

---

HOUSE BILL 1032

---

State of Washington

55th Legislature

1997 Regular Session

By Representatives Reams, Mulliken, Thompson, McMorris, Koster, DeBolt, D. Sommers, Boldt, Hickel, Sheahan, Buck, Schoesler, Honeyford, Mitchell, D. Schmidt, Sherstad, L. Thomas, Dunn, Dyer, Mielke, Cairnes, Robertson and Backlund

Read first time 01/13/97. Referred to Committee on Government Reform & Land Use.

1 AN ACT Relating to regulatory reform; amending RCW 76.09.010,  
2 76.09.040, 48.02.060, 48.44.050, 48.46.200, 34.05.350, 34.05.328,  
3 34.05.380, 34.05.010, 34.05.230, 82.32.410, 34.05.354, 19.85.025,  
4 34.05.570, 34.05.534, 48.04.010, 34.12.040, 34.05.630, 34.05.640,  
5 34.05.655, 34.05.660, 4.84.360, 4.84.340, and 43.41.110; adding a new  
6 section to chapter 43.22 RCW; adding new sections to chapter 34.05 RCW;  
7 adding a new section to chapter 4.84 RCW; adding a new chapter to Title  
8 43 RCW; creating a new section; and providing an expiration date.

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

10 PART I

11 GRANTS OF RULE-MAKING AUTHORITY

12 **Sec. 101.** RCW 76.09.010 and 1993 c 443 s 1 are each amended to  
13 read as follows:

14 (1) The legislature hereby finds and declares that the forest land  
15 resources are among the most valuable of all resources in the state;  
16 that a viable forest products industry is of prime importance to the  
17 state's economy; that it is in the public interest for public and  
18 private commercial forest lands to be managed consistent with sound

1 policies of natural resource protection; that coincident with  
2 maintenance of a viable forest products industry, it is important to  
3 afford protection to forest soils, fisheries, wildlife, water quantity  
4 and quality, air quality, recreation, and scenic beauty.

5 (2) The legislature further finds and declares it to be in the  
6 public interest of this state to create and maintain through the  
7 adoption of this chapter a comprehensive state-wide system of laws and  
8 forest practices regulations which will achieve the following purposes  
9 and policies:

10 (a) Afford protection to, promote, foster and encourage timber  
11 growth, and require such minimum reforestation of commercial tree  
12 species on forest lands as will reasonably utilize the timber growing  
13 capacity of the soil following current timber harvest;

14 (b) Afford protection to forest soils and public resources by  
15 utilizing all reasonable methods of technology in conducting forest  
16 practices;

17 (c) Recognize both the public and private interest in the  
18 profitable growing and harvesting of timber;

19 (d) Promote efficiency by permitting maximum operating freedom  
20 consistent with the other purposes and policies stated herein;

21 (e) Provide for regulation of forest practices so as to avoid  
22 unnecessary duplication in such regulation;

23 (f) Provide for interagency input and intergovernmental and tribal  
24 coordination and cooperation;

25 (g) Achieve compliance with all applicable requirements of federal  
26 and state law with respect to nonpoint sources of water pollution from  
27 forest practices;

28 (h) To consider reasonable land use planning goals and concepts  
29 contained in local comprehensive plans and zoning regulations; and

30 (i) Foster cooperation among managers of public resources, forest  
31 landowners, Indian tribes and the citizens of the state.

32 The authority of the board to adopt forest practices rules is  
33 prescribed by this subsection (2) and RCW 76.09.040. After the  
34 effective date of this section, the board may not adopt forest  
35 practices rules based solely on any other section of law stating a  
36 statute's intent or purpose, on the enabling provisions of the statute  
37 establishing the agency, or on any combination of such provisions.

38 (3) The legislature further finds and declares that it is also in  
39 the public interest of the state to encourage forest landowners to

1 undertake corrective and remedial action to reduce the impact of mass  
2 earth movements and fluvial processes.

3 (4) The legislature further finds and declares that it is in the  
4 public interest that the applicants for state forest practice permits  
5 should assist in paying for the cost of review and permitting necessary  
6 for the environmental protection of these resources.

7 **Sec. 102.** RCW 76.09.040 and 1994 c 264 s 48 are each amended to  
8 read as follows:

9 (1) Where necessary to accomplish the purposes and policies  
10 specifically stated in RCW 76.09.010(2), and to implement the  
11 provisions of this chapter, the board shall (~~promulgate~~) adopt forest  
12 practices (~~regulations~~) rules pursuant to chapter 34.05 RCW and in  
13 accordance with the procedures enumerated in this section that:

14 (a) Establish minimum standards for forest practices;

15 (b) Provide procedures for the voluntary development of resource  
16 management plans which may be adopted as an alternative to the minimum  
17 standards in (a) of this subsection if the plan is consistent with the  
18 purposes and policies specifically stated in RCW 76.09.010(2) and the  
19 plan meets or exceeds the objectives of the minimum standards;

20 (c) Set forth necessary administrative provisions; and

21 (d) Establish procedures for the collection and administration of  
22 forest practice fees as set forth by this chapter.

23 Forest practices (~~regulations~~) rules pertaining to water quality  
24 protection shall be (~~promulgated~~) adopted individually by the board  
25 and by the department of ecology after they have reached agreement with  
26 respect thereto. All other forest practices (~~regulations~~) rules  
27 shall be (~~promulgated~~) adopted by the board.

28 Forest practices (~~regulations~~) rules shall be administered and  
29 enforced by the department except as otherwise provided in this  
30 chapter. Such (~~regulations~~) rules shall be (~~promulgated~~) adopted  
31 and administered so as to give consideration to all purposes and  
32 policies specifically set forth in RCW 76.09.010(2).

33 (2) The board shall prepare proposed forest practices  
34 (~~regulations~~) rules. In addition to any forest practices  
35 (~~regulations~~) rules relating to water quality protection proposed by  
36 the board, the department of ecology shall prepare proposed forest  
37 practices (~~regulations~~) rules relating to water quality protection.

1 Prior to initiating the rule making process, the proposed  
2 ((regulations)) rules shall be submitted for review and comments to the  
3 department of fish and wildlife and to the counties of the state.  
4 After receipt of the proposed forest practices ((regulations)) rules,  
5 the department of fish and wildlife and the counties of the state shall  
6 have thirty days in which to review and submit comments to the board,  
7 and to the department of ecology with respect to its proposed  
8 ((regulations)) rules relating to water quality protection. After the  
9 expiration of such thirty day period the board and the department of  
10 ecology shall jointly hold one or more hearings on the proposed  
11 ((regulations)) rules pursuant to chapter 34.05 RCW. At such  
12 hearing(s) any county may propose specific forest practices  
13 ((regulations)) rules relating to problems existing within such county.  
14 The board and the department of ecology may adopt such proposals if  
15 they find the proposals are consistent with the purposes and policies  
16 of this chapter.

17 NEW SECTION. **Sec. 103.** A new section is added to chapter 43.22  
18 RCW to read as follows:

19 For rules adopted after the effective date of this section, the  
20 director of the department of labor and industries may not rely solely  
21 on a statute's statement of intent or purpose, on the enabling  
22 provisions of the statute establishing the agency, or on any  
23 combination of such provisions, for statutory authority to adopt any  
24 rule: PROVIDED, That this section shall not apply to rules adopted  
25 pursuant to chapter 39.12 RCW.

26 **Sec. 104.** RCW 48.02.060 and 1947 c 79 s .02.06 are each amended to  
27 read as follows:

28 (1) The commissioner shall have the authority expressly conferred  
29 upon him or her by or reasonably implied from the provisions of this  
30 code.

31 (2) The commissioner shall execute his or her duties and shall  
32 enforce the provisions of this code.

33 (3) The commissioner may:

34 (a) Make reasonable rules and regulations for effectuating any  
35 provision of this code, except those relating to his or her election,  
36 qualifications, or compensation: PROVIDED, That the commissioner may  
37 not adopt rules after the effective date of this section that are based

1 solely on this statute, or on a statute's statement of intent or  
2 purpose, or on the enabling provisions of the statute establishing the  
3 agency, or any combination of such provisions, for statutory authority  
4 to adopt any rule, except rules defining or clarifying terms in, or  
5 procedures necessary to the implementation of a statute. No such rules  
6 and regulations shall be effective prior to their being filed for  
7 public inspection in the commissioner's office.

8 (b) Conduct investigations to determine whether any person has  
9 violated any provision of this code.

10 (c) Conduct examinations, investigations, hearings, in addition to  
11 those specifically provided for, useful and proper for the efficient  
12 administration of any provision of this code.

13 **Sec. 105.** RCW 48.44.050 and 1947 c 268 s 5 are each amended to  
14 read as follows:

15 The insurance commissioner shall make reasonable regulations in aid  
16 of the administration of this chapter which may include, but shall not  
17 be limited to regulations concerning the maintenance of adequate  
18 insurance, bonds, or cash deposits, information required of  
19 registrants, and methods of expediting speedy and fair payments to  
20 claimants: PROVIDED, That the commissioner may not adopt rules after  
21 the effective date of this section that are based solely on this  
22 section, a statute's statement of intent or purpose, or on the enabling  
23 provisions of the statute establishing the agency, or any combination  
24 of such provisions, for statutory authority to adopt any rule, except  
25 rules defining or clarifying terms in, or procedures necessary to the  
26 implementation of a statute.

