amount equal to the amount certified by the state finance committee to be due on the payment date.

**NEW SECTION. Sec. 4.** (1) The debt-limit reimbursable bond retirement account shall be used for the payment of the principal of and interest on the bonds authorized in section 2(2) of this act.

(2) The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet the bonds retirement and interest requirements on the bonds authorized in section 2(2) of this act.

(3) On each date on which any interest or principal and interest payment is due on bonds issued for the purpose of section 2(2) of this act, the state treasurer shall transfer from the public safety and education account to the debt-limit reimbursable bond retirement account the amount computed in subsection (2) of this section for the bonds issued for the purpose of section 2(2) of this act.

**NEW SECTION. Sec. 5.** (1) The nondebt-limit reimbursable bond retirement account shall be used for the payment of the principal of and interest on the bonds authorized in section 2(3) of this act.

(2) The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet the bond retirement and interest requirements on the bonds authorized in section 2(3) of this act.

(3) On each date on which any interest or principal and interest payment is due on bonds issued for the purposes of section 2(3) of this act, the board of regents of the University of Washington shall cause to be paid out of University of Washington nonappropriated local funds to the state treasurer for deposit into the nondebt-limit reimbursable bond retirement account the amount computed in subsection (2) of this section for bonds issued for the purposes of section 2(3) of this act.

**NEW SECTION. Sec. 6.** (1) Bonds issued under sections 1 through 5 of this act shall state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof

and the interest thereon, and shall contain an unconditional promise to pay the principal and interest as the same shall become due.

(2) The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed in this section.

**NEW SECTION. Sec. 7.** The legislature may provide additional means for raising moneys for the payment of the principal of and interest on the bonds authorized in section 1 of this act, and sections 3 through 5 of this act shall not be deemed to provide an exclusive method for the payment.

**NEW SECTION. Sec. 8.** The bonds authorized in section 1 of this act shall be a legal investment for all state funds or funds under state control and for all funds of any other public body.

## **PART II—BOND RETIREMENT FUND REORGANIZATION**

**NEW SECTION. Sec. 9.** (1) The legislature declares that it is in the best interest of the state and the owners and holders of the bonds issued by the state and its political subdivisions that the accounts used by the treasurer for debt service retirement are accurately designated and named in statute.

(2) It is the intent of the legislature in this chapter and sections 10 through 37, chapter . . . , Laws of 1997 (sections 10 through 37 of this act) to create and change the names of funds and accounts to accomplish the declaration under subsection (1) of this section. The legislature does not intend to diminish in any way the current obligations of the state or its political subdivisions or diminish in any way the rights of bond owners and holders.

**Sec. 10.** RCW 28B.56.100 and 1972 ex.s. c 133 s 10 are each amended to read as follows:

The community college capital improvements bond redemption fund of 1972 is created in the state treasury. This fund shall be exclusively devoted to the payment of interest on and retirement of the bonds authorized by this chapter. The state finance committee shall, on or before June 30 of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet bond retirement and interest requirements, and on July 1 of each year, the state treasurer shall deposit such amount in the community college capital improvements bond redemption fund of 1972 from moneys transmitted to the state treasurer by the department of revenue and certified by the department of revenue to be retail sales tax collections. Such amount certified by the state finance committee to the state treasurer shall be a prior charge against all retail sales tax revenues of the state of Washington, except that portion thereof heretofore pledged for the payment of bond principal and interest.

The owner and holder of each of the bonds or the trustee for any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed herein.

If a debt-limit general fund bond retirement account is created in the state treasury by chapter . . . Laws of 1997 (this act) and becomes effective prior to the issuance of any of the bonds authorized by this chapter, the debt-limit general fund bond retirement account shall be used for the purposes of this chapter in lieu of the community college capital improvements bonds redemption fund of 1972.

**Sec. 11.** RCW 28B.106.040 and 1988 c 125 s 12 are each amended to read as follows:

The state higher education bond retirement fund of 1988 is hereby created in the state treasury, and shall be used for the payment of principal and interest on the college savings bonds.

The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount required for principal and interest on such bonds in accordance with the provisions of the bond proceedings. The state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the state higher education bond retirement fund of 1988, such amounts and at such times as are required by the bond proceedings. If directed by the state finance committee by resolution, the state higher education bond retirement fund of 1988, or any portion thereof, may be deposited in trust with any qualified public depository.

The owner and holder of each of the college savings bonds or the trustee for the owner and holder of any of the college savings bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed in this section.

If a debt-limit general fund bond retirement account is created in the state treasury by chapter . . . Laws of 1997 (this act) and becomes effective prior to the issuance of any of the bonds authorized by this chapter, the debt-limit general fund bond retirement account shall be used for the purposes of this chapter in lieu of the state higher education bond retirement fund of 1988.

**Sec. 12.** RCW 43.83A.090 and 1972 ex.s. c 127 s 9 are each amended to read as follows:

The waste disposal facilities bond redemption fund is created in the state treasury. This fund shall be exclusively devoted to the payment of interest on and retirement of the bonds authorized by this chapter. The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet such bond retirement and interest requirements, and on July 1st of each year the state treasurer shall deposit such amount in the waste disposal facilities bond redemption fund from moneys transmitted to the state treasurer by the state department of revenue and certified by the department to be sales tax collections. Such amount certified by the state finance committee to the state treasurer shall be a prior charge against all retail sales tax revenues of the state of Washington, except that portion thereof heretofore pledged for the payment of bond principal and interest. The owner and holder of each of the bonds or the trustee for any of the bonds may by mandamus or other

appropriate proceeding require the transfer and payment of funds as directed herein.

If a debt-limit general fund bond retirement account is created in the state treasury by chapter . . . Laws of 1997 (this act) and becomes effective prior to the issuance of any of the bonds authorized by this chapter, the debt-limit general fund bond retirement account shall be used for the purposes of this chapter in lieu of the waste disposal facilities bond redemption fund.

**Sec. 13.** RCW 43.99E.045 and 1979 ex.s. c 234 s 8 are each amended to read as follows:

The public water supply facilities bond redemption fund is created in the state treasury. This fund shall be exclusively devoted to the payment of interest on and retirement of the bonds authorized by this chapter. The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet the bond retirement and interest requirements. Not less than thirty days prior to the date on which any interest or principal and interest payment is due, the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the public water supply facilities bond redemption fund an amount equal to the amount certified by the state finance committee to be due on the payment date. ~~((If a state general obligation bond retirement fund is created in the state treasury by chapter 230, Laws of 1979 1st ex. sess. and becomes effective by statute prior to the issuance of any of the bonds authorized by this chapter, the state general obligation bond retirement fund shall be used for purposes of this chapter in lieu of the public water supply facilities bond redemption fund, and the public water supply facilities bond redemption fund shall cease to exist.))~~ The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed in this section.

If a debt-limit general fund bond retirement account is created in the state treasury by chapter . . . Laws of 1997 (this act) and becomes effective prior to the issuance of any of the bonds authorized by this chapter, the debt-limit general fund bond retirement account shall be used for the purposes of this chapter in lieu of the public water supply facilities bond redemption fund.

**Sec. 14.** RCW 43.99F.080 and 1980 c 159 s 8 are each amended to read as follows:

The waste disposal facilities bond redemption fund shall be used for the purpose of the payment of the principal of and redemption premium, if any, and interest on the bonds and the bond anticipation notes authorized to be issued under this chapter.

The state finance committee, on or before June 30<sup>th</sup> of each year, shall certify to the state treasurer the amount required in the next succeeding twelve months for the payment of the principal of and interest coming due on the bonds. Not less than thirty days prior to the date on which any interest or principal and interest

payment is due, the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the waste disposal facilities bond redemption fund an amount equal to the amount certified by the state finance committee to be due on the payment date. The owner and holder of each of the bonds or the trustee for any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed in this chapter.

If a debt-limit general fund bond retirement account is created in the state treasury by chapter . . . Laws of 1997 (this act) and becomes effective prior to the issuance of any of the bonds authorized by this chapter, the debt-limit general fund bond retirement account shall be used for the purposes of this chapter in lieu of the waste disposal facilities bond redemption fund.

**Sec. 15.** RCW 43.99G.030 and 1989 1st ex.s. c 14 s 19 are each amended to read as follows:

Both principal of and interest on the bonds issued for the purposes specified in RCW 43.99G.020 (1) through (6) shall be payable from the ~~((state general obligation bond retirement fund. The state finance committee may provide that a special account be created in such fund to facilitate payment of such principal and interest))~~ debt-limit general fund bond retirement account.

The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount required for principal and interest on such bonds in accordance with the provisions of the bond proceedings. The state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the ~~((state general obligation bond retirement fund, or a special account in such fund;))~~ debt-limit general fund bond retirement account such amounts and at such times as are required by the bond proceedings.

**Sec. 16.** RCW 43.99G.040 and 1989 1st ex.s. c 14 s 20 are each amended to read as follows:

Both principal of and interest on the bonds issued for the purposes of RCW 43.99G.020(7) shall be payable from the ~~((higher education bond retirement fund of 1979. The state finance committee may provide that a special account be created in such fund to facilitate payment of such principal and interest))~~ nondebt-limit reimbursable bond retirement account.

The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount required for principal and interest on such bonds in accordance with the provisions of the bond proceedings. The state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the ~~((higher education bond retirement fund of 1979, or a special account in such fund;))~~ nondebt-limit reimbursable bond retirement account such amounts and at such times as are required by the bond proceedings.

**Sec. 17.** RCW 43.99G.050 and 1989 1st ex.s. c 14 s 21 are each amended to read as follows:

Both principal of and interest on the bonds issued for the purposes of RCW 43.99G.020(8) shall be payable from the ~~((state higher education bond retirement~~

~~fund of 1977. The state finance committee may provide that a special account be created in such fund to facilitate payment of such principal and interest)) debt-limit general fund bond retirement account.~~

The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount required for principal and interest on such bonds in accordance with the provisions of the bond proceedings. The state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the ~~((state higher education bond retirement fund of 1977, or a special account in such fund;))~~ debt-limit general fund bond retirement account such amounts and at such times as are required by the bond proceedings.

**Sec. 18.** RCW 43.99G.104 and 1989 1st ex.s. c 14 s 23 are each amended to read as follows:

Both principal of and interest on the bonds issued for the purposes specified in RCW 43.99G.102 shall be payable from the ~~((state general obligation bond retirement fund. The state finance committee may provide that a special account be created in such fund to facilitate payment of such principal and interest))~~ debt-limit general fund bond retirement account.

The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount required for principal and interest on such bonds in accordance with the provisions of the bond proceedings. The state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the ~~((state general obligation bond retirement fund, or a special account in such fund;))~~ debt-limit general fund bond retirement account such amounts and at such times as are required by the bond proceedings.

**Sec. 19.** RCW 43.99H.030 and 1991 sp.s. c 31 s 13 are each amended to read as follows:

Both principal of and interest on the bonds issued for the purposes specified in RCW 43.99H.020 (1) through (3), (5) through (14), and (19) shall be payable from the ~~((state general obligation bond retirement fund. The state finance committee may provide that a special account be created in such fund to facilitate payment of such principal and interest))~~ debt-limit general fund bond retirement account.

The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount required to provide for the payment of principal and interest on such bonds during the ensuing fiscal year in accordance with the provisions of the bond proceedings. The state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the ~~((state general obligation bond retirement fund, or a special account in such fund;))~~ debt-limit general fund bond retirement account such amounts and at such times as are required by the bond proceedings.

**Sec. 20.** RCW 43.99H.040 and 1991 sp.s. c 31 s 14 are each amended to read as follows:

(1) Both principal of and interest on the bonds issued for the purposes of RCW 43.99H.020(16) shall be payable from the ~~((higher education bond retirement fund of 1979. The state finance committee may provide that a special account be created in such fund to facilitate payment of such principal and interest))~~ nondebt-limit reimbursable bond retirement account.

The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount required to provide for the payment of principal and interest on such bonds during the ensuing fiscal year in accordance with the provisions of the bond proceedings. The state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the ~~((higher education bond retirement fund of 1979, or a special account in such fund;))~~ nondebt-limit reimbursable bond retirement account such amounts and at such times as are required by the bond proceedings.

(2) Both principal of and interest on the bonds issued for the purposes of RCW 43.99H.020(15) shall be payable from the ~~((state general obligation bond retirement fund. The state finance committee may provide that a special account be created in such fund to facilitate payment of such principal and interest))~~ debt-limit reimbursable bond retirement account and nondebt-limit reimbursable bond retirement account as set forth under RCW 43.99H.060(2).

The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount required to provide for the payment of principal and interest on such bonds during the ensuing fiscal year in accordance with the provisions of the bond proceedings. The state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the ~~((state general obligation bond retirement fund, or a special account in such fund;))~~ debt-limit reimbursable bond retirement account and nondebt-limit reimbursable bond retirement account as set forth under RCW 43.99H.060(2) such amounts and at such times as are required by the bond proceedings.

(3) Both principal of and interest on the bonds issued for the purposes of RCW 43.99H.020(17) shall be payable from the ~~((state general obligation bond retirement fund. The state finance committee may provide that a special account be created in such fund to facilitate payment of such principal and interest))~~ nondebt-limit proprietary appropriated bond retirement account.

The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount required to provide for the payment of principal and interest on such bonds during the ensuing fiscal year in accordance with the provisions of the bond proceedings. The state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the ~~((state general obligation bond retirement fund, or a special account in such fund;))~~ nondebt-limit proprietary appropriated bond retirement account such amounts and at such times as are required by the bond proceedings.

(4) Both principal of and interest on the bonds issued for the purposes of RCW 43.99H.020(18) shall be payable from the ~~((state general obligation bond~~

~~retirement fund. The state finance committee may provide that a special account be created in such fund to facilitate payment of such principal and interest))~~  
nondebt-limit reimbursable bond retirement account.

The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount required to provide for the payment of principal and interest on such bonds during the ensuing fiscal year in accordance with the provisions of the bond proceedings. The state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the ~~((state general obligation bond retirement fund, or a special account in such fund))~~  
nondebt-limit reimbursable bond retirement account such amounts and at such times as are required by the bond proceedings.

(5) Both principal of and interest on the bonds issued for the purposes of RCW 43.99H.020(20) shall be payable from the ~~((state general obligation bond retirement fund. The state finance committee may provide that a special account be created in such fund to facilitate payment of such principal and interest))~~  
nondebt-limit reimbursable bond retirement account.

The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount required to provide for the payment of principal and interest on such bonds during the ensuing fiscal year in accordance with the provisions of the bond proceedings. The state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the ~~((state general obligation bond retirement fund, or a special account in such fund;))~~  
nondebt-limit reimbursable bond retirement account such amounts and at such times as are required by the bond proceedings.

(6) Both principal of and interest on the bonds issued for the purposes of RCW 43.99H.020(4) shall be payable from the ~~((state general obligation bond retirement fund. The state finance committee may provide that a special account be created in such fund to facilitate payment of such principal and interest))~~  
nondebt-limit general fund bond retirement account.

The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount required to provide for the payment of principal and interest on such bonds during the ensuing fiscal year in accordance with the provisions of the bond proceedings. The state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the ~~((state general obligation bond retirement fund, or a special account in such fund;))~~  
nondebt-limit general fund bond retirement account such amounts and at such times as are required by the bond proceedings.

**Sec. 21.** RCW 43.99I.030 and 1991 sp.s. c 31 s 3 are each amended to read as follows:

(1)(a) Both principal of and interest on the bonds issued for the purposes specified in RCW 43.99I.020 (1) ~~((through (7)))~~ and (2) shall be payable from the ~~((state general obligation bond retirement fund. The state finance committee may~~

provide that a special account be created in such fund to facilitate payment of such principal and interest)) debt-limit general fund bond retirement account.

(b) Both principal of and interest on the bonds issued for the purposes specified in RCW 43.99I.020(3) shall be payable from the nondebt-limit proprietary appropriated bond retirement account.

(c) Both principal of and interest on the bonds issued for the purposes specified in RCW 43.99I.020(4) shall be payable from the nondebt-limit general fund bond retirement account.

(d) Both principal of and interest on the bonds issued for the purposes specified in RCW 43.99I.020 (5) and (6) shall be payable from the nondebt-limit reimbursable bond retirement account.

(e) Both principal of and interest on the bonds issued for the purposes specified in RCW 43.99I.020(7) shall be payable from the nondebt-limit proprietary nonappropriated bond retirement account.

(2) The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount required to provide for the payment of principal and interest on such bonds during the ensuing fiscal year in accordance with the provisions of the bond proceedings. The state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the ~~((state general obligation bond retirement fund, or a special account in such fund,))~~ appropriate account as set forth under subsection (1) of this section such amounts and at such times as are required by the bond proceedings.

**Sec. 22.** RCW 43.99J.030 and 1993 sp.s. c 12 s 3 are each amended to read as follows:

(1)(a) ~~The ((state general obligation bond retirement fund))~~ debt-limit general fund bond retirement account shall be used for the payment of the principal of and interest on the bonds authorized in RCW 43.99J.020(1).

(b) The nondebt-limit proprietary nonappropriated bond retirement account shall be used for the payment of the principal of and interest on the bonds authorized in RCW 43.99J.020(2).

(2) The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet the bond retirement and interest requirements. On the date on which any interest or principal and interest payment is due, the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the ~~((general obligation bond retirement fund))~~ debt-limit general fund bond retirement account or nondebt-limit proprietary nonappropriated bond retirement account, as necessary, an amount equal to the amount certified by the state finance committee to be due on the payment date.

(3) Bonds issued under RCW 43.99J.010 shall state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and shall

contain an unconditional promise to pay the principal and interest as the same shall become due.

(4) The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed in this section.

Sec. 23. RCW 43.99K.030 and 1995 2nd sp.s. c 17 s 3 are each amended to read as follows:

(1)(a) ~~The ((state general obligation bond retirement fund))~~ debt-limit general fund bond retirement account shall be used for the payment of the principal of and interest on the bonds authorized in RCW 43.99K.020 (1), (2), and (3)~~((, (4), and (5))~~).

(b) The debt-limit reimbursable bond retirement account shall be used for the payment of the principal of and interest on the bonds authorized in RCW 43.99K.020(4).

(c) The nondebt-limit reimbursable bond retirement account shall be used for the payment of the principal of and interest on the bonds authorized in RCW 43.99K.020(5).

(2) The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet the bond retirement and interest requirements. Not less than thirty days prior to the date on which any interest or principal and interest payment is due, the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the ~~((general obligation bond retirement fund))~~ debt-limit general fund bond retirement account, debt-limit reimbursable bond retirement account, nondebt-limit reimbursable bond retirement account, as necessary, an amount equal to the amount certified by the state finance committee to be due on the payment date.

(3) On each date on which any interest or principal and interest payment is due on bonds issued for the purposes of RCW 43.99K.020(4), the state treasurer shall transfer from the public safety and education account to the general fund of the state treasury the amount computed in subsection (2) of this section for the bonds issued for the purposes of RCW 43.99K.020(4).

(4) On each date on which any interest or principal and interest payment is due on bonds issued for the purposes of RCW 43.99K.020(5), the board of regents of the University of Washington shall cause to be paid out of University of Washington nonappropriated local funds to the state treasurer for deposit into the general fund of the state treasury the amount computed in subsection (2) of this section for bonds issued for the purposes of RCW 43.99K.020(5).

(5) Bonds issued under this section and RCW 43.99K.010 and 43.99K.020 shall state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and shall contain an unconditional promise to pay the principal and interest as the same shall become due.

(6) The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed in this section.

**Sec. 24.** RCW 47.26.506 and 1993 c 440 s 7 are each amended to read as follows:

At least one year prior to the date any interest is due and payable on such bonds or before the maturity date of any such bonds, the state finance committee shall estimate, subject to the provisions of RCW 47.26.505 the percentage of the receipts in money of the motor vehicle fund, resulting from collection of excise taxes on motor vehicle and special fuels, for each month of the year which shall be required to meet interest or bond payments under RCW 47.26.500 through 47.26.507 when due, and shall notify the state treasurer of such estimated requirement. The state treasurer, subject to RCW 47.26.505, shall thereafter from time to time each month as such funds are paid into the motor vehicle fund, transfer such percentage of the monthly receipts from excise taxes on motor vehicle and special fuels of the motor vehicle fund to the ~~((highway bond retirement fund))~~ transportation improvement board bond retirement account, maintained in the office of the state treasurer, which ~~((fund))~~ account shall be available for payment of principal and interest or bonds when due. If in any month it shall appear that the estimated percentage of money so made is insufficient to meet the requirements for interest or bond retirement, the treasurer shall notify the state finance committee forthwith and such committee shall adjust its estimates so that all requirements for interest and principal of all bonds issued shall be fully met at all times.

**Sec. 25.** RCW 67.40.060 and 1987 1st ex.s. c 8 s 5 are each amended to read as follows:

The ~~((state general obligation bond retirement fund))~~ nondebt-limit proprietary appropriated bond retirement account shall be used for the payment of the principal of and interest on the bonds authorized in RCW 67.40.030.

The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet the bond retirement and interest requirements. Not less than thirty days prior to the date on which any interest or principal and interest payment is due, the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the ~~((state general obligation bond retirement fund))~~ nondebt-limit proprietary appropriated bond retirement account an amount equal to the amount certified by the state finance committee to be due on that payment date. On each date on which any interest or principal and interest is due, the state treasurer shall cause an identical amount to be paid out of the state convention and trade center account, or state convention and trade center operations account, from the proceeds of the special excise tax imposed under RCW 67.40.090, operating revenues of the state convention and trade center, and bond proceeds and earnings on the investment of bond proceeds, for deposit in the general fund of the state treasury. Any deficiency in such transfer shall be made up as soon as special

excise taxes are available for transfer and shall constitute a continuing obligation of the state convention and trade center account until all deficiencies are fully paid.

Bonds issued under RCW 67.40.030 shall state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and shall contain an unconditional promise to pay the principal and interest as the same shall become due.

The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed in this section.

**Sec. 26.** RCW 70.48.310 and 1979 ex.s. c 232 s 7 are each amended to read as follows:

The jail renovation bond retirement fund is hereby created in the state treasury. This fund shall be used for the payment of interest on and retirement of the bonds and notes authorized by this chapter. The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount required in the next succeeding twelve months for the payment of the principal of and the interest coming due on the bonds. Not less than thirty days prior to the date on which any interest or principal and interest payment is due, the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the jail renovation bond retirement fund an amount equal to the amount certified by the state finance committee to be due on the payment date. The owner and holder of each of the bonds or the trustee for any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed in this section.

~~((If a state general obligation bond retirement fund is created in the state treasury by chapter 230, Laws of 1979 ex. sess., and becomes effective by statute prior to the issuance of any of the bonds authorized by this chapter, the retirement fund shall be used for purposes of this chapter in lieu of the jail renovation bond retirement fund, and the jail renovation bond retirement fund shall cease to exist.))~~

If a debt-limit general fund bond retirement account is created in the state treasury by chapter . . . , Laws of 1997 (this act) and becomes effective prior to the issuance of any of the bonds authorized by this chapter, the debt-limit general fund bond retirement account shall be used for the purposes of this chapter in lieu of the jail renovation bond retirement fund.

**Sec. 27.** RCW 70.48A.070 and 1981 c 131 s 7 are each amended to read as follows:

The ~~((state general obligation bond retirement fund))~~ debt-limit general fund bond retirement account shall be used for the payment of principal and interest on and retirement of the bonds authorized by RCW 70.48A.010 through 70.48A.080.

The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount required in the next succeeding twelve months for the payment of the principal of and the interest coming due on the bonds. Not less

than thirty days prior to the date on which any interest or principal and interest payment is due, the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the ~~((general obligation bond retirement fund))~~ debt-limit general fund bond retirement account an amount equal to the amount certified by the state finance committee to be due on the payment date.

The owner and holder of each of the bonds or the trustee for any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed in this section.

**Sec. 28.** RCW 79.24.658 and 1969 ex.s. c 272 s 5 are each amended to read as follows:

For the purpose of paying the principal and interest of ~~((said))~~ the bonds as the ~~((same shall))~~ bonds become due, or as ~~((said))~~ the bonds become callable at the option of the capitol committee, there is created a fund to be denominated the "state building and parking bond redemption fund". While any of ~~((said))~~ the bonds remain outstanding and unpaid, it shall be the duty of the capitol committee on or before June 30th of each year to determine the amount that will be required for the redemption of bonds and the payment of interest during the next fiscal year, and certify ~~((said))~~ the amount to the state treasurer in writing. The state treasurer shall forthwith and thereafter during that fiscal year and at least fifteen days prior to each interest and principal payment date deposit into the state building and parking bond redemption fund all receipts from any parking facilities and to the extent necessary from receipts from leases and contracts of sale heretofore or hereafter made of lands, timber, and other products from the surface or beneath the surface of the lands granted to the state by the United States pursuant to the act of congress until the amount certified to the treasurer by the capitol committee has accrued to the state building and parking bond redemption fund. Nothing in RCW 79.24.650 through 79.24.668 shall prohibit the use of such receipts from leases and contracts of sale for any other lawfully authorized purpose when not required for the redemption and payment of interest and meeting the covenant requirements of the bonds authorized herein.

In addition to certifying and providing for the annual amounts required to pay the principal and interest of ~~((said))~~ the bonds, the capitol committee may, under such terms and conditions and at such times and in such amounts as may be found necessary to insure the sale of ~~((said))~~ the bonds, provide for additional payments into the state building and parking bond redemption fund to be held as a reserve to secure the payment of the principal and interest of such bonds.

The owner and holder of any of ~~((said))~~ the bonds or the trustee for any of ~~((said))~~ the bonds may by mandamus or other appropriate proceeding require and compel the deposit and payment of funds as directed herein.

The proceeds from the sale of the bonds hereby authorized shall be paid into the general fund—state building construction account.

If a nondebt-limit revenue bond retirement account is created in the state treasury by chapter . . . Laws of 1997 (this act) and becomes effective prior to the issuance of any of the bonds authorized by this chapter, the nondebt-limit revenue bond retirement account shall be used for the purposes of this chapter in lieu of the state building and parking bond redemption fund.

**Sec. 29.** RCW 43.83.160 and 1979 ex.s. c 230 s 6 are each amended to read as follows:

The state general obligation bond retirement fund is hereby created in the state treasury. This fund shall be used for the payment of principal of, redemption premium, if any, and interest on general obligation bonds of the state that are required to be paid either directly or indirectly from any general state revenues and that are issued pursuant to statutory authority which statute designates the general obligation bond retirement fund for this purpose. This fund shall be deemed a trust fund for this purpose.

If bond retirement accounts are created in the state treasury by chapter . . . Laws of 1997 (this act) and become effective prior to the issuance of any of the bonds that would otherwise be subject to payment from the state general obligation bond retirement fund under this section, the bond retirement accounts designated by the statutes authorizing the bond issuance shall be used for the purposes of this chapter in lieu of the state general obligation bond retirement fund.

**NEW SECTION. Sec. 30.** The debt-limit general fund bond retirement account is created in the state treasury. This account shall be exclusively devoted to the payment of principal and interest on and retirement of the bonds authorized by the legislature.

**NEW SECTION. Sec. 31.** The debt-limit reimbursable bond retirement account is created in the state treasury. This account shall be exclusively devoted to the payment of principal and interest on and retirement of the bonds authorized by the legislature.

**NEW SECTION. Sec. 32.** The nondebt-limit general fund bond retirement account is created in the state treasury. This account shall be exclusively devoted to the payment of principal and interest on and retirement of the bonds authorized by the legislature.

**NEW SECTION. Sec. 33.** The nondebt-limit reimbursable bond retirement account is created in the state treasury. This account shall be exclusively devoted to the payment of principal and interest on and retirement of the bonds authorized by the legislature.

**NEW SECTION. Sec. 34.** The nondebt-limit proprietary appropriated bond retirement account is created in the state treasury. This account shall be exclusively devoted to the payment of principal and interest on and retirement of the bonds authorized by the legislature.

**NEW SECTION.** Sec. 35. The nondebt-limit proprietary nonappropriated bond retirement account is created in the state treasury. This account shall be exclusively devoted to the payment of principal and interest on and retirement of the bonds authorized by the legislature.

**NEW SECTION.** Sec. 36. The nondebt-limit revenue bond retirement account is created in the state treasury. This account shall be exclusively devoted to the payment of principal and interest on and retirement of the bonds authorized by the legislature.

**NEW SECTION.** Sec. 37. The transportation improvement board bond retirement account is created in the state treasury. This account shall be exclusively devoted to the payment of principal and interest on and retirement of the bonds authorized by the legislature.

### **PART III—AMENDMENTS TO EXISTING BOND AUTHORIZATIONS**

**Sec. 38.** RCW 43.99I.020 and 1992 c 235 s 2 are each amended to read as follows:

Bonds issued under RCW 43.99I.010 are subject to the following conditions and limitations:

General obligation bonds of the state of Washington in the sum of one billion two hundred ~~((eighty-four))~~ seventy-one million sixty-five thousand dollars, or so much thereof as may be required, shall be issued for the purposes described and authorized by the legislature in the capital and operating appropriations acts for the 1991-93 fiscal biennium and subsequent fiscal biennia, and to provide for the administrative cost of such projects, including costs of bond issuance and retirement, salaries and related costs of officials and employees of the state, costs of insurance or credit enhancement agreements, and other expenses incidental to the administration of capital projects. Subject to such changes as may be required in the appropriations acts, the proceeds from the sale of the bonds issued for the purposes of this subsection shall be deposited in the state building construction account created by RCW 43.83.020 and transferred as follows:

- (1) Eight hundred thirty-five thousand dollars to the state higher education construction account created by RCW 28B.10.851;
- (2) Eight hundred seventy-one million dollars to the state building construction account created by RCW 43.83.020;
- (3) ~~((Fifteen million dollars to the energy efficiency construction account created by RCW 39.35C.100;~~
- ~~—(4) Three))~~ Two million ~~((fifty))~~ eight hundred thousand dollars to the energy efficiency services account created by RCW 39.35C.110;
- ~~((5))~~ (4) Two hundred fifty-five million five hundred thousand dollars to the common school reimbursable construction account hereby created in the state treasury;

~~((6))~~ (5) Ninety-eight million six hundred forty-eight thousand dollars to the higher education reimbursable construction account hereby created in the state treasury;

~~((7))~~ (6) Three million two hundred eighty-four thousand dollars to the data processing building construction account created in RCW 43.99I.100; and

~~((8))~~ (7) Nine hundred thousand dollars to the Washington state dairy products commission facility account created in RCW 43.99I.110.

These proceeds shall be used exclusively for the purposes specified in this subsection, and for the payment of expenses incurred in the issuance and sale of the bonds issued for the purposes of this section, and shall be administered by the office of financial management, subject to legislative appropriation.

**Sec. 39.** RCW 43.99I.040 and 1992 c 235 s 3 are each amended to read as follows:

(1) ~~((On each date on which any interest or principal and interest payment is due on bonds issued for the purposes of RCW 43.99I.020 (3) and (4), the state treasurer shall transfer from the energy efficiency construction account created in RCW 39.35C.100 to the general fund of the state treasury the amount computed in RCW 43.99I.030 for the bonds issued for the purposes of RCW 43.99I.020 (3) and (4).~~

~~—(2))~~ On each date on which any interest or principal and interest payment is due on bonds issued for the purposes of RCW 43.99I.020~~((5))~~ (4), the state treasurer shall transfer from property taxes in the state general fund levied for this support of the common schools under RCW 84.52.065 to the general fund of the state treasury for unrestricted use the amount computed in RCW 43.99I.030 for the bonds issued for the purposes of RCW 43.99I.020~~((5))~~ (4).

~~((3))~~ (2) On each date on which any interest or principal and interest payment is due on bonds issued for the purposes of RCW 43.99I.020~~((6))~~ (5), the state treasurer shall transfer from higher education operating fees deposited in the general fund to the general fund of the state treasury for unrestricted use, or if chapter 231, Laws of 1992 (Senate Bill No. 6285) becomes law and changes the disposition of higher education operating fees from the general fund to another account, the state treasurer shall transfer the proportional share from the University of Washington operating fees account, the Washington State University operating fees account, and the Central Washington University operating fees account the amount computed in RCW 43.99I.030 for the bonds issued for the purposes of RCW 43.99I.020~~((7))~~ (6).

~~((4))~~ (3) On each date on which any interest or principal and interest payment is due on bonds issued for the purposes of RCW 43.99I.020~~((7))~~ (6), the state treasurer shall transfer from the data processing revolving ~~((account {fund}))~~ fund created in RCW 43.105.080 to the general fund of the state treasury the amount computed in RCW 43.99I.030 for the bonds issued for the purposes of RCW 43.99I.020~~((7))~~ (6).

~~((5))~~ (4) On each date on which any interest or principal and interest payment is due on bonds issued for the purpose of RCW 43.99I.020~~((8))~~ (7), the Washington state dairy products commission shall cause the amount computed in RCW 43.99I.030 for the bonds issued for the purposes of RCW 43.99I.020~~((8))~~ (7) to be paid out of the commission's general operating fund to the state treasurer for deposit into the general fund of the state treasury.

(5) The higher education operating fee accounts for the University of Washington, Washington State University, and Central Washington University established by chapter 231, Laws of 1992 and repealed by chapter 18, Laws of 1993 1st sp. sess. are reestablished in the state treasury for purposes of fulfilling debt service reimbursement transfers to the general fund required by bond resolutions and covenants for bonds issued for purposes of RCW 43.99I.020(5).

(6) For bonds issued for purposes of RCW 43.99I.020(5), on each date on which any interest or principal and interest payment is due, the board of regents or board of trustees of the University of Washington, Washington State University, or Central Washington University shall cause the amount as determined by the state treasurer to be paid out of the local operating fee account for deposit by the universities into the state treasury higher education operating fee accounts. The state treasurer shall transfer the proportional share from the University of Washington operating fees account, the Washington State University operating fees account, and the Central Washington University operating fees account the amount computed in RCW 43.99I.030 for the bonds issued for the purposes of RCW 43.99I.020(6) to reimburse the general fund.

**Sec. 40.** RCW 43.99I.090 and 1992 c 235 s 5 are each amended to read as follows:

The bonds authorized by RCW 43.99I.020~~((8))~~ (7) shall be issued only after the director of financial management has (a) certified that, based on the future income from assessments levied pursuant to chapter 15.44 RCW and other revenues collected by the Washington state dairy products commission, an adequate balance will be maintained in the commission's general operating fund to pay the interest or principal and interest payments due under RCW 43.99I.040~~((4))~~ (3) for the life of the bonds; and (b) approved the facility to be acquired using the bond proceeds.

**Sec. 41.** RCW 43.99K.010 and 1995 2nd sp.s. c 17 s 1 are each amended to read as follows:

For the purpose of providing funds to finance the projects described and authorized by the legislature in the capital and operating appropriations acts for the 1995-97 fiscal biennium only, and all costs incidental thereto, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of ~~((eight hundred eleven million))~~ eight hundred sixty-seven million one hundred sixty thousand dollars, or as much thereof as may be required, to finance these projects and all costs incidental thereto. Bonds authorized in this section may be sold at such price as the state finance committee

shall determine. No bonds authorized in this section may be offered for sale without prior legislative appropriation of the net proceeds of the sale of the bonds.

**Sec. 42.** RCW 43.99K.020 and 1995 2nd sp.s. c 17 s 2 are each amended to read as follows:

The proceeds from the sale of the bonds authorized in RCW 43.99K.010 shall be deposited in the state building construction account created by RCW 43.83.020. The proceeds shall be transferred as follows:

(1) (~~Seven hundred eighty million~~) Seven hundred eighty-five million four hundred thirty-eight thousand dollars to remain in the state building construction account created by RCW 43.83.020;

(2) (~~Twenty million~~) Twenty-two million five hundred thousand dollars to the outdoor recreation account created by RCW 43.99.060;

(3) (~~Eighteen million six~~) Twenty-one million one hundred thousand dollars to the habitat conservation account created by RCW 43.98A.020;

(4) Two million nine hundred twelve thousand dollars to the public safety reimbursable bond account; and

(5) Ten million dollars to the higher education construction account created by RCW 28B.14D.040.

These proceeds shall be used exclusively for the purposes specified in this section and for the payment of expenses incurred in the issuance and sale of the bonds issued for the purposes of this section, and shall be administered by the office of financial management subject to legislative appropriation.

#### PART IV—MISCELLANEOUS

**NEW SECTION. Sec. 43.** RCW 43.99I.050 and 1991 sp.s. c 31 s 5 are each repealed.

**NEW SECTION. Sec. 44.** Sections 1 through 8 of this act constitute a new chapter in Title 43 RCW.

**NEW SECTION. Sec. 45.** Sections 9 and 30 through 37 of this act constitute a new chapter in Title 43 RCW.

**NEW SECTION. Sec. 46.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

**NEW SECTION. Sec. 47.** Sections 9 through 43 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 the Senate April 27, 1997.

Passed the House April 27, 1997.

Approved by the Governor May 20, 1997.

Filed in Office of Secretary of State May 20, 1997.

## CHAPTER 457

[Engrossed Substitute Senate Bill 6061]

## TRANSPORTATION BUDGET, 1997-1999

AN ACT Relating to transportation funding and appropriations; amending RCW 47.78.010; amending 1996 c 165 ss 207, 210, 211, 215, 218, 220, 221, 224, 225, 401, and 402 (uncodified); adding new sections to chapter 165, Laws of 1996; creating new sections; repealing 1996 c 165 s 505 (uncodified); making appropriations; providing an expiration date; and declaring an emergency.

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

**TRANSPORTATION APPROPRIATIONS**

**NEW SECTION. Sec. 1.** To ensure accountability for the expenditure of transportation revenue by agencies responsible for delivering transportation services and programs to the traveling and taxpaying public, an objective and systematic assessment of the services and programs administered by the departments of transportation and licensing and the Washington state patrol is essential. An audit of the agencies' performance and an examination of the efficiency and effectiveness of service and program delivery by the agencies, shall take place prior to the appropriation for full funding of certain programs, projects, and services in the 1997-99 biennium.

**NEW SECTION. Sec. 2.** (1) The transportation budget of the state is hereby adopted and, subject to the provisions hereinafter set forth, the several amounts hereinafter specified, or as much thereof as may be necessary to accomplish the purposes designated, are hereby appropriated from the several accounts and funds hereinafter named to the designated state agencies and offices for salaries, wages, and other expenses, for capital projects, and for other specified purposes, including the payment of any final judgments arising out of such activities, for the period ending June 30, 1999.

(2) Legislation with fiscal impacts enacted in the 1997 legislative session not assumed in this act are not funded in the 1997-99 transportation budget.

(3) Unless the context clearly requires otherwise, the definitions in this subsection apply throughout this act.

(a) "Fiscal year 1998" or "FY 1998" means the fiscal year ending June 30, 1998.

(b) "Fiscal year 1999" or "FY 1999" means the fiscal year ending June 30, 1999.

(c) "FTE" means full-time equivalent.

(d) "Lapse" or "revert" means the amount shall return to an unappropriated status.

(e) "Provided solely" means the specified amount may be spent only for the specified purpose.

(f) "Performance-based budgeting" means a budget that bases resource needs on quantified outcomes/results expected from use of the total appropriation. "Performance-based budgeting" does not mean incremental budgeting that focuses on justifying changes from the historic budget or to line-item input-driven budgets.

(g) "Mission" means a statement of an organization's purpose that is concise, understandable, and consistent with the agency's statutory mandate.

(h) "Vision" means a statement of the organization's preferred future that is idealistic, motivating, directive, and logically connected to the mission.

(i) "Major strategies" means the broad themes for how an agency plans to accomplish its mission.

(j) "Goals" means the statements of purpose that identify a desired result or outcome. The statements shall be realistic, achievable, directive, assignable, evaluative, and logically linked to the agency's mission and statutory mandate.

(k) "Objectives" means the steps taken to reach a goal that are specific and measurable within a specified time period. Objectives shall be assignable, prioritized, time-phased, and have resource estimates.

(l) "Strategic plan" means the strategies agencies create for investment choices in the future. All agency strategic plans shall present alternative investment strategies for providing services.

**PART I**

**GENERAL GOVERNMENT AGENCIES—OPERATING**

**NEW SECTION. Sec. 101. FOR THE DEPARTMENT OF AGRICULTURE**

Motor Vehicle Fund—State Appropriation . . . . . \$ 304,000

The appropriation in this section is subject to the following conditions and limitations and specified amounts are provided solely for that activity: The department of agriculture shall report to the legislative transportation committee by January 15, 1998, and January 15, 1999, on the number of fuel samples tested and the findings of the tests for the motor fuel quality program.

**NEW SECTION. Sec. 102. FOR THE JOINT LEGISLATIVE SYSTEMS COMMITTEE**

Motor Vehicle Fund—State Appropriation . . . . . \$ 111,000

The appropriation in this section is subject to the following conditions and limitations and specified amounts are provided solely for that activity: The joint legislative systems committee shall enter into a service level agreement with the legislative transportation committee by June 30, 1997.

**NEW SECTION. Sec. 103. FOR THE LEGISLATIVE EVALUATION AND ACCOUNTABILITY PROGRAM**

Motor Vehicle Fund—State Appropriation . . . . . \$ 420,000

The appropriation in this section is subject to the following conditions and limitations and specified amounts are provided solely for that activity: The legislative evaluation and accountability program committee shall enter into a service level agreement with the legislative transportation committee by June 30, 1997.

**NEW SECTION. Sec. 104. FOR THE GOVERNOR—FOR TRANSFER TO THE TORT CLAIMS REVOLVING FUND**

Motor Vehicle Fund—State Appropriation . . . . .	\$	1,000,000
Marine Operating Account—State Appropriation . . . . .	\$	1,000,000
TOTAL APPROPRIATION . . . . .	\$	2,000,000

The appropriations in this section are subject to the following conditions and limitations and specified amounts are provided solely for that activity: The amount of the transfers from the motor vehicle fund and the marine operating fund are to be transferred into the tort claims revolving fund only as claims have been settled or adjudicated to final conclusion and are ready for payout. The appropriation contained in this section is to retire tort obligations that occurred before July 1, 1990.

**NEW SECTION. Sec. 105. FOR THE UTILITIES AND TRANSPORTATION COMMISSION**

Grade Crossing Protective Fund—State Appropriation . . . . .	\$	222,000
---	----	---------

**\*NEW SECTION. Sec. 106. FOR THE JOINT LEGISLATIVE AUDIT AND REVIEW COMMITTEE**

Transportation Fund—State Appropriation . . . . .	\$	1,500,000
---	----	-----------

(1) The joint legislative audit and review committee shall conduct performance audits of the department of transportation, focusing on its responsibilities for the highway and ferry systems; the department of licensing, focusing on the processes for motor vehicle and driver licensing functions; and the Washington state patrol, focusing on law enforcement operations, communications systems, and technology requirements. The performance audits shall be conducted in accordance with government accounting standards prescribed by the comptroller general of the United States and the provisions of chapter 44.28 RCW, and shall be an objective and systematic assessment of the programs administered by the audited agencies, including each program's effectiveness, efficiency, and accountability. The joint legislative audit and review committee shall act as project manager of the audits and, under the provisions of chapter 39.29 RCW, shall contract with a consultant or consultants to conduct the audits.

(2) The committee shall consult frontline employees, program managers, customers of the programs and agency services, taxpayers, legislators, legislative staff, state auditor, office of financial management staff, and other external public and private sector experts in conducting the performance audit.

*(3) The performance audit shall identify those activities and programs that should be strengthened, those that should be abandoned, and those that need to be redirected or other alternatives explored. In conducting the audit, the following objectives shall be addressed as appropriate:*

*(a) Identify each of the discrete functions or activities, along with associated costs and full-time equivalent staff;*

*(b) Determine the extent to which the particular activity or function is specifically authorized in statute or is consistent with statutory direction and intent;*

*(c) Establish the relative priority of the program among the agency's functions;*

*(d) Consider whether or not the purpose for which the program was created is still valid based on the circumstances under which the program was created versus those that exist at the time of the audit;*

*(e) Recommend organizations or programs in the public or private sector to be used as benchmarks against which to measure the performance of the program or function;*

*(f) Determine whether or not the program or function is achieving the results for which it was established;*

*(g) Identify alternatives for delivering the program or service, either in the public or private sector;*

*(h) Identify any duplication of services with other government programs or private enterprises or gaps in services;*

*(i) Identify the costs or implications of not performing the function;*

*(j) Determine the frequency with which other states perform similar functions, as well as their relative funding levels and performance; (k) In the event of inadequate performance by the program, identify the potential for a workable, affordable plan to improve performance;*

*(l) Identify, to the extent possible, the causes of any program's failure to achieve the desired results and identify alternatives for reducing costs or improving service delivery, including transferring functions to other public or private sector organizations; and*

*(m) Develop recommendations relating to statutes that inhibit or do not contribute to the agency's ability to perform its functions effectively and efficiently and whether specific statutes, activities, or programs should be continued, abandoned, or restructured.*

*(4) In conducting the performance audit of the Washington state ferries' capital program, the committee shall evaluate and make recommendations on the following elements:*

*(a) Washington state ferries' compliance with the recommendations of the 1991 Booz, Allen and Hamilton vessel construction and refurbishment study;*

*(b) Vessel procurement procedures that maximize cost effective preservation, maintenance, and new construction of Washington state ferries;*

*(c) The appropriate level of Washington state ferries' in-house design and construction, design or construction functions that could be performed by private engineering firms and shipyards, and procedures to appropriately share the risk*

*of project performance between the state and private shipyards in the implementation of contractual work;*

*(d) Washington state ferries' long-range plan recommendations for terminal and vessel investments, with particular focus on the appropriate investments to meet forecasted vehicle and passenger travel demands, emergent vessel capacity and existing fleet preservation needs, needed route structures, and related terminal capacity; and*

*(e) Other elements or issues as directed by the advisory committee.*

*(5) In conducting the performance audit of the Washington state ferries' operating program, the committee shall evaluate and make recommendations on the following elements:*

*(a) The administration and organizational structure of the Washington state ferries, with specific focus on the appropriate level of management staffing, and clerical and support functions necessary for terminal and vessel activities;*

*(b) The efficiency of current staging, loading, and traffic management procedures;*

*(c) The appropriate service level and related vessel deployment for existing and planned routes;*

*(d) Appropriate procedures for vessel operational support; including, but not limited to, fueling, water, sewage, and hazardous materials management procedures;*

*(e) Internal controls of revenue collections and inventory;*

*(f) Review of emergency management procedures;*

*(g) The feasibility of converting international route service to local government and/or private sector operation;*

*(h) Radio and electronic vessel communications and electronic tracking systems;*

*(i) Contractual agreements for agent services;*

*(j) Terminal utility cost increases;*

*(k) Internal control procedures to ensure the accuracy of payroll;*

*(l) Strategies for maintenance support of vessels and terminals, including an assessment of Eagle Harbor operations;*

*(m) Fleet and terminal equipment processes to enhance operational support and cost effective purchases;*

*(n) Essential training and human resources requirements, including training needed to comply with regulatory agency mandates;*

*(o) Appropriate levels of support necessary for the consistent operation of supporting data processing systems;*

*(p) System-wide charges for software licensing and policy for purchasing, or upgrading computer workstations; and*

*(q) Other elements or issues as directed by the committee.*

*(6) The performance audit of the department of transportation's ferry capital and operating programs shall have first priority, and as many*

*components as are feasible shall be completed prior to January 1, 1998. The performance audit of other department programs, if feasible, shall also be considered for completion in this time period.*

*(7) Unless the joint legislative audit and review committee determines otherwise, the preliminary and final audit reports for the Washington state ferries shall be completed by October 1, 1997, and January 1, 1998, respectively. Unless the committee determines otherwise, the preliminary and final audit reports for other programs administered by the department of transportation, the department of licensing and the Washington state patrol shall be completed by August 1, 1998, and November 1, 1998, respectively.*

(8)(a) There is hereby created a temporary performance audit advisory committee. The advisory committee shall provide input to the joint legislative audit and review committee on the following matters:

- (i) Identification of stakeholders;
- (ii) The performance audit scope and objectives;
- (iii) Progress reports provided by the joint legislative audit and review committee;
- (iv) Preliminary and final audit reports; and
- (v) Facilitating communication of audit findings to other members of the legislature.

(b) The advisory committee shall be comprised of the members of the executive committees of the joint legislative audit and review committee and the legislative transportation committee. The state auditor and the director of the office of financial management shall serve as ex officio members.

(c) The advisory committee shall be chaired by the director of financial management.

\*Sec. 106 was partially vetoed. See message at end of chapter.

**NEW SECTION. Sec. 107. FOR THE OFFICE OF FINANCIAL MANAGEMENT**

Motor Vehicle Fund—State Appropriation . . . . . \$ 116,000

The appropriation in this section is subject to the following conditions and limitations and specified amounts are provided solely for that activity: The entire amount is provided as funding to the office of financial management for a policy and budget analyst for the transportation agencies.

**NEW SECTION. Sec. 108. FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT**

Motor Vehicle Fund—State Appropriation . . . . . \$ 252,000

The appropriation in this section is subject to the following conditions and limitations and specified amounts are provided solely for that activity: The entire appropriation is for the contracted staff at the Gateway Visitor Information Centers, and may not be used for any other purpose.

**NEW SECTION. Sec. 109. FOR THE STATE PARKS AND RECREATION COMMISSION**

Motor Vehicle Fund—State Appropriation . . . . . \$ 931,000

The appropriation in this section is subject to the following conditions and limitations and specified amounts are provided solely for that activity:

(1) A report of actual expenditures and descriptions of the expenditures from the motor vehicle fund will be submitted to the legislature in December 1997 and December 1998.

(2) If any of the parks that have historically received these funds are closed during the 1997-99 biennium, the funds for the closed parks may not be used for other purposes and must be returned to the motor vehicle fund.

**GENERAL GOVERNMENT AGENCIES—CAPITAL**

**NEW SECTION. Sec. 110. FOR WASHINGTON STATE PARKS AND RECREATION—CAPITAL PROJECTS**

Motor Vehicle Fund—State Appropriation . . . . . \$ 3,500,000

The appropriation in this section is subject to the following conditions and limitations and specified amounts are provided solely for that activity:

(1) The entire appropriation is for the repaving of roadways in the following state parks in the 1997-99 biennium:

- (a) Moran state park, \$1,800,000;
- (b) Cama Beach state park, \$300,000;
- (c) Riverside state park, \$640,000;
- (d) Steamboat Rock state park, \$225,000;
- (e) Damon Point state park, \$485,000; and
- (f) Deception Pass state park, \$50,000.

(2) This is a one time appropriation with the repaving efforts to be completed in the parks by June 30, 1999. The repaving contracts will be awarded by competitive bid using department of transportation standards. Progress reports will be prepared and presented to the legislative transportation committees in January 1999.

(3) If any of the parks listed in subsection (1) of this section are closed during the 1997-99 biennium, the amount provided for the park under subsection (1)(a) through (f) of this section shall lapse and return to the motor vehicle fund.

**PART II  
TRANSPORTATION AGENCIES**

**NEW SECTION. Sec. 201. FOR THE WASHINGTON TRAFFIC SAFETY COMMISSION**

Highway Safety Fund—State Appropriation . . . . .	\$	491,000
Highway Safety Fund—Federal Appropriation . . . . .	\$	5,216,000
Transportation Fund—State Appropriation . . . . .	\$	950,000
<b>TOTAL APPROPRIATION . . . . .</b>	<b>\$</b>	<b>6,657,000</b>

The appropriations in this section are subject to the following conditions and limitations and specified amounts are provided solely for that activity:

(1) The transportation fund—state appropriation includes \$900,000 to fund community DUI task forces. Funding from the transportation fund for any community DUI task force may not exceed twenty-five percent of total expenditures in support of that task force.

(2) \$50,000 of the transportation fund—state appropriation is provided to support local law enforcement implementing the drug recognition expert (DRE) and drugged driving programs. Any funds not required for the DRE program may be used for programs related to heavy trucks that improve safety and enforcement of Washington state laws.

