

ONE HUNDRED FIRST DAY

MORNING SESSION

Senate Chamber, Olympia  
Wednesday, April 19, 2017

The Senate was called to order at 8:56 a.m. by the President of the Senate, Lt. Governor Habib presiding. The Secretary called the roll and announced to the President that all Senators were present.

MOTION

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

MOTION

At 8:58 a.m., on motion of Senator Fain, the Senate was declared to be at ease subject to the call of the President.

NOON SESSION

The Senate was called to order at 1:40 p.m. by President Habib.

The Sergeant at Arms Color Guard consisting of Pages Mr. Beau Fields and Miss Serhiy Holchuk, presented the Colors. Page Miss Isabella Villarreal led the Senate in the Pledge of Allegiance. The prayer was offered by Senator Barbara Bailey, 10<sup>th</sup> Legislative District, Oak Harbor.

INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced Miss Heather Haggin, Miss Auburn 2017 and Miss Elizabeth Enz, Miss Auburn Outstanding Teen 2017, who were seated at the rostrum.

MOTION

On motion of Senator Fain, the Senate advanced to the fourth order of business.

MESSAGES FROM THE HOUSE

April 18, 2017

MR. PRESIDENT:

The House has passed:

ENGROSSED HOUSE BILL NO. 1858,  
and the same is herewith transmitted.

NONA SNELL, Deputy Chief Clerk

April 18, 2017

MR. PRESIDENT:

The House has passed:

SUBSTITUTE HOUSE BILL NO. 2202,  
and the same is herewith transmitted.

NONA SNELL, Deputy Chief Clerk

April 18, 2017

MR. PRESIDENT:

The House concurred in the Senate amendments to the following bills and passed the bills as amended by the Senate:

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1017,  
SUBSTITUTE HOUSE BILL NO. 1353,  
SUBSTITUTE HOUSE BILL NO. 1445,  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO.  
1819,  
SUBSTITUTE HOUSE BILL NO. 1863,  
HOUSE BILL NO. 1965,

and the same are herewith transmitted.

NONA SNELL, Deputy Chief Clerk

April 18, 2017

MR. PRESIDENT:

The House receded from its amendment to SENATE BILL NO. 5436 and passed the bill without the House amendment.

NONA SNELL, Deputy Chief Clerk

April 18, 2017

MR. PRESIDENT:

The Speaker has signed:

SUBSTITUTE HOUSE BILL NO. 1086,  
HOUSE BILL NO. 1091,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1105,  
HOUSE BILL NO. 1150,  
HOUSE BILL NO. 1250,  
HOUSE BILL NO. 1278,  
SUBSTITUTE HOUSE BILL NO. 1444,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1481,  
SUBSTITUTE HOUSE BILL NO. 1520,  
ENGROSSED HOUSE BILL NO. 1648,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1814,  
SUBSTITUTE HOUSE BILL NO. 1845,  
HOUSE BILL NO. 1906,  
ENGROSSED HOUSE BILL NO. 1924,  
SUBSTITUTE HOUSE BILL NO. 1944,  
HOUSE BILL NO. 1983,  
SUBSTITUTE HOUSE BILL NO. 1988,  
ENGROSSED HOUSE BILL NO. 2003,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2010,  
and the same are herewith transmitted.

NONA SNELL, Deputy Chief Clerk

April 18, 2017

MR. PRESIDENT:

The Speaker has signed:

SUBSTITUTE SENATE BILL NO. 5022,  
SENATE BILL NO. 5030,  
SUBSTITUTE SENATE BILL NO. 5138,  
SUBSTITUTE SENATE BILL NO. 5152,  
SENATE BILL NO. 5177,  
ENGROSSED SUBSTITUTE SENATE BILL NO. 5198,  
ENGROSSED SENATE BILL NO. 5234,  
SECOND SUBSTITUTE SENATE BILL NO. 5258,  
ENGROSSED SENATE BILL NO. 5266,  
SUBSTITUTE SENATE BILL NO. 5327,

ONE HUNDRED FIRST DAY, APRIL 19, 2017

2017 REGULAR SESSION

SUBSTITUTE SENATE BILL NO. 5346,  
 SUBSTITUTE SENATE BILL NO. 5358,  
 SENATE BILL NO. 5359,  
 SECOND SUBSTITUTE SENATE BILL NO. 5474,  
 SENATE BILL NO. 5674,

and the same are herewith transmitted.

NONA SNELL, Deputy Chief Clerk

MOTION

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

INTRODUCTION AND FIRST READING

SB 5926 by Senators Honeyford, Keiser and Hunt

AN ACT Relating to authorizing theaters with more than four screens to obtain a license to sell beer and wine; and amending RCW 66.24.650.

Referred to Committee on Commerce, Labor & Sports.

SB 5927 by Senators Keiser and Hunt

AN ACT Relating to liquor licenses; and amending RCW 66.24.655, 66.24.650, 66.24.363, and 66.24.330.

Referred to Committee on Commerce, Labor & Sports.

MOTION

On motion of Senator Fain, all measures listed on the Introduction and First Reading report were referred to the committees as designated.

MOTION

On motion of Senator Fain, Senate Rule 20 was suspended for the remainder of the day to allow consideration of additional floor resolutions.

EDITOR'S NOTE: Senate Rule 20 limits consideration of floor resolutions not essential to the operation of the Senate to one per day during regular daily sessions.

MOTION

On motion of Senator Fain, the Senate advanced to the eighth order of business.

MOTION

Senator Angel moved adoption of the following resolution:

SENATE RESOLUTION  
 8635

By Senators Angel, O'Ban, Wilson, Warnick, Schoesler, Brown, Walsh, Braun, Becker, Short, Rossi, Fortunato, Bailey, Fain, Hobbs, Conway, and Darneille

WHEREAS, Melanie J. Dressel was born in Colville, Washington where her father owned a jewelry store and was Chief of the volunteer fire department; and

WHEREAS, Melanie attended the University of Washington, and graduated with a political science degree; and

WHEREAS, After graduating, Melanie went to work at the Bank of California in Tacoma, where she worked for 14 years; and later moved to Puget Sound National Bank, where she directed the private banking division; and

WHEREAS, Melanie was part of the original team that founded Columbia Bank in 1993; and, in 1997, Melanie was promoted to Executive Vice President of retail banking where she directed the bank's branch network and its operations, investments, private banking, and marketing/communications divisions; and

WHEREAS, In 2000, Melanie was appointed as Columbia Bank's President; and, in 2003, Melanie became Columbia Bank's Chief Executive Officer; and

WHEREAS, Under Melanie's leadership, Columbia Bank grew from one branch to over one hundred forty branches in Washington, Oregon, and Idaho; and

WHEREAS, In 2011, Melanie was honored as Community Banker of the Year by *American Banker Magazine* and has been named one of "The 25 Most Powerful Women in Banking" by the magazine seven times; and

WHEREAS, Melanie served on several boards, including the Boards of Puget Sound Energy (Chair), Executive Council for a Greater Tacoma (past Chair), Washington Bankers Association (past Chair), Washington Roundtable, and the Washington State Historical Society; and

WHEREAS, Melanie also served on the American Bankers Council, the ABA Grassroots Committee, the Bellarmine Benefactors' Trust, and was a member of the Federal Reserve Bank of San Francisco's Community Depository Institutions Advisory Council (CDIAC); and

WHEREAS, At home, Melanie showed her devotion to her family by sending weekly cookie packages to her family, and by flying to California on weekends to watch her son play football for Humboldt State University; and

WHEREAS, Despite her many commitments, Melanie always found time to make full Sunday dinners for her family, where she enjoyed playing with her grandkids; and

WHEREAS, Melanie is survived by her husband, Bob; adult sons, Robert and Brent; and two grandchildren;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate honor Ms. Melanie J. Dressel and remember her successful career and devotion to her family.

Senators Angel, Darneille, Becker and Sheldon spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8635.

The motion by Senator Angel carried and the resolution was adopted by voice vote.

INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced members and friends of Melanie Dressel who were seated in the gallery: Mr. Bob Dressel, Melanie's husband; Mr. Brent Dressel & Mr. Robert Dressel III, Melanie's sons; Mr. Wayne Mannie, Senior Vice President, Columbia Bank; and Mr. Jim Pishue, President of the Washington Bankers Association.

MOTION

Senator Hunt moved adoption of the following resolution:

SENATE RESOLUTION  
 8646

By Senators Hunt, Becker, Rolfes, Darneille, Conway, Angel, O'Ban, Zeiger, and Sheldon

WHEREAS, Project Linus is a national organization that provides new, handmade blankets to seriously ill and traumatized children; and

WHEREAS, These blankets bring a sense of security, warmth, and comfort to children in need, and are lovingly created by volunteer "blanketeers"; and

WHEREAS, Project Linus was founded by Karen Louks, on Christmas Eve 1995, when she read about a three-year old with leukemia whose special "blankie" helped comfort her in the hospital during intensive chemotherapy; and

WHEREAS, The article inspired Karen to provide homemade security blankets to a children's cancer center in her community; and

WHEREAS, Project Linus has grown to nearly 400 chapters across 50 states; and

WHEREAS, Local chapters collect blankets and organize several blanket-making events throughout the year to be distributed to children in hospitals, shelters, social service agencies, or anywhere that a child might be in need; and

WHEREAS, National Make a Blanket Day was started in 1999 after the tragedy at Columbine High School when national chapters came to the rescue, holding "blanket bees" all over the country and sending those blankets to local chapters in Denver, Colorado; and

WHEREAS, National Make a Blanket Day is designated as the third Saturday in February and is attributed to the collection of 75,000 to 100,000 blankets; and

WHEREAS, Since its founding, Project Linus has collected over 6 million blankets nationwide; and

WHEREAS, The Pierce, Thurston, Kitsap, & Mason counties chapter of Project Linus, one of eleven chapters in Washington State, has collected 3,507 blankets and distributed 3,081 blankets since it was established in April 2014; and

WHEREAS, The immense success of this organization is dependent on the generous volunteer spirit of thousands of blanketeers and staff;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate honor the participants of Project Linus locally and nationwide and express appreciation for their service; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Secretary of the Senate to the Board of Directors and National President of Project Linus, and to the Pierce, Thurston, Kitsap, & Mason counties Chapter Coordinator.

Senator Hunt spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8646.

The motion by Senator Hunt carried and the resolution was adopted by voice vote.

#### INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced members of Project Linus who were seated in the gallery: Ms. Patty Gregory, National President; Ms. Mary Balagna, Vice President; Ms. Claudia Post, Chapter Coordinator; and members of the Pierce, Thurston, Kitsap & Mason County Chapter.

#### MOTION

At 2:05 p.m., on motion of Senator Fain, the Senate was declared to be at ease subject to the call of the President.

Senator McCoy announced a meeting of the Democratic Caucus.

Senator Becker announced a meeting of the Majority Coalition Caucus.

The Senate was called to order at 3:28 p.m. by President Habib.

#### MOTION

On motion of Senator Fain, the Senate reverted to the seventh order of business.

#### THIRD READING CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

#### MOTION

Senator Padden moved that LORRAINE LEE, Gubernatorial Appointment No. 9088, be confirmed as a Director of the Office of Administrative Hearings.

Senator Padden spoke in favor of the motion.

#### APPOINTMENT OF LORRAINE LEE

The President declared the question before the Senate to be the confirmation of LORRAINE LEE, Gubernatorial Appointment No. 9088, as a Director of the Office of Administrative Hearings.

The Secretary called the roll on the confirmation of LORRAINE LEE, Gubernatorial Appointment No. 9088, as a Director of the Office of Administrative Hearings and the appointment was confirmed by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Billig, Braun, Brown, Carlyle, Chase, Cleveland, Conway, Darneille, Ericksen, Fain, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Honeyford, Hunt, Keiser, King, Kuderer, Lias, McCoy, Miloscia, Mullet, Nelson, O'Ban, Padden, Palumbo, Pearson, Pedersen, Ranker, Rivers, Rolfes, Rossi, Saldaña, Schoesler, Sheldon, Short, Takko, Van De Wege, Walsh, Warnick, Wellman, Wilson and Zeiger

LORRAINE LEE, Gubernatorial Appointment No. 9088, having received the constitutional majority was declared confirmed as a Director of the Office of Administrative Hearings.

#### MOTION

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

#### SIGNED BY THE PRESIDENT

Pursuant to Article 2, Section 32 of the State Constitution and Senate Rule 1(5), the President announced the signing of and thereupon did sign in open session:

SUBSTITUTE SENATE BILL NO. 5100,  
SENATE BILL NO. 5336,  
ENGROSSED SUBSTITUTE SENATE BILL NO. 5338,  
SENATE BILL NO. 5436,  
SENATE BILL NO. 5437,  
ENGROSSED SENATE BILL NO. 5647,

ONE HUNDRED FIRST DAY, APRIL 19, 2017

2017 REGULAR SESSION

SENATE BILL NO. 5778,  
SUBSTITUTE SENATE BILL NO. 5790.

MESSAGE FROM THE HOUSE

April 12, 2017

MR. PRESIDENT:

The House passed ENGROSSED SENATE BILL NO. 5096 with the following amendment(s): 5096.E AMH ENGR H2628.E

Strike everything after the enacting clause and insert the following:

**"2017-2019 FISCAL BIENNIUM**

**NEW SECTION. Sec. 46.** (1) The transportation budget of the state is hereby adopted and, subject to the provisions set forth, the several amounts specified, or as much thereof as may be necessary to accomplish the purposes designated, are hereby appropriated from the several accounts and funds named to the designated state agencies and offices for employee compensation and other expenses, for capital projects, and for other specified purposes, including the payment of any final judgments arising out of such activities, for the period ending June 30, 2019.

(2) Unless the context clearly requires otherwise, the definitions in this subsection apply throughout this act.

(a) "Fiscal year 2018" or "FY 2018" means the fiscal year ending June 30, 2018.

(b) "Fiscal year 2019" or "FY 2019" means the fiscal year ending June 30, 2019.

(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 that is not expended subject to the specified conditions and limitations to fulfill the specified purpose shall lapse.

(f) "Reappropriation" means appropriation and, unless the context clearly provides otherwise, is subject to the relevant conditions and limitations applicable to appropriations.

(g) "LEAP" means the legislative evaluation and accountability program committee.

**GENERAL GOVERNMENT AGENCIES—  
OPERATING**

**NEW SECTION. Sec. 101. FOR THE DEPARTMENT OF ARCHAEOLOGY AND HISTORIC PRESERVATION**

Motor Vehicle Account—State Appropriation \$516,000

**NEW SECTION. Sec. 102. FOR THE UTILITIES AND TRANSPORTATION COMMISSION**

Grade Crossing Protective Account—State Appropriation \$1,604,000

**NEW SECTION. Sec. 103. FOR THE OFFICE OF FINANCIAL MANAGEMENT**

Motor Vehicle Account—State Appropriation \$2,714,000

Puget Sound Ferry Operations Account—State Appropriation \$116,000

TOTAL APPROPRIATION \$2,830,000

The appropriations in this section are subject to the following conditions and limitations:

(1) \$300,000 of the motor vehicle account—state appropriation is provided solely for the office of financial management to work with the department of transportation on integrating the transportation reporting and accounting information system or its successor system with the One Washington project. The office of financial management and the department of transportation must

provide a joint status report to the transportation committees of the legislature on at least a calendar quarter basis. The report must include, but is not limited to: The status of the department's ability to integrate the transportation reporting and accounting information system or its successor system with the One Washington project; the status of the One Washington project; and a description of significant changes to planned timelines or deliverables.

(2) The office of financial management, in conjunction with the office of the chief information officer, shall provide oversight and review of the department of transportation's competitive procurement process for a new ferry dispatch system as required in section 309(7) of this act.

(3) \$1,100,000 of the motor vehicle account—state appropriation is provided solely for the office of financial management, from amounts set aside out of statewide fuel taxes distributed to counties according to RCW 46.68.120(3), to contract with the Washington state association of counties to: Provide statewide updates to transportation metrics and financial reporting, develop and implement an inventory of county culvert and short-span bridge infrastructure, and develop and implement enhanced road safety data in support of county road systemic safety programs. The Washington state association of counties must develop and implement data collection, management, and reporting in cooperation with state agencies involved with the collection and maintenance of related inventory systems.

**NEW SECTION. Sec. 104. FOR THE STATE PARKS AND RECREATION COMMISSION**

Motor Vehicle Account—State Appropriation \$986,000

The appropriation in this section is subject to the following conditions and limitations: The entire appropriation in this section is provided solely for road maintenance purposes.

**NEW SECTION. Sec. 105. FOR THE DEPARTMENT OF AGRICULTURE**

Motor Vehicle Account—State Appropriation \$1,308,000

**NEW SECTION. Sec. 106. FOR THE LEGISLATIVE EVALUATION AND ACCOUNTABILITY PROGRAM COMMITTEE**

Motor Vehicle Account—State Appropriation \$616,000

**NEW SECTION. Sec. 107. FOR THE DEPARTMENT OF FISH AND WILDLIFE**

Motor Vehicle Account—State Appropriation \$250,000

The appropriation in this section is subject to the following conditions and limitations:

(1) The department must work with the Washington state association of counties to develop voluntary programmatic agreements for the maintenance, preservation, rehabilitation, and replacement of water crossing structures. Such programmatic agreements when agreed to by the department and participating counties are binding agreements for permitting, design, and mitigation of county water crossing structures.

(2) \$250,000 of the motor vehicle account—state appropriation is provided solely for the department, from amounts set aside out of statewide fuel taxes distributed to cities according to RCW 46.68.110(2), to contract with the Washington state association of cities to identify city-owned fish passage barriers that share the same stream system as state-owned fish passage barriers. The study must identify, map, and provide a preliminary assessment of city-owned barriers that need correction. The study must provide recommendations on: (a) How to prioritize city-owned barriers within the same stream system of state-owned barriers in the current six-year construction plan to maximize state investment; and (b) how future state six-year construction plans should incorporate city-owned barriers. A report must be

provided to the office of financial management and the transportation committees of the legislature by July 1, 2018.

**NEW SECTION. Sec. 108. FOR THE DEPARTMENT OF ENTERPRISE SERVICES**

The department must provide a detailed accounting of the revenues and expenditures of the self-insurance fund for transportation agencies included in this act and a copy of the most recent annual actuarial review to the transportation committees of the legislature on December 31st and June 30th of each year.

**TRANSPORTATION AGENCIES—OPERATING**

**NEW SECTION. Sec. 201. FOR THE WASHINGTON TRAFFIC SAFETY COMMISSION**

Highway Safety Account—State	Appropriation
\$3,326,000	
Highway Safety Account—Federal	Appropriation
\$22,216,000	
Highway Safety Account—Private/Local	Appropriation
\$118,000	
School Zone Safety Account—State	Appropriation
\$850,000	
<b>TOTAL APPROPRIATION</b>	<b>\$26,510,000</b>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$1,000,000 of the highway safety account—federal appropriation is provided solely for federal funds that may be obligated to the commission pursuant to 23 U.S.C. Sec. 164 during the 2017-2019 fiscal biennium.

(2) \$118,000 of the highway safety account—state appropriation is provided solely for the implementation of chapter . . . (Engrossed House Bill No. 1795), Laws of 2017 (bicyclist safety advisory council). If chapter . . . (Engrossed House Bill No. 1795), Laws of 2017 is not enacted by June 30, 2017, the amount provided in this subsection lapses.

**NEW SECTION. Sec. 202. FOR THE COUNTY ROAD ADMINISTRATION BOARD**

Rural Arterial Trust Account—State	Appropriation
\$1,065,000	
Motor Vehicle Account—State	Appropriation
\$2,590,000	
County Arterial Preservation Account—State	Appropriation
\$1,601,000	
<b>TOTAL APPROPRIATION</b>	<b>\$5,256,000</b>

**NEW SECTION. Sec. 203. FOR THE TRANSPORTATION IMPROVEMENT BOARD**

Transportation Improvement Account—State	Appropriation
\$4,293,000	

**NEW SECTION. Sec. 204. FOR THE JOINT TRANSPORTATION COMMITTEE**

Motor Vehicle Account—State	Appropriation
\$1,537,000	
Multimodal Transportation Account—State	Appropriation
\$950,000	
<b>TOTAL APPROPRIATION</b>	<b>\$2,487,000</b>

The appropriations in this section are subject to the following conditions and limitations:

(1)(a) \$200,000 of the multimodal transportation account—state appropriation is for a consultant study of marine pilotage in Washington state, with a goal of recommending best practices for: An analytically-driven pilotage tariff and fee setting process; pilot recruitment, training, review, and selection, with a focus on increasing pilot diversity; and selection of governance structures for the oversight and management of pilotage activities. The study must include the following:

(i)(A) An examination of current practices of the board of pilotage related to pilotage tariff and fee setting, pilot candidate recruitment and training, and pilot review and selection processes;

(B) An examination of the current oversight, administrative practices, and governance of the board of pilotage commissioners and the two pilotage districts;

(ii) A comparison of current practices identified under this subsection (1)(a) to best practices in marine pilotage elsewhere in the United States, and a comparison to marine pilotage activities outside of the United States, to the extent these marine pilotage activities can inform the evaluation process and identify additional best practices that could be implemented in Washington state;

(iii) A comparison of the results of the examination of current practices to best practices in the United States in areas other than marine pilotage for which similar activities are conducted;

(iv) An evaluation of the extent to which the best practices examined can be implemented and would be effective in Washington state; and

(v) A recommendation for the best practices that should be adopted by Washington state for each of the areas examined.

(b) The joint transportation committee must issue a report of its findings and recommendations to the house of representatives and senate transportation committees by January 8, 2018.

(2) \$80,000 of the motor vehicle account—state appropriation is for the joint transportation committee to contract with the center for transportation studies at the University of Minnesota to independently analyze and assess traffic data for the express toll lanes and general purpose lanes of the Interstate 405 tolled corridor.

(3)(a) \$250,000 of the multimodal transportation account—state appropriation is for a consultant study of state and local regulation of commercial passenger transportation services provided in Washington state. Services covered by the study may include, but are not limited to, transportation services regulated by the utilities and transportation commission, for hire services regulated by counties and the department of licensing, taxi services regulated by cities, transportation network companies regulated by cities, and services regulated by port districts. The study must compare and contrast the state and local laws and rules that govern these passenger transportation services.

In conducting the study, the joint transportation committee shall consult with the department of licensing, the utilities and transportation commission, the Washington state patrol, appropriate local entities engaged in the regulation of commercial passenger transportation services, and other relevant stakeholders. The joint transportation committee shall also obtain input from stakeholder groups representing commercial passenger transportation services.

(b) The joint transportation committee must issue a report of its recommendations and findings on passenger transportation services to the house of representatives and senate transportation committees by January 7, 2019. The report must:

(i) Review laws and rules governing, among other topics, driver qualifications, vehicle and passenger safety, and vehicle insurance;

(ii) Compare existing laws and rules as applied to each type of regulated commercial passenger transportation service;

(iii) Identify any regulatory differences, redundancies, or inconsistencies in regulation;

(iv) Identify opportunities to improve consistency in regulation; and

(v) Make policy recommendations for greater regulatory consistency that do not reduce competition and innovation in the existing marketplace.

(4)(a) \$500,000 of the multimodal transportation account—state appropriation is for a consultant study of air cargo congestion at Washington airports. The study must:

(i) Evaluate the current and projected future capacity of the air cargo system;

(ii) Identify underutilized capacity; and

(iii) Evaluate what would be needed to more effectively use existing capacity at airports across the state. As part of this evaluation, the study must:

(A) Evaluate air, land, and surface transportation constraints, including intermodal constraints, to accommodate current demand and future growth;

(B) Evaluate impediments to addressing those constraints; and

(C) Evaluate options to address those constraints.

(b) The study must also identify the state's interest in reducing air cargo congestion and evaluate ways to address this interest on a statewide basis.

(c) The study must provide recommendations regarding:

(i) Options to reduce air cargo congestion and more efficiently use available capacity at Washington airports;

(ii) Options to address the state's interest in reducing air cargo congestion on a statewide basis;

(iii) Strategies to accomplish the recommendations; and

(iv) Statutory changes needed to implement the recommendations.

(d) The department of transportation shall provide technical support to the study.

(e) The joint transportation committee shall issue a report of its findings and recommendations to the house of representatives and senate transportation committees by December 14, 2018.

(5) \$100,000 of the motor vehicle account—state appropriation is for the joint transportation committee to conduct an assessment of the current roles and responsibilities of the transportation commission. The purpose of the assessment is to review the current membership, functions, powers, and duties of the transportation commission beyond those granted to the transportation commission as the tolling authority under RCW 47.56.850, for the adoption of ferry fares and pricing policies under RCW 47.60.315, or for work related to the road usage charge pilot project as directed by the legislature. When conducting the assessment, the joint transportation committee must consult with the transportation commission and the office of financial management.

(a) The assessment must consist of a review of the following:

(i) The primary enabling statutes of the transportation commission contained in RCW 47.01.051 through 47.01.075;

(ii) The transportation commission's functions relating to ferries under chapters 47.60 and 47.64 RCW beyond those granted by the legislature for adoption of fares and pricing policies;

(iii) The existing budget of the transportation commission to ensure it is appropriate for the roles and responsibilities it is directed to do by the governor and the legislature;

(iv) The transportation commission's current roles and responsibilities relating to transportation planning, transportation policy development, and other functions; and

(v) Other issues related to the transportation commission as determined by the joint transportation committee.

(b) A report of the assessment findings is due to the transportation committees of the legislature by December 31, 2017.

**NEW SECTION. Sec. 205. FOR THE TRANSPORTATION COMMISSION**

Motor Vehicle Account—State Appropriation \$2,506,000

Multimodal Transportation Account—State Appropriation \$112,000

TOTAL APPROPRIATION \$2,618,000

The appropriations in this section are subject to the following conditions and limitations:

The commission shall coordinate with the department of transportation to jointly pursue any federal or other funds that are or might become available to fund a road usage charge pilot project. Where feasible, grant application content prepared by the commission must reflect the direction provided by the road usage charge steering committee on the preferred road usage charge pilot project approach. One or more grant applications may be developed as part of the road usage charge pilot project implementation plan development work, but the pilot project implementation plan must nevertheless include any details necessary for a full launch of the pilot project not required to be included in any grant application.

The commission shall reconvene the road usage charge steering committee, with the same membership authorized in chapter 222, Laws of 2014, as well as the addition of a representative from the Puget Sound regional council, and, upon finalization of the federal grant award for stage 1 of the road usage charge pilot project, shall report at least once every three months to the steering committee with updates on project progress, key project milestones, and developments related to securing additional federal funding for future road usage charge pilot work. Each report must include a phone or in-person meeting with the steering committee, with a maximum of two in-person meetings to be held in 2017. A year-end report on the status of the project must be provided to the governor's office and the transportation committees of the house of representatives and the senate by December 1, 2017. If the year-end report is not the final report for stage 1 of the pilot project, a final report that includes an evaluation of stage 1 of the pilot project must be provided to the governor's office and the transportation committees of the house of representatives and the senate following completion of stage 1 of the pilot project.

**NEW SECTION. Sec. 206. FOR THE FREIGHT MOBILITY STRATEGIC INVESTMENT BOARD**

Motor Vehicle Account—State Appropriation \$778,000

**NEW SECTION. Sec. 207. FOR THE WASHINGTON STATE PATROL**

State Patrol Highway Account—State Appropriation \$493,016,000

State Patrol Highway Account—Federal Appropriation \$14,665,000

State Patrol Highway Account—Private/Local Appropriation \$4,036,000

Highway Safety Account—State Appropriation \$1,086,000

Ignition Interlock Device Revolving Account—State Appropriation \$510,000

Multimodal Transportation Account—State Appropriation \$276,000

TOTAL APPROPRIATION \$513,589,000

The appropriations in this section are subject to the following conditions and limitations:

(1) Washington state patrol officers engaged in off-duty uniformed employment providing traffic control services to the department of transportation or other state agencies may use state patrol vehicles for the purpose of that employment, subject to guidelines adopted by the chief of the Washington state patrol. The Washington state patrol must be reimbursed for the use of the vehicle at the prevailing state employee rate for mileage and hours of usage, subject to guidelines developed by the chief of the Washington state patrol.

(2) \$510,000 of the ignition interlock device revolving account—state appropriation is provided solely for the ignition

interlock program at the Washington state patrol to provide funding for two staff to work and provide support for the program in working with manufacturers, service centers, technicians, and participants in the program.

(3) \$1,000,000 of the state patrol highway account—state appropriation is provided solely for ongoing support, system updates, maintenance, and an independent assessment of the P25 digital land mobile radio system. Of the amount provided in this subsection, \$400,000 must be used for the independent assessment of the P25 digital land mobile radio system. The independent assessment must identify implementation issues and recommend strategies to address these issues. The assessment must be submitted to the governor and the transportation committees of the legislature by September 1, 2018.

(4) The Washington state patrol and the department of transportation shall jointly submit a prioritized list of weigh station projects to the office of financial management by October 1, 2017. Projects submitted must include estimated costs for preliminary engineering, rights-of-way, and construction and must also consider the timing of any available funding for weigh station projects.

(5) The department of transportation must consult with the Washington state patrol and the office of financial management during the design phase of any improvement or preservation project that could impact Washington state patrol weigh station operations. During the design phase of any such project, the department of transportation must estimate the cost of designing around the affected weigh station's current operations, as well as the cost of moving the affected weigh station.

(6) \$510,000 of the state patrol highway account—state appropriation is provided solely for the operation of the license investigation unit to enforce vehicle registration laws in southwestern Washington. The Washington state patrol, in consultation with the department of revenue, shall maintain a running estimate of sales and use taxes remitted to the state pursuant to activity conducted by the license investigation unit. At the end of the calendar quarter in which it is estimated that more than \$625,000 in taxes have been remitted to the state since the effective date of this section, the Washington state patrol shall notify the state treasurer and the state treasurer shall transfer funds pursuant to section 408(26) of this act.

**NEW SECTION. Sec. 208. FOR THE DEPARTMENT OF LICENSING**

Marine Fuel Tax Refund Account—State	Appropriation	\$34,000
Motorcycle Safety Education Account—State	Appropriation	\$4,605,000
State Wildlife Account—State	Appropriation	\$1,064,000
Highway Safety Account—State	Appropriation	\$211,509,000
Highway Safety Account—Federal	Appropriation	\$3,215,000
Motor Vehicle Account—State	Appropriation	\$93,220,000
Motor Vehicle Account—Federal	Appropriation	\$329,000
Motor Vehicle Account—Private/Local	Appropriation	\$2,048,000
Ignition Interlock Device Revolving Account—State	Appropriation	\$5,258,000
Department of Licensing Services Account—State	Appropriation	\$6,784,000
License Plate Technology Account—State	Appropriation	\$3,000,000
<b>TOTAL APPROPRIATION</b>		<b>\$331,066,000</b>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$20,810,000 of the highway safety account—state appropriation and \$3,000,000 of the license plate technology account—state appropriation are provided solely for business and technology modernization. The department and the state chief information officer or his or her designee must provide a joint project status report to the transportation committees of the legislature on at least a calendar quarter basis. The report must include, but is not limited to: Detailed information about the planned and actual scope, schedule, and budget; status of key vendor and other project deliverables; and a description of significant changes to planned deliverables or system functions over the life of the project. Project staff will periodically brief the committees or the committees' staff on system security and data protection measures.

(2) The department when modernizing its computer systems must place personal and company data elements in separate data fields to allow the department to select discrete data elements when providing information or data to persons or entities outside the department. This requirement must be included as part of the systems design in the department's business and technology modernization. A person's photo, social security number, or medical information must not be made available through public disclosure or data being provided under RCW 46.12.630 or 46.12.635.

(3) \$4,471,000 of the highway safety account—state appropriation is provided solely for costs necessary to accommodate increased demand for enhanced drivers' licenses and enhanced identicards. The office of financial management shall place the entire amount provided in this subsection in unallotted status. The office of financial management may release portions of the funds when it determines that average wait times have increased by more than two minutes based on wait time and volume data provided by the department compared to average wait times and volume during the month of December 2016. The department and the office of financial management shall evaluate the use of these funds on a monthly basis and periodically report to the transportation committees of the legislature on average wait times and volume data for enhanced drivers' licenses and enhanced identicards.

(4) The department shall continue to encourage the use of online vehicle registration renewal reminders and minimize the number of letters mailed by the department. To further this goal, the department shall develop a pilot program to replace first-class mail, letter-form renewal reminders with postcard renewal reminders. The goal of the pilot program is to realize substantial savings on printing and postage costs. The pilot program must include customers who performed their last renewal online and still receive a paper renewal notice. The appropriations in this section reflect savings in postage and printing costs of at least \$250,000 in the 2017-2019 fiscal biennium.

(5) \$3,082,000 of the highway safety account—state appropriation is provided solely for examination and licensing activities, including the workload associated with providing driving record abstracts, and is subject to the following additional conditions and limitations:

(a) The department may furnish driving record abstracts only to those persons or entities expressly authorized to receive the abstracts under Title 46 RCW;

(b) The department may furnish driving record abstracts only for an amount that does not exceed the specified fee amounts in RCW 46.52.130 (2)(e)(v) and (4); and

(c) The department may not enter into a contract, or otherwise participate in any arrangement, with a third party or other state agency for any service that results in an additional cost, in excess of the fee amounts specified in RCW 46.52.130 (2)(e)(v) and (4).

ONE HUNDRED FIRST DAY, APRIL 19, 2017

2017 REGULAR SESSION

to statutorily authorized persons or entities purchasing a driving record abstract.

(6) \$350,000 of the highway safety account—state appropriation is provided solely for communication and outreach activities necessary to inform the public of federally acceptable identification options including, but not limited to, enhanced drivers' licenses and enhanced identicards. The department shall develop and implement an outreach plan that includes informational material that can be effectively communicated to all communities and populations in Washington.

(7) \$88,000 of the highway safety account—state appropriation is provided solely for the implementation of chapter . . . (Engrossed Substitute House Bill No. 1371), Laws of 2017 (distracted driving). If chapter . . . (Engrossed Substitute House Bill No. 1371), Laws of 2017 is not enacted by June 30, 2017, the amount provided in this subsection lapses.

(8) \$57,000 of the motor vehicle account—state appropriation is provided solely for the implementation of chapter . . . (House Bill No. 1400), Laws of 2017 (aviation license plate). If chapter . . . (House Bill No. 1400), Laws of 2017 is not enacted by June 30, 2017, the amount provided in this subsection lapses.

(9) \$208,000 of the highway safety account—state appropriation is provided solely for the implementation of chapter . . . (Substitute House Bill No. 1421), Laws of 2017 (sensitive data/state networks). If chapter . . . (Substitute House Bill No. 1421), Laws of 2017 is not enacted by June 30, 2017, the amount provided in this subsection lapses.

(10) \$70,000 of the highway safety account—state appropriation is provided solely for the implementation of chapter . . . (Engrossed House Bill No. 1480), Laws of 2017 (driver's license suspension). If chapter . . . (Engrossed House Bill No. 1480), Laws of 2017 is not enacted by June 30, 2017, the amount provided in this subsection lapses.

(11) \$572,000 of the highway safety account—state appropriation is provided solely for the implementation of chapter . . . (Engrossed Substitute House Bill No. 1481), Laws of 2017 (driver education uniformity). If chapter . . . (Engrossed Substitute House Bill No. 1481), Laws of 2017 is not enacted by June 30, 2017, the amount provided in this subsection lapses.

(12) \$208,000 of the highway safety account—state appropriation is provided solely for the implementation of chapter . . . (Engrossed Substitute House Bill No. 1513), Laws of 2017 (youth voter registration information). If chapter . . . (Engrossed Substitute House Bill No. 1513), Laws of 2017 is not enacted by June 30, 2017, the amount provided in this subsection lapses.

(13) \$39,000 of the motor vehicle account—state appropriation is provided solely for the implementation of chapter . . . (Substitute House Bill No. 1568), Laws of 2017 (Fred Hutch license plate). If chapter . . . (Substitute House Bill No. 1568), Laws of 2017 is not enacted by June 30, 2017, the amount provided in this subsection lapses.

(14) \$104,000 of the ignition interlock device revolving account—state appropriation is provided solely for the implementation of chapter . . . (Engrossed Second Substitute House Bill No. 1614), Laws of 2017 (impaired driving). If chapter . . . (Engrossed Second Substitute House Bill No. 1614), Laws of 2017 is not enacted by June 30, 2017, the amount provided in this subsection lapses.

(15) \$500,000 of the highway safety account—state appropriation is provided solely for the implementation of chapter . . . (Engrossed Substitute House Bill No. 1808), Laws of 2017 (foster youth/driving). If chapter . . . (Engrossed Substitute House Bill No. 1808), Laws of 2017 is not enacted by June 30, 2017, the amount provided in this subsection lapses.

**NEW SECTION. Sec. 209. FOR THE DEPARTMENT OF TRANSPORTATION—TOLL OPERATIONS AND MAINTENANCE—PROGRAM B**

High Occupancy Toll Lanes Operations Account—State Appropriation	\$4,241,000
Motor Vehicle Account—State Appropriation	\$513,000
State Route Number 520 Corridor Account—State Appropriation	\$57,410,000
State Route Number 520 Civil Penalties Account—State Appropriation	\$4,361,000
Tacoma Narrows Toll Bridge Account—State Appropriation	\$33,942,000
Interstate 405 Express Toll Lanes Operations Account—State Appropriation	\$23,630,000
<b>TOTAL APPROPRIATION</b>	<b>\$124,097,000</b>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$1,300,000 of the Tacoma Narrows toll bridge account—state appropriation and \$9,048,000 of the state route number 520 corridor account—state appropriation are provided solely for the purposes of addressing unforeseen operations and maintenance costs on the Tacoma Narrows bridge and the state route number 520 bridge, respectively. The office of financial management shall place the amounts provided in this subsection, which represent a portion of the required minimum fund balance under the policy of the state treasurer, in unallotted status. The office may release the funds only when it determines that all other funds designated for operations and maintenance purposes have been exhausted.

(2) The department shall make detailed quarterly expenditure reports on the department's web site. The reports must include a summary of toll revenue by facility on all operating toll facilities and high occupancy toll lane systems, and an itemized depiction of the use of that revenue.

(3) The department must provide quarterly reports to the transportation committees of the legislature on the Interstate 405 express toll lane project performance measures listed in RCW 47.56.880(4). These reports must include:

(a) Information on the travel times and travel time reliability (at a minimum, average and 90th percentile travel times) maintained during peak and nonpeak periods in the express toll lanes and general purpose lanes for both the entire corridor and commonly made trips in the corridor including, but not limited to, northbound from Bellevue to Rose Hill, state route number 520 at NE 148th to Interstate 405 at state route number 522, Bellevue to Bothell (both NE 8th to state route number 522 and NE 8th to state route number 527), and a trip internal to the corridor (such as NE 85th to NE 160th) and similar southbound trips;

(b) A month-to-month comparison of travel times and travel time reliability for the entire corridor and commonly made trips in the corridor as specified in (a) of this subsection since implementation of the express toll lanes and, to the extent available, a comparison to the travel times and travel time reliability prior to implementation of the express toll lanes;

(c) Total express toll lane and total general purpose lane traffic volumes, as well as per lane traffic volumes for each type of lane (i) compared to total express toll lane and total general purpose lane traffic volumes, as well as per lane traffic volumes for each type of lane, on this segment of Interstate 405 prior to implementation of the express toll lanes and (ii) compared to total express toll lane and total general purpose lane traffic volumes, as well as per lane traffic volumes for each type of lane, from month to month since implementation of the express toll lanes; and



(d) Underlying congestion measurements, that is, speeds, that are being used to generate the summary graphs provided, to be made available in a digital file format.

(4) \$870,000 of the high occupancy toll lanes operations account—state appropriation, \$15,090,000 of the state route number 520 corridor account—state appropriation, \$6,470,000 of the Tacoma Narrows toll bridge account—state appropriation, and \$5,570,000 of the Interstate 405 express toll lanes operations account—state appropriation are provided solely for the department to implement a new tolling customer service toll collection system and are subject to the conditions, limitations, and review provided in section 701 of this act.

(a) The department must provide a project status report to the office of financial management and the transportation committees of the legislature on at least a calendar quarterly basis. The report must include, but is not limited to:

(i) Detailed information about the planned and actual scope, schedule, and budget;

(ii) Status of key vendor and other project deliverables; and

(iii) A description of significant changes to planned deliverables or system functions over the life of the project.

(b)(i) Before commencement of the new tolling customer service toll collection system implementation, the department shall submit a draft project management plan to the office of financial management and the office of the chief information officer that includes a provision for independent verification and validation of contract deliverables from the successful bidder and a provision for quality assurance that includes reporting independently to the office of the chief information officer on an ongoing basis during system implementation.

(ii) The office of financial management and the office of the chief information officer shall review the draft project management plan to ensure that it contains adequate contract management and quality assurance measures.

(iii) The department shall submit the project management plan to the transportation committees of the legislature before the commencement of system implementation.

(5) The department shall make detailed quarterly reports to the governor and the transportation committees of the legislature on the following:

(a) The use of consultants in the tolling program, including the name of the contractor, the scope of work, the type of contract, timelines, deliverables, any new task orders, and any extensions to existing consultant contracts;

(b) The nonvendor costs of administering toll operations, including the costs of staffing the division, consultants and other personal service contracts required for technical oversight and management assistance, insurance, payments related to credit card processing, transponder purchases and inventory management, facility operations and maintenance, and other miscellaneous nonvendor costs; and

(c) The vendor-related costs of operating tolled facilities, including the costs of the customer service center, cash collections on the Tacoma Narrows bridge, electronic payment processing, and toll collection equipment maintenance, renewal, and replacement.

(d) The toll adjudication process, including a summary table for each toll facility that includes:

(i) The number of notices of civil penalty issued;

(ii) The number of recipients who pay before the notice becomes a penalty;

(iii) The number of recipients who request a hearing and the number who do not respond;

(iv) Workload costs related to hearings;

(v) The cost and effectiveness of debt collection activities; and

(vi) Revenues generated from notices of civil penalty.

**NEW SECTION. Sec. 210. FOR THE DEPARTMENT OF TRANSPORTATION — INFORMATION TECHNOLOGY — PROGRAM C**

Transportation Partnership Account—State Appropriation \$1,460,000

Motor Vehicle Account—State Appropriation \$85,859,000

Puget Sound Ferry Operations Account—State Appropriation \$263,000

Multimodal Transportation Account—State Appropriation \$2,876,000

Transportation 2003 Account (Nickel Account)—State Appropriation \$1,460,000

**TOTAL APPROPRIATION \$91,918,000**

The appropriations in this section are subject to the following conditions and limitations:

(1) \$9,588,000 of the motor vehicle account—state appropriation is provided solely for the development of the labor system replacement project and is subject to the conditions, limitations, and review provided in section 701 of this act. It is the intent of the legislature that if any portion of the labor system replacement project is leveraged in the future for the time, leave, and labor distribution of any other agencies, the motor vehicle account will be reimbursed proportionally for the development of the system since amounts expended from the motor vehicle account must be used exclusively for highway purposes in conformance with Article II, section 40 of the state Constitution.

(2) \$2,296,000 of the motor vehicle account—state appropriation is provided solely for the development of ferries network systems support and is subject to the conditions, limitations, and review provided in section 701 of this act.

**NEW SECTION. Sec. 211. FOR THE DEPARTMENT OF TRANSPORTATION—FACILITY MAINTENANCE, OPERATIONS, AND CONSTRUCTION—PROGRAM D—OPERATING**

Motor Vehicle Account—State Appropriation \$28,871,000

State Route Number 520 Corridor Account—State Appropriation \$34,000

**TOTAL APPROPRIATION \$28,905,000**

The appropriations in this section are subject to the following conditions and limitations: \$100,000 of the motor vehicle account—state appropriation is provided solely for the completion of an infrastructure analysis of the 15700 Dayton Avenue, Shoreline, Washington property. By September 30, 2017, the department shall report to the office of financial management and the transportation committees of the legislature on the resulting infrastructure analysis. The analysis must include all major building systems, current condition status, standard life-cycle replacement timeline, replacement cost, and all code requirements to fully utilize the facility.

**NEW SECTION. Sec. 212. FOR THE DEPARTMENT OF TRANSPORTATION—AVIATION—PROGRAM F**

Aeronautics Account—State Appropriation \$6,847,000

Aeronautics Account—Federal Appropriation \$4,900,000

Aeronautics Account—Private/Local Appropriation \$171,000

**TOTAL APPROPRIATION \$11,918,000**

The appropriations in this section are subject to the following conditions and limitations: \$2,637,000 of the aeronautics account—state appropriation is provided solely for the airport aid grant program, which provides competitive grants to public airports for pavement, safety, planning, and security.

**NEW SECTION. Sec. 213. FOR THE DEPARTMENT OF TRANSPORTATION — PROGRAM DELIVERY MANAGEMENT AND SUPPORT — PROGRAM H**

Motor Vehicle Account—State Appropriation \$57,644,000

ONE HUNDRED FIRST DAY, APRIL 19, 2017

2017 REGULAR SESSION

Motor Vehicle Account—Federal	Appropriation
\$5,500,000	
Multimodal Transportation Account—State	Appropriation
\$259,000	
<b>TOTAL APPROPRIATION</b>	<b>\$63,403,000</b>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$200,000 of the motor vehicle account—state appropriation is provided solely for contracted appraisals to determine property valuations for surplus properties to be sold. The real estate services division of the department must recover the cost of its efforts from the sale of surplus property. Proceeds for surplus property sales must fund additional future sales, and the real estate services division shall prioritize staff resources to meet revenue assumptions for surplus property sales.

(2) The legislature recognizes that the trail known as the Rocky Reach Trail, and its extensions, serve to separate motor vehicle traffic from pedestrians and bicyclists, increasing motor vehicle safety on state route number 2 and the coincident section of state route number 97. Consistent with chapter 47.30 RCW and pursuant to RCW 47.12.080, the legislature declares that transferring portions of WSDOT Inventory Control (IC) No. 2-09-04686 containing the trail and associated buffer areas to the Washington state parks and recreation commission is consistent with the public interest. The legislature directs the department to transfer the property to the Washington state parks and recreation commission.

(a) The department must be paid fair market value for any portions of the transferred real property that is later abandoned, vacated, or ceases to be publicly maintained for trail purposes.

(b) Prior to completing the transfer in this subsection (2), the department must ensure that provisions are made to accommodate private and public utilities and any facilities that predate the department's acquisition of the property, at no cost to those entities. Prior to completing the transfer, the department shall also ensure that provisions, by fair market assessment, are made to accommodate other private and public utilities and any facilities that have been legally allowed by permit or other instrument.

(c) The department may sell any adjoining property that is not necessary to support the Rocky Reach Trail and adjacent buffer areas only after the transfer of trail-related property to the Washington state parks and recreation commission is complete. Adjoining property owners must be given the first opportunity to acquire such property that abuts their property, and applicable boundary line or other adjustments must be made to the legal descriptions for recording purposes.

(3) \$350,000 of the motor vehicle account—state appropriation is provided solely for the implementation of chapter . . . (Engrossed House Bill No. 2095), Laws of 2017 (I-5 Columbia river bridge). If chapter . . . (Engrossed House Bill No. 2095), Laws of 2017 is not enacted by June 30, 2017, the amount provided in this subsection lapses.

(4) \$288,000 of the motor vehicle account—state appropriation is provided solely for the implementation of chapter . . . (House Bill No. 1849), Laws of 2017 (apprenticeship utilization). If chapter . . . (House Bill No. 1849), Laws of 2017 is not enacted by June 30, 2017, the amount provided in this subsection lapses.

(5) \$5,000,000 of the motor vehicle account—federal appropriation is provided solely for city and county fish passage barrier removal projects identified by the fish passage barrier removal board, with the goal of utilizing a coordinated approach to maximize the investment and open as much habitat as possible. The department must make the funds available to the recreation and conservation office.

**NEW SECTION. Sec. 214. FOR THE DEPARTMENT OF TRANSPORTATION — PUBLIC-PRIVATE PARTNERSHIPS—PROGRAM K**

Motor Vehicle Account—State	Appropriation	\$645,000
Electric Vehicle Charging Infrastructure Account—State	Appropriation	\$1,000,000
Multimodal Transportation Account—State	Appropriation	\$35,000
<b>TOTAL APPROPRIATION</b>		<b>\$1,680,000</b>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$35,000 of the multimodal transportation account—state appropriation is provided solely for the public-private partnerships program to conduct an outreach effort to assess interest in a public-private partnership to rebuild the Anacortes ferry terminal. The public-private partnerships program shall issue a request for letters of interest, similar to the request issued in 2009, in a public-private partnership to rebuild the Anacortes ferry terminal by combining the ferry terminal functions and structure with one or more commercial ventures, including, but not limited to, ventures to provide lodging, conference and meeting facilities, food service, shopping, or other retail operations. The public-private partnerships program shall notify the transportation committees of the legislature upon release of the request for letters of interest and shall provide the transportation committees of the legislature with a summary of the information collected once the letters of interest have been received.

(2) \$1,000,000 of the electric vehicle charging infrastructure account—state appropriation is provided solely for the purpose of capitalizing the Washington electric vehicle infrastructure bank as provided in chapter 44, Laws of 2015 3rd sp. sess. (transportation revenue).

**NEW SECTION. Sec. 215. FOR THE DEPARTMENT OF TRANSPORTATION—HIGHWAY MAINTENANCE — PROGRAM M**

Motor Vehicle Account—State	Appropriation	\$458,915,000
Motor Vehicle Account—Federal	Appropriation	\$7,000,000
State Route Number 520 Corridor Account—State	Appropriation	\$4,447,000
Tacoma Narrows Toll Bridge Account—State	Appropriation	\$1,233,000
<b>TOTAL APPROPRIATION</b>		<b>\$471,595,000</b>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$7,092,000 of the motor vehicle account—state appropriation is provided solely for utility fees assessed by local governments as authorized under RCW 90.03.525 for the mitigation of stormwater runoff from state highways.

(2) \$4,447,000 of the state route number 520 corridor account—state appropriation is provided solely to maintain the state route number 520 floating bridge. These funds must be used in accordance with RCW 47.56.830(3).

(3) \$1,233,000 of the Tacoma Narrows toll bridge account—state appropriation is provided solely to maintain the new Tacoma Narrows bridge. These funds must be used in accordance with RCW 47.56.830(3).

(4) \$15,226,000 of the motor vehicle account—state appropriation is provided solely for known third-party damages expenditures.

(5) \$20,000 of the motor vehicle account—state appropriation is provided solely for the department to submit a request for proposals as part of a pilot project that explores the use of rotary auger ditch cleaning and reshaping service technology in

maintaining roadside ditches for state highways. The pilot project must consist of at least one technology test on each side of the Cascade mountain range.

(6) \$250,000 of the motor vehicle account—state appropriation is provided solely for the department to implement safety improvements and debris clean up on department-owned rights-of-way in the city of Seattle. Direct or contracted activities shall include collecting and disposing of garbage, clearing debris or hazardous material, and implementing safety improvements. Funds may also be used to contract with the city of Seattle to provide mutual services in rights-of-way similar to contract agreements in the 2015-2017 fiscal biennium.

**NEW SECTION. Sec. 216. FOR THE DEPARTMENT OF TRANSPORTATION—TRAFFIC OPERATIONS—PROGRAM Q—OPERATING**

Motor Vehicle Account—State Appropriation	\$66,335,000
Motor Vehicle Account—Federal Appropriation	\$2,050,000
Motor Vehicle Account—Private/Local Appropriation	\$250,000
<b>TOTAL APPROPRIATION</b>	<b>\$68,635,000</b>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$6,000,000 of the motor vehicle account—state appropriation is provided solely for low-cost enhancements. The department shall give priority to low-cost enhancement projects that improve safety or provide congestion relief. By December 15th of each odd-numbered year, the department shall provide a report to the legislature listing all low-cost enhancement projects completed in the prior fiscal biennium.

(2) When regional transit authority construction activities are visible from a state highway, the department shall allow the regional transit authority to place safe and appropriate signage informing the public of the purpose of the construction activity.

(3) The department must make signage for low-height bridges a high priority.

(4) \$39,000 of the motor vehicle account—state appropriation is provided solely for the implementation of chapter . . . (House Joint Memorial No. 4002), Laws of 2017 (state route number 395). If chapter . . . (House Joint Memorial No. 4002), Laws of 2017 is not enacted by June 30, 2017, the amount provided in this subsection lapses.

**NEW SECTION. Sec. 217. FOR THE DEPARTMENT OF TRANSPORTATION — TRANSPORTATION MANAGEMENT AND SUPPORT — PROGRAM S**

Motor Vehicle Account—State Appropriation	\$34,396,000
Motor Vehicle Account—Federal Appropriation	\$1,656,000
Multimodal Transportation Account—State Appropriation	\$1,128,000
<b>TOTAL APPROPRIATION</b>	<b>\$37,180,000</b>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$1,500,000 of the motor vehicle account—state appropriation is provided solely for a grant program that makes awards for the following: (a) Support for nonprofit agencies, churches, and other entities to help provide outreach to populations underrepresented in the current apprenticeship programs; (b) preapprenticeship training; and (c) child care, transportation, and other supports that are needed to help women and minorities enter and succeed in apprenticeship. The department must report on grants that have been awarded and the amount of funds disbursed by December 1, 2017, and annually thereafter.

(2) \$389,000 of the motor vehicle account—state appropriation is provided solely for leadership training and succession planning.

By December 31, 2017, and annually thereafter, the department must report on the number of employees trained in the previous year and on any impacts on retention rates.