27 **Sec. 106.** RCW 48.46.200 and 1975 1st ex.s. c 290 s 21 are each  
28 amended to read as follows:

29 The commissioner may adopt, in accordance with the provisions of  
30 the administrative procedure act, chapter 34.05 RCW, (~~promulgate~~)  
31 rules and regulations as necessary or proper to carry out the  
32 provisions of this chapter: PROVIDED, That the commissioner may not  
33 adopt rules after the effective date of this section that are based  
34 solely on this section, a statute's statement of intent or purpose, or  
35 on the enabling provisions of the statute establishing the agency, or  
36 any combination of such provisions, for statutory authority to adopt  
37 any rule, except rules defining or clarifying terms in, or procedures

1 necessary to the implementation of a statute. Nothing in this chapter  
2 shall be construed to prohibit the commissioner from requiring changes  
3 in procedures previously approved by ~~((him))~~ the commissioner.

4 **PART II**

5 **RULE-MAKING REQUIREMENTS**

6 **Sec. 201.** RCW 34.05.350 and 1994 c 249 s 3 are each amended to  
7 read as follows:

8 (1) If an agency for good cause finds:

9 (a) That immediate adoption, amendment, or repeal of a rule is  
10 necessary for the preservation of ~~((the))~~ public health~~((r))~~ or safety,  
11 ~~((or general welfare,))~~ and that observing the time requirements of  
12 notice and opportunity to comment upon adoption of a permanent rule  
13 would be contrary to the public interest: PROVIDED, That the  
14 department of agriculture may adopt an emergency rule if the failure to  
15 adopt the rule on an emergency basis would result in substantial  
16 reduction of commodity value or substantial economic detriment; or

17 (b) That state or federal law or federal rule or a federal deadline  
18 for state receipt of federal funds requires immediate adoption of a  
19 rule,  
20 the agency may dispense with those requirements and adopt, amend, or  
21 repeal the rule on an emergency basis. The agency's finding and a  
22 concise statement of the reasons for its finding shall be incorporated  
23 in the order for adoption of the emergency rule or amendment filed with  
24 the office of the code reviser under RCW 34.05.380 and with the rules  
25 review committee.

26 (2) An emergency rule adopted under this section takes effect upon  
27 filing with the code reviser, unless a later date is specified in the  
28 order of adoption, and may not remain in effect for longer than one  
29 hundred twenty days after filing. Identical or substantially similar  
30 emergency rules may not be adopted in sequence unless conditions have  
31 changed or the agency has filed notice of its intent to adopt the rule  
32 as a permanent rule, and is actively undertaking the appropriate  
33 procedures to adopt the rule as a permanent rule. This section does  
34 not relieve any agency from compliance with any law requiring that its  
35 permanent rules be approved by designated persons or bodies before they  
36 become effective.

1 (3) Within seven days after the rule is adopted, any person may  
2 petition the governor requesting the immediate repeal of a rule adopted  
3 on an emergency basis by any department listed in RCW 43.17.010.  
4 Within seven days after submission of the petition, the governor shall  
5 either deny the petition in writing, stating his or her reasons for the  
6 denial, or order the immediate repeal of the rule. In ruling on the  
7 petition, the governor shall consider only whether the conditions in  
8 subsection (1) of this section were met such that adoption of the rule  
9 on an emergency basis was necessary. If the governor orders the repeal  
10 of the emergency rule, any sanction imposed based on that rule is void.  
11 This subsection shall not be construed to prohibit adoption of any rule  
12 as a permanent rule.

13 (4) In adopting an emergency rule, the agency shall comply with  
14 section 4 of this act or provide a written explanation for its failure  
15 to do so.

16 **Sec. 202.** RCW 34.05.328 and 1995 c 403 s 201 are each amended to  
17 read as follows:

18 (1) Before adopting a rule described in subsection (5) of this  
19 section, an agency shall:

20 (a) Clearly state in detail the general goals and specific  
21 objectives of the statute that the rule implements;

22 (b) Determine that the rule is needed to achieve the general goals  
23 and specific objectives stated under (a) of this subsection, and  
24 analyze alternatives to rule making and the consequences of not  
25 adopting the rule;

26 (c) Determine that the probable benefits of the rule are greater  
27 than its probable costs, taking into account both the qualitative and  
28 quantitative benefits and costs and the specific directives of the  
29 statute being implemented;

30 (d) Determine, after considering alternative versions of the rule  
31 and the analysis required under (b) and (c) of this subsection, that  
32 the rule being adopted is the least burdensome alternative for those  
33 required to comply with it that will achieve the general goals and  
34 specific objectives stated under (a) of this subsection;

35 (e) Determine that the rule does not require those to whom it  
36 applies to take an action that violates requirements of another federal  
37 or state law;

1 (f) Determine that the rule does not impose more stringent  
2 performance requirements on private entities than on public entities  
3 unless required to do so by federal or state law;

4 (g) Determine if the rule differs from any federal regulation or  
5 statute applicable to the same activity or subject matter and, if so,  
6 determine that the difference is justified by the following:

7 (i) A state statute that explicitly allows the agency to differ  
8 from federal standards; or

9 (ii) Substantial evidence that the difference is necessary to  
10 achieve the general goals and specific objectives stated under (a) of  
11 this subsection; and

12 (h) Coordinate the rule, to the maximum extent practicable, with  
13 other federal, state, and local laws applicable to the same activity or  
14 subject matter.

15 (2) In making its determinations pursuant to subsection (1)(b)  
16 through (g) of this section, the agency shall place in the rule-making  
17 file documentation of sufficient quantity and quality so as to persuade  
18 a reasonable person that the determinations are justified.

19 (3) Before adopting rules described in subsection (5) of this  
20 section, an agency shall place in the rule-making file a rule  
21 implementation plan for rules filed under each adopting order. The  
22 plan shall describe how the agency intends to:

23 (a) Implement and enforce the rule, including a description of the  
24 resources the agency intends to use;

25 (b) Inform and educate affected persons about the rule;

26 (c) Promote and assist voluntary compliance; and

27 (d) Evaluate whether the rule achieves the purpose for which it was  
28 adopted, including, to the maximum extent practicable, the use of  
29 interim milestones to assess progress and the use of objectively  
30 measurable outcomes.

31 (4) After adopting a rule described in subsection (5) of this  
32 section regulating the same activity or subject matter as another  
33 provision of federal or state law, an agency shall do all of the  
34 following:

35 (a) Provide to the business assistance center a list citing by  
36 reference the other federal and state laws that regulate the same  
37 activity or subject matter;

38 (b) Coordinate implementation and enforcement of the rule with the  
39 other federal and state entities regulating the same activity or



1 subject matter by making every effort to do one or more of the  
2 following:

3 (i) Deferring to the other entity;

4 (ii) Designating a lead agency; or

5 (iii) Entering into an agreement with the other entities specifying  
6 how the agency and entities will coordinate implementation and  
7 enforcement.

8 If the agency is unable to comply with this subsection (4)(b), the  
9 agency shall report to the legislature pursuant to (c) of this  
10 subsection;

11 (c) Report to the joint administrative rules review committee:

12 (i) The existence of any overlap or duplication of other federal or  
13 state laws, any differences from federal law, and any known overlap,  
14 duplication, or conflict with local laws; and

15 (ii) Make recommendations for any legislation that may be necessary  
16 to eliminate or mitigate any adverse effects of such overlap,  
17 duplication, or difference.

18 (5)(a) Except as provided in (b) of this subsection, this section  
19 applies to:

20 (i) Significant legislative rules of the departments of ecology,  
21 labor and industries, health, social and health services, revenue, and  
22 natural resources, the employment security department, the forest  
23 practices board, the office of the insurance commissioner, and to the  
24 legislative rules of the department of fish and wildlife implementing  
25 chapter 75.20 RCW; and

26 (ii) Any rule of any agency, if this section is voluntarily made  
27 applicable to the rule by the agency, or is made applicable to the rule  
28 by a majority vote of the joint administrative rules review committee  
29 within forty-five days of receiving the notice of proposed rule making  
30 under RCW 34.05.320.

31 (b) This section does not apply to:

32 (i) Emergency rules adopted under RCW 34.05.350;

33 (ii) Rules relating only to internal governmental operations that  
34 are not subject to violation by a nongovernment party;

35 (iii) Rules adopting or incorporating by reference without material  
36 change federal statutes or regulations, Washington state statutes,  
37 rules of other Washington state agencies, shoreline master programs  
38 other than those programs governing shorelines of state-wide  
39 significance, or, as referenced by Washington state law, national

1 consensus codes that generally establish industry standards, if the  
2 material adopted or incorporated regulates the same subject matter and  
3 conduct as the adopting or incorporating rule;

4 (iv) Rules that only correct typographical errors, make address or  
5 name changes, or clarify language of a rule without changing its  
6 effect;

7 (v) Rules the content of which is explicitly and specifically  
8 dictated by statute; or

9 (vi) Rules that set or adjust fees or rates pursuant to legislative  
10 standards.

11 (c) For purposes of this subsection:

12 (i) A "procedural rule" is a rule that adopts, amends, or repeals  
13 (A) any procedure, practice, or requirement relating to any agency  
14 hearings; (B) any filing or related process requirement for making  
15 application to an agency for a license or permit; or (C) any policy  
16 statement pertaining to the consistent internal operations of an  
17 agency.

18 (ii) An "interpretive rule" is a rule, the violation of which does  
19 not subject a person to a penalty or sanction, that sets forth the  
20 agency's interpretation of statutory provisions it administers.