**NEW SECTION. Sec. 202. FOR THE BOARD OF PILOTAGE COMMISSIONERS**

Pilotage Account—State Appropriation . . . . . \$ 275,000

**NEW SECTION. Sec. 203. FOR THE COUNTY ROAD ADMINISTRATION BOARD**

Motor Vehicle Fund—Rural Arterial Trust

Account—State Appropriation . . . . . \$ 57,397,000

Motor Vehicle Fund—State Appropriation . . . . . \$ 1,548,000

Motor Vehicle Fund—Private/Local

Appropriation . . . . . \$ 383,000

Motor Vehicle Fund—County Arterial Preservation

Account—State Appropriation . . . . . \$ 27,940,000

**TOTAL APPROPRIATION . . . . . \$ 87,268,000**

The appropriations in this section are subject to the following conditions and limitations and specified amounts are provided solely for that activity: \$124,000 of the county arterial preservation account—state appropriation is provided for a computer programmer to rewrite and expand the county road information system for compatibility with Windows computer software. It is the intent of the legislature that this position be a project position and is funded for the 1997-99 biennium only.

**NEW SECTION. Sec. 204. FOR THE TRANSPORTATION IMPROVEMENT BOARD**

Motor Vehicle Fund—Urban Arterial Trust

Account—State Appropriation . . . . . \$ 57,159,000

Motor Vehicle Fund—Transportation Improvement

Account—State Appropriation . . . . . \$ 122,014,000

Motor Vehicle Fund—City Hardship Assistance

Account—State Appropriation . . . . . \$ 2,649,000

Motor Vehicle Fund—Small City Account—

State Appropriation . . . . . \$ 7,921,000

Central Puget Sound Public Transportation		
Account—State Appropriation . . . . .	\$	27,360,000
Public Transportation Systems Account—		
State Appropriation . . . . .	\$	3,928,000
TOTAL APPROPRIATION . . . . .	\$	221,031,000

The appropriations in this section are subject to the following conditions and limitations and specified amounts are provided solely for that activity: The transportation improvement account—state appropriation includes \$40,000,000 in proceeds from the sale of bonds authorized in RCW 47.26.500. However, the transportation improvement board may authorize the use of current revenues available in lieu of bond proceeds.

**NEW SECTION. Sec. 205. FOR THE LEGISLATIVE TRANSPORTATION COMMITTEE**

Motor Vehicle Fund—State Appropriation . . . . .	\$	2,822,000
Transportation Fund—State Appropriation . . . . .	\$	200,000
TOTAL APPROPRIATION . . . . .	\$	3,022,000

The appropriations in this section are subject to the following conditions and limitations and specified amounts are provided solely for that activity:

(1) In order to meet the growing demand for services the legislative transportation committee shall seek accountability and efficiencies within transportation agency programs through in-depth program evaluations. These program evaluations shall consider:

- (a) Whether or not strategic planning and performance-based budgeting is a preferable planning and budgeting tool to the current incremental budgeting process for agency administrative programs and capital program budgeting;
- (b) How the programs are performing currently and how service would be affected at different funding levels using performance measures; and
- (c) What decision-making tools aid with the budgeting and oversight of these programs, such as tools developed during the maintenance accountability program (MAP) conducted by the legislative transportation committee during the 1995-97 biennium.

(2) In consultation with other legislative committees, the legislative transportation committee shall study ways to enhance budget development tools and presentation documents that will better illustrate agencies' full appropriation authority and the intended outcomes of the appropriation.

(3) The legislative transportation committee shall conduct an evaluation of services provided by the county road administration board, the transportation improvement board and the TransAid division within the department of transportation. The evaluation shall assess whether consolidation of any of these activities will result in efficiencies and improved service delivery. The evaluation shall also assess the funding structure of these organizations to determine whether there are any benefits gained from a more simplified structure. The evaluation

shall also assess other funding authorities to see if there is potential for further expansion of these revenues. The committee shall report its findings and recommendations to the 1998 legislature and, if needed, prepare legislation to implement those recommendations. \$150,000 of the motor vehicle fund—state appropriation is provided for this evaluation.

(4) The legislative transportation committee, in cooperation with the house appropriations committee, the senate ways and means committee, and the office of financial management, shall study and report to the legislature its findings regarding the process and procedures for calculation, determination, and collection of the amounts of motor vehicle excise tax (MVET) collected on the sale or lease of motor vehicles in this state. The report shall include findings as to the base amount for calculation of MVET, the amortization schedule for calculation of MVET, and adequacy and efficiency of current systems to provide accurate and timely information to those responsible for determining and collecting the MVET due, including recommendations for determining the MVET due for current and future multiple MVET tax structures. The report must also include a status report as to the progress and feasibility of using third party information providers or using private vendors to collect the MVET. \$200,000 of the transportation fund—state appropriation is provided for this evaluation including the use of a consultant. This \$200,000 amount is null and void if an appropriation for this activity is enacted in any other appropriations bill by June 30, 1997.

**NEW SECTION. Sec. 206. FOR THE MARINE EMPLOYEES COMMISSION**

Motor Vehicle Fund—Puget Sound Ferry Operations

Account—State Appropriation . . . . . \$ 354,000

**NEW SECTION. Sec. 207. FOR THE TRANSPORTATION COMMISSION**

Transportation Fund—State Appropriation . . . . . \$ 804,000

The appropriation in this section is subject to the following conditions and limitations and specified amounts are provided solely for that activity:

(1) The transportation commission shall report to the legislative transportation committee following adoption of the highway, rail, capital facilities, and ferry capital construction programs, and provide status reports to the committee throughout the biennium.

(2) The commission is directed to continue efforts to identify cost savings and efficiencies for the department of transportation. These efficiencies may include contracting out or privatizing of appropriate services.

**NEW SECTION. Sec. 208. FOR THE WASHINGTON STATE PATROL—FIELD OPERATIONS BUREAU**

Motor Vehicle Fund—State Patrol Highway

Account—State Appropriation . . . . . \$ 159,108,000

Motor Vehicle Fund—State Patrol Highway		
Account—Federal Appropriation . . . . .	\$	4,374,000
Motor Vehicle Fund—State Patrol Highway		
Account—Local Appropriation . . . . .	\$	170,000
Transportation Fund—State Appropriation . . . . .	\$	8,961,000
TOTAL APPROPRIATION . . . . .	\$	172,613,000

The appropriations in this section are subject to the following conditions and limitations and specified amounts are provided solely for that activity:

(1) The Washington state patrol is authorized to use the federal community oriented policing program (COPS) for 54 troopers with 18 COPS troopers to begin in July 1998 and 36 COPS troopers to begin in January 1999.

(2) \$8,200,000 of the transportation fund—state appropriation is provided for an equalization salary adjustment of three percent on July 1, 1997, and six percent on July 1, 1998, for commissioned officers (entry level trooper through captain), commercial vehicle enforcement officers, and communication officers of the Washington state patrol. The salary adjustments are intended to bring the existing salary levels into the fiftieth percentile of other Washington state law enforcement compensation plans. This is in addition to the salary increase contained in the omnibus appropriation bill or bills. The total of the two increases, in the transportation budget and omnibus appropriation bill or bills, may not exceed twelve percent.

(3) The Washington state patrol will develop a vehicle replacement plan for the next six years. The plan will include an analysis of the current 100,000 miles replacement policy and agency assignment policy. Projected future budget requirements will include forecasts of vehicle replacement costs, vehicle equipment costs, and estimated surplus vehicle values when sold at auction.

(4) The Washington state patrol vessel and terminal security (VATS) program will be funded by the state patrol highway fund beginning July 1, 1997, and into future biennia.

(5) A personnel data base will be maintained of the 801 commissioned traffic law enforcement officers, with a reconciliation at all times to the patrol allocation model and a vehicle assignment and replacement plan.

(6) \$150,000 of the state patrol highway account appropriation is to fund the Washington state patrol's portion of the drug recognition expert training program previously funded by the traffic safety commission.

(7) The Washington state patrol with legislative transportation committee staff will perform an interim study of the Washington state patrol's commercial vehicle enforcement program with a report to be presented to the legislature and office of financial management in January 1998 with a developed business plan and program recommendations which includes, but is not limited to, weigh in motion technologies.

(8)(a) The Washington state patrol, in consultation with the Washington traffic safety commission, shall conduct an analysis of the most effective safety devices

for preventing accidents while delivery trucks are operating in reverse gear. The analysis shall focus on trucks equipped with cube-style, walk-in cargo boxes, up to eighteen feet long, that are most commonly used in the commercial delivery of goods and services.

(b) The state patrol shall incorporate research and analysis currently being conducted by the national highway traffic safety administration.

(c) Upon completion of the analysis, the state patrol shall forward its recommendations to the legislative transportation committee and office of financial management.

(9) \$761,000 of the transportation fund—state appropriation is provided for the following traditional general fund purposes: The governor's air travel, the license fraud program, and the special services unit. This transportation fund—state appropriation is not a permanent funding source for these purposes.

**NEW SECTION. Sec. 209. FOR THE WASHINGTON STATE PATROL—INVESTIGATIVE SERVICES BUREAU**

Transportation Fund—State Appropriation . . . . . \$ 6,317,000

The appropriation in this section is subject to the following conditions and limitations and specified amounts are provided solely for that activity: The appropriation in this section is for the following traditional general fund purposes: Crime laboratories, used primarily for local law enforcement purposes; ACCESS, the computer system linking all law enforcement and criminal justice agencies in the state to one another; and, the identification section, which is responsible for performing criminal background checks. This appropriation is not a permanent funding source for these purposes.

**NEW SECTION. Sec. 210. FOR THE WASHINGTON STATE PATROL—SUPPORT SERVICES BUREAU**

Motor Vehicle Fund—State Patrol Highway		
Account—State Appropriation . . . . .	\$	55,961,000
Motor Vehicle Fund—State Patrol Highway		
Account—Federal Appropriation . . . . .	\$	104,000
Transportation Fund—State Appropriation . . . . .	\$	4,965,000
<b>TOTAL APPROPRIATION . . . . .</b>	<b>\$</b>	<b>61,030,000</b>

The appropriations in this section are subject to the following conditions and limitations and specified amounts are provided solely for that activity:

(1) \$1,017,000 for the state patrol highway account—state appropriation is provided solely for year 2000 conversions of transportation automated systems. For purposes of this subsection, transportation automated systems does not include WASIS and WACIS.

(2) \$50,000 of the state patrol highway account—state appropriation is provided solely for a feasibility study to assess the effect of mobile computers on trooper productivity by type of service and measurement of the productivity gains achieved through reduction in administrative time and paperwork processing. The

agency shall submit a copy of the proposed study workplan to the office of financial management, the department of information services, and the legislative transportation committee no later than October 1, 1997. A final report shall be submitted to the legislative transportation committee, the office of financial management, and the department of information services no later than January 31, 1998. This project is subject to the provisions of section 502 of this act.

(3) \$50,000 of the state patrol highway account—state appropriation is provided solely for a review of the feasibility of improving the patrol's computer-aided dispatch system to permit tracking of trooper availability and response time to calls for service. The agency shall submit a copy of the proposed study workplan to the office of financial management, the department of information services, and the legislative transportation committee no later than October 1, 1997. A final report shall be submitted to the legislative transportation committee, the office of financial management, and the department of information services no later than January 31, 1998. This project is subject to the provisions of section 502 of this act.

(4) These appropriations maintain current level funding for the Washington state patrol service center and have no budget savings included for a consolidation of service centers based on the study conducted by the technology management group. During the 1997 interim, the costs for current level will be reviewed by the office of financial management and department of information services with a formal data center recommendation, that has been approved by the information services board, to the legislature in January 1998. Current level funding will be split between fiscal year 1998 and fiscal year 1999 with consideration of funding adjustments based on the review and the formal policy and budget recommendations.

(5) \$4,965,000 of the transportation fund—state appropriation is for the following traditional general fund purposes: The executive protection unit, revolving fund charges, budget and fiscal services, computer services, personnel, human resources, administrative services, and property management. This appropriation is not a permanent funding source for these purposes.

**NEW SECTION. Sec. 211. FOR THE DEPARTMENT OF LICENSING—MANAGEMENT AND SUPPORT SERVICES**

**Highway Safety Fund—Motorcycle Safety Education**

Account—State Appropriation . . . . .	\$	77,000
State Wildlife Account—State Appropriation . . . . .	\$	57,000
Highway Safety Fund—State Appropriation . . . . .	\$	5,538,000
Motor Vehicle Fund—State Appropriation . . . . .	\$	4,501,000
Transportation Fund—State Appropriation . . . . .	\$	900,000
<b>TOTAL APPROPRIATION . . . . .</b>	<b>\$</b>	<b>11,073,000</b>

The appropriations in this section are subject to the following conditions and limitations and specified amounts are provided solely for that activity: The agency is directed to develop a proposal for implementing alternative approaches to

delivering agency services to the public. The alternative approaches may include the use of credit card payment for telephone or use of the internet for renewals of vehicle registrations. The proposal shall also include collocated services for greater convenience to the public. The agency shall submit a copy of the proposal to the legislative transportation committee and to the office of financial management no later than December 1, 1997.

**NEW SECTION. Sec. 212. FOR THE DEPARTMENT OF LICENSING—INFORMATION SYSTEMS**

Highway Safety Fund—Motorcycle Safety Education	
Account—State Appropriation . . . . .	\$ 2,000
General Fund—Wildlife Account—State	
Appropriation . . . . .	\$ 123,000
Highway Safety Fund—State Appropriation . . . . .	\$ 4,396,000
Motor Vehicle Fund—State Appropriation . . . . .	\$ 5,858,000
Transportation Fund—State Appropriation . . . . .	\$ 1,190,000
<b>TOTAL APPROPRIATION . . . . .</b>	<b>\$ 11,569,000</b>

The appropriations in this section are subject to the following conditions and limitations and specified amounts are provided solely for that activity: \$2,498,000 of the highway safety fund—state appropriation and \$793,000 of the motor vehicle fund—state appropriation are provided for the following activities: (1) Identify business objectives and needs relating to technology improvements and integration of the drivers' licensing and vehicle title and registrations systems; (2) converting the drivers' licensing software applications to achieve Year 2000 compliance; (3) convert the drivers' field network from a uniscope to a frame-relay network; (4) develop an interface between the unisys system and the CRASH system; and (5) operate and maintain the highways-licensing building network and the drivers' field network.

**NEW SECTION. Sec. 213. FOR THE DEPARTMENT OF LICENSING—VEHICLE SERVICES**

General Fund—Marine Fuel Tax Refund Account—	
State Appropriation . . . . .	\$ 26,000
General Fund—Wildlife Account—State	
Appropriation . . . . .	\$ 549,000
Motor Vehicle Fund—State Appropriation . . . . .	\$ 50,003,000
Department of Licensing Services Account—	
State Appropriation . . . . .	\$ 2,944,000
<b>TOTAL APPROPRIATION . . . . .</b>	<b>\$ 53,522,000</b>

The appropriations in this section are subject to the following conditions and limitations and specified amounts are provided solely for that activity:

(1) \$600,000 of the licensing service account—state appropriation is provided for replacement of printers for county auditors and subagents.

(2) The department of licensing, in cooperation with the fuel tax advisory committee, shall prepare and submit a report to the legislative transportation committee containing recommendations for special fuel and motor vehicle fuel recordkeeping and reporting requirements, including but not limited to recommendations regarding the form and manner in which records and tax reports must be maintained and made available to the department; which persons engaged in the business of selling, purchasing, distributing, storing, transporting, or delivering fuel should be required to submit periodic reports regarding the disposition of such fuel; and the feasibility of implementing an automated fuel tracking system. The report is due no later than October 31, 1997.

**\*NEW SECTION. Sec. 214. FOR THE DEPARTMENT OF LICENSING—DRIVER SERVICES**

Highway Safety Fund—Motorcycle Safety Education

Account—State Appropriation . . . . .	\$	1,160,000
Highway Safety Fund—State Appropriation . . . . .	\$	61,087,000
Transportation Fund—State Appropriation . . . . .	\$	4,985,000
TOTAL APPROPRIATION . . . . .	\$	67,232,000

*The appropriations in this section are subject to the following conditions and limitations and specified amounts are provided solely for that activity: If Substitute House Bill No. 1501, Substitute Senate Bill No. 5718, or driver's license security provisions that are substantially similar to the security provisions in either bill are not enacted by June 30, 1997, \$2,503,000 of the highway safety fund—state appropriation shall lapse.*

\*Sec. 214 was partially vetoed. See message at end of chapter.

**NEW SECTION. Sec. 215. FOR THE DEPARTMENT OF TRANSPORTATION—HIGHWAY MANAGEMENT AND FACILITIES—PROGRAM D—OPERATING**

Motor Vehicle Fund—State Appropriation . . . . .	\$	24,703,000
Motor Vehicle Fund—Federal Appropriation . . . . .	\$	400,000
Motor Vehicle Fund—Transportation Capital		
Facilities Account—State Appropriation . . . . .	\$	24,338,000
TOTAL APPROPRIATION . . . . .	\$	49,441,000

**NEW SECTION. Sec. 216. FOR THE DEPARTMENT OF TRANSPORTATION—AVIATION—PROGRAM F**

Transportation Fund—Aeronautics Account—State		
Appropriation . . . . .	\$	3,301,000
Transportation Fund—Aeronautics Account—Federal		
Appropriation . . . . .	\$	1,000
Aircraft Search and Rescue, Safety, and Education		
Account—State Appropriation . . . . .	\$	170,000
Transportation Account—State Appropriation . . . . .	\$	250,000
TOTAL APPROPRIATION . . . . .	\$	3,722,000

**\*NEW SECTION. Sec. 217. FOR THE DEPARTMENT OF TRANSPORTATION—IMPROVEMENTS—PROGRAM I**

Motor Vehicle Fund—Economic Development Account—	
State Appropriation . . . . .	\$ 2,434,000
Motor Vehicle Fund—State Appropriation . . . . .	\$ 113,341,000
Motor Vehicle Fund—Federal Appropriation . . . . .	\$ 130,485,000
Motor Vehicle Fund—Private/Local	
Appropriation . . . . .	\$ 40,000,000
Special Category C Account—State Appropriation . . . . .	\$ 78,600,000
Transportation Fund—State Appropriation . . . . .	\$ 278,546,000
Puyallup Tribal Settlement Account—State	
Appropriation . . . . .	\$ 5,000,000
Puyallup Tribal Settlement Account—Private/Local	
Appropriation . . . . .	\$ 200,000
High Capacity Transportation Account—State	
Appropriation . . . . .	\$ 1,288,000
TOTAL APPROPRIATION . . . . .	\$ 649,894,000

The appropriations in this section are provided for the location, design, right of way acquisition, and construction of state highway projects designated as improvements under RCW 47.05.030. The appropriations in this section are subject to the following conditions and limitations and specified amounts are provided solely for that activity:

*(1)(a) \$75,000,000 of the transportation fund—state appropriation and \$25,000,000 of the motor vehicle fund—state appropriation are provided for projects to be selected by the transportation commission. The commission shall select improvement projects giving priority consideration to those projects supporting freight mobility, economic development, and partnerships, such as the SR 543 Blaine Border Crossing, SR 405 NE 44th St. I/c corridor analysis, and SR 520 Translake study. State-wide geographic distribution should also be considered.*

(b) State funds conditioned in (a) of this subsection may also be used as match for federally funded projects of similar nature.

(2) The special category C account—state appropriation of \$78,600,000 includes \$26,000,000 in proceeds from the sale of bonds authorized by RCW 47.10.812 through 47.10.817 and includes \$19,000,000 in proceeds from the sale of bonds authorized by House Bill No. 1012. 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. If House Bill No. 1012 is not enacted by June 30, 1997, \$19,000,000 of the special category C account—state appropriation shall lapse.

(3) The motor vehicle fund—state appropriation includes \$2,685,000 in proceeds from the sale of bonds authorized by RCW 47.10.819(1) for match on federal demonstration projects. 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 department shall report annually to the legislative transportation committee on the status of the projects funded by the special category C appropriations contained in this section. The report shall be submitted by January 1 of each year.

(5) The motor vehicle fund—state appropriation in this section includes \$600,000 solely for a rest area and information facility in the Nisqually gateway area to Mt. Rainier, provided that at least forty percent of the total project costs are provided from federal, local, or private sources. The contributions from the nonstate sources may be in the form of in-kind contributions including, but not limited to, donations of property and services.

(6) The appropriations in this section contain \$118,247,000 reappropriation from the 1995-97 biennium.

*(7) No moneys are provided for the Washington coastal corridor study.*

(8) The motor vehicle fund—state appropriation in this section includes \$250,000 to establish a wetland mitigation pilot project. This appropriation may only be expended if the department of transportation establishes a technical committee to better implement the department's strategic plan. The technical committee shall include, but is not limited to, cities, counties, environmental groups, business groups, tribes, the Puget Sound action team, and the state departments of ecology, fish and wildlife, and community, trade, and economic development, and appropriate federal agencies. The committee shall assist the department in implementing its wetland strategic plan, including working to eliminate barriers to improved wetland and watershed management. To this end, the technical committee shall: (a) Work to facilitate sharing of agency environmental data, including evaluation of off-site and out-of-kind mitigation options; (b) develop agreed-upon guidance that will enable the preservation of wetlands that are under imminent threat from development for use as an acceptable mitigation option; (c) develop strategies that will facilitate the implementation of mitigation banking, including developing mechanisms for valuing and transferring credits; (d) provide input in the development of wetland functions assessment protocols related to transportation projects; (e) develop incentives for interagency participation in joint mitigation projects within watersheds; and (f) explore options for funding environmental mitigation strategies. The department shall prepare an annual report to the legislative transportation committee and legislative natural resources committees on recommendations developed by the technical committee.

\*Sec. 217 was partially vetoed. See message at end of chapter.

**NEW SECTION. Sec. 218. FOR THE DEPARTMENT OF TRANSPORTATION—TRANSPORTATION ECONOMIC PARTNERSHIPS—PROGRAM K**

Transportation Fund—State Appropriation . . . . .	\$	1,280,000
Motor Vehicle Fund—State Appropriation . . . . .	\$	16,235,000

TOTAL APPROPRIATION . . . . . \$ 17,515,000

The appropriations in this section are subject to the following conditions and limitations and specified amounts are provided solely for that activity:

(1) The motor vehicle fund—state appropriation includes \$16,235,000 in proceeds from the sale of bonds authorized in RCW 47.10.834 for all forms of cash contributions, or the payment of other costs incident to the location, development, design, right of way, and construction of only the SR 16 corridor improvements and park and ride projects selected under the public-private transportation initiative program authorized under chapter 47.46 RCW; and support costs of the public-private transportation initiatives program.

(2) The appropriations in this section contain \$16,235,000 reappropriated from the 1995-97 biennium.

**NEW SECTION. Sec. 219. FOR THE DEPARTMENT OF TRANSPORTATION—HIGHWAY MAINTENANCE—PROGRAM M**

Motor Vehicle Fund—State Appropriation . . . . .	\$	238,200,000
Motor Vehicle Fund—Federal Appropriation . . . . .	\$	465,000
Motor Vehicle Fund—Private/Local Appropriation . . . . .	\$	3,335,000
TOTAL APPROPRIATION . . . . .	\$	242,000,000

The appropriations in this section are subject to the following conditions and limitations and specified amounts are provided solely for that activity:

(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 will be requested to restore state funding for ongoing maintenance activities.

(2) The department shall deliver the highway maintenance program according to the plans for each major maintenance group to the extent practical. However, snow and ice expenditures are highly variable depending on actual weather conditions encountered. If extraordinary winter needs result in increased winter maintenance expenditures, the department shall, after prior consultation with the transportation commission, the office of financial management, and the legislative transportation committee adopt one or both of the following courses of action: (a) Reduce planned maintenance activities in other groups to offset the necessary increases for snow and ice control; or (b) continue delivery as planned within other major maintenance groups and request a supplemental appropriation in the following legislative session to fund the additional snow and ice control expenditures.

(3) 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 fund—state into unallotted status. This exchange shall not affect the amount of funding available for snow and ice removal.

**NEW SECTION. Sec. 220. FOR THE DEPARTMENT OF TRANSPORTATION—PRESERVATION—PROGRAM P**

Motor Vehicle Fund—State Appropriation . . . . .	\$	289,777,000
Motor Vehicle Fund—Federal Appropriation . . . . .	\$	274,259,000
Motor Vehicle Fund—Private/Local Appropriation . . . . .	\$	2,400,000
<b>TOTAL APPROPRIATION . . . . .</b>	<b>\$</b>	<b>566,436,000</b>

The appropriations in this section are subject to the following conditions and limitations and specified amounts are provided solely for that activity:

(1) The motor vehicle fund—state appropriation includes \$6,800,000 in proceeds from the sale of bonds authorized in RCW 47.10.761 and 47.10.762 for emergency purposes. However, the transportation commission may authorize the use of current revenues available to the department of transportation in lieu of bond proceeds for any part of the state appropriation.

(2) The appropriations in this section contain \$27,552,000 reappropriated from the 1995-97 biennium.

(3) If the Oregon state legislature enacts a public/private partnership program and the Washington state transportation commission, in consultation with the legislative transportation committee, negotiates and enters into an agreement between Washington and Oregon to place the Lewis and Clark bridge into Oregon's public/private partnership program, up to \$3,000,000 of the motor vehicle fund—state appropriation may be used as Washington's contribution toward the design of the project pursuant to the agreement between Washington and Oregon. Any additional contributions shall be subject to Washington state legislative appropriations and approvals. The department shall provide a status report on this project to the legislative transportation committee by June 30, 1998.

**NEW SECTION. Sec. 221. FOR THE DEPARTMENT OF TRANSPORTATION—TRAFFIC OPERATIONS—PROGRAM Q**

Motor Vehicle Fund—State Appropriation . . . . .	\$	29,140,000
--	----	------------

The appropriation in this section is subject to the following conditions and limitations and specified amount is provided solely for that activity: The department, in cooperation with the Washington state patrol and the tow truck industry, shall develop and submit to the legislative transportation committee by October 31, 1997, a recommendation for implementing new tow truck services during peak hours on the Puget Sound freeway system.

**NEW SECTION. Sec. 222. FOR THE DEPARTMENT OF TRANSPORTATION—TRANSPORTATION MANAGEMENT AND SUPPORT—PROGRAM S**

Motor Vehicle Fund—Puget Sound Capital		
Construction Account—State Appropriation . . . . .	\$	777,000
Motor Vehicle Fund—State Appropriation . . . . .	\$	57,462,000

Motor Vehicle Fund—Puget Sound Ferry Operations

Account—State Appropriation . . . . .	\$	1,093,000
Transportation Fund—State Appropriation . . . . .	\$	1,158,000
<b>TOTAL APPROPRIATION . . . . .</b>	<b>\$</b>	<b>60,490,000</b>

The appropriations in this section are subject to the following conditions and limitations and specified amounts are provided solely for that activity:

(1) The motor vehicle fund—state appropriation includes \$2,650,000 solely for programming activities to bring the department's information systems into compliance with the year 2000 requirements of the department of information services. The department is directed to expend the moneys internally reallocated for this purpose before spending from this appropriation. The department is directed to provide quarterly reports on this effort to the legislative transportation committee and the office of financial management beginning October 1, 1997.

(2) The legislative transportation committee shall review and analyze freight mobility issues affecting eastern and southeastern Washington as recommended by the freight mobility advisory committee and report back to the legislature by November 1, 1997. \$500,000 of the motor vehicle fund—state appropriation is provided for this review and analysis. The funding conditioned in this subsection shall be from revenues provided for interjurisdictional studies.

**NEW SECTION. Sec. 223. FOR THE DEPARTMENT OF TRANSPORTATION—TRANSPORTATION PLANNING, DATA, AND RESEARCH—PROGRAM T**

Motor Vehicle Fund—State Appropriation . . . . .	\$	16,098,000
Motor Vehicle Fund—Federal Appropriation . . . . .	\$	10,466,000
Transportation Fund—State Appropriation . . . . .	\$	1,384,000
<b>TOTAL APPROPRIATION . . . . .</b>	<b>\$</b>	<b>27,948,000</b>

The appropriations in this section are subject to the following conditions and limitations and specified amounts are provided solely for that activity: Up to \$2,400,000 of the motor vehicle fund—state appropriation is provided for regional transportation planning organizations, with allocations for participating counties maintained at the 1995-1997 biennium levels for those counties not having metropolitan planning organizations within their boundaries.

**NEW SECTION. Sec. 224. FOR THE DEPARTMENT OF TRANSPORTATION—CHARGES FROM OTHER AGENCIES—PROGRAM U**

**(1) FOR PAYMENT OF COSTS OF ATTORNEY GENERAL TORT CLAIMS SUPPORT**

Motor Vehicle Fund—State Appropriation . . . . .	\$	2,515,000
--	----	-----------

**(2) FOR PAYMENT OF COSTS OF THE OFFICE OF THE STATE AUDITOR**

Motor Vehicle Fund—State Appropriation . . . . .	\$	840,000
--	----	---------

(3) FOR PAYMENT OF COSTS OF DEPARTMENT OF GENERAL ADMINISTRATION FACILITIES AND SERVICES AND CONSOLIDATED MAIL SERVICES

Motor Vehicle Fund—State Appropriation . . . . . \$ 3,391,000

(4) FOR PAYMENT OF COSTS OF THE DEPARTMENT OF PERSONNEL

Motor Vehicle Fund—State Appropriation . . . . . \$ 2,240,000

(5) FOR PAYMENT OF SELF-INSURANCE LIABILITY PREMIUMS AND ADMINISTRATION

Motor Vehicle Fund—State Appropriation . . . . . \$ 12,120,000

(6) FOR PAYMENT OF SELF-INSURANCE LIABILITY PREMIUMS AND ADMINISTRATION

Motor Vehicle Fund—Puget Sound Ferry Operations  
     Account—State Appropriation . . . . . \$ 2,928,000

(7) FOR PAYMENT OF COSTS OF THE OFFICE OF MINORITY AND WOMEN'S BUSINESS ENTERPRISES

Motor Vehicle Fund—State Appropriation . . . . . \$ 536,000

(8) FOR PAYMENT OF COSTS OF THE DEPARTMENT OF GENERAL ADMINISTRATION STATE PARKING SERVICES

Motor Vehicle Fund—State Appropriation . . . . . \$ 90,000

(9) FOR PAYMENT OF THE DEPARTMENT OF GENERAL ADMINISTRATION CAPITAL PROJECTS SURCHARGE

Motor Vehicle Fund—State Appropriation . . . . . \$ 735,000

(10) FOR ARCHIVES AND RECORDS MANAGEMENT

Motor Vehicle Fund—State Appropriation . . . . . \$ 295,000

**NEW SECTION. Sec. 225. FOR THE DEPARTMENT OF TRANSPORTATION—WASHINGTON STATE FERRIES CONSTRUCTION—PROGRAM W**

Motor Vehicle Fund—Puget Sound Capital  
     Construction Account—State Appropriation . . . . . \$ 243,229,000

Motor Vehicle Fund—Puget Sound Capital  
     Construction Account—Federal  
     Appropriation . . . . . \$ 30,165,000

Motor Vehicle Fund—Puget Sound Capital  
     Construction Account—Private/Local  
     Appropriation . . . . . \$ 765,000

Transportation Fund—Passenger Ferry Account—  
     State Appropriation . . . . . \$ 579,000

**TOTAL APPROPRIATION . . . . . \$ 274,738,000**

The appropriations in this section are provided for improving the Washington state ferry system, including, but not limited to, vessel acquisition, vessel construction, major and minor vessel improvements, and terminal construction and improvements. The appropriations in this section are subject to the following

conditions and limitations and specified amounts are provided solely for that activity:

(1) The appropriations in this section are provided to carry out only the projects (version 3) adjusted by the legislature for the 1997-99 budget. The department shall reconcile the 1995-97 capital expenditures within ninety days of the end of the biennium and submit a final report to the legislative transportation committee and office of financial management.

(2) The Puget Sound capital construction account—state appropriation includes \$100,000,000 in proceeds from the sale of bonds authorized by RCW 47.60.800 for vessel and terminal acquisition, major and minor improvements, and long lead time materials acquisition for the Washington state ferries, including construction of new jumbo ferry vessels in accordance with the requirements of RCW 47.60.770 through 47.60.778. However, the department of transportation may use current revenues available to the Puget Sound capital construction account in lieu of bond proceeds for any part of the state appropriation.

(3) The department of transportation shall provide to the legislative transportation committee and office of financial management a quarterly financial report concerning the status of the capital program authorized in this section.

(4) Washington state ferries is authorized to reimburse up to \$3,000,000 from the Puget Sound capital construction account—state appropriation to the city of Bremerton and the port of Bremerton for Washington state ferries' financial participation in the development of a Bremerton multimodal transportation terminal, port of Bremerton passenger-only terminal expansion, and ferry vehicular connections to downtown traffic circulation improvements. The reimbursement shall specifically support the construction of the following components: Appropriate passenger-only ferry terminal linkages to accommodate bow-loading catamaran type vessels and the needed transit connections; and the Washington state ferries' component of the Bremerton multimodal transportation terminal as part of the downtown Bremerton redevelopment project, including appropriate access to the new downtown traffic circulation road network.

(5) The Puget Sound capital construction account—state appropriation includes funding for capital improvements on vessels to meet United States Coast Guard Subchapter W regulation revisions impacting SOLAS (safety of life at sea) requirements for ferry operations on the Anacortes to Sidney, B.C. ferry route.

(6) The Puget Sound capital construction account—state appropriation, the Puget Sound capital construction account—federal appropriation, and the passenger ferry account—state appropriation include funding for the construction of one new passenger-only vessel and the department's exercise of the option to build a second passenger-only vessel.

(7) The Puget Sound capital construction account—state appropriation includes funding for the exploration and acquisition of a design for constructing a millennium class ferry vessel.

(8) The Puget Sound capital construction account—state appropriation includes \$90,000 for the purchase of defibrillators. At least one defibrillator shall be placed on each vessel in the ferry fleet.

(9) The appropriations in this section contain \$46,962,000 reappropriated from the 1995-97 biennium.

(10)(a) The Puget Sound capital construction account—state appropriation includes \$57,461,000 for the 1997-99 biennium portion of the design and construction of a fourth Jumbo Mark II ferry and for payments related to the lease-purchase of the vessel's engines and propulsion system.

(b) If House Bill No. 2108 authorizing the department to procure the vessel utilizing existing construction and equipment acquisition contracts is not enacted during the 1997 legislative session, (a) of this subsection is null and void; \$50,000,000 of the motor vehicle fund—Puget Sound capital construction account—state appropriation shall not be allotted; and \$7,461,000 may be allotted for preservation or renovation of Super class ferries.

**\*NEW SECTION. Sec. 226. FOR THE DEPARTMENT OF TRANSPORTATION—MARINE—PROGRAM X**

Marine Operating Fund—State Appropriation . . . . . \$ 267,358,000

The appropriation in this section is subject to the following conditions and limitations and specified amounts are provided solely for that activity:

(1) The appropriation is based on the budgeted expenditure of \$29,151,000 for vessel operating fuel in the 1997-99 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 1997-99 biennium may not exceed \$177,347,000 plus a dollar amount, as prescribed by the office of financial management, that is equal to any insurance benefit increase granted general government employees in excess of \$313.95 a month annualized per eligible marine employee multiplied by the number of eligible marine employees for the respective fiscal year, a dollar amount as prescribed by the office of financial management for costs associated with pension amortization charges, and a dollar amount prescribed by the office of financial management for salary increases during the 1997-99 biennium. For the purposes of this section, the expenditures for compensation paid to ferry employees shall be limited to salaries and wages and employee benefits as defined in the office of financial management's policies, regulations, and procedures named under objects of expenditure "A" and "B" (7.2.6.2).

The prescribed salary and insurance benefit increase or decrease dollar amount that shall be allocated from the governor's compensation appropriations is in addition to the appropriation contained in this section and may be used to increase or decrease compensation costs, effective July 1, 1997, and thereafter, as established in the 1997-99 general fund operating budget.

(3) The department of transportation shall provide to the legislative transportation committee and office of financial management a quarterly financial report concerning the status of the operating program authorized in this section.

(4) The appropriation in this section includes up to \$1,566,000 for additional operating expenses required to comply with United States Coast Guard Subchapter W regulation revisions for vessels operating on the Anacortes to Sidney, B.C. ferry route. The department shall explore methods to minimize the cost of meeting United States Coast Guard requirements and shall report the results to the legislative transportation committee and office of financial management by September 1, 1997.

(5) The department shall request a reduction of the costs associated with the use of the terminal leased from the Port of Anacortes and costs associated with use of the Sidney, British Columbia terminal.

(6) Agreements between Washington state ferries and concessionaires for automatic teller machines on ferry terminals or vessels shall provide for and include banks and credit unions that primarily serve the west side of Puget Sound.

(7) In the event federal funding is provided for one or more passenger-only ferry vessels for the purpose of transporting United States naval personnel, the department of transportation is authorized to acquire and construct such vessels in accordance with the authority provided in RCW 47.56.030, and the department shall establish a temporary advisory committee comprised of representatives of the Washington state ferries, transportation commission, legislative transportation committee, office of financial management, and the United States Navy to analyze and make recommendations on, at a minimum, vessel performance criteria, docking, vessel deployment, and operating issues.

*(8) Upon completion of the construction of the three Mark II Jumbo Class ferry vessels, two vessels shall be deployed for service on the Seattle-Bainbridge ferry route and one shall be deployed for service on the Edmonds-Kingston ferry route. Of the existing Jumbo Class ferry vessels, one shall be deployed for use on the Edmonds-Kingston route and the remaining vessel shall be used as a back-up boat for both the Seattle-Bainbridge and Edmonds-Kingston routes.*

(9) The appropriation provides funding for House Bill No. 2165 (paying interest on retroactive raises for ferry workers).

\*Sec. 226 was partially vetoed. See message at end of chapter.

**NEW SECTION. Sec. 227. FOR THE DEPARTMENT OF TRANSPORTATION—PUBLIC TRANSPORTATION AND RAIL—PROGRAM Y**

Essential Rail Assistance Account—State		
Appropriation .....	\$	256,000
High Capacity Transportation Account—State		
Appropriation .....	\$	6,225,000
Air Pollution Control Account—State		
Appropriation .....	\$	6,290,000
Transportation Fund—State Appropriation .....	\$	48,529,000

Transportation Fund—Federal Appropriation . . . . .	\$	3,947,000
Transportation Fund—Private/Local		
Appropriation . . . . .	\$	105,000
Central Puget Sound Public Transportation		
Account—State Appropriation . . . . .	\$	250,000
TOTAL APPROPRIATION . . . . .	\$	65,602,000

The appropriations in this section are subject to the following conditions and limitations and specified amounts are provided solely for that activity:

(1) Up to \$40,180,000 of the transportation fund—state appropriation is provided for intercity rail passenger service including up to \$8,000,000 for lease purchase of two advanced technology train sets with total purchase costs not to exceed \$20,000,000; up to \$1,000,000 for one spare advanced technology train power-car and other spare parts, subsidies for operating costs not to exceed \$12,000,000, to maintain service of two state contracted round trips between Seattle and Portland and one state contracted round trip between Seattle and Vancouver, British Columbia, and capital projects necessary to provide Seattle-Vancouver, British Columbia, train operating times of under 4 hours.

(2) Up to \$2,500,000 of the transportation fund—state appropriation is provided for the rural mobility program administered by the department of transportation. Priority for grants provided from this account shall be given to projects and programs that can be accomplished in the 1997-99 biennium.

(3) Up to \$600,000 of the high capacity transportation account—state appropriation is provided for rail freight coordination, technical assistance, and planning.

(4) The department shall provide biannual reports to the legislative transportation committee and office of financial management regarding the department's rail freight program. The department shall also notify the committee for project expenditures from all fund sources prior to making those expenditures. The department shall examine the ownership of grain cars and the potential for divestiture of those cars and other similar assets and report those findings to the committee prior to the 1998 legislative session.

(5) Up to \$750,000 of the transportation fund—state appropriation and up to \$250,000 of the central Puget Sound public transportation account—state appropriation are provided to fund activities relating to coordinating special needs transportation among state and local providers. These activities may include demonstration projects, assessments of resources available versus needs, and identification of barriers to coordinating special needs transportation. The department will consult with the superintendent of public instruction, the secretary of the department of social and health services, the office of financial management, the fiscal committees of the house of representatives and senate, special needs consumers, and specialized transportation providers in meeting the goals of this subsection.

(6) The appropriations in this section contain \$4,599,000 reappropriated from the 1995-97 biennium.

(7) The high capacity transportation account—state appropriation includes \$75,000 for the department to develop a strategy and to identify how the agency would expend additional moneys to enhance the commute trip reduction program. The report would include recommendations for grant programs for employers and jurisdictions to reduce SOV usage and to provide transit incentives to meet future commute trip reduction requirements. The report is due to the legislative transportation committee by January 1, 1998.

(8) In addition to the appropriations contained in this section, the office of financial management shall release the \$2,000,000 transportation fund—state funds appropriated for the intercity rail passenger program in the 1995-97 biennium but held in reserve pursuant to section 502, chapter 165, Laws of 1996.

(9) Up to \$150,000 of the transportation fund—state appropriation is provided for the management and control of the transportation corridor known as the Milwaukee Road corridor owned by the state between Ellensburg and Lind, and to take actions necessary to allow the department to be in a position, with further legislative authorization, to begin to negotiate a franchise with a rail carrier to establish and maintain a rail line over portions of the corridor by July 1, 1999.

(10) Up to \$2,500,000 of the high capacity transportation account—state appropriation may be used by the department for activities related to improvement of the King Street station. The department shall provide monthly reports to the legislative transportation committee on activities related to the station, including discussions of funding commitments from others for future improvements to the station.

**NEW SECTION. Sec. 228. FOR THE DEPARTMENT OF TRANSPORTATION—LOCAL PROGRAMS—PROGRAM Z**

Motor Vehicle Fund—State Appropriation . . . . .	\$	8,452,000
Motor Vehicle Fund—Federal Appropriation . . . . .	\$	33,726,000
High Capacity Transportation Account—		
State Appropriation . . . . .	\$	500,000
<b>TOTAL APPROPRIATION . . . . .</b>	<b>\$</b>	<b>42,678,000</b>

The appropriations in this section are subject to the following conditions and limitations and specified amounts are provided solely for that activity:

(1) The motor vehicle fund—state appropriation includes \$1,785,000 in proceeds from the sale of bonds authorized by RCW 47.10.819(1). 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) As a condition of receiving the full state subsidy in support of the Puget Island ferry, Wahkiakum county must, by December 31, 1997, increase ferry fares for passengers and vehicles by at least ten percent. If the fares are not increased to meet this requirement, the department, in determining the state subsidy after

December 31, 1997, shall reduce the operating deficit by the amount that would have been generated if the ten percent fare increase had been implemented.

(3) The appropriations in this section contain \$1,750,000 reappropriated from the 1995-97 biennium.

(4) Up to \$500,000 of the high capacity transportation account—state appropriation is provided for implementation of the recommendations of the freight mobility advisory committee, and any legislation enacted resulting from those recommendations.

**PART III  
TRANSPORTATION AGENCIES CAPITAL FACILITIES**

**NEW SECTION. Sec. 301.** (1) The state patrol, the department of licensing, and the department of transportation shall coordinate their activities when siting facilities. This coordination shall result in the collocation of driver and vehicle licensing, vehicle inspection service facilities, and other transportation services whenever possible.

The department of licensing, the department of transportation, and the state patrol shall explore alternative state services, such as vehicle emission testing, that would be feasible to collocate in these joint facilities. All services provided at these transportation service facilities shall be provided at cost to the participating agencies.

(2) The department of licensing may lease develop with option to purchase or lease purchase new customer service centers to be paid for from operating revenues. The Washington state patrol shall provide project management for the department of licensing. Alternatively, a financing contract may be entered into on behalf of the department of licensing in the amounts indicated plus financing expenses and reserves pursuant to chapter 39.94 RCW. The locations and amounts for projects covered under this section are as follows:

- (a) A new customer service center in Vancouver for \$3,709,900;
- (b) A new customer service center in Thurston county for \$4,641,200; and
- (c) A new customer service center in Union Gap for \$3,642,000.

(3) The Washington state patrol, department of licensing, and department of transportation shall provide monthly progress reports to the legislative transportation committee within the transportation executive information system on the capital facilities receiving an appropriation in this act.

**NEW SECTION. Sec. 302. FOR THE WASHINGTON STATE PATROL—CAPITAL PROJECTS**

Motor Vehicle Fund—State Patrol Highway

Account—State Appropriation . . . . .	\$	7,075,000
Transportation Fund—State Appropriation . . . . .	\$	4,000,000
<b>TOTAL APPROPRIATION . . . . .</b>	<b>\$</b>	<b>11,075,000</b>

The appropriations in this section are subject to the following conditions and limitations and specified amounts are provided solely for that activity:

(1) The appropriations in the transportation fund and the motor vehicle fund—state patrol highway account are provided for the microwave migration, Yakima district 3 headquarters office, weigh station facilities identified in the budget notes, training academy HVAC system, and regular facilities maintenance.

(2) The Washington state patrol, based on an independent real estate appraisal, is authorized to purchase the Port Angeles detachment office for a maximum of \$600,000 provided the appraisal is \$600,000 or above in value. If the appraisal is less than \$600,000, the Washington state patrol is authorized to purchase the building for the appraised value. Certificates of participation will be used for financing the cost of the building and related financing fees.

(3) A report will be prepared and presented to the legislature and office of financial management in January 1998 on the microwave migration project.

(4) The funding for the microwave migration project is limited to \$4,400,000, the amount of revenue from frequency sales.

(5) The intent of the legislature is to have vehicle identification number (VIN) lanes and encourage colocation of other transportation and state services wherever feasible in transportation facilities.

**NEW SECTION. Sec. 303. FOR THE DEPARTMENT OF TRANSPORTATION—PROGRAM D (DEPARTMENT OF TRANSPORTATION-ONLY PROJECTS)—CAPITAL**

**Motor Vehicle Fund—Transportation Capital**

Facilities Account—State Appropriation . . . . . \$ 21,696,000

The appropriation in this section is subject to the following conditions and limitations and specified amounts are provided solely for that activity:

(1) The department of transportation shall provide to the legislative transportation committee prior notice and the latest project information at least two weeks in advance of the bid process for transportation capital facilities projects going to bid in the 1997-99 biennium.

(2) Construction of the Mount Rainier storage facility shall not commence until the department has secured an operational lease that would allow the placement of the facility on United States forest service lands near the entrance to the Mather memorial parkway.

(3) The appropriation in this section contains \$7,719,000 reappropriated from the 1995-97 biennium.

**PART IV  
TRANSFERS AND DISTRIBUTIONS**

**NEW SECTION. Sec. 401. FOR THE STATE TREASURER—BOND RETIREMENT AND INTEREST, AND ONGOING BOND REGISTRATION AND TRANSFER CHARGES: FOR BOND SALES DISCOUNTS AND DEBT TO BE PAID BY MOTOR VEHICLE FUND AND TRANSPORTATION FUND REVENUE**

Highway Bond Retirement Account Appropriation . . . . . \$ 195,062,000

Ferry Bond Retirement Account Appropriation . . . . .	\$	49,606,000
TOTAL APPROPRIATION . . . . .	\$	244,668,000

**NEW SECTION. Sec. 402. FOR THE STATE TREASURER—BOND RETIREMENT AND INTEREST, AND ONGOING BOND REGISTRATION AND TRANSFER CHARGES: FOR BOND SALE EXPENSES AND FISCAL AGENT CHARGES**

Motor Vehicle Fund—Puget Sound Capital		
Construction Account Appropriation . . . . .	\$	500,000
Motor Vehicle Fund Appropriation . . . . .	\$	130,000
Transportation Improvement Account		
Appropriation . . . . .	\$	200,000
Special Category C Account Appropriation . . . . .	\$	350,000
Transportation Capital Facilities Account		
Appropriation . . . . .	\$	1,000
Urban Arterial Account Appropriation . . . . .	\$	5,000
TOTAL APPROPRIATION . . . . .	\$	1,186,000

**NEW SECTION. Sec. 403. FOR THE STATE TREASURER—STATE REVENUES FOR DISTRIBUTION**

City Hardship Account Appropriation . . . . .	\$	200,000
Motor Vehicle Fund Appropriation for motor vehicle fuel tax and overload penalties distribution . . . . .	\$	471,937,000
Transportation Fund Appropriation . . . . .	\$	3,744,000
TOTAL APPROPRIATION . . . . .	\$	475,881,000

**NEW SECTION. Sec. 404. FOR THE DEPARTMENT OF RETIREMENT SYSTEMS—TRANSFERS**

Motor Vehicle Fund—State Patrol Highway Account:		
For transfer to the department of retirement systems expense fund . . . . .	\$	117,000

**NEW SECTION. Sec. 405. STATUTORY APPROPRIATIONS.** In addition to the amounts appropriated in this act for revenue for distribution, state contributions to the law enforcement officers' and fire fighters' retirement system, and bond retirement and interest including ongoing bond registration and transfer charges, transfers, interest on registered warrants, and certificates of indebtedness, there is also appropriated such further amounts as may be required or available for these purposes under any statutory formula or under any proper bond covenant made under law.

**NEW SECTION. Sec. 406.** The department of transportation is authorized to undertake federal advance construction projects under the provisions of 23 U.S.C. Sec. 115 in order to maintain progress in meeting approved highway construction and preservation objectives. The legislature recognizes that the use

of state funds may be required to temporarily fund expenditures of the federal appropriations for the highway construction and preservation programs for federal advance construction projects prior to conversion to federal funding.

**NEW SECTION. Sec. 407. FOR THE STATE TREASURER—TRANSFERS**

(1) R V Account—State Appropriation:	
For transfer to the Motor Vehicle Fund—	
State .....	\$ 1,176,000
(2) Motor Vehicle Fund—State Appropriation:	
For transfer to the Transportation Capital	
Facilities Account—State .....	\$ 47,569,000
(3) Small City Account—State Appropriation:	
For transfer to the Urban Arterial Trust	
Account—State .....	\$ 3,359,000
(4) Small City Account—State Appropriation:	
For transfer to the Transportation Improvement	
Account—State .....	\$ 7,500,000

**NEW SECTION. Sec. 408. FOR THE DEPARTMENT OF TRANSPORTATION—TRANSFERS**

Motor Vehicle Fund—State Appropriation	
For transfer to the Transportation Equipment Fund—	
State Appropriation .....	\$ 500,000

The appropriation transfer in this section is provided for the purchase of equipment for the highway maintenance program from the transportation equipment fund - operations.

***\*NEW SECTION. Sec. 409. The state treasurer shall transfer the sum of fifty million dollars from the general fund to the transportation fund during the fiscal year ending June 30, 1999.***

*\*Sec. 409 was vetoed. See message at end of chapter.*

**NEW SECTION. Sec. 410.** The motor vehicle account revenues are received at a relatively even flow throughout the year. Expenditures may exceed the revenue during the accelerated summer and fall highway construction season, creating a negative cash balance during the heavy construction season. Negative cash balances also may result from the use of state funds to finance federal advance construction projects prior to conversion to federal funding. The governor and the legislature recognize that the department of transportation may require interfund loans or other short-term financing to meet temporary seasonal cash requirements and additional cash requirements to fund federal advance construction projects.

**NEW SECTION. Sec. 411.** In addition to such other appropriations as are made by this act, there is appropriated to the department of transportation from legally available bond proceeds in the respective transportation funds and accounts

such amounts as are necessary to pay the expenses incurred by the state finance committee in the issuance and sale of the subject bonds.

**NEW SECTION. Sec. 412. EXPENDITURE AUTHORIZATIONS.** The appropriations contained in this act are maximum expenditure authorizations. Pursuant to RCW 43.88.037, moneys disbursed from the treasury on the basis of a formal loan agreement shall be recorded as loans receivable and not as expenditures for accounting purposes. To the extent that moneys are disbursed on a loan basis, the corresponding appropriation shall be reduced by the amount of loan moneys disbursed from the treasury during the 1997-99 biennium.