**NEW SECTION. Sec. 218. FOR THE DEPARTMENT OF TRANSPORTATION — TRANSPORTATION PLANNING, DATA, AND RESEARCH—PROGRAM T**

Motor Vehicle Account—State Appropriation	\$24,990,000
Motor Vehicle Account—Federal Appropriation	\$34,303,000
Multimodal Transportation Account—State Appropriation	\$660,000
Multimodal Transportation Account—Federal Appropriation	\$2,809,000
Multimodal Transportation Account—Private/Local Appropriation	\$100,000
<b>TOTAL APPROPRIATION</b>	<b>\$62,862,000</b>

The appropriations in this section are subject to the following conditions and limitations:

(1) The department shall host and maintain the road-rail conflict database and online mapping components produced as a result of the joint transportation committee's "Study of Road-rail Conflicts in Cities (2016)." The department shall update the database at least biennially as new information becomes available. The database may be used by stakeholders to evaluate road-rail conflicts and prioritize future at-grade rail crossing solutions.

(2) State route number 26 is considered a high-priority safety corridor, and the department must endeavor to reduce the number of collisions and other incidents on the corridor. The department must study potential safety improvements and submit a report to the transportation committees of the legislature by October 1, 2017, including a list of recommended safety improvements for the corridor. The department must identify and expedite those improvements that can be implemented within existing appropriation levels and identify any safety improvements that may require additional resources.

(3) The department shall investigate opportunities for a transit-oriented development pilot project at the existing Kingsgate park and ride at Interstate 405 and 132nd. The department must coordinate with the city of Kirkland and other key stakeholders to determine the feasibility and cost of transit-oriented development at Kingsgate. A report on the process and outcomes is due to the transportation committees of the legislature no later than December 1, 2017.

**NEW SECTION. Sec. 219. FOR THE DEPARTMENT OF TRANSPORTATION—CHARGES FROM OTHER AGENCIES—PROGRAM U**

Motor Vehicle Account—State Appropriation	\$69,997,000
Multimodal Transportation Account—State Appropriation	\$1,285,000
<b>TOTAL APPROPRIATION</b>	<b>\$71,282,000</b>

**NEW SECTION. Sec. 220. FOR THE DEPARTMENT OF TRANSPORTATION — PUBLIC TRANSPORTATION—PROGRAM V**

State Vehicle Parking Account—State Appropriation	\$754,000
Regional Mobility Grant Program Account—State Appropriation	\$94,347,000
Rural Mobility Grant Program Account—State Appropriation	\$32,223,000
Multimodal Transportation Account—State Appropriation	\$93,148,000
Multimodal Transportation Account—Federal Appropriation	\$3,574,000
<b>TOTAL APPROPRIATION</b>	<b>\$224,046,000</b>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$52,679,000 of the multimodal transportation account—state appropriation is provided solely for a grant program for special needs transportation provided by transit agencies and nonprofit providers of transportation. Of this amount:

(a) \$11,036,000 of the multimodal transportation account—state appropriation is provided solely for grants to nonprofit providers of special needs transportation. Grants for nonprofit providers must be based on need, including the availability of other providers of service in the area, efforts to coordinate trips among providers and riders, and the cost effectiveness of trips provided.

(b) \$41,643,000 of the multimodal transportation account—state appropriation is provided solely for grants to transit agencies to transport persons with special transportation needs. To receive a grant, the transit agency must, to the greatest extent practicable, have a maintenance of effort for special needs transportation that is no less than the previous year's maintenance of effort for special needs transportation. Grants for transit agencies must be prorated based on the amount expended for demand response service and route deviated service in calendar year 2015 as reported in the "Summary of Public Transportation - 2015" published by the department of transportation. No transit agency may receive more than thirty percent of these distributions.

(2) \$32,223,000 of the rural mobility grant program account—state appropriation is provided solely for grants to aid small cities in rural areas as prescribed in RCW 47.66.100.

(3)(a) \$10,290,000 of the multimodal transportation account—state appropriation is provided solely for a vanpool grant program for: (i) Public transit agencies to add vanpools or replace vans; and (ii) incentives for employers to increase employee vanpool use. The grant program for public transit agencies will cover capital costs only; operating costs for public transit agencies are not eligible for funding under this grant program. Additional employees may not be hired from the funds provided in this section for the vanpool grant program, and supplanting of transit funds currently funding vanpools is not allowed. The department shall encourage grant applicants and recipients to leverage funds other than state funds.

(b) At least \$1,600,000 of the amount provided in this subsection must be used for vanpool grants in congested corridors.

(4) \$16,668,000 of the regional mobility grant program account—state appropriation is reappropriated and provided solely for the regional mobility grant projects identified in LEAP Transportation Document 2017-2 ALL PROJECTS as developed March 25, 2017, Program - Public Transportation Program (V).

(5) \$77,679,000 of the regional mobility grant program account—state appropriation is provided solely for the regional mobility grant projects identified in LEAP Transportation Document 2017-2 ALL PROJECTS as developed March 25, 2017, Program - Public Transportation Program (V). The department shall review all projects receiving grant awards under this program at least semiannually to determine whether the projects are making satisfactory progress. Any project that has been awarded funds, but does not report activity on the project within one year of the grant award, must be reviewed by the department to determine whether the grant should be terminated. The department shall promptly close out grants when projects have been completed, and any remaining funds must be used only to fund projects identified in the LEAP transportation document referenced in this subsection. The department shall provide annual status reports on December 15, 2017, and December 15, 2018, to the office of financial management and the transportation

committees of the legislature regarding the projects receiving the grants. It is the intent of the legislature to appropriate funds through the regional mobility grant program only for projects that will be completed on schedule. A grantee may not receive more than twenty-five percent of the amount appropriated in this subsection. The department shall not approve any increases or changes to the scope of a project for the purpose of a grantee expending remaining funds on an awarded grant.

(6) Funds provided for the commute trip reduction (CTR) program may also be used for the growth and transportation efficiency center program.

(7) \$5,920,000 of the multimodal transportation account—state appropriation and \$754,000 of the state vehicle parking account—state appropriation are provided solely for CTR grants and activities. Of this amount, \$250,000 of the multimodal transportation account—state appropriation is provided solely for a voluntary pilot program to expand public-private partnership CTR incentives to make measurable reductions in off-peak, weekend, and nonwork trips. Ridesharing may be integrated into grant proposals. The department shall prioritize grant proposals that focus on the Interstate 90, Interstate 5, or Interstate 405 corridor. The department shall offer competitive trip-reduction grants. The department shall report to the transportation committees of the legislature by December 1, 2018, on the pilot program's impacts to the transportation system and potential improvements to the CTR grant program.

(8) \$200,000 of the multimodal transportation account—state appropriation is contingent on the timely development of an annual report summarizing the status of public transportation systems as identified under RCW 35.58.2796.

(9) \$17,915,000 of the multimodal transportation account—state appropriation is provided solely for projects identified in LEAP Transportation Document 2017-2 ALL PROJECTS as developed March 25, 2017. It is the intent of the legislature that entities identified to receive funding in the LEAP document referenced in this subsection receive the amounts specified in the time frame specified in that LEAP document. If an entity has already completed a project in the LEAP document referenced in this subsection before the time frame identified, the entity may substitute another transit project or projects that cost a similar or lesser amount.

(10) \$2,000,000 of the multimodal transportation account—state appropriation is provided solely for transit coordination grants.

(11) \$250,000 of the multimodal transportation account—state appropriation is provided solely for King county for a pilot program to provide certain students in the Highline and Lake Washington school districts with an ORCA card during the summer. To be eligible for an ORCA card under this program, a student must also be in high school, be eligible for free and reduced-price lunches, and have a job or other responsibility during the summer. King county must provide a report to the department and the transportation committees of legislature by December 15, 2018, regarding: The annual student usage of the pilot program, available ridership data, the cost to expand the program to other King county school districts, the cost to expand the program to student populations other than high school or eligible for free and reduced-price lunches, opportunities for subsidized ORCA cards or local grant or matching funds, and any additional information that would help determine if the pilot program should be extended or expanded.

**NEW SECTION. Sec. 221. FOR THE DEPARTMENT OF TRANSPORTATION—MARINE—PROGRAM X**

Puget Sound Ferry Operations Account—State  
Appropriation \$503,966,000

Puget Sound Ferry Operations Account—Federal  
 Appropriation \$8,743,000  
 Puget Sound Ferry Operations Account—Private/Local  
 Appropriation \$121,000  
**TOTAL APPROPRIATION \$512,830,000**

The appropriations in this section are subject to the following conditions and limitations:

(1) The office of financial management budget instructions require agencies to recast enacted budgets into activities. The Washington state ferries shall include a greater level of detail in its 2017-2019 supplemental and 2019-2021 omnibus transportation appropriations act requests, as determined jointly by the office of financial management, the Washington state ferries, and the transportation committees of the legislature. This level of detail must include the administrative functions in the operating as well as capital programs.

(2) For the 2017-2019 fiscal biennium, the department may enter into a distributor controlled fuel hedging program and other methods of hedging approved by the fuel hedging committee.

(3) \$68,049,000 of the Puget Sound ferry operations account—state appropriation is provided solely for auto ferry vessel operating fuel in the 2017-2019 fiscal biennium, which reflect cost savings from a reduced biodiesel fuel requirement and, therefore, is contingent upon the enactment of section 704 of this act. The amount provided in this subsection represents the fuel budget for the purposes of calculating any ferry fare fuel surcharge.

(4) When purchasing uniforms that are required by collective bargaining agreements, the department shall contract with the lowest cost provider.

(5) \$30,000 of the Puget Sound ferry operations account—state appropriation is provided solely for the marine division assistant secretary's designee to the board of pilotage commissioners, who serves as the board chair. As the agency chairing the board, the department shall direct the board chair, in his or her capacity as chair, to require that the report to the governor and chairs of the transportation committees required under RCW 88.16.035(1)(f) be filed by September 1, 2017, and annually thereafter, and that the report include the continuation of policies and procedures necessary to increase the diversity of pilots, trainees, and applicants, including a diversity action plan. The diversity action plan must articulate a comprehensive vision of the board's diversity goals and the steps it will take to reach those goals.

(6) \$15,000 of the Puget Sound ferry operations account—state appropriation is provided solely for completion of a market analysis by a commercial real estate broker for the relocation of the ferry division's headquarters. By September 30, 2017, the department shall report to the office of financial management and the transportation committees of the legislature on the resulting market analysis. The analysis must include the most cost-effective solution for both leased and owned options at Puget Sound locations with existing ferries facilities.

(7) \$8,743,000 of the Puget Sound ferry operations account—federal appropriation is provided solely for vessel maintenance.

(8) \$1,000,000 of the Puget Sound ferry operations account—state appropriation is provided solely for operating costs related to moving vessels for emergency capital repairs. Funds may only be spent after approval by the office of financial management.

(9) During the 2017-2019 fiscal biennium, the department shall not operate a winter sailing schedule for a time period longer than twelve weeks.

**NEW SECTION. Sec. 222. FOR THE DEPARTMENT OF TRANSPORTATION—RAIL—PROGRAM Y—OPERATING**

Multimodal Transportation Account—State  
 Appropriation \$80,499,000

Multimodal Transportation Account—Private/Local  
 Appropriation \$46,000  
**TOTAL APPROPRIATION \$80,545,000**

The appropriations in this section are subject to the following conditions and limitations: \$500,000 of the multimodal transportation account—state appropriation is provided solely for a consultant study of ultra high-speed ground transportation. "Ultra high-speed" means two hundred fifty miles per hour or more. The study must identify the costs and benefits of ultra high-speed ground transportation along a north-south alignment in Washington state. The study must provide:

(1) An update to the high speed ground transportation study commissioned pursuant to chapter 231, Laws of 1991 and delivered to the governor and legislature on October 15, 1992;

(2) An analysis of an ultra high-speed ground transportation alignment between Vancouver, British Columbia and Portland, Oregon with stations in: Vancouver, British Columbia; Bellingham, Everett, Seattle, SeaTac, Tacoma, Olympia, and Vancouver, Washington; and Portland, Oregon, with an option to connect with an east-west alignment in Washington state and with a similar system in the state of California;

(3) An analysis of the following key elements:

- (a) Economic feasibility;
- (b) Forecasted demand;
- (c) Corridor identification;
- (d) Land use and economic development and environmental implications;

(e) Compatibility with other regional transportation plans, including interfaces and impacts on other travel modes such as air transportation;

(f) Technological options for ultra high-speed ground transportation, both foreign and domestic;

(g) Required specifications for speed, safety, access, and frequency;

(h) Identification of existing highway or railroad rights-of-way that are suitable for ultra high-speed travel, including identification of additional rights-of-way that may be needed and the process for acquiring those rights-of-way;

(i) Institutional arrangements for carrying out detailed system planning, construction, and operations; and

(j) An analysis of potential financing mechanisms for an ultra high-speed travel system.

The department shall provide a report of its study findings to the governor and transportation committees of the legislature by December 15, 2017.

**NEW SECTION. Sec. 223. FOR THE DEPARTMENT OF TRANSPORTATION—LOCAL PROGRAMS—PROGRAM Z—OPERATING**

Motor Vehicle Account—State Appropriation \$10,141,000  
 Motor Vehicle Account—Federal Appropriation \$2,567,000

Multiuase Roadway Safety Account—State Appropriation \$132,000

**TOTAL APPROPRIATION \$12,840,000**

**TRANSPORTATION AGENCIES—CAPITAL**

**NEW SECTION. Sec. 301. FOR THE FREIGHT MOBILITY STRATEGIC INVESTMENT BOARD**

Freight Mobility Investment Account—State  
 Appropriation \$22,462,000

Highway Safety Account—State Appropriation \$1,900,000

Motor Vehicle Account—Federal Appropriation \$3,250,000

Freight Mobility Multimodal Account—State  
 Appropriation \$21,843,000

Freight Mobility Multimodal Account—Private/Local

ONE HUNDRED FIRST DAY, APRIL 19, 2017

2017 REGULAR SESSION

Appropriation \$1,320,000  
TOTAL APPROPRIATION \$50,775,000  
**NEW SECTION. Sec. 302. FOR THE WASHINGTON STATE PATROL**

State Patrol Highway Account—State Appropriation \$3,703,000

The appropriation in this section is subject to the following conditions and limitations:

(1) \$250,000 of the state patrol highway account—state appropriation is provided solely for unforeseen emergency repairs on facilities.

(2) \$728,000 of the state patrol highway account—state appropriation is provided solely for the replacement of the roofs of the Okanogan detachment building, Chehalis detachment building, Ellensburg detachment building, and Hoquiam detachment building.

(3) \$1,700,000 of the state patrol highway account—state appropriation is provided solely for a replacement skid pan at the Shelton academy.

(4) \$200,000 of the state patrol highway account—state appropriation is provided solely for HVAC replacements at the Shelton academy.

(5) \$700,000 of the state patrol highway account—state appropriation is provided solely for the repair of the Shelton academy training tank.

(6) \$125,000 of the state patrol highway account—state appropriation is provided solely for the construction of a weatherproof enclosure of the generator at the Whiskey Ridge radio communication site.

**NEW SECTION. Sec. 303. FOR THE COUNTY ROAD ADMINISTRATION BOARD**

Rural Arterial Trust Account—State Appropriation \$58,186,000

Motor Vehicle Account—State Appropriation \$706,000

County Arterial Preservation Account—State

Appropriation \$30,434,000

TOTAL APPROPRIATION \$89,326,000

**NEW SECTION. Sec. 304. FOR THE TRANSPORTATION IMPROVEMENT BOARD**

Small City Pavement and Sidewalk Account—State

Appropriation \$5,780,000

Highway Safety Account—State Appropriation \$3,000,000

Transportation Improvement Account—State

Appropriation \$240,300,000

Multimodal Transportation Account—State

Appropriation \$14,670,000

TOTAL APPROPRIATION \$263,750,000

The appropriations in this section are subject to the following conditions and limitations: The entire multimodal transportation account—state appropriation is provided solely for the complete streets program.

**NEW SECTION. Sec. 305. FOR THE DEPARTMENT OF TRANSPORTATION—FACILITIES—PROGRAM D—(DEPARTMENT OF TRANSPORTATION-ONLY PROJECTS)—CAPITAL**

Motor Vehicle Account—State Appropriation \$6,087,000

Connecting Washington Account—State Appropriation \$24,257,000

TOTAL APPROPRIATION \$30,344,000

The appropriations in this section are subject to the following conditions and limitations:

(1) \$16,170,000 of the connecting Washington account—state appropriation is provided solely for a new Olympic region maintenance and administration facility to be located on the

department-owned site at the intersection of Marvin Road and 32nd Avenue in Lacey, Washington.

(2) \$8,087,000 of the connecting Washington account—state appropriation is provided solely for a new administration facility on Euclid Avenue in Wenatchee, Washington.

**NEW SECTION. Sec. 306. FOR THE DEPARTMENT OF TRANSPORTATION—IMPROVEMENTS—PROGRAM I**

Transportation Partnership Account—State Appropriation \$570,992,000

Motor Vehicle Account—State Appropriation \$42,056,000

Motor Vehicle Account—Federal Appropriation \$215,647,000

Motor Vehicle Account—Private/Local Appropriation \$23,929,000

Connecting Washington Account—State

Appropriation \$1,158,822,000

Special Category C Account—State Appropriation \$6,146,000

Multimodal Transportation Account—State

Appropriation \$17,989,000

Alaskan Way Viaduct Replacement Project Account—State

Appropriation \$122,046,000

Transportation 2003 Account (Nickel Account)—State

Appropriation \$51,115,000

Interstate 405 Express Toll Lanes Operations Account—State

Appropriation \$12,000,000

TOTAL APPROPRIATION \$2,220,742,000

The appropriations in this section are subject to the following conditions and limitations:

(1) Except as provided otherwise in this section, the entire connecting Washington account—state appropriation and the entire transportation partnership account—state appropriation are provided solely for the projects and activities as listed by fund, project, and amount in LEAP Transportation Document 2017-1 as developed March 25, 2017, Program - Highway Improvements Program (I). However, limited transfers of specific line-item project appropriations may occur between projects for those amounts listed subject to the conditions and limitations in section 601 of this act.

(2) Except as otherwise provided in this section, the entire transportation 2003 account (nickel account)—state appropriation is provided solely for the projects and activities as listed in LEAP Transportation Document 2017-1 as developed March 25, 2017, Program - Highway Improvements Program (I).

(3) Except as provided otherwise in this section, the entire motor vehicle account—state appropriation and motor vehicle account—federal appropriation are provided solely for the projects and activities listed in LEAP Transportation Document 2017-2 ALL PROJECTS as developed March 25, 2017, Program - Highway Improvements Program (I). Any federal funds gained through efficiencies, adjustments to the federal funds forecast, additional congressional action not related to a specific project or purpose, or the federal funds redistribution process must then be applied to highway and bridge preservation activities.

(4) Within the motor vehicle account—state appropriation and motor vehicle account—federal appropriation, the department may transfer funds between programs I and P, except for funds that are otherwise restricted in this act.

(5) The connecting Washington account—state appropriation includes up to \$356,744,000 in proceeds from the sale of bonds authorized in RCW 47.10.889.

(6) The transportation 2003 account (nickel account)—state appropriation includes up to \$51,115,000 in proceeds from the sale of bonds authorized in RCW 47.10.861.

(7) The special category C account—state appropriation includes up to \$169,000 in proceeds from the sale of bonds authorized in RCW 47.10.812.

(8) The transportation partnership account—state appropriation includes up to \$326,446,000 in proceeds from the sale of bonds authorized in RCW 47.10.873. Of this amount, \$122,046,000 must be transferred to the Alaskan Way viaduct replacement project account.

(9) \$159,407,000 of the transportation partnership account—state appropriation, \$7,000 of the motor vehicle account—federal appropriation, \$8,000,000 of the motor vehicle account—private/local appropriation, \$29,100,000 of the transportation 2003 account (nickel account)—state appropriation, \$122,046,000 of the Alaskan Way viaduct replacement project account—state appropriation, and \$2,662,000 of the multimodal transportation account—state appropriation are provided solely for the SR 99/Alaskan Way Viaduct Replacement project (809936Z).

(10) \$15,327,000 of the multimodal transportation account—state appropriation is provided solely for transit mitigation for the SR 99/Viaduct Project - Construction Mitigation project (809940B).

(11) Within existing resources, during the regular sessions of the legislature, the department of transportation shall participate in work sessions, before the transportation committees of the house of representatives and senate, on the Alaskan Way viaduct replacement project. These work sessions must include a report on current progress of the project, timelines for completion, outstanding claims, the financial status of the project, and any other information necessary for the legislature to maintain appropriate oversight of the project. The parties invited to present may include the department of transportation, the Seattle tunnel partners, and other appropriate stakeholders.

(12) \$5,804,000 of the transportation partnership account—state appropriation, \$5,162,000 of the transportation 2003 account (nickel account)—state appropriation, and \$146,000 of the special category C account—state appropriation are provided solely for the US 395/North Spokane Corridor project (600010A). Any future savings on the project must stay on the US 395/Interstate 90 corridor and be made available to the current phase of the North Spokane corridor project or any future phase of the project in 2017-2019.

(13) \$28,101,000 of the transportation partnership account—state appropriation and \$10,956,000 of the transportation 2003 account (nickel account)—state appropriation are provided solely for the I-405/Kirkland Vicinity Stage 2 - Widening project (8BI1002). This project must be completed as soon as practicable as a design-build project. Any future savings on this project or other Interstate 405 corridor projects must stay on the Interstate 405 corridor and be made available to either the I-405/SR 167 Interchange - Direct Connector project (140504C) or the I-405 Renton to Bellevue project in the 2017-2019 fiscal biennium. The transportation partnership account—state appropriation in this subsection includes funding to begin preliminary engineering for adding capacity on Interstate 405 between state route number 522 and Interstate 5.

(14)(a) The SR 520 Bridge Replacement and HOV project (8BI1003) is supported over time from multiple sources, including a \$300,000,000 TIFIA loan, \$924,615,000 in Garvee bonds, toll revenues, state bonds, interest earnings, and other miscellaneous sources.

(b) \$44,311,000 of the transportation partnership account—state appropriation is provided solely for the SR 520 Bridge Replacement and HOV project (8BI1003).

(c) When developing the financial plan for the project, the department shall assume that all maintenance and operation costs

for the new facility are to be covered by tolls collected on the toll facility and not by the motor vehicle account.

(15) The department shall itemize all future requests for the construction of buildings on a project list and submit them through the transportation executive information system as part of the department's 2018 budget submittal. It is the intent of the legislature that new facility construction must be transparent and not appropriated within larger highway construction projects.

(16) \$49,014,000 of the motor vehicle account—federal appropriation and \$6,800,000 of the motor vehicle account—state appropriation are provided solely for fish passage barrier and chronic deficiency improvements (0BI4001).

(17) Any advisory group that the department convenes during the 2017-2019 fiscal biennium must consider the interests of the entire state of Washington.

(18) It is the intent of the legislature that for the I-5 JBLM Corridor Improvements project (M00100R), the department shall actively pursue \$50,000,000 in federal funds to pay for this project to supplant state funds in the future. \$50,000,000 in connecting Washington account funding must be held in unallotted status during the 2021-2023 fiscal biennium. These funds may only be used after the department has provided notice to the office of financial management that it has exhausted all efforts to secure federal funds from the federal highway administration and the department of defense.

(19) \$93,500,000 of the connecting Washington account—state appropriation is provided solely for the SR 167/SR 509 Puget Sound Gateway project (M00600R). Any savings on the project must stay on the Puget Sound gateway corridor.

(20)(a) In making budget allocations to the Puget Sound gateway project, the department shall implement the project's construction as a single corridor investment. The department shall develop a coordinated corridor construction and implementation plan for state route number 167 and state route number 509 in collaboration with affected stakeholders. Specific funding allocations must be based on where and when specific project segments are ready for construction to move forward and investments can be best optimized for timely project completion. Emphasis must be placed on avoiding gaps in fund expenditures for either project.

(b) The secretary of transportation must develop a memorandum of understanding with local project stakeholders that identifies a schedule for stakeholders to provide local matching funds for the Puget Sound gateway project. Criteria for eligibility of local match includes matching funds and equivalent in-kind contributions including, but not limited to, land donations. The memorandum of understanding must be finalized by January 1, 2018. The department must submit a copy of the memorandum of understanding to the transportation committees of the legislature and report regularly on the status of local match funding.

(21) It is the intent of the legislature that, for the I-5/North Lewis County Interchange project (L2000204), the department develop and design the project with the objective of significantly improving access to the industrially zoned properties in north Lewis county. The design must consider the county's process of investigating alternatives to improve such access from Interstate 5 that began in March 2015.

(22) \$600,000 of the motor vehicle account—state appropriation is provided solely for the department to complete an interchange justification report (IJR) for the U.S. 2 trestle (L1000158), covering the state route number 204 and 20th Street interchanges at the end of the westbound structure.

(a) The department shall develop the IJR in close collaboration with affected local jurisdictions, including Snohomish county and

ONE HUNDRED FIRST DAY, APRIL 19, 2017

2017 REGULAR SESSION

the cities of Everett, Lake Stevens, Marysville, Snohomish, and Monroe.

(b) Within the amount provided for the IJR, the department must address public outreach and the overall operational approval of the IJR.

(c) The department shall complete the IJR and submit the final report to the governor and the transportation committees of the legislature by July 1, 2018.

(23)(a) The legislature recognizes that the city of Mercer Island has unique access issues that require the use of Interstate 90 to leave the island and that this access may be affected by the I-90/Two-Way Transit and HOV Improvements project. One of the most heavily traveled on-ramps from Mercer Island to the westbound Interstate 90 general purpose lanes is from Island Crest Way. The department must continue to consult with the city of Mercer Island and the other signatories to the 1976 memorandum of agreement to preserve access provided to Mercer Island by the Island Crest Way on-ramp, and thus grandfather-in the current use of the on-ramp for both high occupancy vehicles as well as vehicles seeking to access the general purpose lanes of Interstate 90. The department must consider all reasonable access solutions, including allowing all vehicles to use the Island Crest Way on-ramp to access the new high occupancy vehicle lane with a reasonable and safe distance provided for single-occupancy vehicles to merge into the general purpose lanes. A final access solution must consider all safety, operational, and enforcement requirements, not benefit one group of commuters at the expense of another group, and meet applicable requirements of state and federal law.

(b) The department may not close or restrict, in any way, the westbound on-ramp from Island Crest Way to the current westbound Interstate 90 general purpose lanes until a mutually acceptable final access solution has been reached.

(24) \$2,000,000 of the Interstate 405 express toll lanes operations account—state appropriation is provided solely for the I-405 NB Hard Shoulder Running – SR 527 to I-5 project (L1000163).

(25) The legislature finds that there are sixteen companies involved in wood preserving in the state that employ four hundred workers and have an annual payroll of fifteen million dollars. Before the department's switch to steel guardrails, ninety percent of the twenty-five hundred mile guardrail system was constructed of preserved wood and one hundred ten thousand wood guardrail posts were produced annually for state use. Moreover, the policy of using steel posts requires the state to use imported steel. Given these findings, where practicable, and until June 30, 2019, the department shall include the design option to use wood guardrail posts, in addition to steel posts, in new guardrail installations. The selection of posts must be consistent with the agency design manual policy that existed before December 2009.

**NEW SECTION. Sec. 307. FOR THE DEPARTMENT OF TRANSPORTATION — PRESERVATION — PROGRAM P**

Recreational Vehicle Account—State	Appropriation
\$2,480,000	
Transportation Partnership Account—State	Appropriation
\$1,637,000	
Motor Vehicle Account—State	Appropriation
\$48,894,000	
Motor Vehicle Account—Federal	Appropriation
\$550,752,000	
Motor Vehicle Account—Private/Local	Appropriation
\$10,400,000	
State Route Number 520 Corridor Account—State	Appropriation
\$498,000	

Connecting Washington Account—State	Appropriation
\$185,030,000	
Tacoma Narrows Toll Bridge Account—State	Appropriation
\$384,000	
Transportation 2003 Account (Nickel Account)—State	Appropriation
\$58,894,000	
<b>TOTAL APPROPRIATION</b>	<b>\$858,969,000</b>

The appropriations in this section are subject to the following conditions and limitations:

(1) Except as provided otherwise in this section, the entire connecting Washington account—state appropriation and the entire transportation partnership account—state appropriation are provided solely for the projects and activities as listed by fund, project, and amount in LEAP Transportation Document 2017-1 as developed March 25, 2017, Program - Highway Preservation Program (P). However, limited transfers of specific line-item project appropriations may occur between projects for those amounts listed subject to the conditions and limitations in section 601 of this act.

(2) Except as otherwise provided in this section, the entire transportation 2003 account (nickel account)—state appropriation is provided solely for the projects and activities as listed in LEAP Transportation Document 2017-1 as developed March 25, 2017, Program – Highway Preservation Program (P).

(3) Except as provided otherwise in this section, the entire motor vehicle account—state appropriation and motor vehicle account—federal appropriation are provided solely for the projects and activities listed in LEAP Transportation Document 2017-2 ALL PROJECTS as developed March 25, 2017, Program - Highway Preservation Program (P). Any federal funds gained through efficiencies, adjustments to the federal funds forecast, additional congressional action not related to a specific project or purpose, or the federal funds redistribution process must then be applied to highway and bridge preservation activities.

(4) Within the motor vehicle account—state appropriation and motor vehicle account—federal appropriation, the department may transfer funds between programs I and P, except for funds that are otherwise restricted in this act.

(5) The transportation 2003 account (nickel account)—state appropriation includes up to \$13,233,000 in proceeds from the sale of bonds authorized in RCW 47.10.861.

(6) It is the intent of the legislature that, with respect to the amounts provided for highway preservation from the connecting Washington account, the department consider the preservation and rehabilitation of concrete roadway on Interstate 5 from the Canadian border to the Oregon border to be a priority within the preservation program.

(7) \$7,200,000 of the connecting Washington account—state appropriation is provided solely for the land mobile radio upgrade (G2000055) and is subject to the conditions, limitations, and review provided in section 701 of this act. The land mobile radio project is subject to technical oversight by the office of the chief information officer. The department, in collaboration with the office of the chief information officer, shall identify where existing or proposed mobile radio technology investments should be consolidated, identify when existing or proposed mobile radio technology investments can be reused or leveraged to meet multiagency needs, increase mobile radio interoperability between agencies, and identify how redundant investments can be reduced over time. The department shall also provide quarterly reports to the technology services board on project progress.

(8) \$3,000,000 of the motor vehicle account—state appropriation is provided solely for extraordinary costs incurred from litigation awards, settlements, or dispute mitigation activities not eligible for funding from the self-insurance fund.



The amount provided in this subsection must be held in unallotted status until the department submits a request to the office of financial management that includes documentation detailing litigation-related expenses. The office of financial management may release the funds only when it determines that all other funds designated for litigation awards, settlements, and dispute mitigation activities have been exhausted. No funds provided in this subsection may be expended on any legal fees related to the SR99/Alaskan Way viaduct replacement project.

(9) \$19,635,000 of the motor vehicle account—federal appropriation and \$365,000 of the motor vehicle account—state appropriation are provided solely for the preservation of structurally deficient bridges or bridges that are at risk of becoming structurally deficient. These funds must be used widely around the state of Washington.

(10) \$43,800,000 of the motor vehicle account—federal appropriation is provided solely for the National Highway Freight program (L1000169). The funds provided in this subsection may be spent only on the tier one projects on the prioritized freight project list submitted on November 1, 2016. Before programming federal national highway freight program funds designated for the national highway freight network under this subsection, the department shall validate projects on the prioritized freight project list. Only projects that are validated by the department may receive funding under this subsection. The department shall continue to work with the Washington state freight advisory committee to improve project screening and validation to support project prioritization and selection, including during the freight mobility plan update in 2017.

(11) The appropriation in this section includes funding for starting planning, engineering, and construction of the Elwha River bridge replacement. To the greatest extent practicable, the department shall maintain public access on the existing route.

(12)(a) \$4,820,000 of the motor vehicle account—federal appropriation and \$182,000 of the motor vehicle account—state appropriation are provided solely for weigh station preservation (0BP3006). These amounts must be held in unallotted status, except that the director of the office of financial management may approve allotment of the funds upon fulfillment of the conditions of (b) of this subsection.

(b) The department and the Washington state patrol shall jointly submit a prioritized list of weigh station projects to the office of financial management by October 1, 2017. Projects submitted must include estimated costs for preliminary engineering, rights-of-way, and construction and must also consider the timing of any available funding for weigh station projects.

(13) The department must consult with the Washington state patrol and the office of financial management during the design phase of any improvement or preservation project that could impact Washington state patrol weigh station operations. During the design phase of any such project, the department must estimate the cost of designing around the affected weigh station's current operations, as well as the cost of moving the affected weigh station.

**NEW SECTION. Sec. 308. FOR THE DEPARTMENT OF TRANSPORTATION—TRAFFIC OPERATIONS—PROGRAM Q—CAPITAL**

Motor Vehicle Account—State Appropriation	\$4,826,000
Motor Vehicle Account—Federal Appropriation	\$5,106,000
Motor Vehicle Account—Private/Local Appropriation	\$500,000
<b>TOTAL APPROPRIATION</b>	<b>\$10,432,000</b>

The appropriations in this section are subject to the following conditions and limitations: The department shall set aside a

sufficient portion of the motor vehicle account—state appropriation for federally selected competitive grants or congressional earmark projects that require matching state funds. State funds set aside as matching funds for federal projects must be accounted for in project 000005Q and remain in unallotted status until needed for those federal projects.

**NEW SECTION. Sec. 309. FOR THE DEPARTMENT OF TRANSPORTATION—WASHINGTON STATE FERRIES CONSTRUCTION—PROGRAM W**

Puget Sound Capital Construction Account—State Appropriation	\$64,542,000
Puget Sound Capital Construction Account—Federal Appropriation	\$152,838,000
Puget Sound Capital Construction Account—Private/Local Appropriation	\$15,654,000
Transportation Partnership Account—State Appropriation	\$2,923,000
Connecting Washington Account—State Appropriation	\$143,337,000
<b>TOTAL APPROPRIATION</b>	<b>\$379,294,000</b>

The appropriations in this section are subject to the following conditions and limitations:

(1) Except as provided otherwise in this section, the entire appropriations in this section are provided solely for the projects and activities as listed in LEAP Transportation Document 2017-2 ALL PROJECTS as developed March 25, 2017, Program - Washington State Ferries Capital Program (W).

(2) \$40,000,000 of the connecting Washington account—state appropriation is provided solely for the acquisition of a 144-car vessel (L20000109).

(3) \$26,252,000 of the Puget Sound capital construction account—federal appropriation and \$63,804,000 of the connecting Washington account—state appropriation are provided solely for the Mukilteo ferry terminal (952515P). It is the intent of the legislature, over the sixteen-year investment program, to provide \$159,061,000 to complete the Mukilteo Terminal Replacement project (952515P). These funds are identified in the LEAP transportation document referenced in subsection (1) of this section. To the greatest extent practicable and within available resources, the department shall design the new terminal to be a net-zero energy building. To achieve this goal, the department shall evaluate using highly energy efficient equipment and systems, and the most appropriate renewable energy systems for the needs and location of the terminal.

(4) \$61,729,000 of the Puget Sound capital construction account—federal appropriation, \$37,029,000 of the connecting Washington account—state appropriation, and \$15,554,000 of the Puget Sound capital construction account—private/local appropriation are provided solely for the Seattle Terminal Replacement project (900010L). It is the intent of the legislature, over the sixteen-year investment program, to provide \$320,267,000 to complete the project. These funds are identified in the LEAP transportation document referenced in subsection (1) of this section.

(5) \$6,000,000 of the Puget Sound capital construction account—state appropriation is provided solely for emergency capital repair costs (999910K). Funds may only be spent after approval by the office of financial management.

(6) If the department pursues a conversion of the existing diesel powered Issaquah class fleet to a different fuel source or engine technology or the construction of a new vessel powered by a fuel source or engine technology that is not diesel powered, the department must use a design-build procurement process.

(7)(a)(i) During the competitive procurement process and before its release, the office of financial management shall review the request for proposals and all other related competitive

ONE HUNDRED FIRST DAY, APRIL 19, 2017

2017 REGULAR SESSION

procurement documents for a new dispatch system to ensure the request for proposals:

- (A) Provides for the business needs of the state; and
- (B) Mitigates risk to the state.
- (ii) During development of the request for proposals and before its release, the office of the chief information officer shall review the request for proposals and all other related competitive procurement documents for a dispatch system to ensure the request for proposals:
  - (A) Contains requirements that meet the security standards and policies of the office of the chief information officer; and
  - (B) Is flexible and adaptable to advances in technology.
- (b)(i) Before commencement of the new dispatch system implementation, the department shall submit a draft technology management plan to the office of financial management and the office of the chief information officer that includes a provision for independent verification and validation of contract deliverables from the successful bidder and a provision for quality assurance that includes reporting independently to the office of the chief information officer on an ongoing basis during system implementation;
  - (ii) The technology management plan must include:
    - (A) A technology budget, identifying project costs, funding sources, and anticipated deliverables through each stage of the investment and across fiscal periods and biennia from project initiation to implementation;
    - (B) An organizational chart of the project management team that identifies team members and their roles and responsibilities;
    - (C) A risk management plan;
    - (D) An implementation schedule covering activities, critical milestones, and deliverables at each stage of the project for the life of the project; and
    - (E) Performance measures used to determine that the project is on time, within budget, and meeting expectations for quality of work product.
  - (c) The department must provide a project status report to the office of financial management and the transportation committees of the legislature on at least a calendar quarterly basis. The report must include, but is not limited to:
    - (i) Detailed information about the planned and actual scope, schedule, and budget;
    - (ii) Status of key vendor and other project deliverables; and
    - (iii) A description of significant changes to planned deliverables or system functions over the life of the project.
  - (8) \$2,056,000 of the Puget Sound capital construction account—state appropriation is provided solely for an assessment of capital and operational needs at the Southworth terminal. The assessment must consider alternatives to the construction of a new drive-on slip. The department shall provide a report of its findings to the governor and transportation committees of the legislature by January 1, 2019.
  - (9) The department, in consultation with the transportation commission, shall update the ferries division long-range plan by January 1, 2019. The update must include, but is not limited to: Fare and pricing policies; demand management strategies; ridership demand analysis; vessel preservation, rebuild, and replacement plans, including an analysis of alternative fuel sources; long-term terminal needs; and level of service standards and system service levels. The department shall submit a status report on the long-range plan update to the governor and the transportation committees of the legislature by June 30, 2018, and a final report by January 1, 2019.

**NEW SECTION. Sec. 310. FOR THE DEPARTMENT OF TRANSPORTATION—RAIL—PROGRAM Y—CAPITAL**

Essential Rail Assistance Account—State	Appropriation	\$424,000
Transportation Infrastructure Account—State	Appropriation	\$5,367,000
Multimodal Transportation Account—State	Appropriation	\$51,665,000
Multimodal Transportation Account—Federal	Appropriation	\$1,487,000
<b>TOTAL APPROPRIATION</b>		<b>\$58,943,000</b>

The appropriations in this section are subject to the following conditions and limitations:

- (1) Except as provided otherwise in this section, the entire appropriations in this section are provided solely for the projects and activities as listed by project and amount in LEAP Transportation Document 2017-2 ALL PROJECTS as developed March 25, 2017, Program - Rail Program (Y).
- (2) \$5,000,000 of the transportation infrastructure account—state appropriation is provided solely for new low-interest loans approved by the department through the freight rail investment bank (FRIB) program. The department shall issue FRIB program loans with a repayment period of no more than ten years, and charge only so much interest as is necessary to recoup the department's costs to administer the loans. The department shall report annually to the transportation committees of the legislature and the office of financial management on all FRIB loans issued.
- (3) \$7,017,000 of the multimodal transportation account—state appropriation and \$24,000 of the essential rail assistance account—state appropriation are provided solely for new statewide emergent freight rail assistance projects identified in the LEAP transportation document referenced in subsection (1) of this section.
- (4) \$367,000 of the transportation infrastructure account—state appropriation and \$1,100,000 of the multimodal transportation account—state appropriation are provided solely to reimburse Highline Grain, LLC for approved work completed on Palouse River and Coulee City (PCC) railroad track in Spokane county between the BNSF Railway Interchange at Cheney and Geiger Junction and must be administered in a manner consistent with freight rail assistance program projects. The value of the public benefit of this project is expected to meet or exceed the cost of this project in: Shipper savings on transportation costs; jobs saved in rail-dependent industries; and/or reduced future costs to repair wear and tear on state and local highways due to fewer annual truck trips (reduced vehicle miles traveled). The amounts provided in this subsection are not a commitment for future legislatures, but it is the legislature's intent that future legislatures will work to approve biennial appropriations until the full \$7,337,000 cost of this project is reimbursed.
- (5)(a) \$400,000 of the essential rail assistance account—state appropriation and \$305,000 of the multimodal transportation account—state appropriation are provided solely for the purpose of the rehabilitation and maintenance of the Palouse river and Coulee City railroad line (F01111B).
- (b) Expenditures from the essential rail assistance account—state in this subsection may not exceed the combined total of:
  - (i) Revenues deposited into the essential rail assistance account from leases and sale of property pursuant to RCW 47.76.290; and
  - (ii) Revenues transferred from the miscellaneous program account to the essential rail assistance account, pursuant to RCW 47.76.360, for the purpose of sustaining the grain train program by maintaining the Palouse river and Coulee City railroad.
- (6) The department shall issue a call for projects for the freight rail assistance program, and shall evaluate the applications in a manner consistent with past practices as specified in section 309, chapter 367, Laws of 2011. By November 15, 2017, the

department shall submit a prioritized list of recommended projects to the office of financial management and the transportation committees of the legislature.

**NEW SECTION. Sec. 311. FOR THE DEPARTMENT OF TRANSPORTATION—LOCAL PROGRAMS—PROGRAM Z—CAPITAL**

Highway Infrastructure Account—State	Appropriation	\$293,000
Highway Infrastructure Account—Federal	Appropriation	\$218,000
Transportation Partnership Account—State	Appropriation	\$1,143,000
Highway Safety Account—State	Appropriation	\$2,388,000
Motor Vehicle Account—State	Appropriation	\$7,620,000
Motor Vehicle Account—Federal	Appropriation	\$21,387,000
Motor Vehicle Account—Private/Local	Appropriation	\$18,000,000
Connecting Washington Account—State	Appropriation	\$115,293,000
Multimodal Transportation Account—State	Appropriation	\$50,026,000
<b>TOTAL APPROPRIATION</b>		<b>\$216,368,000</b>

The appropriations in this section are subject to the following conditions and limitations:

(1) Except as provided otherwise in this section, the entire appropriations in this section are provided solely for the projects and activities as listed by project and amount in LEAP Transportation Document 2017-2 ALL PROJECTS as developed March 25, 2017, Program - Local Programs Program (Z).

(2) The amounts identified in the LEAP transportation document referenced under subsection (1) of this section for pedestrian safety/safe routes to school are as follows:

(a) \$18,380,000 of the multimodal transportation account—state appropriation is provided solely for newly selected pedestrian and bicycle safety program projects. \$6,432,000 of the multimodal transportation account—state appropriation and \$1,143,000 of the transportation partnership account—state appropriation are reappropriated for pedestrian and bicycle safety program projects selected in the previous biennia (L2000188).

(b) \$11,400,000 of the motor vehicle account—federal appropriation and \$7,750,000 of the multimodal transportation account—state appropriation are provided solely for newly selected safe routes to school projects. \$6,372,000 of the motor vehicle account—federal appropriation, \$923,000 of the multimodal transportation account—state appropriation, and \$2,388,000 of the highway safety account—state appropriation are reappropriated for safe routes to school projects selected in the previous biennia (L2000189). The department may consider the special situations facing high-need areas, as defined by schools or project areas in which the percentage of the children eligible to receive free and reduced-price meals under the national school lunch program is equal to, or greater than, the state average as determined by the department, when evaluating project proposals against established funding criteria while ensuring continued compliance with federal eligibility requirements.

(3) The department shall submit a report to the transportation committees of the legislature by December 1, 2017, and December 1, 2018, on the status of projects funded as part of the pedestrian safety/safe routes to school grant program. The report must include, but is not limited to, a list of projects selected and a brief description of each project's status.

(4) \$16,241,000 of the multimodal transportation account—state appropriation is provided solely for bicycle and pedestrian

projects listed in LEAP Transportation Document 2017-1 as developed March 25, 2017.

(5) \$420,000 of the motor vehicle account—state appropriation is provided solely for engineering and design work for the SR 9/4th Street NE access improvement project in Lake Stevens.

(6) \$300,000 of the multimodal transportation account—state appropriation is provided solely for replacement of the Riverfront Park Triangle Truss bridge deck in Spokane.

(7) \$8,000,000 of the connecting Washington account—state appropriation is provided solely for the Covington Connector (L2000104). The amounts described in the LEAP transportation document referenced in this section are not a commitment by future legislatures, but it is the legislature's intent that future legislatures will work to approve appropriations in the 2019-2021 fiscal biennium to reimburse the city of Covington for approved work completed on the project up to the full \$24,000,000 cost of this project.

**NEW SECTION. Sec. 312. ANNUAL REPORTING REQUIREMENTS FOR CAPITAL PROGRAM**

(1) As part of its budget submittal for the 2018 supplemental budget, the department of transportation shall provide an update to the report provided to the legislature in 2017 that: (a) Compares the original project cost estimates approved in the 2003 and 2005 project lists to the completed cost of the project, or the most recent legislatively approved budget and total project costs for projects not yet completed; (b) identifies highway projects that may be reduced in scope and still achieve a functional benefit; (c) identifies highway projects that have experienced scope increases and that can be reduced in scope; (d) identifies highway projects that have lost significant local or regional contributions that were essential to completing the project; and (e) identifies contingency amounts allocated to projects.

(2) As part of its budget submittal for the 2018 supplemental budget, the department of transportation shall provide an annual report on the number of toll credits the department has accumulated and how the department has used the toll credits.

**NEW SECTION. Sec. 313. QUARTERLY REPORTING REQUIREMENTS FOR CAPITAL PROGRAM**

On a quarterly basis, the department of transportation shall provide to the office of financial management and the legislative transportation committees the following reports for all capital programs:

(1) For active projects, the report must include:

(a) A TEIS version containing actual capital expenditures for all projects consistent with the structure of the most recently enacted budget;

(b) Anticipated cost savings, cost increases, reappropriations, and schedule adjustments for all projects consistent with the structure of the most recently enacted budget;

(c) The award amount, the engineer's estimate, and the number of bidders for all active projects consistent with the structure of the most recently enacted budget;

(d) Projected costs and schedule for individual projects that are funded at a programmatic level for projects relating to bridge rail, guard rail, fish passage barrier removal, roadside safety projects, and seismic bridges. Projects within this programmatic level funding must be completed on a priority basis and scoped to be completed within the current programmatic budget;

(e) Highway projects that may be reduced in scope and still achieve a functional benefit;

(f) Highway projects that have experienced scope increases and that can be reduced in scope;

(g) Highway projects that have lost significant local or regional contributions that were essential to completing the project; and

ONE HUNDRED FIRST DAY, APRIL 19, 2017

2017 REGULAR SESSION

(h) Contingency amounts for all projects consistent with the structure of the most recently enacted budget.

(2) For completed projects, the report must:

(a) Compare the costs and operationally complete date for projects with budgets of twenty million dollars or more that are funded with preexisting funds to the original project cost estimates and schedule; and

(b) Provide a list of nickel and TPA projects charging to the nickel/TPA environmental mitigation reserve (OBI4ENV) and the amount each project is charging.

(3) For prospective projects, the report must:

(a) Identify the estimated advertisement date for all projects consistent with the structure of the most recently enacted transportation budget that are going to advertisement during the current fiscal biennium;

(b) Identify the anticipated operationally complete date for all projects consistent with the structure of the most recently enacted transportation budget that are going to advertisement during the current fiscal biennium; and

(c) Identify the estimated cost of completion for all projects consistent with the structure of the most recently enacted transportation budget that are going to advertisement during the current fiscal biennium.

**NEW SECTION. Sec. 314. FEDERAL FUNDS RECEIVED FOR CAPITAL PROJECT EXPENDITURES**

To the greatest extent practicable, the department of transportation shall expend federal funds received for capital project expenditures before state funds.

**TRANSFERS AND DISTRIBUTIONS**

**NEW SECTION. Sec. 401. FOR THE STATE TREASURER—BOND RETIREMENT AND INTEREST, AND ONGOING BOND REGISTRATION AND TRANSFER CHARGES: FOR BOND SALES DISCOUNTS AND DEBT TO BE PAID BY MOTOR VEHICLE ACCOUNT AND TRANSPORTATION FUND REVENUE**

Transportation Partnership Account—State	Appropriation	\$2,242,000
Connecting Washington Account—State	Appropriation	\$1,784,000
Special Category C Account—State	Appropriation	\$1,000
Highway Bond Retirement Account—State	Appropriation	\$1,237,005,000
Ferry Bond Retirement Account—State	Appropriation	\$28,873,000
Transportation Improvement Board Bond Retirement Account—State	Appropriation	\$13,254,000
Nondebt-Limit Reimbursable Bond Retirement Account—State	Appropriation	\$26,609,000
Toll Facility Bond Retirement Account—State	Appropriation	\$86,493,000
Transportation 2003 Account (Nickel Account)—State	Appropriation	\$322,000
<b>TOTAL APPROPRIATION</b>		<b>\$1,396,583,000</b>

**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**

Transportation Partnership Account—State	Appropriation	\$449,000
Connecting Washington Account—State	Appropriation	\$357,000
Transportation 2003 Account (Nickel Account)—State	Appropriation	\$64,000

**TOTAL APPROPRIATION \$870,000**  
**NEW SECTION. Sec. 403. FOR THE STATE TREASURER—BOND RETIREMENT AND INTEREST, AND ONGOING BOND REGISTRATION AND TRANSFER CHARGES: FOR DEBT TO BE PAID BY STATUTORILY PRESCRIBED REVENUE**

Toll Facility Bond Retirement Account—Federal	Appropriation	\$199,901,000
Toll Facility Bond Retirement Account—State	Appropriation	\$25,372,000

**TOTAL APPROPRIATION \$225,273,000**  
**NEW SECTION. Sec. 404. FOR THE STATE TREASURER—STATE REVENUES FOR DISTRIBUTION**

Motor Vehicle Account—State	Appropriation:	
For motor vehicle fuel tax distributions to cities and counties		\$514,648,000

**NEW SECTION. Sec. 405. FOR THE STATE TREASURER—STATE REVENUES FOR DISTRIBUTION**

Multimodal Transportation Account—State	Appropriation:	
For distribution to cities and counties		\$26,786,000
Motor Vehicle Account—State	Appropriation:	
For distribution to cities and counties		\$23,438,000

**TOTAL APPROPRIATION \$50,224,000**  
**NEW SECTION. Sec. 406. FOR THE STATE TREASURER—TRANSFERS**

Motor Vehicle Account—State	Appropriation:	
For motor vehicle fuel tax refunds and statutory transfers		\$2,196,693,000

**NEW SECTION. Sec. 407. FOR THE DEPARTMENT OF LICENSING—TRANSFERS**

Motor Vehicle Account—State	Appropriation:	
For motor vehicle fuel tax refunds and transfers		\$200,747,000

**NEW SECTION. Sec. 408. FOR THE STATE TREASURER—ADMINISTRATIVE TRANSFERS**

- (1) State Patrol Highway Account—State  
Appropriation: For transfer to the Connecting Washington Account—State \$21,221,000
- (2) Transportation Partnership Account—State  
Appropriation: For transfer to the Connecting Washington Account—State \$10,946,000
- (3) Highway Safety Account—State  
Appropriation: For transfer to the State Patrol Highway Account—State \$30,000,000
- (4) Motor Vehicle Account—State  
Appropriation: For transfer to the Connecting Washington Account—State \$56,464,000
- (5) Motor Vehicle Account—State  
Appropriation: For transfer to the Freight Mobility Investment Account—State \$8,511,000
- (6) Motor Vehicle Account—State  
Appropriation: For transfer to the Puget Sound Capital Construction Account—State \$30,500,000
- (7) Motor Vehicle Account—State  
Appropriation: For transfer to the Rural Arterial Trust Account—State \$4,844,000
- (8) Motor Vehicle Account—State  
Appropriation: For transfer to the Transportation Improvement Account—State \$9,688,000
- (9) Motor Vehicle Account—State  
Appropriation: For transfer to the State Patrol Highway Account—State \$33,000,000
- (10) Puget Sound Ferry Operations Account—State

Appropriation: For transfer to the Connecting Washington Account—State \$1,305,000

(11) Rural Mobility Grant Program Account—State Appropriation: For transfer to the Multimodal Transportation Account—State \$3,000,000

(12) State Route Number 520 Civil Penalties Account—State Appropriation: For transfer to the State Route Number 520 Corridor Account—State \$1,240,000

(13) Capital Vessel Replacement Account—State Appropriation: For transfer to the Connecting Washington Account—State \$36,500,000

(14) Multimodal Transportation Account—State Appropriation: For transfer to the Freight Mobility Multimodal Account—State \$8,511,000

(15) Multimodal Transportation Account—State Appropriation: For transfer to the Puget Sound Capital Construction Account—State \$30,500,000

(16) Multimodal Transportation Account—State Appropriation: For transfer to the Puget Sound Ferry Operations Account—State \$25,000,000

(17) Multimodal Transportation Account—State Appropriation: For transfer to the Regional Mobility Grant Program Account—State \$27,679,000

(18) Multimodal Transportation Account—State Appropriation: For transfer to the Rural Mobility Grant Program Account—State \$15,223,000

(19) Multimodal Transportation Account—State Appropriation: For transfer to the Pilotage Account—State \$2,000,000

(20) Tacoma Narrows Toll Bridge Account—State Appropriation: For transfer to the Motor Vehicle Account—State \$950,000

(21) Transportation 2003 Account (Nickel Account)—State Appropriation: For transfer to the Connecting Washington Account—State \$22,970,000

(22) Interstate 405 Express Toll Lanes Operations Account—State Appropriation: For transfer to the Motor Vehicle Account—State \$2,019,000

(23)(a) Transportation Partnership Account—State Appropriation: For transfer to the Alaskan Way Viaduct Replacement Project Account—State \$122,046,000

(b) The amount transferred in this subsection represents that portion of the up to \$200,000,000 in proceeds from the sale of bonds authorized in RCW 47.10.873, intended to be sold through the 2021-2023 fiscal biennium, used only for construction of the SR 99/Alaskan Way Viaduct Replacement project (809936Z), and that must be repaid from the Alaskan Way viaduct replacement project account consistent with RCW 47.56.864.