21 (iii) A "significant legislative rule" is a rule other than a  
22 procedural or interpretive rule that (A) adopts substantive provisions  
23 of law pursuant to delegated legislative authority, the violation of  
24 which subjects a violator of such rule to a penalty or sanction; (B)  
25 establishes, alters, or revokes any qualification or standard for the  
26 issuance, suspension, or revocation of a license or permit; or (C)  
27 adopts a new, or makes significant amendments to, a policy or  
28 regulatory program.

29 (d) In the notice of proposed rule making under RCW 34.05.320, an  
30 agency shall state whether this section applies to the proposed rule  
31 pursuant to (a)(i) of this subsection, or if the agency will apply this  
32 section voluntarily.

33 (6) By January 31, 1996, and by January 31st of each even-numbered  
34 year thereafter, the office of financial management, after consulting  
35 with state agencies, counties, and cities, and business, labor, and  
36 environmental organizations, shall report to the governor and the  
37 legislature regarding the effects of this section on the regulatory  
38 system in this state. The report shall document:

1 (a) The rules proposed to which this section applied and to the  
2 extent possible, how compliance with this section affected the  
3 substance of the rule, if any, that the agency ultimately adopted;

4 (b) The costs incurred by state agencies in complying with this  
5 section;

6 (c) Any legal action maintained based upon the alleged failure of  
7 any agency to comply with this section, the costs to the state of such  
8 action, and the result;

9 (d) The extent to which this section has adversely affected the  
10 capacity of agencies to fulfill their legislatively prescribed mission;

11 (e) The extent to which this section has improved the acceptability  
12 of state rules to those regulated; and

13 (f) Any other information considered by the office of financial  
14 management to be useful in evaluating the effect of this section.

15 **Sec. 203.** RCW 34.05.380 and 1989 c 175 s 11 are each amended to  
16 read as follows:

17 (1) Each agency shall file in the office of the code reviser a  
18 certified copy of all rules it adopts, except for rules contained in  
19 tariffs filed with or published by the Washington utilities and  
20 transportation commission. The code reviser shall place upon each rule  
21 a notation of the time and date of filing and shall keep a permanent  
22 register of filed rules open to public inspection. In filing a rule,  
23 each agency shall use the standard form prescribed for this purpose by  
24 the code reviser.

25 (2) Emergency rules adopted under RCW 34.05.350 become effective  
26 upon filing unless a later date is specified in the order of adoption.  
27 All other rules become effective upon the expiration of thirty days  
28 after the date of filing, unless a later date is required by statute or  
29 specified in the order of adoption.

30 (3) A rule may become effective immediately upon its filing with  
31 the code reviser or on any subsequent date earlier than that  
32 established by subsection (2) of this section, if the agency  
33 establishes that effective date in the adopting order and finds that:

34 (a) Such action is required by the state or federal Constitution,  
35 a statute, or court order;

36 (b) The rule only delays the effective date of another rule that is  
37 not yet effective; or

1 (c) The earlier effective date is necessary because of imminent  
2 peril to the public health, safety, or welfare.

3 The finding and a brief statement of the reasons therefor required  
4 by this subsection shall be made a part of the order adopting the rule.

5 (4) With respect to a rule made effective pursuant to subsection  
6 (3) of this section, each agency shall make reasonable efforts to make  
7 the effective date known to persons who may be affected by it.

8 (5) No rule, adopted by any of the following agencies, is effective  
9 for more than seven years after its adoption or seven years after the  
10 effective date of this section, whichever is later: Department of  
11 ecology, employment security department, department of labor and  
12 industries, department of revenue, department of licensing, department  
13 of health, department of social and health services, department of fish  
14 and wildlife, or the office of the insurance commissioner. A rule made  
15 ineffective under this subsection may be readopted according to the  
16 procedures established in this chapter.

17 NEW SECTION. Sec. 204. A new section is added to chapter 34.05  
18 RCW under the subchapter heading "Part III" to read as follows:

19 The department of ecology, employment security department,  
20 department of labor and industries, department of revenue, department  
21 of licensing, department of health, department of social and health  
22 services, department of fish and wildlife, and the office of the  
23 insurance commissioner shall review their respective rules as follows:

24 (1) Fifty percent of their rules existing on the effective date of  
25 this section shall be reviewed within three years of the effective date  
26 of this section.

27 (2) Eighty percent of their rules existing on the effective date of  
28 this section shall be reviewed within five years of the effective date  
29 of this section.

30 (3) One hundred percent of their rules existing on the effective  
31 date of this section shall be reviewed within seven years of the  
32 effective date of this section.

33 NEW SECTION. Sec. 205. A new section is added to chapter 34.05  
34 RCW under the subchapter heading "Part III" to read as follows:

35 Each state agency shall prepare a semiannual agenda for rules under  
36 development. The agency shall file the agenda with the code reviser  
37 for publication in the state register not later than January 31st and

1 July 31st of each year. Not later than three days after its  
2 publication in the state register, the agency shall send a copy of the  
3 agenda to each person who has requested receipt of a copy of the  
4 agenda. The agency shall also submit the agenda to the director of  
5 financial management, the rules review committee, and any other state  
6 agency that may reasonably be expected to have an interest in the  
7 subject of rules that will be developed.

8 NEW SECTION. **Sec. 206.** A new section is added to chapter 34.05  
9 RCW under the subchapter heading "Part III" to read as follows:

10 Any agency having rules that postpone full compliance with their  
11 requirements beyond ninety days after the effective date of this  
12 section shall prepare a small business economic impact statement, as  
13 defined in RCW 19.85.020(2), on such rules before requiring full  
14 compliance with the rules.

15 NEW SECTION. **Sec. 207.** A new section is added to chapter 34.05  
16 RCW under the subchapter heading "Part III" to read as follows:

17 (1) An agency may file notice for the expedited adoption of rules  
18 in accordance with the procedures set forth in this section for rules  
19 meeting any one of the following criteria:

20 (a) The proposed rules previously existed in the form of  
21 interpretive statements or policy statements by the agency;

22 (b) The proposed rules relate only to internal governmental  
23 operations that are not subject to violation by a person;

24 (c) The proposed rules adopt or incorporate by reference without  
25 material change federal statutes or regulations, Washington state  
26 statutes, rules of other Washington state agencies, shoreline master  
27 programs other than those programs governing shorelines of state-wide  
28 significance, or, as referenced by Washington state law, national  
29 consensus codes that generally establish industry standards, if the  
30 material adopted or incorporated regulates the same subject matter and  
31 conduct as the adopting or incorporating rule;

32 (d) The proposed rules only correct typographical errors, make  
33 address or name changes, or clarify language of a rule without changing  
34 its effect;

35 (e) The content of the proposed rules is explicitly and  
36 specifically dictated by statute;

1 (f) The proposed rules have been the subject of negotiated rule  
2 making, pilot rule making, or some other process that involved  
3 substantial participation by interested parties before the development  
4 of the proposed rule; or

5 (g) The proposed rule is being readopted following a review under  
6 section 204 of this act.

7 (2) The expedited rule-making process must follow the requirements  
8 for rule making set forth in RCW 34.05.320, except that the agency is  
9 not required to prepare a small business economic impact statement, a  
10 statement indicating whether the rule constitutes a significant  
11 legislative rule under RCW 34.05.328(5)(c)(iii), or a significant  
12 legislative rule analysis under RCW 34.05.328. An agency is not  
13 required to prepare statements of inquiry under RCW 34.05.310 or  
14 conduct a hearing for the expedited adoption of rules. The notice for  
15 the expedited adoption of rules must contain a statement which is  
16 substantially in the following form:

17 **NOTICE**

18 THIS RULE IS BEING PROPOSED TO BE ADOPTED USING AN  
19 EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR  
20 THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS  
21 ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA  
22 FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS RULE  
23 BEING ADOPTED USING THE EXPEDITED RULE-MAKING PROCESS, YOU MUST  
24 EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE RECEIVED BY  
25 (INSERT DATE) AND SENT TO (INSERT NAME AND ADDRESS).

26 (3) The agency shall send a copy of the notice of the proposed  
27 expedited rule making to any person who has requested notification of  
28 proposals for the expedited adoption of rules or of agency rule making,  
29 as well as the joint administrative rules review committee, within  
30 three days after its publication in the Washington State Register. An  
31 agency may charge for the actual cost of providing a requesting party  
32 mailed copies of these notices. The notice of the proposed expedited  
33 rule making shall include a statement that any person who objects to  
34 the adoption of the rule must file a written objection to the adoption  
35 of the rule within forty-five days after the notice has been published.  
36 The notice shall also include an explanation of the reasons the agency  
37 believes the expedited adoption of the rule is appropriate.

1 (4) The code reviser shall publish the text of all rules proposed  
2 for expedited adoption along with the notice required in this section  
3 in a separate section of the Washington State Register. Once the text  
4 of the proposed rules has been published in the Washington State  
5 Register, the only changes that an agency may make in the text of these  
6 proposed rules before their final adoption are to correct typographical  
7 errors.

8 (5) Any person may file a written objection to the expedited  
9 adoption of a rule. The notice shall be filed with the agency rules  
10 coordinator within forty-five days after the notice of the proposed  
11 expedited rule making has been published in the Washington State  
12 Register. A person who has filed a written objection to the expedited  
13 adoption of a rule may withdraw the objection.