**NEW SECTION. Sec. 413. FOR THE DEPARTMENT OF TRANSPORTATION—TRANSFERS**

Motor Vehicle Fund—Puget Sound Ferry Operations

Account—State Appropriation:

For transfer to the Motor Vehicle Fund—Puget Sound

Capital Construction Account . . . . . \$ 50,000,000

This transfer is intended to be an interfund loan between the two accounts with the obligation of repayment in future biennia. This appropriation is subject to the following conditions and limitations: If funds are not appropriated for a fourth Jumbo Mark II ferry or House Bill No. 2108, authorizing the department to procure the vessel utilizing existing construction and equipment acquisition contracts, is not enacted during the 1997 legislative session, this section is null and void.

**PART V**

**MISCELLANEOUS**

**A. INFORMATION TECHNOLOGY**

**NEW SECTION. Sec. 501.** To maximize the use of transportation revenues, it is the intent of the legislature to encourage sharing of technology, information, and systems where appropriate between transportation agencies.

To facilitate this exchange, the Washington state department of transportation assistant secretary for finance and budget management; Washington state department of transportation chief for management information systems; the Washington state patrol deputy chief, inter-governmental services bureau; Washington state patrol manager of the computer services division; the department of licensing deputy director and department of licensing assistant director for information systems will meet quarterly to share plans, discuss progress of key projects, and to coordinate activities for the common good. Minutes of these meetings will be distributed to the respective agency heads, the office of financial management and the legislative transportation committee. Washington state department of transportation will provide staff support and meeting coordination.

**NEW SECTION. Sec. 502.** Agencies shall comply with the following requirements regarding information systems projects when specifically directed to do so by this act.

(1) The agency shall produce a feasibility study for each information systems project in accordance with published department of information services instructions. In addition to department of information services requirements, the study shall examine and evaluate the costs and benefits of maintaining the status quo and the costs and benefits of the proposed project. The study shall identify when and in what amount any fiscal savings will accrue, and what programs or fund sources will be affected.

(2) The agency shall produce a project management plan for each project. The plan or plans shall address all factors critical to successful completion of each project. The plan shall include, but is not limited to, the following elements: A description of the business problem or opportunity that the information systems project is intended to address; a statement of project objectives and assumptions; definition of phases, tasks, and activities to be accomplished and the estimated cost of each phase; a description of how the agency will facilitate responsibilities of oversight agencies; a description of key decision points in the project life cycle; a description of variance control measures; a definitive schedule that shows the elapsed time estimated to complete the project and when each task is to be started and completed; and a description of resource requirements to accomplish the activities within specified time, cost, and functionality constraints.

(3) A copy of each feasibility study and project management plan shall be provided to the department of information services, the office of financial management, and legislative transportation committee. Authority to expend any funds for individual information systems projects is conditioned on approval of the relevant feasibility study and project management plan by the department of information services and the office of financial management.

(4) A bimonthly project status report shall be submitted to the department of information services, the office of financial management, and legislative transportation committee for each project prior to reaching key decision points identified in the project management plan. Project status reports include: Project name, agency undertaking the project, a description of the project, key project activities or accomplishments during the next sixty to ninety days, baseline cost data, costs to date, baseline schedule, schedule to date, risk assessments, risk management, any deviations from the project feasibility study, and recommendations.

Work shall not commence on any task in a subsequent phase of a project until the status report for the preceding key decision point has been approved by the department of information services and the office of financial management.

(5) If a project review is requested in accordance with department of information services policies, the reviews shall examine and evaluate: System requirements specifications; scope; system architecture; change controls; documentation; user involvement; training; availability and capability of resources; programming languages and techniques; system inputs and outputs; plans for testing, conversion, implementation, and post-implementation; and other aspects

critical to successful construction, integration, and implementation of automated systems. Copies of project review written reports shall be forwarded to the office of financial management and appropriate legislative committees by the agency.

(6) A written post-implementation review report shall be prepared by the agency for each information systems project in accordance with published department of information services instructions. In addition to the information requested pursuant to the department of information services instructions, the post-implementation report shall evaluate the degree to which a project accomplished its major objectives including, but not limited to, a comparison of original cost and benefit estimates to actual costs and benefits achieved. Copies of the post-implementation review report shall be provided to the department of information services, the office of financial management, and legislative transportation committee.

**NEW SECTION. Sec. 503.** Any new automation projects must be reviewed and approved by the department of information services and then by the office of financial management prior to transportation funding being approved. If changes in an automation project are made or recommended by the office of financial management, including appropriation amounts, then the department of information services must review and report recommendations on the changes prior to transportation funding being approved.

**NEW SECTION. Sec. 504.** Appropriations for the year 2000 conversions for transportation agencies will be used solely for modifications of information systems that have been approved and recommended by the department of information services. A progress report will be presented to the legislative transportation committee by the department of information services in January 1998, with completion of the year 2000 conversion by January 31, 1999. Any savings realized from the conversion process will revert on June 30, 1999, back to the respective funds from which funding was appropriated.

**B. EMERGENCY RELIEF**

**NEW SECTION. Sec. 505. FOR THE DEPARTMENT OF TRANSPORTATION—EMERGENCY RELIEF**

Motor Vehicle Fund—Federal Appropriation . . . . . \$ 3,000,000

The appropriation in this section is subject to the following conditions and limitations: This appropriation is to be placed in reserve status for emergency relief in the event of a disaster where federal emergency relief funds have become available. The transportation commission in consultation with the legislative transportation committee may request the office of financial management to transfer the appropriation authority from reserve to active status.

**NEW SECTION. Sec. 506.** The appropriations contained in sections 203 and 204 of this act include funding to assist cities and counties in providing match for federal emergency funding for winter storm and flood damage as determined by

the county road administration board and the transportation improvement board. The county road administration board and the transportation improvement board will report to the legislative transportation committee and the office of financial management by September 30 of each year on the projects selected to receive match funding.

### C. BUDGET SUBMITTAL AND OVERSIGHT PROVISIONS

**\*NEW SECTION.** *Sec. 507. Any agency requesting transportation funding must submit to the legislative transportation committees the same request and supporting documents presented to the office of financial management at agency budget submittal time.*

\*Sec. 507 was vetoed. See message at end of chapter.

**\*NEW SECTION.** *Sec. 508. In addition to information required under section 507 of this act, agencies shall include their strategic plans and an explanation of how the budget submittals and the investment choices and recommended associated service levels are linked to the strategic plan.*

\*Sec. 508 was vetoed. See message at end of chapter.

**NEW SECTION.** *Sec. 509. Transportation agencies are required to provide fund balances and financial, workload, and performance measurement data in the transportation executive information system on a schedule agreed to by the legislative transportation committee.*

**NEW SECTION.** *Sec. 510. The appropriations of moneys and the designation of funds and accounts by this and other acts of the 1997 legislature shall be construed in a manner consistent with legislation enacted by the 1985, 1987, 1989, 1991, 1993, and 1995 legislatures to conform state funds and accounts with generally accepted accounting principles.*

### D. BILLS NECESSARY TO IMPLEMENT THIS ACT

**NEW SECTION.** *Sec. 511. The following bills are necessary to implement portions of this act: Engrossed Substitute House Bill No. 1011, Substitute House Bill No. 2108, or Substitute Senate Bill No. 5718.*

### E. MISCELLANEOUS

**NEW SECTION.** *Sec. 512. (1) If Substitute House Bill No. 2237 is not enacted, or is enacted without a provision allowing the department of transportation to obtain fair and reasonable compensation, by June 30, 1997, the appropriations to the department in this act may only be used by the department to grant rights of occupancy to a telecommunications carrier only to the extent authorized by existing law, including but not limited to chapters 47.12, 47.44, and 47.52 RCW. However, the authority of the department to install telecommunications facilities solely for public transportation purposes is not limited.*

*(2) The telecommunications/right-of-way advisory panel is created to evaluate the department's process for developing proposals for use of its limited-access rights-of-way by telecommunications carriers.*

The membership of the telecommunications/right-of-way advisory panel is as follows:

- (a) Two members of the house transportation policy and budget committee, one from each political party, as appointed by the speaker of the house of representatives. The speaker shall also designate two alternate members to serve if the appointed member is unavailable;
- (b) Two members of the senate transportation committee, one from each political party, as appointed by the president of the senate. The president shall also designate two alternate members to serve if the appointed member is unavailable;
- (c) One member of the house appropriations committee, as appointed by the speaker of the house of representatives. The speaker shall also designate an alternate member to serve if the appointed member is unavailable;
- (d) One member of the senate ways and means committee, as appointed by the president of the senate. The president shall also designate an alternate member to serve if the appointed member is unavailable;
- (e) Two representatives of the governor or their designees;
- (f) The secretary of the department of transportation or a designee; and
- (g) The director of the department of information services or a designee.

Sec. 513. RCW 47.78.010 and 1991 sp.s. c 13 ss 66, 121 are each amended to read as follows:

There is hereby established in the state treasury the high capacity transportation account. Money in the account shall be used, after appropriation, for local high capacity transportation purposes including rail freight, activities associated with freight mobility, and commute trip reduction activities.

NEW SECTION. Sec. 514. Section 513 of this act expires June 30, 1999.

**NEW SECTION. Sec. 515. FOR THE DEPARTMENT OF TRANSPORTATION—RESERVE STATUS**

Motor Vehicle Fund—State Appropriation . . . . .	\$	5,000,000
Transportation Fund—State Appropriation . . . . .	\$	5,000,000
TOTAL APPROPRIATION . . . . .	\$	10,000,000

The appropriations in this section are subject to the following conditions and limitations and the entire amount is provided solely for placement in reserve status: The entire amount is to be placed in reserve status for potential funding of the highway construction program should the federal transportation authorization act, the successor to the intermodal surface transportation efficiency act (ISTEA) not be enacted by October 1, 1997.

NEW SECTION. Sec. 516. During the 1997 interim, the fiscal committees of the house of representatives and senate will review funding alternatives for Washington state parks (roadway maintenance and preservation), department of trade and economic development (gateway visitor information centers), and the office of financial management (transportation budget/policy analysts). The committees will make funding recommendations for a permanent funding source

for each of the above agencies and the related activities during the 1998 legislative session.

**NEW SECTION. Sec. 517.** It is the intent of the legislature that the department of transportation may implement a voluntary retirement incentive program that is cost neutral provided that such program is approved by the director of financial management.

**PART VI  
1995-97 SUPPLEMENTAL**

**Sec. 601.** 1996 c 165 s 207 (uncodified) is amended to read as follows:  
**FOR THE DEPARTMENT OF LICENSING—MANAGEMENT AND SUPPORT SERVICES**

Highway Safety Fund—Motorcycle Safety Education	
Account—State Appropriation . . . . .	\$ 68,000
State Wildlife Account—State Appropriation . . . . .	\$ 53,000
Highway Safety Fund—State Appropriation . . . . .	\$ ((5,460,000))
	<u>5,429,000</u>
Motor Vehicle Fund—State Appropriation . . . . .	\$ 4,045,000
Transportation Fund—State Appropriation . . . . .	\$ 808,000
<b>TOTAL APPROPRIATION . . . . .</b>	<b>\$ ((10,434,000))</b>
	<u>10,403,000</u>

**Sec. 602.** 1996 c 165 s 210 (uncodified) is amended to read as follows:  
**FOR THE DEPARTMENT OF LICENSING—DRIVER SERVICES**

Highway Safety Fund—Motorcycle Safety Education	
Account—State Appropriation . . . . .	\$ 1,150,000
Highway Safety Fund—State Appropriation . . . . .	\$ ((56,145,000))
	<u>56,395,000</u>
Transportation Fund—State Appropriation . . . . .	\$ 4,914,000
<b>TOTAL APPROPRIATION . . . . .</b>	<b>\$ ((62,209,000))</b>
	<u>62,459,000</u>

The appropriations in this section are subject to the following conditions and limitations and specified amounts are provided solely for that activity:

(1) If the following bills are not enacted by June 30, 1996, the amounts specified from the highway safety fund—state appropriation shall lapse:

- ((1)) (a) Engrossed Substitute House Bill No. 2150: \$298,000;
- ((2)) (b) Substitute Senate Bill No. 6487: \$61,000;
- ((3)) (c) Engrossed Third Substitute Senate Bill No. 6062: \$133,000.

(2) \$250,000 of the highway safety fund—state appropriation is provided for manual processing of accident reports due to a delay in implementing the collision reporting and statistical reporting system.

**Sec. 603.** 1996 c 165 s 211 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION—HIGHWAY MANAGEMENT AND FACILITIES—PROGRAM D—OPERATING**

Motor Vehicle Fund—State Appropriation . . . . .	\$	24,394,000
Motor Vehicle Fund—Federal Appropriation . . . . .	\$	400,000
Motor Vehicle Fund—Transportation Capital Facilities Account—State Appropriation . . . . .	\$	<del>((21,974,000))</del>
		<u>22,011,000</u>
<b>TOTAL APPROPRIATION . . . . .</b>	<b>\$</b>	<del>((46,768,000))</del>
		<u>46,805,000</u>

The appropriations in this section are subject to the following conditions and limitations and specified amounts are provided solely for that activity: The transportation capital facilities account—state appropriation includes \$37,000 as match to a federal emergency management grant for reimbursement to repair damage to agency owned buildings as result of the December 1996 floods.

**Sec. 604. 1996 c 165 s 215 (uncodified) is amended to read as follows:  
FOR THE DEPARTMENT OF TRANSPORTATION—HIGHWAY MAINTENANCE—PROGRAM M**

Motor Vehicle Fund—State Appropriation . . . . .	\$	<del>((222,274,000))</del>
		<u>226,274,000</u>
Motor Vehicle Fund—Federal Appropriation . . . . .	\$	461,000
Motor Vehicle Fund—Private/Local Appropriation . . . . .	\$	3,305,000
<b>TOTAL APPROPRIATION . . . . .</b>	<b>\$</b>	<del>((226,040,000))</del>
		<u>230,040,000</u>

The appropriations in this section are subject to the following conditions and limitations and specified amounts are provided solely for that activity:

(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 will be requested to restore state funding for ongoing maintenance activities.

(2) The department shall deliver the highway maintenance program according to the plans for each major maintenance group to the extent practical. However, if projected snow and ice expenditures exceed the plan of \$40,000,000, the department will, after prior consultation with the legislative transportation committee, adopt one or both of the following courses of action:

(a) Reduce planned maintenance activities in other groups to offset the necessary increases for snow and ice control and detail these expenditures; or

(b) Continue service delivery as planned within the other major maintenance groups and access up to ~~(((\$2,000,000 in the snow and ice reserve))~~ \$4,000,000 provided in subsection (6) of this section to cover increased snow and ice expenditures ~~((provided for in section 505 of this act))~~.

(3) The department shall provide recommendations to the legislative transportation committee by June 30, 1996, on: (a) The feasibility of developing

a maintenance management system; (b) methods for providing a consistent maintenance level of service throughout the state; (c) options for centralized versus decentralized management of the program; (d) improving accountability and oversight of the maintenance program; and (e) improving accountability and oversight of the transportation equipment fund program.

(4) The motor vehicle fund—state appropriation in this section includes \$250,000 solely for augmentation of the adopt-a-highway program, under Engrossed Substitute House Bill No. 1512.

(5) The motor vehicle fund—state appropriation in this section includes \$1,812,000 for payment of local stormwater assessment fees.

(6) The motor vehicle fund—state appropriation includes \$4,000,000 solely for snow and ice expenditures that exceed the \$40,000,000 snow and ice expenditure plan.

Sec. 605. 1996 c 165 s 218 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION—SALES AND SERVICES TO OTHERS—PROGRAM R**

Motor Vehicle Fund—State Appropriation . . . . .	\$	<del>((490,000))</del>
		<u>740,000</u>
Motor Vehicle Fund—Federal Appropriation . . . . .	\$	400,000
Motor Vehicle Fund—Private/Local Appropriation . . . . .	\$	7,232,000
TOTAL APPROPRIATION . . . . .	\$	<del>((8,122,000))</del>
		<u>8,372,000</u>

The appropriations in this section are subject to the following conditions and limitations and specified amounts are provided solely for that activity:

(1) It is the intent of the legislature to continue the state's partnership with the federal government, local government, and the private sector in transportation construction and operations in the most cost-effective manner. The office of financial management, in cooperation with the department of transportation, is directed to establish an efficient and effective process to increase the expenditure and work force authority for this program to allow the department the ability to provide services on nonappropriated, outside requests.

(2) The motor vehicle fund—state appropriation includes \$250,000 for expenditure in fiscal year 1997 to pay for operating and maintenance costs for the Wahkiakum County ferry.

Sec. 606. 1996 c 165 s 220 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION—TRANSIT RESEARCH AND INTERMODAL PLANNING—PROGRAM T**

Motor Vehicle Fund—State Appropriation . . . . .	\$	14,395,000
Motor Vehicle Fund—Federal Appropriation . . . . .	\$	<del>((15,647,000))</del>
		<u>16,327,000</u>
Transportation Fund—State Appropriation . . . . .	\$	1,345,000

TOTAL APPROPRIATION . . . . . \$ ((31,387,000))  
32,067,000

The appropriations in this section are subject to the following conditions and limitations and specified amounts are provided solely for that activity:

(1) Up to \$2,400,000 of the motor vehicle fund—state appropriation is provided for regional transportation planning organizations, with allocations for participating counties maintained at the 1993-1995 biennium levels for those counties not having metropolitan planning organizations within their boundaries.

(2) The motor vehicle fund—federal appropriation includes \$680,000 of federal pass-through funds for metropolitan planning organizations (MPOs).

Sec. 607. 1996 c 165 s 221 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION—CHARGES FROM OTHER AGENCIES—PROGRAM U**

(1) **FOR PAYMENT OF COSTS OF ATTORNEY GENERAL TORT CLAIMS SUPPORT**

Motor Vehicle Fund—State Appropriation . . . . . \$ 4,646,000

(2) **FOR PAYMENT OF COSTS OF THE OFFICE OF THE STATE AUDITOR**

Motor Vehicle Fund—State Appropriation . . . . . \$ 832,000

(3) **FOR PAYMENT OF COSTS OF DEPARTMENT OF GENERAL ADMINISTRATION FACILITIES AND SERVICES AND CONSOLIDATED MAIL SERVICES**

Motor Vehicle Fund—State Appropriation . . . . . \$ 3,374,000

(4) **FOR PAYMENT OF COSTS OF THE DEPARTMENT OF PERSONNEL**

Motor Vehicle Fund—State Appropriation . . . . . \$ 2,240,000

(5) **FOR PAYMENT OF SELF-INSURANCE LIABILITY PREMIUMS AND ADMINISTRATION**

Motor Vehicle Fund—State Appropriation . . . . . \$ 7,749,000

(6) **FOR PAYMENT OF SELF-INSURANCE LIABILITY PREMIUMS AND ADMINISTRATION**

Motor Vehicle Fund—Puget Sound Ferry Operations  
 Account—State Appropriation . . . . . \$ ((2,000,000))  
2,500,000

(7) **FOR PAYMENT OF COSTS OF THE OFFICE OF MINORITY AND WOMEN'S BUSINESS ENTERPRISES**

Motor Vehicle Fund—State Appropriation . . . . . \$ 508,000

(8) **FOR PAYMENT OF COSTS OF THE DEPARTMENT OF GENERAL ADMINISTRATION STATE PARKING SERVICES**

Motor Vehicle Fund—State Appropriation . . . . . \$ 95,000

(9) **FOR PAYMENT OF THE DEPARTMENT OF GENERAL ADMINISTRATION CAPITAL PROJECTS SURCHARGE**

Motor Vehicle Fund—State Appropriation . . . . . \$ 361,000

(10) FOR ARCHIVES AND RECORDS MANAGEMENT

Motor Vehicle Fund—State Appropriation . . . . . \$ 280,000

Sec. 608. 1996 c 165 s 224 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION—PUBLIC TRANSPORTATION AND RAIL—PROGRAM Y**

Essential Rail Assistance Account—State	
Appropriation . . . . .	\$ 1,088,000
Motor Vehicle Account—State Appropriation . . . . .	\$ 138,000
Motor Vehicle Account—Federal Appropriation . . . . .	\$ 551,000
High Capacity Transportation Account—State	
Appropriation . . . . .	\$ 4,275,000
Air Pollution Control Account—State	
Appropriation . . . . .	\$ 3,145,000
Transportation Fund—State Appropriation . . . . .	\$ 34,480,000
Transportation Fund—Federal Appropriation . . . . .	\$ ((11,643,000))
	<u>13,243,000</u>
Transportation Fund—Private Local	
Appropriation . . . . .	\$ 105,000
Public Transportation Systems Account—State	
Appropriation . . . . .	\$ 1,000,000
TOTAL APPROPRIATION . . . . .	\$ ((56,425,000))
	<u>58,025,000</u>

The appropriations in this section are subject to the following conditions and limitations and specified amounts are provided solely for that activity:

(1) Up to \$31,845,000 of the transportation fund—state appropriation and \$700,000 of the transportation fund—federal appropriation is provided for intercity rail passenger service including up to \$12,000,000 for lease purchase of two advanced technology train sets with total purchase costs not to exceed \$20,000,000, subsidies for operating costs not to exceed \$8,000,000, to maintain service of one state contracted round trip between Seattle and Portland and Seattle and Vancouver, British Columbia, and capital projects necessary to provide Seattle-Vancouver, British Columbia, train operating times of under 4 hours. The lease purchase of the train sets is predicated on the condition that the manufacturer of the trains has the obligation of establishing a corporate office in Washington state. The manufacturer is also obligated to spend a minimum of twenty-five percent of the total purchase price of the train sets on the assembly and manufacture of parts of the train sets in Washington state.

(2) The appropriations from the central Puget Sound public transportation account and the public transportation systems account are transferred to the transportation improvement board should either chapter . . . (Engrossed Substitute House Bill No. 1107), Laws of 1995 or chapter . . . (Substitute Senate Bill No. 5199), Laws of 1995 be enacted, and contain provisions transferring responsibility for administration of these accounts from the department of transportation to the

transportation improvement board, except \$1,000,000 of the appropriation from the public transportation systems account shall be utilized for the rural mobility program and be administered by the department of transportation. Priority for grants provided from these accounts shall be given to projects and programs that can be accomplished in the 1995-1997 biennium and that are not primarily intended for the planning of facilities. Prior to July 1, 1996, no applications for grants from the central Puget Sound public transportation account may be accepted from, nor may funds from that account be granted to, the regional transit authority. The public transportation systems account funds provided to the rural mobility program are for the 1995-97 biennium and are not intended for grants which will have ongoing costs to this program.

(3) Up to \$700,000 of the high capacity transportation account—state appropriation is reappropriated for regional transit authority grants. However, this amount shall not exceed the amount of unexpended regional transit authority grants in the 1993-95 biennium.

(4) None of the high capacity transportation account—state appropriation or reappropriation may be used to disseminate information in a manner that attempts to persuade, rather than inform or educate, area residents regarding the adopted system plan. The appropriation and reappropriation also may not be used to lobby or advertise, or distribute free promotional materials.

(5) The department of transportation may not transfer high capacity transportation account—state funds to a regional transportation authority during the 1995-1997 biennium, unless the authority has provided a detailed report to the department of transportation and the house of representatives and senate transportation committees regarding its use of those funds during preceding biennia and how it proposes to spend additional state funds.

(6) \$1,800,000 of the high capacity transportation account—state appropriation is provided for the regional transit authority.

(7) The air pollution control account appropriation is provided solely for operation of the commute trip reduction program created under chapter 70.94 RCW and transferred to the department of transportation by Senate Bill No. 6451 or House Bill No. 2009. If Senate Bill No. 6451 or House Bill No. 2009 is not enacted by June 30, 1996, this subsection is null and void.

(8) If Engrossed Substitute House Bill No. 2832 is not enacted by June 30, 1996, \$189,000 of the transportation fund—state appropriation shall lapse.

(9) The transportation account—federal appropriation includes a \$1,100,000 federal grant in 1997 for railroad crossing construction projects and a \$500,000 federal transit administration grant received in fiscal year 1997 for design work on the King Street Station.

**Sec. 609.** 1996 c 165 s 225 (uncodified) is amended to read as follows:  
**FOR THE DEPARTMENT OF TRANSPORTATION—LOCAL PROGRAMS—PROGRAM Z**

General Fund—State Appropriation . . . . . \$ 1,400,000

Motor Vehicle Fund—State Appropriation . . . . .	\$	15,167,000
Motor Vehicle Fund—Federal Appropriation . . . . .	\$	<del>((167,879,000))</del>
		<u>182,879,000</u>
Transportation Fund—State Appropriation . . . . .	\$	356,000
Motor Vehicle Fund—Private/Local Appropriation . . . . .	\$	5,087,000
Transfer Relief Account—State Appropriation . . . . .	\$	307,000
TOTAL APPROPRIATION . . . . .	\$	<del>((190,196,000))</del>
		<u>205,196,000</u>

The appropriations in this section are subject to the following conditions and limitations and specified amounts are provided solely for that activity:

(1) Up to \$13,100,000 of the motor vehicle fund—federal appropriation in this section is provided for construction of demonstration projects specified in the federal intermodal surface transportation efficiency act (P.L. 101-240; 105 Stat. 1914). The motor vehicle fund—state appropriation includes \$3,275,000 in proceeds from the sale of bonds authorized in RCW 47.10.819(1) for the federal match requirements. However, the transportation commission may authorize the use of current revenues available to the department of transportation in lieu of bond proceeds for any part of the state appropriation.

(2) The motor vehicle fund—state appropriation in this section includes \$1,750,000 solely to fund the state's share of the east marine view drive project. This amount represents a reappropriation of the funding first provided for Everett homeport transportation projects in 1987. With this reappropriation, the legislature has fulfilled its commitment for funding of special transportation projects associated with the Everett homeport.

(3) \$2,600,000 of the motor vehicle fund—state appropriation and \$1,400,000 of the general fund—state appropriation in this section is provided solely for one-time capital infrastructure investment associated with development of a horse racetrack in western Washington. With this appropriation, the state has fulfilled its commitment to this project.

(4) Up to \$1,100,000 of the motor vehicle fund—state appropriation and \$300,000 of the transportation fund—state appropriation contained in this section shall be used for evaluations that mutually benefit the state department of transportation, counties, and cities. The evaluations may include fuel tax evasion; license fraud; and the development of an implementation plan for the financing and construction of state, local, and private transportation improvements in south downtown Seattle. The implementation plan shall address the safety needs of the Spokane street viaduct, but shall not include any projects that would be financed and constructed under the public-private transportation initiatives program established in chapter 47.46 RCW. The evaluations shall include port mobility issues and other issues as determined by the legislative transportation committee.

(5) \$700,000 of the motor vehicle fund—federal appropriation for the surface transportation program enhancements program is provided for storm water control grants as provided for in Second Substitute House Bill No. 2031. If Second

Substitute House Bill No. 2031 is not enacted by June 30, 1996, this subsection is null and void.

(6) \$1,000,000 of the motor vehicle fund—federal appropriation for the surface transportation program enhancements program is provided to the state parks and recreation commission to be used for trail development. The amount provided represents partial consideration for cross-state trail development necessitated under Engrossed Substitute House Bill No. 2832.

(7) \$6,000 of the transportation fund—state appropriation is provided as the state match on the Colfax paving project.

(8) \$25,000 of the transportation fund—state appropriation in this section is provided to evaluate and determine which agency or organization should be authorized to manage and operate the aerial search and rescue program.

(9) \$50,000 of the motor vehicle fund—state appropriation and \$25,000 of the transportation fund—state appropriation in this section are provided solely for an evaluation of the impacts of rail transportation through the city of Auburn, to be conducted by the city of Auburn. "Evaluation" for the purpose of this subsection does not include litigation. This evaluation shall be coordinated with the Port of Tacoma, the cities of Tacoma, Federal Way, and Algona, and other affected jurisdictions participating in the Tacoma tideflat truck and rail circulation analysis provided for in subsection (4) of this section. The city of Auburn shall complete its analysis no later than October 31, 1996, and report its findings to the Tacoma tideflat truck and rail circulation study group.

(10) The motor vehicle fund—federal appropriation includes \$15,000,000 federal highway administration reimbursement to Washington for damage from the 1996 December floods to local owned roads on the federal system.

**NEW SECTION. Sec. 610.** A new section is added to 1996 c 165 (uncodified) to read as follows:

\$10,000,000 from the motor vehicle fund—federal is appropriated to the department of transportation solely for damage resulting from floods and winter storms. This appropriation will be allotted in programs p-preservation and m-maintenance as determined by the department of transportation.

Sec. 611. 1996 c 165 s 401 (uncodified) is amended to read as follows:

**FOR THE STATE TREASURER—BOND RETIREMENT AND INTEREST, AND ONGOING BOND REGISTRATION AND TRANSFER CHARGES: FOR BOND SALES DISCOUNTS AND DEBT TO BE PAID BY MOTOR VEHICLE FUND AND TRANSPORTATION FUND REVENUE**

<del>((Motor Vehicle Fund—Puget Sound Capital Construction Account</del>	
<del>Appropriation . . . . .</del>	<del>\$ 4,250,000</del>
<del>Motor Vehicle Fund Appropriation . . . . .</del>	<del>\$ 903,000</del>
<del>Transportation Improvement Account</del>	
<del>Appropriation . . . . .</del>	<del>\$ 1,250,000</del>
<del>Special Category C Account Appropriation . . . . .</del>	<del>\$ 4,000,000))</del>
Highway Bond Retirement Account Appropriation . . . . .	\$ ((195,814,000))

		<u>192,099,000</u>
Ferry Bond Retirement Account Appropriation	..... \$	((36,788,000))
		<u>31,237,000</u>
TOTAL APPROPRIATION	..... \$	((243,005,000))
		<u>223,336,000</u>

**Sec. 612.** 1996 c 165 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**

<b>Motor Vehicle Fund—Puget Sound Capital Construction</b>		
Account Appropriation	..... \$	((850,000))
		<u>50,000</u>
<del>((Motor Vehicle Fund Appropriation</del>	<del>..... \$</del>	<del>181,000</del>
<del><b>Motor Vehicle Fund—Urban Arterial Trust Account</b></del>		
<del>Appropriation</del>	<del>..... \$</del>	<del>5,000))</del>
<b>Motor Vehicle Fund—Transportation Improvement</b>		
Account Appropriation	..... \$	((250,000))
		<u>25,000</u>
Special Category C Account Appropriation	..... \$	((800,000))
		<u>175,000</u>
<del>((Transportation Capital Facilities Account</del>	<del>Appropriation</del>	<del>..... \$</del>
		<del>1,000))</del>
TOTAL APPROPRIATION	..... \$	((2,087,000))
		<u>250,000</u>

**NEW SECTION. Sec. 613.** A new section is added to 1996 c 165 (uncodified) to read as follows:

The sum of fifty million dollars is appropriated from the general fund to the transportation fund in the fiscal year ending June 30, 1997.

**NEW SECTION. Sec. 614.** 1996 c 165 s 505 (uncodified) is repealed.

**PART VII  
LEGISLATIVE DECLARATIONS**

**NEW SECTION. Sec. 701.** 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. 702.** 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 .....	3018

COUNTY ROAD ADMINISTRATION BOARD ..... 3018  
 DEPARTMENT OF AGRICULTURE ..... 3012  
 DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC  
     DEVELOPMENT ..... 3016  
 DEPARTMENT OF LICENSING  
     DRIVER SERVICES ..... 3025, 3046  
     INFORMATION SYSTEMS ..... 3024  
     MANAGEMENT AND SUPPORT SERVICES ..... 3023, 3046  
     VEHICLE SERVICES ..... 3024  
 DEPARTMENT OF RETIREMENT SYSTEMS  
     TRANSFERS ..... 3039  
 DEPARTMENT OF TRANSPORTATION  
     AVIATION--PROGRAM F ..... 3025  
     CHARGES FROM OTHER AGENCIES--PROGRAM U .... 3030, 3049  
     EMERGENCY RELIEF ..... 3043  
     HIGHWAY MAINTENANCE--PROGRAM M ..... 3028, 3047  
     HIGHWAY MANAGEMENT AND FACILITIES--  
         PROGRAM D--OPERATING ..... 3025, 3047  
     IMPROVEMENTS--PROGRAM I ..... 3026  
     LOCAL PROGRAMS--PROGRAM Z ..... 3036, 3051  
     MARINE--PROGRAM X ..... 3033  
     PRESERVATION--PROGRAM P ..... 3029  
     PROGRAM D (DEPARTMENT OF TRANSPORTATION-ONLY  
         PROJECTS) ..... 3038  
     PUBLIC TRANSPORTATION AND RAIL--PROGRAM Y . 3034, 3050  
     RESERVE STATUS ..... 3045  
     SALES AND SERVICES TO OTHERS--PROGRAM R ..... 3048  
     TRAFFIC OPERATIONS--PROGRAM Q ..... 3029  
     TRANSFERS ..... 3040, 3041  
     TRANSIT RESEARCH AND INTERMODAL PLANNING--  
         PROGRAM T ..... 3048  
     TRANSPORTATION ECONOMIC PARTNERSHIPS--  
         PROGRAM K ..... 3027  
     TRANSPORTATION MANAGEMENT AND SUPPORT--  
         PROGRAM S ..... 3029  
     TRANSPORTATION PLANNING, DATA, AND RESEARCH--  
         PROGRAM T ..... 3030  
     WASHINGTON STATE FERRIES CONSTRUCTION--  
         PROGRAM W ..... 3031  
 EXPENDITURE AUTHORIZATIONS ..... 3041  
 GOVERNOR  
     TRANSFER TO THE TORT CLAIMS REVOLVING FUND ..... 3013  
 JOINT LEGISLATIVE AUDIT AND REVIEW COMMITTEE ..... 3013

JOINT LEGISLATIVE SYSTEMS COMMITTEE ..... 3012  
 LEGISLATIVE EVALUATION AND ACCOUNTABILITY  
     PROGRAM ..... 3012  
 LEGISLATIVE TRANSPORTATION COMMITTEE ..... 3019  
 MARINE EMPLOYEES COMMISSION ..... 3020  
 OFFICE OF FINANCIAL MANAGEMENT ..... 3016  
 STATE PARKS AND RECREATION COMMISSION ..... 3017  
 STATE TREASURER  
     BOND RETIREMENT AND INTEREST ..... 3038, 3039, 3053, 3054  
     STATE REVENUES FOR DISTRIBUTION ..... 3039  
     TRANSFERS ..... 3040  
 STATUTORY APPROPRIATIONS ..... 3039  
 TRANSPORTATION COMMISSION ..... 3020  
 TRANSPORTATION IMPROVEMENT BOARD ..... 3018  
 UTILITIES AND TRANSPORTATION COMMISSION ..... 3013  
 WASHINGTON STATE PARKS AND RECREATION  
     CAPITAL PROJECTS ..... 3017  
 WASHINGTON STATE PATROL  
     CAPITAL PROJECTS ..... 3037  
     FIELD OPERATIONS BUREAU ..... 3020  
     INVESTIGATIVE SERVICES BUREAU ..... 3022  
     SUPPORT SERVICES BUREAU ..... 3022  
 WASHINGTON TRAFFIC SAFETY COMMISSION ..... 3017

Passed the Senate April 27, 1997.

Passed the House April 26, 1997.

Approved by the Governor May 20, 1997, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State May 20, 1997.

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

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

"AN ACT Relating to transportation funding and appropriations;"

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

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

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

While there is no question about the commitment of all parties, including myself, to conduct a creditable and timely performance audit of transportation programs, I have vetoed subsections (3) through (7) in order to provide maximum flexibility to the Advisory Committee to manage the audit as effectively as possible within the available dollars. This

veto will permit an audit schedule that will produce substantive results for consideration by the Legislature the 1998 Session. The audit activities outlined in the vetoed provisos can serve as guidance, rather than limits, for the Committee as they start their deliberations. The veto of these subsections does not preclude the Advisory Committee from addressing the same issues, but it does allow the Committee to adjust the scope and emphasis of the audit activities as information is developed by the consultants and committee staff.

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

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

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

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

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

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

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

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

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

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

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

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

CHAPTER 458

[Filed by Washington Citizens' Commission on Salaries for Elected Officials]  
SALARIES—STATE ELECTED OFFICIALS

AN ACT Relating to salaries of elected officials; and amending RCW 43.03.011, 43.03.012, and 43.03.013.

Be it enacted by the Washington Citizens' Commission on Salaries for Elected Officials:

Sec. 1. RCW 43.03.011 and 1995 2nd sp.s. c 1 s 1 are each amended to read as follows:

Pursuant to Article XXVIII, section 1 of the state Constitution and RCW 43.03.010 and 43.03.310, the annual salaries of the state elected officials of the executive branch shall be as follows:

(1) ~~((Effective September 1, 1993:~~

<del>(a) Governor</del> .....	<del>\$ 121,000</del>
<del>(b) Lieutenant governor</del> .....	<del>\$ 62,700</del>
<del>(c) Secretary of state</del> .....	<del>\$ 64,300</del>
<del>(d) Treasurer</del> .....	<del>\$ 79,500</del>
<del>(e) Auditor</del> .....	<del>\$ 84,100</del>
<del>(f) Attorney general</del> .....	<del>\$ 92,000</del>
<del>(g) Superintendent of public instruction</del> .....	<del>\$ 86,600</del>
<del>(h) Commissioner of public lands</del> .....	<del>\$ 86,600</del>
<del>(i) Insurance commissioner</del> .....	<del>\$ 77,200</del>

~~(2)) Effective September 1, 1995:~~

(a) Governor .....	\$ 121,000
(b) Lieutenant governor .....	\$ 62,700
(c) Secretary of state .....	\$ 64,300
(d) Treasurer .....	\$ 84,100
(e) Auditor .....	\$ 84,100
(f) Attorney general .....	\$ 92,000
(g) Superintendent of public instruction .....	\$ 86,600
(h) Commissioner of public lands .....	\$ 86,600
(i) Insurance commissioner .....	\$ 77,200

(2) Effective September 1, 1997:

<u>(a) Governor</u> .....	<u>\$ 121,000</u>
<u>(b) Lieutenant governor</u> .....	<u>\$ 62,700</u>
<u>(c) Secretary of state</u> .....	<u>\$ 69,000</u>
<u>(d) Treasurer</u> .....	<u>\$ 84,100</u>
<u>(e) Auditor</u> .....	<u>\$ 84,100</u>
<u>(f) Attorney general</u> .....	<u>\$ 93,000</u>
<u>(g) Superintendent of public instruction</u> .....	<u>\$ 86,600</u>
<u>(h) Commissioner of public lands</u> .....	<u>\$ 86,600</u>
<u>(i) Insurance commissioner</u> .....	<u>\$ 77,200</u>

(3) The lieutenant governor shall receive the fixed amount of his salary plus 1/260th of the difference between his salary and that of the governor for each day that the lieutenant governor is called upon to perform the duties of the governor by reason of the absence from the state, removal, resignation, death, or disability of the governor.

Sec. 2. RCW 43.03.012 and 1995 2nd sp.s. c 1 s 2 are each amended to read as follows:

Pursuant to Article XXVIII, section 1 of the state Constitution and RCW 2.04.092, 2.06.062, 2.08.092, 3.58.010, and 43.03.310, the annual salaries of the judges of the state shall be as follows:

(1) ((Effective September 1, 1993:

<del>(a) Justices of the supreme court .....</del>	<del>\$ 107,200</del>
<del>(b) Judges of the court of appeals .....</del>	<del>\$ 101,900</del>
<del>(c) Judges of the superior court .....</del>	<del>\$ 96,600</del>
<del>(d) Full-time judges of the district court .....</del>	<del>\$ 91,900</del>

~~(2))~~ Effective September 1, 1995:

(a) Justices of the supreme court .....	\$ 109,880
(b) Judges of the court of appeals .....	\$ 104,448
(c) Judges of the superior court .....	\$ 99,015
(d) Full-time judges of the district court .....	\$ 94,198

(2) Effective September 1, 1997:

<u>(a) Justices of the supreme court .....</u>	<u>\$ 112,078</u>
<u>(b) Judges of the court of appeals .....</u>	<u>\$ 106,537</u>
<u>(c) Judges of the superior court .....</u>	<u>\$ 100,995</u>
<u>(d) Full-time judges of the district court .....</u>	<u>\$ 96,082</u>

(3) The salary for a part-time district court judge shall be the proportion of full-time work for which the position is authorized, multiplied by the salary for a full-time district court judge.

Sec. 3. RCW 43.03.013 and 1995 2nd sp.s. c 1 s 3 are each amended to read as follows:

Pursuant to Article XXVIII, section 1 of the state Constitution and RCW 43.03.010 and 43.03.310, the annual salary of members of the legislature shall be:

(1) ((Effective September 1, 1993:

<del>(a) Legislator .....</del>	<del>\$ 25,900</del>
<del>(b) Speaker of the house .....</del>	<del>\$ 33,900</del>
<del>(c) Senate majority leader .....</del>	<del>\$ 29,900</del>
<del>(d) Senate minority leader .....</del>	<del>\$ 29,900</del>
<del>(e) House minority leader .....</del>	<del>\$ 29,900</del>

~~(2) Effective September 1, 1995:~~

<del>(a) Legislator .....</del>	<del>\$ 27,100</del>
<del>(b) Speaker of the house .....</del>	<del>\$ 35,100</del>
<del>(c) Senate majority leader .....</del>	<del>\$ 31,100</del>
<del>(d) Senate minority leader .....</del>	<del>\$ 31,100</del>

<del>(e) House minority leader</del> .....	<del>\$ 31,100</del>
<del>(3)) Effective September 1, 1996:</del>	
(a) Legislator .....	\$ 28,300
(b) Speaker of the house .....	\$ 36,300
(c) Senate majority leader .....	\$ 32,300
(d) Senate minority leader .....	\$ 32,300
(e) House minority leader .....	\$ 32,300
<u>(2) Effective September 1, 1997:</u>	
<u>(a) Legislator</u> .....	<u>\$ 28,300</u>
<u>(b) Speaker of the house</u> .....	<u>\$ 36,300</u>
<u>(c) Senate majority leader</u> .....	<u>\$ 32,300</u>
<u>(d) Senate minority leader</u> .....	<u>\$ 32,300</u>
<u>(e) House minority leader</u> .....	<u>\$ 32,300</u>

Filed in Office of Secretary of State May 29, 1997.

## 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 1997 session (55th Legislature), chapters 267 through 458, 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 18th day of June, 1996.

A handwritten signature in black ink, appearing to read "Dennis W. Cooper". The signature is written in a cursive style with a large initial "D".

DENNIS W. COOPER  
Code Reviser



PROPOSED CONSTITUTIONAL AMENDMENTS, 1997 HJR 4208

PROPOSED CONSTITUTIONAL AMENDMENT  
ADOPTED AT THE 1997 REGULAR SESSION  
FOR SUBMISSION TO THE VOTERS  
AT THE STATE GENERAL ELECTION, NOVEMBER 1997

HOUSE JOINT RESOLUTION 4208

BE IT RESOLVED, BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF WASHINGTON, IN LEGISLATIVE SESSION ASSEMBLED:

THAT, At the next general election to be held in this state the secretary of state shall submit to the qualified voters of the state for their approval and ratification, or rejection, an amendment to Article VII, section 2 of the Constitution of the state of Washington to read as follows:

Article VII, section 2. Except as hereinafter provided and notwithstanding any other provision of this Constitution, the aggregate of all tax levies upon real and personal property by the state and all taxing districts now existing or hereafter created, shall not in any year exceed one (~~per centum~~) percent of the true and fair value of such property in money: *Provided, however,* That nothing herein shall prevent levies at the rates now provided by law by or for any port or public utility district. The term "taxing district" for the purposes of this section shall mean any political subdivision, municipal corporation, district, or other governmental agency authorized by law to levy, or have levied for it, ad valorem taxes on property, other than a port or public utility district. Such aggregate limitation or any specific limitation imposed by law in conformity therewith may be exceeded only as follows:

(a) By any taxing district when specifically authorized so to do by a majority of at least three-fifths of the (~~electors thereof~~) voters of the taxing district voting on the proposition to levy such additional tax submitted not more than twelve months prior to the date on which the proposed levy is to be made and not oftener than twice in such twelve month period, either at a special election or at the regular election of such taxing district, at which election the number of (~~persons~~) voters voting "yes" on the proposition shall constitute three-fifths of a number equal to forty (~~per centum~~) percent of the total (~~votes cast~~) number of voters voting in such taxing district at the last preceding general election when the number of (~~electors~~) voters voting on the proposition does not exceed forty (~~per centum~~) percent of the total (~~votes cast~~) number of voters voting in such taxing district in the last preceding general election; or by a majority of at least three-fifths of the (~~electors thereof~~) voters of the taxing district voting on the proposition to levy when the number of (~~electors~~) voters voting on the proposition exceeds forty (~~per centum~~) percent of the (~~total votes cast~~) number of voters voting in such

## HJR 4208 PROPOSED CONSTITUTIONAL AMENDMENTS, 1997

taxing district in the last preceding general election: *Provided*, That notwithstanding any other provision of this Constitution, any proposition pursuant to this subsection to levy additional tax for the support of the common schools may provide such support for a ~~((two-year))~~ period of up to four years and any proposition to levy an additional tax to support the construction, modernization, or remodelling of school facilities may provide such support for a period not exceeding six years;

(b) By any taxing district otherwise authorized by law to issue general obligation bonds for capital purposes, for the sole purpose of making the required payments of principal and interest on general obligation bonds issued solely for capital purposes, other than the replacement of equipment, when authorized so to do by majority of at least three-fifths of the ~~((electors thereof))~~ voters of the taxing district voting on the proposition to issue such bonds and to pay the principal and interest thereon by ~~((an))~~ annual tax ~~((levy))~~ levies in excess of the limitation herein provided during the term of such bonds, submitted not oftener than twice in any calendar year, at an election held in the manner provided by law for bond elections in such taxing district, at which election the total number of ~~((persons))~~ voters voting on the proposition shall constitute not less than forty ~~((percentum))~~ percent of the total number of ~~((votes cast))~~ voters voting in such taxing district at the last preceding general election: *Provided*, That any such taxing district shall have the right by vote of its governing body to refund any general obligation bonds of said district issued for capital purposes only, and to provide for the interest thereon and amortization thereof by annual levies in excess of the tax limitation provided for herein, *And provided further*, That the provisions of this section shall also be subject to the limitations contained in Article VIII, Section 6, of this Constitution;

(c) By the state or any taxing district ~~((for the purpose of paying the principal or interest on general obligation bonds outstanding on December 6, 1934; or))~~ for the purpose of preventing the impairment of the obligation of a contract when ordered so to do by a court of last resort.

BE IT FURTHER RESOLVED, That the secretary of state shall cause notice of this constitutional amendment to be published at least four times during the four weeks next preceding the election in every legal newspaper in the state.