(24)(a) Motor Vehicle Account—State Appropriation: For transfer to the Tacoma Narrows Toll Bridge Account—State \$5,000,000

(b) The transfer in this subsection must be made in April 2019. It is the intent of the legislature that this transfer is temporary, and an equivalent reimbursing transfer is to occur in November 2019.

(25) Motor Vehicle Account—State Appropriation: For transfer to the County Arterial Preservation Account—State \$4,844,000

(26) General Fund Account—State Appropriation: For transfer to the State Patrol Highway Account—State \$625,000

The treasurer must hold the funding provided under this subsection in unallotted status. The treasurer shall transfer the funds only after receiving notification from the Washington state patrol under section 207(6) of this act.

**NEW SECTION. Sec. 409.** 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.

#### COMPENSATION

##### **NEW SECTION. Sec. 501. COLLECTIVE BARGAINING AGREEMENTS NOT IMPAIRED**

Nothing in this act prohibits the expenditure of any funds by an agency or institution of the state for benefits guaranteed by any collective bargaining agreement in effect on the effective date of this section.

##### **NEW SECTION. Sec. 502. COLLECTIVE BARGAINING AGREEMENTS**

Sections 503 through 519 of this act represent the results of the 2017-2019 collective bargaining process required under chapters 47.64, 41.80, and 41.56 RCW. Provisions of the collective bargaining agreements contained in sections 503 through 516 of this act are described in general terms. Only major economic terms are included in the descriptions. These descriptions do not contain the complete contents of the agreements. The collective bargaining agreements contained in sections 503 through 519 of this act may also be funded by expenditures from nonappropriated accounts. If positions are funded with lidded grants or dedicated fund sources with insufficient revenue, additional funding from other sources is not provided.

##### **NEW SECTION. Sec. 503. DEPARTMENT OF TRANSPORTATION MARINE DIVISION COLLECTIVE BARGAINING AGREEMENT—OPEIU**

An agreement has been reached between the governor and the office and professional employees international union local eight (OPEIU) through an interest arbitration award pursuant to chapter 47.64 RCW for the 2017-2019 fiscal biennium. Funding is provided for the awarded six and one-half percent general wage increase effective July 1, 2017, and six and one-half percent general wage increase effective July 1, 2018. The agreement also includes and funding is provided for salary adjustments for targeted job classifications and restructuring of the pay schedule.

##### **NEW SECTION. Sec. 504. DEPARTMENT OF TRANSPORTATION MARINE DIVISION COLLECTIVE BARGAINING AGREEMENT—FASPAA**

An agreement has been reached between the governor and the ferry agents, supervisors, and project administrators association pursuant to chapter 47.64 RCW for the 2017-2019 fiscal biennium. Funding is provided for a three percent general wage increase effective July 1, 2017, and a two percent general wage increase effective July 1, 2018.

##### **NEW SECTION. Sec. 505. DEPARTMENT OF TRANSPORTATION MARINE DIVISION COLLECTIVE BARGAINING AGREEMENT—SEIU LOCAL 6**

An agreement has been reached between the governor and the service employees international union local 6 pursuant to chapter 47.64 RCW for the 2017-2019 fiscal biennium. Funding is provided for a six percent general wage increase effective July 1, 2017, and a four percent general wage increase effective July 1, 2018.

##### **NEW SECTION. Sec. 506. DEPARTMENT OF TRANSPORTATION MARINE DIVISION COLLECTIVE BARGAINING AGREEMENT—CARPENTERS**

An agreement has been reached between the governor and the Pacific Northwest regional council of carpenters through an

ONE HUNDRED FIRST DAY, APRIL 19, 2017

2017 REGULAR SESSION

interest arbitration award pursuant to chapter 47.64 RCW for the 2017-2019 fiscal biennium. Funding is provided for the awarded four percent general wage increase effective July 1, 2017, and three percent general wage increase effective July 1, 2018. The agreement also includes and funding is provided for increases in the wage differential among certain job classifications.

**NEW SECTION. Sec. 507. DEPARTMENT OF TRANSPORTATION MARINE DIVISION COLLECTIVE BARGAINING AGREEMENT—METAL TRADES**

An agreement has been reached between the governor and the Puget Sound metal trades council through an interest arbitration award pursuant to chapter 47.64 RCW for the 2017-2019 fiscal biennium. Funding is provided for the awarded three percent general wage increase effective July 1, 2017, and three percent general wage increase effective July 1, 2018. The agreement also includes and funding is provided for increases in the wage differential among certain job classifications.

**NEW SECTION. Sec. 508. DEPARTMENT OF TRANSPORTATION MARINE DIVISION COLLECTIVE BARGAINING AGREEMENT—MEBA-UL**

An agreement has been reached between the governor and the marine engineers' beneficial association unlicensed engine room employees pursuant to chapter 47.64 RCW for the 2017-2019 fiscal biennium. Funding is provided for a three percent general wage increase effective July 1, 2017, and a two percent general wage increase effective July 1, 2018.

**NEW SECTION. Sec. 509. DEPARTMENT OF TRANSPORTATION MARINE DIVISION COLLECTIVE BARGAINING AGREEMENT—MEBA-L**

An agreement has been reached between the governor and the marine engineers' beneficial association licensed engineer officers pursuant to chapter 47.64 RCW for the 2017-2019 fiscal biennium. Funding is provided for a three percent general wage increase effective July 1, 2017, and a two percent general wage increase effective July 1, 2018. The agreement also includes and funding is provided for an additional pay increase to address inversion among certain job classifications.

**NEW SECTION. Sec. 510. DEPARTMENT OF TRANSPORTATION MARINE DIVISION COLLECTIVE BARGAINING AGREEMENT—MM&P MATES**

An agreement has been reached between the governor and the master, mates, and pilots - mates pursuant to chapter 47.64 RCW for the 2017-2019 fiscal biennium. Funding is provided for a three percent general wage increase effective July 1, 2017, and a two percent general wage increase effective July 1, 2018.

**NEW SECTION. Sec. 511. DEPARTMENT OF TRANSPORTATION MARINE DIVISION COLLECTIVE BARGAINING AGREEMENT—MM&P MASTERS**

An agreement has been reached between the governor and the master, mates, and pilots - masters through an interest arbitration award pursuant to chapter 47.64 RCW for the 2017-2019 fiscal biennium. Funding is provided for a five and one-half percent general wage increase effective July 1, 2017, and a two and one-half percent general wage increase effective July 1, 2018. The award also includes and funding is provided for an additional pay increase to address inversion among certain job classifications.

**NEW SECTION. Sec. 512. DEPARTMENT OF TRANSPORTATION MARINE DIVISION COLLECTIVE BARGAINING AGREEMENT—MM&P WATCH CENTER SUPERVISORS**

An agreement has been reached between the governor and the master, mates, and pilots - watch center supervisors pursuant to chapter 47.64 RCW for the 2017-2019 fiscal biennium. Funding is provided for a three percent general wage increase effective July 1, 2017, and a one percent general wage increase effective

July 1, 2018. The agreement also includes and funding is provided for an increase for the fleet safety and training administrators equal to the same hourly rate of pay as the watch center supervisors.

**NEW SECTION. Sec. 513. DEPARTMENT OF TRANSPORTATION MARINE DIVISION COLLECTIVE BARGAINING AGREEMENT—IBU**

An agreement has been reached between the governor and the inlandboatmen's union pursuant to chapter 47.64 RCW for the 2017-2019 fiscal biennium. Funding is provided for a four percent general wage increase effective July 1, 2017, and a one percent general wage increase effective July 1, 2018. The agreement also includes and funding is provided for increases in the wage differential among certain job classifications and for employees hired on or after June 30, 2011, an increase in leave earned.

**NEW SECTION. Sec. 514. COLLECTIVE BARGAINING AGREEMENT—PTE LOCAL 17**

An agreement has been reached between the governor and the professional and technical employees local 17 pursuant to chapter 41.80 RCW for the 2017-2019 fiscal biennium. Funding is provided for a two percent general wage increase effective July 1, 2017, a two percent general wage increase effective July 1, 2018, and a two percent general wage increase effective January 1, 2019. The agreement also includes and funding is provided for salary adjustments for targeted job classifications and increases to vacation leave accruals.

**NEW SECTION. Sec. 515. COLLECTIVE BARGAINING AGREEMENT—WFSE**

An agreement has been reached between the governor and the Washington federation of state employees general government pursuant to chapter 41.80 RCW for the 2017-2019 fiscal biennium. Funding is provided for a two percent general wage increase effective July 1, 2017, a two percent general wage increase effective July 1, 2018, and a two percent general wage increase effective January 1, 2019. The agreement also includes and funding is provided for salary adjustments for targeted job classifications and increases to vacation leave accruals.

**NEW SECTION. Sec. 516. COLLECTIVE BARGAINING AGREEMENT—WPEA**

An agreement has been reached between the governor and the Washington public employees association general government pursuant to chapter 41.80 RCW for the 2017-2019 fiscal biennium. Funding is provided for a two percent general wage increase effective July 1, 2017, a two percent general wage increase effective July 1, 2018, and a two percent general wage increase effective January 1, 2019. The agreement also includes and funding is provided for salary adjustments for targeted job classifications and increases to vacation leave accruals.

**NEW SECTION. Sec. 517. COLLECTIVE BARGAINING AGREEMENT—COALITION OF UNIONS**

An agreement has been reached between the governor and the coalition of unions pursuant to chapter 41.80 RCW for the 2017-2019 fiscal biennium. Funding is provided for a two percent general wage increase effective July 1, 2017, a two percent general wage increase effective July 1, 2018, and a two percent general wage increase effective January 1, 2019. The agreement also includes and funding is provided for salary adjustments for targeted job classifications and increases to vacation leave accruals.

**NEW SECTION. Sec. 518. COLLECTIVE BARGAINING AGREEMENT—WSP TROOPERS ASSOCIATION**

An agreement has been reached between the governor and the Washington state patrol troopers association pursuant to chapter 41.56 RCW for the 2017-2019 fiscal biennium. Funding is

provided for a sixteen percent general wage increase for troopers effective July 1, 2017, and a three percent general wage increase for troopers effective July 1, 2018. Funding is also provided for a twenty percent general wage increase for sergeants effective July 1, 2017, and a three percent general wage increase for sergeants effective July 1, 2018. The agreement also includes and funding is provided for increases to longevity pay, changes to specialty pay, and an increase to vacation accruals.

**NEW SECTION. Sec. 519. COLLECTIVE BARGAINING AGREEMENT—WSP LIEUTENANTS ASSOCIATION**

An agreement has been reached between the governor and the Washington state patrol lieutenants association pursuant to chapter 41.56 RCW for the 2017-2019 fiscal biennium. Funding is provided for a twenty percent general wage increase effective July 1, 2017, and a three percent general wage increase effective July 1, 2018. The agreement also includes and funding is provided for increases to longevity pay.

**IMPLEMENTING PROVISIONS**

**NEW SECTION. Sec. 601. FUND TRANSFERS**

(1) The 2005 transportation partnership projects or improvements and 2015 connecting Washington projects or improvements are listed in the LEAP Transportation Document 2017-1 as developed March 25, 2017, which consists of a list of specific projects by fund source and amount over a sixteen-year period. Current fiscal biennium funding for each project is a line-item appropriation, while the outer year funding allocations represent a sixteen-year plan. The department of transportation is expected to use the flexibility provided in this section to assist in the delivery and completion of all transportation partnership account and connecting Washington account projects on the LEAP transportation documents referenced in this act. For the 2017-2019 project appropriations, unless otherwise provided in this act, the director of the office of financial management may authorize a transfer of appropriation authority funds between projects funded with transportation partnership account appropriations or connecting Washington account appropriations to manage project spending and efficiently deliver all projects in the respective program under the following conditions and limitations:

(a) Transfers may only be made within each specific fund source referenced on the respective project list;

(b) Transfers from a project may not be made as a result of the reduction of the scope of a project or be made to support increases in the scope of a project;

(c) Transfers from a project may be made if the funds appropriated to the project are in excess of the amount needed in the current fiscal biennium;

(d) Transfers may not occur for projects not identified on the applicable project list;

(e) Transfers may not be made while the legislature is in session;

(f) Transfers to a project may not be made with funds designated as attributable to practical design savings as described in RCW 47.01.480;

(g) Each transfer between projects may only occur if the director of the office of financial management finds that any resulting change will not hinder the completion of the projects as approved by the legislature. Until the legislature reconvenes to consider the 2018 supplemental omnibus transportation appropriations act, any unexpended 2015-2017 appropriation balance as approved by the office of financial management, in consultation with the legislative staff of the house of representatives and senate transportation committees, may be considered when transferring funds between projects; and

(i) Transfers between projects may be made by the department of transportation without the formal written approval provided under this subsection (1), provided that the transfer amount does not exceed two hundred fifty thousand dollars or ten percent of the total project, whichever is less. These transfers must be reported quarterly to the director of the office of financial management and the chairs of the house of representatives and senate transportation committees.

(2) The department of transportation must submit quarterly all transfers authorized under this section in the transportation executive information system. The office of financial management must maintain a legislative baseline project list identified in the LEAP transportation documents referenced in this act, and update that project list with all authorized transfers under this section.

(3) At the time the department submits a request to transfer funds under this section, a copy of the request must be submitted to the transportation committees of the legislature.

(4) Before approval, the office of financial management shall work with legislative staff of the house of representatives and senate transportation committees to review the requested transfers in a timely manner.

(5) No fewer than ten days after the receipt of a project transfer request, the director of the office of financial management must provide written notification to the department of any decision regarding project transfers, with copies submitted to the transportation committees of the legislature.

(6) The department must submit annually as part of its budget submittal a report detailing all transfers made pursuant to this section.

**NEW SECTION. Sec. 602.** To the extent that any appropriation authorizes expenditures of state funds from the motor vehicle account, special category C account, Tacoma Narrows toll bridge account, transportation 2003 account (nickel account), transportation partnership account, transportation improvement account, Puget Sound capital construction account, multimodal transportation account, state route number 520 corridor account, or other transportation capital project account in the state treasury for a state transportation program that is specified to be funded with proceeds from the sale of bonds authorized in chapter 47.10 RCW, the legislature declares that any such expenditures made before the issue date of the applicable transportation bonds for that state transportation program are intended to be reimbursed from proceeds of those transportation bonds in a maximum amount equal to the amount of such appropriation.

**NEW SECTION. Sec. 603. BELATED CLAIMS**

The agencies and institutions of the state may expend moneys appropriated in this act, upon approval of the office of financial management, for the payment of supplies and services furnished to the agency or institution in prior fiscal biennia.

**NEW SECTION. Sec. 604. FOR THE DEPARTMENT OF TRANSPORTATION**

(1) As part of its 2018 supplemental budget submittal, the department shall provide a report to the legislature and the office of financial management that:

(a) Identifies, by capital project, the amount of state funding that has been reappropriated from the 2015-2017 fiscal biennium into the 2017-2019 fiscal biennium; and

(b) Identifies, for each project, the amount of cost savings or increases in funding that have been identified as compared to the 2015 enacted omnibus transportation appropriations act.

(2) As part of the agency request for capital programs, the department shall load reappropriations separately from funds that were assumed to be required for the 2017-2019 fiscal biennium into budgeting systems.

ONE HUNDRED FIRST DAY, APRIL 19, 2017

2017 REGULAR SESSION

**NEW SECTION. Sec. 605. FOR THE DEPARTMENT OF TRANSPORTATION—WEB SITE REPORTING REQUIREMENTS**

(1) The department of transportation shall post on its web site every report that is due from the department to the legislature during the 2017-2019 fiscal biennium on one web page. The department must post both completed reports and planned reports on a single web page.

(2) The department shall provide a web link for each change order that is more than five hundred thousand dollars on the affected project web page.

**NEW SECTION. Sec. 606.** (1) By November 15, 2017, and annually thereafter, the department of transportation must report on amounts expended to benefit transit, bicycle, or pedestrian elements within all connecting Washington projects in programs I, P, and Z identified in LEAP Transportation Document 2017-2 ALL PROJECTS as developed March 25, 2017. The report must address each modal category separately and identify if eighteenth amendment protected funds have been used and, if not, the source of funding.

(2) To facilitate the report in subsection (1) of this section, the department of transportation must require that all bids on connecting Washington projects include an estimate on the cost to implement any transit, bicycle, or pedestrian project elements.

**NEW SECTION. Sec. 607. PROJECT SCOPE CHANGES**

(1) The legislature finds that in the course of efficiently delivering connecting Washington projects, it is necessary to create a process for the department of transportation to request and receive approval of practical design-related project scope changes while the legislature is not in session. During the 2017-2019 fiscal biennium, the director of the office of financial management may approve project scope change requests to connecting Washington projects in the highway improvements program, provided that the requests meet the criteria outlined in RCW 47.01.480 and are subject to the limitations in this section.

(2) At the time the department of transportation submits a request for a project scope change under this section, a copy of the request must be submitted to the transportation committees of the legislature.

(3) Before approval, the office of financial management shall work with legislative staff of the house of representatives and senate transportation committees to review the requested project scope changes.

(4) No fewer than ten days after the receipt of a scope change request, the director of the office of financial management must provide written notification to the department of any decision regarding project scope changes, with copies submitted to the transportation committees of the legislature.

(5) As part of its annual budget submittal, the department of transportation must report on all approved scope change requests from the prior year, including a comparison of the scope before and after the requested change.

**NEW SECTION. Sec. 608. FOR THE DEPARTMENT OF TRANSPORTATION**

The department of transportation may provide up to three million dollars in toll credits to Kitsap transit for its role in passenger-only ferry service and ferry corridor-related projects. The number of toll credits provided must be equal to, but no more than, the number sufficient to meet federal match requirements for grant funding for passenger-only ferry service, but must not exceed the amount authorized in this section.

**MISCELLANEOUS 2017-2019 FISCAL BIENNIUM**

**NEW SECTION. Sec. 701. INFORMATION TECHNOLOGY PROJECTS**

(1) All appropriations for designated information technology projects in this act must be placed in unallotted status and must not be expended before the office of the chief information officer certifies that the project complies with state information technology and security policy and strategies. At a minimum, the office of the chief information officer must certify, if the chief information officer deems appropriate, that the project meets critical project success factors, aligns with statewide technology strategy and architecture, reuses existing technology services and solutions, minimizes custom development, complies with security and other policy requirements, and uses modularized, component-based architectures. The office of the chief information officer must evaluate the project at the appropriate stages. The office of the chief information officer must notify the office of financial management and the legislative fiscal committees each time it certifies a project is ready to proceed with the next stage. Appropriations may then be allotted for that certified phase only.

(2) The chief information officer may suspend or terminate a project at any time if the chief information officer determines that the project is not meeting or not expected to meet anticipated performance and technology outcomes. Once suspension or termination occurs, the agency shall not make additional expenditures on the project without approval of the chief information officer.

The following projects are subject to the conditions, limitations, and review provided in this section: Department of Transportation – Labor System Replacement, Department of Transportation – Ferry Network System Support, Department of Transportation - Land Mobile Radio System Replacement, and Department of Transportation - New CSC System and Operator.

(3) The office of the chief information officer, in consultation with the office of financial management, may identify additional projects to be subject to this section other than those listed in subsection (2) of this section, including projects that are not separately identified within an agency budget.

**NEW SECTION. Sec. 702. FINANCIAL CONTRACTS**

The following agencies may enter into financial contracts, paid from any funds of an agency, appropriated or nonappropriated, for the purposes indicated and in not more than the principal amounts indicated, plus financing expenses and required reserves pursuant to chapter 39.94 RCW. Expenditures made by an agency for one of the indicated purposes before the issue date of the authorized financial contract and any certificates of participation therein are intended to be reimbursed from proceeds of the financial contract and any certificates of participation therein. The department of transportation may enter into a financing contract up to \$14,600,000 plus financing expenses and required reserves using certificates of participation under chapter 39.94 RCW for energy efficiency upgrades at department-owned buildings.

**NEW SECTION. Sec. 703. SETTLEMENT FUNDS EXPENDITURE**

(1) The legislature finds that it is appropriate to provide a framework for the administration of mitigation funds provided to the state as a beneficiary under the terms of the consent decrees entered into by the United States, Volkswagen AG, and other participating parties that settle emissions-related claims for 2.0 and 3.0 liter diesel vehicles of certain models and years. The legislature deems the department of ecology the responsible agency for the administration and expenditure of funds provided by the trustee under the terms of the consent decrees, including the development of a mitigation plan to guide the use of the funds, whether or not the department receives funds directly for projects included in the plan.



(2) The mitigation plan and the stewardship of project implementation must adhere to the following guidelines:

(a) Consideration must be given to investments in areas where public health is most impacted by nitrogen oxides pollution, and especially in areas where disadvantaged communities reside;

(b) Investments must fund, to the extent possible: (i) Projects that have not been funded or implemented by June 30, 2017, to mitigate nitrogen oxides pollution; and (ii) projects that do not replace projects and activities that were funded on or before June 30, 2017, for implementation after that date, to address such pollution by achieving an identical or substantially similar objective;

(c) Investments in clean vehicles or clean engine replacements must be shown to be cost-effective and, for the purposes of leveraging funding, may not exceed the incremental cost of the clean vehicle or clean engine replacement, relative to the cost of a similar conventionally fueled vehicle or conventionally fueled engine replacement;

(d) Consideration must be given to investments in projects that employ a range of fueling technologies and emissions reduction technologies; and

(e) Priority must be given to projects that have the highest benefit-cost ratios, in terms of the amount of nitrogen oxides emissions reduced per dollar invested.

(3) Funding must be allocated to eligible projects under the terms of the consent decrees in the following manner:

(a)(i) No more than thirty percent of funding provided for commercial vehicle class four through eight transit buses;

(ii) No more than twenty percent of funding provided for commercial vehicle class four through eight school and shuttle buses;

(iii) No more than twenty percent of funding provided for (A) commercial vehicle class eight local freight trucks and port drayage trucks and (B) commercial vehicle class four through seven local freight trucks;

(iv) No more than fifteen percent of funding provided for light duty, zero emission vehicle supply equipment;

(v) No more than thirty percent of funding provided for nonfederal matching funds for projects eligible under the diesel emission reduction act option; and

(vi) No more than ten percent of funding provided for other mitigation actions that are eligible under the consent decrees but not otherwise specified under this subsection (3)(a).

(b) Projects that receive funding under subsection (3)(a)(iii) of this section and ocean-going vessels shorepower projects that receive funding under subsection (3)(a)(vi) of this section must include electric technologies, if practicable.

(4)(a)(i) For the purposes of administering subsection (3)(a)(i), (iii), (iv), and, as needed, (vi) of this section, the department of ecology shall enter into an interagency agreement with the department of transportation. The department of transportation is responsible for proposing candidate projects under these subsections, for working with the department of ecology to determine its benefit-cost ratios under subsection (2)(e) of this section, and for prioritizing these candidate projects accordingly. The department of ecology shall work collaboratively with the department of transportation to develop and implement the elements of the mitigation plan that address these categories of projects.

(ii) In meeting its requirements under (a)(i) of this subsection, the department of transportation shall consider plans approved under the consent decrees governing zero emission vehicle infrastructure development identified in subsection (1) of this section, making reasonable efforts to select candidate projects that are complementary to those plans. The department of transportation shall also consider and utilize, where appropriate

and to the extent possible, the following existing programs for alternative fuels and zero emission vehicles:

(A) The department of transportation's electric vehicle infrastructure bank program;

(B) The state alternative fuel commercial vehicle tax credit;

(C) The state sales and use tax exemption for clean vehicles; and

(D) Public transportation grant programs administered by the department of transportation.

(iii) To guide the department of transportation in meeting its responsibilities under (a)(i) of this subsection during the 2017-2019 fiscal biennium, a steering committee is established, consisting of: The chairs and ranking minority members of the house of representatives and senate transportation committees, or their designees; the director of the department of ecology; and the secretary of transportation or his or her designee. The steering committee must meet as needed to support the department of transportation's contribution to the elements of the mitigation plan that address the categories of projects referenced in subsection (3)(a)(i), (iii), (iv), and (vi) of this section. Staff support must be provided by the joint transportation committee and nonpartisan committee staff of the house of representatives and senate transportation committees. The department of transportation staff must provide technical support, as needed.

(b) For the purposes of administering subsection (3)(a)(ii) of this section, including the development of the mitigation plan, the department of ecology shall enter into an interagency agreement with the office of the superintendent of public instruction. The superintendent, in consultation with the director of the department of ecology, is authorized to establish a grant program for the purposes of providing funding to school districts for school bus-related projects. Pursuant to the guidelines in subsection (2)(c) of this section, funding may be provided for only the incremental costs of projects above the costs of standard school bus or school bus engine replacement under current school bus depreciation funding requirements. Any grant funding provided under this subsection is temporary in nature and is for enhancements outside the basic education program.

(c) The department of ecology shall complete development of the mitigation plan according to the timeline required by the trustee. The department of ecology must submit the mitigation plan to the appropriate committees of the legislature, as well as benefit-cost information for projects pursuant to the guideline under subsection (2)(e) of this section, on the same day that the plan is submitted to the trustee.

(5) To the extent this section conflicts with the consent decrees, the consent decrees supersede it.

(6) The department of ecology may modify the mitigation plan as needed to comply with trustee requirements, including to the extent these modifications conflict with this section. In making any adjustments, the department of ecology shall consult with the department of transportation and the office of the superintendent of public instruction and provide notice to the steering committee of any significant changes to the plan submitted.

(7) For the purposes of this section:

(a) "Project" means an eligible mitigation action under the terms of the consent decrees entered into by the United States, Volkswagen AG, and other participating parties that settle emissions-related claims for 2.0 and 3.0 liter diesel vehicles of certain models and years.

(b) "Trustee" means the entity selected under the terms of the consent decrees to administer the disbursement of funds to eligible projects for the purposes of mitigating nitrogen oxides emission pollution.

**Sec. 704.** RCW 43.19.642 and 2016 c 197 s 2 are each amended to read as follows:

ONE HUNDRED FIRST DAY, APRIL 19, 2017

2017 REGULAR SESSION

(1) Effective June 1, 2006, for agencies complying with the ultra-low sulfur diesel mandate of the United States environmental protection agency for on-highway diesel fuel, agencies shall use biodiesel as an additive to ultra-low sulfur diesel for lubricity, provided that the use of a lubricity additive is warranted and that the use of biodiesel is comparable in performance and cost with other available lubricity additives. The amount of biodiesel added to the ultra-low sulfur diesel fuel shall be not less than two percent.

(2) Except as provided in subsection (5) of this section, effective June 1, 2009, state agencies are required to use a minimum of twenty percent biodiesel as compared to total volume of all diesel purchases made by the agencies for the operation of the agencies' diesel-powered vessels, vehicles, and construction equipment.

(3) All state agencies using biodiesel fuel shall, beginning on July 1, 2016, file annual reports with the department of enterprise services documenting the use of the fuel and a description of how any problems encountered were resolved.

(4) By December 1, 2009, the department of enterprise services shall:

(a) Report to the legislature on the average true price differential for biodiesel by blend and location; and

(b) Examine alternative fuel procurement methods that work to address potential market barriers for in-state biodiesel producers and report these findings to the legislature.

(5) During the ~~((2011-2013, 2013-2015, and))~~ 2015-2017 and 2017-2019 fiscal biennia, the Washington state ferries is required to use a minimum of five percent biodiesel as compared to total volume of all diesel purchases made by the Washington state ferries for the operation of the Washington state ferries diesel-powered vessels, as long as the price of a B5 biodiesel blend does not exceed the price of conventional diesel fuel by five percent or more.

**Sec. 705.** RCW 46.20.745 and 2013 c 306 s 712 are each amended to read as follows:

(1) The ignition interlock device revolving account program is created within the department to assist in covering the monetary costs of installing, removing, and leasing an ignition interlock device, and applicable licensing, for indigent persons who are required under RCW 46.20.385, 46.20.720, and 46.61.5055 to install an ignition interlock device in all vehicles owned or operated by the person. For purposes of this subsection, "indigent" has the same meaning as in RCW 10.101.010, as determined by the department. During the ~~((2013-2015))~~ 2017-2019 fiscal biennium, the ignition interlock device revolving account program also includes ignition interlock enforcement work conducted by the Washington state patrol.

(2) A pilot program is created within the ignition interlock device revolving account program for the purpose of monitoring compliance by persons required to use ignition interlock devices and by ignition interlock companies and vendors.

(3) The department, the state patrol, and the Washington traffic safety commission shall coordinate to establish a compliance pilot program that will target at least one county from eastern Washington and one county from western Washington, as determined by the department, state patrol, and Washington traffic safety commission.

(4) At a minimum, the compliance pilot program shall:

(a) Review the number of ignition interlock devices that are required to be installed in the targeted county and the number of ignition interlock devices actually installed;

(b) Work to identify those persons who are not complying with ignition interlock requirements or are repeatedly violating ignition interlock requirements; and

(c) Identify ways to track compliance and reduce noncompliance.

(5) As part of monitoring compliance, the Washington traffic safety commission shall also track recidivism for violations of RCW 46.61.502 and 46.61.504 by persons required to have an ignition interlock driver's license under RCW 46.20.385 and 46.20.720.

**Sec. 706.** RCW 46.68.030 and 2016 c 28 s 2 are each amended to read as follows:

(1) The director shall forward all fees for vehicle registrations under chapters 46.16A and 46.17 RCW, unless otherwise specified by law, to the state treasurer with a proper identifying detailed report. The state treasurer shall credit these moneys to the motor vehicle fund created in RCW 46.68.070.

(2) Proceeds from vehicle license fees and renewal vehicle license fees must be deposited by the state treasurer as follows:

(a) \$23.60 of each initial or renewal vehicle license fee must be deposited in the state patrol highway account in the motor vehicle fund, hereby created. Vehicle license fees, renewal vehicle license fees, and all other funds in the state patrol highway account must be for the sole use of the Washington state patrol for highway activities of the Washington state patrol, subject to proper appropriations and reappropriations.

(b) \$2.02 of each initial vehicle license fee and \$0.93 of each renewal vehicle license fee must be deposited each biennium in the Puget Sound ferry operations account.

(c) Any remaining amounts of vehicle license fees and renewal vehicle license fees that are not distributed otherwise under this section must be deposited in the motor vehicle fund.

(3) During the 2015-2017 fiscal biennium, the legislature may transfer from the state patrol highway account to the connecting Washington account such amounts as reflect the excess fund balance of the state patrol highway account.

(4) During the 2017-2019 fiscal biennium, the legislature may direct the state treasurer to make transfers of moneys in the state patrol highway account to the connecting Washington account.

**Sec. 707.** RCW 46.68.060 and 2015 3rd sp.s. c 43 s 602 are each amended to read as follows:

There is hereby created in the state treasury a fund to be known as the highway safety fund to the credit of which must be deposited all moneys directed by law to be deposited therein. This fund must be used for carrying out the provisions of law relating to driver licensing, driver improvement, financial responsibility, cost of furnishing abstracts of driving records and maintaining such case records, and to carry out the purposes set forth in RCW 43.59.010, and chapters 46.72 and 46.72A RCW. During the 2013-2015 and 2015-2017 fiscal biennia, the legislature may transfer from the highway safety fund to the Puget Sound ferry operations account, the motor vehicle fund, and the multimodal transportation account such amounts as reflect the excess fund balance of the highway safety fund. During the 2017-2019 fiscal biennium, the legislature may direct the state treasurer to make transfers of moneys in the highway safety fund to the state patrol highway account and the connecting Washington account.

**Sec. 708.** RCW 46.68.280 and 2015 3rd sp.s. c 43 s 603 are each amended to read as follows:

(1) The transportation 2003 account (nickel account) is hereby created in the motor vehicle fund. Money in the account may be spent only after appropriation. Expenditures from the account must be used only for projects or improvements identified as transportation 2003 projects or improvements in the omnibus transportation budget and to pay the principal and interest on the bonds authorized for transportation 2003 projects or improvements. Upon completion of the projects or improvements identified as transportation 2003 projects or improvements,

moneys deposited in this account must only be used to pay the principal and interest on the bonds authorized for transportation 2003 projects or improvements, and any funds in the account in excess of the amount necessary to make the principal and interest payments may be used for maintenance on the completed projects or improvements.

(2) During the 2015-2017 fiscal biennium, the legislature may transfer from the transportation 2003 account (nickel account) to the connecting Washington account such amounts as reflect the excess fund balance of the transportation 2003 account (nickel account).

(3) During the 2017-2019 fiscal biennium, the legislature may direct the state treasurer to make transfers of moneys in the transportation 2003 account (nickel account) to the connecting Washington account.

(4) The "nickel account" means the transportation 2003 account.

**Sec. 709.** RCW 46.68.290 and 2015 3rd sp.s. c 43 s 604 are each amended to read as follows:

(1) The transportation partnership account is hereby created in the state treasury. All distributions to the account from RCW 46.68.090 must be deposited into the account. Money in the account may be spent only after appropriation. Expenditures from the account must be used only for projects or improvements identified as 2005 transportation partnership projects or improvements in the omnibus transportation appropriations act, including any principal and interest on bonds authorized for the projects or improvements.

(2) The legislature finds that:

(a) Citizens demand and deserve accountability of transportation-related programs and expenditures. Transportation-related programs must continuously improve in quality, efficiency, and effectiveness in order to increase public trust;

(b) Transportation-related agencies that receive tax dollars must continuously improve the way they operate and deliver services so citizens receive maximum value for their tax dollars; and

(c) Fair, independent, comprehensive performance audits of transportation-related agencies overseen by the elected state auditor are essential to improving the efficiency, economy, and effectiveness of the state's transportation system.

(3) For purposes of chapter 314, Laws of 2005:

(a) "Performance audit" means an objective and systematic assessment of a state agency or agencies or any of their programs, functions, or activities by the state auditor or designee in order to help improve agency efficiency, effectiveness, and accountability. Performance audits include economy and efficiency audits and program audits.

(b) "Transportation-related agency" means any state agency, board, or commission that receives funding primarily for transportation-related purposes. At a minimum, the department of transportation, the transportation improvement board or its successor entity, the county road administration board or its successor entity, and the traffic safety commission are considered transportation-related agencies. The Washington state patrol and the department of licensing shall not be considered transportation-related agencies under chapter 314, Laws of 2005.

(4) Within the authorities and duties under chapter 43.09 RCW, the state auditor shall establish criteria and protocols for performance audits. Transportation-related agencies shall be audited using criteria that include generally accepted government auditing standards as well as legislative mandates and performance objectives established by state agencies. Mandates include, but are not limited to, agency strategies, timelines,

program objectives, and mission and goals as required in RCW 43.88.090.

(5) Within the authorities and duties under chapter 43.09 RCW, the state auditor may conduct performance audits for transportation-related agencies. The state auditor shall contract with private firms to conduct the performance audits.

(6) The audits may include:

(a) Identification of programs and services that can be eliminated, reduced, consolidated, or enhanced;

(b) Identification of funding sources to the transportation-related agency, to programs, and to services that can be eliminated, reduced, consolidated, or enhanced;

(c) Analysis of gaps and overlaps in programs and services and recommendations for improving, dropping, blending, or separating functions to correct gaps or overlaps;

(d) Analysis and recommendations for pooling information technology systems used within the transportation-related agency, and evaluation of information processing and telecommunications policy, organization, and management;

(e) Analysis of the roles and functions of the transportation-related agency, its programs, and its services and their compliance with statutory authority and recommendations for eliminating or changing those roles and functions and ensuring compliance with statutory authority;

(f) Recommendations for eliminating or changing statutes, rules, and policy directives as may be necessary to ensure that the transportation-related agency carry out reasonably and properly those functions vested in the agency by statute;

(g) Verification of the reliability and validity of transportation-related agency performance data, self-assessments, and performance measurement systems as required under RCW 43.88.090;

(h) Identification of potential cost savings in the transportation-related agency, its programs, and its services;

(i) Identification and recognition of best practices;

(j) Evaluation of planning, budgeting, and program evaluation policies and practices;

(k) Evaluation of personnel systems operation and management;

(l) Evaluation of purchasing operations and management policies and practices;

(m) Evaluation of organizational structure and staffing levels, particularly in terms of the ratio of managers and supervisors to nonmanagement personnel; and

(n) Evaluation of transportation-related project costs, including but not limited to environmental mitigation, competitive bidding practices, permitting processes, and capital project management.

(7) Within the authorities and duties under chapter 43.09 RCW, the state auditor must provide the preliminary performance audit reports to the audited state agency for comment. The auditor also may seek input on the preliminary report from other appropriate officials. Comments must be received within thirty days after receipt of the preliminary performance audit report unless a different time period is approved by the state auditor. The final performance audit report shall include the objectives, scope, and methodology; the audit results, including findings and recommendations; the agency's response and conclusions; and identification of best practices.

(8) The state auditor shall provide final performance audit reports to the citizens of Washington, the governor, the joint legislative audit and review committee, the appropriate legislative committees, and other appropriate officials. Final performance audit reports shall be posted on the internet.

(9) The audited transportation-related agency is responsible for follow-up and corrective action on all performance audit findings and recommendations. The audited agency's plan for addressing

ONE HUNDRED FIRST DAY, APRIL 19, 2017

2017 REGULAR SESSION

each audit finding and recommendation shall be included in the final audit report. The plan shall provide the name of the contact person responsible for each action, the action planned, and the anticipated completion date. If the audited agency does not agree with the audit findings and recommendations or believes action is not required, then the action plan shall include an explanation and specific reasons.

The office of financial management shall require periodic progress reports from the audited agency until all resolution has occurred. The office of financial management is responsible for achieving audit resolution. The office of financial management shall annually report by December 31st the status of performance audit resolution to the appropriate legislative committees and the state auditor. The legislature shall consider the performance audit results in connection with the state budget process.

The auditor may request status reports on specific audits or findings.

(10) For the period from July 1, 2005, until June 30, 2007, the amount of \$4,000,000 is appropriated from the transportation partnership account to the state auditors office for the purposes of subsections (2) through (9) of this section.

(11) During the 2015-2017 fiscal biennium, the legislature may transfer from the transportation partnership account to the connecting Washington account such amounts as reflect the excess fund balance of the transportation partnership account.

(12) During the 2017-2019 fiscal biennium, the legislature may direct the state treasurer to make transfers of moneys in the transportation partnership account to the connecting Washington account.

**Sec. 710.** RCW 46.68.325 and 2015 1st sp.s. c 10 s 703 are each amended to read as follows:

(1) The rural mobility grant program account is created in the state treasury. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for the grants provided under RCW 47.66.100.

(2) Beginning September 2011, by the last day of September, December, March, and June of each year, the state treasurer shall transfer from the multimodal transportation account to the rural mobility grant program account two million five hundred thousand dollars.

(3) During the ~~((2013-2015 and))~~ 2015-2017 fiscal ~~((biennia))~~ biennium, the legislature may transfer from the rural mobility grant program account to the multimodal transportation account such amounts as reflect the excess fund balance of the rural mobility grant program account.

(4) During the 2017-2019 fiscal biennium, the legislature may direct the state treasurer to make transfers of moneys in the rural mobility grant program account to the multimodal transportation account.

**Sec. 711.** RCW 47.26.086 and 2011 c 120 s 7 are each amended to read as follows:

Transportation improvement account projects selected for funding programs after fiscal year 1995 are governed by the requirements of this section.

The board shall allocate funds from the account by June 30th of each year for the ensuing fiscal year to urban counties, cities with a population of five thousand and over, and to transportation benefit districts. Projects may include, but are not limited to, multiagency projects and arterial improvement projects in fast-growing areas. During the 2017-2019 fiscal biennium, projects may also include the relight Washington program. The board shall endeavor to provide geographical diversity in selecting improvement projects to be funded from the account.

To be eligible to receive these funds, a project must be consistent with the growth management act, the clean air act

including conformity, and the commute trip reduction law and consideration must have been given to the project's relationship, both actual and potential, with the statewide rail passenger program and rapid mass transit. Projects must be consistent with any adopted high capacity transportation plan, must consider existing or reasonably foreseeable congestion levels attributable to economic development or growth and all modes of transportation and safety, and must be partially funded by local government or private contributions, or a combination of such contributions. Priority consideration shall be given to those projects with the greatest percentage of local or private contribution, or both.

Within one year after board approval of an application for funding, the lead agency shall provide written certification to the board of the pledged local and private funding for the phase of the project approved. Funds allocated to an applicant that does not certify its funding within one year after approval may be reallocated by the board.

**Sec. 712.** RCW 47.56.876 and 2015 1st sp.s. c 10 s 706 are each amended to read as follows:

A special account to be known as the state route number 520 civil penalties account is created in the state treasury. All state route number 520 bridge replacement and HOV program civil penalties generated from the nonpayment of tolls on the state route number 520 corridor must be deposited into the account, as provided under RCW 47.56.870(4)(b)(vii). Moneys in the account may be spent only after appropriation. Expenditures from the account may be used to fund any project within the state route number 520 bridge replacement and HOV program, including mitigation. During the 2013-2015 and 2015-2017 fiscal biennia, the legislature may transfer from the state route number 520 civil penalties account to the state route number 520 corridor account such amounts as reflect the excess fund balance of the state route number 520 civil penalties account. Funds transferred must be used solely for capital expenditures for the state route number 520 bridge replacement and HOV project. During the 2017-2019 fiscal biennium, the legislature may direct the state treasurer to make transfers of moneys in the state route number 520 civil penalties account to the state route number 520 corridor account.

**Sec. 713.** RCW 81.53.281 and 2016 c 14 s 701 are each amended to read as follows:

There is hereby created in the state treasury a "grade crossing protective fund" to carry out the provisions of RCW 81.53.261, 81.53.271, 81.53.281, 81.53.291, and 81.53.295; for grants and/or subsidies to public, private, and nonprofit entities for rail safety projects authorized or ordered by the commission; and for personnel and associated costs related to supervising and administering rail safety grants and/or subsidies. During the 2013-2015 fiscal biennium, funds in this account may also be used to conduct the study required under section 102, chapter 222, Laws of 2014. The commission shall transfer from the public service revolving fund's miscellaneous fees and penalties accounts moneys appropriated for these purposes as needed. At the time the commission makes each allocation of cost to said grade crossing protective fund, it shall certify that such cost shall be payable out of said fund. When federal-aid highway funds are involved, the department of transportation shall, upon entry of an order by the commission requiring the installation or upgrading of a grade crossing protective device, submit to the commission an estimate for the cost of the proposed installation and related work. Upon receipt of the estimate the commission shall pay to the department of transportation the percentage of the estimate specified in RCW 81.53.295, as now or hereafter amended, to be used as the grade crossing protective fund portion of the cost of the installation and related work.

The commission may adopt rules for the allocation of money from the grade crossing protective fund. During the 2015-2017 and 2017-2019 fiscal (~~biennium~~) biennia, the commission may waive rules regarding local matching fund requirements, maximum awards for individual projects, and other application requirements as necessary to expedite the allocation of money from the grade crossing protective fund to address underprotected grade crossings as identified by the commission.

**2015-2017 FISCAL BIENNIUM  
GENERAL GOVERNMENT AGENCIES—  
OPERATING**

**Sec. 801.** 2016 c 14 s 102 (uncodified) is amended to read as follows:

**FOR THE UTILITIES AND TRANSPORTATION COMMISSION**

Grade Crossing Protective Account—State  
Appropriation ~~(\$1,604,000)~~  
\$504,000

**Sec. 802.** 2016 c 14 s 103 (uncodified) is amended to read as follows:

**FOR THE OFFICE OF FINANCIAL MANAGEMENT**  
Motor Vehicle Account—State Appropriation ~~(\$2,296,000)~~  
\$2,196,000

Puget Sound Ferry Operations Account—State  
Appropriation \$115,000  
State Patrol Highway Account—State Appropriation  
\$150,000  
TOTAL APPROPRIATION \$2,561,000  
\$2,461,000

The appropriations in this section are subject to the following conditions and limitations:

(1) \$835,000 of the motor vehicle account—state appropriation is provided solely for the office of financial management, from amounts set aside out of statewide fuel taxes distributed to counties according to RCW 46.68.120(3), to contract with the Washington state association of counties to develop, implement, and report on transportation metrics associated with transportation system policy goals outlined in RCW 47.04.280. The Washington state association of counties, in cooperation with state agencies, must: Evaluate and implement opportunities to streamline reporting of county transportation financial data; expand reporting and collection of short-span bridge and culvert data; evaluate and report on the impact of increased freight and rail traffic on county roads; and to evaluate, implement, and report on the opportunities for improved capital project management and delivery.

(2) \$100,000 of the motor vehicle account—state appropriation is provided solely for the office of financial management, from funds set aside out of statewide fuel taxes distributed to counties according to RCW 46.68.120(3), to contract with the Washington state association of counties to work with the department of fish and wildlife to develop voluntary programmatic agreements for the maintenance, preservation, rehabilitation, and replacement of water crossing structures. A report must be presented to the legislature by December 31, 2016, on the implementation of developed voluntary programmatic agreements.

(3) \$150,000 of the state patrol highway account—state appropriation is provided solely for an organizational assessment of the Washington state patrol.

(4) The office of financial management, in conjunction with the office of the chief information officer, shall provide oversight and review of the department of transportation's development of the request for proposal for a new tolling customer service toll collection system and development of a project management plan as required in section 209(8) (~~of this act~~), chapter 14, Laws of 2016.

**Sec. 803.** 2016 c 14 s 104 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF AGRICULTURE**

Motor Vehicle Account—State Appropriation ~~(\$1,240,000)~~  
\$1,239,000

**TRANSPORTATION AGENCIES—OPERATING**

**Sec. 901.** 2016 c 14 s 201 (uncodified) is amended to read as follows:

**FOR THE WASHINGTON TRAFFIC SAFETY COMMISSION**

Highway Safety Account—State Appropriation  
~~(\$3,183,000)~~  
\$3,175,000

Highway Safety Account—Federal Appropriation  
~~(\$21,644,000)~~  
\$22,035,000

Highway Safety Account—Private/Local Appropriation  
\$118,000

School Zone Safety Account—State Appropriation  
\$850,000

TOTAL APPROPRIATION \$25,795,000  
\$26,178,000

The appropriations in this section are subject to the following conditions and limitations:

(1) The commission may continue to oversee pilot projects implementing the use of automated traffic safety cameras to detect speed violations within cities west of the Cascade mountains that have a population of more than one hundred ninety-five thousand and that are located in a county with a population of fewer than one million five hundred thousand. For the purposes of pilot projects in this subsection, no more than one automated traffic safety camera may be used to detect speed violations within any one jurisdiction.

(a) The commission shall comply with RCW 46.63.170 in administering the pilot projects.

(b) By January 1, 2017, any local authority that is operating an automated traffic safety camera to detect speed violations must provide a summary to the transportation committees of the legislature concerning the use of the cameras and data regarding infractions, revenues, and costs.

(2) \$99,000 of the highway safety account—state appropriation is provided solely for the implementation of chapter 243, Laws of 2015 (pedestrian safety reviews).

(3) ~~(\$6,500,000)~~ \$1,030,000 of the highway safety account—federal appropriation is provided solely for federal funds that may be obligated to the commission pursuant to 23 U.S.C. Sec. 164 during the 2015-2017 fiscal biennium.

(4) Within current resources, the commission must examine the declining revenue going to the school zone safety account with the goal of identifying factors contributing to the decline. By December 31, 2015, the commission must provide a report to the transportation committees of the legislature that summarizes its findings and provides recommendations designed to ensure that the account is receiving all amounts that should be deposited into the account.

**Sec. 902.** 2016 c 14 s 202 (uncodified) is amended to read as follows:

**FOR THE COUNTY ROAD ADMINISTRATION BOARD**

Rural Arterial Trust Account—State Appropriation  
\$1,000,000

Motor Vehicle Account—State Appropriation ~~(\$2,459,000)~~  
\$2,404,000

County Arterial Preservation Account—State  
Appropriation \$1,518,000

TOTAL APPROPRIATION \$4,977,000

\$4,922,000

**Sec. 903.** 2016 c 14 s 203 (uncodified) is amended to read as follows:

**FOR THE TRANSPORTATION IMPROVEMENT BOARD**

Transportation Improvement Account—State  
 Appropriation (~~(\$4,063,000)~~)  
\$4,035,000

**Sec. 904.** 2016 c 14 s 204 (uncodified) is amended to read as follows:

**FOR THE JOINT TRANSPORTATION COMMITTEE**  
 Motor Vehicle Account—State Appropriation (~~(\$2,222,000)~~)  
\$2,272,000

The appropriation in this section is subject to the following conditions and limitations:

(1)(a) \$250,000 of the motor vehicle account—state appropriation is for a consultant study of Washington state patrol recruitment and retention of troopers. The study must identify barriers to effective candidate recruitment, candidates' successful completion of training, and retention of trained troopers of various tenure. The study must provide:

- (i) An overview of current attrition rates;
- (ii) Options and strategies on reducing the average number of trooper positions that are vacant;
- (iii) Identification of best practices for recruitment and retention of law enforcement officers;
- (iv) Recommendations to improve existing recruitment and selection programs;
- (v) Recommendations for where salary and benefit adjustments should be targeted to most effectively address recruitment and retention challenges;
- (vi) Recommendations regarding changes to the training and education program; and
- (vii) Other recommendations for cost-effective personnel strategies.

(b) The joint transportation committee shall issue a report of its findings to the house and senate transportation committees by December 14, 2015. The Washington state patrol shall work with the consultant to identify costs for each recommendation.

(2)(a) \$125,000 of the motor vehicle account—state appropriation is for a study of Washington state weigh station planning, placement, and operations by the Washington state patrol and department of transportation as they relate to roadway safety and preservation. The study must:

- (i) Provide a high-level overview of commercial vehicle enforcement programs, with a focus on weigh stations, including both state and federal funding programs. This overview must include a description of how the Washington state patrol and department of transportation allocate these state and federal funds.
- (ii) Review Washington state patrol and department of transportation planning related to weigh station location and operation, and the extent to which their efforts complement, coordinate with, or overlap each other;
- (iii) Identify best practices in the funding, placement, and operation of weigh stations;
- (iv) Review plans by the department of transportation and Washington state patrol to reopen a Federal Way area southbound weigh station;
- (v) Recommend changes in state statutes, policy, or agency practices and rules to improve the efficiency and effectiveness of weigh station funding, placement, and operation, including potential savings to be achieved by adopting the changes; and

(vi) Review whether it is cost-effective or more efficient to place future weigh stations in the median of a highway instead of placing two individual weigh stations on either side of a highway.

(b) The joint transportation committee must issue a report of its findings and recommendations to the house of representatives and senate transportation committees by December 14, 2015.

(3) \$250,000 of the motor vehicle account—state appropriation, from the cities' statewide fuel tax distributions under RCW 46.68.110(2), is for a study to be conducted in 2016 to identify prominent road-rail conflicts, recommend a corridor-based prioritization process for addressing the impacts of projected increases in rail traffic, and identify areas of state public policy interest, such as the critical role of freight movement to the Washington economy and the state's competitiveness in world trade. The study must consider the results of the updated marine cargo forecast due to be delivered to the joint transportation committee on December 1, 2015. In conducting the study, the joint transportation committee must consult with the department of transportation, the freight mobility strategic investment board, the utilities and transportation commission, local governments, and other relevant stakeholders. The joint transportation committee must issue a report of its recommendations and findings by January 9, 2017.

(4) The legislature intends for the joint transportation committee to undertake a study during the 2017-2019 fiscal biennium of consolidating rail employee safety and regulatory functions in the utilities and transportation commission. The joint transportation committee should review the information provided by the utilities and transportation commission and should provide recommendations to the transportation committees of the legislature regarding such a consolidation of rail employee safety and regulatory functions.

(5) Within existing resources, during the interim periods between regular sessions of the legislature, the joint transportation committee shall include on its agendas work sessions on the Alaskan Way viaduct replacement project. These work sessions must include a report on current progress of the project, timelines for completion, outstanding claims, the financial status of the project, and any other information necessary for the legislature to maintain appropriate oversight of the project. The parties invited to present may include the department of transportation, the Seattle tunnel partners, and other appropriate stakeholders. The joint transportation committee shall have at least two such work sessions before December 31, 2015.

(6) \$450,000 of the motor vehicle account—state appropriation is for the design-build contracting review study established in chapter 18, Laws of 2015 3rd sp. sess. The department of transportation must provide technical assistance, as necessary.

(7) The joint transportation committee must study the issues surrounding minority and women-owned business contracting related to the transportation sector. The study should identify any best practices adopted in other states that encourage participation by minority and women-owned businesses. The joint transportation committee, with direction from the executive committee, may form a legislative task force at the conclusion of the study to help to inform the legislature of any best practices identified from other states that encourage minority and women-owned businesses' participation in the transportation sector.