14 (6) If no written objections to the expedited adoption of a rule  
15 are filed with the agency within forty-five days after the notice of  
16 proposed expedited rule making is published, or if all objections that  
17 have been filed are withdrawn by the persons filing the objections, the  
18 agency may enter an order adopting the rule without further notice or  
19 a public hearing. The order shall be published in the manner required  
20 by this chapter for any other agency order adopting, amending, or  
21 repealing a rule.

22 (7) If a written notice of objection to the expedited adoption of  
23 the rule is timely filed with the agency and is not withdrawn, the  
24 notice of proposed expedited rule making published under this section  
25 shall be considered a statement of inquiry for the purposes of RCW  
26 34.05.310 and the agency may initiate further rule adoption proceedings  
27 in accordance with this chapter.

28 **Sec. 208.** RCW 34.05.010 and 1992 c 44 s 10 are each amended to  
29 read as follows:

30 The definitions set forth in this section shall apply throughout  
31 this chapter, unless the context clearly requires otherwise.

32 (1) "Adjudicative proceeding" means a proceeding before an agency  
33 in which an opportunity for hearing before that agency is required by  
34 statute or constitutional right before or after the entry of an order  
35 by the agency. Adjudicative proceedings also include all cases of  
36 licensing and rate making in which an application for a license or rate  
37 change is denied except as limited by RCW 66.08.150, or a license is  
38 revoked, suspended, or modified, or in which the granting of an

1 application is contested by a person having standing to contest under  
2 the law.

3 (2) "Agency" means any state board, commission, department,  
4 institution of higher education, or officer, authorized by law to make  
5 rules or to conduct adjudicative proceedings, except those in the  
6 legislative or judicial branches, the governor, or the attorney general  
7 except to the extent otherwise required by law and any local  
8 governmental entity that may request the appointment of an  
9 administrative law judge under chapter 42.41 RCW.

10 (3) "Agency action" means licensing, the implementation or  
11 enforcement of a statute, the adoption or application of an agency rule  
12 or order, the imposition of sanctions, or the granting or withholding  
13 of benefits.

14 Agency action does not include an agency decision regarding (a)  
15 contracting or procurement of goods, services, public works, and the  
16 purchase, lease, or acquisition by any other means, including eminent  
17 domain, of real estate, as well as all activities necessarily related  
18 to those functions, or (b) determinations as to the sufficiency of a  
19 showing of interest filed in support of a representation petition, or  
20 mediation or conciliation of labor disputes or arbitration of labor  
21 disputes under a collective bargaining law or similar statute, or (c)  
22 any sale, lease, contract, or other proprietary decision in the  
23 management of public lands or real property interests, or (d) the  
24 granting of a license, franchise, or permission for the use of  
25 trademarks, symbols, and similar property owned or controlled by the  
26 agency.

27 (4) "Agency head" means the individual or body of individuals in  
28 whom the ultimate legal authority of the agency is vested by any  
29 provision of law. If the agency head is a body of individuals, a  
30 majority of those individuals constitutes the agency head.

31 (5) "Entry" of an order means the signing of the order by all  
32 persons who are to sign the order, as an official act indicating that  
33 the order is to be effective.

34 (6) "Filing" of a document that is required to be filed with an  
35 agency means delivery of the document to a place designated by the  
36 agency by rule for receipt of official documents, or in the absence of  
37 such designation, at the office of the agency head.

38 (7) "Institutions of higher education" are the University of  
39 Washington, Washington State University, Central Washington University,



1 Eastern Washington University, Western Washington University, The  
2 Evergreen State College, the various community colleges, and the  
3 governing boards of each of the above, and the various colleges,  
4 divisions, departments, or offices authorized by the governing board of  
5 the institution involved to act for the institution, all of which are  
6 sometimes referred to in this chapter as "institutions."

7 (8) "Interpretive statement" means a written expression of the  
8 opinion of an agency(~~(, entitled an interpretive statement))~~ by the  
9 agency head or its designee, as to the meaning of a statute or other  
10 provision of law, of a court decision, or of an agency order, for  
11 general application by the agency and not directed to one specific  
12 event or person for the purpose of providing guidance to persons as to  
13 their obligations under the law. Consumer-related guides and brochures  
14 produced by an agency that generally explain an agency program or a  
15 person's rights under the law do not constitute an interpretive  
16 statement for purposes of this chapter. A document entitled "technical  
17 assistance document" does not constitute an interpretive statement for  
18 purposes of this chapter. Tax determinations issued by the department  
19 of revenue that have precedential value do not constitute an  
20 interpretive statement for purposes of this chapter.

21 (9)(a) "License" means a franchise, permit, certification,  
22 approval, registration, charter, or similar form of authorization  
23 required by law, but does not include (i) a license required solely for  
24 revenue purposes, or (ii) a certification of an exclusive bargaining  
25 representative, or similar status, under a collective bargaining law or  
26 similar statute, or (iii) a license, franchise, or permission for use  
27 of trademarks, symbols, and similar property owned or controlled by the  
28 agency.

29 (b) "Licensing" includes the agency process respecting the  
30 issuance, denial, revocation, suspension, or modification of a license.

31 (10)(a) "Order," without further qualification, means a written  
32 statement of particular applicability that finally determines the legal  
33 rights, duties, privileges, immunities, or other legal interests of a  
34 specific person or persons.

35 (b) "Order of adoption" means the official written statement by  
36 which an agency adopts, amends, or repeals a rule.

37 (11) "Party to agency proceedings," or "party" in a context so  
38 indicating, means:

39 (a) A person to whom the agency action is specifically directed; or

1 (b) A person named as a party to the agency proceeding or allowed  
2 to intervene or participate as a party in the agency proceeding.

3 (12) "Party to judicial review or civil enforcement proceedings,"  
4 or "party" in a context so indicating, means:

5 (a) A person who files a petition for a judicial review or civil  
6 enforcement proceeding; or

7 (b) A person named as a party in a judicial review or civil  
8 enforcement proceeding, or allowed to participate as a party in a  
9 judicial review or civil enforcement proceeding.

10 (13) "Person" means any individual, partnership, corporation,  
11 association, governmental subdivision or unit thereof, or public or  
12 private organization or entity of any character, and includes another  
13 agency.

14 (14) "Policy statement" means a written description of the current  
15 approach of an agency(~~(, entitled a policy statement)~~) by the agency  
16 head or its designee, to implementation of a statute or other provision  
17 of law, of a court decision, or of an agency order, including where  
18 appropriate the agency's current practice, procedure, or method of  
19 action based upon that approach. A policy statement may also include  
20 factors the agency will consider in implementing a law, court decision,  
21 or agency order. A policy statement must be used for general  
22 application by the agency and not directed to one specific event or  
23 person for the purpose of providing guidance to persons as to their  
24 obligations under the law. Consumer-related guides and brochures  
25 produced by an agency that generally explain an agency program or a  
26 person's rights under the law do not constitute a policy statement for  
27 purposes of this chapter. A document entitled "technical assistance  
28 document" does not constitute a policy statement for purposes of this  
29 chapter. Tax determinations issued by the department of revenue that  
30 have precedential value do not constitute policy statements for the  
31 purpose of this chapter.

32 (15) "Rule" means any agency order, directive, (~~(or)~~) regulation,  
33 or statement of general applicability (a) the violation of which  
34 subjects a person to a penalty or administrative sanction; (b) which  
35 establishes, alters, or revokes any procedure, practice, or requirement  
36 relating to agency hearings; (c) which establishes, alters, or revokes  
37 any qualification or requirement relating to the enjoyment of benefits  
38 or privileges conferred by law; (d) which establishes, alters, or  
39 revokes any qualifications or standards for the issuance, suspension,

1 or revocation of licenses to pursue any commercial activity, trade, or  
2 profession; or (e) which establishes, alters, or revokes any mandatory  
3 standards for any product or material which must be met before  
4 distribution or sale. The term includes the amendment or repeal of a  
5 prior rule, but does not include (i) statements concerning only the  
6 internal management of an agency and not affecting private rights or  
7 procedures available to the public, (ii) declaratory rulings issued  
8 pursuant to RCW 34.05.240, (iii) traffic restrictions for motor  
9 vehicles, bicyclists, and pedestrians established by the secretary of  
10 transportation or his designee where notice of such restrictions is  
11 given by official traffic control devices, or (iv) rules of  
12 institutions of higher education involving standards of admission,  
13 academic advancement, academic credit, graduation and the granting of  
14 degrees, employment relationships, or fiscal processes.

15 (16) "Rules review committee" or "committee" means the joint  
16 administrative rules review committee created pursuant to RCW 34.05.610  
17 for the purpose of selectively reviewing existing and proposed rules of  
18 state agencies.

19 (17) "Rule making" means the process for formulation and adoption  
20 of a rule.

21 (18) "Service," except as otherwise provided in this chapter, means  
22 posting in the United States mail, properly addressed, postage prepaid,  
23 or personal service. Service by mail is complete upon deposit in the  
24 United States mail. Agencies may, by rule, authorize service by  
25 electronic telefacsimile transmission, where copies are mailed  
26 simultaneously, or by commercial parcel delivery company.

27 **Sec. 209.** RCW 34.05.230 and 1996 c 206 s 12 are each amended to  
28 read as follows:

29 (1) ~~((If the adoption of rules is not feasible and practicable,))~~  
30 An agency is encouraged to advise the public of its current opinions,  
31 approaches, and likely courses of action by means of interpretive or  
32 policy statements. ((Current interpretive and policy statements are  
33 advisory only.)) To better inform and involve the public, an agency is  
34 encouraged to convert long-standing interpretive and policy statements  
35 into rules through the expedited rule adoption process in section 207  
36 of this act.