Passed the House April 14, 1997

Passed the Senate April 18, 1997

Filed in the Office of Secretary of State April 22, 1997

---

**PROPOSED CONSTITUTIONAL AMENDMENTS, 1997 HJR 4209**

**PROPOSED CONSTITUTIONAL AMENDMENT  
ADOPTED AT THE 1997 REGULAR SESSION  
FOR SUBMISSION TO THE VOTERS  
AT THE STATE GENERAL ELECTION, NOVEMBER 1997**

**HOUSE JOINT RESOLUTION 4209**

**BE IT RESOLVED, BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF WASHINGTON, IN LEGISLATIVE SESSION ASSEMBLED:**

**THAT, At the next general election to be held in this state the secretary of state shall submit to the qualified voters of the state for their approval and ratification, or rejection, an amendment to Article VIII, section 10 of the Constitution of the state of Washington to read as follows:**

**Article VIII, section 10. Notwithstanding the provisions of section 7 of this Article, any county, city, town, quasi municipal corporation, municipal corporation, or political subdivision of the state which is engaged in the sale or distribution of water ((~~or~~)), energy, or stormwater or sewer services may, as authorized by the legislature, use public moneys or credit derived from operating revenues from the sale of water ((~~or~~)), energy, or stormwater or sewer services to assist the owners of structures or equipment in financing the acquisition and installation of materials and equipment for the conservation or more efficient use of water ((~~or~~)), energy, or stormwater or sewer services in such structures or equipment. Except as provided in section 7 of this Article, an appropriate charge back shall be made for such extension of public moneys or credit and the same shall be a lien against the structure benefited or a security interest in the equipment benefited. Any financing for energy conservation authorized by this article shall only be used for conservation purposes in existing structures and shall not be used for any purpose which results in a conversion from one energy source to another.**

**BE IT FURTHER RESOLVED, That the secretary of state shall cause notice of this constitutional amendment to be published at least four times during the four weeks next preceding the election in every legal newspaper in the state.**

**Passed the House March 12, 1997**

**Passed the Senate April 17, 1997**

**Filed in the Office of Secretary of State April 21, 1997**



**BILL NO. TO CHAPTER NO. OF 1997 STATUTES**

<u>Number</u>		<u>Chapter Number</u> <u>Laws of 1997</u>	<u>Number</u>		<u>Chapter Number</u> <u>Laws of 1997</u>
Init	655	1	SB	5193	438
Wash. Citizens' Comm.			SB	5195	408
on Salaries for Elected			SB	5211	35
Officials		458	SSB	5218	254
	<b>SENATE</b>		ESB	5220	72
SSB	5003	244	SB	5221	73
SSB	5009	31	SSB	5227	332
SB	5018	245	SB	5229	298
SSB	5028	393	SSB	5230	299
SB	5029	32	SB	5243	74
SB	5034	394	SB	5253	395
ESSB	5044	196	SSB	5254	26
SSB	5049	33	SB	5266	247
SSB	5056	134	SSB	5267	322
SSB	5060	66	SSB	5270	359
E2SSB	5074	450	ESSB	5273	424
SSB	5077	357	SSB	5276	360
SB	5085	17	SB	5283	165
SSB	5100	18	ESSB	5286	181
SSB	5102	197	SB	5287	36
SSB	5103	421	SSB	5290	75
SSB	5104	422	SSB	5295	352
SSB	5107	19	SB	5299	199
SB	5108	20	SSB	5308	27
SB	5109	21	2SSB	5313	140
SSB	5110	252	SSB	5318	255
SB	5111	135	SSB	5322	37
SSB	5112	67	SB	5326	200
SB	5113	22	SSB	5327	425
SSB	5118	68	SB	5330	38
SSB	5119	423	SSB	5334	300
SSB	5121	136	SSB	5336	361
SSB	5125	34	SSB	5337	256
2SSB	5127	331	SB	5338	39
SB	5132	23	SB	5340	278
SB	5139	137	SSB	5341	257
SB	5140	69	SB	5343	201
SSB	5142	24	SB	5353	301
SSB	5144	358	ESB	5354	279
SSB	5149	320	SSB	5359	302
SB	5151	246	SSB	5360	76
SB	5154	198	SB	5361	323
SB	5155	63	SB	5364	62
SSB	5173	321	SB	5370	166
SSB	5175	384	SSB	5375	40
SSB	5177	253	SB	5380	77
2SSB	5178	276	SB	5383	139
2SSB	5179	277	SSB	5394	167
SB	5181	138	SB	5395	141
SSB	5183	25	SSB	5401	28
SSB	5191	71	SB	5402	388

"PV" Denotes partial veto by Governor [ 3067 ]

**BILL NO. TO CHAPTER NO. OF 1997 STATUTES**

<u>Chapter Number</u>			<u>Chapter Number</u>		
<u>Number</u>	<u>Laws of 1997</u>		<u>Number</u>	<u>Laws of 1997</u>	
SB	5422	78	SB	5659	363
SB	5426	41	SSB	5664	148
SB	5439	142	SB	5669	170
2SSB	5442	385	SSB	5670	171
SSB	5445	275	SB	5672	30
SB	5448	79	SB	5674	263
SB	5452	143	SSB	5676	399
SSB	5462	396	SB	5681	172
SSB	5464	5	SSB	5684	43
SSB	5470	80	SSB	5701	427
SSB	5472	168	E2SSB	5710	386
SSB	5483	391	SB	5713	44
SB	5486	81	SSB	5714	173
ESSB	5491	280	SSB	5715	285
SB	5503	281	SSB	5724	174
SSB	5505	443	ESSB	5725	444
SB	5507	82	SB	5732	85
SSB	5509	70	SB	5736	286
SSB	5511	282	SSB	5737	306
SSB	5512	344	2SSB	5740	366
SSB	5513	83	SB	5741	400
ESB	5514	303	SSB	5749	326
SB	5519	144	SSB	5750	428
SB	5520	29	SB	5754	205
SSB	5521	437	SSB	5755	86
SSB	5529	84	ESSB	5759	364
SB	5530	362	ESSB	5762	87
SB	5538	283	SSB	5763	304
SSB	5539	248	SSB	5768	287
SSB	5541	202	SSB	5770	305
SB	5551	145	ESB	5774	88
SSB	5560	118	SSB	5783	445
SSB	5562	112	SSB	5785	446
SSB	5563	397	SB	5804	175
ESB	5565	284	SB	5809	89
SSB	5569	203	SB	5811	249
SB	5570	324	SSB	5827	387
SB	5571	325	SB	5831	401
SSB	5578	146	SB	5835	3
ESB	5590	398	SSB	5838	447
ESB	5600	204	SSB	5845	451
SB	5603	119	SSB	5867	452
SSB	5612	169	SSB	5868	453
SSB	5621	113	SB	5871	206
SB	5626	114	2SSB	5886	389
SB	5637	147	ESB	5915	402
SB	5642	115	SB	5925	90
SB	5647	42	E2SSB	5927	403
SB	5650	426	SB	5938	365
SSB	5653	116	ESB	5954	288
ESB	5657	117	ESB	5959	176

"PV" Denotes partial veto by Governor [ 3068 ]

**BILL NO. TO CHAPTER NO. OF 1997 STATUTES**

Chapter Number			Chapter Number			
Number	Laws of 1997		Number	Laws of 1997		
SSB	5965	327	EHB	1096	121	
SB	5968	328	HB	1098	10	
ESSB	5970	182	PV	HB	1099	122
SSB	5976	177	HB	1102	221	
SB	5991	329	SHB	1105	123	
SB	5997	178	ESHB	1110	439	
SB	5998	179	SHB	1118	440	PV
2SSB	6002	342	PV	HB	1119	151
SB	6004	180	SHB	1120	47	
SB	6007	91	SHB	1124	48	
SSB	6022	258	HB	1162	236	
SSB	6030	330	SHB	1166	237	
SSB	6045	261	SHB	1171	49	
SSB	6046	404	SHB	1176	339	
ESSB	6061	457	PV	HB	1187	60
SSB	6062	149	PV	HB	1188	50
SSB	6063	235	PV	HB	1189	152
ESSB	6064	456	SHB	1190	372	PV
ESSB	6068	405	2SHB	1191	412	
ESB	6072	268	HB	1196	124	
ESB	6094	429	PV	HB	1198	153
ESB	6098	57	SHB	1200	98	
ESB	7900	406	2SHB	1201	367	
			HB	1202	222	
			SHB	1219	154	
			HB	1232	155	
			SHB	1234	307	
			SHB	1235	373	
			HB	1241	11	
			SHB	1249	51	PV
			SHB	1251	12	
			SHB	1257	368	
			SHB	1261	238	
			HB	1267	293	
			HB	1269	223	
			SHB	1271	99	
			SHB	1272	441	PV
			SHB	1277	239	
			HB	1278	100	PV
			HB	1288	13	
			HB	1300	101	
			E2SHB	1303	431	PV
			SHB	1314	125	
			HB	1316	308	
			SHB	1320	6	
			SHB	1323	126	
			SHB	1325	374	
			HB	1341	156	
			SHB	1342	157	PV
			HB	1353	240	
			SHB	1358	127	

"PV" Denotes partial veto by Governor [ 3069 ]

**BILL NO. TO CHAPTER NO. OF 1997 STATUTES**

<u>Number</u>	<u>Chapter Number</u> <u>Laws of 1997</u>		<u>Number</u>	<u>Chapter Number</u> <u>Laws of 1997</u>		
ESHB	1360	375	SHB	1585	161	
ESHB	1361	309	HB	1588	224	
SHB	1364	128	HB	1589	343	
HB	1367	264	HB	1590	55	
E2SHB	1372	289	SHB	1592	407	
SHB	1383	52	HB	1593	190	
HB	1388	348	SHB	1594	191	
2SHB	1392	310	SHB	1600	192	
SHB	1393	102	HB	1604	193	
HB	1398	347	SHB	1605	345	
HB	1400	53	SHB	1607	416	
SHB	1402	158	HB	1609	243	
EHB	1417	2	HB	1610	162	
ESHB	1419	213	HB	1615	214	
HB	1420	333	SHB	1620	390	PV
E2SHB	1423	351	SHB	1632	378	
HB	1424	129	HB	1636	105	
SHB	1425	376	HB	1646	350	
SHB	1426	130	EHB	1647	433	
SHB	1429	159	SHB	1657	434	
2SHB	1432	131	SHB	1658	15	
SHB	1433	349	ESHB	1678	106	
HB	1439	294	E2SHB	1687	296	PV
HB	1452	14	SHB	1693	379	
HB	1457	241	HB	1708	311	
HB	1458	432	SHB	1726	225	PV
HB	1459	183	SHB	1729	354	PV
SHB	1464	353	HB	1743	194	PV
HB	1465	184	HB	1761	195	
SHB	1466	185	SHB	1768	417	
SHB	1467	186	SHB	1770	418	
HB	1468	413	ESHB	1771	312	
HB	1473	187	SHB	1780	380	
SHB	1485	414	ESHB	1792	419	
SHB	1491	271	SHB	1799	56	
EHB	1496	132	HB	1802	215	
SHB	1499	377	SHB	1806	226	
SHB	1513	250	SHB	1813	61	PV
HB	1514	54	2SHB	1817	355	
HB	1525	188	HB	1819	435	
E2SHB	1527	242	EHB	1821	7	
EHB	1533	189	SHB	1826	448	PV
SHB	1535	133	HB	1828	216	
SHB	1536	334	EHB	1832	227	
HB	1545	160	E2SHB	1841	266	
SHB	1550	103	HB	1847	228	
HB	1551	207	E2SHB	1850	392	PV
2SHB	1557	295	SHB	1865	267	
SHB	1565	415	E2SHB	1866	381	PV
HB	1573	104	SHB	1875	297	
EHB	1581	265	SHB	1887	107	PV

"PV" Denotes partial veto by Governor [ 3070 ]

**BILL NO. TO CHAPTER NO. OF 1997 STATUTES**

		Chapter Number			Chapter Number	
Number		Laws of 1997	Number		Laws of 1997	
ESHB	1899	313	ESHB	2276	319	
SHB	1903	314	SHB	2279	337	PV
HB	1908	208	E3SHB	3900	338	
HB	1922	341	EHB	3901	58	PV
HB	1924	340				
HB	1928	163				
SHB	1930	108				
SHB	1936	315				
EHB	1940	229			PV	
HB	1942	64				
HB	1945	370				
SHB	1955	217				
HB	1959	4				
E2SHB	1969	218				
SHB	1975	230			PV	
HB	1982	335				
SHB	1985	290			PV	
HB	2011	260				
ESHB	2013	316				
ESHB	2018	231			PV	
HB	2040	109				
ESHB	2042	262			PV	
SHB	2044	219			PV	
E2SHB	2046	272				
2SHB	2054	442			PV	
SHB	2059	346				
ESHB	2069	259				
SHB	2083	382				
SHB	2089	356			PV	
SHB	2090	232				
EHB	2093	16				
ESHB	2096	449				
SHB	2097	317				
HB	2098	110				
ESHB	2128	318				
EHB	2142	111				
HB	2143	65				
SHB	2149	233				
HB	2163	234				
HB	2165	436				
ESHB	2170	369				
SHB	2189	383				
ESHB	2192	220				
ESHB	2193	273				
SHB	2227	336				
2SHB	2239	164				
EHB	2255	455				
ESHB	2259	454			PV	
ESHB	2264	274				
HB	2267	251				
ESHB	2272	420			PV	

"PV" Denotes partial veto by Governor [ 3071 ]



## RCW SECTIONS AFFECTED BY 1997 STATUTES

LEGEND				RCW	CH.	SEC.
ADD	=	Add a new section		6.27.350	AMD	296 7
AMD	=	Amend existing law		6.27.360	AMD	296 8
DECD	=	Decodify existing law		6.36.035	AMD	358 1
REEN	=	Reenact existing law		7	ADD	435 1-6
REMD	=	Reenact and amend		7.68.020	AMD	249 1
REP	=	Repeal existing law		7.68.035	AMD	66 9
				7.68.110	AMD	102 1
				7.68.140	AMD	310 1
				7.68.290	AMD	358 3
				7.69.030	AMD	343 1
				7.69A	ADD	283 1
				7.69A.030	AMD	283 2
				7.75.020	AMD	41 4
				7.80.120	AMD	159 2
				9.41.010	AMD	338 46
				9.41.040	AMD	338 47
				9.41.050	AMD	200 1
				9.45.062	REP	346 4
				9.46	ADD	118 1
				9.46.0265	AMD	118 2
				9.46.0269	AMD	78 1
				9.46.0281	REP	118 3
				9.46.0341	AMD	38 1
				9.46.110	AMD	394 4
				9.46.120	AMD	394 3
				9.46.220	AMD	78 2
				9.46.221	AMD	78 3
				9.46.231	AMD	128 1
				9.94A.030	REMD	339 1
				9.94A.030	AMD	340 4
				9.94A.030	REMD	338 2
				9.94A.030	REMD	70 1
				9.94A.030	REMD	144 1
				9.94A.030	REMD	365 1
				9.94A.040	AMD	338 3
				9.94A.040	AMD	365 2
				9.94A.045	REP	338 72
				9.94A.103	AMD	338 48
				9.94A.105	AMD	338 49
				9.94A.120	REMD	121 2
				9.94A.120	REMD	340 2
				9.94A.120	REMD	338 4
				9.94A.120	REMD	69 1
				9.94A.120	REMD	144 2
				9.94A.140	AMD	121 3
				9.94A.140	AMD	52 1
				9.94A.142	REMD	121 4
				9.94A.142	REMD	52 2
				9.94A.145	AMD	121 5
				9.94A.145	AMD	52 3

  

RCW		CH.	SEC.
1.08.025	AMD	41	1
1.12.040	AMD	125	1
1.20	ADD	6	2
2.04.240	AMD	88	1
2.04.250	AMD	88	2
2.06.150	AMD	88	3
2.06.160	AMD	88	4
2.08.061	AMD	347	3
2.08.064	AMD	347	1
2.08.100	AMD	204	1
2.10.030	AMD	88	5
2.24.040	AMD	352	14
2.48	ADD	58	810
2.56.030	AMD	41	2
2.56.035	REP	41	10
3.34.020	AMD	41	3
3.62.090	AMD	331	4
3.66.020	AMD	246	1
4.14.010	AMD	352	6
4.24.210	AMD	26	1
4.24.350	AMD	206	1
4.24.550	AMD	113	2
4.24.550	AMD	364	1
4.28.080	AMD	380	1
4.56.100	AMD	358	4
4.64.030	AMD	358	5
4.64.060	AMD	358	6
4.64.070	REP	358	8
4.64.120	REMD	358	2
4.92	ADD	375	2
5.44.010	AMD	358	7
5.60.060	AMD	338	1
6.15.020	AMD	20	1
6.17.020	AMD	121	1
6.26.060	AMD	59	1
6.27	ADD	296	1,3,9
6.27.100	AMD	296	2
6.27.110	AMD	296	4
6.27.140	AMD	59	2
6.27.190	AMD	296	5
6.27.200	AMD	296	6

## RCW SECTIONS AFFECTED BY 1997 STATUTES

RCW		CH.	SEC.	RCW		CH.	SEC.
9.94A.310	AMD	338	50	10.99.050	AMD	338	55
9.94A.310	AMD	365	3	10.101.010	AMD	59	3
9.94A.320	REMD	120	5	10.101.020	AMD	41	5
9.94A.320	REMD	266	15	11	ADD	252	48-57
9.94A.320	REMD	340	1	11.02.005	AMD	252	1
9.94A.320	REMD	346	3	11.07.010	AMD	252	2
9.94A.320	REMD	338	51	11.18.200	AMD	252	3
9.94A.320	REMD	365	4	11.28.237	AMD	252	85
9.94A.360	REMD	338	5	11.28.240	AMD	252	4
9.94A.390	REMD	52	4	11.28.270	AMD	252	5
9.95.0011	AMD	350	1	11.28.280	AMD	252	6
9.95.003	AMD	350	2	11.40	ADD	252	11,20
9.95.145	AMD	364	5				23
9A.04.080	REMD	97	1	11.40.010	AMD	252	7
9A.04.080	REMD	174	1	11.40.011	REP	252	87
9A.28.040	AMD	17	1	11.40.012	REP	252	87
9A.32.010	AMD	196	3	11.40.013	REP	252	87
9A.32.060	AMD	365	5	11.40.014	REP	252	87
9A.32.070	AMD	365	6	11.40.015	REP	252	87
9A.36.011	AMD	196	1	11.40.020	AMD	252	8
9A.36.021	REMD	196	2	11.40.030	AMD	252	9
9A.36.031	AMD	172	1	11.40.040	AMD	252	10
9A.36.045	AMD	338	44	11.40.060	AMD	252	12
9A.36.050	AMD	338	45	11.40.070	AMD	252	13
9A.42	ADD	392	507,512	11.40.080	AMD	252	14
9A.42.010	AMD	392	508	11.40.090	AMD	252	15
9A.42.020	AMD	392	510	11.40.100	AMD	252	16
9A.42.030	AMD	392	511	11.40.110	AMD	252	17
9A.42.050	AMD	392	509	11.40.120	AMD	252	18
9A.44.010	AMD	392	513	11.40.130	AMD	252	19
9A.44.010	AMD	112	37	11.40.140	AMD	252	21
9A.44.050	AMD	392	514	11.40.150	AMD	252	22
9A.44.100	AMD	392	515	11.42	ADD	252	32,37
9A.44.130	AMD	340	3	11.42.010	AMD	252	24
9A.44.130	AMD	113	3	11.42.020	AMD	252	25
9A.44.140	AMD	113	4	11.42.030	AMD	252	26
9A.46	ADD	266	3	11.42.040	AMD	252	27
9A.46.020	AMD	105	1	11.42.050	AMD	252	28
9A.46.060	REMD	338	52	11.42.060	AMD	252	29
9A.56	ADD	346	1	11.42.070	AMD	252	30
9A.56.010	AMD	346	2	11.42.080	AMD	252	31
9A.56.095	REP	346	4	11.42.090	AMD	252	33
9A.72.110	AMD	29	1	11.42.100	AMD	252	34
10.01.200	AMD	113	5	11.42.110	AMD	252	35
10.05.090	AMD	229	1	11.42.120	AMD	252	36
10.05.140	AMD	229	2	11.42.130	AMD	252	38
10.31.100	AMD	66	10	11.42.140	AMD	252	39
10.99.020	AMD	338	53	11.42.150	AMD	252	40
10.99.040	AMD	338	54	11.42.160	REP	252	87

**RCW SECTIONS AFFECTED BY 1997 STATUTES**

<u>RCW</u>		<u>CH.</u>	<u>SEC.</u>	<u>RCW</u>		<u>CH.</u>	<u>SEC.</u>
11.42.170	REP	252	87	11.108.060	AMD	252	86
11.42.180	REP	252	87	11.110	ADD	124	1
11.44.015	AMD	252	41	11.110.050	REP	124	5
11.44.025	AMD	252	42	11.110.060	AMD	124	2
11.44.035	AMD	252	43	11.110.070	AMD	124	3
11.44.050	AMD	252	44	11.110.073	REP	124	5
11.44.066	REP	252	87	11.110.075	AMD	124	4
11.44.070	AMD	252	45	11.110.080	REP	124	5
11.44.085	AMD	252	46	12.36	ADD	352	11
11.44.090	AMD	252	47	12.36.010	AMD	352	7
11.48.130	AMD	252	58	12.36.020	AMD	352	8
11.52.010	REP	252	87	12.36.030	AMD	352	9
11.52.012	REP	252	87	12.36.040	REP	352	15
11.52.014	REP	252	87	12.36.050	AMD	352	10
11.52.016	REP	252	87	12.36.070	REP	352	15
11.52.020	REP	252	87	12.36.080	AMD	352	12
11.52.022	REP	252	87	12.36.090	AMD	352	13
11.52.024	REP	252	87	12.40	ADD	352	5
11.52.030	REP	252	87	12.40.030	AMD	352	1
11.52.040	REP	252	87	12.40.040	AMD	352	2
11.52.050	REP	252	87	12.40.080	AMD	352	3
11.68	ADD	252	59-61	12.40.120	AMD	352	4
			64,67	13.04	ADD	266	7
			69,70	13.04	ADD	341	2
11.68.010	REP	252	87	13.04.011	AMD	338	6
11.68.020	REP	252	87	13.04.030	REMD	341	3
11.68.030	REP	252	87	13.04.030	REMD	338	7
11.68.040	REP	252	87	13.04.030	REMD	386	17
11.68.050	AMD	252	62	13.32A.030	AMD	146	1
11.68.060	AMD	252	63	13.32A.050	AMD	146	2
11.68.080	AMD	252	65	13.32A.060	AMD	146	3
11.68.090	AMD	252	66	13.32A.130	AMD	146	4
11.68.110	AMD	252	68	13.32A.140	AMD	146	5
11.76.080	AMD	252	71	13.32A.160	AMD	146	6
11.76.095	AMD	252	72	13.32A.179	AMD	146	7
11.86.041	AMD	252	73	13.32A.192	AMD	146	8
11.88	ADD	312	2	13.34	ADD	386	19
11.88.020	AMD	312	1	13.34.030	AMD	386	7
11.95.140	AMD	252	74	13.34.102	AMD	41	6
11.96.070	AMD	252	77	13.34.130	REMD	280	1
11.98.070	AMD	252	75	13.34.160	AMD	58	505
11.98.240	AMD	252	76	13.34.180	REMD	280	2
11.104	ADD	252	79	13.34.245	AMD	386	18
11.104.010	AMD	252	78	13.40	ADD	121	7
11.104.110	AMD	252	80	13.40	ADD	338	21,26
11.108.010	AMD	252	81				34,60-64
11.108.020	AMD	252	82				66
11.108.025	AMD	252	83	13.40	ADD	386	50
11.108.050	AMD	252	84	13.40.010	AMD	338	8

**RCW SECTIONS AFFECTED BY 1997 STATUTES**

<u>RCW</u>		<u>CH.</u>	<u>SEC.</u>	<u>RCW</u>		<u>CH.</u>	<u>SEC.</u>
13.40.020	REMD	338	9	15.58	ADD	242	10
13.40.020	REMD	338	10	15.58.040	AMD	242	1
13.40.025	REP	338	72	15.58.070	AMD	242	2
13.40.0354	REP	338	73	15.58.170	AMD	242	3
13.40.0357	AMD	338	11	15.58.180	AMD	242	4
13.40.0357	AMD	338	12	15.58.200	AMD	242	5
13.40.0357	AMD	66	6	15.58.210	AMD	242	6
13.40.040	AMD	338	13	15.58.220	AMD	242	7
13.40.045	AMD	338	14	15.58.245	REP	242	21
13.40.050	AMD	338	15	15.58.411	AMD	242	8
13.40.060	AMD	338	16	15.58.415	REP	242	22
13.40.070	AMD	338	17	15.58.420	AMD	242	9
13.40.075	REP	338	72	15.86.070	AMD	303	4
13.40.077	AMD	338	18	15.88.030	AMD	321	40
13.40.080	AMD	121	8	16.57.220	AMD	356	2
13.40.080	AMD	338	70	16.57.220	AMD	356	3
13.40.100	AMD	338	19	16.58.050	AMD	356	4
13.40.110	AMD	338	20	16.58.050	AMD	356	5
13.40.125	REP	338	72	16.58.130	AMD	356	6
13.40.130	AMD	338	22	16.58.130	AMD	356	7
13.40.135	AMD	338	23	16.65.037	AMD	356	8
13.40.145	AMD	121	6	16.65.037	AMD	356	9
13.40.150	AMD	338	24	16.65.090	AMD	356	10
13.40.160	AMD	265	1	16.65.090	AMD	356	11
13.40.160	AMD	338	25	16.67.040	AMD	363	1
13.40.190	AMD	121	9	16.67.051	AMD	363	2
13.40.190	AMD	338	29	17	ADD	357	1-5
13.40.193	AMD	338	30	17.10	ADD	353	34
13.40.200	AMD	338	31	17.10.005	REP	353	36
13.40.210	AMD	338	32	17.10.010	AMD	353	2
13.40.215	AMD	265	2	17.10.020	AMD	353	3
13.40.217	AMD	364	2	17.10.030	AMD	353	4
13.40.230	AMD	338	35	17.10.040	AMD	353	5
13.40.250	AMD	338	36	17.10.050	AMD	353	6
13.40.265	AMD	338	37	17.10.060	AMD	353	7
13.40.320	AMD	338	38	17.10.070	AMD	353	8
13.40.460	AMD	386	54	17.10.074	AMD	353	9
13.50	ADD	266	8	17.10.080	AMD	353	10
13.50.010	AMD	338	39	17.10.090	AMD	353	11
13.50.010	AMD	386	21	17.10.100	AMD	353	12
13.50.050	AMD	338	40	17.10.110	AMD	353	13
13.50.100	AMD	386	22	17.10.120	AMD	353	14
13.70.005	REP	41	10	17.10.130	AMD	353	15
15	ADD	176	2,3	17.10.134	AMD	353	16
15.17	ADD	227	1	17.10.140	AMD	353	17
15.28.180	AMD	303	3	17.10.145	AMD	353	18
15.54	ADD	427	2	17.10.150	REP	353	36
15.54.270	AMD	427	1	17.10.154	AMD	353	19
15.54.800	AMD	427	3	17.10.160	AMD	353	20

**RCW SECTIONS AFFECTED BY 1997 STATUTES**

RCW	CH.	SEC.	RCW	CH.	SEC.
17.10.170	AMD	353	21	18.27.030	AMD 314 4
17.10.180	AMD	353	22	18.27.040	AMD 314 5
17.10.190	AMD	353	23	18.27.060	AMD 314 6
17.10.200	REP	353	36	18.27.060	AMD 58 817
17.10.205	AMD	353	24	18.27.070	AMD 314 7
17.10.210	AMD	353	25	18.27.090	AMD 314 8
17.10.235	AMD	353	26	18.27.100	AMD 314 9
17.10.240	AMD	353	27	18.27.104	AMD 314 10
17.10.250	AMD	353	28	18.27.110	AMD 314 11
17.10.300	AMD	353	29	18.27.114	AMD 314 12
17.10.310	AMD	353	30	18.27.117	AMD 314 13
17.10.320	REP	353	36	18.27.200	AMD 314 14
17.10.330	REP	353	36	18.27.230	AMD 314 15
17.10.340	REP	353	36	18.27.270	AMD 314 16
17.10.350	AMD	353	31	18.27.340	AMD 314 17
17.10.890	AMD	353	32	18.28	ADD 58 818
17.10.900	AMD	353	33	18.29.050	AMD 37 1
17.10.905	AMD	353	1	18.29.056	AMD 37 2
17.10.905	RECD	353	35	18.35.060	REMD 275 3
17.21	ADD	242	20	18.35.080	REMD 275 4
17.21.070	AMD	242	11	18.35.090	REEN 275 5
17.21.110	AMD	242	12	18.39	ADD 58 820
17.21.122	AMD	242	13	18.39.181	AMD 58 819
17.21.126	AMD	242	14	18.43	ADD 58 821
17.21.129	AMD	242	15	18.43	ADD 247 1
17.21.130	AMD	58	877	18.43.035	AMD 247 2
17.21.132	AMD	242	16	18.43.110	AMD 247 3
17.21.220	AMD	242	17	18.43.130	AMD 247 4
17.21.280	AMD	242	18	18.44	ADD 58 822
17.21.350	AMD	242	19	18.46.050	AMD 58 823
17.21.360	REP	242	22	18.51	ADD 58 824
17.21.910	REP	242	21	18.52C.010	AMD 392 526
17.24.131	AMD	227	2	18.52C.020	AMD 392 527
18	ADD	285	2-12	18.52C.040	AMD 392 528
18.04	ADD	58	811	18.64.011	AMD 129 1
18.04.335	AMD	58	812	18.64A.010	AMD 417 1
18.08	ADD	58	813	18.64A.020	AMD 417 2
18.08.350	AMD	169	1	18.64A.030	AMD 417 3
18.11.160	AMD	58	814	18.64A.040	AMD 417 4
18.16	ADD	58	815	18.64A.050	AMD 417 5
18.16.050	AMD	179	1	18.64A.060	AMD 417 6
18.16.150	AMD	178	1	18.64A.070	AMD 417 7
18.16.175	AMD	178	2	18.64A.080	AMD 417 8
18.20	ADD	392	213,214	18.71	ADD 79 1
18.20	ADD	164	1	18.71.210	REMD 245 1
18.20	ADD	58	816	18.71.210	REMD 275 1
18.27	ADD	314	1,19	18.71.310	AMD 79 2
18.27.010	AMD	314	2	18.71.400	REP 79 5
18.27.020	AMD	314	3	18.71.410	REP 79 5

**RCW SECTIONS AFFECTED BY 1997 STATUTES**

<u>RCW</u>		<u>CH.</u>	<u>SEC.</u>	<u>RCW</u>		<u>CH.</u>	<u>SEC.</u>
18.74.010	AMD	275	8	18.89.130	REP	334	15
18.76	ADD	58	825	18.89.140	AMD	334	11
18.79.030	AMD	177	1	18.89.900	REP	334	15
18.85	ADD	58	826	18.96.120	AMD	58	827
18.85.010	AMD	322	1	18.100.030	AMD	18	1
18.85.030	AMD	322	2	18.100.050	AMD	390	3
18.85.060	AMD	322	3	18.100.090	AMD	18	2
18.85.085	AMD	322	4	18.100.095	AMD	18	3
18.85.095	AMD	322	5	18.100.110	AMD	18	4
18.85.100	AMD	322	6	18.100.116	AMD	18	5
18.85.110	AMD	322	7	18.104.110	AMD	58	828
18.85.120	AMD	322	8	18.106	ADD	58	829
18.85.130	AMD	322	9	18.106	ADD	326	1
18.85.140	AMD	322	10	18.106.010	AMD	326	2
18.85.150	AMD	322	11	18.106.020	AMD	326	3
18.85.155	AMD	322	12	18.106.030	AMD	326	4
18.85.165	AMD	322	13	18.106.050	AMD	326	5
18.85.170	AMD	322	14	18.106.070	AMD	326	6
18.85.180	AMD	322	15	18.106.110	AMD	307	1
18.85.210	AMD	322	16	18.108.005	AMD	297	1
18.85.230	AMD	322	17	18.108.010	AMD	297	2
18.85.281	AMD	322	18	18.108.050	AMD	297	3
18.85.290	REP	322	26	18.120.020	AMD	334	13
18.85.300	REP	322	26	18.130	ADD	270	3
18.85.317	AMD	322	19	18.130	ADD	58	830
18.85.330	AMD	322	20	18.130.040	REMD	334	14
18.85.340	AMD	322	21	18.130.040	REMD	392	516
18.85.343	AMD	322	22	18.130.040	REMD	275	2
18.85.345	AMD	322	23	18.130.040	REMD	285	13
18.85.350	AMD	322	24	18.130.095	AMD	270	1
18.85.360	AMD	322	25	18.130.150	AMD	58	831
18.86.020	AMD	217	1	18.130.200	AMD	392	517
18.86.040	AMD	217	2	18.135.020	REMD	133	1
18.86.050	AMD	217	3	18.140	ADD	58	832
18.86.060	AMD	217	4	18.140.010	AMD	399	1
18.86.070	AMD	217	5	18.140.020	AMD	399	2
18.86.080	AMD	217	6	18.145	ADD	58	833
18.86.120	AMD	217	7	18.160.080	AMD	58	834
18.88A.230	AMD	275	6	18.165	ADD	58	836
18.89	ADD	334	2,12	18.165.160	AMD	58	835
18.89.010	AMD	334	1	18.170	ADD	58	838
18.89.020	AMD	334	3	18.170.170	AMD	58	837
18.89.040	AMD	334	4	18.175	ADD	58	839
18.89.050	AMD	334	5	18.185	ADD	58	840
18.89.060	AMD	334	6	19.02	ADD	51	2
18.89.080	AMD	334	7	19.02.050	AMD	391	11
18.89.090	AMD	334	8	19.02.100	AMD	58	865
18.89.110	AMD	334	9	19.16.120	AMD	58	847
18.89.120	AMD	334	10	19.16.500	AMD	387	1

**RCW SECTIONS AFFECTED BY 1997 STATUTES**

<u>RCW</u>	<u>CH.</u>	<u>SEC.</u>	<u>RCW</u>	<u>CH.</u>	<u>SEC.</u>
19.28.070	AMD	309	4	19.146.205	AMD 106 9
19.28.310	AMD	58	844	19.146.210	AMD 106 10
19.28.510	AMD	309	1	19.146.215	AMD 106 11
19.28.520	AMD	309	2	19.146.220	AMD 106 12
19.28.530	AMD	309	3	19.146.220	AMD 58 879
19.28.580	AMD	58	845	19.146.228	AMD 106 13
19.30.060	AMD	58	846	19.146.235	AMD 106 14
19.31.130	AMD	58	848	19.146.240	AMD 106 15
19.32.060	AMD	58	849	19.146.245	AMD 106 16
19.34	ADD	27	4,6,10	19.146.250	AMD 106 17
			15,18,20	19.146.260	AMD 106 18
			25-27	19.146.265	AMD 106 19
			31,34	19.146.280	AMD 106 20
19.34.020	AMD	27	30	19.158.050	AMD 58 853
19.34.030	AMD	27	1	19.166.040	AMD 58 854
19.34.040	AMD	27	2	20.01	ADD 58 855
19.34.100	AMD	27	3	21.20.110	AMD 58 856
19.34.110	AMD	27	5	21.20.740	AMD 101 1
19.34.120	AMD	27	7	21.30.010	AMD 101 2
19.34.200	AMD	27	8	22.09.050	AMD 303 6
19.34.210	AMD	27	9	22.09.055	AMD 303 7
19.34.220	AMD	27	32	23.86	ADD 12 8
19.34.240	AMD	27	11	23B.02.020	AMD 19 1
19.34.250	AMD	27	12	23B.07.040	AMD 19 2
19.34.260	AMD	27	13	23B.14	ADD 12 1
19.34.280	AMD	27	14	23B.19.040	AMD 19 3
19.34.300	AMD	27	16	24.03	ADD 12 2
19.34.310	AMD	27	17	24.06	ADD 12 3
19.34.320	AMD	27	19	24.12	ADD 12 4
19.34.340	AMD	27	21	24.20	ADD 12 5
19.34.350	AMD	27	22	24.24	ADD 12 6
19.34.400	AMD	27	23	24.28	ADD 12 7
19.34.410	AMD	27	33	25.04.720	AMD 390 5
19.34.500	AMD	27	24	25.15.045	REMD 390 4
19.34.901	AMD	27	28	25.15.270	AMD 21 1
19.85.025	AMD	409	212	26	ADD 386 60-63
19.105.380	AMD	58	850	26.04.160	AMD 58 909
19.105.440	AMD	58	851	26.09.020	REMD 58 945
19.126.020	AMD	321	41	26.09.170	AMD 58 910
19.138.130	AMD	58	852	26.12.177	AMD 41 7
19.146.010	AMD	106	1	26.18	ADD 58 942
19.146.020	AMD	106	2	26.18.100	AMD 296 10
19.146.0201	AMD	106	3	26.18.100	AMD 58 889
19.146.030	AMD	106	4	26.19.071	AMD 59 4
19.146.050	AMD	106	5	26.19.075	AMD 59 5
19.146.060	AMD	106	6	26.21	ADD 58 919-923
19.146.080	AMD	106	7		929,930
19.146.090	REP	106	23		932
19.146.200	AMD	106	8	26.21.005	AMD 58 911

## RCW SECTIONS AFFECTED BY 1997 STATUTES

RCW		CH.	SEC.	RCW		CH.	SEC.
26.21.115	AMD	58	912	28A.150.410	AMD	141	1
26.21.135	AMD	58	913	28A.155	ADD	104	3
26.21.235	AMD	58	914	28A.165	ADD	431	5
26.21.245	AMD	58	915	28A.170.050	AMD	13	3
26.21.255	AMD	58	916	28A.175	ADD	431	6
26.21.265	AMD	58	917	28A.185	ADD	431	8
26.21.450	AMD	58	918	28A.195	ADD	266	5
26.21.490	AMD	58	924	28A.205.020	AMD	265	7
26.21.520	AMD	58	925	28A.205.080	AMD	265	8
26.21.530	AMD	58	926	28A.210.310	AMD	9	1
26.21.580	AMD	58	927	28A.220	ADD	431	9
26.21.590	AMD	58	928	28A.225.035	REMD	68	1
26.21.620	AMD	58	931	28A.225.090	REMD	68	2
26.23	ADD	58	903,904	28A.225.225	AMD	265	3
26.23.030	AMD	58	905	28A.225.330	REMD	266	4
26.23.035	AMD	58	933	28A.230	ADD	431	11
26.23.040	AMD	58	943	28A.230.090	AMD	222	2
26.23.040	AMD	58	944	28A.230.190	AMD	262	5
26.23.045	AMD	58	902	28A.235	ADD	431	12
26.23.050	AMD	58	888	28A.235.120	AMD	13	4
26.23.060	AMD	58	890	28A.300	ADD	431	13
26.23.090	AMD	296	13	28A.300	ADD	262	2-4,7
26.23.090	AMD	58	894	28A.300	ADD	167	1
26.23.120	AMD	58	908	28A.305	ADD	431	14
26.26	ADD	58	939	28A.305.130	AMD	13	5
26.26.040	AMD	58	938	28A.305.285	AMD	222	3
26.26.100	REMD	58	946	28A.310.240	AMD	13	6
26.26.130	AMD	58	947	28A.310.490	AMD	13	7
26.44	ADD	282	1	28A.315.250	AMD	47	1
26.44	ADD	386	48	28A.320	ADD	431	2,15
26.44.015	AMD	386	23	28A.320	ADD	266	10
26.44.020	AMD	132	2	28A.320	ADD	267	1
26.44.020	AMD	282	4	28A.320.140	AMD	266	14
26.44.020	AMD	386	24	28A.320.150	REP	259	5
26.44.020	AMD	386	45	28A.330	ADD	431	16
26.44.030	AMD	386	25	28A.330.020	AMD	13	8
26.44.035	AMD	386	26	28A.335	ADD	104	2
26.44.040	AMD	386	27	28A.335.180	AMD	264	1
26.44.053	AMD	386	28	28A.335.180	AMD	104	1
26.44.060	AMD	386	29	28A.400	ADD	431	17
26.44.100	AMD	282	2	28A.400.110	AMD	266	12
26.44.140	AMD	344	1	28A.400.200	AMD	141	2
27.34	ADD	263	1	28A.400.210	AMD	13	9
27.34.220	AMD	145	1	28A.400.285	AMD	267	2
27.34.270	AMD	145	2	28A.400.300	AMD	13	10
28A.150	ADD	431	3	28A.400.310	AMD	13	11
28A.150	ADD	265	6	28A.400.380	AMD	13	12
28A.150.260	AMD	13	1	28A.405	ADD	431	18
28A.150.260	AMD	13	2	28A.405.100	AMD	278	1

## RCW SECTIONS AFFECTED BY 1997 STATUTES

RCW		CH.	SEC.	RCW		CH.	SEC.
28A.405.465	AMD	13	13	28B.106.040	AMD	456	11
28A.410	ADD	58	842	28B.110.040	AMD	5	5
28A.415	ADD	90	1	28B.130.020	AMD	273	2
28A.500.010	AMD	259	4	28C.18.080	AMD	369	5
28A.525.166	AMD	369	9	28D.02	ADD	180	1
28A.600	ADD	431	19	28D.02.060	AMD	180	2
28A.600	ADD	266	2,9	29.27.072	AMD	405	1
28A.600	ADD	119	1	29.27.074	AMD	405	2
28A.600.010	AMD	265	4	29.60.070	AMD	284	1
28A.600.020	AMD	266	11	30.04.010	AMD	101	3
28A.600.420	AMD	265	5	30.04.270	REP	101	7
28A.605.010	AMD	411	1	30.04.290	REP	101	7
28A.630	ADD	58	304	30.04.900	REP	101	7
28A.630.876	AMD	58	305	30.08.120	REP	101	7
28A.630.885	REMD	268	1	30.12.050	REP	101	7
28A.630.886	REP	262	6	30.43.010	REP	101	7
28A.630.945	AMD	431	23	30.43.020	REP	101	7
28A.635.020	AMD	266	6	30.43.045	REP	101	7
28A.635.060	AMD	266	13	31.12	ADD	397	19,49
28B	ADD	289	1-12				50,57
28B.10	ADD	123	2				60-67
28B.10.044	AMD	48	1				70-86
28B.10.821	AMD	269	1	31.12.005	REMD	397	2
28B.15.012	AMD	433	2	31.12.005	RECD	397	89
28B.15.014	AMD	433	3	31.12.015	REMD	397	3
28B.15.067	AMD	403	1	31.12.015	RECD	397	89
28B.15.069	AMD	403	2	31.12.025	AMD	397	4
28B.15.225	AMD	50	1	31.12.025	RECD	397	89
28B.15.455	AMD	5	1	31.12.035	AMD	397	5
28B.15.460	AMD	5	2	31.12.035	RECD	397	89
28B.15.465	AMD	5	3	31.12.037	RECD	397	89
28B.15.470	AMD	5	4	31.12.039	RECD	397	89
28B.15.480	REP	5	6	31.12.045	RECD	397	89
28B.15.535	REP	211	2	31.12.055	REMD	397	6
28B.15.558	AMD	211	1	31.12.055	RECD	397	89
28B.15.725	AMD	433	4	31.12.065	REMD	397	7
28B.15.740	AMD	207	1	31.12.065	RECD	397	89
28B.15.910	AMD	433	5	31.12.075	AMD	397	8
28B.20.253	AMD	288	1	31.12.075	RECD	397	89
28B.25	ADD	273	1	31.12.085	AMD	397	9
28B.50	ADD	232	1	31.12.085	RECD	397	89
28B.50.030	AMD	367	13	31.12.095	REP	101	7
28B.50.140	REMD	281	1	31.12.095	REP	397	88
28B.50.215	AMD	281	2	31.12.105	AMD	397	10
28B.50.360	AMD	42	1	31.12.105	RECD	397	89
28B.56.100	AMD	456	10	31.12.115	REMD	397	11
28B.80.330	AMD	369	10	31.12.115	RECD	397	89
28B.80.570	AMD	367	14	31.12.125	REMD	397	30
28B.80.580	AMD	367	15	31.12.125	RECD	397	89

**RCW SECTIONS AFFECTED BY 1997 STATUTES**

<u>RCW</u>	<u>CH.</u>	<u>SEC.</u>	<u>RCW</u>	<u>CH.</u>	<u>SEC.</u>		
31.12.136	REMD	397	31	31.12.406	REMD	397	34
31.12.136	RECD	397	89	31.12.406	RECD	397	89
31.12.145	AMD	397	27	31.12.415	REP	397	88
31.12.145	RECD	397	89	31.12.425	REMD	397	36
31.12.155	AMD	397	28	31.12.425	RECD	397	89
31.12.155	RECD	397	89	31.12.435	REMD	397	37
31.12.165	REP	397	88	31.12.435	RECD	397	89
31.12.185	AMD	397	12	31.12.445	AMD	397	38
31.12.185	RECD	397	89	31.12.445	RECD	397	89
31.12.195	REMD	397	13	31.12.455	REP	397	88
31.12.195	RECD	397	89	31.12.465	AMD	397	39
31.12.206	REP	397	88	31.12.465	RECD	397	89
31.12.215	AMD	397	51	31.12.475	REP	397	88
31.12.215	RECD	397	89	31.12.485	AMD	397	33
31.12.225	AMD	397	14	31.12.485	RECD	397	89
31.12.225	RECD	397	89	31.12.495	REP	397	88
31.12.235	AMD	397	15	31.12.506	REP	397	88
31.12.235	RECD	397	89	31.12.516	AMD	397	45
31.12.246	AMD	397	16	31.12.516	RECD	397	89
31.12.246	RECD	397	89	31.12.526	REMD	397	43
31.12.255	AMD	397	17	31.12.526	RECD	397	89
31.12.255	RECD	397	89	31.12.535	REP	397	88
31.12.265	AMD	397	18	31.12.545	AMD	397	46
31.12.265	RECD	397	89	31.12.545	RECD	397	89
31.12.275	AMD	397	20	31.12.555	REMD	397	47
31.12.275	RECD	397	89	31.12.555	RECD	397	89
31.12.285	AMD	397	21	31.12.565	REMD	397	48
31.12.285	RECD	397	89	31.12.565	RECD	397	89
31.12.295	AMD	397	29	31.12.575	AMD	397	52
31.12.295	RECD	397	89	31.12.575	RECD	397	89
31.12.306	AMD	397	26	31.12.585	AMD	397	53
31.12.306	RECD	397	89	31.12.585	RECD	397	89
31.12.315	REP	397	88	31.12.595	AMD	397	54
31.12.317	AMD	397	35	31.12.595	RECD	397	89
31.12.317	RECD	397	89	31.12.605	AMD	397	55
31.12.326	AMD	397	22	31.12.605	RECD	397	89
31.12.326	RECD	397	89	31.12.615	RECD	397	89
31.12.335	REMD	397	23	31.12.625	AMD	397	56
31.12.335	RECD	397	89	31.12.625	RECD	397	89
31.12.345	AMD	397	24	31.12.635	AMD	397	87
31.12.345	RECD	397	89	31.12.635	RECD	397	89
31.12.355	REP	101	7	31.12.645	REP	397	88
31.12.355	REP	397	88	31.12.655	AMD	397	58
31.12.365	AMD	397	25	31.12.655	RECD	397	89
31.12.365	RECD	397	89	31.12.665	AMD	397	59
31.12.376	REP	397	88	31.12.665	RECD	397	89
31.12.385	REMD	397	32	31.12.675	AMD	397	68
31.12.385	RECD	397	89	31.12.675	RECD	397	89
31.12.395	REP	397	88	31.12.685	AMD	397	69

## RCW SECTIONS AFFECTED BY 1997 STATUTES

RCW	CH.	SEC.	RCW	CH.	SEC.		
31.12.685	RECD	397	89	35.21.770	AMD	65	1
31.12.695	REMD	397	40	35.22	ADD	361	22
31.12.695	RECD	397	89	35.22.010	AMD	361	12
31.12.705	AMD	397	41	35.23	ADD	361	7
31.12.705	RECD	397	89	35.23.051	AMD	361	13
31.12.715	AMD	397	42	35.23.390	REP	361	23
31.12.715	RECD	397	89	35.23.400	REP	361	23
31.12.720	RECD	397	89	35.27.070	AMD	361	3
31.12.725	AMD	397	44	35.27.080	AMD	361	8
31.12.725	RECD	397	89	35.33.020	AMD	361	14
31.12.735	RECD	397	89	35.34.020	AMD	361	15
31.12.740	RECD	397	89	35.43.040	AMD	452	16
31.12.902	RECD	397	89	35.50.030	AMD	393	1
31.12.903	REP	397	88	35.50.040	AMD	393	2
31.12.904	REP	397	88	35.50.260	AMD	393	3
31.12.905	REP	397	88	35.51	ADD	426	4,5
31.45.160	AMD	101	4	35.58	ADD	447	13
32.04.020	AMD	101	5	35.61.210	AMD	3	205
32.04.040	REP	101	7	35.67.010	AMD	447	7
32.04.060	REP	91	1	35.67.020	AMD	447	8
32.12.060	REP	101	7	35.72.050	AMD	158	1
32.20.290	REP	101	7	35.86.010	AMD	361	16
33.04.010	REP	101	7	35.92.020	AMD	447	9
33.44.020	AMD	101	6	35.92.052	AMD	230	1
34.05	ADD	409	206	35A.06.020	AMD	361	17
34.05.010	AMD	126	2	35A.12.010	AMD	361	6
34.05.328	AMD	430	1	35A.14.295	AMD	429	36
34.05.354	AMD	409	208	35A.14.900	AMD	171	3
34.05.534	AMD	409	302	35A.61.010	REP	361	23
35.01.020	AMD	361	9	36	ADD	220	101-119
35.01.040	AMD	361	10				201,214
35.02.130	AMD	361	11	36.01.050	AMD	401	1
35.02.160	AMD	171	1	36.18.190	REMD	24	1
35.02.200	REEN	245	2	36.22.210	AMD	41	8
35.07.030	REP	361	23	36.29.020	AMD	393	4
35.07.040	AMD	361	4	36.29.150	REP	393	21
35.13	ADD	429	37	36.29.190	AMD	393	19
35.13.174	AMD	429	38	36.32.210	AMD	245	3
35.13.280	AMD	171	2	36.32.235	AMD	220	401
35.13A	ADD	426	1	36.33.180	REP	393	21
35.13A.070	AMD	426	2	36.34.090	AMD	393	5
35.13A.080	AMD	426	3	36.36.045	AMD	393	6
35.17.160	REP	361	23	36.38	ADD	220	302
35.20.100	AMD	25	1	36.38.010	AMD	220	301
35.21	ADD	304	2	36.40	ADD	204	4
35.21	ADD	447	14	36.40.110	REP	204	6
35.21.600	REP	361	23	36.40.200	AMD	204	2
35.21.610	REP	361	23	36.40.250	AMD	204	3
35.21.620	RECD	361	22	36.70A	ADD	382	1

## RCW SECTIONS AFFECTED BY 1997 STATUTES

RCW		CH.	SEC.	RCW		CH.	SEC.
36.70A	ADD	429	2,9,13	39.04.010	AMD	220	402
			16,22,23	39.06.010	AMD	54	1
			25,41	39.10	ADD	376	5
36.70A.030	AMD	429	3	39.10.020	AMD	376	1
36.70A.070	AMD	429	7	39.10.030	AMD	376	2
36.70A.110	AMD	429	24	39.10.050	AMD	376	3
36.70A.130	AMD	429	10	39.10.060	AMD	376	4
36.70A.270	AMD	429	11	39.10.110	AMD	376	6
36.70A.290	AMD	429	12	39.10.120	AMD	376	7
36.70A.300	AMD	429	14	39.10.120	AMD	220	404
36.70A.320	AMD	429	20	39.10.902	AMD	376	8
36.70A.330	AMD	429	21	39.29	ADD	373	1
36.70A.367	AMD	402	1	39.30	ADD	220	403
36.70A.500	AMD	429	28	39.30.010	AMD	361	2
36.70B.040	AMD	429	46	39.42.060	AMD	220	220
36.70B.110	AMD	396	1	41.04	ADD	287	2-5
36.70B.110	AMD	429	48	41.04.340	AMD	232	2
36.79.010	AMD	81	1	41.05	ADD	276	1
36.79.020	AMD	81	2	41.05.021	AMD	274	1
36.79.040	AMD	81	3	41.06.076	AMD	386	1
36.79.050	AMD	81	4	41.06.087	AMD	168	4
36.79.060	AMD	81	5	41.14.070	AMD	62	1
36.79.140	AMD	81	6	41.26	ADD	122	1
36.80.010	AMD	147	1	41.26	ADD	103	1
36.81.121	REMD	188	1	41.26.490	AMD	254	2
36.82.070	AMD	189	1	41.32	ADD	103	2
36.88.220	AMD	393	7	41.32	ADD	254	8,9
36.88.230	AMD	393	8	41.32.010	AMD	254	3
36.93.070	AMD	77	1	41.32.480	AMD	254	4
36.93.170	AMD	429	39	41.32.520	AMD	73	1
36.94.010	AMD	447	10	41.32.5305	DECD	73	3
36.94.020	AMD	447	11	41.32.570	AMD	254	5
36.94.140	AMD	447	12	41.32.800	AMD	254	6
36.94.150	AMD	393	9	41.32.8401	AMD	10	1
38.52	ADD	195	1	41.32.860	AMD	254	7
38.52	ADD	251	1	41.40	ADD	103	3
38.52.010	AMD	49	1	41.40	ADD	254	14
38.52.030	AMD	49	2	41.40.010	REMD	254	10
38.52.050	AMD	49	3	41.40.010	REMD	88	6
38.52.070	AMD	49	4	41.40.023	REMD	254	11
38.52.090	REP	195	2	41.40.150	AMD	254	12
38.52.400	AMD	49	5	41.40.270	AMD	73	2
38.52.420	AMD	49	6	41.40.690	AMD	254	13
38.52.530	AMD	49	7	41.45.061	AMD	10	2
38.54.010	REMD	49	8	41.50	ADD	254	16
38.54.020	AMD	49	9	41.50.130	AMD	254	15
38.54.030	AMD	49	10	41.50.150	AMD	221	1
38.54.040	AMD	49	11	41.59.180	AMD	13	14
38.54.050	AMD	49	12	41.59.935	AMD	431	22

**RCW SECTIONS AFFECTED BY 1997 STATUTES**

<u>RCW</u>	<u>CH.</u>	<u>SEC.</u>	<u>RCW</u>	<u>CH.</u>	<u>SEC.</u>
41.64.100	AMD	386	43	43.20B.310	AMD 59 6
42.17	ADD	270	2	43.20B.720	AMD 130 1
42.17	ADD	258	1	43.20B.725	REP 130 8
42.17.132	AMD	320	1	43.20B.730	AMD 130 2
42.17.132	RECD	320	2	43.20B.735	AMD 130 3
42.17.260	REMD	409	601	43.20B.740	AMD 130 4
42.17.310	AMD	239	4	43.21A	ADD 419 1,2
42.17.310	REMD	310	2	43.21A	ADD 381 20
42.17.310	REMD	250	7	43.21A.064	AMD 443 2
42.17.310	REMD	220	120	43.21A.350	AMD 369 6
42.17.310	REMD	274	8	43.21A.460	REP 32 6
42.17.310	REMD	58	900	43.21B.230	AMD 125 2
42.23.030	AMD	98	1	43.21C.037	AMD 173 6
42.52	ADD	320	2	43.21C.075	AMD 429 49
42.52.120	AMD	318	1	43.21C.110	AMD 429 47
42.52.380	AMD	11	1	43.211.005	AMD 449 1
43	ADD	381	2-19	43.22	ADD 409 103
43	ADD	369	1-4	43.22	ADD 51 4
43	ADD	220	209-213	43.23	ADD 303 5
			215-219	43.24	ADD 58 869
43	ADD	168	1-3	43.24.080	AMD 58 866
43	ADD	456	1-9	43.24.110	AMD 58 867
			30-37	43.24.120	AMD 58 868
43.01.236	AMD	273	3	43.31	ADD 377 1,2
43.03.011	AMD	458	1	43.31.601	AMD 367 1
43.03.012	AMD	458	2	43.31.611	AMD 367 2
43.03.013	AMD	458	3	43.31.621	AMD 367 3
43.06A.040	REP	386	64	43.31.641	AMD 367 6
43.07	ADD	51	3	43.31.651	REP 367 20
43.07	ADD	329	2	43.33A	ADD 161 2
43.08	ADD	319	3	43.33A	ADD 359 1,2
43.08.250	AMD	149	910	43.33A.030	AMD 161 1
43.08.260	AMD	319	2	43.34.010	AMD 279 1
43.10.067	REMD	41	9	43.34.015	AMD 279 2
43.17	ADD	409	603	43.43	ADD 123 1
43.17.360	AMD	349	1	43.43	ADD 375 1
43.19.1919	AMD	264	2	43.43	ADD 392 529
43.20A	ADD	430	2	43.43	ADD 72 1
43.20A	ADD	272	4	43.43.275	DECD 72 2
43.20A	ADD	58	1005	43.43.277	DECD 72 2
43.20A	ADD	386	5,47	43.43.540	AMD 113 6
43.20A.050	AMD	386	41	43.43.832	AMD 392 524
43.20A.205	AMD	58	841	43.43.840	REMD 386 40
43.20A.710	AMD	392	525	43.43.842	AMD 392 518
43.20A.750	REMD	367	16	43.51	ADD 150 2,3
43.20B	ADD	392	301	43.51.050	AMD 137 1
43.20B.030	AMD	130	5	43.51.052	AMD 137 2
43.20B.060	AMD	236	2	43.51.055	AMD 74 1
43.20B.080	AMD	392	302	43.51.090	AMD 137 3