**Sec. 905.** 2016 c 14 s 205 (uncodified) is amended to read as follows:

**FOR THE TRANSPORTATION COMMISSION**  
 Motor Vehicle Account—State Appropriation (~~(\$2,667,000)~~)  
\$2,516,000

Motor Vehicle Account—Federal	Appropriation
\$500,000	
Multimodal Transportation Account—State	
Appropriation	\$112,000
<b>TOTAL APPROPRIATION</b>	<b>\$3,279,000</b>
	<u>\$3,128,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$300,000 of the motor vehicle account—state appropriation is provided solely to continue evaluating a road usage charge as an alternative to the motor vehicle fuel tax to fund investments in transportation. The evaluation must include monitoring and reviewing work that is underway in other states and nationally. The commission may coordinate with the department of transportation to jointly pursue any federal or other funds that are or might become available and eligible for road usage charge pilot projects. The commission must reconvene the road usage charge steering committee, with the same membership authorized in chapter 222, Laws of 2014, and report to the governor's office and the transportation committees of the house of representatives and the senate by December 15, 2015.

(2) \$150,000 of the motor vehicle account—state appropriation is provided solely for the commission to use an outside survey firm to conduct three transportation surveys during the 2015-2017 fiscal biennium. The commission must consult with the joint transportation committee when deciding on the survey topics and design to ensure the survey results will deliver the data, information, and analysis for future transportation policy and strategic planning decisions in a manner useful to the legislature.

(3)(a) The legislature finds that, while some travel times have improved through Interstate 405 between the junctions with Interstate 5 on the north end and NE 6th Street in the city of Bellevue on the south end, especially for transit trips, the implementation of the express toll lane system has made travel more difficult for a number of other drivers and trips. To provide some relief to drivers, the legislature encourages the commission to expedite consideration of the elimination of tolls during evening nonpeak hours, weekends, and holidays, to the extent that such a change will improve commuters' experience on this portion of Interstate 405. The legislature further finds that the commission, as the tolling authority of the state, should act swiftly, working in conjunction with the department of transportation's comprehensive effort to tackle obstacles adversely affecting commutes on this portion of Interstate 405, to drive improved results for the users of this critical corridor as soon as is practicable.

(b) In accordance with the rule-making authority provided under RCW 34.05.350(1)(a), the legislature deems it necessary, for preservation of the general welfare, that operational changes be made to improve the express toll lane program on Interstate 405 and that the tolling authority use its emergency rule-making authority to effect such changes in accordance with RCW 47.56.850 and 47.56.880. The legislature finds that the need for improvements to the commuter experience on the portion of Interstate 405 identified in (a) of this subsection necessitates that such action be taken in an expedited fashion. The tolling authority, with input from the department of transportation, shall evaluate the hours and days of operation for the express toll lanes and the minimum high occupancy vehicle passenger requirements for using the express toll lanes, taking into consideration the goals of: Reducing travel time on this portion of Interstate 405, including in the general purpose lanes; reducing the cost of traveling within the express toll lanes on this portion of Interstate 405; and maintaining sufficient revenue to pay for this portion of Interstate 405's express toll lane operating costs. This subsection (3) does not create a private right of action.

(4)(a) \$500,000 of the motor vehicle account—federal appropriation is provided solely to advance the work completed since 2011 in evaluating a road usage charge as an alternative to the motor vehicle fuel tax to fund future investments in transportation by completing the work necessary to launch a road usage charge pilot project, with all implementation details for a pilot project identified and incorporated into a pilot project implementation plan.

(i) Pilot project implementation preparation must include identification of all essential agency roles and responsibilities for the pilot project, a selection of the technologies and methodologies to be included, a target number of participants and participant characteristics, rigorous specific evaluation criteria by which the pilot project will be assessed, a communication plan for the pilot project that consists of a participant recruitment plan and a plan for communicating information about the launch and ongoing progress of the pilot project, and pilot project expenditure and revenue estimates.

(ii) In developing the road usage charge pilot project implementation plan, the commission shall consult and coordinate with the department of transportation, the department of licensing, the department of revenue, and the office of the state treasurer to establish participation and coordination parameters for the project.

(b) The commission shall coordinate with the department of transportation to jointly pursue any federal or other funds that are or might become available to fund a road usage charge pilot project. Where feasible, grant application content prepared by the commission must reflect the direction provided by the road usage charge steering committee on the preferred road usage charge pilot project approach. One or more grant applications may be developed as part of the road usage charge pilot project implementation plan development work, but the pilot project implementation plan must nevertheless include any details necessary for a full launch of the pilot project not required to be included in any grant application.

(c) The commission shall reconvene the road usage charge steering committee, with the same membership authorized in chapter 222, Laws of 2014, as well as the addition of a representative from the Puget Sound regional council, and may obtain guidance from the steering committee when it reaches key pilot project implementation plan development milestones. The commission must provide a report on the road usage charge pilot project implementation plan that includes all implementation details for a road usage charge pilot project to the governor's office and the transportation committees of the house of representatives and the senate by November 1, 2016.

~~((5) \$150,000 of the motor vehicle account—state appropriation is provided solely for supporting the disadvantaged business enterprise advisory committee established in chapter . . . (Senate Bill No. 6180), Laws of 2016. If chapter . . . (Senate Bill No. 6180), Laws of 2016 is not enacted by June 30, 2016, the amount provided in this subsection lapses.))~~

**Sec. 906.** 2016 c 14 s 206 (uncodified) is amended to read as follows:

**FOR THE FREIGHT MOBILITY STRATEGIC INVESTMENT BOARD**

Motor Vehicle Account—State Appropriation ~~(((\$1,024,000))~~  
\$1,015,000

The appropriation in this section is subject to the following conditions and limitations: \$250,000 of the motor vehicle account—state appropriation is provided solely to conduct a study of freight infrastructure needs, including an update of the long-term marine cargo forecast. The board must work with the Washington public ports association to evaluate: (1) Forecasted cargo movement by commodity, type, and mode of land transport;

ONE HUNDRED FIRST DAY, APRIL 19, 2017

2017 REGULAR SESSION

and (2) current and projected freight infrastructure capacity needs. A report on the study must be delivered to the joint transportation committee by December 1, 2015.

Sec. 907. 2016 c 14 s 207 (uncodified) is amended to read as follows:

**FOR THE WASHINGTON STATE PATROL**

State Patrol Highway Account—State	
Appropriation	<del>(\$415,364,000)</del>
	<u>\$407,845,000</u>
State Patrol Highway Account—Federal	
Appropriation	\$13,291,000
State Patrol Highway Account—Private/Local	
Appropriation	\$3,823,000
Highway Safety Account—State	Appropriation
	\$1,494,000
Multimodal Transportation Account—State	
Appropriation	\$276,000
TOTAL APPROPRIATION	\$434,248,000
	<u>\$426,729,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) Washington state patrol officers engaged in off-duty uniformed employment providing traffic control services to the department of transportation or other state agencies may use state patrol vehicles for the purpose of that employment, subject to guidelines adopted by the chief of the Washington state patrol. The Washington state patrol must be reimbursed for the use of the vehicle at the prevailing state employee rate for mileage and hours of usage, subject to guidelines developed by the chief of the Washington state patrol.

(2) \$510,000 of the highway safety account—state appropriation is provided solely for the ignition interlock program at the Washington state patrol to provide funding for two staff to work and provide support for the program in working with manufacturers, service centers, technicians, and participants in the program.

(3) \$23,000 of the state patrol highway account—state appropriation is provided solely for the implementation of chapter 3, Laws of 2015 2nd sp. sess. (impaired driving).

(4) \$5,000,000 of the state patrol highway account—state appropriation is provided solely for compensation increases for Washington state patrol troopers, sergeants, lieutenants, and captains. This increase is not subject to interest arbitration and is for salary and benefits that are in addition to the current interest arbitration award. It is the intent of the legislature that chapter . . . (Engrossed Second Substitute House Bill No. 2872), Laws of 2016 provide the revenue to support the ongoing costs associated with the compensation increases identified in this subsection in order to provide the means necessary to recruit and retain state patrol officers in subsequent biennia.

(5)(a) The department and the Washington state patrol must work collaboratively to develop a comprehensive plan for weigh station construction and preservation for the entire state. The plan must be submitted to the transportation committees of the legislature by January 1, 2017.

(b) As part of the 2017-2019 biennial budget submittal, the department and the Washington state patrol must jointly submit a prioritized list of weigh station projects for legislative approval.

(6) \$115,000 of the state patrol highway account—state appropriation is provided solely for the operation of the license investigation unit to enforce vehicle registration laws in southwestern Washington.

Sec. 908. 2016 c 14 s 208 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF LICENSING**

Marine Fuel Tax Refund Account—State	
Appropriation	\$34,000
License Plate Technology Account—State	
Appropriation	\$3,200,000
Motorcycle Safety Education Account—State	
Appropriation	\$4,488,000
State Wildlife Account—State	Appropriation
Highway Safety Account—State	\$1,001,000
	Appropriation
	<del>(\$201,666,000)</del>
	<u>\$198,735,000</u>
Highway Safety Account—Federal	Appropriation
	\$3,573,000
Motor Vehicle Account—State	Appropriation
	<del>(\$92,044,000)</del>
	<u>\$92,662,000</u>
Motor Vehicle Account—Federal	Appropriation
	\$362,000
Motor Vehicle Account—Private/Local	Appropriation
	<del>(\$1,544,000)</del>
	<u>\$1,859,000</u>
Ignition Interlock Device Revolving Account—State	
Appropriation	\$5,142,000
Department of Licensing Services Account—State	
Appropriation	<del>(\$6,672,000)</del>
	<u>\$6,671,000</u>
TOTAL APPROPRIATION	\$319,726,000
	<u>\$317,727,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) ~~(\$30,954,000)~~ \$30,250,000 of the highway safety account—state appropriation and \$3,200,000 of the license plate technology account—state appropriation are provided solely for business and technology modernization. The department and the state chief information officer or his or her designee must provide a joint project status report to the transportation committees of the legislature on at least a calendar quarter basis. The report must include, but is not limited to: Detailed information about the planned and actual scope, schedule, and budget; status of key vendor and other project deliverables; and a description of significant changes to planned deliverables or system functions over the life of the project. Project staff will periodically brief the committees or the committees' staff on system security and data protection measures.

(2) \$5,059,000 of the motor vehicle account—state appropriation is provided solely for replacing prorated and fuel tax computer systems used to administer interstate licensing and the collection of fuel tax revenues.

(3) \$3,714,000 of the highway safety account—state appropriation is provided solely for the implementation of an updated central issuance system.

(4) \$3,082,000 of the highway safety account—state appropriation is provided solely for exam and licensing activities, including the workload associated with providing driver record abstracts, and is subject to the following additional conditions and limitations:

(a) The department may furnish driving record abstracts only to those persons or entities expressly authorized to receive the abstracts under Title 46 RCW;

(b) The department may furnish driving record abstracts only for an amount that does not exceed the specified fee amounts in RCW 46.52.130 (2)(e)(v) and (4); and

(c) The department may not enter into a contract, or otherwise participate in any arrangement, with a third party or other state agency for any service that results in an additional cost, in excess of the fee amounts specified in RCW 46.52.130 (2)(e)(v) and (4),



to statutorily authorized persons or entities purchasing a driving record abstract.

(5) The department when modernizing its computer systems must place personal and company data elements in separate data fields to allow the department to select discrete data elements when providing information or data to persons or entities outside the department. This requirement must be included as part of the systems design in the department's business and technology modernization. A person's photo, social security number, or medical information must not be made available through public disclosure or data being provided under RCW 46.12.630 or 46.12.635.

(6) Within existing resources and in consultation with the traffic safety commission, the Washington state patrol, and a representative of the insurance industry and the professional driving school association, the department must review options and make recommendations on strategies for addressing young and high-risk drivers. The recommendations must consider the findings of Washington state's strategic highway safety plan, Target Zero, and must include an analysis of expanding traffic safety education to eighteen to twenty-four year olds that have not taken a traffic safety course and drivers that have been convicted of high-risk behavior, such as driving under the influence of drugs and alcohol and reckless driving. An overview of the work conducted and the recommendations are due to the transportation committees of the legislature and the governor by December 31, 2015.

(7) \$57,000 of the motor vehicle account—state appropriation is provided solely for the implementation of chapter 1, Laws of 2015 2nd sp. sess. (quick title service fees).

(8) \$283,000 of the highway safety account—state appropriation and \$33,000 of the ignition interlock device revolving account—state appropriation are provided solely for the implementation of chapter 3, Laws of 2015 2nd sp. sess. (impaired driving).

(9) \$4,000,000 of the motor vehicle account—state appropriation is provided solely for implementation of chapter 44, Laws of 2015 3rd sp. sess. (transportation revenue).

(10) ~~(\$335,000 of the highway safety account state appropriation is provided solely for the implementation of chapter . . . (Substitute House Bill No. 2942), Laws of 2016 or chapter . . . (Senate Bill No. 6591), Laws of 2016 (nondomiciled commercial drivers' licenses). If both chapter . . . (Substitute House Bill No. 2942), Laws of 2016 and chapter . . . (Senate Bill No. 6591), Laws of 2016 are not enacted by June 30, 2016, the amount provided in this subsection lapses.~~

(41)) \$2,421,000 of the highway safety account—state appropriation is provided solely for costs necessary to accommodate increased demand for enhanced drivers' licenses and enhanced identicards. The office of financial management shall place the entire amount provided in this subsection in unallotted status. The office of financial management may release portions of the funds when it determines that average wait times have increased by more than two minutes based on wait time and volume data provided by the department compared to average wait times and volume during the month of December 2015. The department and the office of financial management shall evaluate the use of these funds on a monthly basis and periodically report to the transportation committees of the legislature on average wait times and volume data for enhanced drivers' licenses and enhanced identicards.

((42)) (11) \$43,000 of the motor vehicle account—state appropriation is provided solely for the implementation of chapter . . . (Senate Bill No. 6200), Laws of 2016 (Washington's fish collection license plate). If chapter . . . (Senate Bill No. 6200),

Laws of 2016 is not enacted by June 30, 2016, the amount provided in this subsection lapses.

((43)) (12) \$388,000 of the highway safety account—state appropriation is provided solely for the implementation of chapter . . . (Engrossed Substitute House Bill No. 2700), Laws of 2016 (impaired driving). If chapter . . . (Engrossed Substitute House Bill No. 2700), Laws of 2016 is not enacted by June 30, 2016, the amount provided in this subsection lapses.

((44)) (13) \$29,000 of the motor vehicle account—state appropriation is provided solely for the implementation of chapter . . . (Substitute Senate Bill No. 6254), Laws of 2016 (Purple Heart license plate). If chapter . . . (Substitute Senate Bill No. 6254), Laws of 2016 is not enacted by June 30, 2016, the amount provided in this subsection lapses.

((45)) (14) \$20,000 of the motor vehicle account—state appropriation is provided solely for the implementation of chapter . . . (Engrossed Substitute House Bill No. 2778), Laws of 2016 (alternative fuel vehicles). If chapter . . . (Engrossed Substitute House Bill No. 2778), Laws of 2016 is not enacted by June 30, 2016, the amount provided in this subsection lapses.

**Sec. 909.** 2016 c 14 s 209 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION—  
TOLL OPERATIONS AND MAINTENANCE—  
PROGRAM B**

High Occupancy Toll Lanes Operations Account—State  
Appropriation ~~(\$3,185,000)~~  
\$3,175,000

Motor Vehicle Account—State Appropriation \$510,000

State Route Number 520 Corridor Account—State

Appropriation \$39,029,000

State Route Number 520 Civil Penalties Account—State

Appropriation \$6,008,000

Tacoma Narrows Toll Bridge Account—State

Appropriation \$26,636,000

Interstate 405 Express Toll Lanes Operations

Account—State Appropriation \$15,552,000

TOTAL APPROPRIATION \$90,920,000

\$90,910,000

The appropriations in this section are subject to the following

conditions and limitations:

(1) \$1,300,000 of the Tacoma Narrows toll bridge account—state appropriation and \$8,157,000 of the state route number 520 corridor account—state appropriation are provided solely for the purposes of addressing unforeseen operations and maintenance costs on the Tacoma Narrows bridge and the state route number 520 bridge, respectively. The office of financial management shall place the amounts provided in this section, which represent a portion of the required minimum fund balance under the policy of the state treasurer, in unallotted status. The office may release the funds only when it determines that all other funds designated for operations and maintenance purposes have been exhausted.

(2) \$4,778,000 of the state route number 520 civil penalties account—state appropriation and \$2,065,000 of the Tacoma Narrows toll bridge account—state appropriation are provided solely for expenditures related to the toll adjudication process. The department shall report on the civil penalty process to the office of financial management and the house of representatives and senate transportation committees by the end of each calendar quarter. The reports must include a summary table for each toll facility that includes: The number of notices of civil penalty issued; the number of recipients who pay before the notice becomes a penalty; the number of recipients who request a hearing and the number who do not respond; workload costs related to hearings; the cost and effectiveness of debt collection activities; and revenues generated from notices of civil penalty.

ONE HUNDRED FIRST DAY, APRIL 19, 2017

2017 REGULAR SESSION

(3) The department shall make detailed quarterly expenditure reports available to the transportation commission and to the public on the department's web site using current department resources. The reports must include a summary of toll revenue by facility on all operating toll facilities and high occupancy toll lane systems, and an itemized depiction of the use of that revenue.

(4) \$3,100,000 of the Interstate 405 express toll lanes operations account—state appropriation, \$1,498,000 of the state route number 520 corridor account—state appropriation, and \$1,802,000 of the high occupancy toll lanes operations account—state appropriation are provided solely for the operation and maintenance of roadside toll collection systems.

(5) \$12,202,000 of the Interstate 405 express toll lanes operations account—state appropriation is provided solely for operational costs related to the express toll lane facility, including the customer service center vendor, transponders, credit card fees, printing and postage, rent, office supplies, telephone and communications equipment, computers, and vehicle operations. Within the amount provided in this subsection, the department must, to the greatest extent possible, without adding additional tolling gantries, continue to expand the length of the access and exit points to the express toll lanes, clarify signage and striping to eliminate confusion, and make other operational and customer service improvements to enhance the public's use of the toll facility. The office of financial management shall place \$5,371,000 of the amount provided in this subsection in unallotted status. The office of financial management may release funds to the department on a monthly basis beginning July 1, 2016; however, the amount to be released monthly must be calculated to address the department's projected expenditure need based on the previous month's actual expenditures, financial statement, actual toll transaction experience, and actual revenue collections for the Interstate 405 express toll lanes facility. Prior to releasing any funding from unallotted status, the office of financial management shall notify the joint transportation committee of the amount to be released and provide the documentation used in determining the amount.

(6) \$250,000 of the Interstate 405 express toll lanes operations account—state appropriation is provided solely for the identification and prioritization of projects that will help reduce congestion and provide added capacity on the Interstate 405 tolling corridor between state route number 522 and Interstate 5.

(7) The department must provide quarterly reports to the transportation committees of the legislature on the Interstate 405 express toll lane project performance measures listed in RCW 47.56.880(4). These reports must include:

(a) Information on the travel times and travel time reliability (at a minimum, average and 90th percentile travel times) maintained during peak and nonpeak periods in the express toll lanes and general purpose lanes for both the entire corridor and commonly made trips in the corridor including, but not limited to, northbound from Bellevue to Rose Hill, state route number 520 at NE 148th to Interstate 405 at state route number 522, Bellevue to Bothell (both NE 8th to state route number 522 and NE 8th to state route number 527), and a trip internal to the corridor (such as NE 85th to NE 160th) and similar southbound trips;

(b) A month-to-month comparison of travel times and travel time reliability for the entire corridor and commonly made trips in the corridor as specified in (a) of this subsection since implementation of the express toll lanes and, to the extent available, a comparison to the travel times and travel time reliability prior to implementation of the express toll lanes;

(c) Total express toll lane and total general purpose lane traffic volumes, as well as per lane traffic volumes for each type of lane (i) compared to total express toll lane and total general purpose

lane traffic volumes, as well as per lane traffic volumes for each type of lane, on this segment of Interstate 405 prior to implementation of the express toll lanes and (ii) compared to total express toll lane and total general purpose lane traffic volumes, as well as per lane traffic volumes for each type of lane, from month to month since implementation of the express toll lanes; and

(d) Underlying congestion measurements, that is, speeds, that are being used to generate the summary graphs provided, to be made available in a digital file format.

(8) \$56,000 of the high occupancy toll lanes operations account—state appropriation, \$1,124,000 of the state route number 520 corridor account—state appropriation, and \$596,000 of the Tacoma Narrows toll bridge account—state appropriation are provided solely for the department to develop a request for proposal for a new tolling customer service center.

(a) The department must address the replacement of the Wave2Go ferry ticketing system that is reaching the end of its useful life by developing functional and technical requirements that integrate Washington state ferries ticketing into the new tolling division customer service center toll collection system. The department shall continue to report quarterly to the governor, legislature, and state auditor on: (i) The department's effort to mitigate risk to the state, (ii) the development of a request for proposal, and (iii) the overall progress towards procuring a new tolling customer service center.

(b) The department shall release a request for proposal for a new tolling customer service toll collection system by December 1, 2016.

(i) During the request for proposal development process and prior to its release, the office of financial management shall review the request for proposal for a new tolling customer service toll collection system to ensure the request for proposal:

(A) Provides for the business needs of the state; and

(B) Mitigates risk to the state.

(ii) During development of the request for proposal and prior to its release, the office of the chief information officer shall review the request for proposal for a new tolling customer service toll collection system to ensure the request for proposal:

(A) Contains requirements that meet the security standards and policies of the office of the chief information officer; and

(B) Is flexible and adaptable to advances in technology.

(c)(i) Prior to commencement of the new tolling customer service toll collection system implementation, the department shall submit a draft project management plan to the office of financial management and the office of the chief information officer that includes a provision for independent verification and validation of contract deliverables from the successful bidder and a provision for quality assurance that includes reporting independently to the office of the chief information officer on an ongoing basis during system implementation;

(ii) The office of financial management and the office of the chief information officer shall review the draft project management plan to ensure that it contains adequate contract management and quality assurance measures.

(iii) The department shall submit the project management plan to the transportation committees of the legislature prior to the commencement of system implementation.

(9) The department shall make detailed quarterly reports to the governor and the transportation committees of the legislature on the following:

(a) The use of consultants in the tolling program, including the name of the contractor, the scope of work, the type of contract, timelines, deliverables, any new task orders, and any extensions to existing consultant contracts;

(b) The nonvendor costs of administering toll operations, including the costs of staffing the division, consultants and other personal service contracts required for technical oversight and management assistance, insurance, payments related to credit card processing, transponder purchases and inventory management, facility operations and maintenance, and other miscellaneous nonvendor costs; and

(c) The vendor-related costs of operating tolled facilities, including the costs of the customer service center, cash collections on the Tacoma Narrows bridge, electronic payment processing, and toll collection equipment maintenance, renewal, and replacement.

(10) \$5,000 of the motor vehicle account—state appropriation is provided solely for membership dues for the alliance for toll interoperability.

(11) \$1,230,000 of the state route number 520 civil penalties account—state appropriation and \$695,000 of the Tacoma Narrows toll bridge account—state appropriation are provided solely to implement chapter 292, Laws of 2015 (tolling customer service reform) to improve integration between the Good to Go! electronic tolling system with the pay-by-mail system through increased communication with customers and improvements to the Good to Go! web site allowing customers to manage all of their toll accounts regardless of method of payment. Within the amounts provided, the department must include in the request for proposals for a new customer service center the requirement that the new tolling customer service center link to the vehicle records system of the department of licensing to enable vehicle record updates that relate to tolling customer accounts to occur between the two systems seamlessly. The department must work with the department of licensing to develop the appropriate specifications to include in the request for proposals to allow the new tolling customer service center to link to the vehicle records system without cost to the department of licensing and report to the transportation committees of the legislature when the appropriate specifications have been completed. By June 30, 2017, the department shall report how many people with Good to Go! accounts were issued civil penalties for each toll facility and whether the number was reduced each fiscal year in the biennium. The department shall also report on the number of customer contacts that occur, number of civil penalties reduced or waived, the amount of the total civil penalties that are waived, and the number of customers that are referred to the administrative law judge process during the biennium.

**Sec. 910.** 2016 c 14 s 210 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION—  
INFORMATION TECHNOLOGY—PROGRAM C**

Transportation Partnership Account—State Appropriation	\$1,460,000		
Motor Vehicle Account—State Appropriation	<del>(\$69,291,000)</del>		
	<u>\$69,281,000</u>		
Multimodal Transportation Account—State Appropriation	\$2,883,000		
Transportation 2003 Account (Nickel Account)—State Appropriation	\$1,460,000		
Puget Sound Ferry Operations Account—State Appropriation	\$263,000		
<b>TOTAL APPROPRIATION</b>		\$75,357,000	
	<u>\$75,347,000</u>		

The appropriations in this section are subject to the following conditions and limitations:

(1) \$1,460,000 of the transportation partnership account—state appropriation and \$1,460,000 of the transportation 2003 account (nickel account)—state appropriation are provided solely for

maintaining the department's project management reporting system.

(2) \$250,000 of the motor vehicle account—state appropriation is provided solely for the development of a timeline and funding plan for the labor system replacement project. As part of its 2017-2019 biennial budget submittal, and in coordination with the office of financial management and the office of the chief information officer, the department shall submit a timeline and funding plan for the labor system replacement project. The plan must identify a timeline and all one-time and ongoing costs for the integration of all headquarters, regional, and marine employees into the new labor system.

**Sec. 911.** 2016 c 14 s 211 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION—  
FACILITY MAINTENANCE, OPERATIONS, AND  
CONSTRUCTION—PROGRAM D—OPERATING**

Motor Vehicle Account—State Appropriation	<del>(\$27,609,000)</del>		
	<u>\$27,592,000</u>		
State Route Number 520 Corridor Account—State Appropriation	\$34,000		
<b>TOTAL APPROPRIATION</b>		\$27,643,000	
	<u>\$27,626,000</u>		

**Sec. 912.** 2016 c 14 s 212 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION—  
AVIATION—PROGRAM F**

Aeronautics Account—State Appropriation	<del>(\$8,628,000)</del>		
	<u>\$8,632,000</u>		
Aeronautics Account—Federal Appropriation	<del>(\$4,100,000)</del>		
	<u>\$1,600,000</u>		
Aeronautics Account—Private/Local Appropriation	\$60,000		
<b>TOTAL APPROPRIATION</b>		\$12,788,000	
	<u>\$10,292,000</u>		

The appropriations in this section are subject to the following conditions and limitations: \$4,557,000 of the aeronautics account—state appropriation is provided solely for airport investment studies and the airport aid grant program, which provides competitive grants to public airports for pavement, safety, maintenance, planning, and security.

**Sec. 913.** 2016 c 14 s 213 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION—  
PROGRAM DELIVERY MANAGEMENT AND  
SUPPORT—PROGRAM H**

Motor Vehicle Account—State Appropriation	<del>(\$53,911,000)</del>		
	<u>\$53,892,000</u>		
Motor Vehicle Account—Federal Appropriation	\$500,000		
Multimodal Transportation Account—State Appropriation	\$250,000		
<b>TOTAL APPROPRIATION</b>		\$54,661,000	
	<u>\$54,642,000</u>		

The appropriations in this section are subject to the following conditions and limitations:

(1) The real estate services division of the department must recover the cost of its efforts from sale proceeds and fund additional future sales from those proceeds.

(2) The legislature recognizes that the trail known as the Rocky Reach Trail, and its extensions, serve to separate motor vehicle traffic from pedestrians and bicyclists, increasing motor vehicle safety on state route number 2 and the coincident section of state route number 97. Consistent with chapter 47.30 RCW and

ONE HUNDRED FIRST DAY, APRIL 19, 2017

2017 REGULAR SESSION

pursuant to RCW 47.12.080, the legislature declares that transferring portions of WSDOT Inventory Control (IC) No. 2-09-04686 containing the trail and associated buffer areas to the Washington state parks and recreation commission is consistent with the public interest. The legislature directs the department to transfer the property to the Washington state parks and recreation commission.

(a) The department must be paid fair market value for any portions of the transferred real property that is later abandoned, vacated, or ceases to be publicly maintained for trail purposes.

(b) Prior to completing the transfer in this subsection (2), the department must ensure that provisions are made to accommodate private and public utilities and any facilities that predate the department's acquisition of the property, at no cost to those entities. Prior to completing the transfer, the department shall also ensure that provisions, by fair market assessment, are made to accommodate other private and public utilities and any facilities that have been legally allowed by permit or other instrument.

(c) The department may sell any adjoining property that is not necessary to support the Rocky Reach Trail and adjacent buffer areas only after the transfer of trail-related property to the Washington state parks and recreation commission is complete. Adjoining property owners must be given the first opportunity to acquire such property that abuts their property, and applicable boundary line or other adjustments must be made to the legal descriptions for recording purposes.

(3) \$250,000 of the motor vehicle account—state appropriation is provided solely for training intended to retain a knowledgeable and competent core technical staff in the changing environment of highway project design and construction and to provide for the efficient and effective delivery and oversight of projects. The training must focus on the following areas:

(a) Training appropriate staff in regard to coordinating and administrating projects with private sector designers and builders for projects delivered by the design-build construction process;

(b) Training on community engagement to provide project managers with the skills necessary to develop personal relations with the leaders of the affected community to blend project needs with the needs of the community, while providing fair treatment and involvement of community groups and individuals regarding elements of a project subject to environmental regulations, laws, and policies;

(c) Training for partnering and team building skills to avoid conflict and reduce construction claims that arise in contract administration; and

(d) Technical design training required in the fields of hydraulics, hydrology, and storm water abatement, and other fields in support of projects dealing with the fish passage program and highway runoff treatment.

Sec. 914. 2016 c 14 s 214 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION—  
ECONOMIC PARTNERSHIPS—PROGRAM K**

Motor Vehicle Account—State Appropriation ~~((\$600,000))~~  
\$604,000

~~((Electric Vehicle Charging Infrastructure  
Account—State Appropriation—\$1,000,000~~

~~TOTAL APPROPRIATION—\$1,600,000~~

The appropriation((s)) in this section ~~((are))~~ is subject to the following conditions and limitations: ~~((+))~~ The economic partnerships program must continue to explore retail partnerships at state-owned park and ride facilities, as authorized in RCW 47.04.295.

~~((3))~~ \$1,000,000 of the electric vehicle charging infrastructure account—state appropriation is provided solely for the purpose of

~~capitalizing the Washington electric vehicle infrastructure bank as provided in chapter 44, Laws of 2015 3rd sp. sess. (transportation revenue-))~~

Sec. 915. 2016 c 14 s 215 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION—  
HIGHWAY MAINTENANCE—PROGRAM M**

Motor Vehicle Account—State Appropriation  
~~((\$418,524,000))~~  
\$424,755,000

Motor Vehicle Account—Federal Appropriation  
~~((\$7,000,000))~~  
\$12,000,000

Tacoma Narrows Toll Bridge Account—State  
Appropriation \$1,235,000  
State Route Number 520 Corridor Account—State  
Appropriation \$4,448,000

TOTAL APPROPRIATION \$431,207,000  
\$442,438,000

The appropriations in this section are subject to the following conditions and limitations:

(1) ~~((\$6,091,000))~~ \$7,122,000 of the motor vehicle account—state appropriation is provided solely for utility fees assessed by local governments as authorized under RCW 90.03.525 for the mitigation of storm water runoff from state highways.

(2) \$4,448,000 of the state route number 520 corridor account—state appropriation is provided solely to maintain the state route number 520 floating bridge. These funds must be used in accordance with RCW 47.56.830(3).

(3) \$1,235,000 of the Tacoma Narrows toll bridge account—state appropriation is provided solely to maintain the new Tacoma Narrows bridge. These funds must be used in accordance with RCW 47.56.830(3).

(4) When regional transit authority construction activities are visible from a state highway, the department shall allow the regional transit authority to place safe and appropriate signage informing the public of the purpose of the construction activity.

(5) The department must make signage for low-height bridges a high priority.

(6) \$25,000 of the motor vehicle account—state appropriation is provided solely for the Northwest avalanche center for an additional forecaster. However, the amount in this subsection is contingent on the state parks and recreation commission receiving funding for its portion of the Northwest avalanche center forecaster in the omnibus appropriations act. If this funding is not provided by June 30, 2016, the appropriation provided in this subsection lapses.

(7) \$1,000,000 of the motor vehicle account—state appropriation is provided solely for safety improvements and operations relating to homeless encampments along Interstate 5 between milepost 162 and milepost 165. The department shall coordinate the timing of the safety improvements with the city of Seattle and King county to ensure that a collaborative and comprehensive approach is taken to address emergency conditions in support of the city's transitional services.

(8) \$5,000,000 of the motor vehicle account—state appropriation is provided solely for extraordinary snow and ice removal expenses and related road repair expenses incurred during the winter of 2016-2017.

Sec. 916. 2016 c 14 s 216 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION—  
TRAFFIC OPERATIONS—PROGRAM Q—OPERATING**

Connecting Washington Account—State Appropriation  
\$30,000

Motor	Vehicle	Account—State	Appropriation
	<del>(\$57,622,000)</del>		
	<u>\$57,504,000</u>		
Motor	Vehicle	Account—Federal	Appropriation
	\$2,050,000		
Motor	Vehicle	Account—Private/Local	Appropriation
	\$250,000		
TOTAL APPROPRIATION		\$59,952,000	
<u>\$59,834,000</u>			

The appropriations in this section are subject to the following conditions and limitations:

(1) \$6,000,000 of the motor vehicle account—state appropriation is provided solely for low-cost enhancements. The department shall give priority to low-cost enhancement projects that improve safety or provide congestion relief. The department shall prioritize low-cost enhancement projects on a statewide rather than regional basis. By September 1st of each even-numbered year, the department shall provide a report to the legislature listing all low-cost enhancement projects prioritized on a statewide rather than regional basis completed in the prior year.

~~(2) ((During the 2015-2017 fiscal biennium, the department shall continue a pilot program that expands private transportation providers' access to high occupancy vehicle lanes. Under the pilot program, when the department reserves a portion of a highway based on the number of passengers in a vehicle, the following vehicles must be authorized to use the reserved portion of the highway if the vehicle has the capacity to carry eight or more passengers, regardless of the number of passengers in the vehicle: (a) Auto transportation company vehicles regulated under chapter 81.68 RCW; (b) passenger charter carrier vehicles regulated under chapter 81.70 RCW, except marked or unmarked stretch limousines and stretch sport utility vehicles as defined under department of licensing rules; (c) private nonprofit transportation provider vehicles regulated under chapter 81.66 RCW; and (d) private employer transportation service vehicles. For purposes of this subsection, "private employer transportation service" means regularly scheduled, fixed route transportation service that is offered by an employer for the benefit of its employees. Nothing in this subsection is intended to authorize the conversion of public infrastructure to private, for-profit purposes or to otherwise create an entitlement or other claim by private users to public infrastructure.~~

~~(3))~~ The legislature recognizes that congestion is increasing on southbound Interstate 5 in Lynnwood, between the Lynnwood transit center and the Mountlake Terrace freeway station, and that allowing transit buses to operate on the shoulder would provide congestion relief and more reliable travel times. Therefore, the department shall, within existing resources, implement a transit bus shoulder operations pilot project on southbound Interstate 5 in Lynnwood, between the Lynnwood transit center and the Mountlake Terrace freeway station. The department shall make all necessary changes to handle the increased traffic and provide a ten-foot shoulder for the transit bypass.

~~((4))~~ ~~(3)~~ \$30,000 of the connecting Washington account—state appropriation is provided solely for the department to create and install motorist information sign panels for the Jerry Taylor Veterans Plaza in Sunnyside along the state-owned right-of-way near exits 63, 67, and 69 on Interstate 182 and on state route number 241 near the junction with Yakima Valley highway and to install supplemental directional signs as permitted by the affected local government and in accordance with the "Manual on Uniform Traffic Control Devices" and chapter 47.36 RCW.

~~((5))~~ ~~(4)~~ The department shall implement Senate Joint Memorial No. 8019 within existing resources if Senate Joint Memorial No. 8019 is enacted by the legislature by June 30, 2016,

and the Washington state transportation commission takes action to name the facility per Senate Joint Memorial No. 8019 by June 30, 2017.

**Sec. 917.** 2016 c 14 s 217 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION—  
TRANSPORTATION MANAGEMENT AND SUPPORT—  
PROGRAM S**

Motor	Vehicle	Account—State	Appropriation
	<del>(\$29,625,000)</del>		
	<u>\$29,622,000</u>		
Motor	Vehicle	Account—Federal	Appropriation
	<del>(\$1,205,000)</del>		
	<u>\$1,323,000</u>		
Multimodal Transportation Account—State			
Appropriation		\$1,131,000	
TOTAL APPROPRIATION		\$31,961,000	
<u>\$32,076,000</u>			

The appropriations in this section are subject to the following conditions and limitations:

(1) \$288,000 of the motor vehicle account—state appropriation is provided solely for enhanced disadvantaged business enterprise outreach to increase the pool of disadvantaged businesses available for department contracts and to collaborate with the department of labor and industries to recruit women and persons of color to participate in existing transportation apprenticeship programs. The department must submit a status report on disadvantaged business enterprise outreach and apprenticeship recruitment to the transportation committees of the legislature by November 15, 2015.

(2) \$3,000,000 of the motor vehicle account—state appropriation is provided solely for the headquarters communications office. Within the amount provided in this subsection, the department shall complete the web content management system and upgrade the department's web site.

(3) \$750,000 of the motor vehicle account—state appropriation is provided solely for a grant program that makes awards for the following: (a) Support for nonproject agencies, churches, and other entities to help provide outreach to populations underrepresented in the current apprenticeship programs; (b) preapprenticeship training; and (c) child care, transportation, and other supports that are needed to help women and minorities enter and succeed in apprenticeship. The department must report on grants that have been awarded and the amount of funds disbursed by December 1, 2016, and annually thereafter.

(4)(a) During the 2015-2017 fiscal biennium, the department may proceed with the pilot project selling commercial advertising, including product placement, on department web sites and social media. In addition, the department may sell a version of its mobile application(s) to users who desire to have access to application(s) without advertising.

(b) The department shall deposit all moneys received from the sale of advertisements on web site and mobile applications into the motor vehicle fund created in RCW 46.68.070.

(c) The department shall adopt standards for advertising, product placement, and other forms of commercial recognition that require the department to define and prohibit, at a minimum, the content containing any of the following characteristics, which is not permitted: (i) Obscene, indecent, or discriminatory content; (ii) political or public issue advocacy content; (iii) products, services, or other materials that are offensive, insulting, disparaging, or degrading; or (iv) products, services, or messages that are contrary to the public interest, including any advertisements that encourage or depict unsafe behaviors or encourage unsafe or prohibited driving activities. Alcohol,

ONE HUNDRED FIRST DAY, APRIL 19, 2017

2017 REGULAR SESSION

tobacco, and cannabis are included among the products prohibited.

**Sec. 918.** 2016 c 14 s 218 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION—TRANSPORTATION PLANNING, DATA, AND RESEARCH—PROGRAM T**

Motor Vehicle Account—State	Appropriation
	<del>(\$22,717,000)</del>
	<u>\$22,707,000</u>
Motor Vehicle Account—Federal	Appropriation
	<del>(\$26,342,000)</del>
	<u>\$29,096,000</u>
Multimodal Transportation Account—State	Appropriation
	\$662,000
Multimodal Transportation Account—Federal	Appropriation
	\$2,809,000
Multimodal Transportation Account—Private/Local	Appropriation
	\$100,000
<b>TOTAL APPROPRIATION</b>	<b>\$52,630,000</b>
	<u>\$55,374,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$368,000 of the motor vehicle account—state appropriation is provided solely for the purchase of an economic impact model. The department shall work with appropriate local jurisdictions to improve consistency between existing and planned transportation demand models. The department shall report back to the transportation committees of the legislature and the office of financial management by December 31, 2015, with any recommendations requiring legislative action.

(2) \$1,000,000 of the motor vehicle account—federal appropriation is provided solely for the corridor sketch program. Priority must be given to the state route number 522 corridor between Maltby and the Snohomish river bridge. Initial corridors must also include state route number 195, Interstate 5 between Bellingham and the vicinity of Mount Vernon, state route number 160 in the vicinity of Port Orchard, and state route number 28 in the vicinity of East Wenatchee.

(3) Within existing resources, the department shall conduct a traffic and access study of the intersection of the Interurban trail and state route number 104. Options to improve safety at this location must include consideration of a pedestrian and bike overcrossing.

(4)(a) The department must update the state freight mobility plan to comply with the requirements in section 70202 of the federal fixing America's surface transportation act. In updating the state freight mobility plan, the department must involve key freight stakeholders, such as representatives of public ports, the trucking industry, railroads, the marine industry, local governments and planning organizations, the Washington state freight advisory committee, and other freight stakeholders. The updated plan must delete any obsolete project references from the prioritized freight project list.

(b) The department, in conjunction with the stakeholder group, must provide a list of prioritized projects for consideration for funding in the 2017-2019 fiscal biennium. The prioritized list must have approval from all impacted stakeholders. The prioritized list must be submitted to the office of financial management and the transportation committees of the legislature by November 1, 2016.

(5) Within existing resources, the department must evaluate how light pollution from state highways and facilities can be minimized while still meeting appropriate safety standards. Additionally, the department must evaluate how budget savings

can be achieved through different types of lighting. To the extent practicable, the department must conduct this work in conjunction with other ongoing study and corridor planning efforts.

~~((7))~~ (6) \$150,000 of the motor vehicle account—state appropriation is provided solely for a safety study of state route number 169 from Jones Road to Cedar Grove. The department must consider collision data and work with local stakeholders to make recommendations for safety improvements in the corridor. A report on the study is due to the transportation committees of the legislature by December 31, 2016.

**Sec. 919.** 2016 c 14 s 219 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION—CHARGES FROM OTHER AGENCIES—PROGRAM U**

Motor Vehicle Account—State	Appropriation
	<del>(\$74,666,000)</del>
	<u>\$77,036,000</u>
Motor Vehicle Account—Federal	Appropriation
	\$500,000
Multimodal Transportation Account—State	Appropriation
	<del>(\$3,115,000)</del>
	<u>\$3,213,000</u>
<b>TOTAL APPROPRIATION</b>	<b>\$78,281,000</b>
	<u>\$80,749,000</u>

**Sec. 920.** 2016 c 14 s 220 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION—PUBLIC TRANSPORTATION—PROGRAM V**

State Vehicle Parking Account—State	Appropriation
	\$754,000
Regional Mobility Grant Program Account—State	Appropriation
	<del>(\$74,976,000)</del>
	<u>\$57,828,000</u>
Rural Mobility Grant Program Account—State	Appropriation
	\$20,438,000
Multimodal Transportation Account—State	Appropriation
	<del>(\$72,930,000)</del>
	<u>\$71,604,000</u>
Multimodal Transportation Account—Federal	Appropriation
	\$3,588,000
<b>TOTAL APPROPRIATION</b>	<b>\$172,686,000</b>
	<u>\$154,212,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$41,250,000 of the multimodal transportation account—state appropriation is provided solely for a grant program for special needs transportation provided by transit agencies and nonprofit providers of transportation. Of this amount:

(a) \$8,750,000 of the multimodal transportation account—state appropriation is provided solely for grants to nonprofit providers of special needs transportation. Grants for nonprofit providers must be based on need, including the availability of other providers of service in the area, efforts to coordinate trips among providers and riders, and the cost effectiveness of trips provided.

(b) \$32,500,000 of the multimodal transportation account—state appropriation is provided solely for grants to transit agencies to transport persons with special transportation needs. To receive a grant, the transit agency must, to the greatest extent practicable, have a maintenance of effort for special needs transportation that is no less than the previous year's maintenance of effort for special needs transportation. Grants for transit agencies must be prorated based on the amount expended for demand response service and route deviated service in calendar year 2013 as reported in the "Summary of Public Transportation - 2013" published by the

department of transportation. No transit agency may receive more than thirty percent of these distributions.

(2) \$20,438,000 of the rural mobility grant program account—state appropriation is provided solely for grants to aid small cities in rural areas as prescribed in RCW 47.66.100.

(3)(a) \$6,969,000 of the multimodal transportation account—state appropriation is provided solely for a vanpool grant program for: (i) Public transit agencies to add vanpools or replace vans; and (ii) incentives for employers to increase employee vanpool use. The grant program for public transit agencies will cover capital costs only; operating costs for public transit agencies are not eligible for funding under this grant program. Additional employees may not be hired from the funds provided in this section for the vanpool grant program, and supplanting of transit funds currently funding vanpools is not allowed. The department shall encourage grant applicants and recipients to leverage funds other than state funds.

(b) At least \$1,600,000 of the amount provided in this subsection must be used for vanpool grants in congested corridors.

(c) \$400,000 of the amount provided in this subsection is provided solely for the purchase of additional vans for use by vanpools serving or traveling through the Joint Base Lewis-McChord I-5 corridor between mile post 116 and 127.

(4) (~~(\$18,726,000)~~) \$13,010,000 of the regional mobility grant program account—state appropriation is reappropriated and provided solely for the regional mobility grant projects identified in LEAP Transportation Document (~~(2016-2)~~) 2017-2 ALL PROJECTS as developed March (~~(7, 2016)~~) 25, 2017, Program - Public Transportation Program (V).

(5)(~~(a) \$56,250,000~~) \$44,818,000 of the regional mobility grant program account—state appropriation is provided solely for the regional mobility grant projects identified in LEAP Transportation Document (~~(2016-2)~~) 2017-2 ALL PROJECTS as developed March (~~(7, 2016)~~) 25, 2017, Program - Public Transportation Program (V). The department shall review all projects receiving grant awards under this program at least semiannually to determine whether the projects are making satisfactory progress. Any project that has been awarded funds, but does not report activity on the project within one year of the grant award, must be reviewed by the department to determine whether the grant should be terminated. The department shall promptly close out grants when projects have been completed, and any remaining funds must be used only to fund projects identified in the LEAP transportation document referenced in this subsection. The department shall provide annual status reports on December 15, 2015, and December 15, 2016, to the office of financial management and the transportation committees of the legislature regarding the projects receiving the grants. It is the intent of the legislature to appropriate funds through the regional mobility grant program only for projects that will be completed on schedule. A grantee may not receive more than twenty-five percent of the amount appropriated in this subsection. The department shall not approve any increases or changes to the scope of a project for the purpose of a grantee expending remaining funds on an awarded grant.

~~((b) In order to be eligible to receive a grant under (a) of this subsection during the 2015-2017 fiscal biennium, a transit agency must establish a process for private transportation providers to apply for the use of park and ride facilities. For purposes of this subsection, (i) "private transportation provider" means: An auto transportation company regulated under chapter 81.68 RCW; a passenger charter carrier regulated under chapter 81.70 RCW, except marked or unmarked stretch limousines and stretch sport utility vehicles as defined under department of licensing rules; a private nonprofit transportation provider regulated under chapter~~

~~81.66 RCW; or a private employer transportation service provider; and (ii) "private employer transportation service" means regularly scheduled, fixed route transportation service that is offered by an employer for the benefit of its employees.))~~

(6) Funds provided for the commute trip reduction (CTR) program may also be used for the growth and transportation efficiency center program.

(7) \$5,670,000 of the multimodal transportation account—state appropriation and \$754,000 of the state vehicle parking account—state appropriation are provided solely for CTR grants and activities.

(8) \$200,000 of the multimodal transportation account—state appropriation is contingent on the timely development of an annual report summarizing the status of public transportation systems as identified under RCW 35.58.2796.

(9)(a) \$1,000,000 of the multimodal transportation account—state appropriation is provided solely for the Everett connector service for Island and Skagit transit agencies. The amount provided in this subsection is contingent on Island Transit charging fares that achieve a farebox recovery ratio similar to comparable transit systems.

(b) The amount provided in (a) of this subsection must be held in unallotted status until the office of financial management determines that fares have been both adopted and implemented by Island Transit that achieve a farebox recovery ratio similar to comparable transit systems. Island Transit must notify the office of financial management when it has met the requirements of this subsection.

(10)(a) (~~(\$13,890,000)~~) \$12,565,000 of the multimodal transportation account—state appropriation is provided solely for projects identified in LEAP Transportation Document (~~(2016-3)~~) 2017-2 ALL PROJECTS as developed March (~~(7, 2016)~~) 25, 2017. ~~Except as provided otherwise in this subsection, funds must first be used for projects that are identified as priority one projects. As additional funds become available or if a priority one project is delayed, funding must be provided to priority two projects. If a higher priority project is bypassed, it must be funded when the project is ready. The department must submit a report annually with its budget submittal that, at a minimum, includes information about the listed transit projects that have been funded and projects that have been bypassed, including an estimated time frame for when the bypassed project will be funded.)~~ 25, 2017.

(b) \$831,000 of the amount provided in (a) of this subsection is provided solely for Skagit transit system enhancements for expenditure in 2015-2017.

(c) \$2,300,000 of the amount provided in (a) of this subsection is provided solely for Island transit's tri-county connector service for expenditure in 2015-2017.

(d) It is the intent of the legislature to provide \$6,000,000 in the 2017-2019 fiscal biennium and \$6,000,000 in the 2019-2021 fiscal biennium for the Spokane Central city line, in addition to the 2015-2017 fiscal biennium funding provided in the LEAP transportation document identified in (a) of this subsection. It is further the intent of the legislature to provide a total of \$10,000,000 over the 2017-2019 and 2019-2021 fiscal biennia for the Northgate transit center pedestrian bridge.

(e) Within existing resources, the public transportation program must develop recommendations regarding potential modifications to the process by which funding is provided to the projects listed in the LEAP transportation document identified in (a) of this subsection. These modifications should include, but are not limited to, options for accelerating the delivery of the listed projects and options for further prioritizing the listed projects. The department must submit a report regarding its recommendations to the transportation committees of the legislature by November 15, 2016.

(11) \$1,000,000 of the multimodal transportation account—state appropriation is provided solely for transit coordination grants.

(12) Within the amounts provided in this section, the public transportation program must conduct a study of public transportation agencies in Washington that provide regional public transportation service outside the boundaries of the agency. The study must consider: (a) The cost to provide these existing regional services, the current source of funds for these services, and the applicable ridership data from these existing regional services; (b) the number of trips removed from the state highway system as a result of these regional services; (c) areas of the state highway system that do not have such regional service available; and (d) potential funding sources at the state level to support a portion of current and potential regional services. The public transportation program must provide a report on its findings and recommendations to the transportation committees of the legislature by November 15, 2016.

Sec. 921. 2016 c 14 s 221 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION—MARINE—PROGRAM X**

Puget Sound Ferry Operations Account—State	
Appropriation	<del>(\$478,319,000)</del>
	<u>\$478,985,000</u>
Puget Sound Ferry Operations Account—Federal	
Appropriation	<del>(\$5,908,000)</del>
	<u>\$5,156,000</u>
Puget Sound Ferry Operations Account—Private/Local	
Appropriation	\$121,000
TOTAL APPROPRIATION	\$484,348,000
	<u>\$484,262,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) The office of financial management budget instructions require agencies to recast enacted budgets into activities. The Washington state ferries shall include a greater level of detail in its 2015-2017 supplemental and 2017-2019 omnibus transportation appropriations act requests, as determined jointly by the office of financial management, the Washington state ferries, and the transportation committees of the legislature. This level of detail must include the administrative functions in the operating as well as capital programs.

(2) Until a reservation system is operational on the San Juan islands inter-island route, the department shall provide the same priority loading benefits on the San Juan islands inter-island route to home health care workers as are currently provided to patients traveling for purposes of receiving medical treatment.

(3) For the 2015-2017 fiscal biennium, the department may enter into a distributor controlled fuel hedging program and other methods of hedging approved by the fuel hedging committee.

(4) ~~(\$78,306,000)~~ \$77,091,000 of the Puget Sound ferry operations account—state appropriation is provided solely for auto ferry vessel operating fuel in the 2015-2017 fiscal biennium, which reflect cost savings from a reduced biodiesel fuel requirement and, therefore, is contingent upon the enactment of section 701, c 10, Laws of 2015 1st sp. sess. The amount provided in this subsection represents the fuel budget for the purposes of calculating any ferry fare fuel surcharge.

(5) When purchasing uniforms that are required by collective bargaining agreements, the department shall contract with the lowest cost provider.

(6) During the 2015-2017 fiscal biennium, the department shall not operate a winter sailing schedule for a time period longer than twelve weeks.

(7) \$496,000 of the Puget Sound ferry operations account—state appropriation is provided solely for ferry terminal traffic control at the Fauntleroy ferry terminal. The department shall utilize existing contracts to provide a uniformed officer to assist with ferry terminal traffic control at the Fauntleroy ferry terminal.

(8) \$1,551,000 of the Puget Sound ferry operations account—state appropriation is provided solely for improvements to the reservation system. The department shall actively encourage ferry reservation customers to use the online option for making and changing reservations and shall not use these funds for call center staff.

(9) \$30,000 of the Puget Sound ferry operations account—state appropriation is provided solely for the marine division assistant secretary's designee to the board of pilotage commissioners, who serves as the board chair. As the agency chairing the board, the department shall direct the board chair, in his or her capacity as chair, to require that the report to the governor and chairs of the transportation committees required under RCW 88.16.035(1)(f) be filed by September 1, 2015, and annually thereafter, and that the report include the establishment of policies and procedures necessary to increase the diversity of pilots, trainees, and applicants, including a diversity action plan. The diversity action plan must articulate a comprehensive vision of the board's diversity goals and the steps it will take to reach those goals.

(10) ~~(\$5,908,000)~~ \$5,156,000 of the Puget Sound ferry operations account—federal appropriation is provided solely for vessel maintenance.

(11) \$48,000 of the Puget Sound ferry operations account—state appropriation is provided solely for staff sufficient to allow passenger accessibility aboard the M/V Tokitae to the sun deck during daylight hours on Saturdays and Sundays of the summer sailing season.