37 (2) Interpretive and policy statements are advisory only and do not  
38 foreclose alternative courses of action by persons in agency actions.

1 Interpretive or policy statements cannot be used to substantially  
2 modify existing rules.

3 (3) A person may petition an agency requesting the conversion of  
4 interpretive and policy statements into rules. A person may also  
5 petition an agency requesting the repeal or withdrawal of interpretive  
6 or policy statements. Upon submission, the agency shall notify the  
7 joint administrative rules review committee of the petition. Within  
8 sixty days after submission of a petition, the agency shall either deny  
9 the petition in writing, stating its reasons for the denial, or  
10 initiate rule-making proceedings in accordance with this chapter, or  
11 repeal or withdraw the interpretive or policy statement.

12 (~~(3)~~) (4) Each agency shall maintain a roster of interested  
13 persons, consisting of persons who have requested in writing to be  
14 notified of all interpretive and policy statements issued by that  
15 agency. Each agency shall update the roster once each year and  
16 eliminate persons from the roster who do not indicate a desire to  
17 continue on the roster. Whenever an agency issues an interpretive or  
18 policy statement, it shall send a copy of the statement to each person  
19 listed on the roster. The agency may charge a nominal fee to the  
20 interested person for this service. Agencies are not required to  
21 notify or send people copies of interpretive or policy statements that  
22 concern only internal agency procedures that do not affect private  
23 rights or procedures available to the public.

24 (~~(4)~~) (5) Whenever an agency issues an interpretive or policy  
25 statement, except for an interpretive or policy statement that concerns  
26 only internal agency procedures that do no affect private rights or  
27 procedures available to the public, it shall submit to the code reviser  
28 for publication in the Washington State Register a statement describing  
29 the subject matter of the interpretive or policy statement, and listing  
30 the person at the agency from whom a copy of the interpretive or policy  
31 statement may be obtained.

32 **Sec. 210.** RCW 82.32.410 and 1991 c 330 s 2 are each amended to  
33 read as follows:

34 (1) The director may designate certain written determinations as  
35 precedents.

36 (a) By rule adopted pursuant to chapter 34.05 RCW, the director  
37 shall adopt criteria which he or she shall use to decide whether a  
38 determination is precedential. These criteria shall include, but not

1 be limited to, whether the determination clarifies an unsettled  
2 interpretation of Title 82 RCW or where the determination modifies or  
3 clarifies an earlier interpretation.

4 (b) Written determinations designated as precedents by the director  
5 shall be indexed. The determinations and indexes shall be made  
6 available for public inspection and shall be published by the  
7 department.

8 (c) The department shall disclose any written determination upon  
9 which it relies to support any assessment of tax, interest, or penalty  
10 against such taxpayer, after making the deletions provided by  
11 subsection (2) of this section.

12 (2) Before making a written determination available for public  
13 inspection under subsection (1) of this section, the department shall  
14 delete:

15 (a) The names, addresses, and other identifying details of the  
16 person to whom the written determination pertains and of another person  
17 identified in the written determination; and

18 (b) Information the disclosure of which is specifically prohibited  
19 by any statute applicable to the department of revenue, and the  
20 department may also delete other information exempted from disclosure  
21 by chapter 42.17 RCW or any other statute applicable to the department  
22 of revenue.

23 NEW SECTION. Sec. 211. A new section is added to chapter 34.05  
24 RCW under the subchapter heading "Part III" to read as follows:

25 (1)(a) Except for the circumstances in (b) of this subsection, no  
26 state agency may enforce or attempt to enforce in an agency action an  
27 interpretive statement, policy statement, guideline, bulletin, staff  
28 instruction, or other such issuance against any person in such a manner  
29 that the procedures or standards contained in the agency issuance are  
30 considered binding. The information contained in such an issuance may  
31 illustrate acceptable and unacceptable procedures or standards, but the  
32 agency must consider individual facts in cases that arise to allow for  
33 individualized determinations in agency actions. If a court or  
34 presiding officer finds that an agency is applying the information  
35 contained in an agency issuance in a binding manner, then the  
36 procedures or standards contained in the agency issuance shall be  
37 considered invalid because the agency failed to adopt these procedures  
38 or standards as rules.

1 (b) Nothing in (a) of this subsection prohibits an agency from  
2 enforcing any guidelines, policies, or other such issuances applicable  
3 to the personnel of the agency.

4 (2) Any person may rely upon a technical assistance document,  
5 issued to that person by the agency, in the course of meeting the  
6 requirements of a rule or statute.

7 NEW SECTION. **Sec. 212.** A new section is added to chapter 34.05  
8 RCW under the subchapter heading "Part III" to read as follows:

9 An agency may send any notice pertaining to rule making required  
10 under this chapter by electronic mail or facsimile mail if requested in  
11 writing by the person entitled to receive the notice. Agencies shall  
12 make any comments to proposed rule makings that are received by  
13 electronic mail or facsimile mail part of the rule-making file  
14 established under RCW 34.05.370.

15 **Sec. 213.** RCW 34.05.354 and 1995 c 403 s 701 are each amended to  
16 read as follows:

17 (1) Not later than (~~June 30th~~) April 1st or October 1st of each  
18 year, each agency shall submit to the code reviser, according to  
19 procedures and time lines established by the code reviser, rules that  
20 it determines should be repealed by the expedited repeal procedures  
21 provided for in this section. An agency shall file a copy of a  
22 preproposal notice of inquiry, as provided in RCW 34.05.310(1), that  
23 identifies the rule as one that is proposed for expedited repeal.

24 (2) An agency may propose the expedited repeal of rules meeting one  
25 or more of the following criteria:

26 (a) The statute on which the rule is based has been repealed and  
27 has not been replaced by another statute providing statutory authority  
28 for the rule;

29 (b) The statute on which the rule is based has been declared  
30 unconstitutional by a court with jurisdiction, there is a final  
31 judgment, and no statute has been enacted to replace the  
32 unconstitutional statute;

33 (c) The rule is no longer necessary because of changed  
34 circumstances; or

35 (d) Other rules of the agency or of another agency govern the same  
36 activity as the rule, making the rule redundant.

1 (3) The agency shall also send a copy of the preproposal notice of  
2 inquiry to any person who has requested notification of copies of  
3 proposals for the expedited repeal of rules or of agency rule making.  
4 The preproposal notice of inquiry shall include a statement that any  
5 person who objects to the repeal of the rule must file a written  
6 objection to the repeal within thirty days after the preproposal notice  
7 of inquiry is published. The notice of inquiry shall also include an  
8 explanation of the reasons the agency believes the expedited repeal of  
9 the rule is appropriate.

10 (4) The code reviser shall publish all rules proposed for expedited  
11 repeal in a separate section of a regular edition of the Washington  
12 state register or in a special edition of the Washington state  
13 register. The publication shall be not later than ((July)) May 31st or  
14 November 30th of each year, or in the first register published after  
15 that date.

16 (5) Any person may file a written objection to the expedited repeal  
17 of a rule. The notice shall be filed with the agency rules coordinator  
18 within thirty days after the notice of inquiry has been published in  
19 the Washington state register. The written objection need not state  
20 any reason for objecting to the expedited repeal of the rule.

21 (6) If no written objections to the expedited repeal of a rule are  
22 filed with the agency within thirty days after the preproposal notice  
23 of inquiry is published, the agency may enter an order repealing the  
24 rule without further notice or an opportunity for a public hearing.  
25 The order shall be published in the manner required by this chapter for  
26 any other order of the agency adopting, amending, or repealing a rule.  
27 If a written objection to the expedited repeal of the rule is filed  
28 with the agency within thirty days after the notice of inquiry has been  
29 published, the preproposal notice of inquiry published pursuant to this  
30 section shall be considered a preproposal notice of inquiry for the  
31 purposes of RCW 34.05.310(1) and the agency may initiate rule adoption  
32 proceedings in accordance with the provisions of this chapter.

33 **Sec. 214.** RCW 19.85.025 and 1995 c 403 s 401 are each amended to  
34 read as follows:

35 (1) Unless an agency receives a written objection to the expedited  
36 repeal of a rule, this chapter does not apply to a rule proposed for  
37 expedited repeal pursuant to RCW 34.05.354. If an agency receives a

1 written objection to expedited repeal of the rule, this chapter applies  
2 to the rule-making proceeding.

3 (2) This chapter does not apply to a rule proposed for expedited  
4 adoption pursuant to section 207 of this act, unless a written  
5 objection is timely filed with the agency and the objection is not  
6 withdrawn.

7 (3) This chapter does not apply to the adoption of a rule described  
8 in RCW 34.05.310(4).

9 ~~((+3+))~~ (4) An agency is not required to prepare a separate small  
10 business economic impact statement under RCW 19.85.040 if it prepared  
11 an analysis under RCW 34.05.328 that meets the requirements of a small  
12 business economic impact statement, and if the agency reduced the costs  
13 imposed by the rule on small business to the extent required by RCW  
14 19.85.030(3). The portion of the analysis that meets the requirements  
15 of RCW 19.85.040 shall be filed with the code reviser and provided to  
16 any person requesting it in lieu of a separate small business economic  
17 impact statement.