**RCW SECTIONS AFFECTED BY 1997 STATUTES**

<u>RCW</u>		<u>CH.</u>	<u>SEC.</u>	<u>RCW</u>		<u>CH.</u>	<u>SEC.</u>
43.51.180	AMD	214	1	43.99G.050	AMD	456	17
43.51.685	AMD	137	4	43.99G.104	AMD	456	18
43.62.035	AMD	429	26	43.99H.030	AMD	456	19
43.63A	ADD	374	2	43.99H.040	AMD	456	20
43.63A	ADD	366	9	43.99I.020	AMD	456	38
43.63A.021	AMD	367	5	43.99I.030	AMD	456	21
43.63A.440	AMD	367	7	43.99I.040	AMD	456	39
43.63B.040	AMD	58	874	43.99I.050	REP	456	43
43.70.054	AMD	274	2	43.99I.090	AMD	456	40
43.70.066	AMD	274	3	43.99J.030	AMD	456	22
43.70.068	AMD	274	4	43.99K.010	AMD	456	41
43.70.115	AMD	58	843	43.99K.020	AMD	456	42
43.72	ADD	274	5	43.99K.030	AMD	456	23
43.72.300	AMD	274	6	43.101	ADD	351	2-12
43.72.310	AMD	274	7	43.101.200	REMD	351	13
43.72.320	REP	274	9	43.105	ADD	27	29
43.73.010	REP	274	9	43.110	ADD	437	3
43.73.020	REP	274	9	43.110.010	AMD	437	1
43.73.030	REP	274	9	43.110.030	AMD	437	2
43.73.040	REP	274	9	43.121	ADD	338	56
43.79	ADD	75	1	43.131	ADD	276	7,8
43.79	ADD	261	1,2	43.131.385	AMD	367	18
43.79.445	AMD	454	901	43.131.386	AMD	367	19
43.79A.040	AMD	94	3	43.135.055	AMD	303	2
43.79A.040	AMD	368	8	43.143.005	AMD	152	1
43.79A.040	AMD	289	13	43.143.010	AMD	152	2
43.79A.040	AMD	220	221	43.143.040	REP	152	3
43.79A.040	AMD	140	6	43.155.070	AMD	429	29
43.82	ADD	96	3	43.160.020	AMD	367	8
43.82.010	REMD	117	1	43.160.070	AMD	235	721
43.82.150	AMD	96	2	43.160.076	AMD	367	9
43.83.160	AMD	456	29	43.163.090	AMD	257	1
43.83A.090	AMD	456	12	43.163.210	AMD	257	2
43.84.092	AMD	218	5	43.180.080	AMD	163	1
43.88	ADD	374	3	43.180.300	AMD	44	1
43.88.030	REMD	96	4	43.190.030	AMD	194	1
43.88.030	REMD	168	5	43.300	ADD	209	3
43.88.032	AMD	96	5	43.320.125	REP	397	88
43.88.090	AMD	372	1	43.330	ADD	220	222,223
43.88.110	AMD	96	6	43.330	ADD	58	323
43.88.114	AMD	437	5	43.330.080	AMD	60	1
43.88.160	AMD	168	6	43.330.140	AMD	329	1
43.98A.040	AMD	235	718	43.330.140	RECD	329	3
43.98A.060	AMD	235	719	44.28	ADD	58	705
43.98A.070	AMD	235	720	45.04.010	REP	36	1
43.99E.045	AMD	456	13	45.04.020	REP	36	1
43.99F.080	AMD	456	14	45.04.030	REP	36	1
43.99G.030	AMD	456	15	45.08.010	REP	36	1
43.99G.040	AMD	456	16	45.08.020	REP	36	1

## RCW SECTIONS AFFECTED BY 1997 STATUTES

RCW		CH.	SEC.	RCW		CH.	SEC.
45.08.060	REP	36	1	45.28.030	REP	36	1
45.08.070	REP	36	1	45.28.040	REP	36	1
45.08.080	REP	36	1	45.28.050	REP	36	1
45.08.090	REP	36	1	45.28.060	REP	36	1
45.12.010	REP	36	1	45.28.070	REP	36	1
45.12.020	REP	36	1	45.28.100	REP	36	1
45.12.021	REP	36	1	45.32.010	REP	36	1
45.12.030	REP	36	1	45.32.020	REP	36	1
45.12.040	REP	36	1	45.32.030	REP	36	1
45.12.050	REP	36	1	45.32.050	REP	36	1
45.12.060	REP	36	1	45.32.060	REP	36	1
45.12.070	REP	36	1	45.32.070	REP	36	1
45.12.080	REP	36	1	45.32.080	REP	36	1
45.12.090	REP	36	1	45.32.090	REP	36	1
45.12.100	REP	36	1	45.36.010	REP	36	1
45.12.110	REP	36	1	45.36.020	REP	36	1
45.12.120	REP	36	1	45.36.030	REP	36	1
45.12.130	REP	36	1	45.40.010	REP	36	1
45.12.140	REP	36	1	45.40.030	REP	36	1
45.12.150	REP	36	1	45.44.010	REP	36	1
45.12.160	REP	36	1	45.48.010	REP	36	1
45.12.170	REP	36	1	45.48.020	REP	36	1
45.12.180	REP	36	1	45.48.030	REP	36	1
45.12.190	REP	36	1	45.48.040	REP	36	1
45.12.200	REP	36	1	45.52.010	REP	36	1
45.12.210	REP	36	1	45.52.020	REP	36	1
45.12.220	REP	36	1	45.52.030	REP	36	1
45.12.230	REP	36	1	45.52.040	REP	36	1
45.12.240	REP	36	1	45.52.050	REP	36	1
45.16.010	REP	36	1	45.52.060	REP	36	1
45.16.020	REP	36	1	45.52.070	REP	36	1
45.16.030	REP	36	1	45.52.080	REP	36	1
45.16.035	REP	36	1	45.52.090	REP	36	1
45.16.040	REP	36	1	45.54.010	REP	36	1
45.16.060	REP	36	1	45.54.020	REP	36	1
45.16.070	REP	36	1	45.56.010	REP	36	1
45.16.080	REP	36	1	45.56.040	REP	36	1
45.16.090	REP	36	1	45.56.050	REP	36	1
45.16.100	REP	36	1	45.56.070	REP	36	1
45.16.110	REP	36	1	45.56.080	REP	36	1
45.16.120	REP	36	1	45.64.010	REP	36	1
45.20.010	REP	36	1	45.64.020	REP	36	1
45.20.020	REP	36	1	45.64.030	REP	36	1
45.24.010	REP	36	1	45.64.040	REP	36	1
45.24.040	REP	36	1	45.64.050	REP	36	1
45.24.050	REP	36	1	45.64.060	REP	36	1
45.24.060	REP	36	1	45.64.070	REP	36	1
45.28.010	REP	36	1	45.64.080	REP	36	1
45.28.020	REP	36	1	45.72.010	REP	36	1

## RCW SECTIONS AFFECTED BY 1997 STATUTES

<u>RCW</u>	<u>CH.</u>	<u>SEC.</u>	<u>RCW</u>	<u>CH.</u>	<u>SEC.</u>		
45.72.020	REP	36	1	46.16.305	AMD	291	6
45.72.030	REP	36	1	46.16.305	AMD	241	10
45.72.040	REP	36	1	46.16.309	AMD	291	7
45.72.050	REP	36	1	46.16.313	AMD	291	8
45.72.060	REP	36	1	46.16.316	AMD	291	10
45.72.070	REP	36	1	46.16.319	AMD	234	1
45.76.020	REP	36	1	46.16.350	AMD	291	11
45.76.030	REP	36	1	46.16.630	AMD	241	11
45.76.040	REP	36	1	46.16.650	AMD	291	12
45.76.050	REP	36	1	46.20	ADD	66	1,2
45.76.060	REP	36	1	46.20.021	AMD	59	8
45.76.070	REP	36	1	46.20.021	AMD	66	3
45.76.080	REP	36	1	46.20.070	AMD	82	1
45.76.090	REP	36	1	46.20.291	AMD	58	806
45.76.100	REP	36	1	46.20.311	AMD	58	807
45.80.010	REP	36	1	46.20.500	AMD	328	3
45.80.020	REP	36	1	46.20.720	AMD	229	8
45.80.030	REP	36	1	46.20.730	AMD	229	9
45.80.040	REP	36	1	46.20.730	RECD	229	14
45.80.050	REP	36	1	46.20.740	AMD	229	10
45.80.060	REP	36	1	46.37.010	AMD	241	14
45.80.070	REP	36	1	46.37.193	AMD	80	3
45.80.080	REP	36	1	46.37.530	AMD	328	4
45.80.100	REP	36	1	46.44.010	AMD	63	1
45.82.010	REP	36	1	46.44.034	AMD	191	1
45.82.020	REP	36	1	46.44.041	AMD	198	1
46.01.260	AMD	66	11	46.52.030	AMD	248	1
46.04	ADD	328	1	46.52.130	REMD	66	12
46.09.070	AMD	241	1	46.55.113	AMD	66	7
46.10.040	AMD	241	2	46.61	ADD	66	4
46.12	ADD	331	5	46.61.005	AMD	66	13
46.12.010	AMD	241	3	46.61.100	AMD	253	1
46.12.080	AMD	241	4	46.61.290	REMD	202	1
46.12.170	AMD	241	5	46.61.370	AMD	80	1
46.12.170	AMD	432	5	46.61.440	AMD	80	2
46.12.181	AMD	241	7	46.61.5055	AMD	229	11
46.12.370	AMD	432	6	46.61.5055	AMD	66	14
46.12.370	AMD	33	1	46.61.525	AMD	66	5
46.16	ADD	291	2,9	46.61.660	AMD	190	1
46.16	ADD	241	6	46.61.710	AMD	328	5
46.16.010	AMD	241	13	46.63.020	REMD	229	13
46.16.010	AMD	328	2	46.63.020	REMD	66	8
46.16.028	AMD	59	7	46.63.110	AMD	331	3
46.16.125	AMD	215	2	46.68.010	AMD	22	1
46.16.210	AMD	241	8	46.70	ADD	432	2
46.16.220	AMD	241	9	46.70.023	AMD	432	1
46.16.270	AMD	291	3	46.70.051	AMD	432	4
46.16.290	AMD	291	4	46.70.180	AMD	153	1
46.16.301	AMD	291	5	46.72A.080	AMD	193	1

**RCW SECTIONS AFFECTED BY 1997 STATUTES**

<u>RCW</u>	<u>CH.</u>	<u>SEC.</u>	<u>RCW</u>	<u>CH.</u>	<u>SEC.</u>
46.74.010	AMD	95	1	48.41.060	AMD 337 5
46.74.010	AMD	250	8	48.41.080	AMD 231 212
46.74.030	AMD	250	9	48.41.110	AMD 231 213
46.87	ADD	183	1	48.41.130	AMD 231 215
46.87.020	AMD	183	2	48.41.200	AMD 231 214
46.87.030	AMD	183	3	48.42.060	AMD 412 1
46.87.120	AMD	183	4	48.42.060	RECD 412 6
46.87.140	AMD	183	5	48.42.070	AMD 412 3
46.87.290	AMD	183	6	48.42.070	RECD 412 6
47.04	ADD	94	2	48.42.080	AMD 412 4
47.06.030	AMD	369	8	48.42.080	RECD 412 6
47.12	ADD	140	2-5	48.43	ADD 231 301
47.12.140	AMD	240	1	48.43.005	AMD 55 1
47.17	ADD	155	2	48.43.005	AMD 231 202
47.17	ADD	308	1	48.43.045	AMD 231 205
47.17.005	AMD	155	1	48.44	ADD 212 3
47.26.506	AMD	456	24	48.44	ADD 276 4
47.60	ADD	323	2	48.44.022	AMD 231 208
47.64.120	AMD	436	1	48.44.035	AMD 212 1
47.68	ADD	58	859	48.44.037	AMD 212 2
47.78.010	AMD	457	513	48.44.095	AMD 212 4
48	ADD	412	2	48.46	ADD 212 7
48	ADD	313	1-11	48.46	ADD 276 5
48.05.300	REP	379	10	48.46.064	AMD 231 209
48.12	ADD	379	2-5	48.46.080	AMD 212 5
			7-9	48.46.150	REP 34 2
48.12.160	AMD	379	6	48.46.235	AMD 212 6
48.13	ADD	317	1	49.17	ADD 107 1
48.14.0201	AMD	154	1	49.17	ADD 208 1
48.15.090	AMD	89	1	49.17.020	AMD 362 2
48.17	ADD	58	857	49.46.010	AMD 203 3
48.18	ADD	428	1	49.46.130	AMD 311 1
48.18.100	AMD	428	3	49.46.130	AMD 203 2
48.18.290	AMD	85	1	49.60.010	AMD 271 1
48.19	ADD	428	2	49.60.030	AMD 271 2
48.19.060	AMD	428	4	49.60.040	AMD 271 3
48.20	ADD	276	2	49.60.120	REMD 271 4
48.20.028	AMD	231	207	49.60.130	AMD 271 5
48.21	ADD	276	3	49.60.174	AMD 271 6
48.22	ADD	58	808	49.60.175	AMD 271 7
48.22.070	AMD	110	1	49.60.176	AMD 271 8
48.29.010	AMD	14	1	49.60.178	AMD 271 9
48.30.010	AMD	409	107	49.60.180	AMD 271 10
48.30A.045	AMD	92	1	49.60.190	AMD 271 11
48.32.145	AMD	300	1	49.60.200	AMD 271 12
48.32A.090	AMD	300	2	49.60.215	AMD 271 13
48.41.030	AMD	231	210	49.60.222	AMD 271 14
48.41.030	AMD	337	6	49.60.222	AMD 400 3
48.41.060	AMD	231	211	49.60.223	REMD 271 15

## RCW SECTIONS AFFECTED BY 1997 STATUTES

RCW	CH.	SEC.	RCW	CH.	SEC.
49.60.224	AMD	271	16	62A.5-102	AMD 56 3
49.60.225	AMD	271	17	62A.5-103	AMD 56 4
49.78	ADD	16	1	62A.5-104	AMD 56 5
50.12	ADD	51	5	62A.5-105	AMD 56 6
50.12	ADD	368	13	62A.5-106	AMD 56 7
50.12.070	AMD	54	2	62A.5-107	AMD 56 8
50.12.270	AMD	367	17	62A.5-108	AMD 56 9
50.13.060	AMD	409	605	62A.5-109	AMD 56 10
50.13.060	AMD	58	1004	62A.5-110	AMD 56 11
50.22.090	REMD	367	4	62A.5-111	AMD 56 12
51.04	ADD	109	1	62A.5-112	AMD 56 13
51.04.030	AMD	325	2	62A.5-113	AMD 56 14
51.08.013	AMD	250	10	62A.5-114	AMD 56 15
51.08.050	AMD	325	6	62A.5-115	AMD 56 16
51.12.020	REMD	314	18	62A.5-116	AMD 56 17
51.14.150	AMD	35	1	62A.5-117	AMD 56 18
51.16.070	AMD	54	3	62A.9-103	AMD 56 21
51.32.055	AMD	416	1	62A.9-104	AMD 56 22
51.32.110	AMD	325	3	62A.9-105	AMD 56 23
51.32.140	AMD	325	5	62A.9-106	AMD 56 24
51.36	ADD	336	2	62A.9-304	AMD 56 25
51.44.170	AMD	327	1	62A.9-305	AMD 56 26
51.48.015	REP	324	2	62A.9-501	AMD 138 1
51.48.020	AMD	324	1	63.14.010	AMD 331 6
51.48.280	AMD	336	1	63.14.130	AMD 331 7
51.52	ADD	102	2	63.21.010	AMD 237 1
52.14	ADD	43	1	63.21.030	AMD 237 2
53.04.023	AMD	256	1	64.34.232	AMD 400 2
53.08	ADD	447	15	64.34.410	AMD 400 1
53.36.050	AMD	393	10	64.44.060	AMD 58 878
54.12.080	AMD	28	1	66.04.010	AMD 321 37
54.44.020	AMD	230	2	66.08.026	AMD 148 1
56.08.070	REP	245	8	66.08.050	AMD 228 1
57.04	ADD	447	4	66.08.180	AMD 321 57
57.08.005	AMD	447	16	66.08.180	AMD 451 3
57.08.050	REMD	245	4	66.08.196	AMD 451 4
57.08.065	AMD	447	17	66.16.041	AMD 148 2
57.08.081	AMD	447	19	66.16.100	AMD 321 42
57.16.010	AMD	447	18	66.20	ADD 58 861
58.08.040	AMD	393	11	66.20.010	REMD 321 43
59.18	ADD	84	1	66.20.300	AMD 321 44
59.18.055	AMD	86	1	66.20.310	REMD 321 45
59.18.390	AMD	255	1	66.24	ADD 58 862
59.18.440	AMD	452	17	66.24	ADD 321 6,12
59.20.040	AMD	86	2		
60	ADD	315	1-10		
62A.1-105	AMD	56	19	66.24.010	AMD 58 873
62A.2-512	AMD	56	20	66.24.010	AMD 321 1
62A.4-406	AMD	53	1	66.24.150	AMD 321 2

**RCW SECTIONS AFFECTED BY 1997 STATUTES**

<u>RCW</u>		<u>CH.</u>	<u>SEC.</u>	<u>RCW</u>		<u>CH.</u>	<u>SEC.</u>
66.24.170	AMD	321	3	66.44.310	AMD	321	53
66.24.185	AMD	321	4	66.98.060	AMD	321	54
66.24.200	AMD	321	5	67.08	ADD	205	17-24
66.24.204	REP	321	63	67.08.002	AMD	205	1
66.24.206	AMD	321	7	67.08.010	AMD	205	2
66.24.210	AMD	321	8	67.08.015	AMD	205	3
66.24.230	AMD	321	10	67.08.017	AMD	205	4
66.24.240	AMD	321	11	67.08.030	AMD	205	5
66.24.250	AMD	321	13	67.08.050	AMD	205	6
66.24.260	REP	321	63	67.08.060	AMD	205	7
66.24.270	AMD	321	15	67.08.080	AMD	205	8
66.24.290	AMD	321	16	67.08.090	AMD	205	9
66.24.290	AMD	451	1	67.08.100	AMD	58	864
66.24.310	AMD	321	17	67.08.100	AMD	205	10
66.24.320	AMD	321	18	67.08.110	AMD	205	11
66.24.330	AMD	321	19	67.08.120	AMD	205	12
66.24.340	REP	321	63	67.08.130	AMD	205	13
66.24.350	AMD	321	20	67.08.140	AMD	205	14
66.24.360	AMD	321	22	67.08.170	AMD	205	15
66.24.370	REP	321	63	67.08.180	AMD	205	16
66.24.375	AMD	321	61	67.16.050	AMD	87	2
66.24.380	AMD	321	24	67.16.105	AMD	87	3
66.24.395	AMD	321	25	67.16.190	REP	87	6
66.24.400	AMD	321	26	67.16.200	AMD	87	4
66.24.420	AMD	321	27	67.16.250	REP	87	6
66.24.425	AMD	321	28	67.28	ADD	452	3-5
66.24.440	AMD	321	29	67.28.080	AMD	452	2
66.24.450	AMD	321	30	67.28.090	REP	452	22
66.24.455	AMD	321	32	67.28.100	REP	452	22
66.24.490	REP	321	63	67.28.110	REP	452	22
66.24.495	AMD	321	33	67.28.120	AMD	452	7
66.24.500	REP	321	63	67.28.130	AMD	452	8
66.24.510	REP	321	63	67.28.150	AMD	452	9
66.24.540	AMD	321	34	67.28.160	AMD	452	10
66.24.550	AMD	321	35	67.28.170	AMD	452	11
66.24.560	REP	321	63	67.28.180	AMD	220	501
66.24.570	AMD	321	36	67.28.182	REP	452	22
66.28.010	REMD	321	46	67.28.184	AMD	452	13
66.28.030	AMD	321	47	67.28.185	REP	452	22
66.28.040	AMD	39	1	67.28.190	REP	452	22
66.28.050	AMD	321	49	67.28.200	AMD	452	14
66.28.120	AMD	100	1	67.28.210	REP	452	22
66.28.150	AMD	39	2	67.28.240	REP	452	22
66.28.155	AMD	39	3	67.28.260	REP	452	22
66.28.170	AMD	321	50	67.28.270	REP	452	22
66.28.180	AMD	321	51	67.28.280	REP	452	22
66.28.190	AMD	321	52	67.28.290	REP	452	22
66.28.200	AMD	321	38	67.28.300	REP	452	22
66.44.190	AMD	321	62	67.28.310	REP	452	22

## RCW SECTIONS AFFECTED BY 1997 STATUTES

RCW	CH.	SEC.	RCW	CH.	SEC.		
67.28.320	REP	452	22	70.48A.070	AMD	456	27
67.28.360	REP	452	22	70.58	ADD	108	1
67.28.370	REP	452	22	70.58.055	AMD	58	948
67.38.140	AMD	452	18	70.58.080	AMD	58	937
67.40.060	AMD	456	25	70.58.107	AMD	223	1
67.40.100	AMD	452	15	70.74	ADD	120	2,4
67.40.110	AMD	452	19	70.74.110	AMD	58	870
67.40.120	AMD	452	20	70.74.130	AMD	58	871
67.70	ADD	220	205,208	70.74.270	AMD	120	1
67.70.042	AMD	220	207	70.74.280	AMD	120	3
67.70.100	AMD	111	1	70.74.370	AMD	58	872
67.70.240	AMD	220	206	70.77.160	AMD	182	1
69.50.401	AMD	71	2	70.77.236	AMD	182	4
69.50.435	AMD	23	1	70.77.250	REMD	182	5
69.50.435	AMD	30	2	70.77.255	AMD	182	6
69.50.440	AMD	71	3	70.77.270	AMD	182	8
69.50.520	AMD	338	69	70.77.290	AMD	182	9
69.50.520	AMD	451	2	70.77.315	REEN	182	10
69.50.520	AMD	149	912	70.77.325	AMD	182	11
70	ADD	332	1-14	70.77.343	AMD	182	12
70.05	ADD	447	2	70.77.345	AMD	182	13
70.05.125	AMD	333	1	70.77.355	AMD	182	14
70.24.105	AMD	345	2	70.77.375	AMD	182	16
70.24.105	AMD	196	6	70.77.420	AMD	182	18
70.24.340	AMD	345	3	70.77.435	AMD	182	20
70.38.025	AMD	210	2	70.77.440	AMD	182	21
70.38.111	AMD	210	1	70.77.450	AMD	182	22
70.44	ADD	99	4-7	70.77.455	REEN	182	23
70.44	ADD	332	18	70.84.020	AMD	271	18
70.44.007	AMD	332	15	70.84.021	AMD	271	19
70.44.040	AMD	99	1	70.84.030	REP	271	26
70.44.042	AMD	99	2	70.84.040	AMD	271	20
70.44.053	AMD	99	3	70.84.050	AMD	271	21
70.44.060	AMD	3	206	70.84.060	AMD	271	22
70.44.240	AMD	332	16	70.84.090	RECD	271	27
70.44.300	AMD	332	17	70.84.100	AMD	271	23
70.47.015	AMD	337	1	70.84.100	RECD	271	27
70.47.020	REMD	335	1	70.84.110	REP	271	26
70.47.020	REEN	245	5	70.84.120	AMD	271	24
70.47.060	REMD	335	2	70.84.120	RECD	271	27
70.47.060	REMD	231	206	70.87.010	AMD	216	1
70.47.060	REMD	337	2	70.87.120	AMD	216	2
70.47.060	REMD	245	6	70.88.070	AMD	137	5
70.47.120	AMD	337	7	70.93.060	AMD	159	1
70.47.130	AMD	337	8	70.94	ADD	368	10
70.48	ADD	345	5	70.94	ADD	381	21
70.48.310	AMD	456	26	70.94.151	AMD	410	1
70.48.470	AMD	113	7	70.94.521	AMD	250	1
70.48.470	AMD	364	3	70.94.527	AMD	250	2

**RCW SECTIONS AFFECTED BY 1997 STATUTES**

<u>RCW</u>		<u>CH.</u>	<u>SEC.</u>	<u>RCW</u>		<u>CH.</u>	<u>SEC.</u>
70.94.531	AMD	250	3	71.05.010	AMD	112	2
70.94.534	AMD	250	4	71.05.020	REMD	112	3
70.94.537	AMD	250	5	71.05.040	AMD	112	4
70.94.551	AMD	250	6	71.05.050	AMD	112	5
70.94.743	AMD	225	1	71.05.100	AMD	112	6
70.94.755	AMD	225	2	71.05.110	AMD	112	7
70.95	ADD	213	6	71.05.150	AMD	112	8
70.95	ADD	381	22	71.05.155	AMD	112	9
70.95	ADD	427	5	71.05.160	AMD	112	10
70.95.030	AMD	213	1	71.05.170	AMD	112	11
70.95.170	AMD	213	2	71.05.180	AMD	112	12
70.95.180	AMD	213	3	71.05.190	AMD	112	13
70.95.190	AMD	213	4	71.05.200	AMD	112	14
70.95.240	AMD	427	4	71.05.210	AMD	112	15
70.95B	ADD	58	876	71.05.215	AMD	112	16
70.95D.040	AMD	58	875	71.05.220	AMD	112	17
70.95J	ADD	398	1	71.05.230	AMD	112	18
70.96A	ADD	338	28	71.05.240	AMD	112	19
70.105	ADD	381	23	71.05.260	AMD	112	20
70.105D.020	AMD	406	2	71.05.270	AMD	112	21
70.105D.030	AMD	406	3	71.05.280	AMD	112	22
70.105D.040	AMD	406	4	71.05.290	AMD	112	24
70.105D.070	AMD	406	5	71.05.300	AMD	112	25
70.105D.080	AMD	406	6	71.05.320	AMD	112	26
70.118	ADD	447	3,5	71.05.330	AMD	112	27
70.119.030	AMD	218	2	71.05.340	AMD	112	28
70.119A	ADD	381	24	71.05.350	AMD	112	29
70.119A.115	AMD	218	3	71.05.360	AMD	112	30
70.119A.170	AMD	218	4	71.05.370	AMD	112	31
70.123.100	AMD	160	1	71.05.410	AMD	112	32
70.123.110	AMD	59	9	71.05.460	AMD	112	33
70.124	ADD	392	201	71.05.470	AMD	112	34
70.124.020	AMD	392	519	71.05.490	AMD	112	35
70.124.040	AMD	392	520	71.05.525	AMD	112	36
70.124.040	AMD	386	30	71.12	ADD	58	860
70.124.070	AMD	392	521	71.24	ADD	342	2,4
70.128.175	AMD	392	401	71.24.025	AMD	112	38
70.129.010	AMD	392	203	72.01	ADD	338	42
70.129.030	AMD	386	31	72.01.410	AMD	338	41
70.129.105	AMD	392	211	72.09	ADD	345	4
70.129.110	AMD	392	205	72.09	ADD	364	4
70.129.150	AMD	392	206	72.09.330	AMD	113	8
70.146.070	AMD	429	30	72.09.460	AMD	338	43
70.149.040	AMD	8	1	72.09.480	AMD	165	1
70.149.070	AMD	8	2	72.65.220	AMD	348	1
70.168	ADD	331	1	73.08.070	AMD	286	1
70.168.040	AMD	331	2	74	ADD	58	2,103
70.200.010	AMD	40	1				104,106
71.05	ADD	112	23				202-205,301

## RCW SECTIONS AFFECTED BY 1997 STATUTES

RCW		CH.	SEC.	RCW		CH.	SEC.
			302,307,308	74.13.031	AMD	272	1
			310-318,321	74.13.031	AMD	386	32
			324-326,402	74.13.037	AMD	146	9
			503,504	74.13.0903	AMD	58	404
			701-704,706	74.13.150	AMD	131	1
74	ADD	386	9-13	74.13.280	AMD	272	7
74.04	ADD	58	1003	74.15	ADD	58	858
74.04.005	REMD	59	10	74.15.020	REEN	245	7
74.04.005	REMD	58	309	74.15.030	AMD	386	33
74.04.0052	AMD	58	502	74.20	ADD	58	898,901
74.04.062	AMD	58	1006	74.20.040	AMD	58	891
74.04.770	AMD	59	11	74.20.320	AMD	58	935
74.08.025	AMD	58	101	74.20.330	AMD	58	936
74.08.080	AMD	59	12	74.20A	ADD	58	802-804
74.08.120	REP	58	1002				892,893
74.08.125	REP	58	1002				897,899
74.08.331	AMD	58	303	74.20A.020	AMD	58	805
74.08.335	AMD	59	13	74.20A.030	AMD	58	934
74.08.340	AMD	58	102	74.20A.055	AMD	58	940
74.09	ADD	231	112	74.20A.056	REMD	58	941
74.09.180	AMD	236	1	74.20A.060	REMD	58	906
74.09.510	AMD	59	14	74.20A.070	AMD	130	6
74.09.510	AMD	58	201	74.20A.080	AMD	130	7
74.09.522	AMD	59	15	74.20A.080	AMD	58	907
74.09.522	AMD	34	1	74.20A.100	AMD	296	15
74.12	ADD	58	107,108	74.20A.100	AMD	58	895
			110	74.20A.240	AMD	296	16
74.12.010	AMD	59	16	74.20A.270	REMD	58	896
74.12.030	AMD	59	17	74.25.010	AMD	59	29
74.12.035	AMD	59	18	74.25.010	REP	58	322
74.12.036	AMD	59	19	74.25.020	REP	58	322
74.12.250	AMD	58	506	74.25.030	REP	58	322
74.12.255	AMD	58	501	74.25.040	AMD	59	30
74.12.260	AMD	59	21	74.25.040	AMD	58	405
74.12.280	AMD	59	22	74.25.900	REP	58	322
74.12.361	AMD	59	23	74.25.901	REP	58	322
74.12.400	AMD	59	24	74.25A.045	AMD	59	31
74.12.410	AMD	58	601	74.25A.050	AMD	59	32
74.12.420	AMD	59	26	74.34	ADD	392	202,304
74.12.420	REP	58	105				522
74.12.425	AMD	59	27	74.34.010	AMD	392	303
74.12.425	REP	58	105	74.34.020	AMD	392	523
74.12.900	AMD	59	28	74.34.050	AMD	386	34
74.12A.020	AMD	58	327	74.34.070	AMD	386	35
74.13	ADD	272	2,3	74.39.040	REP	392	530
			5,6	74.39A	ADD	392	103
74.13	ADD	31	1-8	74.39A.008	REP	392	530
74.13	ADD	386	15,16	74.39A.050	AMD	392	209
74.13	ADD	305	2-7	74.39A.060	AMD	392	210

## RCW SECTIONS AFFECTED BY 1997 STATUTES

<u>RCW</u>		<u>CH.</u>	<u>SEC.</u>	<u>RCW</u>		<u>CH.</u>	<u>SEC.</u>
74.42.030	AMD	392	212	77.21.070	AMD	226	2
74.42.450	AMD	392	216	77.32	ADD	58	881
74.46.360	AMD	277	1	77.32.101	AMD	395	1
74.46.370	AMD	277	2	77.32.320	AMD	114	1
74.46.430	AMD	277	3	77.32.340	AMD	114	2
74.46.465	AMD	277	4	78.40.010	REP	64	1
74.46.510	AMD	277	5	78.40.160	REP	64	1
74.46.530	AMD	277	6	78.40.163	REP	64	1
75.08	ADD	414	1	78.40.166	REP	64	1
75.20	ADD	415	2	78.40.169	REP	64	1
75.20	ADD	381	25	78.40.172	REP	64	1
75.20	ADD	424	5,6	78.40.175	REP	64	1
75.20	ADD	425	4	78.40.178	REP	64	1
75.20.100	AMD	290	4	78.40.181	REP	64	1
75.20.100	AMD	385	1	78.40.184	REP	64	1
75.25	ADD	58	880	78.40.187	REP	64	1
75.28	ADD	418	5	78.40.190	REP	64	1
75.28	ADD	58	882	78.40.193	REP	64	1
75.28	ADD	421	1	78.40.196	REP	64	1
75.28.010	AMD	58	883	78.40.199	REP	64	1
75.28.011	AMD	418	1	78.40.202	REP	64	1
75.28.048	AMD	233	2	78.40.205	REP	64	1
75.28.095	AMD	76	2	78.40.208	REP	64	1
75.28.110	AMD	76	1	78.40.211	REP	64	1
75.30	ADD	58	884	78.40.214	REP	64	1
75.30.130	AMD	233	1	78.40.217	REP	64	1
75.30.130	AMD	115	1	78.40.220	REP	64	1
75.30.360	AMD	418	2	78.40.223	REP	64	1
75.30.380	AMD	418	3	78.40.226	REP	64	1
75.30.390	AMD	418	4	78.40.229	REP	64	1
75.30.400	DECD	418	6	78.40.235	REP	64	1
75.50	ADD	389	2,3	78.40.238	REP	64	1
75.50.080	AMD	389	5	78.40.241	REP	64	1
75.50.160	AMD	389	6	78.40.244	REP	64	1
75.54.140	AMD	197	1	78.40.247	REP	64	1
76.09	ADD	290	1,2	78.40.250	REP	64	1
76.09	ADD	425	5	78.40.253	REP	64	1
76.09.040	AMD	173	1	78.40.256	REP	64	1
76.09.050	AMD	173	2	78.40.259	REP	64	1
76.09.060	AMD	290	3	78.40.262	REP	64	1
76.09.060	AMD	173	3	78.40.270	REP	64	1
76.09.065	AMD	173	4	78.40.273	REP	64	1
76.09.220	AMD	290	5	78.40.276	REP	64	1
76.09.220	AMD	423	2	78.40.279	REP	64	1
76.09.240	AMD	173	5	78.40.281	REP	64	1
76.12.030	AMD	370	1	78.40.284	REP	64	1
77.12	ADD	422	2-5	78.40.287	REP	64	1
77.12	ADD	425	3	78.40.290	REP	64	1
77.16	ADD	1	1	78.40.293	REP	64	1

## RCW SECTIONS AFFECTED BY 1997 STATUTES

RCW		CH.	SEC.	RCW		CH.	SEC.
78.40.296	REP	64	1	78.40.453	REP	64	1
78.40.300	REP	64	1	78.40.456	REP	64	1
78.40.303	REP	64	1	78.40.459	REP	64	1
78.40.306	REP	64	1	78.40.462	REP	64	1
78.40.309	REP	64	1	78.40.470	REP	64	1
78.40.312	REP	64	1	78.40.473	REP	64	1
78.40.315	REP	64	1	78.40.476	REP	64	1
78.40.318	REP	64	1	78.40.479	REP	64	1
78.40.321	REP	64	1	78.40.482	REP	64	1
78.40.324	REP	64	1	78.40.485	REP	64	1
78.40.327	REP	64	1	78.40.488	REP	64	1
78.40.330	REP	64	1	78.40.500	REP	64	1
78.40.333	REP	64	1	78.40.503	REP	64	1
78.40.336	REP	64	1	78.40.506	REP	64	1
78.40.339	REP	64	1	78.40.509	REP	64	1
78.40.342	REP	64	1	78.40.512	REP	64	1
78.40.345	REP	64	1	78.40.515	REP	64	1
78.40.348	REP	64	1	78.40.518	REP	64	1
78.40.351	REP	64	1	78.40.521	REP	64	1
78.40.354	REP	64	1	78.40.524	REP	64	1
78.40.357	REP	64	1	78.40.527	REP	64	1
78.40.360	REP	64	1	78.40.530	REP	64	1
78.40.363	REP	64	1	78.40.533	REP	64	1
78.40.366	REP	64	1	78.40.536	REP	64	1
78.40.369	REP	64	1	78.40.540	REP	64	1
78.40.372	REP	64	1	78.40.543	REP	64	1
78.40.375	REP	64	1	78.40.546	REP	64	1
78.40.378	REP	64	1	78.40.549	REP	64	1
78.40.381	REP	64	1	78.40.552	REP	64	1
78.40.390	REP	64	1	78.40.555	REP	64	1
78.40.393	REP	64	1	78.40.558	REP	64	1
78.40.396	REP	64	1	78.40.561	REP	64	1
78.40.399	REP	64	1	78.40.564	REP	64	1
78.40.402	REP	64	1	78.40.567	REP	64	1
78.40.405	REP	64	1	78.40.570	REP	64	1
78.40.408	REP	64	1	78.40.573	REP	64	1
78.40.411	REP	64	1	78.40.576	REP	64	1
78.40.414	REP	64	1	78.40.579	REP	64	1
78.40.417	REP	64	1	78.40.581	REP	64	1
78.40.420	REP	64	1	78.40.585	REP	64	1
78.40.423	REP	64	1	78.40.588	REP	64	1
78.40.426	REP	64	1	78.40.591	REP	64	1
78.40.429	REP	64	1	78.40.594	REP	64	1
78.40.432	REP	64	1	78.40.600	REP	64	1
78.40.435	REP	64	1	78.40.603	REP	64	1
78.40.438	REP	64	1	78.40.606	REP	64	1
78.40.441	REP	64	1	78.40.609	REP	64	1
78.40.444	REP	64	1	78.40.612	REP	64	1
78.40.450	REP	64	1	78.40.615	REP	64	1

## RCW SECTIONS AFFECTED BY 1997 STATUTES

<u>RCW</u>		<u>CH.</u>	<u>SEC.</u>	<u>RCW</u>		<u>CH.</u>	<u>SEC.</u>
78.40.618	REP	64	1	78.40.770	REP	64	1
78.40.621	REP	64	1	78.40.771	REP	64	1
78.40.624	REP	64	1	78.40.772	REP	64	1
78.40.627	REP	64	1	78.40.773	REP	64	1
78.40.630	REP	64	1	78.40.780	REP	64	1
78.40.633	REP	64	1	78.40.783	REP	64	1
78.40.636	REP	64	1	78.40.786	REP	64	1
78.40.639	REP	64	1	78.40.789	REP	64	1
78.40.642	REP	64	1	78.40.791	REP	64	1
78.40.645	REP	64	1	78.40.794	REP	64	1
78.40.648	REP	64	1	78.40.797	REP	64	1
78.40.651	REP	64	1	78.44.031	AMD	142	1
78.40.654	REP	64	1	78.44.050	AMD	185	1
78.40.657	REP	64	1	78.44.081	AMD	192	1
78.40.660	REP	64	1	78.44.085	AMD	413	1
78.40.663	REP	64	1	78.44.087	AMD	186	1
78.40.666	REP	64	1	78.44.091	AMD	192	2
78.40.669	REP	64	1	78.44.151	AMD	192	3
78.40.672	REP	64	1	78.44.310	AMD	184	1
78.40.675	REP	64	1	78.56.080	AMD	170	1
78.40.678	REP	64	1	79.01.132	AMD	116	1
78.40.681	REP	64	1	79.01.184	AMD	116	2
78.40.684	REP	64	1	79.01.744	AMD	448	3
78.40.687	REP	64	1	79.24.580	AMD	149	913
78.40.690	REP	64	1	79.24.658	AMD	456	28
78.40.693	REP	64	1	79.71	ADD	371	1
78.40.696	REP	64	1	80.04.130	AMD	368	14
78.40.699	REP	64	1	80.08	ADD	162	1
78.40.702	REP	64	1	80.08	ADD	15	1
78.40.705	REP	64	1	80.36.110	REMD	166	1
78.40.708	REP	64	1	80.36.375	AMD	219	2
78.40.711	REP	64	1	81.16	ADD	434	2
78.40.714	REP	64	1	81.24.020	AMD	215	1
78.40.717	REP	64	1	81.77	ADD	171	4
78.40.720	REP	64	1	81.77.160	AMD	434	1
78.40.723	REP	64	1	81.104.170	AMD	450	5
78.40.726	REP	64	1	81.108.050	AMD	243	1
78.40.729	REP	64	1	82.01.070	AMD	156	1
78.40.732	REP	64	1	82.01.080	AMD	156	2
78.40.735	REP	64	1	82.02	ADD	51	6
78.40.738	REP	64	1	82.02.020	AMD	452	21
78.40.741	REP	64	1	82.04	ADD	407	2
78.40.744	REP	64	1	82.04	ADD	106	21
78.40.747	REP	64	1	82.04	ADD	4	1
78.40.750	REP	64	1	82.04	ADD	408	1
78.40.753	REP	64	1	82.04	ADD	388	1
78.40.756	REP	64	1	82.04	ADD	304	4
78.40.759	REP	64	1	82.04.050	REMD	127	1
78.40.765	REP	64	1	82.04.055	REP	7	5

## RCW SECTIONS AFFECTED BY 1997 STATUTES

RCW		CH.	SEC.	RCW		CH.	SEC.
82.04.055	AMD	304	3	82.32	ADD	368	9,12
82.04.065	AMD	304	5	82.32.050	AMD	157	1
82.04.110	AMD	453	1	82.32.060	AMD	157	2
82.04.120	AMD	384	1	82.32.070	AMD	54	4
82.04.255	AMD	7	1	82.32.080	AMD	156	3
82.04.290	AMD	7	2	82.32.180	AMD	156	4
82.04.293	AMD	7	3	82.32.210	AMD	157	3
82.04.435	DECD	156	10	82.32.300	AMD	420	9
82.04.444	REP	156	11	82.32.410	AMD	409	211
82.04.445	REP	156	11	82.36	ADD	183	7
82.04.4451	AMD	238	2	82.36.335	AMD	183	8
82.04.4452	AMD	7	4	82.38	ADD	183	9
82.08	ADD	368	2,4,5	82.38.190	AMD	183	10
82.08	ADD	220	203	82.42	ADD	183	11
82.08	ADD	450	2	82.42.060	AMD	183	12
82.08	ADD	388	2	82.44.110	AMD	338	68
82.08.02566	AMD	302	1	82.44.110	REMD	149	911
82.08.02745	AMD	438	1	82.45.100	AMD	157	4
82.08.0283	AMD	224	1	82.60.040	AMD	156	5
82.08.02915	AMD	386	56	82.62.030	AMD	366	5
82.08.0315	AMD	61	1	82.62.040	REP	366	6
82.08.065	REP	139	2	83.100.070	AMD	136	1
82.08.150	AMD	321	55	83.100.130	AMD	157	6
82.08.170	AMD	437	4	84.04	ADD	3	101
82.12	ADD	368	3,6,7	84.04.030	AMD	3	102
82.12	ADD	293	1-3	84.08	ADD	239	1
82.12	ADD	450	3	84.08.115	AMD	3	207
82.12.0251	AMD	301	1	84.12.270	AMD	3	113
82.12.02566	AMD	302	2	84.12.280	AMD	3	114
82.12.02685	AMD	438	2	84.12.310	AMD	3	115
82.12.0277	AMD	224	2	84.12.330	AMD	3	116
82.12.02915	AMD	386	57	84.12.350	AMD	3	117
82.14	ADD	220	204	84.12.360	AMD	3	118
82.14	ADD	450	4	84.14.010	AMD	429	40
82.14	ADD	366	3	84.14.030	AMD	429	42
82.14.020	AMD	201	1	84.14.050	AMD	429	43
82.14.049	AMD	220	502	84.16.040	AMD	3	119
82.14.200	AMD	333	2	84.16.050	AMD	3	120
82.16	ADD	407	3	84.16.090	AMD	3	121
82.23B.020	AMD	449	2	84.16.110	AMD	3	122
82.24	ADD	420	10	84.16.120	AMD	3	123
82.24.010	AMD	420	3	84.33.0501	AMD	151	1
82.24.110	AMD	420	4	84.33.120	AMD	299	1
82.24.130	AMD	420	5	84.33.140	AMD	299	2
82.24.190	AMD	420	6	84.33.145	AMD	299	3
82.24.250	AMD	420	7	84.34.020	AMD	429	31
82.24.550	AMD	420	8	84.34.060	AMD	429	32
82.26	ADD	420	11	84.34.065	AMD	429	33
82.29A.130	AMD	220	202	84.36	ADD	368	11

## RCW SECTIONS AFFECTED BY 1997 STATUTES

RCW		CH.	SEC.	RCW		CH.	SEC.
84.36	ADD	295	2	84.70.010	AMD	3	126
84.36	ADD	244	1	86.26.007	AMD	149	914
84.36	ADD	143	1	87.03	ADD	354	2
84.36.037	AMD	298	1	87.03.051	AMD	354	1
84.36.041	AMD	3	124	87.03.435	AMD	354	3
84.36.070	AMD	181	1	88.02	ADD	432	3
84.36.470	AMD	156	6	88.02	ADD	58	863
84.36.800	AMD	156	7	88.02.030	AMD	83	1
84.36.800	AMD	143	2	88.02.055	AMD	22	2
84.36.805	AMD	156	8	88.02.075	AMD	241	12
84.36.805	AMD	143	3	88.12	ADD	391	2,8-10
84.36.810	AMD	156	9	88.12.010	AMD	391	1
84.36.810	AMD	143	4	88.12.235	AMD	391	3
84.38.020	AMD	93	1	88.12.245	AMD	391	4
84.40	ADD	393	17	88.12.255	AMD	391	5
84.40	ADD	3	105	88.12.265	AMD	391	6
84.40.020	AMD	239	2	88.12.275	AMD	391	7
84.40.020	AMD	3	103	89.08	ADD	295	3
84.40.030	AMD	134	1	90	ADD	441	1-19
84.40.030	AMD	3	104	90	ADD	442	101-106
84.40.030	AMD	429	34	90	ADD	424	1-4
84.40.038	AMD	294	1	90.03	ADD	442	301
84.40.040	AMD	3	106	90.03	ADD	444	2
84.40.045	AMD	3	107	90.03.255	AMD	360	2
84.40.160	AMD	135	1	90.03.320	AMD	445	3
84.40.340	AMD	239	3	90.03.380	AMD	442	801
84.41.041	AMD	3	108	90.14	ADD	440	1
84.48	ADD	181	2	90.14.041	AMD	440	2
84.48.010	AMD	3	109	90.14.071	AMD	440	3
84.48.065	AMD	3	110	90.22.010	AMD	32	4
84.48.075	AMD	3	111	90.44	ADD	444	3
84.48.080	AMD	3	112	90.44	ADD	446	1
84.52.053	AMD	260	1	90.44.055	AMD	360	3
84.52.0531	AMD	259	2	90.44.100	AMD	316	2
84.52.063	AMD	3	125	90.46	ADD	355	2
84.55	ADD	2	2	90.46	ADD	444	1,4,8
84.55	ADD	3	204,301	90.46.005	AMD	355	1
84.55.005	AMD	393	20	90.46.010	AMD	444	5
84.55.005	AMD	3	201	90.46.080	AMD	444	6
84.55.010	AMD	3	202	90.46.090	AMD	444	7
84.55.012	AMD	2	1	90.48	ADD	381	26
84.55.020	AMD	3	203	90.48	ADD	424	7
84.55.120	AMD	3	209	90.48	ADD	444	9
84.56.240	AMD	393	14	90.48.465	AMD	398	2
84.56.300	AMD	393	15	90.52	ADD	381	27
84.56.340	AMD	393	16	90.54.020	AMD	442	201
84.64.320	AMD	244	2	90.54.030	AMD	32	1
84.69.020	AMD	393	18	90.54.040	AMD	32	2
84.69.100	AMD	67	1	90.54.050	AMD	439	2

## RCW SECTIONS AFFECTED BY 1997 STATUTES

---

<u>RCW</u>		<u>CH.</u>	<u>SEC.</u>
90.54.050	AMD	32	3
90.54.100	AMD	32	5
90.54.190	REP	32	6
90.54.200	REP	32	6
90.56.510	AMD	449	3
90.58	ADD	381	28
90.58.090	AMD	429	50
90.58.100	AMD	369	7
90.58.143	AMD	429	51
90.58.180	AMD	199	1
90.60.030	AMD	429	35
90.64	ADD	381	29
90.71	ADD	381	30
90.72.040	AMD	447	20

**UNCODIFIED SESSION LAW SECTIONS AFFECTED BY 1997 STATUTES**

<u>LAWS 1951</u>			<u>LAWS 1997</u>	
<u>Ch.</u>	<u>Sec.</u>	<u>Action</u>	<u>Ch.</u>	<u>Sec.</u>
144	1	AMD	109	1
144	2	REP	109	2

<u>LAWS 1973 1ST EX. S.</u>			<u>LAWS 1997</u>	
<u>Ch.</u>	<u>Sec.</u>	<u>Action</u>	<u>Ch.</u>	<u>Sec.</u>
204	3	AMD	321	9

<u>LAWS 1990</u>			<u>LAWS 1997</u>	
<u>Ch.</u>	<u>Sec.</u>	<u>Action</u>	<u>Ch.</u>	<u>Sec.</u>
204	1	AMD	327	2

<u>LAWS 1991 SP. S.</u>			<u>LAWS 1997</u>	
<u>Ch.</u>	<u>Sec.</u>	<u>Action</u>	<u>Ch.</u>	<u>Sec.</u>
29	5	REP	175	1

<u>LAWS 1992</u>			<u>LAWS 1997</u>	
<u>Ch.</u>	<u>Sec.</u>	<u>Action</u>	<u>Ch.</u>	<u>Sec.</u>
209	6	REP	110	2

<u>LAWS 1992</u>			<u>LAWS 1997</u>	
<u>Ch.</u>	<u>Sec.</u>	<u>Action</u>	<u>Ch.</u>	<u>Sec.</u>
177	3	REP	110	2
323	6	REP	37	3

<u>LAWS 1995</u>			<u>LAWS 1997</u>	
<u>Ch.</u>	<u>Sec.</u>	<u>Action</u>	<u>Ch.</u>	<u>Sec.</u>
226	7	AMD	367	10
226	8	AMD	367	11
226	9	AMD	367	12
327	2	REP	110	2
335	803	REP	268	2

<u>LAWS 1995 1ST SP. S.</u>			<u>LAWS 1997</u>	
<u>Ch.</u>	<u>Sec.</u>	<u>Action</u>	<u>Ch.</u>	<u>Sec.</u>
18	53	AMD	275	7

<u>LAWS 1995 2ND SP. S.</u>			<u>LAWS 1997</u>	
<u>Ch.</u>	<u>Sec.</u>	<u>Action</u>	<u>Ch.</u>	<u>Sec.</u>
16		ADD	235	802
16		ADD	235	803
16		ADD	235	804
16		ADD	235	805
16		ADD	235	807
16		ADD	235	808
16	108	AMD	187	2
16	327	AMD	46	2
16	713	AMD	235	806
18		ADD	454	1413
18		ADD	454	1606
18		ADD	454	1607
18		ADD	454	1608
18	116	AMD	454	1003
18	145	AMD	454	1012

<u>LAWS 1995 2ND SP. S.</u>			<u>LAWS 1997</u>	
<u>Ch.</u>	<u>Sec.</u>	<u>Action</u>	<u>Ch.</u>	<u>Sec.</u>
18	210	AMD	454	1110
18	213	AMD	454	1113
18	214	AMD	454	1114
18	306	AMD	454	1203