Sec. 922. 2016 c 14 s 222 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION—RAIL—PROGRAM Y—OPERATING**

Multimodal Transportation Account—State	
Appropriation	<del>(\$59,473,000)</del>
	<u>\$59,476,000</u>
Multimodal Transportation Account—Private/Local	
Appropriation	\$45,000
TOTAL APPROPRIATION	\$59,518,000
	<u>\$59,521,000</u>

Sec. 923. 2016 c 14 s 223 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION—LOCAL PROGRAMS—PROGRAM Z—OPERATING**

Motor Vehicle Account—State Appropriation		<del>(\$9,324,000)</del>
		<u>\$9,321,000</u>
Motor Vehicle Account—Federal	Appropriation	\$2,567,000
Multiuse Roadway Safety Account—State	Appropriation	\$131,000
TOTAL APPROPRIATION		\$12,022,000
		<u>\$12,019,000</u>

**TRANSPORTATION AGENCIES—CAPITAL**

Sec. 1001. 2016 c 14 s 301 (uncodified) is amended to read as follows:

**FOR THE FREIGHT MOBILITY STRATEGIC INVESTMENT BOARD**

Freight Mobility Investment Account—State	
Appropriation	<del>(\$13,217,000)</del>
	<u>\$5,142,000</u>
Freight Mobility Multimodal Account—State	
Appropriation	<del>(\$11,859,000)</del>



\$3,315,000  
~~((Freight Mobility Multimodal Account—Private/Local—~~  
~~Appropriation—\$1,320,000))~~  
 Highway Safety Account—State Appropriation  
 ((~~\$2,765,000~~))  
\$865,000  
 Motor Vehicle Account—State Appropriation \$83,000  
 ((~~Motor Vehicle Account—Federal—Appropriation~~  
~~\$3,250,000~~))  
 TOTAL APPROPRIATION \$32,494,000  
\$9,405,000

**Sec. 1002.** 2016 c 14 s 302 (uncodified) is amended to read as follows:

**FOR THE WASHINGTON STATE PATROL**

State Patrol Highway Account—State Appropriation  
 ((~~\$5,895,000~~))  
\$5,815,000

The appropriation in this section is subject to the following conditions and limitations:

(1) \$250,000 of the state patrol highway account—state appropriation is provided solely for unforeseen emergency repairs on facilities.

(2) \$560,000 of the state patrol highway account—state appropriation is provided solely for the replacement of the roofs of the Shelton academy multipurpose building, Tacoma district office building, Kennewick detachment building, and Ridgefield and Plymouth weigh station buildings.

(3) \$150,000 of the state patrol highway account—state appropriation is provided solely for upgrades to scales at Goldendale required to meet current certification requirements.

(4) \$2,350,000 of the state patrol highway account—state appropriation is provided solely for funding to repair and replace the academy asphalt emergency vehicle operation course.

(5) \$500,000 of the state patrol highway account—state appropriation is provided solely for replacement of generators at Marysville, Baw Faw, Gardner, Pilot Rock, and Ridpath.

(6) \$150,000 of the state patrol highway account—state appropriation is provided solely for painting and caulking in several locations.

(7) \$350,000 of the state patrol highway account—state appropriation is provided solely for pavement preservation at the Wenatchee district office and the Spokane district office.

(8) \$700,000 of the state patrol highway account—state appropriation is provided solely for energy upgrades at two district offices and two detachments.

(9) \$300,000 of the state patrol highway account—state appropriation is provided solely for repair of the academy training tank.

(10) \$130,000 of the state patrol highway account—state appropriation is provided solely for communication site roof repair to reroof equipment shelters at radio communication sites statewide.

(11) \$275,000 of the state patrol highway account—state appropriation is provided solely for the replacement of the broadcast tower at the Steptoe Butte radio communications site.

(12) \$100,000 of the state patrol highway account—state appropriation is provided solely for the dry-pipe fire suppression system rebuild at the Marysville district office.

**Sec. 1003.** 2016 c 14 s 303 (uncodified) is amended to read as follows:

**FOR THE COUNTY ROAD ADMINISTRATION BOARD**

Rural Arterial Trust Account—State  
 Appropriation ((~~\$56,094,000~~))  
\$45,055,000

Motor Vehicle Account—State Appropriation \$10,706,000

County Arterial Preservation Account—State  
 Appropriation \$32,344,000  
 TOTAL APPROPRIATION \$99,144,000  
\$88,105,000

**Sec. 1004.** 2016 c 14 s 304 (uncodified) is amended to read as follows:

**FOR THE TRANSPORTATION IMPROVEMENT BOARD**

Small City Pavement and Sidewalk Account—State  
 Appropriation ((~~\$4,301,000~~))  
\$2,551,000

Highway Safety Account—State Appropriation  
 \$10,000,000

Transportation Improvement Account—State  
 Appropriation ((~~\$249,988,000~~))  
\$218,488,000

Multimodal Transportation Account—State  
 Appropriation \$3,313,000  
 TOTAL APPROPRIATION \$267,602,000  
\$234,352,000

The appropriations in this section are subject to the following conditions and limitations:

(1) The highway safety account—state appropriation is provided solely for:

(a) The arterial preservation program to help low tax-based, medium-sized cities preserve arterial pavements;

(b) The small city pavement program to help cities meet urgent preservation needs; and

(c) The small city low-energy street light retrofit demonstration program.

(2) \$3,313,000 of the multimodal transportation account—state appropriation is provided solely for the complete streets program.

**Sec. 1005.** 2016 c 14 s 305 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION—FACILITIES—PROGRAM D—(DEPARTMENT OF TRANSPORTATION-ONLY PROJECTS)—CAPITAL**

Transportation Partnership Account—State  
 Appropriation ((~~\$1,043,000~~))  
\$1,044,000

Motor Vehicle Account—State Appropriation ((~~\$7,276,000~~))  
\$7,387,000

Connecting Washington Account—State Appropriation  
 ((~~\$14,000,000~~))  
\$4,847,000

TOTAL APPROPRIATION \$22,319,000  
\$13,278,000

The appropriations in this section are subject to the following conditions and limitations:

(1) \$1,043,000 of the transportation partnership account—state appropriation is provided solely for completion of a new traffic management center in Shoreline, Washington. By September 30, 2015, the department shall report to the transportation committees of the legislature and the office of financial management on the resulting vacancy rate of the existing regional headquarters building in Shoreline, plans to consolidate department staff into the building, and the schedule for terminating the current lease of the Goldsmith building in Seattle, and provide an update on future plans to consolidate agency staff within the region.

(2) ((~~\$4,000,000~~)) \$934,000 of the connecting Washington account—state appropriation is provided solely for a new Olympic region maintenance and administration facility to be located on the department-owned site at the intersection of Marvin Road and 32nd Avenue. The property purchase was approved by the 2005 legislature for the site of the new Olympic region and the land was acquired by the department in August

ONE HUNDRED FIRST DAY, APRIL 19, 2017

2017 REGULAR SESSION

2005. The department must work with the office of financial management's facilities oversight program to develop a revised predesign for a new Olympic region facility, with an estimated total cost of no more than forty million dollars. Priority must be given to accommodating the maintenance and operations functions of the Olympic region. The department must provide a copy of the revised predesign to the transportation committees of the legislature by December 2015.

(3) ~~(\$10,000,000)~~ \$3,913,000 of the connecting Washington account—state appropriation is provided solely for a new administration facility on Euclid Avenue in Wenatchee, Washington.

**Sec. 1006.** 2016 c 14 s 306 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION—IMPROVEMENTS—PROGRAM I**

Multimodal Transportation Account—State			
Appropriation <del>(\$19,181,000)</del>			
	<u>\$19,176,000</u>		
Transportation Partnership Account—State			
Appropriation <del>(\$1,065,758,000)</del>			
	<u>\$994,147,000</u>		
Motor Vehicle Account—State	Appropriation		
<del>(\$71,841,000)</del>			
	<u>\$72,890,000</u>		
Motor Vehicle Account—Federal	Appropriation		
<del>(\$315,447,000)</del>			
	<u>\$293,164,000</u>		
Motor Vehicle Account—Private/Local	Appropriation		
<del>(\$177,022,000)</del>			
	<u>\$186,640,000</u>		
Transportation 2003 Account (Nickel Account)—State			
Appropriation <del>(\$79,064,000)</del>			
	<u>\$76,668,000</u>		
State Route Number 520 Corridor Account—State			
Appropriation <del>(\$368,121,000)</del>			
	<u>\$135,041,000</u>		
State Route Number 520 Corridor Account—Federal			
Appropriation	\$104,801,000		
State Route Number 520 Civil Penalties Account—			
State Appropriation	\$14,000,000		
Special Category C Account—State	Appropriation		
<del>(\$6,000,000)</del>			
	<u>\$5,855,000</u>		
<u>Interstate 405 Express Toll Lanes Operations</u>			
Account—State Appropriation	<u>\$9,500,000</u>		
Connecting Washington Account—State	Appropriation		
<del>(\$229,425,000)</del>			
	<u>\$181,837,000</u>		
TOTAL APPROPRIATION		\$2,450,660,000	
	<u>\$2,093,719,000</u>		

The appropriations in this section are subject to the following conditions and limitations:

(1) Except as provided otherwise in this section, the entire transportation 2003 account (nickel account) appropriation and the entire transportation partnership account appropriation are provided solely for the projects and activities as listed by fund, project, and amount in LEAP Transportation Document (~~(2016-4)~~) 2017-1 as developed March (~~(7, 2016)~~) 25, 2017, Program - Highway Improvements Program (I). However, limited transfers of specific line-item project appropriations may occur between projects for those amounts listed subject to the conditions and limitations in section (~~(601)~~) 1201 of this act.

(2) Except as provided otherwise in this section, the entire motor vehicle account—state appropriation and motor vehicle

account—federal appropriation are provided solely for the projects and activities listed in LEAP Transportation Document (~~(2016-2)~~) 2017-2 ALL PROJECTS as developed March (~~(7, 2016)~~) 25, 2017, Program - Highway Improvements Program (I). Any federal funds gained through efficiencies, adjustments to the federal funds forecast, additional congressional action not related to a specific project or purpose, or the federal funds redistribution process must then be applied to highway and bridge preservation activities. However, no additional federal funds may be allocated to the I-5/Columbia River Crossing project (400506A).

(3) Within the motor vehicle account—state appropriation and motor vehicle account—federal appropriation, the department may transfer funds between programs I and P, except for funds that are otherwise restricted in this act.

(4) The transportation 2003 account (nickel account)—state appropriation includes up to ~~(\$79,064,000)~~ \$76,666,000 in proceeds from the sale of bonds authorized by RCW 47.10.861.

(5) The transportation partnership account—state appropriation includes up to \$546,857,000 in proceeds from the sale of bonds authorized in RCW 47.10.873.

(6) ~~(\$4,359,000)~~ \$4,360,000 of the motor vehicle account—state appropriation is provided solely for the I-5/JBLM Early Corridor Design project (300596S) to complete an environmental impact statement for a project that creates additional general purpose lanes on Interstate 5 in the Joint Base Lewis-McChord corridor. The design of this project must be high occupancy vehicle lane ready for a future connection to the Interstate 5 high occupancy vehicle lane system that currently terminates in Tacoma.

(7) ~~(\$267,071,000)~~ \$266,277,000 of the transportation partnership account—state appropriation, ~~(\$55,389,000)~~ \$55,390,000 of the motor vehicle account—federal appropriation, ~~(\$156,423,000)~~ \$166,423,000 of the motor vehicle account—private/local appropriation, ~~(\$45,400,000)~~ \$45,401,000 of the transportation 2003 account (nickel account)—state appropriation, and \$2,139,000 of the multimodal transportation account—state appropriation are provided solely for the SR 99/Alaskan Way Viaduct Replacement project (809936Z).

(8) \$17,000,000 of the multimodal transportation account—state appropriation and \$1,676,000 of the transportation partnership account—state appropriation are provided solely for transit mitigation for the SR 99/Viaduct Project - Construction Mitigation project (809940B). The transportation partnership account—state appropriation must be placed in unallotted status and may only be released by the office of financial management for unpaid invoices from the 2013-2015 fiscal biennium.

(9) Within existing resources, during the regular sessions of the legislature, the department of transportation shall participate in work sessions, before the transportation committees of the house of representatives and senate, on the Alaskan Way viaduct replacement project. These work sessions must include a report on current progress of the project, timelines for completion, outstanding claims, the financial status of the project, and any other information necessary for the legislature to maintain appropriate oversight of the project. The parties invited to present may include the department of transportation, the Seattle tunnel partners, and other appropriate stakeholders.

(10) ~~(\$22,491,000)~~ \$21,463,000 of the transportation partnership account—state appropriation, ~~(\$5,576,000)~~ \$6,342,000 of the transportation 2003 account (nickel account)—state appropriation, ~~(\$42,000)~~ \$37,000 of the multimodal transportation account—state appropriation, ~~(\$6,000,000)~~ \$5,855,000 of the special category C account—state appropriation, \$368,000 of the motor vehicle account—state appropriation, ~~(\$13,000)~~ \$14,000 of the motor vehicle

account—private/local appropriation, and ~~(((\$12,976,000))~~ \$12,696,000 of the motor vehicle account—federal appropriation are provided solely for the US 395/North Spokane Corridor project (600010A). Any future savings on the project must stay on the US 395/Interstate 90 corridor and be made available to the current phase of the North Spokane corridor project or any future phase of the project in 2015-2017.

(11) ~~(((\$34,732,000))~~ \$34,725,000 of the transportation partnership account—state appropriation, ~~(((\$7,329,000))~~ \$6,274,000 of the transportation 2003 account (nickel account)—state appropriation, and \$56,000 of the motor vehicle account—private/local appropriation are provided solely for the I-405/Kirkland Vicinity Stage 2 - Widening project (8BI1002). This project must be completed as soon as practicable as a design-build project. Any future savings on this project or other Interstate 405 corridor projects must stay on the Interstate 405 corridor and be made available to either the I-405/SR 167 Interchange - Direct Connector project (140504C) or the I-405 Renton to Bellevue project in the 2015-2017 fiscal biennium. The transportation partnership account—state appropriation in this subsection includes funding to begin preliminary engineering for adding capacity on Interstate 405 between state route number 522 and Interstate 5.

(12)(a) The SR 520 Bridge Replacement and HOV project (8BI1003) is supported over time from multiple sources, including a \$300,000,000 TIFIA loan, \$923,000,000 in Garvee bonds, toll revenues, state bonds, interest earnings, and other miscellaneous sources.

(b) The state route number 520 corridor account—state appropriation includes up to \$343,834,000 in proceeds from the sale of bonds authorized in RCW 47.10.879 and 47.10.886.

(c) The state route number 520 corridor account—federal appropriation includes up to \$104,801,000 in proceeds from the sale of bonds authorized in RCW 47.10.879 and 47.10.886.

(d) ~~(((\$126,937,000))~~ \$45,680,000 of the transportation partnership account—state appropriation, \$104,801,000 of the state route number 520 corridor account—federal appropriation, and ~~(((\$368,121,000))~~ \$110,910,000 of the state route number 520 corridor account—state appropriation are provided solely for the SR 520 Bridge Replacement and HOV project (8BI1003). ~~((Of the amounts appropriated in this subsection (12)(d), \$233,085,000 of the state route number 520 corridor account—state appropriation must be put into unallotted status and is subject to review by the office of financial management. The director of the office of financial management shall consult with the joint transportation committee prior to making a decision to allot these funds.))~~

(e) When developing the financial plan for the project, the department shall assume that all maintenance and operation costs for the new facility are to be covered by tolls collected on the toll facility and not by the motor vehicle account.

(13) \$14,000,000 of the state route number 520 civil penalties account—state appropriation is provided solely for the department to continue to work with the Seattle department of transportation in their joint planning, design, right-of-way acquisition, outreach, and operation of the remaining west side elements including, but not limited to, the Montlake lid, the bicycle/pedestrian path, the effective network of transit connections, and the Portage Bay bridge of the SR 520 Bridge Replacement and HOV project.

(14) \$1,056,000 of the motor vehicle account—federal appropriation and \$38,000 of the motor vehicle account—state appropriation are provided solely for the 31st Ave SW Overpass Widening and Improvement project (L1100048).

(15) The legislature finds that there are sixteen companies involved in wood preserving in the state that employ four hundred

workers and have an annual payroll of fifteen million dollars. Prior to the department's switch to steel guardrails, ninety percent of the twenty-five hundred mile guardrail system was constructed of preserved wood and one hundred ten thousand wood guardrail posts were produced annually for state use. Moreover, the policy of using steel posts requires the state to use imported steel. Given these findings, where practicable, and until June 30, 2017, the department shall include the design option to use wood guardrail posts, in addition to steel posts, in new guardrail installations. The selection of posts must be consistent with the agency design manual policy that existed before December 2009.

(16) For urban corridors that are all or partially within a metropolitan planning organization boundary, for which the department has not initiated environmental review, and that require an environmental impact statement, at least one alternative must be consistent with the goals set out in RCW 47.01.440.

(17) The department shall itemize all future requests for the construction of buildings on a project list and submit them through the transportation executive information system as part of the department's 2016 budget submittal. It is the intent of the legislature that new facility construction must be transparent and not appropriated within larger highway construction projects.

(18) ~~(((\$52,869,000))~~ \$44,742,000 of the motor vehicle account—federal appropriation, ~~(((\$4,439,000))~~ \$4,381,000 of the motor vehicle account—state appropriation, and ~~(((\$1,085,000))~~ \$529,000 of the motor vehicle account—private/local appropriation are provided solely for fish passage barrier and chronic deficiency improvements (0BI4001).

(19) Any new advisory group that the department convenes during the 2015-2017 fiscal biennium must consider the interests of the entire state of Washington.

(20) Except as provided otherwise in this section, the entire connecting Washington account appropriation is provided solely for the projects and activities as listed by fund, project, and amount in LEAP Transportation Document ~~((2016-4))~~ 2017-1 as developed March ~~((7, 2016))~~ 25, 2017, Program - Highway Improvements Program (I).

(21) It is the intent of the legislature that for the I-5 JBLM Corridor Improvements project (M00100R), the department shall actively pursue \$50,000,000 in federal funds to pay for this project to supplant state funds in the future. \$50,000,000 in connecting Washington account funding must be held in unallotted status during the 2021-2023 fiscal biennium. These funds may only be used after the department has provided notice to the office of financial management that it has exhausted all efforts to secure federal funds from the federal highway administration and the department of defense.

(22) Of the amounts allocated to the Puget Sound Gateway project (M00600R) in LEAP Transportation Document ~~((2016-4))~~ 2017-1 as developed March ~~((7, 2016))~~ 25, 2017, \$4,000,000 must be used to complete the bridge connection at 28th/24th Street over state route number 509 in the city of SeaTac. The bridge connection must be completed prior to other construction on the state route number 509 segment of the project.

(23) In making budget allocations to the Puget Sound Gateway project, the department shall implement the project's construction as a single corridor investment. The department shall develop a coordinated corridor construction and implementation plan for state route number 167 and state route number 509 in collaboration with affected stakeholders. Specific funding allocations must be based on where and when specific project segments are ready for construction to move forward and investments can be best optimized for timely project completion. Emphasis must be placed on avoiding gaps in fund expenditures for either project.

ONE HUNDRED FIRST DAY, APRIL 19, 2017

2017 REGULAR SESSION

(24) It is the intent of the legislature that, for the I-5/North Lewis County Interchange project (L2000204), the department develop and design the project with the objective of significantly improving access to the industrially zoned properties in north Lewis county. The design must consider the county's process of investigating alternatives to improve such access from Interstate 5 that began in March 2015.

(25) ~~(\$1,500,000)~~ \$901,000 of the motor vehicle account—state appropriation is provided solely for the department to complete an interchange justification report (IJR) for the U.S. 2 trestle, covering the state route number 204 and 20th Street interchanges at the end of the westbound structure.

(a) The department shall develop the IJR in close collaboration with affected local jurisdictions, including Snohomish county and the cities of Everett, Lake Stevens, Marysville, Snohomish, and Monroe.

(b) Within the amount provided for the IJR, the department must address public outreach and the overall operational approval of the IJR.

(c) The department shall complete the IJR and submit the final report to the governor and the transportation committees of the legislature by July 1, 2018.

(26)(a) The department must conduct outreach to local transit agencies during the planning process for highway construction projects led by the department.

(b) The department must develop process recommendations for best practices in minimizing impacts to transit and freight during project construction. A report on best practices must be submitted to the transportation committees of the legislature by December 1, 2016.

(27) The legislature finds that project efficiencies and savings may be gained by combining the I-5 Marine Drive project (I5OTC1A1) and the SR 529/I-5 Interchange project (N52900R). The department must deliver them as one project, the I-5 Peak Hour Use Lanes and Interchange Improvements project (L2000229), using a design-build approach.

(28)(a) The legislature recognizes that the city of Mercer Island has unique access issues that require the use of Interstate 90 to leave the island and that this access may be impeded by the I-90/Two-Way Transit and HOV Improvements project. ~~((The department must continue to work with the city of Mercer Island to address potential access solutions as the project nears completion))~~ One of the most heavily traveled on-ramps from Mercer Island to the westbound Interstate 90 general purpose lanes is from Island Crest Way. The department must continue to consult with the city of Mercer Island and the other signatories to the 1976 memorandum of agreement to preserve access provided to Mercer Island by the Island Crest Way on-ramp, and thus grandfather-in the current use of the on-ramp for both high occupancy vehicles as well as vehicles seeking to access the general purpose lanes of Interstate 90. The department must consider all reasonable access solutions, including allowing all vehicles to use the Island Crest Way on-ramp to access the new high occupancy vehicle lane with a reasonable and safe distance provided for single-occupancy vehicles to merge into the general purpose lanes. A final access solution must consider all safety, operational, and enforcement requirements, not benefit one group of commuters at the expense of another group, and meet applicable requirements of state and federal law.

(b) The department may not close or restrict, in any way, the westbound on-ramp from Island Crest Way to the current westbound Interstate 90 general purpose lanes until a mutually acceptable final access solution has been reached.

(29) \$9,500,000 of the Interstate 405 express toll lanes operations account—state appropriation is provided solely for the

I-405 NB Hard Shoulder Running – SR 527 to I-5 project (L1000163).

**Sec. 1007.** 2016 c 14 s 307 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION— PRESERVATION—PROGRAM P**

Transportation Partnership Account—State			
Appropriation <del>(\$6,489,000)</del>			
<u>\$6,434,000</u>			
Motor	Vehicle	Account—State	Appropriation
<del>(\$70,908,000)</del>			
<u>\$68,694,000</u>			
Motor	Vehicle	Account—Federal	Appropriation
<del>(\$475,025,000)</del>			
<u>\$525,688,000</u>			
Motor	Vehicle	Account—Private/Local	Appropriation
<del>(\$8,647,000)</del>			
<u>\$8,092,000</u>			
Transportation 2003 Account (Nickel Account)—State			
Appropriation <del>(\$28,032,000)</del>			
<u>\$26,654,000</u>			
Tacoma Narrows Toll Bridge Account—State			
Appropriation <del>(\$4,564,000)</del>			
<u>\$1,038,000</u>			
Recreational	Vehicle	Account—State	Appropriation
<del>(\$2,194,000)</del>			
<u>\$2,197,000</u>			
High Occupancy Toll Lanes Operations Account—State			
Appropriation \$1,000,000			
State Route Number 520 Corridor Account—State			
Appropriation <del>(\$1,730,000)</del>			
<u>\$1,460,000</u>			
Connecting	Washington	Account—State	Appropriation
<del>(\$79,963,000)</del>			
<u>\$77,134,000</u>			
TOTAL APPROPRIATION		\$678,552,000	
<u>\$718,391,000</u>			

The appropriations in this section are subject to the following conditions and limitations:

(1) Except as provided otherwise in this section, the entire transportation 2003 account (nickel account) appropriation and the entire transportation partnership account appropriation are provided solely for the projects and activities as listed by fund, project, and amount in LEAP Transportation Document ~~((2016-4)) 2017-1~~ as developed March ~~((7, 2016)) 25, 2017~~, Program - Highway Preservation Program (P). However, limited transfers of specific line-item project appropriations may occur between projects for those amounts listed subject to the conditions and limitations in section ~~((601)) 1201~~ of this act.

(2) Except as provided otherwise in this section, the entire motor vehicle account—state appropriation and motor vehicle account—federal appropriation are provided solely for the projects and activities listed in LEAP Transportation Document ~~((2016-2)) 2017-2~~ ALL PROJECTS as developed March ~~((7, 2016)) 25, 2017~~, Program - Highway Preservation Program (P). Any federal funds gained through efficiencies, adjustments to the federal funds forecast, additional congressional action not related to a specific project or purpose, or the federal funds redistribution process must then be applied to highway and bridge preservation activities. However, no additional federal funds may be allocated to the I-5/Columbia River Crossing project (400506A).

(3) Within the motor vehicle account—state appropriation and motor vehicle account—federal appropriation, the department may transfer funds between programs I and P, except for funds that are otherwise restricted in this act.

(4) The transportation 2003 account (nickel account)—state appropriation includes up to ~~(\$28,032,000)~~ \$26,654,000 in proceeds from the sale of bonds authorized in RCW 47.10.861.

(5) The department shall examine the use of electric arc furnace slag for use as an aggregate for new roads and paving projects in high traffic areas and report back to the legislature by December 1, 2015, on its current use in other areas of the country and any characteristics that can provide greater wear resistance and skid resistance in new pavement construction.

(6) \$38,142,000 of the motor vehicle account—federal appropriation and \$858,000 of the motor vehicle account—state appropriation are provided solely for the preservation of structurally deficient bridges or bridges that are at risk of becoming structurally deficient. These funds must be used widely around the state of Washington. The department shall provide a report that identifies the scope, cost, and benefit of each project funded in this subsection as part of its 2016 agency budget request.

(7) Except as provided otherwise in this section, the entire connecting Washington account appropriation in this section is provided solely for the projects and activities as listed in LEAP Transportation Document ~~((2016-1))~~ 2017-1 as developed March ~~((7, 2016))~~ 25, 2017, Program – Highway Preservation Program (P).

(8) It is the intent of the legislature that, with respect to the amounts provided for highway preservation from the connecting Washington account, the department consider the preservation and rehabilitation of concrete roadway on Interstate 5 from the Canadian border to the Oregon border to be a priority within the preservation program.

(9) \$5,000,000 of the motor vehicle account—state appropriation is provided solely for extraordinary costs incurred from litigation awards, settlements, or dispute mitigation activities not eligible for funding from the self-insurance fund. The amount provided in this subsection must be held in unallotted status until the department submits a request to the office of financial management that includes documentation detailing litigation-related expenses. The office of financial management may release the funds only when it determines that all other funds designated for litigation awards, settlements, and dispute mitigation activities have been exhausted. No funds provided in this subsection may be expended on any legal fees related to the SR99/Alaskan Way viaduct replacement project.

(10)(a) The department and the Washington state patrol must work collaboratively to develop a comprehensive plan for weigh station construction and preservation for the entire state. The plan must be submitted to the transportation committees of the legislature by January 1, 2017.

(b) As part of the 2017-2019 biennial budget submittal, the department and the Washington state patrol must jointly submit a prioritized list of weigh station projects for legislative approval.

(11) The department must consult with the Washington state patrol during the design phase of a department-led improvement or preservation project that could impact weigh station operations. The department must ensure that the designs of the projects do not prevent or interfere with weigh station operations.

**Sec. 1008.** 2016 c 14 s 308 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION—  
TRAFFIC OPERATIONS—PROGRAM Q—CAPITAL**

Motor Vehicle Account—State Appropriation ~~(\$7,190,000)~~  
\$6,783,000

Motor Vehicle Account—Federal Appropriation  
~~(\$7,567,000)~~  
\$6,716,000

Motor Vehicle Account—Private/Local Appropriation  
~~(\$200,000)~~  
\$201,000  
TOTAL APPROPRIATION \$14,957,000  
\$13,700,000

The appropriations in this section are subject to the following conditions and limitations: The department shall set aside a sufficient portion of the motor vehicle account—state appropriation for federally selected competitive grants or congressional earmark projects that require matching state funds. State funds set aside as matching funds for federal projects must be accounted for in project 000005Q and remain in unallotted status until needed for those federal projects.

**Sec. 1009.** 2016 c 14 s 309 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION—  
WASHINGTON STATE FERRIES CONSTRUCTION—  
PROGRAM W**

Puget Sound Capital Construction Account—State  
Appropriation ~~(\$57,764,000)~~  
\$57,037,000  
Puget Sound Capital Construction Account—Federal  
Appropriation ~~(\$153,647,000)~~  
\$136,346,000  
Puget Sound Capital Construction Account—Private/Local

Appropriation \$3,730,000  
Transportation 2003 Account (Nickel Account)—State  
Appropriation \$122,089,000  
Connecting Washington Account—State Appropriation  
~~(\$68,805,000)~~  
\$72,689,000  
TOTAL APPROPRIATION \$406,035,000  
\$391,891,000

The appropriations in this section are subject to the following conditions and limitations:

(1) Except as provided otherwise in this section, the entire appropriations in this section are provided solely for the projects and activities as listed in LEAP Transportation Document ~~((2016-2))~~ 2017-2 ALL PROJECTS as developed March ~~((7, 2016))~~ 25, 2017, Program - Washington State Ferries Capital Program (W).

(2) \$90,545,000 of the transportation 2003 account (nickel account)—state appropriation is provided solely for the acquisition of a 144-car vessel (L1000063). The department shall use as much already procured equipment as practicable on the 144-car vessels.

(3) ~~(\$46,989,000)~~ \$26,742,000 of the Puget Sound capital construction account—federal appropriation, ~~(\$2,000,000)~~ \$5,884,000 of the connecting Washington account—state appropriation, \$562,000 of the transportation 2003 account (nickel account)—state appropriation, and ~~(\$490,000)~~ \$491,000 of the Puget Sound capital construction account—state appropriation are provided solely for the Mukilteo ferry terminal (952515P). It is the intent of the legislature, over the sixteen-year investment program, to provide ~~(\$155,000,000)~~ \$159,061,000 to complete the Mukilteo Terminal Replacement project (952515P). These funds are identified in the LEAP transportation document referenced in subsection (1) of this section. To the greatest extent practicable and within available resources, the department shall design the new terminal to be a net zero energy building. To achieve this goal, the department shall evaluate using highly energy efficient equipment and systems, and the most appropriate renewable energy systems for the needs and location of the terminal.

(4) \$7,000,000 of the Puget Sound capital construction account—state appropriation is provided solely for emergency

ONE HUNDRED FIRST DAY, APRIL 19, 2017

2017 REGULAR SESSION

capital repair costs (999910K). Funds may only be spent after approval by the office of financial management.

(5) Consistent with RCW 47.60.662, which requires the Washington state ferry system to collaborate with passenger-only ferry and transit providers to provide service at existing terminals, the department shall ensure that multimodal access, including for passenger-only ferries and transit service providers, is not precluded by any future terminal modifications.

(6) If the department pursues a conversion of the existing diesel powered Issaquah class fleet to a different fuel source or engine technology or the construction of a new vessel powered by a fuel source or engine technology that is not diesel powered, the department must use a design-build procurement process.

(7) Funding is included in the future biennia of the LEAP transportation document referenced in subsection (1) of this section for future vessel purchases. Given that the recent purchase of new vessels varies from the current long range plan, the department shall include in its updated long range plan revised estimates for new vessel costs, size, and purchase time frames. Additionally, the long range plan must include a vessel retirement schedule and associated reserve vessel policy recommendations.

(8) \$325,000 of the Puget Sound capital construction account—state appropriation is provided solely for the ferry system to participate in the development of one account-based system for customers of both the ferry system and tolling system. The current Wave2Go ferry ticketing system is reaching the end of its useful life and the department is expected to develop a replacement account-based system as part of the new tolling division customer service center toll collection system.

(9) Within existing resources, the department must evaluate the feasibility of utilizing the federal EB-5 immigrant investor program for financing the construction of a safety of life at sea (SOLAS) certificated vessel for the Anacortes-Sidney ferry route. The department must establish a group that includes, but is not limited to, the department of commerce and entities or individuals experienced with vessel engineering and EB-5 financing for assistance in evaluating the applicability of the EB-5 immigrant investor program. The department must deliver a report containing the results of the evaluation to the transportation committees of the legislature and the office of financial management by December 1, 2015.

(10) It is the intent of the legislature, over the sixteen-year investment program, to provide ~~((\$316,000,000))~~ \$320,267,000 to complete the Seattle Terminal Replacement project (900010L), including: (a) Design work and selection of a preferred plan, (b) replacing timber pilings with pilings sufficient to support a selected terminal design, (c) replacing the timber portion of the dock with a new and reconfigured steel and concrete dock, and (d) other staging and construction work as the amount allows. These funds are identified in the LEAP transportation document referenced in subsection (1) of this section.

(11) It is the intent of the legislature, over the sixteen-year new investment program, to provide \$122,000,000 in state funds to complete the acquisition of a fourth 144-car vessel (L2000109). These funds are identified in the LEAP transportation document referenced in subsection (1) of this section.

(12) \$300,000 of the Puget Sound capital construction account—state appropriation is provided solely to issue a request for proposals and purchase pilot program customer counting equipment. By June 30, 2017, the department must report to the governor and the transportation committees of the legislature on the most effective way to count ferry passengers.

(13) ~~((\$1,430,000))~~ \$1,255,000 of the Puget Sound capital construction account—federal appropriation and ~~((\$1,366,000))~~ \$889,000 of the Puget Sound capital construction—state

appropriation are provided solely for installation of security access control and video monitoring systems, and for enhancing wireless network capacity to handle higher security usage, increase connectivity between vessels and land-based facilities, and isolate the security portion of the network from regular business ~~((project))~~ 998925A).

(14) The transportation 2003 account (nickel account)—state appropriation includes up to \$4,131,000 in proceeds from the sale of bonds authorized in RCW 47.10.861.

(15) The department shall submit a cost estimate to procure a fifth 144-car vessel to the governor and the transportation committees of the legislature by June 30, 2017. The estimate must include, but is not limited to, construction costs, estimated operating costs, and any potential savings from replacing a currently operating vessel with a fifth 144-car vessel.

**Sec. 1010.** 2016 c 14 s 310 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION—RAIL—PROGRAM Y—CAPITAL**

Essential Rail Assistance Account—State	
Appropriation	\$1,459,000
Transportation Infrastructure Account—State	
Appropriation	\$7,154,000
Multimodal Transportation Account—State	
Appropriation	<del>((<u>\$37,205,000</u>))</del>
	<u>\$31,320,000</u>
Multimodal Transportation Account—Federal	
Appropriation	<del>((<u>\$492,217,000</u>))</del>
	<u>\$491,591,000</u>
<b>TOTAL APPROPRIATION</b>	<b>\$538,035,000</b>
	<u>\$531,524,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) Except as provided otherwise in this section, the entire appropriations in this section are provided solely for the projects and activities as listed by project and amount in LEAP Transportation Document ~~((2016-2))~~ 2017-2 ALL PROJECTS as developed March ~~((7, 2016))~~ 25, 2017, Program - Rail Program (Y).

(2) \$5,000,000 of the transportation infrastructure account—state appropriation is provided solely for new low-interest loans approved by the department through the freight rail investment bank (FRIB) program. The department shall issue FRIB program loans with a repayment period of no more than ten years, and charge only so much interest as is necessary to recoup the department's costs to administer the loans. For the 2015-2017 fiscal biennium, the department shall first award loans to 2015-2017 FRIB loan applicants in priority order, and then offer loans to 2015-2017 unsuccessful freight rail assistance program grant applicants, if eligible. If any funds remain in the FRIB program, the department may reopen the loan program and shall evaluate new applications in a manner consistent with past practices as specified in section 309, chapter 367, Laws of 2011. The department shall report annually to the transportation committees of the legislature and the office of financial management on all FRIB loans issued.

(3)(a) ~~((\$5,484,000))~~ \$5,429,000 of the multimodal transportation account—state appropriation, \$270,000 of the essential rail assistance account—state appropriation, and \$455,000 of the transportation infrastructure account—state appropriation are provided solely for new statewide emergent freight rail assistance projects identified in the LEAP transportation document referenced in subsection (1) of this section.

(b) Of the amounts provided in this subsection, \$367,000 of the transportation infrastructure account—state appropriation and \$1,100,000 of the multimodal transportation account—state appropriation are provided solely to reimburse Highline Grain, LLC for approved work completed on Palouse River and Coulee City (PCC) railroad track in Spokane county between the BNSF Railway Interchange at Cheney and Geiger Junction and must be administered in a manner consistent with freight rail assistance program projects. The value of the public benefit of this project is expected to meet or exceed the cost of this project in: Shipper savings on transportation costs; jobs saved in rail-dependent industries; and/or reduced future costs to repair wear and tear on state and local highways due to fewer annual truck trips (reduced vehicle miles traveled). The amounts provided in this subsection are not a commitment for future legislatures, but it is the legislature's intent that future legislatures will work to approve biennial appropriations until the full \$7,337,000 cost of this project is reimbursed.

(4) ~~(\$487,297,000)~~ \$487,163,000 of the multimodal transportation account—federal appropriation and ~~(\$13,679,000)~~ \$10,991,000 of the multimodal transportation account—state appropriation are provided solely for expenditures related to passenger high-speed rail grants. Except for the Mount Vernon project (P01101A), the multimodal transportation account—state funds reflect no more than one and one-half percent of the total project funds, and are provided solely for expenditures that are not eligible for federal reimbursement.

(5)(a) \$1,114,000 of the essential rail assistance account—state appropriation, \$766,000 of the multimodal transportation account—state appropriation, and \$68,000 of the transportation infrastructure account—state appropriation are provided solely for the purpose of the rehabilitation and maintenance of the Palouse river and Coulee City railroad line (F01111B).

(b) Expenditures from the essential rail assistance account—state in this subsection may not exceed the combined total of:

(i) Revenues deposited into the essential rail assistance account from leases and sale of property pursuant to RCW 47.76.290; and

(ii) Revenues transferred from the miscellaneous program account to the essential rail assistance account, pursuant to RCW 47.76.360, for the purpose of sustaining the grain train program by maintaining the Palouse river and Coulee City railroad.

(6) The department shall issue a call for projects for the freight rail assistance program, and shall evaluate the applications in a manner consistent with past practices as specified in section 309, chapter 367, Laws of 2011. By November 15, 2016, the department shall submit a prioritized list of recommended projects to the office of financial management and the transportation committees of the legislature.

**Sec. 1011.** 2016 c 14 s 311 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION—LOCAL PROGRAMS—PROGRAM Z—CAPITAL**

Highway Infrastructure Account—State	Appropriation	\$790,000
Highway Infrastructure Account—Federal	Appropriation	\$503,000
Transportation Partnership Account—State	Appropriation	<del>(\$4,054,000)</del>
		<u>\$2,911,000</u>
Highway Safety Account—State	Appropriation	<del>(\$11,647,000)</del>
		<u>\$9,259,000</u>
Motor Vehicle Account—State	Appropriation	<del>(\$1,271,000)</del>
		<u>\$1,171,000</u>
Motor Vehicle Account—Federal	Appropriation	<del>(\$28,043,000)</del>

		<u>\$17,571,000</u>
Multimodal Transportation Account—State	Appropriation	<del>(\$34,031,000)</del>
		<u>\$26,119,000</u>
Connecting Washington Account—State	Appropriation	<del>(\$47,669,000)</del>
		<u>\$27,069,000</u>
TOTAL APPROPRIATION		\$128,008,000
		<u>\$85,393,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) Except as provided otherwise in this section, the entire appropriations in this section are provided solely for the projects and activities as listed by project and amount in LEAP Transportation Document ~~((2016-2))~~ 2017-2 ALL PROJECTS as developed March ~~((7, 2016))~~ 25, 2017, Program - Local Programs Program (Z).

(2) The amounts identified in the LEAP transportation document referenced under subsection (1) of this section for pedestrian safety/safe routes to school are as follows:

(a) ~~(\$20,653,000)~~ \$14,221,000 of the multimodal transportation account—state appropriation and ~~(\$3,579,000)~~ \$2,436,000 of the transportation partnership account—state appropriation are provided solely for pedestrian and bicycle safety program projects ~~((project))~~ L2000188).

(b) ~~(\$11,400,000)~~ \$6,303,000 of the motor vehicle account—federal appropriation, ~~(\$1,750,000)~~ \$925,000 of the multimodal transportation account—state appropriation, and ~~(\$6,750,000)~~ \$4,690,000 of the highway safety account—state appropriation are provided solely for newly selected safe routes to school projects. ~~(\$8,782,000)~~ \$7,507,000 of the motor vehicle account—federal appropriation, ~~(\$124,000)~~ \$26,000 of the multimodal transportation account—state appropriation, and ~~(\$4,897,000)~~ \$4,569,000 of the highway safety account—state appropriation are reappropriated for safe routes to school projects selected in the previous biennia ~~((project))~~ L2000189). The department may consider the special situations facing high-need areas, as defined by schools or project areas in which the percentage of the children eligible to receive free and reduced-price meals under the national school lunch program is equal to, or greater than, the state average as determined by the department, when evaluating project proposals against established funding criteria while ensuring continued compliance with federal eligibility requirements.

(3) The department shall submit a report to the transportation committees of the legislature by December 1, 2015, and December 1, 2016, on the status of projects funded as part of the pedestrian safety/safe routes to school grant program. The report must include, but is not limited to, a list of projects selected and a brief description of each project's status.

(4) \$500,000 of the motor vehicle account—state appropriation is provided solely for the Edmonds waterfront at-grade train crossings alternatives analysis project (L2000135). The department shall work with the city of Edmonds and provide a preliminary report of key findings to the transportation committees of the legislature and the office of financial management by December 1, 2015.

(5)(a) ~~(\$9,900,000)~~ \$9,343,000 of the multimodal transportation account—state appropriation is provided solely for bicycle and pedestrian projects listed in LEAP Transportation Document ~~((2016-4))~~ 2017-2 as developed March ~~((7, 2016))~~ 25, 2017. Funds must first be used for projects that are identified as priority one projects. As additional funds become available or if a priority one project is delayed, funding must be provided to priority two projects and then to priority three projects. If a higher priority project is bypassed, it must be funded in the first round

ONE HUNDRED FIRST DAY, APRIL 19, 2017

2017 REGULAR SESSION

after the project is ready. If funds become available as a result of projects being removed from this list or completed under budget, the department may submit additional bicycle and pedestrian safety projects for consideration by the legislature. The department must submit a report annually with its budget submittal that, at a minimum, includes information about the listed bicycle and pedestrian projects that have been funded and projects that have been bypassed, including an estimated time frame for when the project will be funded.

(b) Within existing resources, the local programs division must develop recommendations regarding potential modifications to the process by which funding is provided to the projects listed in the LEAP transportation document identified in (a) of this subsection. These modifications should include, but are not limited to, options for accelerating delivery of the listed projects and options for further prioritizing the listed projects. The department must submit a report regarding its recommendations to the transportation committees of the legislature by November 15, 2016.

**TRANSFERS AND DISTRIBUTIONS**

**Sec. 1101.** 2016 c 14 s 401 (uncodified) is amended to read as follows:

**FOR THE STATE TREASURER—BOND RETIREMENT AND INTEREST, AND ONGOING BOND REGISTRATION AND TRANSFER CHARGES: FOR BOND SALES DISCOUNTS AND DEBT TO BE PAID BY MOTOR VEHICLE ACCOUNT AND TRANSPORTATION FUND REVENUE**

Transportation Partnership Account—State	
Appropriation	\$3,610,000
Highway Bond Retirement Account—State	
Appropriation	<del>(\$1,176,906,000)</del>
	<u>\$1,173,441,000</u>
Ferry Bond Retirement Account—State	
Appropriation	<del>(\$29,230,000)</del>
	<u>\$29,231,000</u>
Transportation Improvement Board Bond Retirement	
Account—State	
Appropriation	<del>(\$16,129,000)</del>
	<u>\$16,080,000</u>
State Route Number 520 Corridor Account—State	
Appropriation	\$559,000
Nondebt-Limit Reimbursable Bond Retirement Account—	
State	
Appropriation	<del>(\$25,837,000)</del>
	<u>\$25,332,000</u>
Toll Facility Bond Retirement Account—State	
Appropriation	<del>(\$72,880,000)</del>
	<u>\$67,850,000</u>
Motor Vehicle Account—State	\$2,500,000
Transportation 2003 Account (Nickel Account)—State	
Appropriation	\$477,000
<b>TOTAL APPROPRIATION</b>	<b>\$1,328,128,000</b>
	<u>\$1,319,080,000</u>

The appropriations in this section are subject to the following conditions and limitations: \$2,500,000 of the motor vehicle account—state appropriation is provided solely for debt service payment and withholding for the Tacoma Narrows bridge, with the intent of forestalling the need for the Washington state transportation commission to raise toll rates for the Tacoma Narrows bridge for fiscal year 2017.

**Sec. 1102.** 2016 c 14 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**

Transportation Partnership Account—State	
Appropriation	\$697,000
Transportation 2003 Account (Nickel Account)—State	
Appropriation	\$87,000
State Route Number 520 Corridor Account—State	
Appropriation	\$134,000
<b>TOTAL APPROPRIATION</b>	<b>\$784,000</b>
	<u>\$918,000</u>

**Sec. 1103.** 2016 c 14 s 403 (uncodified) is amended to read as follows:

**FOR THE STATE TREASURER—BOND RETIREMENT AND INTEREST, AND ONGOING BOND REGISTRATION AND TRANSFER CHARGES: FOR DEBT TO BE PAID BY STATUTORILY PRESCRIBED REVENUE**

Toll Facility Bond Retirement Account—Federal	
Appropriation	<del>(\$200,215,000)</del>
	<u>\$200,216,000</u>
<del>((Toll Facility Bond Retirement Account—State</del>	
<del>Appropriation</del>	<del>\$12,009,000</del>
<b>TOTAL APPROPRIATION</b>	<b>\$212,224,000</b>

**Sec. 1104.** 2016 c 14 s 404 (uncodified) is amended to read as follows:

**FOR THE STATE TREASURER—STATE REVENUES FOR DISTRIBUTION**

Motor Vehicle Account—State	
Appropriation: For motor vehicle fuel tax distributions to cities and counties	<del>(\$497,071,000)</del>
	<u>\$496,685,000</u>

**Sec. 1105.** 2016 c 14 s 406 (uncodified) is amended to read as follows:

**FOR THE STATE TREASURER—TRANSFERS**

Motor Vehicle Account—State	
Appropriation: For motor vehicle fuel tax refunds and statutory transfers	<del>(\$1,831,879,000)</del>
	<u>\$1,856,065,000</u>

**Sec. 1106.** 2016 c 14 s 407 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF LICENSING—TRANSFERS**

Motor Vehicle Account—State	
Appropriation: For motor vehicle fuel tax refunds and transfers	<del>(\$182,730,000)</del>
	<u>\$184,758,000</u>

**Sec. 1107.** 2016 c 14 s 408 (uncodified) is amended to read as follows:

**FOR THE STATE TREASURER—ADMINISTRATIVE TRANSFERS**

- (1) Multimodal Transportation Account—State  
Appropriation: For transfer to the Puget Sound Ferry Operations Account—State \$10,000,000
- (2) Multimodal Transportation Account—State  
Appropriation: For transfer to the Puget Sound Capital Construction Account—State \$12,000,000
- (3) State Route Number 520 Civil Penalties Account—State  
Appropriation: For transfer to the State Route Number 520 Corridor Account—State  
~~(\$1,631,000)~~  
\$1,630,000
- (4) Highway Safety Account—State  
Appropriation: For transfer to the State Patrol Highway Account—State \$20,000,000
- (5) Highway Safety Account—State



Appropriation: For transfer to the Puget Sound Ferry Operations Account—State \$10,000,000

(6) Tacoma Narrows Toll Bridge Account—State Appropriation: For transfer to the Motor Vehicle Account—State \$950,000

(7) Motor Vehicle Account—State Appropriation: For transfer to the Puget Sound Capital Construction Account—State \$18,000,000

(8) Rural Mobility Grant Program Account—State Appropriation: For transfer to the Multimodal Transportation Account—State \$3,000,000,

(9) Motor Vehicle Account—State Appropriation: For transfer to the Puget Sound Ferry Operations Account—State \$10,000,000

(10) State Patrol Highway Account—State Appropriation: For transfer to the Connecting Washington Account—State \$9,690,000

(11) Transportation Partnership Account—State Appropriation: For transfer to the Connecting Washington Account—State \$4,998,000

(12) Motor Vehicle Account—State Appropriation: For transfer to the Connecting Washington Account—State \$25,781,000

(13) Puget Sound Ferry Operations Account—State Appropriation: For transfer to the Connecting Washington Account—State \$596,000

(14) Transportation 2003 Account (Nickel Account)—State Appropriation: For transfer to the Connecting Washington Account—State \$2,270,000

(15) Highway Safety Account—State Appropriation: For transfer to the Multimodal Transportation Account—State \$5,000,000

(16) Motor Vehicle Account—State Appropriation: For transfer to the Freight Mobility Investment Account—State \$1,922,000

(17) Motor Vehicle Account—State Appropriation: For transfer to the Transportation Improvement Account—State \$2,188,000

(18) Motor Vehicle Account—State Appropriation: For transfer to the Rural Arterial Trust Account—State \$1,094,000

(19) Motor Vehicle Account—State Appropriation: For transfer to the County Arterial Preservation Account—State \$1,094,000

(20) Multimodal Transportation Account—State Appropriation: For transfer to the Freight Mobility Multimodal Account—State \$1,922,000

(21) Multimodal Transportation Account—State Appropriation: For transfer to the Regional Mobility Grant Program Account—State \$6,250,000

(22) Multimodal Transportation Account—State Appropriation: For transfer to the Rural Mobility Grant Program Account—State \$3,438,000

(23) Multimodal Transportation Account—State Appropriation: For transfer to the Electric Vehicle Charging Infrastructure Account—State \$1,000,000

(24) Capital Vessel Replacement Account—State Appropriation: For transfer to the Connecting Washington Account—State ~~(\$59,000,000)~~ \$58,000,000

(25) Multimodal Transportation Account—State Appropriation: For transfer to the Connecting Washington Account—State \$8,000,000

(26) Multimodal Transportation Account—State Appropriation: For transfer to the Aeronautics Account—State ~~(\$250,000)~~

\$550,000

## IMPLEMENTING PROVISIONS

**Sec. 1201.** 2016 c 14 s 601 (uncodified) is amended to read as follows:

### FUND TRANSFERS

(1) The transportation 2003 projects or improvements and the 2005 transportation partnership projects or improvements are listed in the LEAP list titled ~~((2016-1))~~ 2017-1 as developed March ~~((7, 2016))~~ 25, 2017, which consists of a list of specific projects by fund source and amount over a sixteen-year period. Current fiscal biennium funding for each project is a line-item appropriation, while the outer year funding allocations represent a sixteen-year plan. The department is expected to use the flexibility provided in this section to assist in the delivery and completion of all transportation partnership account and transportation 2003 account (nickel account) projects on the LEAP transportation documents referenced in this act. However, this section does not apply to the I-5/Columbia River Crossing project (400506A). For the 2015-2017 project appropriations, unless otherwise provided in this act, the director of financial management may authorize a transfer of appropriation authority between projects funded with transportation 2003 account (nickel account) appropriations, or transportation partnership account appropriations, in order to manage project spending and efficiently deliver all projects in the respective program under the following conditions and limitations:

(a) Transfers may only be made within each specific fund source referenced on the respective project list;

(b) Transfers from a project may not be made as a result of the reduction of the scope of a project or be made to support increases in the scope of a project;

(c) Each transfer between projects may only occur if the director of financial management finds that any resulting change will not hinder the completion of the projects as approved by the legislature. Until the legislature reconvenes to consider the 2016 supplemental omnibus transportation appropriations act, any unexpended 2013-2015 appropriation balance as approved by the office of financial management, in consultation with the legislative staff of the house of representatives and senate transportation committees, may be considered when transferring funds between projects;

(d) Transfers from a project may be made if the funds appropriated to the project are in excess of the amount needed to complete the project;

(e) Transfers may not occur for projects not identified on the applicable project list;

(f) Transfers may not be made while the legislature is in session; and

(g) Transfers between projects may be made, without the approval of the director of the office of financial management, by the department of transportation until the transfer amount by project exceeds two hundred fifty thousand dollars, or ten percent of the total project, whichever is less. These transfers must be reported quarterly to the director of financial management and the chairs of the house of representatives and senate transportation committees.

(2) At the time the department submits a request to transfer funds under this section, a copy of the request must be submitted to the transportation committees of the legislature.

(3) The office of financial management shall work with legislative staff of the house of representatives and senate transportation committees to review the requested transfers in a timely manner.

(4) The office of financial management shall document approved transfers and schedule changes in the transportation executive information system, compare changes to the legislative

ONE HUNDRED FIRST DAY, APRIL 19, 2017

2017 REGULAR SESSION

baseline funding and schedules identified by project identification number identified in the LEAP transportation documents referenced in this act, and transmit revised project lists to chairs of the transportation committees of the legislature on a quarterly basis.

amendment(s) thereto: Senators Hobbs, King and Sheldon.

MOTION

**MISCELLANEOUS 2015-2017 FISCAL BIENNIUM**

**NEW SECTION. Sec. 1301.** A new section is added to 2016 c 14 (uncodified) to read as follows:

The appropriations to the department of transportation in chapter 14, Laws of 2016 and this act must be expended for the programs and in the amounts specified in this act. However, after May 1, 2017, unless specifically prohibited, the department may transfer state appropriations for the 2015-2017 fiscal biennium among operating programs after approval by the director of the office of financial management. However, the department shall not transfer state moneys that are provided solely for a specific purpose. The department shall not transfer funds, and the director of the office of financial management shall not approve the transfer, unless the transfer is consistent with the objective of conserving, to the maximum extent possible, the expenditure of state funds and not federal funds. The director of the office of financial management shall notify the transportation committees of the legislature in writing no fewer than seven days before approving any allotment modifications or transfers under this section. The written notification must include a narrative explanation and justification of the changes, along with expenditures and allotments by program and appropriation, both before and after any allotment modifications or transfers.