18 **PART III**  
19 **JUDICIAL REVIEW**

20 **Sec. 301.** RCW 34.05.570 and 1995 c 403 s 802 are each amended to  
21 read as follows:

22 (1) Generally. Except to the extent that this chapter or another  
23 statute provides otherwise:

24 (a) Except as provided in subsection (2) of this section, the  
25 burden of demonstrating the invalidity of agency action is on the party  
26 asserting invalidity;

27 (b) The validity of agency action shall be determined in accordance  
28 with the standards of review provided in this section, as applied to  
29 the agency action at the time it was taken;

30 (c) The court shall make a separate and distinct ruling on each  
31 material issue on which the court's decision is based; ~~((and))~~

32 (d) The court shall grant relief only if it determines that a  
33 person seeking judicial relief has been substantially prejudiced by the  
34 action complained of; and

35 (e) In a proceeding involving the review of an interpretive or  
36 policy statement, the court may consider the agency's interpretation of  
37 a statute by the policy or interpretive statement only if the statute



1 is ambiguous. The court shall review the interpretive or policy  
2 statement under the error of law standard, but the amount of deference  
3 that a court may give to the agency's interpretation shall depend on  
4 the following factors: (i) Whether the interpretive or policy statement  
5 was issued contemporaneously with the passage of the statute to which  
6 it relates; (ii) the consistency with earlier and later agency  
7 pronouncements, including whether the agency had historically ever  
8 interpreted the statute to require the standards or procedures  
9 announced in the interpretive or policy statement; (iii) the validity  
10 of the agency's reasoning; and (iv) the substantive impact of the  
11 interpretive or policy statement. Interpretive or policy statements  
12 that were issued contemporaneously with the applicable statute and that  
13 have been consistently interpreted by the agency shall be given more  
14 deference by the court. Because interpretive or policy statements have  
15 not been subject to the notice and comment procedures of the rule-  
16 making process, the court shall give less deference to an agency's  
17 interpretation of the law when there is a large substantive impact.  
18 This subsection does not apply to an interpretive or policy statement  
19 that the court finds is invalid because it constitutes a rule that was  
20 not adopted in accordance with all applicable provisions of law.

21 (2) Review of rules. (a) A rule may be reviewed by petition for  
22 declaratory judgment filed pursuant to this subsection or in the  
23 context of any other review proceeding under this section. In an  
24 action challenging the validity of a rule, the agency shall be made a  
25 party to the proceeding.

26 (b) The validity of any rule may be determined upon petition for a  
27 declaratory judgment addressed to the superior court of Thurston  
28 county, when it appears that the rule, or its threatened application,  
29 interferes with or impairs or immediately threatens to interfere with  
30 or impair the legal rights or privileges of the petitioner. The burden  
31 of going forward with the evidence when the validity of any rule is  
32 challenged is on the agency. The declaratory judgment order may be  
33 entered whether or not the petitioner has first requested the agency to  
34 pass upon the validity of the rule in question.

35 (c) In a proceeding involving review of a rule, the court shall  
36 declare the rule invalid only if it finds that: The rule violates  
37 constitutional provisions; the rule exceeds the statutory authority of  
38 the agency; the rule was adopted without compliance with statutory  
39 rule-making procedures; or the rule is arbitrary and capricious.

1 (3) Review of agency orders in adjudicative proceedings. The court  
2 shall grant relief from an agency order in an adjudicative proceeding  
3 only if it determines that:

4 (a) The order, or the statute or rule on which the order is based,  
5 is in violation of constitutional provisions on its face or as applied;

6 (b) The order is outside the statutory authority or jurisdiction of  
7 the agency conferred by any provision of law;

8 (c) The agency has engaged in unlawful procedure or decision-making  
9 process, or has failed to follow a prescribed procedure;

10 (d) The agency has erroneously interpreted or applied the law;

11 (e) The order is not supported by evidence that is substantial when  
12 viewed in light of the whole record before the court, which includes  
13 the agency record for judicial review, supplemented by any additional  
14 evidence received by the court under this chapter;

15 (f) The agency has not decided all issues requiring resolution by  
16 the agency;

17 (g) A motion for disqualification under RCW 34.05.425 or 34.12.050  
18 was made and was improperly denied or, if no motion was made, facts are  
19 shown to support the grant of such a motion that were not known and  
20 were not reasonably discoverable by the challenging party at the  
21 appropriate time for making such a motion;

22 (h) The order is inconsistent with a rule of the agency unless the  
23 agency explains the inconsistency by stating facts and reasons to  
24 demonstrate a rational basis for inconsistency; or

25 (i) The order is arbitrary or capricious.

26 (4) Review of other agency action.

27 (a) All agency action not reviewable under subsection (2) or (3) of  
28 this section shall be reviewed under this subsection.

29 (b) A person whose rights are violated by an agency's failure to  
30 perform a duty that is required by law to be performed may file a  
31 petition for review pursuant to RCW 34.05.514, seeking an order  
32 pursuant to this subsection requiring performance. Within twenty days  
33 after service of the petition for review, the agency shall file and  
34 serve an answer to the petition, made in the same manner as an answer  
35 to a complaint in a civil action. The court may hear evidence,  
36 pursuant to RCW 34.05.562, on material issues of fact raised by the  
37 petition and answer.

38 (c) Relief for persons aggrieved by the performance of an agency  
39 action, including the exercise of discretion, or an action under (b) of

1 this subsection can be granted only if the court determines that the  
2 action is:

3 (i) Unconstitutional;

4 (ii) Outside the statutory authority of the agency or the authority  
5 conferred by a provision of law;

6 (iii) Arbitrary or capricious; or

7 (iv) Taken by persons who were not properly constituted as agency  
8 officials lawfully entitled to take such action.

9 **Sec. 302.** RCW 34.05.534 and 1995 c 403 s 803 are each amended to  
10 read as follows:

11 A person may file a petition for judicial review under this chapter  
12 only after exhausting all administrative remedies available within the  
13 agency whose action is being challenged, or available within any other  
14 agency authorized to exercise administrative review, except:

15 (1) A petitioner for judicial review of a rule need not have  
16 participated in the rule-making proceeding upon which that rule is  
17 based, have petitioned for its amendment or repeal, have petitioned the  
18 joint administrative rules review committee for its review, or have  
19 appealed a petition for amendment or repeal to the governor;

20 (2) A petitioner for judicial review need not exhaust  
21 administrative remedies to the extent that this chapter or any other  
22 statute states that exhaustion is not required; or

23 (3) The court may relieve a petitioner of the requirement to  
24 exhaust any or all administrative remedies upon a showing that:

25 (a) The remedies would be patently inadequate;

26 (b) The exhaustion of remedies would be futile; or

27 (c) The grave irreparable harm that would result from having to  
28 exhaust administrative remedies would clearly outweigh the public  
29 policy requiring exhaustion of administrative remedies.

30 NEW SECTION. **Sec. 303.** A new section is added to chapter 34.05  
31 RCW under the subchapter heading "Part IV" to read as follows:

32 The presiding officer shall apply the applicable statute as the  
33 first source of law governing an issue in any adjudicative proceeding.  
34 Any agency rule is invalid if it requires a presiding officer to apply  
35 agency rules as the first source of law in an adjudicatory proceeding.

1       **Sec. 304.** RCW 48.04.010 and 1990 1st ex.s. c 3 s 1 are each  
2 amended to read as follows:

3       (1) The commissioner may hold a hearing for any purpose within the  
4 scope of this code as he or she may deem necessary. The commissioner  
5 shall hold a hearing:

6       (a) If required by any provision of this code; or

7       (b) Upon written demand for a hearing made by any person aggrieved  
8 by any act, threatened act, or failure of the commissioner to act, if  
9 such failure is deemed an act under any provision of this code, or by  
10 any report, promulgation, or order of the commissioner other than an  
11 order on a hearing of which such person was given actual notice or at  
12 which such person appeared as a party, or order pursuant to the order  
13 on such hearing.

14       (2) Any such demand for a hearing shall specify in what respects  
15 such person is so aggrieved and the grounds to be relied upon as basis  
16 for the relief to be demanded at the hearing.

17       (3) Unless a person aggrieved by a written order of the  
18 commissioner demands a hearing thereon within ninety days after  
19 receiving notice of such order, or in the case of a licensee under  
20 Title 48 RCW within ninety days after the commissioner has mailed the  
21 order to the licensee at the most recent address shown in the  
22 commissioner's licensing records for the licensee, the right to such  
23 hearing shall conclusively be deemed to have been waived.

24       (4) If a hearing is demanded by a licensee whose license has been  
25 temporarily suspended pursuant to RCW 48.17.540, the commissioner shall  
26 hold such hearing demanded within thirty days after receipt of the  
27 demand or within thirty days of the effective date of a temporary  
28 license suspension issued after such demand, unless postponed by mutual  
29 consent.

30       (5) Any hearing held under this section must be conducted by an  
31 administrative law judge unless the person demanding the hearing agrees  
32 in writing to have an employee of the commissioner conduct the hearing.

33       **Sec. 305.** RCW 34.12.040 and 1981 c 67 s 4 are each amended to read  
34 as follows:

35       (1) Except as provided in subsection (2) of this section, whenever  
36 a state agency conducts a hearing which is not presided over by  
37 officials of the agency who are to render the final decision, the  
38 hearing shall be conducted by an administrative law judge assigned

1 under this chapter. In assigning administrative law judges, the chief  
2 administrative law judge shall wherever practical (~~((1))~~) (a) use  
3 personnel having expertise in the field or subject matter of the  
4 hearing, and (~~((2))~~) (b) assign administrative law judges primarily to  
5 the hearings of particular agencies on a long-term basis.

6 (2) An employee of the office of the insurance commissioner may  
7 conduct a hearing as provided in RCW 48.04.010(5).