<u>LAWS 1996</u>			<u>LAWS 1997</u>	
<u>Ch.</u>	<u>Sec.</u>	<u>Action</u>	<u>Ch.</u>	<u>Sec.</u>
18	17	REP	376	9
165		ADD	457	610
165		ADD	457	613
165	207	AMD	457	601
165	210	AMD	457	602
165	211	AMD	457	603
165	215	AMD	457	604
165	218	AMD	457	605
165	220	AMD	457	606
165	221	AMD	457	607
165	224	AMD	457	608
165	225	AMD	457	609
165	401	AMD	457	611
165	402	AMD	457	612
165	505	REP	457	614
281	2	REP	274	9
283	106	AMD	454	1001
283	109	AMD	454	1002
283	113	AMD	454	1004
283	114	AMD	454	1005
283	116	AMD	454	1006
283	121	AMD	454	1007
283	124	AMD	454	1008
283	132	AMD	454	1009
283	133	AMD	454	1010
283	135	AMD	454	1011
283	201	AMD	454	1101
283	202	AMD	454	1102
283	203	AMD	454	1103
283	204	AMD	454	1104
283	205	AMD	454	1105
283	206	AMD	454	1106
283	207	AMD	454	1107
283	208	AMD	454	1108
283	209	AMD	454	1109
283	210	AMD	454	1111
283	211	AMD	454	1112
283	212	AMD	454	1115
283	214	AMD	454	1116
283	215	AMD	454	1117
283	216	AMD	454	1118
283	217	AMD	454	1119
283	218	AMD	454	1120
283	220	AMD	454	1121
283	301	AMD	454	1201
283	302	AMD	454	1202

**UNCODIFIED SESSION LAW SECTIONS AFFECTED BY 1997 STATUTES**

<u>LAWS 1996</u>			<u>LAWS 1997</u>		<u>LAWS 1997</u>			<u>LAWS 1997</u>	
<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>
283	304	AMD	454	1204	149	302	AMD	454	302
283	305	AMD	454	1205	149	303	AMD	454	303
283	306	AMD	454	1206	149	308	AMD	454	305
283	402	AMD	454	1301	149	512	AMD	454	505
283	501	AMD	454	1401	149	515	AMD	454	507
283	502	AMD	454	1402	149	610	AMD	454	610
283	504	AMD	454	1403	149	709	AMD	454	701
283	505	AMD	454	1404	149	801	AMD	454	801
283	506	AMD	454	1405	149	803	AMD	454	802
283	507	AMD	454	1406	235		ADD	455	2
283	509	AMD	454	1407	235		ADD	455	3
283	511	AMD	454	1408	235		ADD	455	5
283	512	AMD	454	1409	235	123	AMD	455	4
283	514	AMD	454	1410					
283	515	AMD	454	1411					
283	516	AMD	454	1412					
283	602	AMD	454	1501					
283	603	AMD	454	1502					
283	604	AMD	454	1503					
283	605	AMD	454	1504					
283	606	AMD	454	1505					
283	607	AMD	454	1506					
283	608	AMD	454	1507					
283	609	AMD	454	1508					
283	610	AMD	454	1509					
283	613	AMD	454	1510					
283	701	AMD	454	1601					
283	702	AMD	454	1602					
283	703	AMD	454	1603					
283	705	AMD	454	1604					
283	709	AMD	454	1605					
283	801	AMD	454	1701					
283	802	AMD	454	1702					
283	803	AMD	454	1703					

  

<u>LAWS 1997</u>			<u>LAWS 1997</u>	
<u>Ch.</u>	<u>Sec.</u>	<u>Action</u>	<u>Ch.</u>	<u>Sec.</u>
2	5	REP	3	401
149	103	AMD	454	101
149	118	AMD	454	102
149	127	AMD	454	104
149	149	AMD	454	105
149	151	AMD	454	106
149	207	AMD	454	204
149	208	AMD	454	205
149	211	AMD	454	206
149	212	AMD	454	207
149	213	AMD	454	208
149	218	AMD	454	211
149	220	AMD	454	209
149	221	AMD	454	212
149	222	AMD	454	213
149	225	AMD	454	214

# SUBJECT INDEX OF 1997 STATUTES

Chapter

911

Sheriffs' offices, unclassified position for emergency communications system allowed . . . . . 62

## ACCOUNTABILITY IN GOVERNMENT

State facilities, maintenance and repair strategic plan and reports required for accountability and evaluation of budget requests . . . . . 96

## ACTIONS AND PROCEEDINGS

Counties, actions by or against county to be commenced in county or either of two nearest counties . . . . . 401

University of Washington, claim payment provisions revised . . . . . 288

## ADMINISTRATIVE PROCEDURE (See also REGULATORY REFORM)

Regulatory reform enacted . . . . . 409

Rules, committee to study filing and publication procedures . . . . . 409

Rules, electronic distribution of agency notices authorized and procedures established . . . . . 126

Social and health services department, rule-making procedures revised . . . . . 430

## ADOPTION

Foster parent liaison positions created in department of social and health services, additional foster and adoptive family placements required and facilitated . . 272

Special needs children, interstate agreements to provide adoption assistance authorized . . . . . 31

Support reconsideration program, eligibility criteria revised . . . . . 131

## ADULT FAMILY HOMES

Licensing, limited moratorium . . . . . 392

## ADVERTISING

Limousines, certified business identifier not required for alphabetical listing in telephone directory . . . . . 193

State measures, legal advertising requirements enhanced . . . . . 405

## AGRICULTURE

Agricultural worker housing, exemption of construction or repair costs from sales and use tax, conditions . . . . . 438

Commodity commissions, increased fees authorized . . . . . 303

Cubed hay and alfalfa, business and occupation tax reduction for wholesale sales 384

Dairy waste management, environmental excellence program agreements, voluntary program created to support and encourage innovative environmental measures or strategies . . . . . 381

Fertilizers, commercial fertilizer defined as solid waste under RCW 70.95.030, approval and registration requirements . . . . . 427

Grain elevators and warehouse operations, sales and use tax remittance authorized and study of economic impacts ordered . . . . . 450

Grain facilities, clean air act requirements revised . . . . . 410

Hay or alfalfa cubing excluded from definition of "to manufacture" for business and occupation tax purposes . . . . . 384

Horticultural district fund, transfer of funds to plant pest account . . . . . 227

Livestock identification, provisions and regulatory authority revised . . . . . 356

Noxious weeds, administrative provisions updated and modified . . . . . 353

Pesticide applicators, limited private applicator license pilot project established . 242

Pesticide applicators, recertification standards revised . . . . . 242

## SUBJECT INDEX OF 1997 STATUTES

	Chapter
<b>AGRICULTURE — con't.</b>	
Pesticide registration and licensing, fees revised . . . . .	242
Safety and health, definition of "agriculture" established for purposes of industrial safety and health . . . . .	362
Seed potatoes, growers may submit petition requesting establishment of restricted seed potato production area, procedures . . . . .	176
<b>AGRICULTURE, DEPARTMENT</b>	
Fees, increases authorized . . . . .	303
Pesticide applicators, limited private applicator license pilot project established . . . . .	242
Pesticides, presidents' advisory council appointed to advise director on administration of pesticide laws . . . . .	242
Seed potatoes, growers may submit petition requesting establishment of restricted seed potato production area, procedures . . . . .	176
<b>AIDS</b>	
Crimes related to exposure or transmission of HIV to another person, revised provisions . . . . .	196
HIV, disclosure of offenders' test results to health care administrators or infection control coordinators authorized . . . . .	345
<b>AIR POLLUTION</b>	
Coal-fired thermal electric generating facilities, tax credit and exemption for the purchase and use of air quality devices . . . . .	368
Environmental excellence program agreements, voluntary program created to support and encourage innovative environmental measures or strategies . . . . .	381
Grain facilities, clean air act requirements revised . . . . .	410
Outdoor burning allowed for exclusive purpose of managing storm or flood-related debris, permit required . . . . .	225
<b>ALCOHOL AND DRUG ABUSE</b>	
Child abuse, determination of whether alcohol or drug abuse is contributing factor, social and health services department duties . . . . .	386
<b>ALCOHOLIC BEVERAGES</b>	
Beer, tax rate lowered and funds distributed to border areas . . . . .	451
Credit cards, payment for purchases in liquor stores by credit card authorized . . . . .	148
Fortified wine, restrictions applied to some businesses where sold . . . . .	321
Licenses, administrative provisions and fees revised . . . . .	321
Liquor manufacturers, wine manufacturers licensed to sell on premises may also sell liquors manufactured under their label . . . . .	228
Malt liquor, labeling requirements revised . . . . .	100
Microbreweries, license and fee requirements . . . . .	321
Spirituos liquor, restricted free use allowed . . . . .	39
Wine importers, license and fee requirements . . . . .	321
Wine manufacturers licensed to sell on premises may also sell liquors manufactured under their label . . . . .	228
<b>AMBULANCES</b>	
Volunteer personnel in cities and towns allowed, provisions . . . . .	65
<b>ANIMALS (See also DOGS, WILDLIFE)</b>	
Guide and service dogs, reference changed to dog guides or service animals . . . . .	271
<b>APPELLATE PROCEDURE</b>	
Judge pro tempore appointment of judge whose term expires with cases and other business pending, limitation . . . . .	88

# SUBJECT INDEX OF 1997 STATUTES

	Chapter
<b>ARCHITECTS</b>	
Registration, completion of structured intern training program required for applicants . . . . .	169
<b>ATTORNEY GENERAL</b>	
Hospitals, sale of nonprofit hospital regulated and approval procedures set forth . . . . .	332
State investigators, study group to develop mandatory training and policies and procedures . . . . .	378
<b>AUCTIONS AND AUCTIONEERS</b>	
Motor vehicles, business and occupation tax exemption for wholesale auction receipts . . . . .	4
<b>AUDITORS AND AUDITING</b>	
School audits, superintendent of public instruction authorized to withhold or recover payments to districts based on findings, rule-making authority . . . . .	167
Workers' compensation system, performance audit and operations review established . . . . .	330
<b>AVIATION</b>	
Aircraft fuel tax, licensee bankruptcy filing notification required and payment credit procedures revised . . . . .	183
Aircraft parts, sales and use tax exemption for materials used in design and development, clarification . . . . .	302
<b>AWARDS</b>	
Quality awards council, staff assistance limited and use of public funds prohibited unless authorized by legislature . . . . .	329
<b>BANKS AND BANKING (See also FINANCIAL INSTITUTIONS)</b>	
Compliance review documents, confidentiality established . . . . .	435
Data-match system developed for exchange of information relevant to child support enforcement . . . . .	58
Examination reports and certain information, exemption from public disclosure . . . . .	258
Mutual savings banks, operating expenses limitation repealed . . . . .	91
Statements of account, termination date removed in bank statement rule . . . . .	53
<b>BEEF COMMISSION</b>	
Members, provisions revised . . . . .	363
<b>BICYCLES</b>	
Electric-assisted bicycles, regulation established . . . . .	328
<b>BLIND, STATE SCHOOL</b>	
Assistive technology, educational agencies authorized to rent, sell, or transfer . . . . .	104
<b>BOARDING HOMES</b>	
Clara act, long-term care reorganization and standards of care reform . . . . .	392
<b>BOATS</b>	
Dealers, licenses denied if application is a subterfuge for a person with invalid license . . . . .	432
Licenses, provisions relating to refunds revised . . . . .	22
Licenses, provisions revised . . . . .	432
Registration, exemption for boats owned by nonresidents brought into state for temporary periods, conditions . . . . .	83
Use tax, exemptions specified . . . . .	293

# SUBJECT INDEX OF 1997 STATUTES

	Chapter
<b>BONDS</b>	
General obligation bonds, authority to issue for 1997-99 fiscal biennium and to change related accounts . . . . .	456
Stadium and exhibition center, public stadium authority created and financing provisions for facility construction provided . . . . .	220
<b>BORDER AREAS</b>	
Beer, tax rate lowered and funds distributed to border areas . . . . .	451
<b>BOUNDARIES</b>	
School district boundaries included in expansion of city or town, provisions for transfer to city or town district . . . . .	47
<b>BOUNDARY REVIEW BOARDS</b>	
Per diem for members increased . . . . .	77
<b>BUDGET</b>	
Capital budget, 1997-99 fiscal biennium . . . . .	235, 455
Caseload forecast council created to oversee preparation of and approve official state caseload forecasts . . . . .	168
Counties, provisions regarding management of annual or biennial budgets and payment of judges revised . . . . .	204
Development loan fund, supplemental appropriation authorized . . . . .	187
General obligation bonds, authority to issue for 1997-99 fiscal biennium and to change related accounts . . . . .	456
Operating budget, 1997-99 fiscal biennium . . . . .	149, 454
Performance audits, compliance review and recommendations to be considered in preparation of agency budget . . . . .	372
Transportation budget adopted for period ending June 30, 1999 . . . . .	457
Wildlife and recreation program projects for 1997 authorized . . . . .	46
<b>BUSES (See also PUBLIC TRANSIT)</b>	
School buses, designation of school bus stops as drug-free zones clarified . . . . .	23
School buses, penalties for passing stopped bus doubled . . . . .	80
<b>BUSINESSES</b>	
Contractors, registration provisions revised . . . . .	314
Discount program membership sales, business and occupation tax exemption for out-of-state sales . . . . .	408
Federal employer identification numbers and other federal credentials, state agencies authorized to contract with internal revenue service or other federal agencies to issue . . . . .	51
Health care professions, corporate practice of medicine doctrine . . . . .	390
License suspension, requirements of federal personal responsibility and work opportunity reconciliation act implemented . . . . .	58
Motor vehicle dealers, licenses denied if application is a subterfuge for a person with invalid license . . . . .	432
Small businesses, business and occupation tax credit ranged table created . . . . .	238
<b>CAMPS AND CAMPING</b>	
Nonprofit camps and conference centers, exemptions from business and occupation tax and sales tax . . . . .	388
<b>CANCER</b>	
Nonprofit cancer clinics exempted from property tax, conditions . . . . .	143

# SUBJECT INDEX OF 1997 STATUTES

	Chapter
<b>CAPITOL CAMPUS</b>	
Capitol committee, secretary of state added to membership . . . . .	279
<b>CERTIFICATION AUTHORITIES</b>	
Electronic signatures, requirements for authentication and reliability . . . . .	27
Licensing requirements and procedures . . . . .	27
<b>CHARITABLE ORGANIZATIONS (See also NONPROFIT ORGANIZATIONS)</b>	
Charitable donations for children, distributing organization definition revised to include public health department . . . . .	40
Gambling, requirements for operations revised . . . . .	394
Golfing sweepstakes, permitted activities expanded to include auction in which persons bid on players or teams . . . . .	38
Social service organizations, process to be developed to solicit proposals for funding and colocation with state agency facilities . . . . .	374
<b>CHECKS AND CHECK CASHING</b>	
Bank statement rule, termination date removed . . . . .	53
Examination reports and certain information, exemption from public disclosure . . . . .	258
<b>CHILD ABUSE</b>	
Admission of guilt not required for parent or guardian to complete court-ordered treatment and education requirements . . . . .	344
Alcohol or drug abuse as contributing factor, social and health services department determination and duties . . . . .	386
Alternative response systems services established throughout state . . . . .	386
Disclosure of child welfare records, conditions established . . . . .	305
Law enforcement, eriminal justice training commission to provide training on investigative duties of officers . . . . .	351
Neglect, siblings sharing bedroom because of family financial situation not considered neglect . . . . .	132
Reports, information determined to be unfounded not maintained in files for more than six years, notification of alleged perpetrator . . . . .	282
<b>CHILD SUPPORT</b>	
Enforcement provisions . . . . .	58
Garnishment, revisions set forth to reduce impact on employer . . . . .	296
Indian tribes, cooperative agreements with department of social and health services established . . . . .	386
License suspension, requirements of federal personal responsibility and work opportunity reconciliation act implemented . . . . .	58
<b>CHILDREN (See also JUVENILE OFFENDERS)</b>	
Adoption support reconsideration program, eligibility criteria revised . . . . .	131
Adoption, interstate agreements to provide adoption assistance for special needs children authorized . . . . .	31
At-risk youth, clarifications concerning placement and custody . . . . .	146
Charitable donations for children, distributing organization definition revised to include public health department . . . . .	40
Child abuse or neglect, conditions for disclosure of child welfare records established . . . . .	305
Child abuse, admission of guilt not required for parent or guardian to complete court-ordered treatment and education requirements . . . . .	344
Child protective services, criteria for provision of services revised . . . . .	386
Foster parent liaison positions created in department of social and health services, additional foster and adoptive family placements required and facilitated . . . . .	272

## SUBJECT INDEX OF 1997 STATUTES

	Chapter
<b>CHILDREN (See also JUVENILE OFFENDERS) — con't.</b>	
Kidnappers required to register with local law enforcement upon release from custody . . . . .	113
Parent and child relationship, termination provisions revised . . . . .	280
Siblings sharing bedroom because of family financial situation not considered neglect . . . . .	132
Tobacco products, school district policy mandating prohibition and enforcement required . . . . .	9
Truancy, petition provisions revised . . . . .	68
Victims and witnesses, permission required before address of child or child's parent disclosed . . . . .	283
Youth in crisis, expiration of tax exemptions for construction of new alternative housing extended . . . . .	386
<b>CIGARETTES (See also TOBACCO)</b>	
Littering, penalty established for discarding tobacco product capable of starting a fire . . . . .	159
Minors, school district policy mandating prohibition and enforcement required . .	9
Tax enforcement transferred to liquor control board . . . . .	420
<b>CITIES AND TOWNS (See also LOCAL GOVERNMENT)</b>	
Administrative procedures revised and clarified . . . . .	361
Annexation, requirements for cities planning under chapter 36.70A RCW . . . . .	429
Coal-fired thermal electric generating facilities, agreements with and ownership by public allowed . . . . .	230
Fireworks, fees for public displays and retail sales revised . . . . .	182
Forest practices, local government regulatory authority and duties specified . . . .	173
Growth management, permit timelines revised for local project review . . . . .	396
Hotel/motel tax, uniform standards for local option excise taxation of lodging to provide for promotion of tourism . . . . .	452
Industrial investments and projects of state-wide significance, ombudsman assigned and procedures established to expedite and assist . . . . .	369
Internet service providers, imposition of new taxes or fees on providers restricted	304
School district boundaries included in expansion of city or town, provisions for transfer to city or town district . . . . .	47
Solid waste collection, regulation of services in newly incorporated or annexed areas . . . . .	171
Street, road, or highway projects, assessment reimbursement areas authorized to finance costs . . . . .	158
Surface mining, authority of department of natural resources to modify reclamation permit fees removed . . . . .	413
Surface mining, natural resources department may delegate enforcement authority over provisions in reclamation plans . . . . .	185
Taxes, imposition of new taxes on internet service providers restricted . . . . .	304
Townships, title 45 RCW repealed . . . . .	36
Volunteer ambulance personnel allowed, provisions . . . . .	65
Water-sewer district jurisdiction may be assumed by cities . . . . .	426
<b>CITIZENS COMMISSION ON SALARIES</b>	
Salaries of state elected officials established as of September 1, 1997 . . . . .	458
<b>CIVIL PROCEDURE</b>	
Counties, actions by or against county to be commenced in county or either of two nearest counties . . . . .	401
District court, civil jurisdiction threshold amount increased . . . . .	246

## SUBJECT INDEX OF 1997 STATUTES

CIVIL PROCEDURE — con't.	Chapter
Financial institution voluntary compliance review documents, confidentiality established . . . . .	435
Judgments, administrative duties of county clerks revised . . . . .	358
Judgments, county clerk allowed to collect when county is creditor . . . . .	24
Liens and notices to withhold, department of social and health services electronic service authorized . . . . .	130
Limitation of landowner's liability for injuries to hanggliders and paragliders . . .	26
Limitation of landowner's liability for injuries to skateboarders and other participants in nonmotorized wheeled activities . . . . .	26
Service of process by posting in landlord and tenant disputes authorized . . . . .	86
Service of process to individual may be made to defendant by leaving copy at usual mailing address . . . . .	380
 <b>CIVIL SERVICE</b>	
Sheriffs' offices, 911 unclassified position allowed . . . . .	62
Social and health services department, implementation of social worker V classification . . . . .	386
 <b>CODE REVISER</b>	
Regulatory reform enacted, duties of code reviser . . . . .	409
Rules, committee to study filing and publication procedures . . . . .	409
 <b>COLLECTION AGENCIES</b>	
Government use of collection agency, additional fee for services charged to debt	387
 <b>COLLEGES AND UNIVERSITIES (See also COMMUNITY AND TECHNICAL COLLEGES)</b>	
Advanced college tuition payment program established, implementation and administration . . . . .	289
Education technology revolving fund created for development and operation of educational information technology services . . . . .	180
Educational trust fund, prior fiscal periods rather than biennia referenced for refunds and recoveries . . . . .	269
Gender equity in higher education, provisions extended . . . . .	5
K-20 technology account created for receipts and disbursements for telecommunications system . . . . .	180
Retirement system, coverage continued for members who serve as legislators . . .	123
State support of higher education, information to be distributed to students annually . . . . .	48
Tuition fees, University of Washington medical school students from Wyoming exempt from nonresident tuition differential . . . . .	50
Tuition fees, home tuition program established to equalize in-state and out-of-state tuition . . . . .	433
Tuition fees, increases authorized . . . . .	403
Tuition waivers for members of national guard and all eligible state employees, provisions revised . . . . .	211
Tuition waivers, fiscal flexibility increased . . . . .	207
University of Washington, medical school students from Wyoming added to list of those exempt from nonresident tuition differential . . . . .	50
University of Washington, tuition fees increases authorized, percentage of revenue to assist needy resident students . . . . .	403
 <b>COLUMBIA RIVER</b>	
Moratorium on new appropriations of waters prohibited . . . . .	439

# SUBJECT INDEX OF 1997 STATUTES

	Chapter
<b>COMMUNICABLE DISEASES</b>	
Correctional facilities, policies and procedures for distribution of prevention protocols to staff required . . . . .	345
<b>COMMUNITY AND TECHNICAL COLLEGES (See also COLLEGES AND UNIVERSITIES)</b>	
Advanced college tuition payment program established, implementation and administration . . . . .	289
Attendance incentive program established for employees and state board members entitled to receive sick leave . . . . .	232
Education technology revolving fund created for development and operation of educational information technology services . . . . .	180
Educational trust fund, prior fiscal periods rather than biennia referenced for refunds and recoveries . . . . .	269
Employees and state board members, attendance incentive program established for employees and members entitled to receive sick leave . . . . .	232
Fees, collected building fees to be paid to state treasurer . . . . .	42
Gender equity in higher education, provisions extended . . . . .	5
K-20 technology account created for receipts and disbursements for telecommunications system . . . . .	180
Merger of community and technical colleges, board recommendations adopted . .	281
Retirement system, coverage continued for members who serve as legislators . .	123
Sick leave buyout, attendance incentive program established for employees entitled to receive sick leave . . . . .	232
State support of higher education, information to be distributed to students annually . . . . .	48
Tuition fees, home tuition program established to equalize in-state and out-of-state tuition . . . . .	433
Tuition fees, increases authorized . . . . .	403
Tuition waivers for members of national guard and all eligible state employees, provisions revised . . . . .	211
Tuition waivers, fiscal flexibility increased . . . . .	207
<b>COMMUNITY AND TECHNICAL COLLEGES, BOARD</b>	
Merger of community and technical colleges, board recommendations adopted . .	281
Sick leave buyout, attendance incentive program established for members . . . . .	232
<b>COMMUNITY CORRECTIONS</b>	
Work release, private organizations contracting with department to operate facilities required to go through siting process . . . . .	348
<b>COMMUNITY PROPERTY</b>	
Individual retirement account, transfer of nonaccount holder spouse's community property interest at death . . . . .	20
<b>COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT, DEPARTMENT</b>	
Associate development organizations, department to contract with to support and coordinate community and economic development services . . . . .	60
Development loan fund, supplemental appropriation authorized . . . . .	187
Industrial investments and projects of state-wide significance, ombudsman assigned and procedures established to expedite and assist . . . . .	369
Long-term care ombudsman program, department to adopt rules . . . . .	194
Long-term care services, study to coordinate single umbrella for omhuds and advocacy services . . . . .	392
Rural development council established, membership and duties . . . . .	377
Washington heritage register, qualifications for nominations to register . . . . .	145

# SUBJECT INDEX OF 1997 STATUTES

	Chapter
<b>COMMUTING</b>	
Commuter trip reduction plan enhanced . . . . .	250
Ride sharing, definitions and qualifications revised . . . . .	95
<b>COMPUTERS</b>	
Software, requirement for study of property tax exemptions and valuation rules eliminated . . . . .	175
<b>CONDOMINIUMS</b>	
Public offering statement to include permitted uses and use restrictions . . . . .	400
<b>CONSERVATION</b>	
Wildlife habitat improvement or forage, sales of certain materials to specified parties exempt from sales tax . . . . .	127
<b>CONSERVATION DISTRICTS</b>	
Fish and habitat restoration and protection and water quantity and quality improvements, property tax exemption . . . . .	295
<b>CONSPIRACY</b>	
Conspiring with law enforcement officers or government agents not intending to commit a crime not a defense to criminal conspiracy charges . . . . .	17
<b>CONSUMER PROTECTION</b>	
Life insurance, policy illustration standards provided for consumer protection and education . . . . .	313
Real estate brokerage relationship between licensee and clients, revised provisions . . . . .	217
<b>CONTRACTORS</b>	
Registration provisions revised . . . . .	314
<b>CONTRACTS</b>	
Community, trade, and economic development department to contract with associate development organizations to provide services . . . . .	60
Personal service contracts, consultant contracts with additional charges for access to data prohibited . . . . .	373
Public officers and employees, compensation for activities outside of official duties, provisions revised . . . . .	318
Public works, alternative contracting procedures adopted . . . . .	376
School districts allowed to contract with other public and private entities for goods and services, conditions . . . . .	267
<b>CONVENTION AND TRADE CENTERS</b>	
Stadium and exhibition center, public stadium authority created and financing provisions for facility construction provided . . . . .	220
<b>CORPORATIONS (See also NONPROFIT CORPORATIONS)</b>	
Meetings, shareholder consent procedures revised . . . . .	19
Naming conventions clarified . . . . .	12
State investment board authorized to create public entities to manage investments . . . . .	359
<b>CORRECTIONS, DEPARTMENT</b>	
Kidnappers required to register with local law enforcement upon release from custody . . . . .	113
Mentally ill offenders, pilot program created to provide postrelease mental health care and housing . . . . .	342
Offender funds, deductions clarified . . . . .	165
Sex offenders, consistent approach to risk assessment to be developed . . . . .	364

## SUBJECT INDEX OF 1997 STATUTES

	Chapter
<b>CORRECTIONS, DEPARTMENT — con't.</b>	
Work release facilities, private organizations contracting with department to operate facilities required to go through siting process . . . . .	348
<b>COSMETOLOGY</b>	
Advisory board, membership and duties revised . . . . .	179
Schools and salons or shops, inspections required . . . . .	178
<b>COUNTIES (See also LOCAL GOVERNMENT)</b>	
Actions by or against county to be commenced in county or either of two nearest counties . . . . .	401
Budget, provisions regarding management of annual or biennial budgets and payment of judges revised . . . . .	204
Coal-fired thermal electric generating facilities, agreements with and ownership by public allowed . . . . .	230
Commuting, transportation demand management enhanced . . . . .	250
Correctional facilities, consortium of counties allowed to construct or acquire shared facility, provisions revised . . . . .	349
County public health account, distribution of funds modified . . . . .	333
Distressed rural counties, assistance provided through business programs, tax incentives, and infrastructure development . . . . .	366
Fireworks, fees for public displays and retail sales revised . . . . .	182
Flood damage repair and reduction, cooperative agreements to allow work to be done without specific project permits, conditions . . . . .	385
Forest board lands, expenditures of revenues revised . . . . .	370
Forest practices, local government regulatory authority and duties specified . . . .	173
Growth management, counties allowed to establish industrial land banks, definition and conditions . . . . .	402
Growth management, monitoring and evaluation program required to determine progress towards meeting planning goals . . . . .	429
Growth management, permit timelines revised for local project review . . . . .	396
Hotel/motel tax, uniform standards for local option excise taxation of lodging to provide for promotion of tourism . . . . .	452
Indigent veterans, county limit on burial costs increased . . . . .	286
Industrial investments and projects of state-wide significance, ombudsman assigned and procedures established to expedite and assist . . . . .	369
Judgments, clerk allowed to collect civil judgments, conditions . . . . .	24
Master planned resorts, authorized uses . . . . .	382
Municipal research council, membership expanded and funding provisions established . . . . .	437
Road engineer, nonresident engineer allowed . . . . .	147
Road funds may be used for insurance and risk management programs . . . . .	189
Rural arterial programs, eligibility provisions revised . . . . .	81
Stadium and exhibition center, public stadium authority created and financing provisions for facility construction provided . . . . .	220
Street, road, or highway projects, assessment reimbursement areas authorized to finance costs . . . . .	158
Surface mining, authority of department of natural resources to modify reclamation permit fees removed . . . . .	413
Surface mining, natural resources department may delegate enforcement authority over provisions in reclamation plans . . . . .	185
Transportation, submittal date for six-year transportation program revised . . . .	188
Treasury management, revised provisions . . . . .	393
Water resource management and watershed planning, local planning authorized . .	442

# SUBJECT INDEX OF 1997 STATUTES

	Chapter
<b>COUNTY ASSESSORS</b>	
Maps to indicate parcel configuration for lands in county, assessor's duties to prepare and maintain updates . . . . .	135
<b>COUNTY AUDITORS</b>	
Election review procedures modified . . . . .	284
<b>COUNTY CLERKS</b>	
Collection of civil judgments, conditions . . . . .	24
Judgments, administrative duties revised . . . . .	358
<b>COUNTY LEGISLATIVE AUTHORITY</b>	
On-site septic systems, duty of authority acting as board of health . . . . .	447
<b>COUNTY TREASURERS</b>	
County treasury management, revised provisions . . . . .	393
<b>COURT OF APPEALS</b>	
Judge pro tempore appointment of judge whose term expires with cases and other business pending, limitation . . . . .	88
<b>COURTS (See also COURT OF APPEALS, DISTRICT COURT, MUNICIPAL COURT, SUPERIOR COURT, SUPREME COURT)</b>	
Administrator for the courts, duties revised and references to former judicial council removed . . . . .	41
Guardians, administrator for the courts to develop system for professional guardian certification . . . . .	312
Judicial council, references removed and duties of administrator for the courts revised . . . . .	41
Legal financial obligations, payment and recovery provisions clarified . . . . .	121
<b>COURTS, OFFICE OF THE ADMINISTRATOR</b>	
Duties revised and references to former judicial council removed . . . . .	41
Guardians, administrator to develop system for professional guardian certification . . . . .	312
<b>CREDIT</b>	
Letters of credit, uniform commercial code provisions revised . . . . .	56
<b>CREDIT CARDS</b>	
Liquor stores, payment for purchases by credit cards authorized . . . . .	148
<b>CREDIT UNIONS</b>	
Credit union act modernized, clarified, and reorganized . . . . .	397
Examination reports and certain information, exemption from public disclosure . . . . .	258
<b>CRIMES (See also CRIMINAL OFFENDERS, SENTENCING, SEX OFFENSES AND OFFENDERS)</b>	
Assault of health care provider punishable as felony . . . . .	172
Bear baiting prohibited, penalties for violations . . . . .	1
Child rape added to persistent offender list . . . . .	339
Community custody, sex offender provisions revised . . . . .	69
Criminal conspiracy, conspiring with law enforcement officers or government agents not intending to commit a crime not a defense to charges . . . . .	17
Explosives and fake bombs, penalties for malicious use or placement increased . . . . .	120
Explosives, unauthorized manufacture, transport, storage, sale, and possession prohibited . . . . .	182
First degree theft of nonprofit organization, three year time limit for prosecution established . . . . .	174

## SUBJECT INDEX OF 1997 STATUTES

CRIMES (See also CRIMINAL OFFENDERS, SENTENCING, SEX OFFENSES AND OFFENDERS) — con't.	Chapter
HIV, provisions revised regarding crimes related to exposure or transmission to another person . . . . .	196
Harassment, imminence of threat to bodily harm included in definition of crime of harassment . . . . .	105
Insurance antifraud plans, submission requirements clarified . . . . .	92
Intimidation of witnesses, provisions revised . . . . .	29
Methamphetamine, penalties for crimes involving increased . . . . .	71
Motor vehicle dealers, prohibited practices revised . . . . .	153
Motor vehicle offenses involving death, statute of limitations removed for certain crimes . . . . .	97
Motor vehicles, negligent driving definitions and penalties . . . . .	66
Murder and manslaughter, sentencing provisions revised . . . . .	365
Rape of a child, restitution requirements . . . . .	52
Rental property theft, definition and penalty . . . . .	346
Sex offenders, community custody provisions revised . . . . .	69
State parks, provisions relating to offenses in parks revised . . . . .	214
Theft of rental property, definition and penalty . . . . .	346
Two strikes you're out, child rape added to list . . . . .	339
Wildlife, penalties for illegal killing and possession of certain species increased . . . . .	226
Workers compensation premium payment evasion, class C felony . . . . .	324
Workers' compensation, representative prohibited from charging a percentage of benefits for acting as representative, penalty . . . . .	336
 <b>CRIMINAL JUSTICE TRAINING COMMISSION</b>	
Child abuse and neglect, annual training focusing on investigative duties of law enforcement required . . . . .	351
Correctional training standards and education board created to review programs and standards . . . . .	351
Law enforcement training standards and education board created to review programs and standards . . . . .	351
 <b>CRIMINAL OFFENDERS (See also SEX OFFENSES AND OFFENDERS)</b>	
Definitions of "offender" and "persistent offender" revised . . . . .	70
HIV, disclosure of offenders' test results to health care administrators or infection control coordinators authorized . . . . .	345
Kidnappers required to register with local law enforcement upon release from custody . . . . .	113
Mentally ill offenders, pilot program created to provide postrelease mental health care and housing . . . . .	342
Persistent offenders, child rape added to list for persistent offender sentencing . . . . .	339
Sentencing, offender may be required to perform affirmative acts to monitor compliance with conditions of sentence . . . . .	144
Sex offenders, consistent approach to risk assessment to be developed . . . . .	364
Sex offenders, risk level classification and public notification procedures revised . . . . .	364
Sex offenders, sentences and supervision enhanced . . . . .	340
 <b>CRIMINAL PROCEDURE</b>	
Crime victim advocate allowed to be present at any judicial proceedings related to acts committed against victim . . . . .	343
Criminal conspiracy, conspiring with law enforcement officers or government agents not intending to commit a crime not a defense to charges . . . . .	17
Definitions of "offender" and "persistent offender" revised . . . . .	70
Intimidation of witnesses, provisions revised . . . . .	29

# SUBJECT INDEX OF 1997 STATUTES

	Chapter
<b>CRIMINAL PROCEDURE — con't.</b>	
Kidnappers required to register with local law enforcement upon release from custody . . . . .	113
Legal financial obligations, payment and recovery provisions clarified . . . . .	121
Motor vehicle offenses involving death, statute of limitations removed for certain crimes . . . . .	97
Sentencing, offender may be required to perform affirmative acts to monitor compliance with conditions of sentence . . . . .	144
<b>DAY CARE</b>	
Child care program established for persons receiving public assistance . . . . .	58
<b>DEAF, STATE SCHOOL</b>	
Assistive technology, educational agencies authorized to rent, sell, or transfer . .	104
<b>DEATH</b>	
Child abuse or neglect, conditions for disclosure of child welfare records established . . . . .	305
<b>DEBTORS</b>	
Secured transactions, liability for deficiency after default . . . . .	138
<b>DENTAL HYGIENISTS</b>	
Dental offices, ratio of hygienists to dentists revised . . . . .	37
Scope of practice expanded . . . . .	37
<b>DENTISTS AND DENTISTRY</b>	
Hygienists, ratio of supervision revised . . . . .	37
<b>DEVELOPMENTALLY DISABLED</b>	
Supported employment programs, state agencies to develop and implement program . . . . .	287
<b>DIABETES</b>	
Diabetes cost reduction act adopted . . . . .	276
<b>DIGITAL SIGNATURES</b>	
Electronic signatures, requirements for authentication and reliability . . . . .	27
<b>DISABLED PERSONS</b>	
Assistive technology, educational agencies authorized to rent, sell, or transfer . .	104
Guide and service dogs, reference changed to dog guides or service animals . . .	271
Housing, task force created to study alternative financing techniques for housing for low-income senior and disabled persons . . . . .	383
Property tax, special assessment redefined for purposes of tax deferral . . . . .	93
<b>DISCRIMINATION</b>	
Gender equity in higher education, provisions extended . . . . .	5
<b>DISTANCE EDUCATION (See also COLLEGES AND UNIVERSITIES, COMMUNITY AND TECHNICAL COLLEGES, SCHOOLS AND SCHOOL DISTRICTS)</b>	
Education technology revolving fund created for development and operation of educational information technology services . . . . .	180
K-20 technology account created for receipts and disbursements for telecommunications system . . . . .	180

# SUBJECT INDEX OF 1997 STATUTES

	Chapter
<b>DISTRESSED AREAS</b>	
Rural counties, assistance provided through business programs, tax incentives, and infrastructure development . . . . .	366
Rural natural resources impact areas, assistance reauthorized and provisions relating to revised . . . . .	367
<b>DISTRICT COURT</b>	
Jurisdiction over municipal court defendant incarcerated at county jail facility but outside city limits, interlocal agreements . . . . .	25
Jurisdiction, civil case threshold amount increased . . . . .	246
Jurisdiction, courts of limited jurisdiction given concurrent jurisdiction over certain juvenile offenses . . . . .	341
Small claims court, appeals and operating procedures revised . . . . .	352
<b>DOGS (See also ANIMALS)</b>	
Guide and service dogs, reference changed to dog guides or service animals . . .	271
<b>DOMESTIC VIOLENCE</b>	
Shelters, local funding requirement eliminated . . . . .	160
<b>DRIVERS' LICENSES</b>	
Driving under the influence, ignition interlock provisions revised . . . . .	229
Driving without a valid license, penalty . . . . .	66
Juvenile agricultural drivers, permit authorizes holder to participate in school traffic safety classes . . . . .	82
<b>DRIVING UNDER THE INFLUENCE</b>	
Ignition interlocks, provisions revised . . . . .	229
<b>DRUGS</b>	
Drug-free zones authorized around public housing facilities . . . . .	30
Drug-free zones, designation of school bus stops clarified . . . . .	23
Metbamphetamine, penalties for crimes involving increased . . . . .	71
<b>EASTERN STATE HOSPITAL</b>	
Lease of property for correctional facilities, terms of lease specified . . . . .	349
<b>ECOLOGY, DEPARTMENT</b>	
Appeals, computation of time for when actions must be commenced . . . . .	125
Environmental excellence program agreements, voluntary program created to support and encourage innovative environmental measures or strategies . . .	381
Environmental technology certification, information from certification programs and demonstration activities used in making permit or regulatory decisions	419
Industrial investments and projects of state-wide significance, procedures estab- lished to expedite and assist . . . . .	369
Landscape management plan pilot projects authorized to develop long-term multispecies management in relation to water quality protection . . . . .	290
Marine safety office, powers and duties transferred to department . . . . .	449
Metals mining and milling fees, collection duties transferred to department . . .	170
Public water supply systems, construction schedule and extension considerations amended . . . . .	445
Water conservancy board, formation and duties regarding transfer of water . . .	441
Water rights, claim filing period reopened, notice requirements and department duties enumerated . . . . .	440
Water rights, department to assist applicant denied request in obtaining or developing adequate supply . . . . .	443

# SUBJECT INDEX OF 1997 STATUTES

	Chapter
<b>ECOLOGY, DEPARTMENT — con't.</b>	
Water rights, evaluation of application to take into consideration benefits resulting from resource management techniques . . . . .	360
Water rights, moratorium on new appropriations of Columbia river prohibited . .	439
Water, reclaimed water demonstration projects authorized . . . . .	355
Watershed planning and water resource management, local planning authorized .	442
<b>ECONOMIC DEVELOPMENT</b>	
Associate development organizations, department to contract with to support and coordinate community and economic development services . . . . .	60
Development loan fund, supplemental appropriation authorized . . . . .	187
Industrial investments and projects of state-wide significance, procedures established to expedite and assist . . . . .	369
Industrial land banks, counties allowed to establish, definition and conditions . .	402
Rural development council established, membership and duties . . . . .	377
<b>ECONOMIC DEVELOPMENT FINANCE AUTHORITY</b>	
Projects, authority to finance expanded . . . . .	257
<b>ECONOMIC FORECASTS</b>	
Caseload forecast council created to oversee preparation of and approve official state caseload forecasts . . . . .	168
<b>EDUCATION, STATE BOARD</b>	
Education savings account created . . . . .	261
High school credit equivalencies for college credits adopted . . . . .	222
<b>ELECTIONS</b>	
County review procedures modified . . . . .	284
Public hospital districts, elections to establish commissioner districts and to elect commissioners revised . . . . .	99
State measures, legal advertising requirements enhanced . . . . .	405
<b>ELECTRIC UTILITIES</b>	
Coal-fired thermal electric generating facilities, agreements with and ownership by public allowed . . . . .	230
Coal-fired thermal electric generating facilities, tax credit and exemption for the purchase and use of air quality devices . . . . .	368
Securities, utilities and transportation commission authorized to exempt from regulation . . . . .	15
<b>ELECTRICITY</b>	
Electricians, certification requirements and technical or trade school training provisions revised . . . . .	309
<b>ELEVATORS</b>	
Private residence conveyances, inspection requirements . . . . .	216
<b>EMERGENCY MEDICAL TECHNICIANS</b>	
Volunteer ambulance personnel in cities and towns allowed, provisions . . . . .	65
<b>EMERGENCY SERVICE COMMUNICATION DISTRICTS</b>	
911 unclassified position in sheriffs' offices allowed . . . . .	62
<b>EMERGENCY SERVICES</b>	
Disaster response account created . . . . .	251
Emergency management, statutes corrected and revised . . . . .	49
Mutual aid and interlocal agreements, implementation procedures established . .	195
Trauma care, additional funds provided . . . . .	331

# SUBJECT INDEX OF 1997 STATUTES

	Chapter
<b>EMPLOYER AND EMPLOYEE</b>	
Family leave act, provisions revised to achieve consistency with federal requirements . . . . .	16
Garnishment, revisions set forth to reduce impact on employer . . . . .	296
<b>EMPLOYMENT</b>	
Overtime compensation revised for commissioned salespersons . . . . .	203
Public hospital districts, employment of commissioner's spouse allowed, conditions . . . . .	98
<b>EMPLOYMENT SECURITY, DEPARTMENT</b>	
Forms, single form for unemployment insurance and workers' compensation filing created . . . . .	325
Master license system, agencies authorized to contract with internal revenue service and other federal agencies to issue federal employee identification numbers or other federal credentials . . . . .	51
Records, social and health services department allowed access to employer wage files for specified purposes, conditions . . . . .	58
<b>ENGINEERS (See also SURVEYORS)</b>	
Board of engineers and land surveyors, duties expanded and provisions regarding registrants and companies revised . . . . .	247
County road engineer, nonresident allowed . . . . .	147
<b>ENVIRONMENT</b>	
Advanced mitigation, department of transportation account created to fund watershed approach projects . . . . .	140
Environmental excellence program agreements, voluntary program created to support and encourage innovative environmental measures or strategies . . . . .	381
Environmental technology certification, information from certification programs and demonstration activities used in making permit or regulatory decisions . . . . .	419
Wildlife habitat improvement or forage, sales of certain materials to specified parties exempt from sales tax . . . . .	127
<b>ESTATES (See also PROBATE)</b>	
Individual retirement account, transfer of nonaccount holder spouse's community property interest at death . . . . .	20
Probate, provisions updated . . . . .	252
<b>ETHICS IN GOVERNMENT</b>	
Contracts and grants, compensation for activities outside of official duties, provisions revised . . . . .	318
Legislative ethics board, political activities of citizen members restricted . . . . .	11
<b>EXPLOSIVES</b>	
Malicious use or placement of explosives and fake bombs, penalties increased . . . . .	120
Unauthorized manufacture, transport, storage, sale, and possession prohibited . . . . .	182
<b>FAMILY LIFE</b>	
Child abuse, alternative response systems services established throughout state . . . . .	386
Siblings sharing bedroom because of family financial situation not considered neglect . . . . .	132
<b>FARMS</b>	
Juvenile agricultural drivers, permit authorizes holder to participate in school traffic safety classes . . . . .	82

## SUBJECT INDEX OF 1997 STATUTES

FARMS — con't.	Chapter
Seed potatoes, growers may submit petition requesting establishment of restricted seed potato production area, procedures . . . . .	176
Wildlife habitat improvement or forage, sales of certain materials to specified parties exempt from sales tax . . . . .	127
<b>FEES</b>	
Agricultural commodity commissions and department of agriculture, increased fees authorized . . . . .	303
Biosolids, permit fees authorized to fund management program . . . . .	398
Collection agencies used to collect debts for government, additional fee for services charged to debt . . . . .	387
Community and technical colleges, collected building fees to be paid to state treasurer . . . . .	42
Courts, payment and recovery provisions regarding legal financial obligations clarified . . . . .	121
Liquor licenses, revisions . . . . .	321
Local government fees for public displays and retail sales revised . . . . .	182
Medical renewal fee to replace medical license renewal fee and medical disciplinary assessment fee . . . . .	79
Metals mining and milling fees, collection duties transferred to department of ecology . . . . .	170
Motor vehicle licenses, provisions relating to refund of fees revised . . . . .	22
Motor vehicles, certificate of ownership and off-road vehicle permit fees increased and issuance provisions revised . . . . .	241
Pesticide registration and licensing, fees revised . . . . .	242
State parks reservation fees, disabled veterans exempted . . . . .	74
Surface mining, authority of department of natural resources to modify reclamation permit fees removed . . . . .	413
Trauma care system, fee imposed on sale or lease of vehicle to fund . . . . .	331
Vital records, increased fees for copies to fund death investigations account . . . . .	223
<b>FERRIES</b>	
Charter use of ferries authorized, provisions and procedures . . . . .	323
Employees, interest on retroactive pay increases . . . . .	436
Hazardous materials, conditions for use of ferries to transport allowed . . . . .	323
<b>FERTILIZERS</b>	
Commercial fertilizer defined as solid waste under RCW 70.95.030, approval and registration requirements . . . . .	427
<b>FINANCIAL INSTITUTIONS (See also BANKS AND BANKING)</b>	
Compliance review documents, confidentiality established . . . . .	435
Data-match system developed for exchange of information relevant to child support enforcement . . . . .	58
Examination reports and certain information, exemption from public disclosure . . . . .	258
Mutual savings banks, operating expenses limitation repealed . . . . .	91
<b>FINANCIAL INSTITUTIONS, DEPARTMENT</b>	
Credit union act modernized, clarified, and reorganized . . . . .	397
RCW technical corrections affecting department adopted . . . . .	101
<b>FINANCIAL MANAGEMENT, OFFICE</b>	
Caseload forecast council created to oversee preparation of and approve official state caseload forecasts . . . . .	168

# SUBJECT INDEX OF 1997 STATUTES

	Chapter
<b>FIRE FIGHTERS</b>	
Fire fighting technical review committee established . . . . .	208
<b>FIRE PROTECTION</b>	
Explosives, unauthorized manufacture, transport, storage, sale, and possession prohibited . . . . .	182
Tobacco products, penalty established for discarding tobacco products capable of starting a fire . . . . .	159
<b>FIRE PROTECTION DISTRICTS</b>	
Commissioners, decrease in number allowed, procedures . . . . .	43
<b>FIREARMS</b>	
Carrying firearms unloaded in opaque case or secure wrapper, requirements removed . . . . .	200
School districts authorized to suspend student for up to one year, conditions . . .	265
<b>FIREWORKS</b>	
Explosives, unauthorized manufacture, transport, storage, sale, and possession of explosives that are not fireworks prohibited . . . . .	182
Licensing and permit provisions modified . . . . .	182
Local government fees for public displays and retail sales revised . . . . .	182
<b>FISH (See also SALMON, SHELLFISH)</b>	
Fish passage barriers, task force to recommend program to identify and remove .	389
Fisheries enhancement and habitat restoration, funding through regional fisheries enhancement salmonid recovery account established . . . . .	389
Habitat incentives program, agreements with private landowners to enhance habitat on landowner's property . . . . .	425
Habitat restoration and protection and water quantity and quality improvements, property tax exemption . . . . .	295
Landscape management plan pilot projects authorized to develop long-term multispecies management in relation to water quality protection . . . . .	290
Licenses, free for nonresidents under age fifteen . . . . .	395
<b>FISH AND WILDLIFE COMMISSION</b>	
Fishery licenses, number of commercial license alternate operators may be increased by rule . . . . .	421
<b>FISH AND WILDLIFE, DEPARTMENT</b>	
Aquatic lands, Stillaguamish river lands transferred from department of natural resources to department of fish and wildlife . . . . .	209
Eastern Washington pheasant enhancement program created, procedures . . . . .	422
Fish passage barriers, task force to recommend program to identify and remove .	389
Fisheries enhancement and habitat restoration, funding through regional fisheries enhancement salmonid recovery account established . . . . .	389
Habitat incentives program, agrcements with private landowners to enhance habitat on landowner's property . . . . .	425
Landscape management plan pilot projects authorized to develop long-term multispecies management in relation to water quality protection . . . . .	290
Salmon and steelhead, seasonal harvest report required . . . . .	414
Small scale mining and prospecting, department to develop rules applicable to recreational mining and methods requiring approval . . . . .	415

# SUBJECT INDEX OF 1997 STATUTES

	Chapter
<b>FISHING, COMMERCIAL (See also SALMON)</b>	
Crab fishing, Dungeness crab--Puget Sound fishery licensing provisions revised .	233
Crab fishing, Dungeness crab--coastal fishery licenses, transfer fee established . .	418
Crab fishing, Dungeness crab-coastal fishery license renewal surcharge assessed	418
Crab fishing, delivery of crab from California or Oregon between February 15 and September 15 prohibited . . . . .	418
Crab fishing, number of persons eligible for Dungeness crab--Puget Sound licenses reduced . . . . .	115
Licenses, number of alternate operators may be increased by fish and wildlife commission rule . . . . .	421
Licenses, suspension for noncompliance with child support orders . . . . .	58
Salmon licenses, renewal provision allowed for missing a season . . . . .	76
<b>FISHING, RECREATIONAL (See also SALMON)</b>	
Licenses, annual surcharge imposed . . . . .	197
Licenses, free for nonresidents under age fifteen . . . . .	395
Licenses, suspension for noncompliance with child support orders . . . . .	58
<b>FLOOD CONTROL</b>	
Emergency flood damage repair and reduction, cooperative agreements to allow work to be done without specific project permits, conditions . . . . .	385
<b>FOOD STAMPS</b>	
Food assistance established for needy legal immigrants ineligible for federal assistance . . . . .	57
<b>FOREST LAND</b>	
Forest board lands, county expenditures of revenues revised . . . . .	370
Property tax, current use provisions revised regarding transfer of property for conservation purposes and regarding land affected by government action . .	299
State forest lands, direct sale of timber without prior advertising allowed, condi- tions . . . . .	116
Trust lands, commissioner to provide reports to beneficiaries . . . . .	448
<b>FOREST PRACTICES (See also TIMBER AND TIMBER INDUSTRIES)</b>	
Fish and wildlife habitat incentives program, conditions for consideration in evaluating landowner's property for permit . . . . .	425
Landscape management plan pilot projects authorized to develop long-term multispecies management in relation to water quality protection . . . . .	290
Local government regulatory authority and duties specified . . . . .	173
<b>FOREST PRACTICES APPEALS BOARD</b>	
Compensation provisions revised . . . . .	423
<b>FOSTER CARE</b>	
Foster parent liaison positions created in department of social and health services, additional foster and adoptive family placements required and facilitated . .	272
<b>FUELS</b>	
Licensing department licensees, bankruptcy filing notification required and payment credit procedures revised . . . . .	183
<b>FUNERALS</b>	
Veterans, county limit on burial costs for indigent veterans increased . . . . .	286