**MISCELLANEOUS**

**NEW SECTION. Sec. 1401.** 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. 1402.** Except for section 706 of this act, this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

**NEW SECTION. Sec. 1403.** Section 706 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, 2017."

Correct the title.

NONA SNELL, Deputy Chief Clerk

MOTION

Senator King moved that the Senate refuse to concur in the House amendment(s) to Engrossed Senate Bill No. 5096 and request of the House a conference thereon.

Senators King and Hobbs spoke in favor of passage of the motion.

The President declared the question before the Senate to be motion by Senator King that the Senate refuse to concur in the House amendment(s) to Engrossed Senate Bill No. 5096 and request a conference thereon.

The motion by Senator King carried and the Senate refused to concur in the House amendment(s) to Engrossed Senate Bill No. 5096 and requested of the House a conference thereon by voice vote.

APPOINTMENT OF CONFERENCE COMMITTEE

The President appointed as members of the Conference Committee on Engrossed Senate Bill No. 5096 and the House

MESSAGE FROM THE HOUSE

April 6, 2017

MR. PRESIDENT:

The House passed ENGROSSED SUBSTITUTE SENATE BILL NO. 5388 with the following amendment(s): 5388-S.E AMH JUDI H2493.1

Strike everything after the enacting clause and insert the following:

**NEW SECTION. Sec. 1404.** A new section is added to chapter 9A.52 RCW to read as follows:

(1) Subject to subsections (2) and (3) of this section and upon the receipt of a declaration signed under penalty of perjury and containing all of the required information and in the form prescribed in section 2 of this act, a peace officer shall have the authority to:

(a) Remove the person or persons from the premises, with or without arresting the person or persons; and

(b) Order the person or persons to remain off the premises or be subject to arrest for criminal trespass.

(2) Only a peace officer having probable cause to believe that a person is guilty of criminal trespass under RCW 9A.52.070 for knowingly entering or remaining unlawfully in a building considered residential real property, as defined in RCW 61.24.005, has the authority and discretion to make an arrest or exclude anyone under penalty of criminal trespass.

(3) While a peace officer can take into account a declaration from the property owner signed under penalty of perjury containing all of the required information and in the form prescribed in section 2 of this act, the peace officer must provide the occupant or occupants with a reasonable opportunity to secure and present any credible evidence provided by the person or persons on the premises, which the peace officer must consider, showing that the person or persons are tenants, legal occupants, or the guests or invitees of tenants or legal occupants.

(4) Neither the peace officer nor his or her law enforcement agency shall be held liable for actions or omissions made in good faith under this section.

(5) This section may not be construed to in any way limit rights under RCW 61.24.060 or to allow a peace officer to remove or exclude an occupant who is entitled to occupy a dwelling unit under a rental agreement or the occupant's guests or invitees.

**NEW SECTION. Sec. 1405.** A new section is added to chapter 9A.52 RCW to read as follows:

The owner of premises, or his or her authorized agent, may initiate the investigation and request the removal of an unauthorized person or persons from the premises by providing to law enforcement a declaration containing all of the following required information and in substantially the following form:

REQUEST TO REMOVE TRESPASSER(S) FORM

The undersigned owner, or authorized agent of the owner, of the premises located at ..... hereby represents and declares under the penalty of perjury that (initial each box):

(1) was not found The declarant is the owner of the premises or the authorized agent of the owner of the premises;

(2) An unauthorized person or persons have entered and are remaining unlawfully on the premises;

(3) The person or persons were not authorized to enter or remain;

(4) The person or persons are not a tenant or tenants and have not been a tenant or tenants, or a homeowner or homeowners who have been on title, within the last twelve months on the property;

(5) The declarant has demanded that the unauthorized person or persons vacate the premises but they have not done so;

(6) The premises were not abandoned at the time the unauthorized person or persons entered;

(7) The premises were not open to members of the public at the time the unauthorized person or persons entered;

(8) The declarant understands that a person or persons removed from the premises pursuant to section 1 of this act may bring a cause of action under section 3 of this act against the declarant for any false statements made in this declaration, and that as a result of such action the declarant may be held liable for actual damages, costs, and reasonable attorneys' fees;

(9)The declarant understands and acknowledges the prohibitions in RCW 59.18.230 and 59.18.290 against taking or detaining an occupant's personal property or removing or excluding an occupant from a dwelling unit or rental premises without an authorizing court order;

(10) The declarant agrees to indemnify and hold harmless law enforcement for its actions or omissions made in good faith pursuant to this declaration; and

(11) Additional Optional Explanatory Comments:

.....

A declarant of premises who falsely swears on a declaration provided under this section may be guilty of false swearing under RCW 9A.72.040 or of making a false or misleading statement to a public servant under RCW 9A.76.175, both of which are gross misdemeanors.

NEW SECTION. Sec. 1406. A new section is added to chapter 4.24 RCW to read as follows:

All persons removed from premises pursuant to section 1 of this act on the basis of false statements made by a declarant pursuant to section 2 of this act shall have a cause of action to recover from the declarant for the full amount of damages caused thereby, together with costs and reasonable attorneys' fees."

Correct the title.

BERNARD DEAN, Chief Clerk

MOTION

Senator Zeiger moved that the Senate refuse to concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5388 and ask the House to recede therefrom.

Senators Zeiger and Pedersen spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Zeiger that the Senate refuse to concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5388 and ask the House to recede therefrom.

The motion by Senator Zeiger carried and the Senate refused to concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5388 and asked the House to recede therefrom by voice vote.

MESSAGE FROM THE HOUSE

April 17, 2017

MR. PRESIDENT:

The Speaker ruled that the Senate amendments: 1718 AMS SCHO S2586.1 #199; 1718 AMS FORT S2587.2 #202 to HOUSE BILL NO. 1718 to be beyond scope & object of the bill. The House refuses to concur in said amendments and asks the Senate to recede therefrom. The House did consider amendment 1718 AMS CLS S2105.1 to HOUSE BILL NO. 1718 and concurred thereon.

NONA SNELL, Deputy Chief Clerk

MOTION

Senator Baumgartner moved that the Senate recede from its position on House Bill No. 1718 and pass the bill without Senate amendments no. 199 and no. 202.

Senator Baumgartner spoke in favor of the motion.

The President declared the question before the Senate to be motion by Senator Baumgartner that the Senate recede from its position on House Bill No. 1718 and pass the bill without certain Senate amendments.

The motion by Senator Baumgartner carried and the Senate receded from its position on House Bill No. 1718 and passed the bill without certain Senate amendments by voice vote.

The President declared the question before the Senate to be the final passage of House Bill No. 1718 without certain Senate amendments.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1718, without certain Senate amendments, and the bill passed the Senate by the following vote: Yeas, 46; Nays, 3; Absent, 0; Excused, 0.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Billig, Braun, Brown, Chase, Cleveland, Conway, Ericksen, Fain, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Honeyford, Hunt, Keiser, King, Kuderer, Liias, McCoy, Miloscia, Mullet, Nelson, O'Ban, Padden, Palumbo, Pedersen, Ranker, Rivers, Rolfes, Rossi, Saldaña, Schoesler, Sheldon, Short, Takko, Van De Wege, Walsh, Warnick, Wellman, Wilson and Zeiger

Voting nay: Senators Carlyle, Darneille and Pearson

HOUSE BILL NO. 1718, without certain Senate amendment(s), having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 17, 2017

MR. PRESIDENT:

The House refuses to concur in the Senate amendment(s) to ENGROSSED HOUSE BILL NO. 1620 and asks the Senate to recede therefrom.

NONA SNELL, Deputy Chief Clerk

MOTION

Senator Short moved that the Senate recede from its position on the Senate amendments to Engrossed House Bill No. 1620.

The President declared the question before the Senate to be motion by Senator Short that the Senate recede from its position on the Senate amendments to Engrossed House Bill No. 1620.

ONE HUNDRED FIRST DAY, APRIL 19, 2017

2017 REGULAR SESSION

The motion by Senator Short carried and the Senate recessed from its amendments to Engrossed House Bill No. 1620.

MOTION

On motion of Senator Short, the rules were suspended and Engrossed House Bill No. 1620 was returned to second reading for the purposes of amendment.

MOTION

Senator Short moved that the following striking floor amendment no. 269 by Senator Short be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1407.** RCW 35.21.920 and 2010 c 47 s 2 are each amended to read as follows:

(1) For the purpose of receiving criminal history record information by city or town officials, cities or towns may(=):

(a) By ordinance, require a state and federal background investigation of license applicants or licensees in occupations specified by ordinance ((for the purpose of receiving criminal history record information by city or town officials));

(b) By ordinance, require a federal background investigation of city or town employees, applicants for employment, volunteers, vendors, and independent contractors, who, in the course of their work or volunteer activity with the city or town, may have unsupervised access to children, persons with developmental disabilities, or vulnerable adults;

(c) Require a state criminal background investigation of city or town employees, applicants for employment, volunteers, vendors, and independent contractors, who, in the course of their work or volunteer activity with the city or town, may have unsupervised access to children, persons with developmental disabilities, or vulnerable adults; and

(d) Require a criminal background investigation conducted through a private organization of city or town employees, applicants for employment, volunteers, vendors, and independent contractors, who, in the course of their work or volunteer activity with the city or town, may have unsupervised access to children, persons with developmental disabilities, or vulnerable adults.

(2) The investigation conducted under subsection (1)(a) through (c) of this section shall consist of a background check as allowed through the Washington state criminal records privacy act under RCW 10.97.050, the Washington state patrol criminal identification system under RCW 43.43.832 through 43.43.834, and the federal bureau of investigation. ((These))

(3) The background checks conducted under subsection (1)(a) through (c) of this section must be done through the Washington state patrol identification and criminal history section and may include a national check from the federal bureau of investigation, which shall be through the submission of fingerprints. The Washington state patrol shall serve as the sole source for receipt of fingerprint submissions and the responses to the submissions from the federal bureau of investigation, which must be disseminated to the city or town.

(4) For a criminal background check conducted under subsection (1)(a) through (c) of this section, the city or town shall transmit appropriate fees for a state and national criminal history check to the Washington state patrol, unless alternately arranged. The cost of investigations conducted under this section shall be borne by the city or town.

(5) The authority for background checks outlined in this section is in addition to any other authority for such checks provided by law.

**Sec. 1408.** RCW 35A.21.370 and 2010 c 47 s 3 are each amended to read as follows:

(1) For the purpose of receiving criminal history record information by code city officials, code cities may(=):

(a) By ordinance, require a state and federal background investigation of license applicants or licensees in occupations specified by ordinance ((for the purpose of receiving criminal history record information by code city officials));

(b) By ordinance, require a federal background investigation of code city employees, applicants for employment, volunteers, vendors, and independent contractors, who, in the course of their work or volunteer activity with the code city, may have unsupervised access to children, persons with developmental disabilities, or vulnerable adults;

(c) Require a state criminal background investigation of code city employees, applicants for employment, volunteers, vendors, and independent contractors, who, in the course of their work or volunteer activity with the code city, may have unsupervised access to children, persons with developmental disabilities, or vulnerable adults; and

(d) Require a criminal background investigation conducted through a private organization of code city employees, applicants for employment, volunteers, vendors, and independent contractors, who, in the course of their work or volunteer activity with the code city, may have unsupervised access to children, persons with developmental disabilities, or vulnerable adults.

(2) The investigation conducted under subsection (1)(a) through (c) of this section shall consist of a background check as allowed through the Washington state criminal records privacy act under RCW 10.97.050, the Washington state patrol criminal identification system under RCW 43.43.832 through 43.43.834, and the federal bureau of investigation. ((These))

(3) The background checks conducted under subsection (1)(a) through (c) of this section must be done through the Washington state patrol identification and criminal history section and may include a national check from the federal bureau of investigation, which shall be through the submission of fingerprints. The Washington state patrol shall serve as the sole source for receipt of fingerprint submissions and the responses to the submissions from the federal bureau of investigation, which must be disseminated to the code city.

(4) For a criminal background check conducted under subsection (1)(a) through (c) of this section, the code city shall transmit appropriate fees for a state and national criminal history check to the Washington state patrol, unless alternately arranged. The cost of investigations conducted under this section shall be borne by the code city.

(5) The authority for background checks outlined in this section is in addition to any other authority for such checks provided by law.

**Sec. 1409.** RCW 36.01.300 and 2010 c 47 s 1 are each amended to read as follows:

(1) For the purpose of receiving criminal history record information by county officials, counties may(=):

(a) By ordinance, require a state and federal background investigation of license applicants or licensees in occupations specified by ordinance ((for the purpose of receiving criminal history record information by county officials));

(b) By ordinance, require a federal background investigation of county employees, applicants for employment, volunteers, vendors, and independent contractors, who, in the course of their work or volunteer activity with the county, may have

unsupervised access to children, persons with developmental disabilities, or vulnerable adults;

(c) Require a state background investigation of county employees, applicants for employment, volunteers, vendors, and independent contractors, who, in the course of their work or volunteer activity with the county, may have unsupervised access to children, persons with developmental disabilities, or vulnerable adults; and

(d) Require a criminal background investigation conducted through a private organization of county employees, applicants for employment, volunteers, vendors, and independent contractors, who, in the course of their work or volunteer activity with the county, may have unsupervised access to children, persons with developmental disabilities, or vulnerable adults.

(2) The investigation conducted under subsection (1)(a) through (c) of this section shall consist of a background check as allowed through the Washington state criminal records privacy act under RCW 10.97.050, the Washington state patrol criminal identification system under RCW 43.43.832 through 43.43.834, and the federal bureau of investigation. ((These))

(3) The background checks conducted under subsection (1)(a) through (c) of this section must be done through the Washington state patrol identification and criminal history section and may include a national check from the federal bureau of investigation, which shall be through the submission of fingerprints. The Washington state patrol shall serve as the sole source for receipt of fingerprint submissions and the responses to the submissions from the federal bureau of investigation, which must be disseminated to the county.

(4) For a criminal background check conducted under subsection (1)(a) through (c) of this section, the county shall transmit appropriate fees for a state and national criminal history check to the Washington state patrol, unless alternately arranged. The cost of investigations conducted under this section shall be borne by the county.

(5) The authority for background checks outlined in this section is in addition to any other authority for such checks provided by law.

**Sec. 1410.** RCW 35.61.130 and 2006 c 222 s 1 are each amended to read as follows:

(1) A metropolitan park district has the right of eminent domain, and may purchase, acquire and condemn lands lying within or without the boundaries of said park district, for public parks, parkways, boulevards, aviation landings and playgrounds, and may condemn such lands to widen, alter and extend streets, avenues, boulevards, parkways, aviation landings and playgrounds, to enlarge and extend existing parks, and to acquire lands for the establishment of new parks, boulevards, parkways, aviation landings and playgrounds. The right of eminent domain shall be exercised and instituted pursuant to resolution of the board of park commissioners and conducted in the same manner and under the same procedure as is or may be provided by law for the exercise of the power of eminent domain by incorporated cities and towns of the state of Washington in the acquisition of property rights: PROVIDED, HOWEVER, Funds to pay for condemnation allowed by this section shall be raised only as specified in this chapter.

(2) The board of park commissioners shall have power to employ counsel, and to regulate, manage and control the parks, parkways, boulevards, streets, avenues, aviation landings and playgrounds under its control, and to provide for park police, for a secretary of the board of park commissioners and for all necessary employees, to fix their salaries and duties.

(3) The board of park commissioners shall have power to improve, acquire, extend and maintain, open and lay out, parks, parkways, boulevards, avenues, aviation landings and

playgrounds, within or without the park district, and to authorize, conduct and manage the letting of boats, or other amusement apparatus, the operation of bath houses, the purchase and sale of foodstuffs or other merchandise, the giving of vocal or instrumental concerts or other entertainments, the establishment and maintenance of aviation landings and playgrounds, and generally the management and conduct of such forms of recreation or business as it shall judge desirable or beneficial for the public, or for the production of revenue for expenditure for park purposes; and may pay out moneys for the maintenance and improvement of any such parks, parkways, boulevards, avenues, aviation landings and playgrounds as now exist, or may hereafter be acquired, within or without the limits of said city and for the purchase of lands within or without the limits of said city, whenever it deems the purchase to be for the benefit of the public and for the interest of the park district, and for the maintenance and improvement thereof and for all expenses incidental to its duties: PROVIDED, That all parks, boulevards, parkways, aviation landings and playgrounds shall be subject to the police regulations of the city within whose limits they lie.

(4) ((For all employees, volunteers, or independent contractors, who may, in the course of their work or volunteer activity with the park district, have unsupervised access to children or vulnerable adults, or be responsible for collecting or disbursing cash or processing credit/debit card transactions.))

(a) For the purpose of receiving criminal history record information by metropolitan park districts, metropolitan park districts:

(i) Shall establish by resolution the requirements for a state and federal record check of park district employees, applicants for employment, volunteers, vendors, and independent contractors, who, in the course of their work or volunteer activity with the park district, may:

(A) Have unsupervised access to children, persons with developmental disabilities, or vulnerable adults; or

(B) Be responsible for collecting or disbursing cash or processing credit/debit card transactions; and

(ii) May require a criminal background check conducted through a private organization of park district employees, applicants for employment, volunteers, vendors, and independent contractors, who, in the course of their work or volunteer activity with the park district, may have unsupervised access to children, persons with developmental disabilities, or vulnerable adults. A background check conducted through a private organization under this subsection is not required in addition to the requirement under (a)(i) of this subsection.

(b) The investigation under (a)(i) of this subsection shall consist of a background check as allowed through the Washington state patrol criminal identification system under RCW 43.43.830 through 43.43.834, the Washington state criminal records act under RCW 10.97.030((7)) and 10.97.050, and ((through)) the federal bureau of investigation((, including a fingerprint check using a complete Washington state criminal identification fingerprint card)).

(c) The background checks conducted under (a)(i) of this subsection must be done through the Washington state patrol identification and criminal history section and may include a national check from the federal bureau of investigation, which shall be through the submission of fingerprints. The Washington state patrol shall serve as the sole source for receipt of fingerprint submissions and the responses to the submissions from the federal bureau of investigation, which must be disseminated to the metropolitan park district.

(d) The park district shall provide a copy of the record report to the employee, prospective employee, volunteer, vendor, or independent contractor.

April 17, 2017

(e) When necessary, as determined by the park district, prospective employees, volunteers, vendors, or independent contractors may be employed on a conditional basis pending completion of the investigation.

(f) If the employee, prospective employee, volunteer, vendor, or independent contractor has had a record check within the previous twelve months, the park district may waive the requirement upon receiving a copy of the record. ~~((The park district may in its discretion require that the prospective employee, volunteer, or independent contractor pay the costs associated with the record check.))~~

(g) For background checks conducted pursuant to (c) of this subsection, the metropolitan park district must transmit appropriate fees, as the Washington state patrol may require under RCW 10.97.100 and 43.43.838, to the Washington state patrol, unless alternately arranged.

(h) The authority for background checks outlined in this section is in addition to any other authority for such checks provided by law.

On page 1, line 2 of the title, after "checks;" strike the remainder of the title and insert "and amending RCW 35.21.920, 35A.21.370, 36.01.300, and 35.61.130."

Senator Short spoke in favor of adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of floor striking amendment no. 269 by Senator Short to Engrossed House Bill No. 1620.

The motion by Senator Short carried and floor striking amendment no. 269 was adopted by voice vote.

MOTION

On motion of Senator Short, the rules were suspended, Engrossed House Bill No. 1620 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Short spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed House Bill No. 1620 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed House Bill No. 1620 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Billig, Braun, Brown, Carlyle, Chase, Cleveland, Conway, Darneille, Ericksen, Fain, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Honeyford, Hunt, Keiser, King, Kuderer, Lias, McCoy, Miloscia, Mullet, Nelson, O'Ban, Padden, Palumbo, Pearson, Pedersen, Ranker, Rivers, Rolfes, Rossi, Saldaña, Schoesler, Sheldon, Short, Takko, Van De Wege, Walsh, Warnick, Wellman, Wilson and Zeiger

ENGROSSED HOUSE BILL NO. 1620, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

MR. PRESIDENT:

The House refuses to concur in the Senate amendment(s) to ENGROSSED SUBSTITUTE HOUSE BILL NO. 1714 and asks the Senate to recede therefrom.

NONA SNELL, Deputy Chief Clerk

MOTION

Senator Rivers moved that the Senate recede from its position on the Senate amendments to Engrossed Substitute House Bill No. 1714.

The President declared the question before the Senate to be motion by Senator Rivers that the Senate recede from its position on the Senate amendments to Engrossed Substitute House Bill No. 1714.

The motion by Senator Rivers carried and the Senate receded from its amendments to Engrossed Substitute House Bill No. 1714.

MOTION

On motion of Senator Rivers, the rules were suspended and House Bill No. 1714 was returned to second reading for the purposes of amendment.

MOTION

Senator Rivers moved that the following floor striking amendment no. 272 by Senator Rivers be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1411. The legislature finds that:

(1) Research demonstrates that registered nurses play a critical role in improving patient safety and quality of care;

(2) Appropriate staffing of hospital personnel including registered nurses available for patient care assists in reducing errors, complications, and adverse patient care events and can improve staff safety and satisfaction and reduce incidences of workplace injuries;

(3) Health care professional, technical, and support staff comprise vital components of the patient care team, bringing their particular skills and services to ensuring quality patient care;

(4) Assuring sufficient staffing of hospital personnel, including registered nurses, is an urgent public policy priority in order to protect patients and support greater retention of registered nurses and safer working conditions; and

(5) Steps should be taken to promote evidence-based nurse staffing and increase transparency of health care data and decision making based on the data.

**Sec. 1412.** RCW 70.41.420 and 2008 c 47 s 3 are each amended to read as follows:

(1) By September 1, 2008, each hospital shall establish a nurse staffing committee, either by creating a new committee or assigning the functions of a nurse staffing committee to an existing committee. At least one-half of the members of the nurse staffing committee shall be registered nurses currently providing direct patient care and up to one-half of the members shall be determined by the hospital administration. The selection of the registered nurses providing direct patient care shall be according to the collective bargaining agreement if there is one in effect at

the hospital. If there is no applicable collective bargaining agreement, the members of the nurse staffing committee who are registered nurses providing direct patient care shall be selected by their peers.

(2) Participation in the nurse staffing committee by a hospital employee shall be on scheduled work time and compensated at the appropriate rate of pay. Nurse staffing committee members shall be relieved of all other work duties during meetings of the committee.

(3) Primary responsibilities of the nurse staffing committee shall include:

(a) Development and oversight of an annual patient care unit and shift-based nurse staffing plan, based on the needs of patients, to be used as the primary component of the staffing budget. Factors to be considered in the development of the plan should include, but are not limited to:

(i) Census, including total numbers of patients on the unit on each shift and activity such as patient discharges, admissions, and transfers;

(ii) Level of intensity of all patients and nature of the care to be delivered on each shift;

(iii) Skill mix;

(iv) Level of experience and specialty certification or training of nursing personnel providing care;

(v) The need for specialized or intensive equipment;

(vi) The architecture and geography of the patient care unit, including but not limited to placement of patient rooms, treatment areas, nursing stations, medication preparation areas, and equipment; ~~(and)~~

(vii) Staffing guidelines adopted or published by national nursing professional associations, specialty nursing organizations, and other health professional organizations;

(viii) Availability of other personnel supporting nursing services on the unit; and

(ix) Strategies to enable registered nurses to take meal and rest breaks as required by law or the terms of an applicable collective bargaining agreement, if any, between the hospital and a representative of the nursing staff;

(b) Semiannual review of the staffing plan against patient need and known evidence-based staffing information, including the nursing sensitive quality indicators collected by the hospital;

(c) Review, assessment, and response to staffing variations or concerns presented to the committee.

(4) In addition to the factors listed in subsection (3)(a) of this section, hospital finances and resources ~~(may)~~ must be taken into account in the development of the nurse staffing plan.

(5) The staffing plan must not diminish other standards contained in state or federal law and rules, or the terms of an applicable collective bargaining agreement, if any, between the hospital and a representative of the nursing staff.

(6) The committee will produce the hospital's annual nurse staffing plan. If this staffing plan is not adopted by the hospital, the chief executive officer shall provide a written explanation of the reasons why the plan was not adopted to the committee. The chief executive officer must then either: (a) Identify those elements of the proposed plan being changed prior to adoption of the plan by the hospital or (b) prepare an alternate annual staffing plan that must be adopted by the hospital. Beginning January 1, 2019, each hospital shall submit its staffing plan to the department and thereafter on an annual basis and at any time in between that the plan is updated.

(7) Beginning January 1, 2019, each hospital shall implement the staffing plan and assign nursing personnel to each patient care unit in accordance with the plan.

(a) A registered nurse may report to the staffing committee any variations where the nurse personnel assignment in a patient care

unit is not in accordance with the adopted staffing plan and may make a complaint to the committee based on the variations.

(b) Shift-to-shift adjustments in staffing levels required by the plan may be made by the appropriate hospital personnel overseeing patient care operations. If a registered nurse on a patient care unit objects to a shift-to-shift adjustment, the registered nurse may submit the complaint to the staffing committee.

(c) Staffing committees shall develop a process to examine and respond to data submitted under (a) and (b) of this subsection, including the ability to determine if a specific complaint is resolved or dismissing a complaint based on unsubstantiated data.

(8) Each hospital shall post, in a public area on each patient care unit, the nurse staffing plan and the nurse staffing schedule for that shift on that unit, as well as the relevant clinical staffing for that shift. The staffing plan and current staffing levels must also be made available to patients and visitors upon request.

~~((8))~~ (9) A hospital may not retaliate against or engage in any form of intimidation of:

(a) An employee for performing any duties or responsibilities in connection with the nurse staffing committee; or

(b) An employee, patient, or other individual who notifies the nurse staffing committee or the hospital administration of his or her concerns on nurse staffing.

~~((9))~~ (10) This section is not intended to create unreasonable burdens on critical access hospitals under 42 U.S.C. Sec. 1395i-4. Critical access hospitals may develop flexible approaches to accomplish the requirements of this section that may include but are not limited to having nurse staffing committees work by telephone or ~~(electronic mail)~~ email.

NEW SECTION. Sec. 1413. A new section is added to chapter 70.41 RCW to read as follows:

(1)(a) The department shall investigate a complaint submitted under this section for violation of RCW 70.41.420 following receipt of a complaint with documented evidence of failure to:

(i) Form or establish a staffing committee;

(ii) Conduct a semiannual review of a nurse staffing plan;

(iii) Submit a nurse staffing plan on an annual basis and any updates; or

(iv)(A) Follow the nursing personnel assignments in a patient care unit in violation of RCW 70.41.420(7)(a) or shift-to-shift adjustments in staffing levels in violation of RCW 70.41.420(7)(b).

(B) The department may only investigate a complaint under this subsection (1)(a)(iv) after making an assessment that the submitted evidence indicates a continuing pattern of unresolved violations of RCW 70.41.420(7) (a) or (b), that were submitted to the nurse staffing committee excluding complaints determined by the nurse staffing committee to be resolved or dismissed. The submitted evidence must include the aggregate data contained in the complaints submitted to the hospital's nurse staffing committee that indicate a continuing pattern of unresolved violations for a minimum sixty-day continuous period leading up to receipt of the complaint by the department.

(C) The department may not investigate a complaint under this subsection (1)(a)(iv) in the event of unforeseeable emergency circumstances or if the hospital, after consultation with the nurse staffing committee, documents it has made reasonable efforts to obtain staffing to meet required assignments but has been unable to do so.

(b) After an investigation conducted under (a) of this subsection, if the department determines that there has been a violation, the department shall require the hospital to submit a corrective plan of action within forty-five days of the presentation of findings from the department to the hospital.

ONE HUNDRED FIRST DAY, APRIL 19, 2017

2017 REGULAR SESSION

(2) In the event that a hospital fails to submit or submits but fails to follow such a corrective plan of action in response to a violation or violations found by the department based on a complaint filed pursuant to subsection (1) of this section, the department may impose, for all violations asserted against a hospital at any time, a civil penalty of one hundred dollars per day until the hospital submits or begins to follow a corrective plan of action or takes other action agreed to by the department.

(3) The department shall maintain for public inspection records of any civil penalties, administrative actions, or license suspensions or revocations imposed on hospitals under this section.

(4) For purposes of this section, "unforeseeable emergency circumstance" means:

- (a) Any unforeseen national, state, or municipal emergency;
- (b) When a hospital disaster plan is activated;
- (c) Any unforeseen disaster or other catastrophic event that substantially affects or increases the need for health care services; or
- (d) When a hospital is diverting patients to another hospital or hospitals for treatment or the hospital is receiving patients who are from another hospital or hospitals.

(5) Nothing in this section shall be construed to preclude the ability to otherwise submit a complaint to the department for failure to follow RCW 70.41.420.

(6) The department shall submit a report to the legislature on December 31, 2020. This report shall include the number of complaints submitted to the department under this section, the disposition of these complaints, the number of investigations conducted, the associated costs for complaint investigations, and recommendations for any needed statutory changes. The department shall also project, based on experience, the impact, if any, on hospital licensing fees over the next four years. Prior to the submission of the report, the secretary shall convene a stakeholder group consisting of the Washington state hospital association, the Washington state nurses association, service employees international union healthcare 1199NW, and united food and commercial workers 21. The stakeholder group shall review the report prior to its submission to review findings and jointly develop any legislative recommendations to be included in the report.

(7) No fees shall be increased to implement this act prior to July 1, 2021.

NEW SECTION. Sec. 1414. This act expires June 1, 2023.  
NEW SECTION. Sec. 1415. This act may be known and cited as the Washington state patient safety act."

On page 1, line 1 of the title, after "hospitals;" strike the remainder of the title and insert "amending RCW 70.41.420; adding a new section to chapter 70.41 RCW; creating new sections; prescribing penalties; and providing an expiration date."

Senator Rivers spoke in favor of adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of floor striking amendment no. 272 by Senator Rivers to House Bill No. 1714.

The motion by Senator Rivers carried and floor striking amendment no. 272 was adopted by voice vote.

MOTION

On motion of Senator Rivers, the rules were suspended, Engrossed Substitute House Bill No. 1714 as amended by the

Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1714 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1714 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 44; Nays, 5; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Becker, Billig, Braun, Brown, Carlyle, Chase, Cleveland, Conway, Darneille, Erickson, Fain, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Hunt, Keiser, King, Kuderer, Lias, McCoy, Miloscia, Mullet, Nelson, O'Ban, Padden, Palumbo, Pearson, Pedersen, Ranker, Rivers, Rolfes, Rossi, Saldaña, Sheldon, Takko, Van De Wege, Walsh, Warnick, Wellman, Wilson and Zeiger

Voting nay: Senators Angel, Bailey, Honeyford, Schoesler and Short

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1714, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 13, 2017

MR. PRESIDENT:

The House refuses to concur in the Senate amendment(s) to SUBSTITUTE HOUSE BILL NO. 1902 and asks the Senate to recede therefrom.

NONA SNELL, Deputy Chief Clerk

MOTION

Senator Baumgartner moved that the Senate recede from its position on Substitute House Bill No. 1902 and pass the bill without the Senate amendment(s).

Senator Baumgartner spoke in favor of the motion.

The President declared the question before the Senate to be motion by Senator Baumgartner that the Senate recede from its position on Substitute House Bill No. 1902 and pass the bill without Senate amendment(s).

The motion by Senator Baumgartner carried and the Senate receded from its position on Substitute House Bill No. 1902 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1902 without the Senate amendment(s).

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1902, without the Senate amendment(s), and the bill passed the Senate by the following vote: Yeas, 41; Nays, 8; Absent, 0; Excused, 0.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Billig, Braun, Brown, Chase, Cleveland, Conway, Erickson, Fain, Fortunato, Frockt, Hawkins, Hobbs, Hunt, Keiser, King, Kuderer,



McCoy, Miloscia, Mullet, Nelson, O'Ban, Palumbo, Pedersen, Ranker, Rivers, Rolfes, Rossi, Saldaña, Schoesler, Sheldon, Short, Takko, Walsh, Warnick, Wellman, Wilson and Zeiger

Voting nay: Senators Carlyle, Darneille, Hasegawa, Honeyford, Lias, Padden, Pearson and Van De Wege

SUBSTITUTE HOUSE BILL NO. 1902, without the Senate amendment(s), having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 13, 2017

MR. PRESIDENT:

The House refuses to concur in the Senate amendment(s) to ENGROSSED SUBSTITUTE HOUSE BILL NO. 1547 and asks the Senate to recede therefrom.

NONA SNELL, Deputy Chief Clerk

MOTION

Senator Rivers moved that the Senate recede from its position on Engrossed Substitute House Bill No. 1547 and pass the bill without the Senate amendment(s).

Senators Rivers and Cleveland spoke in favor of passage of the motion.

Senators Padden and Becker spoke against passage of the motion.

The President declared the question before the Senate to be motion by Senator Rivers that the Senate recede from its position on Engrossed Substitute House Bill No. 1547 and pass the bill without Senate amendment(s).

The motion by Senator Rivers carried and the Senate receded from its position on Engrossed Substitute House Bill No. 1547 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1547 without the Senate amendment(s).

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1547, without the Senate amendment(s), and the bill passed the Senate by the following vote: Yeas, 39; Nays, 10; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Billig, Braun, Carlyle, Chase, Cleveland, Conway, Darneille, Erickson, Fain, Fortunato, Frockt, Hawkins, Hobbs, Hunt, Keiser, King, Kuderer, Lias, McCoy, Miloscia, Mullet, Nelson, O'Ban, Pearson, Pedersen, Ranker, Rivers, Rolfes, Rossi, Saldaña, Schoesler, Sheldon, Short, Takko, Van De Wege, Walsh, Wellman and Zeiger

Voting nay: Senators Angel, Bailey, Becker, Brown, Hasegawa, Honeyford, Padden, Palumbo, Warnick and Wilson

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1547, without the Senate amendment(s), having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 17, 2017

MR. PRESIDENT:

The House refuses to concur in the Senate amendment(s) to ENGROSSED SUBSTITUTE HOUSE BILL NO. 1427 and asks the Senate to recede therefrom.

NONA SNELL, Deputy Chief Clerk

MOTION

Senator Rivers moved that the Senate recede from its position on the Senate amendments to Engrossed Substitute House Bill No. 1427.

MOTION

On motion of Senator Saldaña, Senators Ranker and Rolfes were excused.

The President declared the question before the Senate to be motion by Senator Rivers that the Senate recede from its position on the Senate amendments to Engrossed Substitute House Bill No. 1427.

The motion by Senator Rivers carried and the Senate receded from its amendments to Engrossed Substitute House Bill No. 1427.

MOTION

On motion of Senator Rivers, the rules were suspended and Engrossed Substitute House Bill No. 1427 was returned to second reading for the purposes of amendment.

MOTION

Senator Rivers moved that the following floor striking amendment no. 274 by Senator Rivers be adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1416.** The legislature finds that in 2015 an average of two Washington residents died per day in this state from opioid overdose and that opioid overdose deaths have more than doubled between 2010 and 2015.

The legislature further finds that medically prescribed opioids intended to treat pain have contributed to the opioid epidemic and although Washington has done much to address the prescribing and tracking of opioid prescriptions, more needs to be done to ensure proper prescribing and use of opioids and access to treatment. This includes allowing local health officers to access the prescription monitoring program in order to provide patient follow-up and care coordination, including directing care to opioid treatment programs in the area as appropriate to the patient following an overdose event.

The legislature intends to streamline its already comprehensive system of tracking and treating opioid abuse by: Reducing barriers to the siting of opioid treatment programs; ensuring ease of access for prescribers, including those prescribers who provide services in opioid treatment programs, to the prescription monitoring program; allowing facilities and practitioners to use the information received under the prescription monitoring program for the purpose of providing individual prescriber quality improvement feedback; and requiring the boards and commissions of the health care professions with prescriptive authority to adopt rules establishing requirements for prescribing opioid drugs with the goal of reducing the number of people who

ONE HUNDRED FIRST DAY, APRIL 19, 2017

2017 REGULAR SESSION

inadvertently become addicted to opioids and, consequently, reducing the burden on opioid treatment programs.

**NEW SECTION. Sec. 1417.** A new section is added to chapter 18.22 RCW to read as follows:

(1) By January 1, 2019, the board must adopt rules establishing requirements for prescribing opioid drugs. The rules may contain exemptions based on education, training, amount of opioids prescribed, patient panel, and practice environment.

(2) In developing the rules, the board must consider the agency medical directors' group and centers for disease control guidelines, and may consult with the department of health, the University of Washington, and the largest professional association of podiatric physicians and surgeons in the state.

**NEW SECTION. Sec. 1418.** A new section is added to chapter 18.32 RCW to read as follows:

(1) By January 1, 2019, the commission must adopt rules establishing requirements for prescribing opioid drugs. The rules may contain exemptions based on education, training, amount of opioids prescribed, patient panel, and practice environment.

(2) In developing the rules, the commission must consider the agency medical directors' group and centers for disease control guidelines, and may consult with the department of health, the University of Washington, and the largest professional association of dentists in the state.

**NEW SECTION. Sec. 1419.** A new section is added to chapter 18.57 RCW to read as follows:

(1) By January 1, 2019, the board must adopt rules establishing requirements for prescribing opioid drugs. The rules may contain exemptions based on education, training, amount of opioids prescribed, patient panel, and practice environment.

(2) In developing the rules, the board must consider the agency medical directors' group and centers for disease control guidelines, and may consult with the department of health, the University of Washington, and the largest professional association of osteopathic physicians and surgeons in the state.

**NEW SECTION. Sec. 1420.** A new section is added to chapter 18.57A RCW to read as follows:

(1) By January 1, 2019, the board must adopt rules establishing requirements for prescribing opioid drugs. The rules may contain exemptions based on education, training, amount of opioids prescribed, patient panel, and practice environment.

(2) In developing the rules, the board must consider the agency medical directors' group and centers for disease control guidelines, and may consult with the department of health, the University of Washington, and the largest professional association of osteopathic physician assistants in the state.

**NEW SECTION. Sec. 1421.** A new section is added to chapter 18.71 RCW to read as follows:

(1) By January 1, 2019, the commission must adopt rules establishing requirements for prescribing opioid drugs. The rules may contain exemptions based on education, training, amount of opioids prescribed, patient panel, and practice environment.

(2) In developing the rules, the commission must consider the agency medical directors' group and centers for disease control guidelines, and may consult with the department of health, the University of Washington, and the largest professional association of physicians in the state.

**NEW SECTION. Sec. 1422.** A new section is added to chapter 18.71A RCW to read as follows:

(1) By January 1, 2019, the commission must adopt rules establishing requirements for prescribing opioid drugs. The rules may contain exemptions based on education, training, amount of opioids prescribed, patient panel, and practice environment.

(2) In developing the rules, the commission must consider the agency medical directors' group and centers for disease control

guidelines, and may consult with the department of health, the University of Washington, and the largest professional association of physician assistants in the state.

**NEW SECTION. Sec. 1423.** A new section is added to chapter 18.79 RCW to read as follows:

(1) By January 1, 2019, the commission must adopt rules establishing requirements for prescribing opioid drugs. The rules may contain exemptions based on education, training, amount of opioids prescribed, patient panel, and practice environment.

(2) In developing the rules, the commission must consider the agency medical directors' group and centers for disease control guidelines, and may consult with the department of health, the University of Washington, and the largest professional associations for advanced registered nurse practitioners and certified registered nurse anesthetists in the state.

**Sec. 1424.** RCW 70.225.040 and 2016 c 104 s 1 are each amended to read as follows:

(1) Prescription information submitted to the department must be confidential, in compliance with chapter 70.02 RCW and federal health care information privacy requirements and not subject to disclosure, except as provided in subsections (3) ~~((and))~~, (4), and (5) of this section.

(2) The department must maintain procedures to ensure that the privacy and confidentiality of patients and patient information collected, recorded, transmitted, and maintained is not disclosed to persons except as in subsections (3) ~~((and))~~, (4), and (5) of this section.

(3) The department may provide data in the prescription monitoring program to the following persons:

(a) Persons authorized to prescribe or dispense controlled substances or legend drugs, for the purpose of providing medical or pharmaceutical care for their patients;

(b) An individual who requests the individual's own prescription monitoring information;

(c) Health professional licensing, certification, or regulatory agency or entity;

(d) Appropriate law enforcement or prosecutorial officials, including local, state, and federal officials and officials of federally recognized tribes, who are engaged in a bona fide specific investigation involving a designated person;

(e) Authorized practitioners of the department of social and health services and the health care authority regarding medicaid program recipients;

(f) The director or the director's designee within the health care authority regarding medicaid clients for the purposes of quality improvement, patient safety, and care coordination. The information may not be used for contracting or value-based purchasing decisions;

~~((g))~~ (g) The director or director's designee within the department of labor and industries regarding workers' compensation claimants;

~~((h))~~ (h) The director or the director's designee within the department of corrections regarding offenders committed to the department of corrections;

~~((i))~~ (i) Other entities under grand jury subpoena or court order;

~~((j))~~ (j) Personnel of the department for purposes of:

(i) Assessing prescribing practices, including controlled substances related to mortality and morbidity;

(ii) Providing quality improvement feedback to providers, including comparison of their respective data to aggregate data for providers with the same type of license and same specialty; and

~~((k))~~ (iii) Administration and enforcement of this chapter or chapter 69.50 RCW;

~~((#))~~ (k) Personnel of a test site that meet the standards under RCW 70.225.070 pursuant to an agreement between the test site and a person identified in (a) of this subsection to provide assistance in determining which medications are being used by an identified patient who is under the care of that person;

~~((#))~~ (l) A health care facility or entity for the purpose of providing medical or pharmaceutical care to the patients of the facility or entity, or for quality improvement purposes if:

(i) The facility or entity is licensed by the department or is operated by the federal government or a federally recognized Indian tribe; and

(ii) The facility or entity is a trading partner with the state's health information exchange; ~~(and~~

~~(#))~~ (m) A health care provider group of five or more providers for purposes of providing medical or pharmaceutical care to the patients of the provider group, or for quality improvement purposes if:

(i) All the providers in the provider group are licensed by the department or the provider group is operated by the federal government or a federally recognized Indian tribe; and

(ii) The provider group is a trading partner with the state's health information exchange;

(n) The local health officer of a local health jurisdiction for the purposes of patient follow-up and care coordination following a controlled substance overdose event. For the purposes of this subsection "local health officer" has the same meaning as in RCW 70.05.010; and

(o) The coordinated care electronic tracking program developed in response to section 213, chapter 7, Laws of 2012 2nd sp. sess., commonly referred to as the seven best practices in emergency medicine, for the purposes of providing:

(i) Prescription monitoring program data to emergency department personnel when the patient registers in the emergency department; and

(ii) Notice to providers, appropriate care coordination staff, and prescribers listed in the patient's prescription monitoring program record that the patient has experienced a controlled substance overdose event. The department shall determine the content and format of the notice in consultation with the Washington state hospital association, Washington state medical association, and Washington state health care authority, and the notice may be modified as necessary to reflect current needs and best practices.

(4) The department shall, on at least a quarterly basis, and pursuant to a schedule determined by the department, provide a facility or entity identified under subsection (3)(l) of this section or a provider group identified under subsection (3)(m) of this section with facility or entity and individual prescriber information if the facility, entity, or provider group:

(a) Uses the information only for internal quality improvement and individual prescriber quality improvement feedback purposes and does not use the information as the sole basis for any medical staff sanction or adverse employment action; and

(b) Provides to the department a standardized list of current prescribers of the facility, entity, or provider group. The specific facility, entity, or provider group information provided pursuant to this subsection and the requirements under this subsection must be determined by the department in consultation with the Washington state hospital association, Washington state medical association, and Washington state health care authority, and may be modified as necessary to reflect current needs and best practices.

(5)(a) The department may provide data to public or private entities for statistical, research, or educational purposes after removing information that could be used to identify individual patients, dispensers, prescribers, and persons who received prescriptions from dispensers.

(b)(i) The department may provide dispenser and prescriber data and data that includes indirect patient identifiers to the Washington state hospital association for use solely in connection with its coordinated quality improvement program maintained under RCW 43.70.510 after entering into a data use agreement as specified in RCW 43.70.052(8) with the association.

(ii) For the purposes of this subsection, "indirect patient identifiers" means data that may include: Hospital or provider identifiers, a five-digit zip code, county, state, and country of resident; dates that include month and year; age in years; and race and ethnicity; but does not include the patient's first name; middle name; last name; social security number; control or medical record number; zip code plus four digits; dates that include day, month, and year; or admission and discharge date in combination.

~~((5) A dispenser or practitioner)~~ (6) Persons authorized in subsections (3), (4), and (5) of this section to receive data in the prescription monitoring program from the department, acting in good faith ~~((#))~~, are immune from any civil, criminal, disciplinary, or administrative liability that might otherwise be incurred or imposed for ~~((requesting, receiving, or using information from the program))~~ acting under this chapter.

NEW SECTION. Sec. 1425. A new section is added to chapter 70.225 RCW to read as follows:

Beginning November 15, 2017, the department shall annually report to the governor and the appropriate committees of the legislature on the number of facilities, entities, or provider groups identified in RCW 70.225.040(3) (l) and (m) that have integrated their federally certified electronic health records with the prescription monitoring program utilizing the state health information exchange.

Sec. 1426. RCW 71.24.560 and 2016 sp.s. c 29 s 506 are each amended to read as follows:

(1) All approved ~~((opiate substitution))~~ opioid treatment programs that provide services to women who are pregnant are required to disseminate up-to-date and accurate health education information to all their pregnant clients concerning the possible addiction and health risks that their ~~((opiate substitution))~~ treatment may have on their baby. All pregnant clients must also be advised of the risks to both them and their baby associated with not remaining on the ~~((opiate substitute))~~ opioid treatment program. The information must be provided to these clients both verbally and in writing. The health education information provided to the pregnant clients must include referral options for the ~~((addicted))~~ substance-exposed baby.

(2) The department shall adopt rules that require all ~~((opiate))~~ opioid treatment programs to educate all pregnant women in their program on the benefits and risks of ~~((methadone))~~ medication-assisted treatment to their fetus before they are provided these medications, as part of their ~~((addiction))~~ treatment. The department shall meet the requirements under this subsection within the appropriations provided for ~~((opiate))~~ opioid treatment programs. The department, working with treatment providers and medical experts, shall develop and disseminate the educational materials to all certified ~~((opiate))~~ opioid treatment programs.

Sec. 1427. RCW 71.24.585 and 2016 sp.s. c 29 s 519 are each amended to read as follows:

The state of Washington declares that there is no fundamental right to ~~((opiate substitution))~~ medication-assisted treatment for opioid use disorder. The state of Washington further declares that while ~~((opiate substitution drugs))~~ medications used in the treatment of ~~((opiate dependency))~~ opioid use disorder are addictive substances, that they nevertheless have several legal, important, and justified uses and that one of their appropriate and legal uses is, in conjunction with other required therapeutic procedures, in the treatment of persons ~~((addicted to or habituated to opioids))~~ with opioid use disorder. The state of Washington

recognizes as evidence-based for the management of opioid use disorder the medications approved by the federal food and drug administration for the treatment of opioid use disorder. ((Opiate substitution)) Medication-assisted treatment should only be used for participants who are deemed appropriate to need this level of intervention ((and should not be the first treatment intervention for all opiate addicts)). Providers must inform patients of all treatment options available. The provider and the patient shall consider alternative treatment options, like abstinence, when developing the treatment plan. If medications are prescribed, follow up must be included in the treatment plan in order to work towards the goal of abstinence.

Because ~~((opiate substitution drugs, used in the treatment of opiate dependency are addictive and are listed as a schedule II))~~ some such medications are controlled substances in chapter 69.50 RCW, the state of Washington ~~((has))~~ maintains the legal obligation and right to regulate the ~~((use of opiate substitution treatment. The state of Washington declares its authority to control and regulate carefully, in consultation with counties and cities, all clinical uses of opiate substitution drugs used in the treatment of opiate addiction))~~ clinical uses of these medications in the treatment of opioid use disorder.

Further, the state declares that the ~~((primary))~~ main goal of opiate substitution treatment is total abstinence from substance use for the individuals who participate in the treatment program, but recognizes the additional goals of reduced morbidity, and restoration of the ability to lead a productive and fulfilling life. The state recognizes that a small percentage of persons who participate in ~~((opiate substitution))~~ opioid treatment programs require treatment for an extended period of time. ~~((Opiate substitution))~~ Opioid treatment programs shall provide a comprehensive transition program to eliminate substance use, including ~~((opiate and opiate substitute addiction))~~ opioid use of program participants.

**NEW SECTION. Sec. 1428.** A new section is added to chapter 71.24 RCW to read as follows:

The state declares that a person lawfully possessing or using lawfully prescribed medication for the treatment of opioid use disorder must be treated the same in judicial and administrative proceedings as a person lawfully possessing or using other lawfully prescribed medications.

**Sec. 1429.** RCW 71.24.590 and 2001 c 242 s 2 are each amended to read as follows:

(1) ~~((For purposes of this section, "area" means the county in which an applicant proposes to locate a certified program and counties adjacent, or near to, the county in which the program is proposed to be located.))~~

When making a decision on an application for certification of a program, the department shall:

(a) Consult with the county legislative authorities in the area in which an applicant proposes to locate a program and the city legislative authority in any city in which an applicant proposes to locate a program;

(b) Certify only programs that will be sited in accordance with the appropriate county or city land use ordinances. Counties and cities may require conditional ~~((or special))~~ use permits with reasonable conditions for the siting of programs. Pursuant to RCW 36.70A.200, no local comprehensive plan or development regulation may preclude the siting of essential public facilities;

(c) Not discriminate in its certification decision on the basis of the corporate structure of the applicant;

(d) Consider the size of the population in need of treatment in the area in which the program would be located and certify only applicants whose programs meet the necessary treatment needs of that population;

~~((c))~~ ~~((Demonstrate a need in the community for opiate substitution treatment and not certify more program slots than justified by the need in that community. No program shall exceed three hundred fifty participants unless specifically authorized by the county in which the program is certified;))~~

~~((f))~~ Consider the availability of other certified opioid treatment programs near the area in which the applicant proposes to locate the program;

~~((g))~~ ~~((f))~~ Consider the transportation systems that would provide service to the program and whether the systems will provide reasonable opportunities to access the program for persons in need of treatment;

~~((h))~~ ~~((g))~~ Consider whether the applicant has, or has demonstrated in the past, the capability to provide the appropriate services to assist the persons who utilize the program in meeting goals established by the legislature~~((, including abstinence from opiates and opiate substitutes, obtaining mental health treatment, improving economic independence, and reducing adverse consequences associated with illegal use of controlled substances))~~ in RCW 71.24.585. The department shall prioritize certification to applicants who have demonstrated such capability and are able to measure their success in meeting such outcomes;

~~((i))~~ ~~((h))~~ Hold ~~((at least))~~ one public hearing in the ~~((county))~~ community in which the facility is proposed to be located ~~((and one hearing in the area in which the facility is proposed to be located)).~~ The hearing shall be held at a time and location that are most likely to permit the largest number of interested persons to attend and present testimony. The department shall notify all appropriate media outlets of the time, date, and location of the hearing at least three weeks in advance of the hearing.

(2) A county may impose a maximum capacity for a program of not less than three hundred fifty participants if necessary to address specific local conditions cited by the county.

(3) A program applying for certification from the department and a program applying for a contract from a state agency that has been denied the certification or contract shall be provided with a written notice specifying the rationale and reasons for the denial.

~~((3))~~ (4) For the purpose of this chapter, ((opiate substitution)) opioid treatment program means:

(a) Dispensing ~~((an opiate substitution drug))~~ a medication approved by the federal drug administration for the treatment of ~~((opiate addiction))~~ opioid use disorder and dispensing medication for the reversal of opioid overdose; and

(b) Providing a comprehensive range of medical and rehabilitative services.

**Sec. 1430.** RCW 71.24.590 and 2001 c 242 s 2 are each amended to read as follows:

(1) ~~((For purposes of this section, "area" means the county in which an applicant proposes to locate a certified program and counties adjacent, or near to, the county in which the program is proposed to be located.))~~

When making a decision on an application for licensing or certification of a program, the department shall:

(a) Consult with the county legislative authorities in the area in which an applicant proposes to locate a program and the city legislative authority in any city in which an applicant proposes to locate a program;

(b) License or certify only programs that will be sited in accordance with the appropriate county or city land use ordinances. Counties and cities may require conditional ~~((or special))~~ use permits with reasonable conditions for the siting of programs. Pursuant to RCW 36.70A.200, no local comprehensive plan or development regulation may preclude the siting of essential public facilities;

(c) Not discriminate in its licensing or certification decision on the basis of the corporate structure of the applicant;

(d) Consider the size of the population in need of treatment in the area in which the program would be located and license or certify only applicants whose programs meet the necessary treatment needs of that population;

~~(e) ((Demonstrate a need in the community for opiate substitution treatment and not certify more program slots than justified by the need in that community. No program shall exceed three hundred fifty participants unless specifically authorized by the county in which the program is certified;~~

~~(f))~~ Consider the availability of other licensed or certified opioid treatment programs near the area in which the applicant proposes to locate the program;

~~((g))~~ (f) Consider the transportation systems that would provide service to the program and whether the systems will provide reasonable opportunities to access the program for persons in need of treatment;

~~((h))~~ (g) Consider whether the applicant has, or has demonstrated in the past, the capability to provide the appropriate services to assist the persons who utilize the program in meeting goals established by the legislature~~((, including abstinence from opiates and opiate substitutes, obtaining mental health treatment, improving economic independence, and reducing adverse consequences associated with illegal use of controlled substances))~~ in RCW 71.24.585. The department shall prioritize licensing or certification to applicants who have demonstrated such capability and are able to measure their success in meeting such outcomes;

~~((i))~~ (h) Hold ~~((at least))~~ one public hearing in the ~~((county))~~ community in which the facility is proposed to be located ~~((and one hearing in the area in which the facility is proposed to be located))~~. The hearing shall be held at a time and location that are most likely to permit the largest number of interested persons to attend and present testimony. The department shall notify all appropriate media outlets of the time, date, and location of the hearing at least three weeks in advance of the hearing.