8 **PART IV**  
9 **LEGISLATIVE REVIEW**

10 **Sec. 401.** RCW 34.05.630 and 1996 c 318 s 4 are each amended to  
11 read as follows:

12 (1) All rules required to be filed pursuant to RCW 34.05.380, and  
13 emergency rules adopted pursuant to RCW 34.05.350, are subject to  
14 selective review by the (~~(legislature)~~) rules review committee.

15 (2) All agency policy and interpretive statements, guidelines, or  
16 other such issuances of general applicability are subject to selective  
17 review by the (~~(legislature)~~) rules review committee for the purpose of  
18 determining whether an issuance constitutes a rule that has not been  
19 adopted in accordance with all applicable provisions of law. If the  
20 committee finds that an issuance constitutes a rule, the rules review  
21 committee may also examine whether the rule is within the intent of the  
22 legislature as expressed by the statute that the rule implements.

23 (3) If the rules review committee finds by a majority vote of its  
24 members: (a) That an existing rule, including an issuance found to be  
25 a rule, is not within the intent of the legislature as expressed by the  
26 statute which the rule implements(~~((7))~~) or (b) that the rule has not  
27 been adopted in accordance with all applicable provisions of law, (~~(or~~  
28 ~~(c) that an agency is using a policy or interpretive statement in place~~  
29 ~~of a rule,~~) the agency affected shall be notified of such finding and  
30 the reasons therefor. Within thirty days of the receipt of the rules  
31 review committee's notice, the agency shall file notice of a hearing on  
32 the rules review committee's finding with the code reviser and mail  
33 notice to all persons who have made timely request of the agency for  
34 advance notice of its rule-making proceedings as provided in RCW  
35 34.05.320. The agency's notice shall include the rules review  
36 committee's findings and reasons therefor, and shall be published in

1 the Washington state register in accordance with the provisions of  
2 chapter 34.08 RCW.

3 (4) The agency shall consider fully all written and oral  
4 submissions regarding (a) whether the rule in question is within the  
5 intent of the legislature as expressed by the statute which the rule  
6 implements(~~(7)~~) or (b) whether the rule was adopted in accordance with  
7 all applicable provisions of law(~~(7, or (c) whether the agency is using~~  
8 ~~a policy or interpretive statement in place of a rule)~~)).

9 **Sec. 402.** RCW 34.05.640 and 1996 c 318 s 5 are each amended to  
10 read as follows:

11 (1) Within seven days of an agency hearing held after notification  
12 of the agency by the rules review committee pursuant to RCW 34.05.620  
13 or 34.05.630, the affected agency shall notify the committee of its  
14 intended action on a proposed or existing rule to which the committee  
15 objected or on a committee finding of the agency's failure to adopt  
16 rules.

17 (2) If the rules review committee finds by a majority vote of its  
18 members: (a) That the proposed or existing rule in question, including  
19 an issuance found to be a rule, will not be modified, amended,  
20 withdrawn, or repealed by the agency so as to conform with the intent  
21 of the legislature(~~(7)~~) or (b) that (~~(an existing)~~) a rule was not  
22 adopted in accordance with all applicable provisions of law(~~(7, or (c)~~  
23 ~~that the agency will not replace the policy or interpretive statement~~  
24 ~~with a rule)~~), the rules review committee may, within thirty days from  
25 notification by the agency of its intended action, file with the code  
26 reviser notice of its objections together with a concise statement of  
27 the reasons therefor. Such notice and statement shall also be provided  
28 to the agency by the rules review committee.

29 (3) If the rules review committee makes an adverse finding  
30 regarding an existing rule under subsection (2) (a) or (b) of this  
31 section, the committee may, by a majority vote of its members,  
32 recommend suspension of the rule. Within seven days of such vote the  
33 committee shall transmit to the appropriate standing committees of the  
34 legislature, the governor, the code reviser, and the agency written  
35 notice of its objection and recommended suspension and the concise  
36 reasons therefor. Within thirty days of receipt of the notice, the  
37 governor shall transmit to the committee, the code reviser, and the  
38 agency written approval or disapproval of the recommended suspension.

1 If the suspension is approved by the governor, it is effective from the  
2 date of that approval and continues until ninety days after the  
3 expiration of the next regular legislative session.

4 (4) The code reviser shall publish transmittals from the rules  
5 review committee or the governor issued pursuant to subsection (2) or  
6 (3) of this section in the Washington state register and shall publish  
7 in the next supplement and compilation of the Washington Administrative  
8 Code a reference to the committee's objection or recommended suspension  
9 and the governor's action on it and to the issue of the Washington  
10 state register in which the full text thereof appears.

11 (5) The reference shall be removed from a rule published in the  
12 Washington Administrative Code if a subsequent adjudicatory proceeding  
13 determines that the rule is within the intent of the legislature or was  
14 adopted in accordance with all applicable laws, whichever was the  
15 objection of the rules review committee.

16 **Sec. 403.** RCW 34.05.655 and 1996 c 318 s 7 are each amended to  
17 read as follows:

18 (1) Any person may petition the rules review committee for a review  
19 of a proposed or existing rule, or a policy or interpretive statement,  
20 guideline, or other such issuance of general applicability. Within  
21 thirty days of the receipt of the petition, the rules review committee  
22 shall acknowledge receipt of the petition and describe any initial  
23 action taken. If the rules review committee rejects the petition, a  
24 written statement of the reasons for rejection shall be included.

25 (2) A person may petition the rules review committee under  
26 subsection (1) of this section requesting review of an existing rule  
27 only if the person has petitioned the agency to amend or repeal the  
28 rule under RCW 34.05.330(1) and such petition was denied.

29 (3) A petition for review of a rule under subsection (1) of this  
30 section shall:

31 (a) Identify with specificity the proposed or existing rule to be  
32 reviewed;

33 (b) Identify the specific statute identified by the agency as  
34 authorizing the rule, the specific statute which the rule interprets or  
35 implements, and, if applicable, the specific statute the department is  
36 alleged not to have followed in adopting the rule;

37 (c) State the reasons why the petitioner believes that the rule is  
38 not within the intent of the legislature, or that its adoption was not

1 or is not in accordance with law, and provide documentation to support  
2 these statements;

3 (d) Identify any known judicial action regarding the rule or  
4 statutes identified in the petition.

5 A petition to review an existing rule shall also include a copy of  
6 the agency's denial of a petition to amend or repeal the rule issued  
7 under RCW 34.05.330(1) and, if available, a copy of the governor's  
8 denial issued under RCW 34.05.330(3).

9 (4) A petition for review of a policy or interpretive statement,  
10 guideline, or other such issuance of general applicability under  
11 subsection (1) of this section shall:

12 (a) Identify the specific ((statement)) issuance to be reviewed;

13 (b) Identify the specific statute which the ((rule)) issuance  
14 interprets or implements;

15 (c) State the reasons why the petitioner believes that the  
16 ((statement)) issuance meets the definition of a rule under RCW  
17 34.05.010 and should have been adopted according to the procedures of  
18 this chapter;

19 (d) Identify any known judicial action regarding the ((statement))  
20 issuance or statutes identified in the petition.

21 (5) Within ninety days of receipt of the petition, the rules review  
22 committee shall make a final decision on the rule for which the  
23 petition for review was not previously rejected.

24 **Sec. 404.** RCW 34.05.660 and 1988 c 288 s 606 are each amended to  
25 read as follows:

26 (1) Except as provided in subsection (2) of this section, it is the  
27 express policy of the legislature that establishment of procedures for  
28 review of administrative rules by the legislature and the notice of  
29 objection required by RCW 34.05.630((+2))(3) and 34.05.640(2) in no  
30 way serves to establish a presumption as to the legality or  
31 constitutionality of a rule in any subsequent judicial proceedings  
32 interpreting such rules.

33 (2) If the joint administrative rules review committee recommends  
34 to the governor that an existing rule be suspended because it does not  
35 conform with the intent of the legislature or was not adopted in  
36 accordance with all applicable provisions of law, the recommendation  
37 shall establish a rebuttable presumption in any proceeding challenging



1 the validity of the rule that the rule is invalid. The burden of  
2 demonstrating the rule's validity is then on the adopting agency.

3 **PART V**

4 **FEES AND EXPENSES**

5 NEW SECTION. Sec. 501. A new section is added to chapter 4.84 RCW  
6 to read as follows:

7 If an agency chooses to appeal a decision of the superior court  
8 rendered under chapter 34.05 RCW, the agency shall pay the subsequent  
9 fees and other expenses incurred by the qualified party or parties that  
10 prevailed in superior court. The amount awarded to a qualified party  
11 in an appeal under this section may not exceed the amount that may be  
12 awarded by a superior court to a qualified party under RCW 4.84.350.

13 **Sec. 502.** RCW 4.84.360 and 1995 c 403 s 904 are each amended to  
14 read as follows:

15 Fees and other expenses awarded under RCW 4.84.340 ~~((and)),~~  
16 4.84.350, or section 501 of this act shall be paid by the agency over  
17 which the party prevails from operating funds appropriated to the  
18 agency within sixty days from moneys appropriated to the agency for  
19 administration and support services and not out of moneys for program  
20 activities or service delivery if the operating budget or budget notes  
21 separately designate administration and support services. Agencies  
22 paying fees and other expenses pursuant to RCW 4.84.340 ~~((and)),~~  
23 4.84.350, or section 501 of this act shall report all payments to the  
24 office of financial management within five days of paying the fees and  
25 other expenses. Fees and other expenses awarded by the court shall be  
26 subject to the provisions of chapter 39.76 RCW and shall be deemed  
27 payable on the date the court announces the award.