# SUBJECT INDEX OF 1997 STATUTES

	Chapter
<b>GAMBLING (See also LOTTERY)</b>	
Charitable or nonprofit organizations, requirements for operations revised . . . . .	394
Seizure and forfeiture of gambling devices, provisions revised . . . . .	78, 128
Social card games, provisions revised . . . . .	118
<b>GANGS</b>	
Criminal gang activity, definitions and penalties . . . . .	266
Schools, rejection of nonresident application allowed for students with record of disruptive behavior or gang activity . . . . .	265
<b>GARNISHMENT</b>	
Revisions set forth to reduce impact of wage garnishment on employers . . . . .	296
<b>GAS COMPANIES</b>	
Securities, utilities and transportation commission authorized to exempt from regulation . . . . .	15
<b>GENDER</b>	
Higher education gender equity, provisions extended . . . . .	5
<b>GENERAL ADMINISTRATION, DEPARTMENT</b>	
Facilities maintenance and repair strategic plan and reports required for accountability and evaluation of budget requests . . . . .	96
Leases of up to ten years authorized . . . . .	117
<b>GROWTH MANAGEMENT (See also LAND USE PLANNING)</b>	
Agricultural lands with long-term commercial significance, planning provisions revised . . . . .	429
Cities and towns, annexation requirements . . . . .	429
Compensatory mitigation, innovative measures authorized to mitigate impacts of development projects . . . . .	424
Counties allowed to establish industrial land banks, definition and conditions . . . . .	402
Counties, monitoring and evaluation program required to determine progress towards meeting planning goals . . . . .	429
Growth management act, provisions revised and expanded . . . . .	429
Hearings boards, duties and procedures revised . . . . .	429
Local project review, permit timelines revised . . . . .	396
Master planned resorts, authorized uses . . . . .	382
Public participation in planning, notice requirements established . . . . .	429
Rural areas, planning provisions revised . . . . .	429
<b>GUARDIANSHIP</b>	
Certification, administrator for the courts to develop system for professional guardian certification . . . . .	312
<b>HARASSMENT (See also CRIMES)</b>	
Imminence of threat to bodily harm included in definition of crime of harassment . . . . .	105
<b>HAZARDOUS MATERIALS</b>	
Model toxics control act policy advisory committee recommendations implemented . . . . .	406
Transport on ferries allowed, conditions . . . . .	323
<b>HAZARDOUS WASTE</b>	
Environmental excellence program agreements, voluntary program created to support and encourage innovative environmental measures or strategies . . . . .	381

# SUBJECT INDEX OF 1997 STATUTES

	Chapter
<b>HEALTH CARE</b>	
Basic health plan revised	337
Basic health plan, eligibility for persons confined to or residing in government-operated institutions	335
Diabetes cost reduction act adopted	276
Health care policy board abolished	274
Insurance, basic health plan revised	337
Insurance, consumer assistance and insurance market stabilization act created	231
Insurance, definition of "health plan" or "health benefit plan" revised	55
Insurance, mandated benefit necessity review procedures established	412
<b>HEALTH CARE FACILITIES</b>	
Cancer clinics, nonprofit clinics exempted from property tax, conditions	143
Kidney dialysis centers, provisions revised	129
Medical gas piping installer, certificate of competency and endorsement required	326
<b>HEALTH CARE POLICY BOARD</b>	
Abolished	274
<b>HEALTH CARE PROFESSIONS</b>	
Assault of health care provider punishable as felony	172
Corporate practice of medicine doctrine revised	390
Health professions account and medical disciplinary account merged	79
License suspension, requirements of federal personal responsibility and work opportunity reconciliation act implemented	58
Naturopaths defined as health care practitioners	133
Nurses, use of title clarified	177
Orthotists and prosthetists, licensing requirements	285
Respiratory care practitioners, licensure requirements and scope of practice	334
Uniform disciplinary act complaints, disclosure limited	270
<b>HEALTH CARE PROVIDERS</b>	
Workers' compensation, representative prohibited from charging a percentage of benefits for acting as representative	336
<b>HEALTH CARE SERVICE CONTRACTORS</b>	
Financial and reporting requirements revised	212
Medicare, tax exemption extended for prepayments for services under Title XVIII	154
<b>HEALTH DEPARTMENTS, LOCAL</b>	
Septic systems, local health boards required to respond to permit applications in timely manner, response requirements	447
<b>HEALTH MAINTENANCE ORGANIZATIONS</b>	
Financial and reporting requirements revised	212
Medicare, tax exemption extended for prepayments for services under Title XVIII	154
<b>HEALTH, DEPARTMENT</b>	
Birth certificates, department to adopt rules for release of copies, criteria	108
Greywater, department to develop guidelines for reuse	444
Health care policy board abolished	274
Hospitals, sale of nonprofit hospital regulated and approval procedures set forth	332
Technical corrections to statutes administered by department	275
Vital records, increased fees for copies to fund death investigations account	223

# SUBJECT INDEX OF 1997 STATUTES

	Chapter
<b>HEARING AIDS</b>	
Sales and use tax exemption . . . . .	224
<b>HEATING</b>	
Oil tanks, programs implemented to provide technical assistance and information regarding environmental requirements . . . . .	8
<b>HIGHER EDUCATION COORDINATING BOARD</b>	
Advanced college tuition payment program established, implementation and administration . . . . .	289
Industrial investments and projects of state-wide significance, procedures established to expedite and assist . . . . .	369
State support of higher education, information to be distributed to students annually . . . . .	48
<b>HISTORIC PRESERVATION</b>	
Archaeological resources, parks and recreation commission to develop plan to identify historic resources in state park with military fort . . . . .	150
Washington heritage register, qualifications for nominations to register . . . . .	145
<b>HISTORICAL SOCIETIES</b>	
Governor's awards for excellence in teaching history created . . . . .	263
<b>HORSES AND HORSE RACING</b>	
Satellite, parimutuel location within twenty miles of class 1 racing facility prohibited . . . . .	87
Thoroughbred industry, simulcasts transmission and import of out-of-state transmission allowed . . . . .	87
<b>HORTICULTURE</b>	
Horticulture district fund, transfer of funds to plant pest account . . . . .	227
Seed potatoes, growers may submit petition requesting establishment of restricted seed potato production area, procedures . . . . .	176
<b>HOSPITALS</b>	
Long-term care discharge joint program, hospital required to participate or provide services consistent with program . . . . .	392
Nonprofit hospitals, sale of hospital regulated and approval procedures set forth . . . . .	332
Public hospital districts, elections to establish commissioner districts and to elect commissioners revised . . . . .	99
Public hospital districts, self-insurance groups authorized . . . . .	35
<b>HOTELS AND MOTELS (See also TAXES - LODGING TAX)</b>	
Lodging tax, uniform standards for local option excise taxation of lodging to provide for promotion of tourism . . . . .	452
<b>HOUSING</b>	
Agricultural worker housing, exemption of construction or repair costs from sales and use tax, conditions . . . . .	438
Alternative housing for youth in crisis, expiration of tax exemptions for new construction extended . . . . .	386
Public housing, drug-free zones authorized . . . . .	30
Seniors, task force created to study alternative financing techniques for low-income senior and disabled persons' housing . . . . .	383

# SUBJECT INDEX OF 1997 STATUTES

	Chapter
<b>HOUSING AUTHORITIES</b>	
Drug-free zones authorized in facilities . . . . .	30
<b>HOUSING FINANCE COMMISSION</b>	
Financing, commission authorized to impose covenants running with the land to satisfy and enforce financing terms . . . . .	163
Nonprofit organization defined . . . . .	44
<b>HUNTING</b>	
Bear baiting prohibited . . . . .	1
Elk river natural area preserve status transferred to natural resources conservation area, permitted public uses . . . . .	371
Illegal killing and possession of certain species, penalties increased . . . . .	226
Licenses, suspension for noncompliance with child support orders . . . . .	58
Pheasants, eastern Washington pheasant enhancement program created . . . . .	422
Transport tag requirement, exception for harvest management of black bear and cougar . . . . .	114
<b>HYDRAULIC PERMITS</b>	
Fish and wildlife habitat incentives program, conditions for consideration in evaluating landowner's property for permit . . . . .	425
Flood damage repair and reduction, cooperative agreements to allow work to be done without specific project permits, conditions . . . . .	385
Small scale mining and prospecting, certain activities exempt from permit requirements if current gold and fish pamphlet provisions are met . . . . .	415
<b>IMMIGRATION</b>	
Food and medical assistance established for those ineligible for federal assistance . . . . .	57
<b>INDETERMINATE SENTENCE REVIEW BOARD</b>	
Existence extended and membership reduced . . . . .	350
Sex offenders, consistent approach to risk assessment to be developed . . . . .	364
<b>INDIANS</b>	
Child support, cooperative agreements with Indian tribes and the department of social and health services established . . . . .	386
<b>INDIGENTS</b>	
Civil legal services oversight, joint legislative committee established to oversee funding for indigent services . . . . .	319
Legal aid, public safety and education account funding provisions revised . . . . .	319
Veterans, county limit on burial costs for indigent veterans increased . . . . .	286
<b>INDUSTRIAL INSURANCE APPEALS BOARD</b>	
Crime victims' compensation appeals, records exempt from public disclosure requirements . . . . .	310
Crime victims' compensation appeals, time limit established for filing petition for review of final order or judgment . . . . .	102
<b>INDUSTRIAL SAFETY AND HEALTH</b>	
Agriculture defined for purposes of 49.17 RCW . . . . .	362
Coal mining code repealed . . . . .	64
Fire fighting technical review committee established . . . . .	208
WISHA advisory committee established, powers and duties . . . . .	107

# SUBJECT INDEX OF 1997 STATUTES

	Chapter
<b>INITIATIVE AND REFERENDUM (See also TAXES - REFERENDUM MEASURES)</b>	
Bear baiting prohibited, penalties for violations . . . . .	1
Property tax, one hundred six percent limit calculation reduced and valuation increases allowed to be spread over time . . . . .	3
Property tax, state levy reduction of 4.7187 percent extended, referendum to approve . . . . .	2
Property tax, state levy reduction of 4.7187 percent made permanent . . . . .	3
Stadium and exhibition center, public stadium authority created and financing provisions for facility construction provided . . . . .	220
State measures, legal advertising requirements enhanced . . . . .	405
<b>INSECTS</b>	
Common green darner dragonfly, <i>Anax junius</i> Drury, designated state insect . . .	6
Integrated pest management by state agencies required, procedures . . . . .	357
<b>INSTITUTIONS</b>	
Health care, basic health plan eligibility for persons confined to or residing in government-operated institutions . . . . .	335
<b>INSURANCE (See also WORKERS' COMPENSATION)</b>	
Antifraud plans, submission plans clarified . . . . .	92
Cancellation, notice delivery methods defined . . . . .	85
Commercial property casualty policies may be issued before filing form or rate with commissioner, conditions . . . . .	428
Fraud, antifraud plan submission requirements clarified . . . . .	92
Guaranty associations, credit against premium tax for assessments paid by insurers revised . . . . .	300
Health care policy board abolished . . . . .	274
Health care, basic health plan eligibility for persons confined to or residing in government-operated institutions . . . . .	335
Health care, basic health plan revised . . . . .	337
Health care, consumer assistance and insurance market stabilization act created .	231
Health care, definition of "health plan" or "health benefit plan" revised . . . . .	55
Health care, diabetes cost reduction act adopted . . . . .	276
Health care, mandated benefit necessity review procedures established . . . . .	412
Investments, companies may enter into financial transactions, definition and conditions . . . . .	317
Life, policy illustration standards provided for consumer protection and education	313
Policy cancellation, notice delivery methods defined . . . . .	85
Public hospital districts, self-insurance groups authorized . . . . .	35
Reinsured ceded risks, credit . . . . .	379
Title insurers, terms related to defined . . . . .	14
Unauthorized insurers, requirements for moneys held in irrevocable trust fund increased . . . . .	89
<b>INSURANCE COMMISSIONER</b>	
Commercial property casualty policies may be issued before filing form or rate, conditions . . . . .	428
Regulatory authority, provisions revised . . . . .	409
<b>INTEREST RATES</b>	
Property tax refund, computation based on date of collection . . . . .	67
Revenue department, interest and penalty administration revised . . . . .	157

# SUBJECT INDEX OF 1997 STATUTES

	Chapter
<b>INTERLOCAL COOPERATION</b>	
Emergency services, mutual aid and interlocal agreement implementation procedures established . . . . .	195
Jurisdiction over municipal court defendant incarcerated at county jail facility but outside city limits, interlocal agreements . . . . .	25
<b>INTERNET</b>	
Taxation of internet service providers as network telephone service providers prohibited . . . . .	304
Taxation, classification of internet services as selected business services established . . . . .	304
<b>INVESTMENTS</b>	
Insurance companies allowed to enter into financial transactions, definition and conditions . . . . .	317
State investment board, director authorized to delegate investment decisions . . .	161
<b>INVOLUNTARY COMMITMENT</b>	
Criteria for medically necessary admission and for evidence showing substantial risk of harm expanded . . . . .	112
<b>IRRIGATION DISTRICTS</b>	
Administrative provisions revised . . . . .	354
Bids for construction and maintenance, deposit and information relating to experience and financial stability required . . . . .	354
Sewage or waste discharged by others into irrigation works, district not liable for damages . . . . .	354
<b>JAILS</b>	
Communicable diseases, policies and procedures for distribution of prevention protocols to staff required . . . . .	345
HIV, disclosure of offenders' test results to health care administrators or infection control coordinators authorized . . . . .	345
<b>JOINT BILL SPONSORSHIP</b>	
Juvenile justice act revised . . . . .	338
Model toxics control act policy advisory committee recommendations implemented . . . . .	406
WorkFirst temporary assistance for needy families act enacted . . . . .	58
<b>JUDGES</b>	
Counties, judges to be paid in same manner provided for other elected officials .	204
Courts of appeals, judge pro tempore appointment of judge whose term expires with cases and other business pending, limitation . . . . .	88
Salaries established as of September 1, 1997 . . . . .	458
Superior court, Pierce county judges increased to twenty-four . . . . .	347
Superior court, Snohomish county judges increased to fifteen . . . . .	347
Superior court, Spokane county increased to thirteen . . . . .	347
<b>JUDGMENTS</b>	
Administrative duties of county clerks, provisions revised . . . . .	358
Civil, county clerk allowed to collect civil judgment when county is creditor . . .	24
Legal financial obligations, payment and recovery provisions clarified . . . . .	121

# SUBJECT INDEX OF 1997 STATUTES

	Chapter
<b>JUVENILE COURT</b>	
Jurisdiction, courts of limited jurisdiction given concurrent jurisdiction over certain juvenile offenses . . . . .	341
Juvenile justice act revised . . . . .	338
Legal financial obligations, payment and recovery provisions clarified . . . . .	121
Offenses committed by minor enrolled in secondary or primary school, notification to be sent to parents and principals . . . . .	266
Truancy, courts of limited jurisdiction to have concurrent jurisdiction over proceedings . . . . .	341
Truancy, petition provisions revised . . . . .	68
<b>JUVENILE JUSTICE ACT</b>	
Revised provisions . . . . .	338
<b>JUVENILE OFFENDERS</b>	
Definitions of "offender" and "persistent offender" revised . . . . .	70
Jurisdiction, courts of limited jurisdiction given concurrent jurisdiction over certain juvenile offenses . . . . .	341
Juvenile justice act revised . . . . .	338
Offenses committed by minor enrolled in secondary or primary school, notification to be sent to parents and principals . . . . .	266
Sex offenders prohibited from attending same school as victim or victim's siblings . . . . .	265
Sexually aggressive youth, placement of youth under department's care not to be in residential setting or contact with abuse victims . . . . .	386
<b>KING COUNTY</b>	
Stadium and exhibition center, public stadium authority created and financing provisions for facility construction provided . . . . .	220
<b>LABOR</b>	
Family leave act, provisions revised to achieve consistency with federal requirements . . . . .	16
<b>LABOR AND INDUSTRIES, DEPARTMENT</b>	
Elevators and other conveyances, inspection requirements for private residence conveyances . . . . .	216
Family leave act, provisions revised to achieve consistency with federal requirements . . . . .	16
Fire fighting technical review committee established . . . . .	208
Master license system, agencies authorized to contract with internal revenue service and other federal agencies to issue federal employee identification numbers or other federal credentials . . . . .	51
Regulatory authority, provisions revised . . . . .	409
WISHA advisory committee established, powers and duties . . . . .	107
Workers' compensation system, performance audit and operations review established . . . . .	330
Workers' compensation, health care policy board abolished . . . . .	274
<b>LAND DEVELOPMENT</b>	
Compensatory mitigation, innovative measures authorized to mitigate impacts of development projects . . . . .	424
Industrial land banks, counties allowed to establish, definition and conditions . . . . .	402
Water-sewer districts, alternative means of formation to serve new developments . . . . .	447

# SUBJECT INDEX OF 1997 STATUTES

	Chapter
<b>LAND USE PLANNING (See also GROWTH MANAGEMENT)</b>	
Agricultural lands with long-term commercial significance, planning provisions revised . . . . .	429
Compensatory mitigation, innovative measures authorized to mitigate impacts of development projects . . . . .	424
Growth management act, provisions revised and expanded . . . . .	429
Growth management, county monitoring and evaluation program required to determine progress towards meeting planning goals . . . . .	429
Growth management, notice requirements established for public participation in planning . . . . .	429
Industrial land banks, counties allowed to establish, definition and conditions . . .	402
Local project review, permit timelines revised . . . . .	396
Master planned resorts, authorized uses . . . . .	382
Rural areas, planning provisions revised . . . . .	429
<b>LANDLORD AND TENANT</b>	
Rent or payments, landlord required to provide receipt at request of tenant . . . .	84
Service of process by posting authorized . . . . .	86
Writs of restitution, validity following acceptance of partial payment . . . . .	255
<b>LANDSCAPING</b>	
Commercial fertilizer defined as solid waste under RCW 70.95.030, approval and registration requirements . . . . .	427
<b>LAW ENFORCEMENT (See also SHERIFFS, STATE PATROL)</b>	
Child victims and witnesses, permission required before address of child or child's parent disclosed . . . . .	283
<b>LAW ENFORCEMENT OFFICERS (See also SHERIFFS, STATE PATROL)</b>	
Child abuse and neglect, criminal justice training commission to provide training on investigative duties of law enforcement . . . . .	351
Criminal conspiracy, conspiring with officers or agents not intending to commit a crime not a defense to charges . . . . .	17
Port districts, law enforcement officer definition revised to include port district officer . . . . .	206
State patrol, off-duty law enforcement employment allowed . . . . .	375
Training standards and education, boards created to review programs and standards . . . . .	351
<b>LAW ENFORCEMENT OFFICERS' AND FIRE FIGHTERS' RETIREMENT SYSTEM (See also RETIREMENT AND PENSIONS)</b>	
Disability as a result of criminal conduct by member, benefits denied . . . . .	103
Plan 1, transfer of prior service allowed . . . . .	122
Post-retirement employment, restrictions . . . . .	254
<b>LEASES</b>	
Securities, lease for or on behalf of state agency used as collateral for payment of securities prohibited . . . . .	117
State leases of up to ten years authorized . . . . .	117
Theft of rental property, definition and penalty . . . . .	346
<b>LEGAL AID</b>	
Civil legal services oversight, joint legislative committee established to oversee funding for indigent services . . . . .	319
Indigent services, public safety and education account funding provisions revised . . .	319

# SUBJECT INDEX OF 1997 STATUTES

	Chapter
<b>LEGISLATIVE AUDIT AND REVIEW COMMITTEE, JOINT</b>	
Performance audits, compliance reviews and recommendations to be considered in preparation of agency budget . . . . .	372
Workers' compensation system, performance audit and operations review estab- lished . . . . .	330
<b>LEGISLATIVE ETHICS BOARD</b>	
Legislators' newsletters, mailing restrictions revised . . . . .	320
Political activities of citizen members restricted . . . . .	11
<b>LEGISLATURE</b>	
Legal aid, joint legislative committee on civil legal services oversight established to oversee funding for indigent services . . . . .	319
Legislators' newsletters, mailing restrictions revised . . . . .	320
Levies, levy equalization study directed . . . . .	259
Rules review committee, procedures revised . . . . .	409
Salaries established as of September 1, 1997 . . . . .	458
<b>LICENSE PLATES</b>	
Background design, use of single design to be implemented January 1, 2001 . . .	291
Special license plates, administrative provisions revised . . . . .	291
Veteran or military personnel remembrance emblem, requirements revised . . . . .	234
<b>LICENSING, DEPARTMENT</b>	
Aircraft fuel licensees, bankruptcy filing notification required and payment credit procedures revised . . . . .	183
License suspension, requirements of federal personal responsibility and work opportunity reconciliation act implemented . . . . .	58
Master license system, agencies authorized to contract with internal revenue service and other federal agencies to issue federal employee identification numbers or other federal credentials . . . . .	51
Motor vehicle fuel licensees, bankruptcy filing notification required and payment credit procedures revised . . . . .	183
Proportional registration licensees, bankruptcy filing notification required and registration procedures revised . . . . .	183
Special fuel licensees, bankruptcy filing notification required and payment credit procedures revised . . . . .	183
Vessels, registration exemption for boats owned by nonresidents brought into state for temporary periods, conditions . . . . .	83
<b>LIENS</b>	
Commercial real estate broker lien act adopted . . . . .	315
Public assistance overpayments, provisions regarding liens and notices to with- hold and deliver revised . . . . .	130
<b>LIMITATIONS OF ACTIONS</b>	
First degree theft of nonprofit organization, three year time limit for prosecution established . . . . .	174
Motor vehicle offenses involving death, statute of limitations removed for certain crimes . . . . .	97
<b>LIMITED LIABILITY COMPANIES</b>	
Dissolution procedures revised and one-member companies authorized . . . . .	21
State investment board authorized to create public entities to manage investments	359

# SUBJECT INDEX OF 1997 STATUTES

	Chapter
<b>LIQUOR CONTROL BOARD</b>	
Administrative provisions revised . . . . .	321
Construction and maintenance account created . . . . .	75
Credit card purchases authorized . . . . .	148
Tobacco products and cigarettes, tax enforcement provisions transferred to board	420
<b>LITERACY</b>	
Reading grant program for primary grades . . . . .	262
Reading, second grade reading tests identified to measure accuracy and fluency skills . . . . .	262
<b>LITTER AND LITTERING</b>	
Cigarettes and other tobacco products, penalty established for discarding product capable of starting a fire . . . . .	159
<b>LIVESTOCK</b>	
Brand inspections, fee increased . . . . .	356
Certified feed lots, license fee increased . . . . .	356
Identification of livestock, provisions and regulatory authority revised . . . . .	356
<b>LOCAL GOVERNMENT (See also CITIES AND TOWNS; COUNTIES)</b>	
Collection agencies used to collect debts, additional fee for services charged to debt . . . . .	387
Domestic violence shelters, local funding requirement eliminated . . . . .	160
Forest practices, local government regulatory authority and duties specified . . . .	173
Industrial investments and projects of state-wide significance, ombudsman assigned and procedures established to expedite and assist . . . . .	369
Shoreline management petitions for review on permit decisions, service of notice	199
Street, road, or highway projects, assessment reimbursement areas authorized to finance costs . . . . .	158
Surface mining, natural resources department may delegate enforcement authority over provisions in reclamation plans . . . . .	185
Water-sewer district jurisdiction may be assumed by cities . . . . .	426
<b>LONG-TERM CARE (See also NURSING HOMES)</b>	
Adult family homes, limited moratorium on licensing . . . . .	392
Clara act, long-term care reorganization and standards of care reform . . . . .	392
Hospitals required to participate in joint long-term care discharge program or provide services consistent with program . . . . .	392
Ombudsman program, community, trade, and economic development department to adopt rules . . . . .	194
<b>LONGSHORE AND HARBOR WORKERS</b>	
Workers' compensation coverage, expiration repealed . . . . .	110
<b>LOTTERY (See also GAMBLING)</b>	
Stadium and exhibition center, specified game revenues dedicated to stadium and exhibition center account . . . . .	220
Winnings, assignment of rights provisions revised . . . . .	111
<b>LOW-INCOME PERSONS</b>	
Housing, task force created to study alternative financing techniques for housing for senior and disabled persons . . . . .	383
<b>MAIL</b>	
Legislators' newsletters, mailing restrictions revised . . . . .	320

# SUBJECT INDEX OF 1997 STATUTES

	Chapter
<b>MANUFACTURED HOUSING (See also MOBILE HOMES)</b>	
Sales tax, collection of tax revised . . . . .	139
<b>MANUFACTURING</b>	
Aluminum master alloy producers classified as processors for hire for business and occupation tax purposes . . . . .	453
<b>MAPS AND MAPPING</b>	
County assessor to prepare and maintain updates of maps to indicate parcel configuration for lands in county . . . . .	135
<b>MARINE SAFETY, OFFICE</b>	
Powers and duties transferred to department of ecology . . . . .	449
<b>MASSAGE THERAPY</b>	
Somatic educators exempt from regulation as massage practitioners . . . . .	297
Terminology revised . . . . .	297
<b>MEDICAL ASSISTANCE</b>	
Health care policy board abolished . . . . .	274
Managed care, authority to change contracting under federal demonstration waivers revised . . . . .	34
Managed care, department rights to secure reimbursements for assistance may be delegated to contracted managed care system . . . . .	236
<b>MEDICARE</b>	
Health care services, tax exemption extended for prepayments of services under Title XVIII . . . . .	154
<b>MEDICINE AND MEDICAL DEVICES</b>	
Medical gas piping installer, certificate of competency and endorsement required	326
<b>MENTALLY ILL PERSONS</b>	
Criminal offenders, pilot program created to provide postrelease mental health care and housing . . . . .	342
Involuntary commitment, criteria for medically necessary admission and for evidence showing substantial risk of harm expanded . . . . .	112
<b>METAL DETECTORS</b>	
Parks and recreation commission to increase area for recreational use and develop plan to identify historic archaeological resources . . . . .	150
<b>MILITARY</b>	
Emergency management, statutes corrected and revised . . . . .	49
Veteran or military personnel license plate remembrance emblem, requirements revised . . . . .	234
<b>MINES AND MINING</b>	
Coal mining code repealed . . . . .	64
Metals mining and milling fees, collection duties transferred to department of ecology . . . . .	170
Reclamation permit fees, authority of department of natural resources to modify removed . . . . .	413
Reclamation plans, natural resources department may delegate to local govern- ment enforcement authority . . . . .	185
Reclamation plans, performance security to be posted with department of natural resources . . . . .	186

## SUBJECT INDEX OF 1997 STATUTES

MINES AND MINING — con't.	Chapter
Small scale mining and prospecting, certain activities exempt from permit requirements if current gold and fish pamphlet provisions are met . . . . .	415
Surface mining, department of natural resources to establish no-cost consulting service for information on mining issues . . . . .	184
Surface mining, reclamation plan revisions may be required by department of natural resources . . . . .	192
Surface mining, small public works surface mines excluded from definition . . . .	142
 <b>MOBILE HOME PARKS</b>	
Landlord and tenant disputes, service of process by posting authorized . . . . .	86
 <b>MOBILE HOMES (See also MANUFACTURED HOUSING)</b>	
Landlord and tenant disputes, service of process by posting authorized . . . . .	86
Sales tax, collection of tax revised . . . . .	139
 <b>MODEL TOXICS CONTROL ACT</b>	
Policy advisory committee recommendations implemented . . . . .	406
 <b>MORTGAGE BROKERS</b>	
Licensing standards revised . . . . .	106
 <b>MOTION PICTURES</b>	
Sales and use tax exemptions for film and video production companies, requirements . . . . .	61
 <b>MOTOR VEHICLES (See also LICENSE PLATES; TRAFFIC; TRUCKS AND TRUCKING)</b>	
Accident reports, requirements revised . . . . .	248
Auctions, business and occupation tax exemption for wholesale auction receipts .	4
Bicycles, regulation of electric-assisted bicycles established . . . . .	328
Certificate of ownership, fees increased and issuance provisions revised . . . . .	241
Commute trip reduction plan enhanced . . . . .	250
Commuting, ride sharing definitions and qualifications revised . . . . .	95
Dealers, fee collected upon vehicle sale for funding at trauma care system . . . .	331
Dealers, licenses denied if application is a subterfuge for a person with invalid license . . . . .	432
Dealers, prohibited practices revised . . . . .	153
Driving under the influence, ignition interlock provisions revised . . . . .	229
Garbage trucks and recycling trucks, front-loading trucks exempt from front end length limits . . . . .	191
Juvenile agricultural drivers, permit authorizes holder to participate in school traffic safety classes . . . . .	82
Left lane use by vehicles or combinations over ten thousand pounds, any trailers, prohibited, exceptions . . . . .	253
Leases, fee imposed to fund trauma care system . . . . .	331
License suspension, requirements of federal personal responsibility and work opportunity reconciliation act implemented . . . . .	58
Licenses, provisions relating to refunds revised . . . . .	22
Licenses, provisions revised . . . . .	432
Limousine advertising, certified business identifier not required for alphabetical listing in telephone directory . . . . .	193
Motor homes, use tax exemption limited . . . . .	301
Negligent driving, definitions and penalties . . . . .	66
Off-road vehicles, permit fees increased . . . . .	241
Offenses involving death, statute of limitations removed for certain crimes . . . .	97
Parking, conditions for release of registered owner information to commercial parking companies . . . . .	33

## SUBJECT INDEX OF 1997 STATUTES

<b>MOTOR VEHICLES (See also LICENSE PLATES; TRAFFIC; TRUCKS AND TRUCKING) — con't.</b>	<b>Chapter</b>
Proportional registration licensees, bankruptcy filing notification required and registration procedures revised . . . . .	183
Registered owner information, conditions for availability to commercial parking companies . . . . .	33
Ride sharing, operator and driver liability limited . . . . .	250
Sales, fee imposed on title transfer to fund trauma care system . . . . .	331
Solid waste collection vehicles, driver allowed to transport others on outside parts of vehicle, conditions . . . . .	190
Theft of rental property, definition and penalty . . . . .	346
Trailers, vehicles or combinations over ten thousand pounds prohibited in left lane, exceptions . . . . .	253
Trucks, vehicle gross weight schedule extended . . . . .	198
Two-way left turn lanes, vehicle travel within lane limited to three hundred feet . . . . .	202
Weight, vehicle gross weight schedule extended . . . . .	198
Width, limits adjusted . . . . .	63
 <b>MUNICIPAL COURT</b>	
Jurisdiction over municipal court defendant incarcerated at county jail facility but outside city limits, interlocal agreements . . . . .	25
Jurisdiction, courts of limited jurisdiction given concurrent jurisdiction over certain juvenile offenses . . . . .	341
 <b>MUNICIPAL RESEARCH COUNCIL</b>	
Counties, provision of services and funding established . . . . .	437
Membership expanded and funding provisions established . . . . .	437
 <b>NAMES</b>	
Corporations, naming conventions clarified . . . . .	12
 <b>NATIONAL GUARD</b>	
Tuition waivers for members of national guard and all eligible state employees, provisions revised . . . . .	211
 <b>NATURAL RESOURCES CONSERVATION AREAS</b>	
Elk river natural area preserve status transferred to natural resources conservation area, permitted public uses . . . . .	371
 <b>NATURAL RESOURCES, DEPARTMENT</b>	
Aquatic lands, Stillaguamish river lands transferred from department of natural resources to department of fish and wildlife . . . . .	209
Aquatic lands, exchanges of state-owned aquatic lands with privately owned lands allowed if in public interest . . . . .	209
Elk river natural area preserve status transferred to natural resources conservation area, permitted public uses . . . . .	371
Forest practices, local government regulatory authority and duties specified . . . .	173
Landscape management plan pilot projects authorized to develop long-term multispecies management in relation to water quality protection . . . . .	290
Lind dryland research unit of Washington State University to receive Adams county land transfer . . . . .	45
Surface mining, authority of department to modify reclamation permit fees removed . . . . .	413
Surface mining, department may delegate enforcement authority over provisions in reclamation plans . . . . .	185
Surface mining, department to establish no-cost consulting service for information on mining issues . . . . .	184
Surface mining, performance security to be posted with department . . . . .	186
Surface mining, reclamation plan revisions may be required by department . . . .	192

## SUBJECT INDEX OF 1997 STATUTES

	Chapter
<b>NATURAL RESOURCES, DEPARTMENT — con't.</b>	
Timber sales from state land, direct sale without prior advertising allowed, conditions .....	116
<b>NATUROPATHY</b>	
Naturopaths defined as health care practitioners .....	133
<b>NAVIGABLE WATERS</b>	
Aquatic lands, exchanges of state-owned aquatic lands with privately owned lands allowed if in public interest .....	209
<b>NONPROFIT CORPORATIONS (See also CORPORATIONS)</b>	
Hospitals, sale of nonprofit hospital regulated and approval procedures set forth ..	332
<b>NONPROFIT ORGANIZATIONS (See also CHARITABLE ORGANIZATIONS)</b>	
Camps and conference centers, exemptions from business and occupation tax and sales tax .....	388
First degree theft of nonprofit organization, three year time limit for prosecution established .....	174
Gambling, requirements for operations revised .....	394
Golfing sweepstakes, permitted activities expanded to include auction in which persons bid on players or teams .....	38
Historical, governor's awards for excellence in teaching history created .....	263
Housing finance commission, nonprofit organization defined for purposes of commission .....	44
Naming conventions clarified .....	12
Property tax, permitted uses of assembly halls and meeting places extended to meet tax exemption qualifications .....	298
Social service organizations, process to be developed to solicit proposals for funding and colocation with state agency facilities .....	374
Wildlife habitat improvement or forage, sales of certain materials to specified parties exempt from sales tax .....	127
<b>NOXIOUS WEED CONTROL BOARD</b>	
Administrative provisions updated and modified .....	353
<b>NURSES</b>	
Use of title of nurse clarified .....	177
<b>NURSING HOMES (See also LONG-TERM CARE)</b>	
Conversion of beds, notice requirements modified .....	210
Conversion of beds, nursing homes encouraged to provide enhanced adult residential care contracted services .....	164
Long-term care reorganization and standards of care reform .....	392
Ombudsman program, community, trade, and economic development department to adopt rules .....	194
Reimbursement system inequities adjustment .....	277
<b>OCEAN RESOURCES</b>	
Moratorium on oil and gas exploration and production off state coast made permanent .....	152
<b>OIL AND GAS</b>	
Heating oil tanks, programs implemented to provide technical assistance and information regarding environmental requirements .....	8
Moratorium on oil and gas exploration and production off state coast made permanent .....	152

## SUBJECT INDEX OF 1997 STATUTES

	Chapter
<b>ORTHOTISTS AND PROSTHETISTS</b>	
Licensing requirements . . . . .	285
<b>OUTDOOR RECREATION</b>	
Hanggliding and paragliding, limitation of landowner's liability . . . . .	26
Skateboarding and other nonmotorized wheel activities, limitation of landowner's liability . . . . .	26
Whitewater river rafting, outfitter licensing and guide training requirements established . . . . .	391
Wildlife and recreation program projects for 1997 authorized . . . . .	46
<b>OUTDOOR RECREATION, INTERAGENCY COMMITTEE FOR</b>	
Wildlife and recreation program projects for 1997 authorized . . . . .	46
<b>PARENTS AND PARENTING</b>	
Child abuse, admission of guilt not required for parent or guardian to complete court-ordered treatment and education requirements . . . . .	344
Child abuse, alternative response systems services established throughout state . . . . .	386
Schools, removal of student from school grounds by employee requires parental authorization, exceptions . . . . .	411
Schools, truancy petition provisions revised . . . . .	68
Termination of parent and child relationship, provisions revised . . . . .	280
<b>PARKING</b>	
Commercial parking companies, department of licensing allowed to release vehicle owners' names and addresses to companies for parking violation notification purposes, limitations . . . . .	33
Spokane joint center of education allowed to impose parking fees and adopt rules governing parking and traffic . . . . .	273
<b>PARKS AND RECREATION COMMISSION</b>	
Metal detectors, commission to increase area for recreational use and develop plan to identify historic archaeological resources . . . . .	150
State parks renewal and stewardship account, transfer and deposit of moneys . . . . .	137
State parks, provisions relating to offenses in parks revised . . . . .	214
Whitewater river rafting, outfitter licensing and guide training requirements established . . . . .	391
<b>PARTNERSHIPS</b>	
Limited liability companies, dissolution procedures revised and one-member companies authorized . . . . .	21
Limited partnerships, state investment board authorized to create public entities to manage investments . . . . .	359
<b>PERSONAL PROPERTY</b>	
Found property, procedures for handling established and amount collected by governmental body limited . . . . .	237
Taxation, exemption for property assessed at less than \$500 . . . . .	244
Taxation, valuation procedures clarified . . . . .	181
Theft of rental property, definition and penalty . . . . .	346
<b>PERSONNEL, DEPARTMENT</b>	
Developmentally disabled supported employment programs, state agencies to develop and implement, department duties . . . . .	287

# SUBJECT INDEX OF 1997 STATUTES

	Chapter
<b>PEST CONTROL</b>	
Integrated pest management by state agencies required, procedures . . . . .	357
<b>PESTICIDES</b>	
Applicators, limited private applicator license pilot project established . . . . .	242
Applicators, recertification standards revised . . . . .	242
Presidents' advisory council appointed to advise director of agriculture on administration of pesticide laws . . . . .	242
Registration and licensing, fees revised . . . . .	242
<b>PHARMACIES AND PHARMACISTS</b>	
Pharmacy ancillary personnel, definition and regulation . . . . .	417
<b>PHYSICIANS</b>	
Corporate practice of medicine doctrine revised . . . . .	390
Health professions account and medical disciplinary account merged . . . . .	79
Medical renewal fee to replace medical license renewal fee and medical discipli- nary assessment fee . . . . .	79
<b>PIERCE COUNTY</b>	
Superior court judges increased to twenty-four . . . . .	347
<b>PLUMBING AND PLUMBERS</b>	
Advisory board of plumbers, membership increased . . . . .	307
Medical gas piping installer, certificate of competency and endorsement required	326
<b>POLLUTION</b>	
Heating oil tanks, programs implemented to provide technical assistance and information regarding environmental requirements . . . . .	8
<b>POLLUTION CONTROL HEARINGS BOARD</b>	
Appeals, computation of time for when actions must be commenced . . . . .	125
<b>POLLUTION LIABILITY INSURANCE AGENCY</b>	
Heating oil tanks, programs implemented to provide technical assistance and information regarding environmental requirements . . . . .	8
<b>PORT DISTRICTS</b>	
Creation of less than county-wide districts, expiration date removed . . . . .	256
Law enforcement officer definition revised to include port district officer . . . . .	206
<b>PRISONS AND PRISONERS</b>	
Communicable diseases, policies and procedures for distribution of prevention protocols to staff required . . . . .	345
Facilities, consortium of counties allowed to construct or acquire, provisions revised . . . . .	349
HIV, disclosure of offenders' test results to health care administrators or infection control coordinators authorized . . . . .	345
Offender funds, deductions clarified . . . . .	165
<b>PRIVACY</b>	
Birth certificates, department of health to adopt rules for release of copies, criteria . . . . .	108
Child abuse or neglect, conditions for disclosure of child welfare records estab- lished . . . . .	305
Students, parents' right to review education records established, records' release without parental consent prohibited . . . . .	119

## SUBJECT INDEX OF 1997 STATUTES

	Chapter
<b>PROBATE (See also ESTATES)</b>	
Provisions updated .....	252
<b>PROFESSIONAL SERVICE CORPORATIONS</b>	
Health care professions, corporate practice of medicine doctrine revised .....	390
Trusts allowed to hold shares .....	18
<b>PUBLIC ASSISTANCE (See also MEDICAL ASSISTANCE)</b>	
AFDC, references replaced with temporary assistance for needy families .....	59
Child care program, eligibility .....	58
Grant diversion program established .....	58
Legal immigrants, eligibility conditions established .....	57
Medical assistance, authority to change contracting under federal demonstration waivers revised .....	34
Medical assistance, department rights to secure reimbursements for assistance may be delegated to contracted managed care system .....	236
Overpayments, provisions regarding liens and notices to withhold and deliver revised .....	130
Studies directed .....	58
Temporary assistance for needy families, community service program require- ments .....	58
Temporary assistance for needy families, contracts for personal responsibility required .....	58
Temporary assistance for needy families, provisions to require employment or job training and personal accountability .....	58
Temporary assistance for needy families, references to AFDC replaced .....	59
Temporary assistance for needy families, time limits established for receiving assistance .....	58
Time limits for benefits established .....	58
WorkFirst program established as welfare-to-work program for temporary assistance for needy families .....	58
<b>PUBLIC DISCLOSURE</b>	
Birth certificates, department of health to adopt rules for release of copies, criteria .....	108
Crime victims' compensation appeals, records at industrial insurance appeals board exempt from disclosure requirements .....	310
Financial institution voluntary compliance review documents, confidentiality established .....	435
Financial institutions, examination reports and certain information exempt from public disclosure .....	258
Health care providers, disclosure of complaints filed under uniform disciplinary act limited .....	270
Property tax, confidentiality of tax information established and criteria set forth for certain disclosures .....	239
<b>PUBLIC EMPLOYEES' RETIREMENT SYSTEM (See also RETIREMENT AND PENSIONS)</b>	
Disability as a result of criminal conduct by member, benefits denied .....	103
Post-retirement employment, restrictions .....	254
Survivor benefits, eligibility .....	73
<b>PUBLIC FACILITIES DISTRICTS</b>	
Stadium and exhibition center, public stadium authority created and financing provisions for facility construction provided .....	220

# SUBJECT INDEX OF 1997 STATUTES

	Chapter
<b>PUBLIC FUNDS AND ACCOUNTS</b>	
Advanced college tuition payment program account created . . . . .	289
Advanced environmental mitigation account created for funding watershed approach projects . . . . .	140
Biosolids permit account created to fund management program . . . . .	398
Counties, provisions regarding management of annual or biennial budgets and payment of judges revised . . . . .	204
County public health account, distribution of funds modified . . . . .	333
County research services account created, liquor excise tax moneys to fund . . . . .	437
County treasury management, revised provisions . . . . .	393
Death investigations account, increased fees for copies of vital records to fund . . . . .	223
Development loan fund, supplemental appropriation authorized . . . . .	187
Disaster response account created . . . . .	251
Eastern Washington pheasant enhancement account created, funding and disbursement . . . . .	422
Education savings account created . . . . .	261
Education technology revolving fund created for development and operation of educational information technology services . . . . .	180
Educational trust fund, prior fiscal periods rather than biennia referenced for refunds and recoveries . . . . .	269
Environmental excellence account created . . . . .	381
Federal transportation pass-through moneys, procedures established to process and account for expenditures . . . . .	94
Fisheries enhancement and habitat restoration, regional fisheries enhancement salmonid recovery account established to fund . . . . .	389
General obligation bonds, authority to issue for 1997-99 fiscal biennium and to change related accounts . . . . .	456
Health professions account and medical disciplinary account merged . . . . .	79
Horticultural district fund, transfer of funds to plant pest account . . . . .	227
Industrial insurance premium refund account, expenditure provisions revised . . . . .	327
K-20 technology account created for receipts and disbursements for telecommunications system . . . . .	180
Liquor control board construction and maintenance account created . . . . .	75
Public works board, appropriations to fund projects . . . . .	292
Savings incentive account created . . . . .	261
Stadium and exhibition center account and other accounts related to facility financing and construction created . . . . .	220
State parks renewal and stewardship account, transfer and deposit of moneys . . . . .	137
Transportation, miscellaneous transportation programs account created for reimbursable expenditures . . . . .	94
Violence reduction and drug enforcement account, appropriation from general fund to account . . . . .	306
<b>PUBLIC HEALTH</b>	
HIV, provisions revised regarding crimes related to exposure or transmission to another person . . . . .	196
<b>PUBLIC HEALTH DEPARTMENTS</b>	
Charitable donations for children, distributing organization definition revised to include public health department . . . . .	40
County public health account, distribution of funds modified . . . . .	333
Trauma care services, grant program established . . . . .	331

# SUBJECT INDEX OF 1997 STATUTES

	Chapter
<b>PUBLIC HOSPITAL DISTRICTS</b>	
Commissioners, employment of spouse allowed, conditions . . . . .	98
Elections, provisions regarding establishment of commissioner districts and election of commissioners revised . . . . .	99
Self-insurance groups authorized . . . . .	35
<b>PUBLIC INSTRUCTION, SUPERINTENDENT</b>	
School audits, superintendent authorized to withhold or recover payments to districts based on findings, rule-making authority . . . . .	167
Schools, study to identify actions to increase flexibility for schools and districts .	431
Waivers of state laws and rules and of district policies, procedure for schools to request and district to grant . . . . .	431
<b>PUBLIC LANDS</b>	
Adams county land transfer to Lind research unit of Washington State University	45
Aquatic lands, Stillaguamish river lands transferred from department of natural resources to department of fish and wildlife . . . . .	209
Aquatic lands, exchanges of state-owned aquatic lands with privately owned lands allowed if in public interest . . . . .	209
Elk river natural area preserve status transferred to natural resources conservation area, permitted public uses . . . . .	371
Timber sales, direct sale without prior advertising allowed, conditions . . . . .	116
Trust lands, commissioner to provide reports to beneficiaries . . . . .	448
<b>PUBLIC LANDS, COMMISSIONER</b>	
Trust lands, commissioner to provide reports to beneficiaries . . . . .	448
<b>PUBLIC OFFICERS AND EMPLOYEES</b>	
Contracts and grants, compensation for activities outside of official duties, provisions revised . . . . .	318
Developmentally disabled supported employment programs, state agencies to develop and implement . . . . .	287
Elected officials, salaries for state officers established as of September 1, 1997 .	458
Ferry workers, interest on retroactive pay increases . . . . .	436
Investigators, study group to develop mandatory training and policies and procedures for state investigators . . . . .	378
Legislative ethics board, political activities of citizen members restricted . . . . .	11
Social and health services department, implementation of social worker V classification . . . . .	386
State patrol officers, off-duty law enforcement employment allowed . . . . .	375
Tuition waivers for members of national guard and all eligible state employees, provisions revised . . . . .	211
<b>PUBLIC TRANSIT (See also BUSES)</b>	
Services, agency to consider major employer worksites when planning expansion	250
<b>PUBLIC UTILITY DISTRICTS</b>	
Coal-fired thermal electric generating facilities, agreements with and ownership by public allowed . . . . .	230
Commissioners, compensation provisions revised . . . . .	28
<b>PUBLIC WATER SUPPLY SYSTEMS (See also WATER COMPANIES)</b>	
Business and occupation tax and public utility tax, exemption for small districts and systems . . . . .	407
Community supply, department of ecology to assist applicant denied water right request in obtaining or developing adequate supply . . . . .	443

## SUBJECT INDEX OF 1997 STATUTES

	Chapter
<b>PUBLIC WATER SUPPLY SYSTEMS (See also WATER COMPANIES) — con't.</b>	
Construction schedule and extension considerations amended . . . . .	445
Ground water rights, permit amendment authorized to allow full development of rights through new well construction . . . . .	316
Safe drinking water act, provisions set forth for system monitoring and stable funding . . . . .	218
<b>PUBLIC WORKS</b>	
Alternative contracting procedures adopted . . . . .	376
Appropriations to fund projects recommended by public works board . . . . .	292
Contracts with suspended contractor prohibited . . . . .	54
Correctional facilities, consortium of counties allowed to construct or acquire shared facility, provisions revised . . . . .	349
Mining, small public works surface mines excluded from definition of surface mining . . . . .	142
<b>PUBLIC WORKS BOARD</b>	
Appropriations to fund projects recommended by public works board . . . . .	292
<b>RADIOACTIVE WASTE</b>	
Low-level radioactive waste disposal site, fee adjustments limited . . . . .	243
<b>REAL ESTATE AND REAL PROPERTY</b>	
Brokerage relationship between licensee and clients, revised provisions . . . . .	217
Brokers and salespersons, requirements and procedures revised . . . . .	322
Brokers, commercial real estate broker lien act adopted . . . . .	315
Brokers, price opinion must state that opinion is not an appraisal . . . . .	399
Forest land, current use taxation revised regarding transfer of property for conservation purposes and regarding land affected by government action . . . . .	299
Insurance, commercial property casualty policies may be issued before filing form or rate, conditions . . . . .	428
Maps to indicate parcel configuration for lands in county, assessor's duties to prepare and maintain updates . . . . .	135
Mortgage brokers, licensing standards revised . . . . .	106
Nonprofit organizations, permitted uses of assembly halls and meeting places extended to meet property tax exemption qualifications . . . . .	298
Property tax, assessed valuation petition deadlines authorized . . . . .	294
Property tax, assessment prohibited that assumes a land use not permitted under existing laws . . . . .	134
Property tax, exemption for fish and wildlife habitat restoration and protection and water quantity and quality improvements . . . . .	295
Property tax, exemption for property assessed at less than \$500 . . . . .	244
Property tax, forest land current use provisions revised regarding transfer of land for conservation purposes and regarding land affected by government action . . . . .	299
Property tax, one hundred six percent limit calculation reduced and valuation increases allowed to be spread over time . . . . .	3
Property tax, permitted uses of assembly halls and meeting places extended to meet tax exemption qualifications . . . . .	298
Property tax, state levy reduction of 4.7187 percent extended, referendum to approve . . . . .	2
Property tax, state levy reduction of 4.7187 percent made permanent . . . . .	3
State leases of property, lease used for collateral for payment of securities prohibited . . . . .	117
State leases of property, leases of up to ten years authorized . . . . .	117

# SUBJECT INDEX OF 1997 STATUTES

	Chapter
<b>REAL ESTATE APPRAISERS</b>	
Brokers, price opinion must state that opinion is not an appraisal . . . . .	399
<b>RECORDS</b>	
Birth certificates, department of health to adopt rules for release of copies, criteria . . . . .	108
Child abuse or neglect, conditions for disclosure of child welfare records established . . . . .	305
Child abuse, information determined to be unfounded not maintained in files for more than six years, notification of alleged perpetrator . . . . .	282
Child support enforcement, disclosure of relevant information from state agencies and departments allowed . . . . .	58
Employment security department, social and health services department allowed access to employer wage files, conditions . . . . .	58
Financial institutions, examination reports and certain information exempt from public disclosure . . . . .	258
Health care providers, disclosure of complaints filed under uniform disciplinary act limited . . . . .	270
Motor vehicles, department of licensing allowed to release owners' names and addresses to commercial parking companies for parking violation notification purposes, limitations . . . . .	33
Property tax, confidentiality of tax information established and criteria set forth for certain disclosures . . . . .	239
Students, parents' right to review education records established, records' release without parental consent prohibited . . . . .	119
<b>RECREATION (See also OUTDOOR RECREATION)</b>	
Hanggliding and paragliding, limitation of landowner's liability . . . . .	26
Skateboarding and other nonmotorized wheel activities, limitation of landowner's liability . . . . .	26
<b>RECREATIONAL VEHICLES</b>	
Left-hand lane use by vehicles towing trailers or by combinations over ten thousand pounds prohibited, exceptions . . . . .	253
Motor homes, use tax exemption limited . . . . .	301
<b>RECYCLING</b>	
Garbage trucks and recycling trucks, front-loading trucks exempt from front end length limits . . . . .	191
<b>REGULATORY REFORM</b>	
Regulatory reform enacted . . . . .	409
Rules, committee to study filing and publication procedures . . . . .	409
Rules, electronic distribution of agency notices authorized and procedures established . . . . .	126
Social and health services department, rule-making procedures revised . . . . .	430
<b>RENAL DISEASE</b>	
Kidney dialysis centers, provisions revised . . . . .	129
<b>RESIDENTIAL CARE</b>	
Enhanced adult residential care contracted services, nursing homes encouraged to convert portion of beds to provide services . . . . .	164