(2) A county may impose a maximum capacity for a program of not less than three hundred fifty participants if necessary to address specific local conditions cited by the county.

(3) A program applying for licensing or certification from the department and a program applying for a contract from a state agency that has been denied the licensing or certification or contract shall be provided with a written notice specifying the rationale and reasons for the denial.

~~((3))~~ (4) For the purpose of this chapter, ~~((opiate substitution))~~ opioid treatment program means:

(a) Dispensing ~~((an opiate substitution drug))~~ a medication approved by the federal drug administration for the treatment of ((opiate addiction)) opioid use disorder and dispensing medication for the reversal of opioid overdose; and

(b) Providing a comprehensive range of medical and rehabilitative services.

**Sec. 1431.** RCW 71.24.595 and 2003 c 207 s 6 are each amended to read as follows:

(1) The department, in consultation with ~~((opiate substitution))~~ opioid treatment program service providers and counties and cities, shall establish statewide treatment standards for certified ~~((opiate substitution))~~ opioid treatment programs. The department shall enforce these treatment standards. The treatment standards shall include, but not be limited to, reasonable provisions for all appropriate and necessary medical procedures, counseling requirements, urinalysis, and other suitable tests as needed to ensure compliance with this chapter.

(2) The department, in consultation with ~~((opiate substitution))~~ opioid treatment programs and counties, shall establish statewide

operating standards for certified ~~((opiate substitution))~~ opioid treatment programs. The department shall enforce these operating standards. The operating standards shall include, but not be limited to, reasonable provisions necessary to enable the department and counties to monitor certified and licensed ~~((opiate substitution))~~ opioid treatment programs for compliance with this chapter and the treatment standards authorized by this chapter and to minimize the impact of the ~~((opiate substitution))~~ opioid treatment programs upon the business and residential neighborhoods in which the program is located.

~~(3) ((The department shall establish criteria for evaluating the compliance of opiate substitution treatment programs with the goals and standards established under this chapter. As a condition of certification, opiate substitution programs shall submit an annual report to the department and county legislative authority, including data as specified by the department necessary for outcome analysis.))~~ The department shall analyze and evaluate the data submitted by each treatment program and take corrective action where necessary to ensure compliance with the goals and standards enumerated under this chapter. Opioid treatment programs are subject to the oversight required for other substance use disorder treatment programs, as described in this chapter.

**Sec. 1432.** RCW 71.24.595 and 2003 c 207 s 6 are each amended to read as follows:

(1) The department, in consultation with ~~((opiate substitution))~~ opioid treatment program service providers and counties and cities, shall establish statewide treatment standards for licensed or certified ((opiate substitution)) opioid treatment programs. The department shall enforce these treatment standards. The treatment standards shall include, but not be limited to, reasonable provisions for all appropriate and necessary medical procedures, counseling requirements, urinalysis, and other suitable tests as needed to ensure compliance with this chapter.

(2) The department, in consultation with ~~((opiate substitution))~~ opioid treatment programs and counties, shall establish statewide operating standards for certified ~~((opiate substitution))~~ opioid treatment programs. The department shall enforce these operating standards. The operating standards shall include, but not be limited to, reasonable provisions necessary to enable the department and counties to monitor certified ~~((and))~~ or licensed ((opiate substitution)) opioid treatment programs for compliance with this chapter and the treatment standards authorized by this chapter and to minimize the impact of the ~~((opiate substitution))~~ opioid treatment programs upon the business and residential neighborhoods in which the program is located.

~~(3) ((The department shall establish criteria for evaluating the compliance of opiate substitution treatment programs with the goals and standards established under this chapter. As a condition of certification, opiate substitution programs shall submit an annual report to the department and county legislative authority, including data as specified by the department necessary for outcome analysis.))~~ The department shall analyze and evaluate the data submitted by each treatment program and take corrective action where necessary to ensure compliance with the goals and standards enumerated under this chapter. Opioid treatment programs are subject to the oversight required for other substance use disorder treatment programs, as described in this chapter.

**NEW SECTION. Sec. 1433.** Sections 14 and 16 of this act take effect only if neither Substitute House Bill No. 1388 (including any later amendments or substitutes) nor Substitute Senate Bill No. 5259 (including any later amendments or substitutes) is signed into law by the governor by the effective date of this section.

**NEW SECTION. Sec. 1434.** Sections 15 and 17 of this act take effect only if Substitute House Bill No. 1388 (including any later amendments or substitutes) or Substitute Senate Bill No.

ONE HUNDRED FIRST DAY, APRIL 19, 2017

2017 REGULAR SESSION

5259 (including any later amendments or substitutes) is signed into law by the governor by the effective date of this section."

On page 1, line 1 of the title, after "programs;" strike the remainder of the title and insert "amending RCW 70.225.040, 71.24.560, 71.24.585, 71.24.590, 71.24.590, 71.24.595, and 71.24.595; adding a new section to chapter 18.22 RCW; adding a new section to chapter 18.32 RCW; adding a new section to chapter 18.57 RCW; adding a new section to chapter 18.71 RCW; adding a new section to chapter 18.71A RCW; adding a new section to chapter 18.79 RCW; adding a new section to chapter 70.225 RCW; adding a new section to chapter 71.24 RCW; creating a new section; and providing contingent effective dates."

Senator Rivers spoke in favor of adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of floor striking amendment no. 274 by Senator Rivers to Engrossed Substitute House Bill No. 1427.

The motion by Senator Rivers carried and floor striking amendment no. 274 was adopted by voice vote.

MOTION

On motion of Senator Rivers, the rules were suspended, Engrossed Substitute House Bill No. 1427 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1427.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1427 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Billig, Braun, Brown, Carlyle, Chase, Cleveland, Conway, Darneille, Ericksen, Fain, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Honeyford, Hunt, Keiser, King, Kuderer, Lias, McCoy, Miloscia, Mullet, Nelson, O'Ban, Padden, Palumbo, Pearson, Pedersen, Ranker, Rivers, Rolfes, Rossi, Saldaña, Schoesler, Sheldon, Short, Takko, Van De Wege, Walsh, Warnick, Wellman, Wilson and Zeiger

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1427, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

PERSONAL PRIVILEGE

Senator Sheldon: "Thank you Mr. President. While you and Senator Baumgartner have engaged in some interesting banter about history 400 b.c., I have some recollections that are not quite that old. I was recently appointed to a, by you Mr. President, a conference committee. And we haven't had conference committees here in the Senate for a long long time. But the first conference committee that I was appointed to, I think was in 1991 or perhaps 1992, and at that time we had something known as a free conference. They are all free conferences my esteemed floor leader says. But in those days you could change the entire bill. The four conferees would go in a room, and they had the

ability to make all the changes they wanted. And the bill that I was a conferee on was one, I forget the number, but it was one in the House and it was bill about the spotted owl, and what was the state's response to this crisis that was happening in rural communities. The two main conferees were Senator Ann Anderson from the 42<sup>nd</sup> Legislative District from Acme, who was Chair of the Senate committee and Representative Jennifer Belcher from Thurston County who was the Chair of the Natural Resources Committee. So being a young member, I took this very seriously. I attended all the negotiations for this bill. They were up on the fourth floor here and that took twenty hours. Twenty hours of negotiations, but both of those chairs were running for Commissioner of Public Lands and there was some differences of opinion. But I do remember when finally the bill was developed and the bill was voted on on the floor, and after the session the voting records came out, and of course my caucus was voting for me while I was spending twenty hours upstairs. I had a one hundred percent voting record with labor that year, so, it is a very interesting conference committee."

REPLY BY THE PRESIDENT

President Habib: "Senator Sheldon, that does go back to the Jurassic Era when you had a one hundred percent labor voting record. Thank you. I was in fifth grade that year. So, thank you for that."

MESSAGE FROM THE HOUSE

April 18, 2017

MR. PRESIDENT:

The House receded from its amendment(s) to SUBSTITUTE SENATE BILL NO. 5018. Under suspension of the rules, the bill was returned to second reading for the purposes of amendment(s). The House adopted the following amendment(s): 5018-S AMH ENGR H2431.E, and passed the bill as amended by the House.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1435.** (1) The department of transportation shall engage in a transparent, public process to reexamine the administrative rules surrounding access to high occupancy vehicle lanes that must include an examination of the benefits and impacts of allowing private, for hire vehicles regulated under chapter 81.72 RCW that have been specially manufactured, designed, or modified for the transportation of a person who has a mobility disability and uses a wheelchair or other assistive device into the high occupancy vehicle lanes.

(2) By January 1, 2018, the department of transportation shall report progress of the public rule reexamination process in subsection (1) of this section to the transportation committees of the legislature with sufficient time for review before the conclusion of the process.

NONA SNELL, Deputy Chief Clerk

MOTION

Senator King moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5018.

Senator King spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator King that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5018.

The motion by Senator King carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5018 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5018, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5018, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Billig, Braun, Brown, Carlyle, Chase, Cleveland, Conway, Darneille, Ericksen, Fain, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Honeyford, Hunt, Keiser, King, Kuderer, Lias, McCoy, Miloscia, Mullet, Nelson, O'Ban, Padden, Palumbo, Pearson, Pedersen, Ranker, Rivers, Rolfes, Rossi, Saldaña, Schoesler, Sheldon, Short, Takko, Van De Wege, Walsh, Warnick, Wellman, Wilson and Zeiger

SUBSTITUTE SENATE BILL NO. 5018, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MESSAGE FROM THE HOUSE

April 18, 2017

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 5815 with the following amendment(s): 5815-S AMH ENGR H2705.E

Strike everything after the enacting clause and insert the following:

"**Sec. 1436.** RCW 74.60.005 and 2015 2nd sp.s. c 5 s 1 are each amended to read as follows:

(1) The purpose of this chapter is to provide for a safety net assessment on certain Washington hospitals, which will be used solely to augment funding from all other sources and thereby support additional payments to hospitals for medicaid services as specified in this chapter.

(2) The legislature finds that federal health care reform will result in an expansion of medicaid enrollment in this state and an increase in federal financial participation.

(3) In adopting this chapter, it is the intent of the legislature:

(a) To impose a hospital safety net assessment to be used solely for the purposes specified in this chapter;

(b) To generate approximately ~~((nine hundred seventy five million))~~ one billion dollars per state fiscal biennium in new state and federal funds by disbursing all of that amount to pay for medicaid hospital services and grants to certified public expenditure and critical access hospitals, except costs of administration as specified in this chapter, in the form of additional payments to hospitals and managed care plans, which may not be a substitute for payments from other sources, but which include quality improvement incentive payments under RCW 74.09.611;

(c) To generate two hundred ninety-two million dollars per biennium during the ~~((2015-2017 and))~~ 2017-2019 and 2019-2021 biennia in new funds to be used in lieu of state general fund payments for medicaid hospital services;

(d) That the total amount assessed not exceed the amount needed, in combination with all other available funds, to support the payments authorized by this chapter;

(e) To condition the assessment on receiving federal approval for receipt of additional federal financial participation and on continuation of other funding sufficient to maintain aggregate payment levels to hospitals for inpatient and outpatient services covered by medicaid, including fee-for-service and managed care, at least at the ~~((levels))~~ rates the state paid for those services on July 1, 2015, as adjusted for current enrollment and utilization; and

(f) For each of the two biennia starting with fiscal year ~~((2016))~~ 2018 to generate:

(i) Four million dollars for new integrated evidence-based psychiatry residency program slots that did not receive state funding prior to 2016 at the integrated psychiatry residency program at the University of Washington; and

(ii) Eight million two hundred thousand dollars for new family medicine residency program slots that did not receive state funding prior to 2016, as directed through the family medicine residency network at the University of Washington, for slots where residents are employed by hospitals.

**Sec. 1437.** RCW 74.60.010 and 2013 2nd sp.s. c 17 s 2 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Authority" means the health care authority.

(2) "Base year" for medicaid payments for state fiscal year ~~((2014))~~ 2017 is state fiscal year ~~((2011))~~ 2014. For each following year's calculations, the base year must be updated to the next following year.

(3) "Bordering city hospital" means a hospital as defined in WAC 182-550-1050 and bordering cities as described in WAC 182-501-0175, or successor rules.

(4) "Certified public expenditure hospital" means a hospital participating in or that at any point from June 30, 2013, to July 1, 2019, has participated in the authority's certified public expenditure payment program as described in WAC 182-550-4650 or successor rule. For purposes of this chapter any such hospital shall continue to be treated as a certified public expenditure hospital for assessment and payment purposes through the date specified in RCW 74.60.901. The eligibility of such hospitals to receive grants under RCW 74.60.090 solely from funds generated under this chapter must not be affected by any modification or termination of the federal certified public expenditure program, or reduced by the amount of any federal funds no longer available for that purpose.

(5) "Critical access hospital" means a hospital as described in RCW 74.09.5225.

(6) "Director" means the director of the health care authority.

(7) "Eligible new prospective payment hospital" means a prospective payment hospital opened after January 1, 2009, for which a full year of cost report data as described in RCW 74.60.030(2) and a full year of medicaid base year data required for the calculations in RCW 74.60.120(3) are available.

(8) "Fund" means the hospital safety net assessment fund established under RCW 74.60.020.

(9) "Hospital" means a facility licensed under chapter 70.41 RCW.

(10) "Long-term acute care hospital" means a hospital which has an average inpatient length of stay of greater than twenty-five days as determined by the department of health.

(11) "Managed care organization" means an organization having a certificate of authority or certificate of registration from the office of the insurance commissioner that contracts with the authority under a comprehensive risk contract to provide prepaid

ONE HUNDRED FIRST DAY, APRIL 19, 2017

2017 REGULAR SESSION

health care services to eligible clients under the authority's medicaid managed care programs, including the healthy options program.

(12) "Medicaid" means the medical assistance program as established in Title XIX of the social security act and as administered in the state of Washington by the authority.

(13) "Medicare cost report" means the medicare cost report, form 2552, or successor document.

(14) "Nonmedicare hospital inpatient day" means total hospital inpatient days less medicare inpatient days, including medicare days reported for medicare managed care plans, as reported on the medicare cost report, form 2552, or successor forms, excluding all skilled and nonskilled nursing facility days, skilled and nonskilled swing bed days, nursery days, observation bed days, hospice days, home health agency days, and other days not typically associated with an acute care inpatient hospital stay.

(15) "Outpatient" means services provided classified as ambulatory payment classification services or successor payment methodologies as defined in WAC 182-550-7050 or successor rule and applies to fee-for-service payments and managed care encounter data.

(16) "Prospective payment system hospital" means a hospital reimbursed for inpatient and outpatient services provided to medicaid beneficiaries under the inpatient prospective payment system and the outpatient prospective payment system as defined in WAC 182-550-1050 or successor rule. For purposes of this chapter, prospective payment system hospital does not include a hospital participating in the certified public expenditure program or a bordering city hospital located outside of the state of Washington and in one of the bordering cities listed in WAC 182-501-0175 or successor rule.

(17) "Psychiatric hospital" means a hospital facility licensed as a psychiatric hospital under chapter 71.12 RCW.

(18) "Rehabilitation hospital" means a medicare-certified freestanding inpatient rehabilitation facility.

(19) "Small rural disproportionate share hospital payment" means a payment made in accordance with WAC 182-550-5200 or successor rule.

(20) "Upper payment limit" means the aggregate federal upper payment limit on the amount of the medicaid payment for which federal financial participation is available for a class of service and a class of health care providers, as specified in 42 C.F.R. Part 47, as separately determined for inpatient and outpatient hospital services.

**Sec. 1438.** RCW 74.60.020 and 2015 2nd sp.s. c 5 s 2 are each amended to read as follows:

(1) A dedicated fund is hereby established within the state treasury to be known as the hospital safety net assessment fund. The purpose and use of the fund shall be to receive and disburse funds, together with accrued interest, in accordance with this chapter. Moneys in the fund, including interest earned, shall not be used or disbursed for any purposes other than those specified in this chapter. Any amounts expended from the fund that are later recouped by the authority on audit or otherwise shall be returned to the fund.

(a) Any unexpended balance in the fund at the end of a fiscal year shall carry over into the following fiscal year or that fiscal year and the following fiscal year and shall be applied to reduce the amount of the assessment under RCW 74.60.050(1)(c).

(b) Any amounts remaining in the fund after July 1, ~~((2019))~~ 2021, shall be refunded to hospitals, pro rata according to the amount paid by the hospital since July 1, 2013, subject to the limitations of federal law.

(2) All assessments, interest, and penalties collected by the authority under RCW 74.60.030 and 74.60.050 shall be deposited into the fund.

(3) Disbursements from the fund are conditioned upon appropriation and the continued availability of other funds sufficient to maintain aggregate payment levels to hospitals for inpatient and outpatient services covered by medicaid, including fee-for-service and managed care, at least at the levels the state paid for those services on July 1, 2015, as adjusted for current enrollment and utilization.

(4) Disbursements from the fund may be made only:

(a) To make payments to hospitals and managed care plans as specified in this chapter;

(b) To refund erroneous or excessive payments made by hospitals pursuant to this chapter;

(c) For one million dollars per biennium for payment of administrative expenses incurred by the authority in performing the activities authorized by this chapter;

(d) For two hundred ~~((eighty-three))~~ ninety-two million dollars per biennium, to be used in lieu of state general fund payments for medicaid hospital services, provided that if the full amount of the payments required under RCW 74.60.120 and 74.60.130 cannot be distributed in a given fiscal year, this amount must be reduced proportionately;

(e) To repay the federal government for any excess payments made to hospitals from the fund if the assessments or payment increases set forth in this chapter are deemed out of compliance with federal statutes and regulations in a final determination by a court of competent jurisdiction with all appeals exhausted. In such a case, the authority may require hospitals receiving excess payments to refund the payments in question to the fund. The state in turn shall return funds to the federal government in the same proportion as the original financing. If a hospital is unable to refund payments, the state shall develop either a payment plan, or deduct moneys from future medicaid payments, or both;

(f) ~~((Beginning in state fiscal year 2015,))~~ To pay an amount sufficient, when combined with the maximum available amount of federal funds necessary to provide a one percent increase in medicaid hospital inpatient rates to hospitals eligible for quality improvement incentives under RCW 74.09.611. By June 1, 2018, and by each June 1 thereafter, the authority, in cooperation with the department of health, must certify that each hospital eligible to receive quality improvement incentives under the terms of this chapter has met the reporting requirements in RCW 43.70.052 and 70.01.040 for the prior period. The authority must distribute quality improvement incentives to hospitals that have met these requirements beginning July 1 of 2018 and each July 1 thereafter; and

(g) For each state fiscal year ~~((2016))~~ 2018 through ~~((2019))~~ 2021 to generate:

(i) Two million dollars for new integrated evidence-based psychiatry residency program slots that did not receive state funding prior to 2016 at the integrated psychiatry residency program at the University of Washington; and

(ii) Four million one hundred thousand dollars for new family medicine residency program slots that did not receive state funding prior to 2016, as directed through the family medicine residency network at the University of Washington, for slots where residents are employed by hospitals.

**Sec. 1439.** RCW 74.60.030 and 2015 2nd sp.s. c 5 s 3 are each amended to read as follows:

(1)(a) Upon satisfaction of the conditions in RCW 74.60.150(1), and so long as the conditions in RCW 74.60.150(2) have not occurred, an assessment is imposed as set forth in this subsection. Assessment notices must be sent on or about thirty



days prior to the end of each quarter and payment is due thirty days thereafter.

(b) Effective July 1, 2015, and except as provided in RCW 74.60.050:

(i) Each prospective payment system hospital, except psychiatric and rehabilitation hospitals, shall pay a quarterly assessment. Each quarterly assessment shall be no more than one quarter of three hundred ~~((fifty))~~ eighty dollars for each annual nonmedicare hospital inpatient day, up to a maximum of fifty-four thousand days per year. For each nonmedicare hospital inpatient day in excess of fifty-four thousand days, each prospective payment system hospital shall pay ~~((an))~~ a quarterly assessment of one quarter of seven dollars for each such day, unless such assessment amount or threshold needs to be modified to comply with applicable federal regulations;

(ii) Each critical access hospital shall pay a quarterly assessment of one quarter of ten dollars for each annual nonmedicare hospital inpatient day;

(iii) Each psychiatric hospital shall pay a quarterly assessment of no more than one quarter of seventy-four dollars for each annual nonmedicare hospital inpatient day; and

(iv) Each rehabilitation hospital shall pay a quarterly assessment of no more than one quarter of seventy-four dollars for each annual nonmedicare hospital inpatient day.

(2) The authority shall determine each hospital's annual nonmedicare hospital inpatient days by summing the total reported nonmedicare hospital inpatient days for each hospital that is not exempt from the assessment under RCW 74.60.040. The authority shall obtain inpatient data from the hospital's 2552 cost report data file or successor data file available through the centers for medicare and medicaid services, as of a date to be determined by the authority. For state fiscal year ~~((2016))~~ 2017, the authority shall use cost report data for hospitals' fiscal years ending in ~~((2012))~~ 2013. For subsequent years, the hospitals' next succeeding fiscal year cost report data must be used.

(a) With the exception of a prospective payment system hospital commencing operations after January 1, 2009, for any hospital without a cost report for the relevant fiscal year, the authority shall work with the affected hospital to identify appropriate supplemental information that may be used to determine annual nonmedicare hospital inpatient days.

(b) A prospective payment system hospital commencing operations after January 1, 2009, must be assessed in accordance with this section after becoming an eligible new prospective payment system hospital as defined in RCW 74.60.010.

**Sec. 1440.** RCW 74.60.050 and 2015 2nd sp.s. c 5 s 4 are each amended to read as follows:

(1) The authority, in cooperation with the office of financial management, shall develop rules for determining the amount to be assessed to individual hospitals, notifying individual hospitals of the assessed amount, and collecting the amounts due. Such rule making shall specifically include provision for:

(a) Transmittal of notices of assessment by the authority to each hospital informing the hospital of its nonmedicare hospital inpatient days and the assessment amount due and payable;

(b) Interest on delinquent assessments at the rate specified in RCW 82.32.050; and

(c) Adjustment of the assessment amounts in accordance with subsection (2) of this section.

(2) For ~~((state fiscal year 2016 and))~~ each ~~((subsequent))~~ state fiscal year, the assessment amounts established under RCW 74.60.030 must be adjusted as follows:

(a) If sufficient other funds, including federal funds, are available to make the payments required under this chapter and fund the state portion of the quality incentive payments under RCW 74.09.611 and 74.60.020(4)(f) without utilizing the full

assessment under RCW 74.60.030, the authority shall reduce the amount of the assessment to the minimum levels necessary to support those payments;

(b) If the total amount of inpatient ~~((or))~~ and outpatient supplemental payments under RCW 74.60.120 is in excess of the upper payment limits and the entire excess amount cannot be disbursed by additional payments to managed care organizations under RCW 74.60.130, the authority shall proportionately reduce future assessments on prospective payment hospitals to the level necessary to generate additional payments to hospitals that are consistent with the upper payment limit plus the maximum permissible amount of additional payments to managed care organizations under RCW 74.60.130;

(c) If the amount of payments to managed care organizations under RCW 74.60.130 cannot be distributed because of failure to meet federal actuarial soundness or utilization requirements or other federal requirements, the authority shall apply the amount that cannot be distributed to reduce future assessments to the level necessary to generate additional payments to managed care organizations that are consistent with federal actuarial soundness or utilization requirements or other federal requirements;

(d) If required in order to obtain federal matching funds, the maximum number of nonmedicare inpatient days at the higher rate provided under RCW 74.60.030(1)(b)(i) may be adjusted in order to comply with federal requirements;

(e) If the number of nonmedicare inpatient days applied to the rates provided in RCW 74.60.030 will not produce sufficient funds to support the payments required under this chapter and the state portion of the quality incentive payments under RCW 74.09.611 and 74.60.020(4)(f), the assessment rates provided in RCW 74.60.030 may be increased proportionately by category of hospital to amounts no greater than necessary in order to produce the required level of funds needed to make the payments specified in this chapter and the state portion of the quality incentive payments under RCW 74.09.611 and 74.60.020(4)(f); and

(f) Any actual or estimated surplus remaining in the fund at the end of the fiscal year must be applied to reduce the assessment amount for the subsequent fiscal year or that fiscal year and the following fiscal years prior to and including fiscal year ~~((2019))~~ 2021.

(3)(a) Any adjustment to the assessment amounts pursuant to this section, and the data supporting such adjustment, including, but not limited to, relevant data listed in (b) of this subsection, must be submitted to the Washington state hospital association for review and comment at least sixty calendar days prior to implementation of such adjusted assessment amounts. Any review and comment provided by the Washington state hospital association does not limit the ability of the Washington state hospital association or its members to challenge an adjustment or other action by the authority that is not made in accordance with this chapter.

(b) The authority shall provide the following data to the Washington state hospital association sixty days before implementing any revised assessment levels, detailed by fiscal year, beginning with fiscal year 2011 and extending to the most recent fiscal year, except in connection with the initial assessment under this chapter:

(i) The fund balance;

(ii) The amount of assessment paid by each hospital;

(iii) The state share, federal share, and total annual medicaid fee-for-service payments for inpatient hospital services made to each hospital under RCW 74.60.120, and the data used to calculate the payments to individual hospitals under that section;

(iv) The state share, federal share, and total annual medicaid fee-for-service payments for outpatient hospital services made to each hospital under RCW 74.60.120, and the data used to

ONE HUNDRED FIRST DAY, APRIL 19, 2017

2017 REGULAR SESSION

calculate annual payments to individual hospitals under that section;

(v) The annual state share, federal share, and total payments made to each hospital under each of the following programs: Grants to certified public expenditure hospitals under RCW 74.60.090, for critical access hospital payments under RCW 74.60.100; and disproportionate share programs under RCW 74.60.110;

(vi) The data used to calculate annual payments to individual hospitals under (b)(v) of this subsection; and

(vii) The amount of payments made to managed care plans under RCW 74.60.130, including the amount representing additional premium tax, and the data used to calculate those payments.

(c) On a monthly basis, the authority shall provide the Washington state hospital association the amount of payments made to managed care plans under RCW 74.60.130, including the amount representing additional premium tax, and the data used to calculate those payments.

**Sec. 1441.** RCW 74.60.090 and 2015 2nd sp.s. c 5 s 5 are each amended to read as follows:

(1) In each fiscal year commencing upon satisfaction of the applicable conditions in RCW 74.60.150(1), funds must be disbursed from the fund and the authority shall make grants to certified public expenditure hospitals, which shall not be considered payments for hospital services, as follows:

(a) University of Washington medical center: Ten million five hundred fifty-five thousand dollars in each state fiscal year ~~((2016))~~ 2018 through ~~((2019))~~ 2021 paid as follows, except if the full amount of the payments required under RCW 74.60.120 and 74.60.130 cannot be distributed in a given fiscal year, the amounts in this subsection ~~((ii) and (iii))~~ must be reduced proportionately:

(i) Four million four hundred fifty-five thousand dollars;

(ii) Two million dollars to new integrated, evidence-based psychiatry residency program slots that did not receive state funding prior to 2016, at the integrated psychiatry residency program at the University of Washington; and

(iii) Four million one hundred thousand dollars to new family medicine residency program slots that did not receive state funding prior to 2016, as directed through the family medicine residency network at the University of Washington, for slots where residents are employed by hospitals;

(b) Harborview medical center: Ten million two hundred sixty thousand dollars in each state fiscal year ~~((2016 through 2019))~~ 2018 through 2021, except if the full amount of the payments required under RCW 74.60.120 and 74.60.130 cannot be distributed in a given fiscal year, the amounts in this subsection must be reduced proportionately;

(c) All other certified public expenditure hospitals: Six million three hundred forty-five thousand dollars in each state fiscal year ~~((2016 through 2019))~~ 2018 through 2021, except if the full amount of the payments required under RCW 74.60.120 and 74.60.130 cannot be distributed in a given fiscal year, the amounts in this subsection must be reduced proportionately. The amount of payments to individual hospitals under this subsection must be determined using a methodology that provides each hospital with a proportional allocation of the group's total amount of medicaid and state children's health insurance program payments determined from claims and encounter data using the same general methodology set forth in RCW 74.60.120 (3) and (4).

(2) Payments must be made quarterly, before the end of each quarter, taking the total disbursement amount and dividing by four to calculate the quarterly amount. The authority shall provide

a quarterly report of such payments to the Washington state hospital association.

**Sec. 1442.** RCW 74.60.100 and 2015 2nd sp.s. c 5 s 6 are each amended to read as follows:

In each fiscal year commencing upon satisfaction of the conditions in RCW 74.60.150(1), the authority shall make access payments to critical access hospitals that do not qualify for or receive a small rural disproportionate share hospital payment in a given fiscal year in the total amount of ~~((seven hundred))~~ two million thirty-eight thousand dollars from the fund ~~((and to critical access hospitals that receive disproportionate share payments in the total amount of one million three hundred thirty-six thousand dollars))~~. The amount of payments to individual hospitals under this section must be determined using a methodology that provides each hospital with a proportional allocation of the group's total amount of medicaid and state children's health insurance program payments determined from claims and encounter data using the same general methodology set forth in RCW 74.60.120 (3) and (4). Payments must be made after the authority determines a hospital's payments under RCW 74.60.110. These payments shall be in addition to any other amount payable with respect to services provided by critical access hospitals and shall not reduce any other payments to critical access hospitals. The authority shall provide a report of such payments to the Washington state hospital association within thirty days after payments are made.

**Sec. 1443.** RCW 74.60.120 and 2015 2nd sp.s. c 5 s 7 are each amended to read as follows:

(1) In each state fiscal year, commencing upon satisfaction of the applicable conditions in RCW 74.60.150(1), the authority shall make supplemental payments directly to Washington hospitals, separately for inpatient and outpatient fee-for-service medicaid services, as follows unless there are federal restrictions on doing so. If there are federal restrictions, to the extent allowed, funds that cannot be paid under (a) of this subsection, should be paid under (b) of this subsection, and funds that cannot be paid under (b) of this subsection, shall be paid under (a) of this subsection:

(a) For inpatient fee-for-service payments for prospective payment hospitals other than psychiatric or rehabilitation hospitals, twenty-nine million one hundred sixty-two thousand five hundred dollars per state fiscal year plus federal matching funds;

(b) For outpatient fee-for-service payments for prospective payment hospitals other than psychiatric or rehabilitation hospitals, thirty million dollars per state fiscal year plus federal matching funds;

(c) For inpatient fee-for-service payments for psychiatric hospitals, eight hundred seventy-five thousand dollars per state fiscal year plus federal matching funds;

(d) For inpatient fee-for-service payments for rehabilitation hospitals, two hundred twenty-five thousand dollars per state fiscal year plus federal matching funds;

(e) For inpatient fee-for-service payments for border hospitals, two hundred fifty thousand dollars per state fiscal year plus federal matching funds; and

(f) For outpatient fee-for-service payments for border hospitals, two hundred fifty thousand dollars per state fiscal year plus federal matching funds.

(2) If the amount of inpatient or outpatient payments under subsection (1) of this section, when combined with federal matching funds, exceeds the upper payment limit, payments to each category of hospital must be reduced proportionately to a level where the total payment amount is consistent with the upper payment limit. Funds under this chapter unable to be paid to

hospitals under this section because of the upper payment limit must be paid to managed care organizations under RCW 74.60.130, subject to the limitations in this chapter.

(3) The amount of such fee-for-service inpatient payments to individual hospitals within each of the categories identified in subsection (1)(a), (c), (d), and (e) of this section must be determined by:

(a) ~~((Applying the medicaid fee for service rates in effect on July 1, 2009, without regard to the increases required by chapter 30, Laws of 2010 1st sp. sess. to each hospital's inpatient fee for services claims and medicaid managed care encounter data for)) Totaling the inpatient fee-for-service claims payments and inpatient managed care encounter rate payments for each hospital during the base year;~~

(b) ~~((Applying the medicaid fee for service rates in effect on July 1, 2009, without regard to the increases required by chapter 30, Laws of 2010 1st sp. sess. to all hospitals' inpatient fee for services claims and medicaid managed care encounter data for)) Totaling the inpatient fee-for-service claims payments and inpatient managed care encounter rate payments for all hospitals during the base year; and~~

(c) Using the amounts calculated under (a) and (b) of this subsection to determine an individual hospital's percentage of the total amount to be distributed to each category of hospital.

(4) The amount of such fee-for-service outpatient payments to individual hospitals within each of the categories identified in subsection (1)(b) and (f) of this section must be determined by:

(a) ~~((Applying the medicaid fee for service rates in effect on July 1, 2009, without regard to the increases required by chapter 30, Laws of 2010 1st sp. sess. to each hospital's outpatient fee for services claims and medicaid managed care encounter data for)) Totaling the outpatient fee-for-service claims payments and outpatient managed care encounter rate payments for each hospital during the base year;~~

(b) ~~((Applying the medicaid fee for service rates in effect on July 1, 2009, without regard to the increases required by chapter 30, Laws of 2010 1st sp. sess. to all hospitals' outpatient fee for services claims and medicaid managed care encounter data for)) Totaling the outpatient fee-for-service claims payments and outpatient managed care encounter rate payments for all hospitals during the base year; and~~

(c) Using the amounts calculated under (a) and (b) of this subsection to determine an individual hospital's percentage of the total amount to be distributed to each category of hospital.

(5) Sixty days before the first payment in each subsequent fiscal year, the authority shall provide each hospital and the Washington state hospital association with an explanation of how the amounts due to each hospital under this section were calculated.

(6) Payments must be made in quarterly installments on or about the last day of every quarter.

(7) A prospective payment system hospital commencing operations after January 1, 2009, is eligible to receive payments in accordance with this section after becoming an eligible new prospective payment system hospital as defined in RCW 74.60.010.

(8) Payments under this section are supplemental to all other payments and do not reduce any other payments to hospitals.

**Sec. 1444.** RCW 74.60.130 and 2015 2nd sp.s. c 5 s 8 are each amended to read as follows:

(1) For state fiscal year 2016 and for each subsequent fiscal year, commencing within thirty days after satisfaction of the conditions in RCW 74.60.150(1) and subsection (5) of this section, the authority shall increase capitation payments in a manner consistent with federal contracting requirements to managed care organizations by an amount at least equal to the

amount available from the fund after deducting disbursements authorized by RCW 74.60.020(4) (c) through (f) and payments required by RCW 74.60.080 through 74.60.120. When combined with applicable federal matching funds, the capitation payment under this subsection must be ((no less than ninety-six million dollars per state fiscal year plus the maximum available amount of federal matching funds)) at least three hundred sixty million dollars per year. The initial payment following satisfaction of the conditions in RCW 74.60.150(1) must include all amounts due from July 1, 2015, to the end of the calendar month during which the conditions in RCW 74.60.150(1) are satisfied. Subsequent payments shall be made monthly.

(2) Payments to individual managed care organizations shall be determined by the authority based on each organization's or network's enrollment relative to the anticipated total enrollment in each program for the fiscal year in question, the anticipated utilization of hospital services by an organization's or network's medicaid enrollees, and such other factors as are reasonable and appropriate to ensure that purposes of this chapter are met.

(3) If the federal government determines that total payments to managed care organizations under this section exceed what is permitted under applicable medicaid laws and regulations, payments must be reduced to levels that meet such requirements, and the balance remaining must be applied as provided in RCW 74.60.050. Further, in the event a managed care organization is legally obligated to repay amounts distributed to hospitals under this section to the state or federal government, a managed care organization may recoup the amount it is obligated to repay under the medicaid program from individual hospitals by not more than the amount of overpayment each hospital received from that managed care organization.

(4) Payments under this section do not reduce the amounts that otherwise would be paid to managed care organizations: PROVIDED, That such payments are consistent with actuarial soundness certification and enrollment.

(5) Before making such payments, the authority shall require medicaid managed care organizations to comply with the following requirements:

(a) All payments to managed care organizations under this chapter must be expended for hospital services provided by Washington hospitals, which for purposes of this section includes psychiatric and rehabilitation hospitals, in a manner consistent with the purposes and provisions of this chapter, and must be equal to all increased capitation payments under this section received by the organization or network, consistent with actuarial certification and enrollment, less an allowance for any estimated premium taxes the organization is required to pay under Title 48 RCW associated with the payments under this chapter;

(b) Managed care organizations shall expend the increased capitation payments under this section in a manner consistent with the purposes of this chapter, with the initial expenditures to hospitals to be made within thirty days of receipt of payment from the authority. Subsequent expenditures by the managed care plans are to be made before the end of the quarter in which funds are received from the authority;

(c) Providing that any delegation or attempted delegation of an organization's or network's obligations under agreements with the authority do not relieve the organization or network of its obligations under this section and related contract provisions.

(6) No hospital or managed care organizations may use the payments under this section to gain advantage in negotiations.

(7) No hospital has a claim or cause of action against a managed care organization for monetary compensation based on the amount of payments under subsection (5) of this section.

(8) If funds cannot be used to pay for services in accordance with this chapter the managed care organization or network must

ONE HUNDRED FIRST DAY, APRIL 19, 2017

2017 REGULAR SESSION

return the funds to the authority which shall return them to the hospital safety net assessment fund.

**Sec. 1445.** RCW 74.60.150 and 2015 2nd sp.s. c 5 s 9 are each amended to read as follows:

(1) The assessment, collection, and disbursement of funds under this chapter shall be conditional upon:

(a) Final approval by the centers for medicare and medicaid services of any state plan amendments or waiver requests that are necessary in order to implement the applicable sections of this chapter including, if necessary, waiver of the broad-based or uniformity requirements as specified under section 1903(w)(3)(E) of the federal social security act and 42 C.F.R. 433.68(e);

(b) To the extent necessary, amendment of contracts between the authority and managed care organizations in order to implement this chapter; and

(c) Certification by the office of financial management that appropriations have been adopted that fully support the rates established in this chapter for the upcoming fiscal year.

(2) This chapter does not take effect or ceases to be imposed, and any moneys remaining in the fund shall be refunded to hospitals in proportion to the amounts paid by such hospitals, if and to the extent that any of the following conditions occur:

(a) The federal department of health and human services and a court of competent jurisdiction makes a final determination, with all appeals exhausted, that any element of this chapter, other than RCW 74.60.100, cannot be validly implemented;

(b) Funds generated by the assessment for payments to prospective payment hospitals or managed care organizations are determined to be not eligible for federal ~~((match))~~ matching funds in addition to those federal funds that would be received without the assessment, or the federal government replaces medicaid matching funds with a block grant or grants;

(c) Other funding sufficient to maintain aggregate payment levels to hospitals for inpatient and outpatient services covered by medicaid, including fee-for-service and managed care, at least at the ~~((levels))~~ rates the state paid for those services on July 1, 2015, as adjusted for current enrollment and utilization is not appropriated or available;

(d) Payments required by this chapter are reduced, except as specifically authorized in this chapter, or payments are not made in substantial compliance with the time frames set forth in this chapter; or

(e) The fund is used as a substitute for or to supplant other funds, except as authorized by RCW 74.60.020.

**Sec. 1446.** RCW 74.60.160 and 2015 2nd sp.s. c 5 s 10 are each amended to read as follows:

(1) The legislature intends to provide the hospitals with an opportunity to contract with the authority each fiscal biennium to protect the hospitals from future legislative action during the biennium that could result in hospitals receiving less from supplemental payments, increased managed care payments, disproportionate share hospital payments, or access payments than the hospitals expected to receive in return for the assessment based on the biennial appropriations and assessment legislation.

(2) Each odd-numbered year after enactment of the biennial omnibus operating appropriations act, the authority shall ~~((offer to enter into a contract or to))~~ extend ~~((an))~~ the existing contract for the period of the fiscal biennium beginning July 1st with a hospital that is required to pay the assessment under this chapter or shall offer to enter into a contract with any hospital subject to this chapter that has not previously been a party to a contract or whose contract has expired. The contract must include the following terms:

(a) The authority must agree not to do any of the following:

(i) Increase the assessment from the level set by the authority pursuant to this chapter on the first day of the contract period for reasons other than those allowed under RCW 74.60.050(2)(e);

(ii) Reduce aggregate payment levels to hospitals for inpatient and outpatient services covered by medicaid, including fee-for-service and managed care, adjusting for changes in enrollment and utilization, from the levels the state paid for those services on the first day of the contract period;

(iii) For critical access hospitals only, reduce the levels of disproportionate share hospital payments under RCW 74.60.110 or access payments under RCW 74.60.100 for all critical access hospitals below the levels specified in those sections on the first day of the contract period;

(iv) For prospective payment system, psychiatric, and rehabilitation hospitals only, reduce the levels of supplemental payments under RCW 74.60.120 for all prospective payment system hospitals below the levels specified in that section on the first day of the contract period unless the supplemental payments are reduced under RCW 74.60.120(2);

(v) For prospective payment system, psychiatric, and rehabilitation hospitals only, reduce the increased capitation payments to managed care organizations under RCW 74.60.130 below the levels specified in that section on the first day of the contract period unless the managed care payments are reduced under RCW 74.60.130(3); or

(vi) Except as specified in this chapter, use assessment revenues for any other purpose than to secure federal medicaid matching funds to support payments to hospitals for medicaid services; and

(b) As long as payment levels are maintained as required under this chapter, the hospital must agree not to challenge the authority's reduction of hospital reimbursement rates to July 1, 2009, levels, which results from the elimination of assessment supported rate restorations and increases, under 42 U.S.C. Sec. 1396a(a)(30)(a) either through administrative appeals or in court during the period of the contract.

(3) If a court finds that the authority has breached an agreement with a hospital under subsection (2)(a) of this section, the authority:

(a) Must immediately refund any assessment payments made subsequent to the breach by that hospital upon receipt; and

(b) May discontinue supplemental payments, increased managed care payments, disproportionate share hospital payments, and access payments made subsequent to the breach for the hospital that are required under this chapter.

(4) The remedies provided in this section are not exclusive of any other remedies and rights that may be available to the hospital whether provided in this chapter or otherwise in law, equity, or statute.

**Sec. 1447.** RCW 74.60.901 and 2015 2nd sp.s. c 5 s 11 are each amended to read as follows:

This chapter expires July 1, ~~((2019))~~ 2021.

**Sec. 1448.** RCW 74.60.902 and 2010 1st sp.s. c 30 s 22 are each amended to read as follows:

Upon expiration of chapter 74.60 RCW, inpatient and outpatient hospital reimbursement rates shall return to a ~~((rate structure))~~ funding level as if the four percent medicaid inpatient and outpatient rate reductions did not occur on July 1, 2009, using the rate structure in effect July 1, 2015, or as otherwise specified in the ~~((2013-15))~~ 2019-2021 biennial operating appropriations act.

**NEW SECTION. Sec. 1449.** A new section is added to chapter 74.60 RCW to read as follows:

(1) The estimated hospital net financial benefit under this chapter shall be determined by the authority by summing the

following anticipated hospital payments, including all applicable federal matching funds, specified in RCW 74.60.090 for grants to certified public expenditure hospitals, RCW 74.60.100 for payments to critical access hospitals, RCW 74.60.110 for payments to small rural disproportionate share hospitals, RCW 74.60.120 for direct supplemental payments to hospitals, RCW 74.60.130 for managed care capitation payments, RCW 74.60.020(4)(f) for quality improvement incentives, minus the total assessments paid by all hospitals under RCW 74.60.030 for hospital assessments, and minus any taxes paid on RCW 74.60.130 for managed care payments.

(2) If, for any reason including reduction or elimination of federal matching funds, the estimated hospital net financial benefit falls below one hundred thirty million dollars in any state fiscal year, the office of financial management shall direct the authority to modify the assessment rates provided for in RCW 74.60.030, and the office of financial management is authorized to direct the authority to adjust the amounts disbursed from the fund, including disbursements for payments under RCW 74.60.020(4)(f) and payments to hospitals under RCW 74.60.090 through 74.60.130 and 74.60.020(4)(g), such that the estimated hospital net financial benefit is equal to the amount disbursed from the fund for use in lieu of state general fund payments. Each category of adjusted payments to hospitals under RCW 74.60.090 through 74.60.130 and payments under RCW 74.60.020(4)(g) must bear the same relationship to the total of such adjusted payments as originally provided in this chapter.

**NEW SECTION. Sec. 1450.** 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, 2017."

Correct the title.

NONA SNELL, Deputy Chief Clerk

#### MOTION

Senator Braun moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5815.

Senator Braun spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Braun that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5815.

The motion by Senator Braun carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5815 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5815, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5815, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 47; Nays, 2; Absent, 0; Excused, 0.

Voting yea: Senators Angel, Bailey, Becker, Billig, Braun, Brown, Carlyle, Chase, Cleveland, Conway, Darneille, Fain, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Honeyford, Hunt, Keiser, King, Kuderer, Lias, McCoy, Miloscia, Mullet, Nelson, O'Ban, Padden, Palumbo, Pearson, Pedersen, Ranker, Rivers, Rolfes, Rossi, Saldaña, Schoesler, Sheldon, Short, Takko, Van De Wege, Walsh, Warnick, Wellman, Wilson and Zeiger

Voting nay: Senators Baumgartner and Erickson

SUBSTITUTE SENATE BILL NO. 5815, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MESSAGE FROM THE HOUSE

April 19, 2017

MR. PRESIDENT:

The House grants the request for a conference on ENGROSSED SENATE BILL NO. 5096. The Speaker has appointed the following members as Conferees: Representatives Clibborn, Orcutt, Fey

NONA SNELL, Deputy Chief Clerk

#### SIGNED BY THE PRESIDENT

Pursuant to Article 2, Section 32 of the State Constitution and Senate Rule 1(5), the President announced the signing of and thereupon did sign in open session:

SUBSTITUTE HOUSE BILL NO. 1086,  
HOUSE BILL NO. 1091,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1105,  
HOUSE BILL NO. 1150,  
HOUSE BILL NO. 1250,  
HOUSE BILL NO. 1278,  
SUBSTITUTE HOUSE BILL NO. 1444,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1481,  
SUBSTITUTE HOUSE BILL NO. 1520,  
ENGROSSED HOUSE BILL NO. 1648,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1814,  
SUBSTITUTE HOUSE BILL NO. 1845,  
HOUSE BILL NO. 1906,  
ENGROSSED HOUSE BILL NO. 1924,  
SUBSTITUTE HOUSE BILL NO. 1944,  
HOUSE BILL NO. 1983,  
SUBSTITUTE HOUSE BILL NO. 1988,  
ENGROSSED HOUSE BILL NO. 2003,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2010.

#### MESSAGE FROM THE HOUSE

April 18, 2017

MR. PRESIDENT:

The House receded from its amendment(s) to SUBSTITUTE SENATE BILL NO. 5081. Under suspension of the rules, the bill was returned to second reading for the purposes of amendment(s). The House adopted the following amendment(s): 5081-S AMH JINK H2685.1, and passed the bill as amended by the House.

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1451.** SHORT TITLE. This chapter may be known and cited as the revised uniform law on notarial acts.

**NEW SECTION. Sec. 1452.** DEFINITIONS. In this chapter:

(1) "Acknowledgment" means a declaration by an individual in the presence of a notarial officer stating that the individual has signed a record of the individual's free will for the purpose stated in the record and, if the record is signed in a representative capacity, the individual also declares that he or she signed the

ONE HUNDRED FIRST DAY, APRIL 19, 2017

2017 REGULAR SESSION

record with proper authority and signed it as the act of the individual or entity identified in the record.

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

(3) "Director" means the director of licensing or the director's designee.

(4) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(5) "Electronic records notary public" means an individual commissioned by the director to perform a notarial act with respect to electronic records. Nothing in this act authorizes an electronic records notary public to provide court reporting services.

(6) "Electronic signature" means an electronic symbol, sound, or process attached to or logically associated with a record and executed or adopted by an individual with the intent to sign the record.

(7) "In a representative capacity" means acting as:

(a) An authorized officer, agent, partner, trustee, or other representative for a person other than an individual;

(b) A public officer, personal representative, guardian, or other representative, in the capacity stated in a record;

(c) An agent or attorney-in-fact for a principal; or

(d) An authorized representative of another in any other capacity.

(8) "Notarial act" means an act, whether performed with respect to a tangible or electronic record, that a notarial officer may perform under the law of this state. The term includes taking an acknowledgment, administering an oath or affirmation, taking a verification on oath or affirmation, witnessing or attesting a signature, certifying or attesting a copy, certifying the occurrence of an event or the performance of an act, and noting a protest of a negotiable instrument if the protest was prepared under the authority of an attorney licensed to practice law in this state or another state, or was prepared under the authority of a financial institution that is regulated by this state, another state, or the federal government.

(9) "Notarial officer" means a notary public or other individual authorized to perform a notarial act.

(10) "Notary public" means an individual commissioned to perform a notarial act by the director.

(11) "Official stamp" means a physical image affixed to or embossed on a tangible record or an electronic image attached to or logically associated with an electronic record.

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

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

(14) "Sign" means, with present intent to authenticate or adopt a record:

(a) To execute or adopt a tangible symbol; or

(b) To attach to or logically associate with the record an electronic symbol, sound, or process.

(15) "Signature" means a tangible symbol or an electronic signature that evidences the signing of a record.

(16) "Stamping device" means:

(a) A physical device capable of affixing to or embossing on a tangible record an official stamp; or

(b) An electronic device or process capable of attaching to or logically associating with an electronic record an official stamp.

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

(18) "Verification on oath or affirmation" means a declaration, made by an individual on oath or affirmation before a notarial officer, that a statement in a record is true.

NEW SECTION. **Sec. 1453.** APPLICABILITY. This chapter applies to a notarial act performed on or after the effective date of this section.

NEW SECTION. **Sec. 1454.** AUTHORITY TO PERFORM NOTARIAL ACT. (1) A notarial officer may perform a notarial act authorized by this chapter or by law of this state other than this chapter.

(2)(a) A notarial officer may not perform a notarial act with respect to a record to which the officer or the officer's spouse or domestic partner is a party, or in which any of the above have a direct beneficial interest.

(b) A notarial officer may not notarize the notarial officer's own signature.

(c) A notarial act performed in violation of this subsection (2) is voidable.

NEW SECTION. **Sec. 1455.** REQUIREMENTS FOR CERTAIN NOTARIAL ACTS. (1) A notarial officer who takes an acknowledgment of a record shall determine, from personal knowledge or satisfactory evidence of the identity of the individual, that the individual appearing before the officer and making the acknowledgment has the identity claimed and that the signature on the record is the signature of the individual.

(2) A notarial officer who takes a verification of a statement on oath or affirmation shall determine, from personal knowledge or satisfactory evidence of the identity of the individual, that the individual appearing before the officer and making the verification has the identity claimed and that the signature on the statement verified is the signature of the individual.

(3) A notarial officer who witnesses or attests to a signature shall determine, from personal knowledge or satisfactory evidence of the identity of the individual, that the individual appearing before the officer and signing the record has the identity claimed.

(4) A notarial officer who certifies or attests a copy of a record or an item that was copied shall compare the copy with the original record or item and determine that the copy is a full, true, and accurate transcription or reproduction of the record or item.

(5) A notarial officer may make or note a protest of a negotiable instrument only if the notarial officer is licensed to practice law in this state, acting under the authority of an attorney who is licensed to practice law in this or another state, or acting under the authority of a financial institution regulated by this state, another state, or the federal government. In making or noting a protest of a negotiable instrument the notarial officer or licensed attorney shall determine the matters set forth in RCW 62A.3-505(b).

NEW SECTION. **Sec. 1456.** PERSONAL APPEARANCE REQUIRED. If a notarial act relates to a statement made in or a signature executed on a record, the individual making the statement or executing the signature shall appear personally before the notarial officer.

NEW SECTION. **Sec. 1457.** IDENTIFICATION OF INDIVIDUAL. (1) A notarial officer has personal knowledge of the identity of an individual appearing before the officer if the individual is personally known to the officer through dealings sufficient to provide reasonable certainty that the individual has the identity claimed.

(2) A notarial officer has satisfactory evidence of the identity of an individual appearing before the officer if the officer can identify the individual:

(a) By means of:

(i) A passport, driver's license, or government-issued nondriver identification card, which is current or expired not more than three years before performance of the notarial act; or

(ii) Another form of government identification issued to an individual, which is current or expired not more than three years before performance of the notarial act, contains the signature or a photograph of the individual, and is satisfactory to the officer; or

(b) By a verification on oath or affirmation of a credible witness personally appearing before the officer and personally known to the officer and who provides satisfactory evidence of his or her identity as described in (a) of this subsection.

(3) A notarial officer may require an individual to provide additional information or identification credentials necessary to assure the officer of the identity of the individual.

**NEW SECTION. Sec. 1458. AUTHORITY TO REFUSE TO PERFORM NOTARIAL ACT.** (1) A notarial officer has the authority to refuse to perform a notarial act if the officer is not satisfied that:

(a) The individual executing the record is competent or has the capacity to execute the record; or

(b) The individual's signature is knowingly and voluntarily made.

(2) A notarial officer has the authority to refuse to perform a notarial act unless refusal is prohibited by law other than this chapter.