28 **Sec. 503.** RCW 4.84.340 and 1995 c 403 s 902 are each amended to  
29 read as follows:

30 Unless the context clearly requires otherwise, the definitions in  
31 this section apply throughout RCW 4.84.340 through 4.84.360 and section  
32 501 of this act.

33 (1) "Agency" means any state board, commission, department,  
34 institution of higher education, or officer, authorized by law to make  
35 rules or to conduct adjudicative proceedings, except those in the

1 legislative or judicial branches, the governor, or the attorney general  
2 except to the extent otherwise required by law.

3 (2) "Agency action" means agency action as defined by chapter 34.05  
4 RCW.

5 (3) "Fees and other expenses" includes the reasonable expenses of  
6 expert witnesses, the reasonable cost of a study, analysis, engineering  
7 report, test, or project that is found by the court to be necessary for  
8 the preparation of the party's case, and reasonable attorneys' fees.  
9 Reasonable attorneys' fees shall be based on the prevailing market  
10 rates for the kind and quality of services furnished, except that (a)  
11 no expert witness shall be compensated at a rate in excess of the  
12 highest rates of compensation for expert witnesses paid by the state of  
13 Washington, and (b) attorneys' fees shall not be awarded in excess of  
14 one hundred fifty dollars per hour unless the court determines that an  
15 increase in the cost of living or a special factor, such as the limited  
16 availability of qualified attorneys for the proceedings involved,  
17 justifies a higher fee.

18 (4) "Judicial review" means a judicial review as defined by chapter  
19 34.05 RCW.

20 (5) "Qualified party" means (a) an individual whose net worth did  
21 not exceed one million dollars at the time the initial petition for  
22 judicial review was filed or (b) a sole owner of an unincorporated  
23 business, or a partnership, corporation, association, or organization  
24 whose net worth did not exceed five million dollars at the time the  
25 initial petition for judicial review was filed, except that an  
26 organization described in section 501(c)(3) of the federal internal  
27 revenue code of 1954 as exempt from taxation under section 501(a) of  
28 the code and a cooperative association as defined in section 15(a) of  
29 the agricultural marketing act (12 U.S.C. 1141J(a)), may be a party  
30 regardless of the net worth of such organization or cooperative  
31 association.

## 32 PART VI

### 33 REGULATORY IMPACT NOTES

34 **Sec. 601.** RCW 43.41.110 and 1981 2nd ex.s. c 4 s 13 are each  
35 amended to read as follows:

36 The office of financial management shall:

- 1 (1) Provide technical assistance to the governor and the  
2 legislature in identifying needs and in planning to meet those needs  
3 through state programs and a plan for expenditures.
- 4 (2) Perform the comprehensive planning functions and processes  
5 necessary or advisable for state program planning and development,  
6 preparation of the budget, inter-departmental and inter-governmental  
7 coordination and cooperation, and determination of state capital  
8 improvement requirements.
- 9 (3) Provide assistance and coordination to state agencies and  
10 departments in their preparation of plans and programs.
- 11 (4) Provide general coordination and review of plans in functional  
12 areas of state government as may be necessary for receipt of federal or  
13 state funds.
- 14 (5) Participate with other states or subdivisions thereof in  
15 interstate planning.
- 16 (6) Encourage educational and research programs that further  
17 planning and provide administrative and technical services therefor.
- 18 (7) Carry out the provisions of RCW 43.62.010 through 43.62.050  
19 relating to the state census.
- 20 (8) Be the official state participant in the federal-state  
21 cooperative program for local population estimates and as such certify  
22 all city and county special censuses to be considered in the allocation  
23 of state and federal revenues.
- 24 (9) Be the official state center for processing and dissemination  
25 of federal decennial or quinquennial census data in cooperation with  
26 other state agencies.
- 27 (10) Be the official state agency certifying annexations,  
28 incorporations, or disincorporations to the United States bureau of the  
29 census.
- 30 (11) Review all United States bureau of the census population  
31 estimates used for federal revenue sharing purposes and provide a  
32 liaison for local governments with the United States bureau of the  
33 census in adjusting or correcting revenue sharing population estimates.
- 34 (12) Provide fiscal notes depicting the expected fiscal impact of  
35 proposed legislation in accordance with chapter 43.88A RCW.
- 36 (13) Provide regulatory impact notes depicting the expected  
37 regulatory impact of proposed legislation on businesses in accordance  
38 with sections 602 through 606 of this act.

1       (14) Be the official state agency to estimate and manage the cash  
2 flow of all public funds as provided in chapter 43.88 RCW. To this  
3 end, the office shall adopt such rules as are necessary to manage the  
4 cash flow of public funds.

5       NEW SECTION.   **Sec. 602.** The legislature hereby recognizes the  
6 necessity of developing a uniform and coordinated procedure for  
7 determining the expected regulatory impact of bills and resolutions on  
8 businesses. The legislature also recognizes that developing the  
9 statements of regulatory impact, which shall be known as regulatory  
10 impact notes, requires the designation of a state agency to be  
11 principally responsible for the notes.

12       NEW SECTION.   **Sec. 603.** (1) The office of financial management  
13 shall, in cooperation with appropriate legislative committees and  
14 legislative staff, establish a procedure to provide regulatory impact  
15 notes on the expected impact of bills and resolutions that increase or  
16 decrease regulations on the operation of businesses subject to the  
17 state's business and occupation taxes levied in chapter 82.04 RCW.

18       (2) A regulatory impact note shall be prepared on the basis of a  
19 sample of businesses that are regulated by the bill or resolution. The  
20 regulatory impact note shall contain an estimate of the fiscal impact  
21 to the affected businesses for the biennium in which the bill or  
22 resolution will take effect as well as a cumulative forecast of the  
23 fiscal impact for the succeeding two fiscal years. If it is determined  
24 that no dollar estimate is possible, the regulatory impact note shall  
25 contain a statement to that effect.

26       (3) In establishing the regulatory impact procedure called for  
27 under this chapter, the office of financial management shall coordinate  
28 the development of regulatory impact notes with all state agencies  
29 affected.

30       NEW SECTION.   **Sec. 604.** (1) After a regulatory impact note that  
31 depicts the expected regulatory impact of a bill or resolution is  
32 prepared and approved as to form, accuracy, and completeness by the  
33 office of financial management, copies shall be filed immediately with:

34       (a) The chair of the committee to which the bill or resolution was  
35 referred upon introduction in the house of origin;

36       (b) The senate committee on ways and means, or its successor; and

1 (c) The house of representatives committees on revenue and  
2 appropriations, or their successors.

3 (2) Whenever possible, the regulatory impact note shall be provided  
4 before or at the time the bill or resolution is first heard by the  
5 committee of reference in the house of origin.

6 (3) If a regulatory impact note has been prepared for a bill or  
7 resolution, a copy of the regulatory impact note shall be placed in the  
8 bill books or otherwise attached to the bill or resolution and shall  
9 remain with the bill or resolution throughout the legislative process  
10 insofar as possible.

11 NEW SECTION. **Sec. 605.** If requested by a legislator, the office  
12 of financial management shall also provide a regulatory impact note on  
13 a legislative proposal. The regulatory impact note shall be returned  
14 to the requesting legislator, and copies shall be filed with the  
15 appropriate legislative committees under section 604 of this act at the  
16 time the proposed legislation is introduced in either house.

17 NEW SECTION. **Sec. 606.** Nothing in this chapter prevents either  
18 house of the legislature from acting on a bill or resolution before it  
19 as otherwise provided by the state Constitution, by law, and by the  
20 rules and joint rules of the senate and house of representatives, nor  
21 shall the lack of a regulatory impact note as provided in this chapter  
22 or an error in the accuracy of the note affect the validity of a  
23 measure otherwise duly passed by the legislature.

24 **PART VII**

25 **MISCELLANEOUS**

26 NEW SECTION. **Sec. 701.** A new section is added to chapter 34.05  
27 RCW under the subchapter heading "Part III" to read as follows:

28 (1) The statute law committee shall convene a working group that  
29 includes representatives of the office of financial management, state  
30 agencies, and the general public for the purpose of (a) developing  
31 proposed rules relating to the acceptance of electronic filings of  
32 proposed rules and interpretive or policy statements from state  
33 agencies; (b) developing proposed rules pertaining to the filing and  
34 publication of executive orders, information submitted by agencies in  
35 the preparation of statements of inquiry, and other information deemed

1 important for publication in the Washington State Register; and (c)  
2 developing a method for noting in the published volumes of the Revised  
3 Code of Washington or the Washington Administrative Code, or both, if  
4 interpretive or policy statements have been issued that pertain to the  
5 statutes or rules. The working group shall be convened no later than  
6 July 1, 1997, and develop the proposed rules no later than July 1,  
7 1998. The code reviser shall adopt the proposed rules developed by the  
8 statute law committee working group created in this section.

9 (2) This section expires January 1, 1999.

10 NEW SECTION. **Sec. 702.** Part headings used in this act do not  
11 constitute any part of the law.

12 NEW SECTION. **Sec. 703.** Sections 602 through 606 of this act  
13 constitute a new chapter in Title 43 RCW.

14 NEW SECTION. **Sec. 704.** If any provision of this act or its  
15 application to any person or circumstance is held invalid, the  
16 remainder of the act or the application of the provision to other  
17 persons or circumstances is not affected.

--- END ---