# SUBJECT INDEX OF 1997 STATUTES

	Chapter
<b>RESPIRATORY CARE PRACTITIONERS</b>	
Licensure requirements and scope of practice . . . . .	334
<b>RESTITUTION</b>	
Rape of a child, restitution requirements . . . . .	52
<b>RETIREMENT AND PENSIONS</b>	
Disability as a result of criminal conduct by member, benefits denied . . . . .	103
Excess compensation, definition revised . . . . .	221
Higher education employees, coverage continued for members who serve as legislators . . . . .	123
Individual retirement account, transfer of nonaccount holder spouse's community property interest at death . . . . .	20
Law enforcement officers and firefighters, prior service transfer allowed . . . . .	122
Post-retirement employment, restrictions . . . . .	254
Public employees' retirement system, survivor benefits eligibility . . . . .	73
State patrol retirement system, coverage continued for members who serve as legislators . . . . .	123
State patrol retirement system, minimum benefits established . . . . .	72
Teachers' retirement system, plan III contribution rates changed . . . . .	10
Teachers' retirement system, survivor benefits eligibility . . . . .	73
<b>RETIREMENT SYSTEMS, DEPARTMENT</b>	
Excess compensation, definition revised . . . . .	221
<b>REVENUE, DEPARTMENT</b>	
Interest and penalties, administrative provisions revised . . . . .	157
Master license system, agencies authorized to contract with internal revenue service and other federal agencies to issue federal employee identification numbers or other federal credentials . . . . .	51
Metals mining and milling fees, collection duties transferred to department of ecology . . . . .	170
Regulatory authority, provisions revised . . . . .	409
Tax provisions, technical corrections . . . . .	156
Timber, expiration date extended requiring report of purchase of privately owned timber . . . . .	151
Tobacco products and cigarettes, tax enforcement transferred to liquor control board . . . . .	420
<b>REVISED CODE OF WASHINGTON</b>	
Health, department of, technical corrections to statutes administered by depart- ment . . . . .	275
Tax provisions, technical corrections . . . . .	156
Technical corrections . . . . .	101, 245
Title 45 RCW repealed . . . . .	36
Water code, obsolete references eliminated . . . . .	32
<b>RIVERS</b>	
Whitewater river rafting, outfitter licensing and guide training requirements established . . . . .	391
<b>ROADS AND HIGHWAYS</b>	
Assessment reimbursement areas authorized to finance costs of local government street, road, or highway projects . . . . .	158
Bicycles, regulation of electric-assisted bicycles established . . . . .	328
Left lane use by trailers or by vehicles or combinations over ten thousand pounds prohibited, exceptions . . . . .	253

## SUBJECT INDEX OF 1997 STATUTES

	Chapter
<b>ROADS AND HIGHWAYS — con't.</b>	
Rural arterial programs, eligibility provisions revised . . . . .	81
State route 35 established . . . . .	308
State route 41 to replace state route 2 spur . . . . .	155
Two-way left turn lanes, vehicle travel within lane limited to three hundred feet	202
Vehicles or combination over ten thousand pounds required to travel in right-hand lane, exceptions . . . . .	253
<b>RURAL DEVELOPMENT</b>	
Distressed rural counties, assistance provided through business programs, tax incentives, and infrastructure development . . . . .	366
Rural development council established, membership and duties . . . . .	377
Rural natural resources impact areas, assistance reauthorized and provisions relating to revised . . . . .	367
<b>SALARIES</b>	
State elected officials, salaries established as of September 1, 1997 . . . . .	458
<b>SALES</b>	
Discount program memberships, business and occupation tax exemption for out-of-state sales . . . . .	408
Farm implement sales, commissioned salespeople eliminated from minimum rate of compensation in excess of forty-hour week . . . . .	311
Overtime compensation revised for commissioned salespersons . . . . .	203
Secured transactions, debtor's liability for deficiency after default . . . . .	138
<b>SALMON (See also FISH AND WILDLIFE, DEPARTMENT; FISHING, COM- MERCIAL; FISHING, RECREATIONAL)</b>	
Commercial licenses, number of alternate operators may be increased by fish and wildlife commission rule . . . . .	421
Commercial licenses, renewal provision allowed for missing a season . . . . .	76
Fish passage barriers, task force to recommend program to identify and remove .	389
Fisheries enhancement and habitat restoration, funding through regional fisheries enhancement salmonid recovery account established . . . . .	389
Recreational licenses, annual surcharge imposed . . . . .	197
Rural natural resources impact areas, assistance reauthorized and provisions relating to revised . . . . .	367
Seasonal harvest, department report required . . . . .	414
<b>SAVINGS AND LOAN ASSOCIATIONS</b>	
Examination reports and certain information, exemption from public disclosure .	258
<b>SCHOOLS AND SCHOOL DISTRICTS</b>	
Alternative educational services for students with different learning needs autho- rized, contract provisions . . . . .	265
Assistive technology for children with disabilities, educational agencies autho- rized to rent, sell, or transfer . . . . .	104
Audits, superintendent of public instruction authorized to withhold or recover payments to districts based on findings, rule-making authority . . . . .	167
Boundaries included in extensions of city or town boundaries, provisions for transfer to city or town district . . . . .	47
Buses, penalties for passing stopped bus doubled . . . . .	80
Certificated employees, conditions for application of college credits earned . . .	90
Certificated employees, probationary provisions revised . . . . .	278
Certificated instructional staff, formula for determining average salaries revised .	141
Contracts with other public and private entities for goods and services allowed, conditions . . . . .	267

## SUBJECT INDEX OF 1997 STATUTES

SCHOOLS AND SCHOOL DISTRICTS — con't.	Chapter
Criminal gang activity, definitions and penalties . . . . .	266
Discipline in classrooms, board of directors to adopt policies to restore . . . . .	266
Dress code may be adopted, provisions . . . . .	266
Education technology revolving fund created for development and operation of educational information technology services . . . . .	180
Employees, certificated employees probationary provisions revised . . . . .	278
Employees, name of noncertificated employee category changed to classified employee category . . . . .	13
Employees, removal of student from school grounds requires parental authoriza- tion, exceptions . . . . .	411
Enrollment of student previously enrolled in another school, record transfer requirements revised . . . . .	266
Flexibility for schools and districts, study to identify actions to increase . . . . .	431
Gangs, rejection of nonresident application allowed for students with record of disruptive behavior or gang activity . . . . .	265
High school credit equivalencies for college credits adopted . . . . .	222
K-20 technology account created for receipts and disbursements for telecommuni- cations system . . . . .	180
Knives prohibited in schools . . . . .	266
Levies, authorization not to exceed period of four years . . . . .	260
Levies, levy equalization study directed . . . . .	259
Levies, provisions revised . . . . .	259
Nonresident application, rejection allowed for students with disruptive behavior or gang activity . . . . .	265
Parents, right to review student education records established, records' release without parental consent prohibited . . . . .	119
Reading grant program for primary grades . . . . .	262
Reading, second grade reading tests identified to measure accuracy and fluency skills . . . . .	262
School buses, designation of school bus stops as drug-free zones clarified . . . . .	23
School buses, penalties for passing stopped bus doubled . . . . .	80
Student assessment system, timelines for development and implementation amended . . . . .	268
Student sex offenders prohibited from attending same school as victim or victim's siblings . . . . .	265
Student suspended for property damage required to pay costs of damage before returning to school . . . . .	266
Students removed from school grounds by employee requires parental authoriza- tion, exceptions . . . . .	411
Students, alternative educational services for students with different learning needs authorized, contract provisions . . . . .	265
Students, parents' right to review education records established, records' release without parental consent prohibited . . . . .	119
Surplus property, gift or loan to approved entities for educational purposes allowed, conditions . . . . .	264
Suspension, districts authorized to suspend student for up to one year, conditions . . . . .	265
Teachers, formula for determining average salaries revised . . . . .	141
Telephones, portable or cellular phones and paging devices, policies to limit possession authorized . . . . .	266
Tobacco products, district policy mandating prohibition and enforcement required . . . . .	9
Traffic safety education, juvenile agricultural driver permit authorizes holder to participate in school classes . . . . .	82
Truancy, courts of limited jurisdiction to have concurrent jurisdiction with juvenile court over proceedings . . . . .	341

## SUBJECT INDEX OF 1997 STATUTES

---

	Chapter
<b>SCHOOLS AND SCHOOL DISTRICTS — con't.</b>	
Truancy, petition provisions revised . . . . .	68
Waivers of state laws and rules and of district policies, procedure for schools to request and district to grant . . . . .	431
<b>SEARCH AND SEIZURE</b>	
Gambling devices, seizure and forfeiture provisions revised . . . . .	78, 128
<b>SECRETARY OF STATE</b>	
Business registration and licensing, agencies authorized to contract with internal revenue service and other federal agencies to issue federal employee identification numbers or other federal credentials . . . . .	51
Capitol committee, secretary added as new member . . . . .	279
Certification authorities, licensing requirements and procedures . . . . .	27
Charitable trusts, registration procedures revised . . . . .	124
Corporations, naming conventions clarified . . . . .	12
Electronic signatures, requirements for authentication and reliability . . . . .	27
Quality awards council, staff assistance limited and use of public funds prohibited unless authorized by legislature . . . . .	329
<b>SECURITIES</b>	
Brokers and investment advisers, examination reports and certain information exempt from public disclosure . . . . .	258
Electrical and natural gas companies, utilities and transportation commission authorized to exempt from securities regulation . . . . .	15
<b>SENIOR CITIZENS</b>	
Housing, task force created to study alternative financing techniques for low-income senior and disabled persons' housing . . . . .	383
Property tax, special assessment redefined for purposes of tax deferral . . . . .	93
<b>SENTENCING</b>	
Child rape added to persistent offender list . . . . .	339
Compliance with conditions of sentence, offender may be required to perform affirmative acts to monitor compliance . . . . .	144
Indeterminate sentence review board, existence extended and membership reduced . . . . .	350
Juvenile dispositions revised . . . . .	338
Murder and manslaughter, provisions revised . . . . .	365
Rape of a child, restitution requirements . . . . .	52
Sex offenders, community custody provisions revised . . . . .	69
Sex offenders, sentences and supervision enhanced . . . . .	340
Two strikes you're out, child rape added to list . . . . .	339
<b>SEPTIC SYSTEMS, ON-SITE</b>	
Alternative systems, procedures for evaluating and recommending guidelines and standards . . . . .	447
Permits, local health boards required to respond to permit applications in timely manner, response requirements . . . . .	447
<b>SEX OFFENSES AND OFFENDERS</b>	
Child rape added to persistent offender list . . . . .	339
Community custody, provisions revised . . . . .	69
Crime victim advocate allowed to be present at any judicial proceedings related to acts committed against victim . . . . .	343
Juvenile offenders prohibited from attending same school as victim or victim's siblings . . . . .	265

# SUBJECT INDEX OF 1997 STATUTES

	Chapter
<b>SEX OFFENSES AND OFFENDERS — con't.</b>	
Notification procedures and risk level classification procedures revised . . . . .	364
Rape of a child, restitution requirements . . . . .	52
Risk assessment, consistent approach to be developed . . . . .	364
Risk level classification and public notification procedures revised . . . . .	364
Sentences and supervision enhanced . . . . .	340
Sexually aggressive youth, placement of youth under department's care not to be in residential setting or contact with victims . . . . .	386
<b>SHELLFISH</b>	
Crab, Dungeness crab--Puget Sound fishery licensing provisions revised . . . . .	233
Crab, Dungeness crab--coastal fishery licenses, transfer fee established . . . . .	418
Crab, Dungeness crab--coastal fishery license renewal surcharge assessed . . . . .	418
Crab, delivery of crab from California or Oregon between February 15 and September 15 prohibited . . . . .	418
Crab, number of persons eligible for Dungeness crab--Puget Sound commercial fishery licenses reduced . . . . .	115
Environmental excellence program agreements, voluntary program created to support and encourage innovative environmental measures or strategies . . .	381
Landscape management plan pilot projects authorized to develop long-term multispecies management in relation to water quality protection . . . . .	290
<b>SHERIFFS</b>	
911 emergency communications system unclassified position allowed . . . . .	62
<b>SHORELINES AND SHORELINE MANAGEMENT</b>	
Aquatic lands, exchanges of state-owned aquatic lands with privately owned lands allowed if in public interest . . . . .	209
Compensatory mitigation, innovative measures authorized to mitigate impacts of development projects . . . . .	424
Environmental excellence program agreements, voluntary program created to support and encourage innovative environmental measures or strategies . . .	381
Petitions for review on permit decisions, service of notice on local government .	199
<b>SLUDGE</b>	
Biosolids permit account created to fund management program . . . . .	398
<b>SMALL CLAIMS COURT</b>	
Appeals and operating procedures revised . . . . .	352
<b>SNOHOMISH COUNTY</b>	
Superior court judges increased to fifteen . . . . .	347
<b>SOCIAL AND HEALTH SERVICES, DEPARTMENT</b>	
AFDC, references replaced with temporary assistance for needy families . . . . .	59
Adoption support reconsideration program, eligibility criteria revised . . . . .	131
Adoption, interstate agreements to provide adoption assistance for special needs children authorized . . . . .	31
Adult family homes, limited moratorium on licensing . . . . .	392
Child abuse and neglect, alternative response systems services established throughout state . . . . .	386
Child abuse or neglect, conditions for disclosure of child welfare records estab- lished . . . . .	305
Child abuse, information determined to be unfounded not maintained in files for more than six years, notification of alleged perpetrator . . . . .	282
Child protective services, criteria for provision of services revised . . . . .	386
Child support, cooperative agreements with Indian tribes established . . . . .	386

## SUBJECT INDEX OF 1997 STATUTES

<b>SOCIAL AND HEALTH SERVICES, DEPARTMENT — con't.</b>	<b>Chapter</b>
Children's services, annual quality assurance report required . . . . .	386
Data-match system developed for exchange of information relevant to child support enforcement . . . . .	58
Domestic violence shelters, local funding requirement eliminated . . . . .	160
Family reconciliation act, clarifications concerning placement and custody of at-risk youth . . . . .	146
Foster parent liaison positions created, additional foster and adoptive family placements required and facilitated . . . . .	272
Juvenile facilities, policy to assess sexually aggressive juveniles in state-funded or operated facilities . . . . .	386
Liens for overpayments, provisions regarding liens and notices to withhold and deliver revised . . . . .	130
Long-term care reorganization and standards of care reform . . . . .	392
Medical assistance, department rights to secure reimbursements for assistance may be delegated to contracted managed care system . . . . .	236
Medical assistance, health care policy board abolished . . . . .	274
Mentally ill offenders, pilot program created to provide postrelease mental health care and housing . . . . .	342
Nursing facility reimbursement system inequities adjusted . . . . .	277
Records, department allowed access to employment security department wage files for specific purposes, conditions . . . . .	58
Rule-making procedures revised . . . . .	430
Sex offenders, consistent approach to risk assessment to be developed . . . . .	364
Social worker V classification, implementation of category . . . . .	386
Temporary assistance for needy families, references to AFDC replaced . . . . .	59
 <b>SOLID WASTE</b>	
Cities and towns, regulation of services in newly incorporated or annexed areas . . . . .	171
Collection rates, determination provisions revised . . . . .	434
Collection vehicles, driver allowed to transport others on outside parts of vehicle, conditions . . . . .	190
Garbage trucks and recycling trucks, front-loading trucks exempt from front end length limits . . . . .	191
Handling facilities, permit provisions revised . . . . .	213
Permit system study authorized with regard to use and reuse materials and disposal materials . . . . .	213
 <b>SOMATIC EDUCATION PRACTITIONERS</b>	
Exemption from regulation as massage practitioners . . . . .	297
 <b>SPOKANE COUNTY</b>	
Superior court judges increased to thirteen . . . . .	347
 <b>SPOKANE JOINT CENTER FOR HIGHER EDUCATION</b>	
Parking fee, center allowed to impose parking fees and adopt rules governing parking and traffic . . . . .	273
 <b>SPORTS</b>	
Boxing, regulations revised . . . . .	205
Gender equity in higher education, provisions extended . . . . .	5
Golfing sweepstakes for nonprofit and charitable organizations, permitted activities expanded . . . . .	38
Hanggliding and paragliding, limitation of landowner's liability . . . . .	26
Kickboxing and martial arts, defined for purposes of regulation . . . . .	205
Promoters of boxing and wrestling, licensing provisions revised and penalties for violations established . . . . .	205

## SUBJECT INDEX OF 1997 STATUTES

	Chapter
<b>SPORTS — con't.</b>	
Skateboarding and other nonmotorized wheel activities, limitation of landowner's liability . . . . .	26
Stadium and exhibition center, public stadium authority created and financing provisions for facility construction provided . . . . .	220
Wrestling, regulations revised . . . . .	205
<b>STATE AGENCIES AND DEPARTMENTS</b>	
Assistive technology for children with disabilities, educational agencies authorized to rent, sell, or transfer . . . . .	104
Caseload forecast council created to oversee preparation of and approve official state caseload forecasts . . . . .	168
Child support enforcement, disclosure of relevant information allowed . . . . .	58
Collection agencies used to collect debts, additional fee for services charged to debt . . . . .	387
Developmentally disabled supported employment programs, state agencies to develop and implement . . . . .	287
Environmental excellence program agreements, voluntary program created to support and encourage innovative environmental measures or strategies . . .	381
Facilities maintenance and repair strategic plan and reports required for accountability and evaluation of budget requests . . . . .	96
Facilities, process to be developed to solicit proposals for social service organization to be funded and colocated with agencies . . . . .	374
Health care policy beard abolished . . . . .	274
Investigators, study group to develop mandatory training and policies and procedures for state investigators . . . . .	378
Performance audits, compliance reviews and recommendations to be considered in preparation of agency budget . . . . .	372
Personal service contracts, consultant contracts with additional charges for access to data prohibited . . . . .	373
Pest management, integrated practices by state agencies required, procedures . .	357
Rules, electronic distribution of agency notices authorized and procedures established . . . . .	126
Savings incentive account created . . . . .	261
<b>STATE BUILDINGS</b>	
Maintenance and repair strategic plan and reports required for accountability and evaluation of budget requests . . . . .	96
Social service organizations, process to be developed to solicit proposals for funding and colocation with state agency facilities . . . . .	374
<b>STATE GOVERNMENT</b>	
Actions, computation of time in which an act is to be done, revision . . . . .	125
Caseload forecast council created to oversee preparation of and approve official state caseload forecasts . . . . .	168
Collection agencies used to collect debts, additional fee for services charged to debt . . . . .	387
State insect, common green damer dragonfly, designated . . . . .	6
<b>STATE INVESTMENT BOARD</b>	
Board authorized to create public entities to manage investments . . . . .	359
Delegation by contract to private sector to manage investments authorized . . . .	161
Director authorized to delegate to beard staff power to make investment decisions	161

# SUBJECT INDEX OF 1997 STATUTES

	Chapter
<b>STATE LANDS (See PUBLIC LANDS)</b>	
<b>STATE PARKS</b>	
Crimes, provisions relating to offenses in parks revised . . . . .	214
Metal detectors, commission to increase area for recreational use and develop plan to identify historic archaeological resources . . . . .	150
Parks and recreation commission, transfer and deposits of moneys into state parks renewal and stewardship account . . . . .	137
Reservation fees, disabled veterans exempted . . . . .	74
<b>STATE PATROL</b>	
Motor vehicle accident reports, requirements revised . . . . .	248
Officers, off-duty law enforcement employment allowed . . . . .	375
Retirement system, coverage continued for members who serve as legislators . . .	123
Retirement system, minimum benefits established . . . . .	72
State investigators, study group to develop mandatory training and policies and procedures . . . . .	378
<b>STATUTE LAW COMMITTEE</b>	
RCW technical corrections . . . . .	245
RCW technical corrections affecting department of financial institutions adopted	101
<b>STEELHEAD (See also FISHING, RECREATIONAL)</b>	
Fish passage barriers, task force to recommend program to identify and remove .	389
Fisheries enhancement and habitat restoration, funding provisions . . . . .	389
Seasonal harvest, department report required . . . . .	414
<b>STUDIES</b>	
Archaeological resources, parks and recreation commission to develop plan to identify historic resources in state park with military fort . . . . .	150
Computer software, requirement for study of tax exemptions and valuation rules eliminated . . . . .	175
Correctional training standards and education board created to review programs and standards . . . . .	351
Fish passage barriers, task force to recommend program to identify and remove .	389
Fisheries enhancement and habitat restoration, study of permitting requirements directed . . . . .	389
Grain elevators and warehouse operations, sales and use tax remittance authorized and study of economic impacts ordered . . . . .	450
Guardians, administrator for the courts to study and develop system for profes- sional guardian certification . . . . .	312
Housing for low-income disabled persons and seniors, task force created to study alternative financing techniques . . . . .	383
Law enforcement training standards and education board created to review programs and standards . . . . .	351
Levies, levy equalization study directed . . . . .	259
Long-term care services, study to coordinate single umbrella for ombuds and advocacy services . . . . .	392
Mentally ill offenders, pilot program created to provide postrelease mental health care and housing . . . . .	342
Public assistance, studies directed . . . . .	58
Rules, filing and publication procedures . . . . .	409
Schools, study to identify actions to increase flexibility for schools and districts .	431
Solid waste permit system study authorized with regard to use and reuse materi- als and disposal materials . . . . .	213

# SUBJECT INDEX OF 1997 STATUTES

<b>STUDIES — con't.</b>	<b>Chapter</b>
State investigators, study group to develop mandatory training and policies and procedures . . . . .	378
Telecommunications, study to make recommendations on future of providing universal telecommunications services . . . . .	404
 <b>SUPERIOR COURT</b>	
Counties, actions by or against county to be commenced in county or either of two nearest counties . . . . .	401
Pierce county judges increased to twenty-four . . . . .	347
Snohomish county judges increased to fifteen . . . . .	347
Spokane county judges increased to thirteen . . . . .	347
 <b>SUPREME COURT</b>	
Judge pro tempore appointment of judge whose term expires with cases and other business pending, limitation . . . . .	88
 <b>SURPLUS PROPERTY</b>	
School districts, gift or loan of property to approved entities for educational purposes allowed, conditions . . . . .	264
 <b>SURVEYORS</b>	
Board of engineers and land surveyors, duties expanded and provisions regarding registrants and companies revised . . . . .	247
 <b>TAXES - ADMISSIONS TAX</b>	
Stadium and exhibition center, public stadium authority created and financing provisions for facility construction provided . . . . .	220
 <b>TAXES - AIRCRAFT FUEL TAX</b>	
Licensees, bankruptcy filing notification required and payment credit procedures revised . . . . .	183
 <b>TAXES - BEER TAX</b>	
Rate lowered and funds distributed to border areas . . . . .	451
 <b>TAXES - BUSINESS AND OCCUPATION TAX</b>	
Aluminum master alloy producers classified as processors for hire rather than manufacturers for taxation purposes . . . . .	453
Camps and conference centers operated by nonprofit organizations, exemptions from tax . . . . .	388
Cubed hay and alfalfa, tax reduction for wholesale sales . . . . .	384
Discount program memberships, exemption for out-of-state sales . . . . .	408
Hay or alfalfa cubing excluded from definition of "to manufacture" for business and occupation tax purposes . . . . .	384
Internet service providers, taxation as network telephone service providers prohibited . . . . .	304
Internet, classification as selected business services established . . . . .	304
Motor vehicles, exemption for wholesale auction receipts . . . . .	4
Rates consolidated into fewer categories . . . . .	7
Small businesses, ranged table created for tax credit . . . . .	238
Water districts and systems, tax exemption for small districts and systems . . . . .	407
 <b>TAXES - CIGARETTE TAX</b>	
Liquor control board, enforcement provisions transferred from department of revenue to board . . . . .	420

## SUBJECT INDEX OF 1997 STATUTES

	Chapter
<b>TAXES - ESTATE TAX</b>	
Penalty provisions revised .....	136
<b>TAXES - EXCISE TAX</b>	
Employer required to keep record of employee unified business identifier account number .....	54
<b>TAXES - INSURANCE PREMIUM TAX</b>	
Credit against tax guaranty association assessments paid by insurers revised ...	300
<b>TAXES - LIQUOR TAX</b>	
County research services account created, tax moneys to fund .....	437
<b>TAXES - LODGING TAX</b>	
Stadium and exhibition center, public stadium authority created and financing provisions for facility construction provided .....	220
Uniform standards for local option excise taxation of lodging to provide for promotion of tourism .....	452
<b>TAXES - MOTOR VEHICLE FUEL TAX</b>	
Licensees, bankruptcy filing notification required and payment credit procedures revised .....	183
<b>TAXES - PROPERTY TAX</b>	
Assembly halls and meeting places, permitted uses extended to meet tax exemption qualifications .....	298
Assessed valuation petition, deadlines authorized .....	294
Assessment prohibited that assumes a land use not permitted under existing laws	134
Cancer clinics, nonprofit clinics exempted from tax, conditions .....	143
Computer software, requirement for study of tax exemptions and valuation rules eliminated .....	175
Confidentiality of tax information, criteria established for certain disclosures ...	239
Exemption for property assessed at less than \$500 .....	244
Fish and wildlife habitat restoration and protection and water quantity and quality improvements, exemption .....	295
Forest land, current use taxation revised regarding transfer of property for conservation purposes and regarding land affected by government action ...	299
Limits on increases, one hundred six percent limit calculation reduced and valuation increases allowed to be spread over time .....	3
Personal, valuation of intangible personal property clarified .....	181
Refunds, interest on refunds computed from date of collection .....	67
School levies, authorization not to exceed period of four years .....	260
School levies, provisions revised .....	259
Senior citizen and disabled tax deferral, special assessment redefined .....	93
Special assessment redefined for purposes of senior citizen and disabled tax deferral .....	93
State levy reduction of 4.7187 percent extended, referendum to approve .....	2
State levy reduction of 4.7187 percent made permanent .....	3
Timber, expiration date extended requiring report of purchase of privately owned timber .....	151
Valuation, exemption for fish and wildlife habitat restoration and protection and water quantity and quality improvements .....	295
<b>TAXES - PUBLIC UTILITY TAX</b>	
Coal-fired thermal electric generating facilities, tax credit qualifications .....	368
Water districts and systems, tax exemption for small districts and systems .....	407

# SUBJECT INDEX OF 1997 STATUTES

	Chapter
<b>TAXES - REFERENDUM MEASURES</b>	
Property tax, one hundred six percent limit calculation reduced and valuation increases allowed to be spread over time . . . . .	3
Property tax, state levy reduction of 4.7187 percent extended, referendum to approve . . . . .	2
Stadium and exhibition center, referendum to approve taxes to fund, reimbursement for cost of election . . . . .	220
<b>TAXES - SALES TAX</b>	
Agricultural worker housing, exemption of construction or repair costs from sales and use tax, conditions . . . . .	438
Aircraft parts, tax exemption for materials used in design and development, clarification . . . . .	302
Alternative housing for youth in crisis, expiration of tax exemptions for new construction extended . . . . .	386
Camps and conference centers operated by nonprofit organizations, exemptions from tax . . . . .	388
Coal-fired thermal electric generating facilities, tax exemption qualifications . . .	368
Grain elevators and warehouse operations, sales and use tax remittance authorized and study of economic impacts ordered . . . . .	450
Hearing instruments, tax exemption . . . . .	224
Mobile homes, collection of tax revised . . . . .	139
Motion picture and video production equipment and services, tax exemption requirements . . . . .	61
Stadium and exhibition center, public stadium authority created and financing provisions for facility construction provided . . . . .	220
Towing services, operator's place of business considered location of sale for tax purposes . . . . .	201
Wildlife habitat improvement or forage, sales of certain materials to specified parties exempt from sales tax . . . . .	127
<b>TAXES - SPECIAL FUEL TAX</b>	
Licenses, bankruptcy filing notification required and payment credit procedures revised . . . . .	183
<b>TAXES - TOBACCO PRODUCTS TAX</b>	
Liquor control board, enforcement provisions transferred from department of revenue to board . . . . .	420
<b>TAXES - USE TAX</b>	
Agricultural worker housing, exemption of construction or repair costs from sales and use tax, conditions . . . . .	438
Aircraft parts, tax exemption for materials used in design and development, clarification . . . . .	302
Alternative housing for youth in crisis, expiration of tax exemptions for new construction extended . . . . .	386
Boats, specified uses exempted from tax . . . . .	293
Coal-fired thermal electric generating facilities, tax exemption qualifications . . .	368
Grain elevators and warehouse operations, sales and use tax remittance authorized and study of economic impacts ordered . . . . .	450
Hearing instruments, tax exemption . . . . .	224
Motion picture and video production equipment and services, tax exemption requirements . . . . .	61

## SUBJECT INDEX OF 1997 STATUTES

TAXES - USE TAX — con't.	Chapter
Motor homes, exemption limited . . . . .	301
Stadium and exhibition center, public stadium authority created and financing provisions for facility construction provided . . . . .	220
Vessels, specified uses exempted from tax . . . . .	293
 <b>TEACHERS</b>	
Certificated employees, probationary provisions revised . . . . .	278
Governor's awards for excellence in teaching history created . . . . .	263
Retirement system, disability as a result of criminal conduct by member, benefits denied . . . . .	103
Retirement system, plan III contribution rates changed . . . . .	10
Retirement system, post-retirement employment, restrictions . . . . .	254
Retirement system, survivor benefits eligibility . . . . .	73
Salaries, formula for determining average salaries revised . . . . .	141
Salary schedule, conditions for application of college credits earned . . . . .	90
 <b>TELECOMMUNICATIONS</b>	
Education technology revolving fund created for development and operation of educational information technology services . . . . .	180
K-20 technology account created for receipts and disbursements for telecommunications system . . . . .	180
Personal wireless service minor facilities and microcells, siting permits and review . . . . .	219
Rate reduction allowed without receiving special order, conditions . . . . .	166
Universal services, study to make recommendations on future of providing services . . . . .	404
 <b>TERRORISM</b>	
Act of terrorism committed against state resident outside of the United States included in definition of criminal act for crime victim compensation purposes . . . . .	249
Explosives and fake bombs, penalties for malicious use increased . . . . .	120
 <b>TIDELANDS</b>	
Exchange of state-managed tidelands and shorelands allowed if in public interest, criteria . . . . .	209
 <b>TIMBER AND TIMBER INDUSTRIES (See also FOREST PRACTICES)</b>	
Commercial fertilizer defined as solid waste under RCW 70.95.030, approval and registration requirements . . . . .	427
Forest practices, local government regulatory authority and duties specified . . . . .	173
Forest practices, natural resources department landscape management plan pilot projects authorized to develop long-term multispecies management in relation to water quality protection . . . . .	290
Privately owned timber, expiration date extended requiring report of purchase . . . . .	151
Rural natural resources impact areas, assistance reauthorized and provisions relating to revised . . . . .	367
State forest lands, direct sale of timber without prior advertising allowed, conditions . . . . .	116
Transportation department, sale of timber or logs from lands . . . . .	240
 <b>TIME</b>	
Computation of time in which an act is to be done, revision . . . . .	125

# SUBJECT INDEX OF 1997 STATUTES

	Chapter
<b>TITLE COMPANIES</b>	
Title insurers, terms related to defined . . . . .	14
<b>TITLE ONLY</b>	
Human services act of 1997 . . . . .	57
<b>TOBACCO (See also CIGARETTES)</b>	
Littering, penalty established for discarding tobacco products capable of starting a fire . . . . .	159
Schools, district policy mandating prohibition and enforcement required . . . . .	9
Tax enforcement transferred to liquor control board . . . . .	420
<b>TOURISM</b>	
Hotel/motel tax, uniform standards for local option excise taxation of lodging to provide for promotion of tourism . . . . .	452
<b>TOW TRUCKS</b>	
Retail sale of towing services, operator's place of business considered location of sale for tax purposes . . . . .	201
<b>TOWNSHIPS</b>	
Title 45 RCW repealed . . . . .	36
<b>TRAFFIC</b>	
Left lane use by trailers or by vehicles or combinations over ten thousand pounds prohibited, exceptions . . . . .	253
Vehicles or combination over ten thousand pounds required to travel in right lane, exceptions . . . . .	253
<b>TRAFFIC ACCIDENTS</b>	
Accident reports, requirements revised . . . . .	248
<b>TRAFFIC OFFENSES (See also DRIVING UNDER THE INFLUENCE)</b>	
Driving without a valid license, penalty . . . . .	66
Negligent driving, definitions and penalties . . . . .	66
School buses, penalties for passing stopped bus doubled . . . . .	80
Trauma care services, fee imposed on infractions to fund . . . . .	331
Vehicle offenses involving death, statute of limitations removed for certain crimes . . . . .	97
<b>TRANSPORTATION (See also FERRIES, PUBLIC TRANSIT)</b>	
Budget, appropriations for period ending June 30, 1999 . . . . .	457
Counties, road funds may be used for insurance and risk management programs .	189
Counties, submittal date for six-year transportation programs revised . . . . .	188
<b>TRANSPORTATION, DEPARTMENT</b>	
Advanced environmental mitigation account created for funding watershed approach projects . . . . .	140
Federal pass-through moneys, procedures established to process and account for expenditures . . . . .	94
Ferries, interest on retroactive pay increases for employees . . . . .	436
Fish passage barriers, task force to recommend program to identify and remove .	389
Industrial investments and projects of state-wide significance, procedures estab- lished to expedite and assist . . . . .	369
Miscellaneous transportation programs account created for reimbursable expendi- tures . . . . .	94
Timber or logs sold from department lands . . . . .	240

# SUBJECT INDEX OF 1997 STATUTES

	Chapter
<b>TRUCKS AND TRUCKING (See also MOTOR VEHICLES)</b>	
Auto transportation companies, annual revenue report requirements set forth . . .	215
Garbage trucks and recycling trucks, front-loading trucks exempt from front end length limits . . . . .	191
Left lane use by trailers or by vehicles or combinations over ten thousand pounds prohibited, exceptions . . . . .	253
Proportional registration licensees, bankruptcy filing notification required and registration procedures revised . . . . .	183
Solid waste collection vehicles, driver allowed to transport others on outside parts of vehicle, conditions . . . . .	190
Traffic, vehicles or combination over ten thousand pounds required to travel in right lane, exceptions . . . . .	253
Weight, vehicle gross weight schedule extended . . . . .	198
Width, limits adjusted . . . . .	63
<b>TRUST COMPANIES</b>	
Professional service corporations, trusts allowed to hold shares . . . . .	18
<b>TRUSTS AND TRUSTEES</b>	
Charitable trusts, registration procedures revised . . . . .	124
Professional service corporations, trusts allowed to hold shares . . . . .	18
<b>UNEMPLOYMENT COMPENSATION</b>	
Employer required to keep record of employee unified business identifier account number . . . . .	54
Forms, single form for unemployment insurance and workers' compensation filing created . . . . .	325
<b>UNIFORM COMMERCIAL CODE</b>	
Bank statement rule, termination date removed . . . . .	53
Letters of credit, provisions revised . . . . .	56
Secured transactions, debtor's liability for deficiency after default . . . . .	138
<b>UNIFORM DISCIPLINARY ACT</b>	
Complaints filed under act, disclosure limited . . . . .	270
<b>UNIVERSITY OF WASHINGTON</b>	
Claims against the University, payment provisions revised . . . . .	288
Medical school, Wyoming students added to list of those exempt from nonresident tuition differential . . . . .	50
Tuition fees, increases authorized, percentage of revenue to assist needy resident students . . . . .	403
<b>UTILITIES</b>	
Coal-fired thermal electric generating facilities, agreements with and ownership by public allowed . . . . .	230
Short-term notes, preapproval from commission not required, limitations . . . . .	162
Telecommunications, personal wireless service minor facilities and microcells, siting permits and review . . . . .	219
Telecommunications, rate reduction allowed without receiving special order, conditions . . . . .	166
<b>UTILITIES AND TRANSPORTATION COMMISSION</b>	
Auto transportation companies, annual revenue report requirements set forth . . .	215
Electrical and natural gas companies, commission authorized to exempt from securities regulation . . . . .	15
Low-level radioactive waste disposal site, fee adjustments limited . . . . .	243

# SUBJECT INDEX OF 1997 STATUTES

	Chapter
<b>UTILITIES AND TRANSPORTATION COMMISSION — con't.</b>	
Short-term notes, preapproval from commission not required, limitations . . . . .	162
Solid waste collection companies, collection rate determination provisions revised	434
Telecommunications, study to make recommendations on future of providing universal telecommunications services . . . . .	404
<b>VETERANS</b>	
Burial costs for indigent veterans, county limit increased . . . . .	286
Disabled veterans exempted from state parks reservation fees . . . . .	74
License plate remembrance emblem, requirements revised . . . . .	234
<b>VICTIMS OF CRIMES</b>	
Child sexual abuse victims, placement of youth under department's care not to be in residential setting or contact with victims . . . . .	386
Children, permission required before address of child or child's parent disclosed	283
Compensation, act of terrorism committed against state resident outside of United States included in definition of criminal act for compensation purposes . . .	249
Compensation, industrial insurance appeals board records related to victims' compensation claims exempt from disclosure requirements . . . . .	310
Compensation, time limit established for filing petition for review of final order or judgment of industrial insurance appeals board . . . . .	102
Crime victim advocate allowed to be present at any judicial proceedings related to acts committed against victim . . . . .	343
<b>VIDEOTAPE</b>	
Sales and use tax exemptions for film and video production companies, require- ments . . . . .	61
<b>VIOLENCE PREVENTION</b>	
Violence reduction and drug enforcement account, appropriation to fund . . . . .	306
<b>VITAL RECORDS</b>	
Birth certificates, department of health to adopt rules for release of copies, criteria . . . . .	108
Fees for copies increased to fund death investigations account . . . . .	223
<b>VOLUNTEERS</b>	
Ambulances, volunteer personnel in cities and towns allowed, provisions . . . . .	65
<b>WAGES AND HOURS</b>	
Farm implement sales, commissioned salespeople eliminated from minimum rate of compensation in excess of forty-hour week . . . . .	311
Garnishment, revisions set forth to reduce impact on employer . . . . .	296
Overtime compensation revised for commissioned salespersons . . . . .	203
<b>WAREHOUSES</b>	
Grain elevators and warehouse operations, sales and use tax remittance authorized and study of economic impacts ordered . . . . .	450
<b>WASHINGTON STATE UNIVERSITY</b>	
Lind dryland research unit of Washington State University to receive Adams county land transfer . . . . .	45
<b>WASTEWATER</b>	
Greywater, department of health to develop guidelines for reuse . . . . .	444
Reclaimed water, demonstration projects authorized . . . . .	355
Reclaimed water, wastewater treatment facility has exclusive right to water generated . . . . .	444

# SUBJECT INDEX OF 1997 STATUTES

	Chapter
<b>WATER</b>	
Community supply, department of ecology to assist applicant denied water right request in obtaining or developing adequate supply . . . . .	443
Drinking water, provisions set forth for water system monitoring and stable funding . . . . .	218
Greywater, department of health to develop guidelines for reuse . . . . .	444
Reclaimed water, demonstration projects authorized . . . . .	355
Reclaimed water, revised provisions regarding surface percolation and discharge . . . . .	444
Reclaimed water, wastewater treatment facility has exclusive right to water generated . . . . .	444
Safe drinking water act, provisions set forth for water system monitoring and stable funding . . . . .	218
Transfer of water, water conservancy board duties . . . . .	441
Water code, obsolete references eliminated . . . . .	32
Watershed planning and water resource management, local planning authorized . . . . .	442
Watersheds, advanced mitigation account created for department of transportation to fund watershed approach projects . . . . .	140
<b>WATER COMPANIES (See also PUBLIC WATER SUPPLY SYSTEMS)</b>	
Safe drinking water act, provisions set forth for water system monitoring and stable funding . . . . .	218
<b>WATER POLLUTION</b>	
Biosolids permit account created to fund management program . . . . .	398
Environmental excellence program agreements, voluntary program created to support and encourage innovative environmental measures or strategies . . . . .	381
<b>WATER QUALITY</b>	
Fish and wildlife habitat restoration and protection and water quantity and quality improvements, property tax exemption . . . . .	295
Landscape management plan pilot projects authorized to develop long-term multispecies management in relation to water quality protection . . . . .	290
<b>WATER RIGHTS</b>	
Applications, evaluation to take into consideration benefits resulting from resource management techniques . . . . .	360
Biosolids permit account created to fund management program . . . . .	398
Claim filing period reopened, notice requirements and department of ecology duties enumerated . . . . .	440
Columbia river, moratorium on new appropriations of water prohibited . . . . .	439
Community supply, department of ecology to assist applicant denied water right request in obtaining or developing adequate supply . . . . .	443
Ground water rights, permit amendment authorized to allow full development of rights through new well construction . . . . .	316
Water conservancy board, formation and duties regarding transfer of water . . . . .	441
Wells, consolidation of ground water rights of exempt wells . . . . .	446
<b>WATER-SEWER DISTRICTS</b>	
Alternative means of formation to serve new developments . . . . .	447
Jurisdiction may be assumed by city, conditions . . . . .	426
Water services, business and occupation tax and public utility tax, exemption for small districts and systems . . . . .	407
<b>WEEDS</b>	
Noxious weed boards, administrative provisions updated and modified . . . . .	353

# SUBJECT INDEX OF 1997 STATUTES

	Chapter
<b>WELLS</b>	
Ground water rights, consolidation of rights of exempt wells . . . . .	446
Ground water rights, permit amendment authorized to allow full development of rights through new well construction . . . . .	316
<b>WETLANDS</b>	
Constructed beneficial wetlands and constructed treatment wetlands defined for purposes of reclaimed water use . . . . .	444
Reclaimed water, revised provisions regarding surface percolation and discharge	444
Wildlife habitat improvement or forage, sales of certain materials to specified parties exempt from sales tax . . . . .	127
<b>WHISTLEBLOWERS</b>	
Long-term care reorganization and standards of care reform, provisions for whistleblowers . . . . .	392
<b>WHITEWATER RIVER RAFTING</b>	
Outfitters, licensing and guide training requirements established . . . . .	391
<b>WILDLIFE</b>	
Bear baiting prohibited . . . . .	1
Habitat improvement or forage, sales of certain materials to specified parties exempt from sales tax . . . . .	127
Habitat incentives program, agreements with private landowners to enhance habitat on landowner's property . . . . .	425
Habitat restoration and protection and water quantity and quality improvements, property tax exemption . . . . .	295
Illegal killing and possession of certain species, penalties increased . . . . .	226
Wildlife and recreation program projects for 1997 authorized . . . . .	46
<b>WITNESSES</b>	
Children, permission required before address of child or child's parent disclosed	283
Intimidation of witnesses, provisions revised . . . . .	29
<b>WOMEN</b>	
Gender equity in higher education, provisions extended . . . . .	5
<b>WORK FORCE TRAINING AND EDUCATION COORDINATING BOARD</b>	
Industrial investments and projects of state-wide significance, procedures established to expedite and assist . . . . .	369
<b>WORK RELEASE</b>	
Private organizations contracting with department to operate work release facilities required to go through siting process . . . . .	348
<b>WORKERS' COMPENSATION</b>	
Commuting to work not covered . . . . .	250
Employer required to keep record of employee unified business identifier account number . . . . .	54
Forms, single form for unemployment insurance and workers' compensation filing created . . . . .	325
Health care policy board abolished . . . . .	274
Health care professionals, deceptive advertising in regard to workers' compensation prohibited . . . . .	336
Longshore and harbor workers, expiration of coverage repealed . . . . .	110
Performance audit and operations review of workers' compensation system established . . . . .	330

## SUBJECT INDEX OF 1997 STATUTES

---

WORKERS' COMPENSATION — con't.	Chapter
Premium payment evasion, class C felony .....	324
Representative prohibited from charging a percentage of benefits for services provided .....	336
Retrospective rating refunds, expenditure provisions revised .....	327
Self-insurers, determination of benefits for permanent disability .....	416
United States department of energy, continuation of special insuring agreement authorized .....	109

# HISTORY OF STATE MEASURES FILED WITH THE SECRETARY OF STATE

## INITIATIVES TO THE PEOPLE (SUPPLEMENTING 1996 LAWS, PAGE 1848)

- \*INITIATIVE MEASURE NO. 655 (Shall it be a gross misdemeanor to take, hunt, or attract black bears with bait, or to hunt bears, cougars, bobcat or lynx with dogs?)—Filed on January 5, 1996 by Joseph F. Scott of Seattle. 228,148 signatures were submitted and found sufficient. The measure was subsequently certified and submitted to the voters at the November 5, 1996 general election. It was approved by the following vote: For—1,387,577 Against—815,385.
- INITIATIVE MEASURE NO. 656 (Shall pit bull dogs be defined as "potentially dangerous," and subjected to strict requirements for registration, secure enclosures, leashes, collars, warning signs, bonds, and vaccinations?)—Filed on January 5, 1996 by Laurence C. Mathews of Yakima. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 657 (Shall taxes on property used as the owner's principal residence be limited, state taxes on such properties be eliminated, and assessment based on "adjusted value"?)—Filed on January 5, 1996 by Donald W. Carter of Olympia. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 658 (Shall an office of state inspector general be created to investigate complaints of malfeasance or abuse by government agencies and business licensees?)—Filed on January 5, 1996 by Mx. T. Englerius of Seattle. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 659 (Shall the use of gill nets and certain other net fishing gear be prohibited, and release of accidentally caught out-of-season fish be required?)—Filed on January 17, 1996 by Robert I. Keating of Freeland. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 660 (Shall the state and its counties, cities and towns be prohibited from appropriating any funds to support the national security agency of the federal government?)—Filed on January 8, 1996 by Elizabeth Patrick of Spokane. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 661 (Shall the state of Washington restrict the activities of the national security agency, and certain officers be barred from engaging in national security agency activities?)—Filed on January 8, 1996 by Elizabeth Patrick. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 662 (Shall an office of state inspector general be created, with certain administrative and investigative powers, headed by a director appointed for a nonrenewable five-year term?)—Filed on February 12, 1996 by Maximus T. Englerius of Seattle. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 663 (Shall the industrial, medicinal, and personal use of hemp (cannabis or marijuana) be permitted under some conditions, taxed, and regulated by the liquor control board?)—Filed on January 30, 1996 by Thomas A. Rohan of Seattle. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 664 (Shall the state repeal all existing state taxes, and levy instead a 1% tax on all transfers of property and a temporary 1% property tax?)—Filed on February 16, 1996 by Clarence P. Keating, Jr. of Seattle. Sponsor failed to submit signatures for checking.

## INITIATIVES TO THE PEOPLE

---

- INITIATIVE MEASURE NO. 665 (Shall government agencies be required to make disclosures about laws, to respond to requests for clarification, and to prove constitutionality if the law is questioned?)—Filed on February 12, 1996 by Peter M. Brennan of Vancouver. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 666 (Relating to fishing)—Filed on February 22, 1996 by Robert I. Keating of Freeland. Measure was refiled as Initiative Measure No. 668.
- INITIATIVE MEASURE NO. 667 (Shall property tax values be frozen at their 1995 levels, plus a maximum two percent annual inflation, and annual tax levy increases be gradually reduced?)—Filed on February 20, 1996 by Steven R. Hargrove of Poulsbo. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 668 (Shall the use of gill nets be prohibited, and release be required of out-of-season fish or juvenile chinook salmon under 22 inches long?)—Filed on February 27, 1996 by Robert I. Keating of Freeland. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 669 (Shall governments be forbidden to grant any protection or recognize rights based on sexual orientation, and shall schools be prohibited from presenting homosexuality as acceptable?)—Filed on February 28, 1996 by Mark Roshak of Bothell. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 670 (Shall the secretary of state be instructed to place a ballot notice concerning congressional and legislative candidates who have not supported Congressional term limits?)—Filed on April 1, 1996 by Charles G. Moore of Redmond. 232,522 signatures were submitted and found sufficient. The measure was subsequently certified to the ballot and was submitted to the voters at the November 5, 1996 general election. It was rejected by the following vote: For—937,873 Against—1,146,865.
- INITIATIVE MEASURE NO. 671 (Shall amended tribal/state agreements be authorized permitting limited electronic gaming on Indian lands for tribal government purposes, with joint regulation and specified use of revenues?)—Filed on April 11, 1996 by Doreen M. Maloney of Mount Vernon. 290,996 signatures were submitted and found sufficient. The measure was subsequently certified to the ballot and was submitted to the voters at the November 5, 1996 general election. It was rejected by the following vote: For—934,344 Against—1,222,492.
- INITIATIVE MEASURE NO. 672 (Shall grandparents be entitled to petition for visitation rights with their grandchildren, in dissolution, separation and custody proceedings?)—Filed on April 22, 1996 by Donna J. Honeycutt of Kennewick. Sponsor failed to submit signatures for checking.

## INITIATIVES TO THE LEGISLATURE

(SUPPLEMENTING 1996 LAWS, PAGE 1865)

INITIATIVE TO THE LEGISLATURE NO. 184 (Shall property tax values be frozen at their 1995 levels, plus a maximum two percent annual inflation, and annual tax levy increases be gradually reduced?)—Filed on March 13, 1996 by Steven R. Hargrove of Poulsbo. Sponsor failed to submit signatures for checking.

INITIATIVE TO THE LEGISLATURE NO. 185 (Shall the state of Washington apply to Congress for a constitutional convention to consider abolishing Congressional voting in favor of direct balloting by the people?)—Filed on March 14, 1996 by William R. Walker of Seattle. Sponsor failed to submit signatures for checking.

INITIATIVE TO THE LEGISLATURE NO. 186 (Shall an office of state inspector general be created to investigate and challenge incorrect or unjust governmental practices and enforce fair business practices by licensees?)—Filed on March 13, 1996 by Mx. T. Englerius of Seattle. Sponsor failed to submit signatures for checking.

INITIATIVE TO THE LEGISLATURE NO. 187 (Shall a 60-day waiting period be required before a marriage is performed, and waiting periods required before a marriage with minor children may be dissolved?)—Filed on March 13, 1996 by Bill Harrington of Tacoma. Sponsor failed to submit signatures for checking.

INITIATIVE TO THE LEGISLATURE NO. 188 (Shall marine water protection programs be extended, oil spill prevention increased and funded by oil shipment taxes, offshore oil-drilling banned, and salmon habitat incentives offered?)—Filed on March 27, 1996 by Jeffrey D. Parsons of Tumwater. Sponsor failed to submit signatures for checking.

INITIATIVE TO THE LEGISLATURE NO. 189 (Shall additional limits and restrictions be placed on contributions to political campaigns and ballot measures from corporations, businesses, political parties, political committees, and individuals?)—Filed on March 19, 1996 by Roger Kluck of Seattle. Sponsor failed to submit signatures for checking.

INITIATIVE TO THE LEGISLATURE NO. 190 (Shall all persons buying, selling, distributing or possessing a firearm or ammunition in Washington be required to have a valid firearm and ammunition safety license?)—Filed on March 27, 1996 by Scott S. Carpenter of Bellevue. Sponsor failed to submit signatures for checking.

INITIATIVE TO THE LEGISLATURE NO. 191 (Shall an office of state inspector general be created to investigate complaints of malfeasance or abuse by government agencies and business licensees?)—Filed on April 4, 1996 by Mx. T. Englerius of Seattle. Sponsor failed to submit signatures for checking.

INITIATIVE TO THE LEGISLATURE NO. 192 (Shall every health insurance plan be required to cover the services of all licensed podiatrists, chiropractors, naturopaths, optometrists, osteopaths, pharmacists, physicians and psychologists?)—Filed on April 4, 1996 by John C. Peick of Issaquah. The sponsor submitted 188,967 signatures for checking and they were found insufficient to qualify the measure to be submitted to the 1997 legislature.

INITIATIVE TO THE LEGISLATURE NO. 193 (Shall the English language be declared the state's only official language for the conduct of all business by state and local government, with limited exceptions?)—Filed on April 19, 1996 by James L. Morrison of Yakima. Sponsor failed to submit signatures for checking.

INITIATIVE TO THE LEGISLATURE NO. 194 (Shall persons convicted of certain sex crimes involving children be sentenced to life imprisonment without parole, plus a fine of no less than \$100,000?)—Filed on May 29, 1996 by Christopher P. Clifford of Renton. Sponsor failed to submit signatures for checking.

## INITIATIVES TO THE LEGISLATURE

---

INITIATIVE TO THE LEGISLATURE NO. 195 (Shall the state repeal all existing state taxes, and levy instead a 1% tax on all transfers of property and a temporary 1% property tax?)—  
Filed on June 27, 1996 by Clarence P. Keating, Jr. of Seattle. Sponsor failed to submit signatures for checking.