**NEW SECTION. Sec. 1459. SIGNATURE IF INDIVIDUAL UNABLE TO SIGN.** Except as otherwise provided in RCW 64.08.100, if an individual is physically unable to sign a record, the individual may direct an individual other than the notarial officer to sign the individual's name on the record. The notarial officer shall insert "signature affixed by (name of other individual) at the direction of (name of individual)" or words of similar import.

**NEW SECTION. Sec. 1460. NOTARIAL ACT IN THIS STATE.** (1) A notarial act may be performed in this state by:

(a) A notary public of this state;

(b) A judge, clerk, or deputy clerk of a court of this state; or

(c) Any other individual authorized to perform the specific act by the law of this state.

(2) The signature and title of an individual authorized by this act to perform a notarial act in this state are prima facie evidence that the signature is genuine and that the individual holds the designated title.

(3) The signature and title of a notarial officer described in subsection (1)(a) or (b) of this section conclusively establishes the authority of the officer to perform the notarial act.

**NEW SECTION. Sec. 1461. NOTARIAL ACT IN ANOTHER STATE.** (1) A notarial act performed in another state has the same effect under the law of this state as if performed by a notarial officer of this state, if the act performed in that state is performed by:

(a) A notary public of that state;

(b) A judge, clerk, or deputy clerk of a court of that state; or

(c) Any other individual authorized by the law of that state to perform the notarial act.

(2) The signature and title of an individual performing a notarial act in another state are prima facie evidence that the signature is genuine and that the individual holds the designated title.

(3) The signature and title of a notarial officer described in subsection (1)(a) through (c) of this section conclusively establishes the authority of the officer to perform the notarial act.

**NEW SECTION. Sec. 1462. NOTARIAL ACT UNDER AUTHORITY OF FEDERALLY RECOGNIZED INDIAN TRIBE.** (1) A notarial act performed under the authority and in the jurisdiction of a federally recognized Indian tribe has the same effect as if performed by a notarial officer of this state, if the act performed in the jurisdiction of the tribe is performed by:

(a) A notary public of the tribe;

(b) A judge, clerk, or deputy clerk of a court of the tribe; or

(c) Any other individual authorized by the law of the tribe to perform the notarial act.

(2) The signature and title of an individual performing a notarial act under the authority of and in the jurisdiction of a federally recognized Indian tribe are prima facie evidence that the signature is genuine and that the individual holds the designated title.

(3) The signature and title of a notarial officer described in subsection (1)(a) through (c) of this section conclusively establishes the authority of the officer to perform the notarial act.

**NEW SECTION. Sec. 1463. NOTARIAL ACT UNDER FEDERAL AUTHORITY.** (1) A notarial act performed under federal law has the same effect under the law of this state as if performed by a notarial officer of this state, if the act performed under federal law is performed by:

(a) A judge, clerk, or deputy clerk of a court;

(b) An individual in military service or performing duties under the authority of military service who is authorized to perform notarial acts under federal law;

(c) An individual designated a notarizing officer by the United States department of state for performing notarial acts overseas; or

(d) Any other individual authorized by federal law to perform the notarial act.

(2) The signature and title of an individual acting under federal authority and performing a notarial act are prima facie evidence that the signature is genuine and that the individual holds the designated title.

(3) The signature and title of an officer described in subsection (1)(a), (b), or (c) of this section conclusively establishes the authority of the officer to perform the notarial act.

**NEW SECTION. Sec. 1464. FOREIGN NOTARIAL ACT.** (1) In this section, "foreign state" means a government other than the United States, a state, or a federally recognized Indian tribe.

(2) If a notarial act is performed under the authority and in the jurisdiction of a foreign state or constituent unit of the foreign state or is performed under the authority of a multinational or international governmental organization, the act has the same effect under the law of this state as if performed by a notarial officer of this state.

(3) If the title of office and indication of authority to perform notarial acts in a foreign state appears in a digest of foreign law or in a list customarily used as a source for that information, the authority of an officer with that title to perform notarial acts is conclusively established.

(4) The signature and official stamp of an individual holding an office described in subsection (3) of this section are prima facie evidence that the signature is genuine and the individual holds the designated title.

(5) An apostille in the form prescribed by the Hague Convention of October 5, 1961, and issued by a foreign state party to the Hague Convention conclusively establishes that the signature of the notarial officer is genuine and that the officer holds the indicated office.

(6) A consular authentication issued by an individual designated by the United States department of state as a notarizing officer for performing notarial acts overseas and attached to the

ONE HUNDRED FIRST DAY, APRIL 19, 2017

2017 REGULAR SESSION

record with respect to which the notarial act is performed conclusively establishes that the signature of the notarial officer is genuine and that the officer holds the indicated office.

NEW SECTION. Sec. 1465. CERTIFICATE OF NOTARIAL ACT. (1) A notarial act must be evidenced by a certificate. The certificate must:

- (a) Be executed contemporaneously with the performance of the notarial act;
- (b) Be signed and dated by the notarial officer and, if the notarial officer is a notary public, be signed in the same manner as on file with the department;
- (c) Identify the jurisdiction in which the notarial act is performed;
- (d) Contain the title of office of the notarial officer;
- (e) Be written in English or in dual languages, one of which must be English; and
- (f) If the notarial officer is a notary public, indicate the date of expiration, if any, of the officer's commission.

(2) Regarding notarial act certificates on a tangible record:

- (a) If a notarial act regarding a tangible record is performed by a notary public, an official stamp must be affixed to or embossed on the certificate.
- (b) If a notarial act regarding a tangible record is performed by a notarial officer other than a notary public and the certificate contains the information specified in subsection (1)(b), (c), and (d) of this section, an official stamp may be affixed to or embossed on the certificate.

(3) Regarding notarial act certificates on an electronic record:

- (a) If a notarial act regarding an electronic record is performed by an electronic records notary public, an official stamp must be attached to or logically associated with the certificate.
- (b) If a notarial act regarding an electronic record is performed by a notarial officer other than a notary public and the certificate contains the information specified in subsection (1)(b), (c), and (d) of this section, an official stamp may be attached to or logically associated with the certificate.

(4) A certificate of a notarial act is sufficient if it meets the requirements of subsections (1) through (3) of this section and:

- (a) Is in a short form set forth in section 16 of this act;
- (b) Is in a form otherwise permitted by the law of this state;
- (c) Is in a form permitted by the law applicable in the jurisdiction in which the notarial act was performed; or
- (d) Sets forth the actions of the notarial officer and the actions are sufficient to meet the requirements of the notarial act as provided in sections 5, 6, and 7 of this act or law of this state other than this chapter.

(5) By executing a certificate of a notarial act, a notarial officer certifies that the officer has complied with the requirements and made the determinations specified in sections 5, 6, and 7 of this act.

(6) A notarial officer may not affix the officer's signature to, or logically associate it with, a certificate until the notarial act has been performed.

(7) If a notarial act is performed regarding a tangible record, a certificate must be part of, or securely attached to, the record. If a notarial act is performed regarding an electronic record, the certificate must be affixed to, or logically associated with, the electronic record. If the director has established standards pursuant to section 27 of this act for attaching, affixing, or logically associating the certificate, the process must conform to the standards.

NEW SECTION. Sec. 1466. SHORT FORM CERTIFICATES. The following short form certificates of notarial acts are sufficient for the purposes indicated, if completed

with the information required by section 15 (1) through (4) of this act:

(1) For an acknowledgment in an individual capacity:

State of .....

County of .....

This record was acknowledged before me on (date) by (name(s) of individuals).

(Stamp) (Signature of notary public)

(Title of office)

My commission expires:

(date)

(2) For an acknowledgment in a representative capacity:

State of .....

County of .....

This record was acknowledged before me on (date) by (name(s) of individuals) as (type of authority, such as officer or trustee) of (name of party on behalf of whom record was executed).

(Stamp) (Signature of notary public)

(Title of office)

My commission expires:

(date)

(3) For verification on oath or affirmation:

State of .....

County of .....

Signed and sworn to (or affirmed) before me on (date) by (name(s) of individuals making statement).

(Stamp) (Signature of notary public)

(Title of office)

My commission expires:

(date)

(4) For witnessing or attesting a signature:

State of .....

County of .....

Signed or attested before me on (date) by (name(s) of individuals).

(Stamp) (Signature of notary public)

(Title of office)

My commission expires:

(date)

(5) For certifying or attesting a copy of a record:

State of .....

County of .....

I certify that this is a true and correct copy of a record in the possession of .....

Dated:

(Stamp) (Signature of notary public)



(Title of office)  
My commission expires:

(date)

(6) For certifying the occurrence of an event or the performance of any act:

State of .....

County of .....

I certify that the event described in this document has occurred or been performed.

Dated:

(Signature of notary public)

(Stamp)

(Title of office)  
My commission expires:

(date)

**NEW SECTION. Sec. 1467. OFFICIAL STAMP.** (1) It is unlawful for any person intentionally to manufacture, give, sell, procure, or possess a seal or stamp evidencing the current appointment of a person as a notary public until the director has issued a notary commission. The official seal or stamp of a notary public must include:

- (a) The words "notary public;"
- (b) The words "state of Washington;"
- (c) The notary public's name as commissioned;
- (d) The notary public's commission expiration date; and
- (e) Any other information required by the director.

(2) The size and form or forms of the seal or stamp shall be prescribed by the director in rule.

(3) The seal or stamp must be capable of being copied together with the record to which it is affixed or attached or with which it is logically associated.

(4) The seal or stamp used at the time that a notarial act is performed must be the seal or stamp evidencing the notary public's commission in effect as of such time, even if the notary public has received the seal or stamp evidencing his or her next commission.

**NEW SECTION. Sec. 1468. STAMPING DEVICE.** (1) A notary public is responsible for the security of the notary public's stamping device and may not allow another individual to use the device to perform a notarial act. On resignation from, or the revocation or expiration of, the notary public's commission, or on the expiration of the date set forth in the stamping device, the notary public shall disable the stamping device by destroying, defacing, damaging, erasing, or securing it against use in a manner that renders it unusable. On the death or adjudication of incompetency of a notary public, the notary public's personal representative or guardian or any other person knowingly in possession of the stamping device shall render it unusable by destroying, defacing, damaging, erasing, or securing it against use in a manner that renders it unusable.

(2) The seal or stamp should be kept in a locked and secured area, under the direct and exclusive control of the notary public. If a notary public's stamping device is lost or stolen, the notary public or the notary public's personal representative or guardian shall notify promptly the department on discovering that the device is lost or stolen. Any replacement device must contain a variance from the lost or stolen seal or stamp.

**NEW SECTION. Sec. 1469. FEES.** (1) The director may establish by rule the maximum fees that may be charged by notaries public for various notarial services.

(2) A notary public need not charge fees for notarial acts.

**NEW SECTION. Sec. 1470. JOURNAL.** (1) A notary public shall maintain a journal in which the notary public chronicles all notarial acts that the notary public performs. The notary public shall retain the journal for ten years after the performance of the last notarial act chronicled in the journal. The journal is to be destroyed as required by the director in rule upon completion of the ten-year period.

(2) Notwithstanding any other provision of this chapter requiring a notary public to maintain a journal, a notary public who is an attorney licensed to practice law in this state is not required to chronicle a notarial act in a journal if documentation of the notarial act is otherwise maintained by professional practice.

(3) A notary public shall maintain only one tangible journal at a time to chronicle notarial acts, whether those notarial acts are performed regarding tangible or electronic records. The journal must be a permanent, bound register with numbered pages. An electronic records notary public may also maintain an electronic format journal, which can be kept concurrently with the tangible journal. The electronic journal must be in a permanent, tamper-evident electronic format complying with the rules of the director.

(4) An entry in a journal must be made contemporaneously with performance of the notarial act and contain the following information:

- (a) The date and time of the notarial act;
- (b) A description of the record, if any, and type of notarial act;
- (c) The full name and address of each individual for whom the notarial act is performed; and
- (d) Any additional information as required by the director in rule.

(5) The journal shall be kept in a locked and secured area, under the direct and exclusive control of the notary public. Failure to secure the journal may be cause for the director to take administrative action against the commission held by the notary public. If a notary public's journal is lost or stolen, the notary public promptly shall notify the department on discovering that the journal is lost or stolen.

(6) On resignation from, or the revocation or suspension of, a notary public's commission, the notary public shall retain the notary public's journal in accordance with subsection (1) of this section and inform the department where the journal is located.

**NEW SECTION. Sec. 1471. NOTIFICATION REGARDING PERFORMANCE OF NOTARIAL ACT ON ELECTRONIC RECORD—SELECTION OF TECHNOLOGY.** (1) A notary public may not perform notarial acts with respect to electronic records unless the notary public holds a commission as an electronic records notary public.

(2) An electronic records notary public may select one or more tamper-evident technologies to perform notarial acts with respect to electronic records that meet the standards provided in subsection (4) of this section. A person cannot require an electronic records notary public to perform a notarial act with respect to an electronic record with a technology that the notary public has not selected.

(3) Before an electronic records notary public performs the notary public's initial notarial act with respect to an electronic record, an electronic records notary public shall notify the department that he or she will be performing notarial acts with respect to electronic records and identify the technology the electronic records notary public intends to use.

(4) The director shall establish standards for approval of technology in rule. If the technology conforms to the standards, the director shall approve the use of the technology.

**NEW SECTION. Sec. 1472. COMMISSION AS NOTARY PUBLIC—QUALIFICATIONS—NO IMMUNITY OR BENEFIT.** (1) An individual qualified under subsection (2)

ONE HUNDRED FIRST DAY, APRIL 19, 2017

2017 REGULAR SESSION

of this section may apply to the director for a commission as a notary public. The applicant shall comply with and provide the information required by rules established by the director and pay any application fee.

(2) An applicant for a commission as a notary public must:

(a) Be at least eighteen years of age;

(b) Be a citizen or permanent legal resident of the United States;

(c) Be a resident of or have a place of employment or practice in this state;

(d) Be able to read and write English; and

(e) Not be disqualified to receive a commission under section 23 of this act.

(3) Before issuance of a commission as a notary public, an applicant for the commission shall execute an oath of office and submit it to the department in the format prescribed by the director in rule.

(4) Before issuance of a commission as a notary public, the applicant for a commission shall submit to the director an assurance in the form of a surety bond in the amount established by the director in rule. The assurance must be issued by a surety or other entity licensed or authorized to write surety bonds in this state. The assurance must be effective for a four-year term or for a term that expires on the date the notary public's commission expires. The assurance must cover acts performed during the term of the notary public's commission and must be in the form prescribed by the director. If a notary public violates law with respect to notaries public in this state, the surety or issuing entity is liable under the assurance. The surety or issuing entity shall give at least thirty days notice to the department before canceling the assurance. The surety or issuing entity shall notify the department not later than thirty days after making a payment to a claimant under the assurance. A notary public may perform notarial acts in this state only during the period that a valid assurance is on file with the department.

(5) On compliance with this section, the director shall issue a commission as a notary public to an applicant for a term of four years or for a term that expires on the date of expiration of the assurance, whichever comes first.

(6) A commission to act as a notary public authorizes the notary public to perform notarial acts. The commission does not provide the notary public any immunity or benefit conferred by law of this state on public officials or employees.

(7) An individual qualified under (a) of this subsection may apply to the director for a commission as an electronic records notary public. The applicant shall comply with and provide the information required by rules established by the director and pay the relevant application fee.

(a) An applicant for a commission as an electronic records notary public must hold a commission as notary public.

(b) An electronic records notary public commission may take the form of an endorsement to the notary public commission if deemed appropriate by the director.

**NEW SECTION. Sec. 1473. GROUNDS TO DENY, REFUSE TO RENEW, REVOKE, SUSPEND, OR CONDITION COMMISSION OF NOTARY PUBLIC.** (1) In addition to conduct defined as unprofessional under RCW 18.235.130, the director may take action as provided for in RCW 18.235.110 against a commission as notary public for any act or omission that demonstrates the individual lacks the honesty, integrity, competence, or reliability to act as a notary public, including:

(a) Failure to comply with this chapter;

(b) A fraudulent, dishonest, or deceitful misstatement or omission in the application for a commission as a notary public submitted to the department;

(c) A conviction of the applicant or notary public of any felony or crime involving fraud, dishonesty, or deceit;

(d) A finding against, or admission of liability by, the applicant or notary public in any legal proceeding or disciplinary action based on the applicant's or notary public's fraud, dishonesty, or deceit;

(e) Failure by the notary public to discharge any duty required of a notary public, whether by this chapter, rules of the director, or any federal or state law;

(f) Use of false or misleading advertising or representation by the notary public representing that the notary public has a duty, right, or privilege that the notary public does not have;

(g) Violation by the notary public of a rule of the director regarding a notary public;

(h) Denial, refusal to renew, revocation, suspension, or conditioning of a notary public commission in another state;

(i) Failure of the notary public to maintain an assurance as provided in section 22(4) of this act; or

(j) Making or noting a protest of a negotiable instrument without being a person authorized by section 5(5) of this act.

(2) If the director denies, refuses to renew, revokes, suspends, imposes conditions, or otherwise sanctions, a commission as a notary public, the applicant or notary public is entitled to timely notice and hearing in accordance with chapter 34.05 RCW.

(3) The authority of the director to take disciplinary action on a commission as a notary public does not prevent a person from seeking and obtaining other criminal or civil remedies provided by law.

**NEW SECTION. Sec. 1474. DATABASE OF NOTARIES PUBLIC.** The director shall maintain an electronic database of notaries public:

(1) Through which a person may verify the authority of a notary public to perform notarial acts; and

(2) Which indicates whether a notary public has notified the director that the notary public will be performing notarial acts on electronic records.

**NEW SECTION. Sec. 1475. PROHIBITED ACTS.** (1) A commission as a notary public does not authorize an individual to:

(a) Assist persons in drafting legal records, give legal advice, or otherwise practice law;

(b) Act as an immigration consultant or an expert on immigration matters;

(c) Represent a person in a judicial or administrative proceeding relating to immigration to the United States, United States citizenship, or related matters;

(d) Receive compensation for performing any of the activities listed in this subsection; or

(e) Provide court reporting services.

(2) A notary public may not engage in false or deceptive advertising.

(3) A notary public, other than an attorney licensed to practice law in this state, or a Washington-licensed limited license legal technician acting within the scope of his or her license, may not use the term "notario" or "notario publico."

(4) A notary public, other than an attorney licensed to practice law in this state or a limited license legal technician acting within the scope of his or her license, may not assist another person in selecting the appropriate certificate required by section 15 of this act.

(5) A notary public, other than an attorney licensed to practice law in this state, or a Washington-licensed limited license legal technician acting within the scope of his or her license, may not advertise or represent that the notary public may assist persons in drafting legal records, give legal advice, or otherwise practice

law. If a notary public who is not an attorney licensed to practice law in this state, or a Washington-licensed limited license legal technician acting within the scope of his or her license, in any manner advertises or represents that the notary public offers notarial services, whether orally or in a record, including broadcast media, print media, and the internet, the notary public shall include the following statement, or an alternate statement authorized or required by the director, in the advertisement or representation, prominently and in each language used in the advertisement or representation: "I am not an attorney licensed to practice law in this state. I am not allowed to draft legal records, give advice on legal matters, including immigration, or charge a fee for those activities." If the form of advertisement or representation is not broadcast media, print media, or the internet and does not permit inclusion of the statement required by this subsection because of size, it must be displayed prominently or provided at the place of performance of the notarial act before the notarial act is performed.

(6) Except as otherwise allowed by law, a notary public may not withhold access to or possession of an original record provided by a person that seeks performance of a notarial act by the notary public. A notary public may not maintain copies or electronic images of documents notarized unless the copies or images are maintained by an attorney or Washington-licensed limited license legal technician acting within his or her scope of practice for the performance of legal services or for other services performed for the client and the copies or images are not maintained solely as part of the notary transaction.

**NEW SECTION. Sec. 1476. VALIDITY OF NOTARIAL ACTS.** Except as otherwise provided in section 4(2) of this act, the failure of a notarial officer to perform a duty or meet a requirement specified in this chapter does not invalidate a notarial act performed by the notarial officer. The validity of a notarial act under this chapter does not prevent an aggrieved person from seeking to invalidate the record or transaction that is the subject of the notarial act or from seeking other remedies based on law of this state other than this chapter or law of the United States. This section does not validate a purported notarial act performed by an individual who does not have the authority to perform notarial acts. Nothing in this act gives the director authority to invalidate a notarial act.

**NEW SECTION. Sec. 1477. RULES.** (1) The director may adopt rules necessary to implement this chapter.

(2) In adopting, amending, or repealing rules about notarial acts with respect to electronic records, the director shall consider standards, practices, and customs of other jurisdictions that substantially enact this chapter.

**NEW SECTION. Sec. 1478. NOTARY PUBLIC COMMISSION IN EFFECT.** A commission as a notary public in effect on the effective date of this section continues until its date of expiration. A notary public who applies to renew a commission as a notary public on or after the effective date of this section is subject to and shall comply with this chapter. A notary public, in performing notarial acts after the effective date of this section, shall comply with this chapter.

**NEW SECTION. Sec. 1479. SAVINGS CLAUSE.** This chapter does not affect the validity or effect of a notarial act performed before the effective date of this section.

**NEW SECTION. Sec. 1480. UNIFORMITY OF APPLICATION AND CONSTRUCTION.** In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

**NEW SECTION. Sec. 1481. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT.** This chapter modifies, limits, and

supersedes the electronic signatures in global and national commerce act, 15 U.S.C. Sec. 7001 et seq., but does not modify, limit, or supersede section 101(c) of that act, 15 U.S.C. Sec. 7001(c), or authorize electronic delivery of any of the notices described in section 103(b) of that act, 15 U.S.C. Sec. 7003(b).

**NEW SECTION. Sec. 1482. UNIFORM REGULATION OF BUSINESS AND PROFESSIONS ACT.** The uniform regulation of business and professions act, chapter 18.235 RCW, governs unlicensed practice, the issuance and denial of licenses, and the discipline of licensees under this chapter.

**NEW SECTION. Sec. 1483. NEW CHAPTER.** Sections 1 through 32 and 44 of this act constitute a new chapter in Title 42 RCW.

**NEW SECTION. Sec. 1484. REPEALS.** The following acts or parts of acts are each repealed:

- (1)RCW 42.44.010 (Definitions) and 1985 c 156 s 1;
- (2)RCW 42.44.020 (Qualifications—Application—Bond) and 1985 c 156 s 2;
- (3)RCW 42.44.030 (Appointment—Denial for unprofessional conduct—Certificate of appointment) and 2011 c 244 s 6, 2002 c 86 s 287, & 1985 c 156 s 3;
- (4)RCW 42.44.050 (Seal or stamp) and 1985 c 156 s 5;
- (5)RCW 42.44.060 (Term) and 2002 c 86 s 288 & 1985 c 156 s 6;
- (6)RCW 42.44.070 (Reappointment without endorsements) and 1985 c 156 s 7;
- (7)RCW 42.44.080 (Standards for notarial acts) and 1987 c 76 s 3 & 1985 c 156 s 8;
- (8)RCW 42.44.090 (Form of certificate—General—Seal or stamp as exclusive property) and 1985 c 156 s 9;
- (9)RCW 42.44.100 (Short forms of certificate) and 1988 c 69 s 4 & 1985 c 156 s 10;
- (10)RCW 42.44.110 (Illegible writing) and 1985 c 156 s 11;
- (11)RCW 42.44.120 (Fees) and 1985 c 156 s 12;
- (12)RCW 42.44.130 (Notarial acts by officials of other jurisdictions) and 1985 c 156 s 13;
- (13)RCW 42.44.140 (Notarial acts by federal authorities) and 1985 c 156 s 14;
- (14)RCW 42.44.150 (Notarial acts by foreign authorities) and 1985 c 156 s 15;
- (15)RCW 42.44.160 (Official misconduct—Penalty) and 2002 c 86 s 289 & 1985 c 156 s 16;
- (16)RCW 42.44.170 (Revocation of appointment—Resignation) and 2002 c 86 s 290 & 1985 c 156 s 17;
- (17)RCW 42.44.180 (Evidence of authenticity of notarial seal and signature) and 1985 c 156 s 18;
- (18)RCW 42.44.190 (Rules) and 2002 c 86 s 291 & 1985 c 156 s 20;
- (19)RCW 42.44.200 (Transfer of records) and 1985 c 156 s 22;
- (20)RCW 42.44.210 (Uniform regulation of business and professions act) and 2002 c 86 s 292;
- (21)RCW 42.44.220 (Military training or experience) and 2011 c 351 s 18;
- (22)RCW 42.44.221 (Spouses of military personnel—Appointment) and 2011 2nd sp.s. c 5 s 7;
- (23)RCW 42.44.900 (Savings—1985 c 156) and 1985 c 156 s 21;
- (24)RCW 42.44.901 (Construction) and 1985 c 156 s 23; and
- (25)RCW 42.44.903 (Effective date—1985 c 156) and 1985 c 156 s 27.

**Sec. 1485.** RCW 9.97.020 and 2016 c 81 s 3 are each amended to read as follows:

(1) Except as provided in this section, no state, county, or municipal department, board, officer, or agency authorized to assess the qualifications of any applicant for a license, certificate of authority, qualification to engage in the practice of a profession

or business, or for admission to an examination to qualify for such a license or certificate may disqualify a qualified applicant, solely based on the applicant's criminal history, if the qualified applicant has obtained a certificate of restoration of opportunity and the applicant meets all other statutory and regulatory requirements, except as required by federal law or exempted under this subsection. Nothing in this section is interpreted as restoring or creating a means to restore any firearms rights or eligibility to obtain a firearm dealer license pursuant to RCW 9.41.110 or requiring the removal of a protection order.

(a)(i) Criminal justice agencies, as defined in RCW 10.97.030, and the Washington state bar association are exempt from this section.

(ii) This section does not apply to the licensing, certification, or qualification of the following professionals: Accountants, RCW 18.04.295; assisted living facilities employees, RCW 18.20.125; bail bond agents, RCW 18.185.020; escrow agents, RCW 18.44.241; long-term care workers, RCW 18.88B.080; nursing home administrators, RCW 18.52.071; nursing, chapter 18.79 RCW; physicians and physician assistants, chapters 18.71 and 18.71A RCW; private investigators, RCW 18.165.030; receivers, RCW 7.60.035; teachers, chapters 28A.405 and 28A.410 RCW; notaries public, chapter ~~((42.44 RCW))~~ 42.--- RCW (the new chapter created in section 33 of this act); private investigators, chapter 18.165 RCW; real estate brokers and salespersons, chapters 18.85 and 18.86 RCW; security guards, chapter 18.170 RCW; and vulnerable adult care providers, RCW 43.43.842.

(iii) To the extent this section conflicts with the requirements for receipt of federal funding under the adoption and safe families act, 42 U.S.C. Sec. 671, this section does not apply.

(b) Unless otherwise addressed in statute, in cases where an applicant would be disqualified under RCW 43.20A.710, and the applicant has obtained a certificate of restoration of opportunity, the department of social and health services may, after review of relevant factors, including the nature and seriousness of the offense, time that has passed since conviction, changed circumstances since the offense occurred, and the nature of the employment or license sought, at its discretion:

(i) Allow the applicant to have unsupervised access to children, vulnerable adults, or individuals with mental illness or developmental disabilities if the applicant is otherwise qualified and suitable; or

(ii) Disqualify the applicant solely based on the applicant's criminal history.

(c) If the practice of a profession or business involves unsupervised contact with vulnerable adults, children, or individuals with mental illness or developmental disabilities, or populations otherwise defined by statute as vulnerable, the department of health may, after review of relevant factors, including the nature and seriousness of the offense, time that has passed since conviction, changed circumstances since the offense occurred, and the nature of the employment or license sought, at its discretion:

(i) Disqualify an applicant who has obtained a certificate of restoration of opportunity, for a license, certification, or registration to engage in the practice of a health care profession or business solely based on the applicant's criminal history; or

(ii) If such applicant is otherwise qualified and suitable, credential or credential with conditions an applicant who has obtained a certificate of restoration of opportunity for a license, certification, or registration to engage in the practice of a health care profession or business.

(d) The state of Washington, any of its counties, cities, towns, municipal corporations, or quasi-municipal corporations, the

department of health, and its officers, employees, contractors, and agents are immune from suit in law, equity, or any action under the administrative procedure act based upon its exercise of discretion under this section. This section does not create a protected class; private right of action; any right, privilege, or duty; or change to any right, privilege, or duty existing under law. This section does not modify a licensing or certification applicant's right to a review of an agency's decision under the administrative procedure act or other applicable statute or agency rule. A certificate of restoration of opportunity does not remove or alter citizenship or legal residency requirements already in place for state agencies and employers.

(2) A qualified court has jurisdiction to issue a certificate of restoration of opportunity to a qualified applicant.

(a) A court must determine, in its discretion whether the certificate:

(i) Applies to all past criminal history; or

(ii) Applies only to the convictions or adjudications in the jurisdiction of the court.

(b) The certificate does not apply to any future criminal justice involvement that occurs after the certificate is issued.

(c) A court must determine whether to issue a certificate by determining whether the applicant is a qualified applicant as defined in RCW 9.97.010.

(3) An employer or housing provider may, in its sole discretion, determine whether to consider a certificate of restoration of opportunity issued under this chapter in making employment or rental decisions. An employer or housing provider is immune from suit in law, equity, or under the administrative procedure act for damages based upon its exercise of discretion under this section or the refusal to exercise such discretion. In any action at law against an employer or housing provider arising out of the employment of or provision of housing to the recipient of a certificate of restoration of opportunity, evidence of the crime for which a certificate of restoration of opportunity has been issued may not be introduced as evidence of negligence or intentionally tortious conduct on the part of the employer or housing provider. This subsection does not create a protected class, private right of action, any right, privilege, or duty, or to change any right, privilege, or duty existing under law related to employment or housing except as provided in RCW 7.60.035.

(4)(a) Department of social and health services: A certificate of restoration of opportunity does not apply to the state abuse and neglect registry. No finding of abuse, neglect, or misappropriation of property may be removed from the registry based solely on a certificate. The department must include such certificates as part of its criminal history record reports, qualifying letters, or other assessments pursuant to RCW 43.43.830 through 43.43.838. The department shall adopt rules to implement this subsection.

(b) Washington state patrol: The Washington state patrol is not required to remove any records based solely on a certificate of restoration of opportunity. The state patrol must include a certificate as part of its criminal history record report.

(c) Court records:

(i) A certificate of restoration of opportunity has no effect on any other court records, including records in the judicial information system. The court records related to a certificate of restoration of opportunity must be processed and recorded in the same manner as any other record.

(ii) The qualified court where the applicant seeks the certificate of restoration of opportunity must administer the court records regarding the certificate in the same manner as it does regarding all other proceedings.

(d) Effect in other judicial proceedings: A certificate of restoration of opportunity may only be submitted to a court to demonstrate that the individual met the specific requirements of this section and not for any other procedure, including evidence of character, reputation, or conduct. A certificate is not an equivalent procedure under Rule of Evidence 609(c).

(e) Department of health: The department of health must include a certificate of restoration of opportunity on its public web site if:

(i) Its web site includes an order, stipulation to informal disposition, or notice of decision related to the conviction identified in the certificate of restoration of opportunity; and

(ii) The credential holder has provided a certified copy of the certificate of restoration of opportunity to the department of health.

(5) In all cases, an applicant must provide notice to the prosecutor in the county where he or she seeks a certificate of restoration of opportunity of the pendency of such application. If the applicant has been sentenced by any other jurisdiction in the five years preceding the application for a certificate, the applicant must also notify the prosecuting attorney in those jurisdictions. The prosecutor in the county where an applicant applies for a certificate shall provide the court with a report of the applicant's criminal history.

(6) Application for a certificate of restoration of opportunity must be filed as a civil action.

(7) A superior court in the county in which the applicant resides may decline to consider the application for certificate of restoration of opportunity. If the superior court in which the applicant resides declines to consider the application, the court must dismiss the application without prejudice and the applicant may refile the application in another qualified court. The court must state the reason for the dismissal on the order. If the court determines that the applicant does not meet the required qualifications, then the court must dismiss the application without prejudice and state the reason(s) on the order. The superior court in the county of the applicant's conviction or adjudication may not decline to consider the application.

(8) Unless the qualified court determines that a hearing on an application for certificate of restoration is necessary, the court must decide without a hearing whether to grant the certificate of restoration of opportunity based on a review of the application filed by the applicant and pleadings filed by the prosecuting attorney.

(9) The clerk of the court in which the certificate of restoration of opportunity is granted shall transmit the certificate of restoration of opportunity to the Washington state patrol identification section, which holds criminal history information for the person who is the subject of the conviction. The Washington state patrol shall update its records to reflect the certificate of restoration of opportunity.

(10)(a) The administrative office of the courts shall develop and prepare instructions, forms, and an informational brochure designed to assist applicants applying for a certificate of restoration of opportunity.

(b) The instructions must include, at least, a sample of a standard application and a form order for a certificate of restoration of opportunity.

(c) The administrative office of the courts shall distribute a master copy of the instructions, informational brochure, and sample application and form order to all county clerks and a master copy of the application and order to all superior courts by January 1, 2017.

(d) The administrative office of the courts shall determine the significant non-English-speaking or limited English-speaking populations in the state. The administrator shall then arrange for

translation of the instructions, which shall contain a sample of the standard application and order, and the informational brochure into languages spoken by those significant non-English-speaking populations and shall distribute a master copy of the translated instructions and informational brochures to the county clerks by January 1, 2017.

(e) The administrative office of the courts shall update the instructions, brochures, standard application and order, and translations when changes in the law make an update necessary.

**Sec. 1486.** RCW 18.235.010 and 2007 c 256 s 11 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Board" means those boards specified in RCW 18.235.020(2)(b).

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

(3) "Director" means the director of the department or director's designee.

(4) "Disciplinary action" means sanctions identified in RCW 18.235.110.

(5) "Disciplinary authority" means the director, board, or commission having the authority to take disciplinary action against a holder of, or applicant for, a professional or business license upon a finding of a violation of this chapter or a chapter specified under RCW 18.235.020.

(6) "License," "licensing," and "licensure" are deemed equivalent to the terms "license," "licensing," "licensure," "certificate," "certification," and "registration" as those terms are defined in RCW 18.118.020. Each of these terms, and the term ("~~appointment~~") "commission" under chapter (~~(42.44 RCW)~~) 42.--- RCW (the new chapter created in section 33 of this act), are interchangeable under the provisions of this chapter.

(7) "Unlicensed practice" means:

(a) Practicing a profession or operating a business identified in RCW 18.235.020 without holding a valid, unexpired, unrevoked, and unsuspended license to do so; or

(b) Representing to a person, through offerings, advertisements, or use of a professional title or designation, that the individual or business is qualified to practice a profession or operate a business identified in RCW 18.235.020 without holding a valid, unexpired, unrevoked, and unsuspended license to do so.

**Sec. 1487.** RCW 18.235.020 and 2013 c 322 s 29 are each amended to read as follows:

(1) This chapter applies only to the director and the boards and commissions having jurisdiction in relation to the businesses and 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 director has authority under this chapter in relation to the following businesses and professions:

(i) Auctioneers under chapter 18.11 RCW;

(ii) Bail bond agents and bail bond recovery agents under chapter 18.185 RCW;

(iii) Camping resorts' operators and salespersons under chapter 19.105 RCW;

(iv) Commercial telephone solicitors under chapter 19.158 RCW;

(v) Cosmetologists, barbers, manicurists, and estheticians under chapter 18.16 RCW;

(vi) Court reporters under chapter 18.145 RCW;

(vii) Driver training schools and instructors under chapter 46.82 RCW;

(viii) Employment agencies under chapter 19.31 RCW;

(ix) For hire vehicle operators under chapter 46.72 RCW;

(x) Limousines under chapter 46.72A RCW;

ONE HUNDRED FIRST DAY, APRIL 19, 2017

2017 REGULAR SESSION

(xi) Notaries public under chapter ~~((42.44 RCW))~~ 42.--- RCW (the new chapter created in section 33 of this act);

(xii) Private investigators under chapter 18.165 RCW;

(xiii) Professional boxing, martial arts, and wrestling under chapter 67.08 RCW;

(xiv) Real estate appraisers under chapter 18.140 RCW;

(xv) Real estate brokers and salespersons under chapters 18.85 and 18.86 RCW;

(xvi) Scrap metal processors, scrap metal recyclers, and scrap metal suppliers under chapter 19.290 RCW;

(xvii) Security guards under chapter 18.170 RCW;

(xviii) Sellers of travel under chapter 19.138 RCW;

(xix) Timeshares and timeshare salespersons under chapter 64.36 RCW;

(xx) Whitewater river outfitters under chapter 79A.60 RCW;

(xxi) Home inspectors under chapter 18.280 RCW;

(xxii) Body artists, body piercers, and tattoo artists, and body art, body piercing, and tattooing shops and businesses, under chapter 18.300 RCW; and

(xxiii) Appraisal management companies under chapter 18.310 RCW.

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

(i) The state board for architects established in chapter 18.08 RCW;

(ii) The Washington state collection agency board established in chapter 19.16 RCW;

(iii) The state board of registration for professional engineers and land surveyors established in chapter 18.43 RCW governing licenses issued under chapters 18.43 and 18.210 RCW;

(iv) The funeral and cemetery board established in chapter 18.39 RCW governing licenses issued under chapters 18.39 and 68.05 RCW;

(v) The state board of licensure for landscape architects established in chapter 18.96 RCW; and

(vi) The state geologist licensing board established in chapter 18.220 RCW.

(3) In addition to the authority to discipline license holders, the disciplinary authority may 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 under RCW 18.235.110 by the disciplinary authority.

**Sec. 1488.** RCW 19.34.340 and 1997 c 27 s 21 are each amended to read as follows:

(1) Unless otherwise provided by law or contract, if so provided in the certificate issued by a licensed certification authority, a digital signature verified by reference to the public key listed in a valid certificate issued by a licensed certification authority satisfies the requirements for an acknowledgment under ~~((RCW 42.44.010(4)))~~ section 2(1) of this act and for acknowledgment of deeds and other real property conveyances under RCW 64.04.020 if words of an express acknowledgment appear with the digital signature regardless of whether the signer personally appeared before either the certification authority or some other person authorized to take acknowledgments of deeds, mortgages, or other conveyance instruments under RCW 64.08.010 when the digital signature was created, if that digital signature is:

(a) Verifiable by that certificate; and

(b) Affixed when that certificate was valid.

(2) If the digital signature is used as an acknowledgment, then the certification authority is responsible to the same extent as a

notary up to the recommended reliance limit for failure to satisfy the requirements for an acknowledgment. The certification authority may not disclaim or limit, other than as provided in RCW 19.34.280, the effect of this section.

**Sec. 1489.** RCW 19.154.060 and 2011 c 244 s 3 are each amended to read as follows:

(1) Persons, other than those licensed to practice law in this state or otherwise permitted to practice law or represent others under federal law in an immigration matter, are prohibited from engaging in the practice of law in an immigration matter for compensation.

(2) Persons, other than those licensed to practice law in this state or otherwise permitted to practice law or represent others under federal law in an immigration matter, are prohibited from engaging in the following acts or practices, for compensation:

(a) Advising or assisting another person in determining the person's legal or illegal status for the purpose of an immigration matter;

(b) Selecting or assisting another in selecting, or advising another as to his or her answers on, a government agency form or document in an immigration matter;

(c) Selecting or assisting another in selecting, or advising another in selecting, a benefit, visa, or program to apply for in an immigration matter;

(d) Soliciting to prepare documents for, or otherwise representing the interests of, another in a judicial or administrative proceeding in an immigration matter;

(e) Explaining, advising, or otherwise interpreting the meaning or intent of a question on a government agency form in an immigration matter;

(f) Charging a fee for referring another to a person licensed to practice law;

(g) Selecting, drafting, or completing legal documents affecting the legal rights of another in an immigration matter.

(3) Persons, other than those holding an active license to practice law issued by the Washington state bar association or otherwise permitted to practice law or represent others under federal law in an immigration matter, are prohibited from engaging in the following acts or practices, regardless of whether compensation is sought:

(a) Representing, either orally or in any document, letterhead, advertisement, stationery, business card, web site, or other comparable written material, that he or she is a notario publico, notario, immigration assistant, immigration consultant, immigration specialist, or using any other designation or title, in any language, that conveys or implies that he or she possesses professional legal skills in the area of immigration law;

(b) Representing, in any language, either orally or in any document, letterhead, advertisement, stationery, business card, web site, or other comparable written material, that he or she can or is willing to provide services in an immigration matter, if such services would constitute the practice of law.

(4)(a) The prohibitions of subsections (1) through (3) of this section shall not apply to the activities of nonlawyer assistants acting under the supervision of a person holding an active license to practice law issued by the Washington state bar association or otherwise permitted to practice law or represent others under federal law in an immigration matter.

(b) This section does not prohibit a person from offering translation services, regardless of whether compensation is sought. Translating words contained on a government form from English to another language and translating a person's words from another language to English does not constitute the unauthorized practice of law.

(5) In addition to complying with the prohibitions of subsections (1) through (3) of this section, persons licensed as a notary public under chapter ((42.44 RCW)) 42.--- RCW (the new chapter created in section 33 of this act) who do not hold an active license to practice law issued by the Washington state bar association shall not use the term notario publico, notario, immigration assistant, immigration consultant, immigration specialist, or any other designation or title, in any language, that conveys or implies that he or she possesses professional legal skills in the areas of immigration law, when advertising notary public services in the conduct of their business. A violation of any provision of this chapter by a person licensed as a notary public under chapter ((42.44 RCW)) 42.--- RCW (the new chapter created in section 33 of this act) shall constitute unprofessional conduct under the uniform regulation of business and professions act, chapter 18.235 RCW.

Sec. 1490. RCW 43.24.150 and 2013 2nd sp.s. c 4 s 978 are each amended to read as follows:

(1) The business and professions account is created in the state treasury. All receipts from business or professional licenses, registrations, certifications, renewals, examinations, or civil penalties assessed and collected by the department from the following chapters must be deposited into the account:

- (a) Chapter 18.11 RCW, auctioneers;
- (b) Chapter 18.16 RCW, cosmetologists, barbers, and manicurists;
- (c) Chapter 18.145 RCW, court reporters;
- (d) Chapter 18.165 RCW, private investigators;
- (e) Chapter 18.170 RCW, security guards;
- (f) Chapter 18.185 RCW, bail bond agents;
- (g) Chapter 18.280 RCW, home inspectors;
- (h) Chapter 19.16 RCW, collection agencies;
- (i) Chapter 19.31 RCW, employment agencies;
- (j) Chapter 19.105 RCW, camping resorts;
- (k) Chapter 19.138 RCW, sellers of travel;
- (l) Chapter ((42.44 RCW)) 42.--- RCW (the new chapter created in section 33 of this act), notaries public;
- (m) Chapter 64.36 RCW, timeshares;
- (n) Chapter 67.08 RCW, boxing, martial arts, and wrestling;
- (o) Chapter 18.300 RCW, body art, body piercing, and tattooing;
- (p) Chapter 79A.60 RCW, whitewater river outfitters;
- (q) Chapter 19.158 RCW, commercial telephone solicitation; and
- (r) Chapter 19.290 RCW, scrap metal businesses.

Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for expenses incurred in carrying out these business and professions licensing activities of the department. Any residue in the account must be accumulated and may not revert to the general fund at the end of the biennium. However, during the 2013-2015 fiscal biennium the legislature may transfer to the state general fund such amounts as reflect the excess fund balance in the account.

(2) The director must biennially prepare a budget request based on the anticipated costs of administering the business and professions licensing activities listed in subsection (1) of this section, which must include the estimated income from these business and professions fees.

Sec. 1491. RCW 64.08.060 and 2016 c 202 s 40 are each amended to read as follows:

A certificate of acknowledgment for an individual, substantially in the following form or, after December 31, 1985, substantially in the form set forth in ((RCW 42.44.100(1))) section 16(1) of this act, shall be sufficient for the purposes of this chapter and for any acknowledgment required to be taken in accordance with this chapter:

ss.

On this day personally appeared before me (here insert the name of grantor or grantors) to me known to be the individual, or individuals described in and who executed the within and foregoing instrument, and acknowledged that he (she or they) signed the same as his (her or their) free and voluntary act and deed, for the uses and purposes therein mentioned. Given under my hand and official seal this . . . . day of . . . . ., (year) . . . . (Signature of officer and official seal)

If acknowledgment is taken before a notary public of this state the signature shall be followed by substantially the following: Notary Public in and for the state of Washington, residing at . . . . ., (giving place of residence).

Sec. 1492. RCW 64.08.070 and 2016 c 202 s 41 are each amended to read as follows:

A certificate of acknowledgment for a corporation, substantially in the following form or, after December 31, 1985, substantially in the form set forth in ((RCW 42.44.100(2))) section 16(2) of this act, shall be sufficient for the purposes of this chapter and for any acknowledgment required to be taken in accordance with this chapter:

ss.

On this . . . . day of . . . . ., (year) . . . . , before me personally appeared . . . . ., to me known to be the (president, vice president, secretary, treasurer, or other authorized officer or agent, as the case may be) of the corporation that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that he or she was authorized to execute said instrument and that the seal affixed is the corporate seal of said corporation.

In Witness Whereof I have hereunto set my hand and affixed my official seal the day and year first above written. (Signature and title of officer with place of residence of notary public.)

NEW SECTION. Sec. 1493. SEVERABILITY. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 1494. EFFECTIVE DATE. This act takes effect July 1, 2018."

Correct the title.

NONA SNELL, Deputy Chief Clerk

MOTION

Senator Padden moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5081.

Senators Padden, Pedersen and Schoesler spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Padden that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5081.

The motion by Senator Padden carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5081 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5081, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5081, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 48; Nays, 1; Absent, 0; Excused, 0.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Billig, Braun, Brown, Carlyle, Chase, Cleveland, Conway, Darneille, Ericksen, Fain, Fortunato, Frockt, Hawkins, Hobbs, Honeyford, Hunt, Keiser, King, Kuderer, Lias, McCoy, Miloscia, Mullet, Nelson, O'Ban, Padden, Palumbo, Pearson, Pedersen, Ranker, Rivers, Rolfes, Rossi, Saldaña, Schoesler, Sheldon, Short, Takko, Van De Wege, Walsh, Warnick, Wellman, Wilson and Zeiger

Voting nay: Senator Hasegawa

SUBSTITUTE SENATE BILL NO. 5081, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 11, 2017

MR. PRESIDENT:

The House passed ENGROSSED SUBSTITUTE SENATE BILL NO. 5131 with the following amendment(s): 5131-S.E AMH ENGR H2600.E

Strike everything after the enacting clause and insert the following:

"Sec. 1495. RCW 69.50.325 and 2016 c 170 s 1 are each amended to read as follows:

(1) There shall be a marijuana producer's license regulated by the state liquor and cannabis board and subject to annual renewal. The licensee is authorized to produce: (a) Marijuana for sale at wholesale to marijuana processors and other marijuana producers ((and to produce marijuana)); and (b) immature plants or clones and seeds for sale to cooperatives as described under RCW 69.51A.250((, regulated by the state liquor and cannabis board and subject to annual renewal)). The production, possession, delivery, distribution, and sale of marijuana in accordance with the provisions of this chapter and the rules adopted to implement and enforce it, by a validly licensed marijuana producer, shall not be a criminal or civil offense under Washington state law. Every marijuana producer's license shall be issued in the name of the applicant, shall specify the location at which the marijuana producer intends to operate, which must be within the state of Washington, and the holder thereof shall not allow any other person to use the license. The application fee for a marijuana producer's license shall be two hundred fifty dollars. The annual fee for issuance and renewal of a marijuana producer's license shall be one thousand dollars. A separate license shall be required for each location at which a marijuana producer intends to produce marijuana.

(2) There shall be a marijuana processor's license to process, package, and label marijuana concentrates, useable marijuana, and marijuana-infused products for sale at wholesale to marijuana processors and marijuana retailers, regulated by the state liquor and cannabis board and subject to annual renewal. The

processing, packaging, possession, delivery, distribution, and sale of marijuana, useable marijuana, marijuana-infused products, and marijuana concentrates in accordance with the provisions of this chapter and chapter 69.51A RCW and the rules adopted to implement and enforce these chapters, by a validly licensed marijuana processor, shall not be a criminal or civil offense under Washington state law. Every marijuana processor's license shall be issued in the name of the applicant, shall specify the location at which the licensee intends to operate, which must be within the state of Washington, and the holder thereof shall not allow any other person to use the license. The application fee for a marijuana processor's license shall be two hundred fifty dollars. The annual fee for issuance and renewal of a marijuana processor's license shall be one thousand dollars. A separate license shall be required for each location at which a marijuana processor intends to process marijuana.

(3)(a) There shall be a marijuana retailer's license to sell marijuana concentrates, useable marijuana, and marijuana-infused products at retail in retail outlets, regulated by the state liquor and cannabis board and subject to annual renewal. The possession, delivery, distribution, and sale of marijuana concentrates, useable marijuana, and marijuana-infused products in accordance with the provisions of this chapter and the rules adopted to implement and enforce it, by a validly licensed marijuana retailer, shall not be a criminal or civil offense under Washington state law. Every marijuana retailer's license shall be issued in the name of the applicant, shall specify the location of the retail outlet the licensee intends to operate, which must be within the state of Washington, and the holder thereof shall not allow any other person to use the license. The application fee for a marijuana retailer's license shall be two hundred fifty dollars. The annual fee for issuance and renewal of a marijuana retailer's license shall be one thousand dollars. A separate license shall be required for each location at which a marijuana retailer intends to sell marijuana concentrates, useable marijuana, and marijuana-infused products.

(b) An individual retail licensee and all other persons or entities with a financial or other ownership interest in the business operating under the license are limited, in the aggregate, to holding a collective total of not more than five retail marijuana licenses.

(c)(i) A marijuana retailer's license is subject to forfeiture in accordance with rules adopted by the state liquor and cannabis board pursuant to this section.

(ii) The state liquor and cannabis board shall adopt rules to establish a license forfeiture process for a licensed marijuana retailer that is not fully operational and open to the public within a specified period from the date of license issuance, as established by the state liquor and cannabis board, subject to the following restrictions:

(A) No marijuana retailer's license may be subject to forfeiture within the first nine months of license issuance; and

(B) The state liquor and cannabis board must require license forfeiture on or before twenty-four calendar months of license issuance if a marijuana retailer is not fully operational and open to the public, unless the board determines that circumstances out of the licensee's control are preventing the licensee from becoming fully operational and that, in the board's discretion, the circumstances warrant extending the forfeiture period beyond twenty-four calendar months.

(iii) The state liquor and cannabis board has discretion in adopting rules under this subsection (3)(c).

(iv) This subsection (3)(c) applies to marijuana retailer's licenses issued before and after the effective date of this section. However, no license of a marijuana retailer that otherwise meets



the conditions for license forfeiture established pursuant to this subsection (3)(c) may be subject to forfeiture within the first three calendar months of the effective date of this section.

**Sec. 1496.** RCW 69.50.331 and 2015 2nd sp.s. c 4 s 301 are each amended to read as follows:

(1) For the purpose of considering any application for a license to produce, process, research, transport, or deliver marijuana, useable marijuana, marijuana concentrates, or marijuana-infused products subject to the regulations established under RCW 69.50.385, or sell marijuana, or for the renewal of a license to produce, process, research, transport, or deliver marijuana, useable marijuana, marijuana concentrates, or marijuana-infused products subject to the regulations established under RCW 69.50.385, or sell marijuana, the state liquor and cannabis board must conduct a comprehensive, fair, and impartial evaluation of the applications timely received. As part of the licensing application and renewal process, the board must review and report demographic data regarding the race, ethnic background, and gender of the applicants for the licenses authorized under this chapter.

~~(a) ((The state liquor and cannabis board must develop a competitive, merit based application process that includes, at a minimum, the opportunity for an applicant to demonstrate experience and qualifications in the marijuana industry. The state liquor and cannabis board must give preference between competing applications in the licensing process to applicants that have the following experience and qualifications, in the following order of priority:~~

~~(i) First priority is given to applicants who:~~

~~(A) Applied to the state liquor and cannabis board for a marijuana retailer license prior to July 1, 2014;~~

~~(B) Operated or were employed by a collective garden before January 1, 2013;~~

~~(C) Have maintained a state business license and a municipal business license, as applicable in the relevant jurisdiction; and~~

~~(D) Have had a history of paying all applicable state taxes and fees;~~

~~(ii) Second priority must be given to applicants who:~~

~~(A) Operated or were employed by a collective garden before January 1, 2013;~~

~~(B) Have maintained a state business license and a municipal business license, as applicable in the relevant jurisdiction; and~~

~~(C) Have had a history of paying all applicable state taxes and fees; and~~

~~(iii) Third priority must be given to all other applicants who do not have the experience and qualifications identified in (a)(i) and (ii) of this subsection.~~

~~(b))~~ The state liquor and cannabis 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, revocation, or renewal or denial thereof, of any license, the state liquor and cannabis board may consider any prior criminal conduct of the applicant including an administrative violation history record with the state liquor and cannabis board and a criminal history record information check. The state liquor and cannabis board may submit the criminal history record information check to the Washington state patrol and to the identification division of the federal bureau of investigation in order that these agencies may search their records for prior arrests and convictions of the individual or individuals who filled out the forms. The state liquor and cannabis board must require fingerprinting of any applicant whose criminal history record information check is submitted to the federal bureau of investigation. The provisions of RCW 9.95.240 and of chapter 9.96A RCW do not apply to these cases.

Subject to the provisions of this section, the state liquor and cannabis board may, in its discretion, grant or deny the renewal or license applied for. Denial may be based on, without limitation, the existence of chronic illegal activity documented in objections submitted pursuant to subsections (7)(c) and (10) of this section. Authority to approve an uncontested or unopposed license may be granted by the state liquor and cannabis board to any staff member the board designates in writing. Conditions for granting this authority must be adopted by rule.

~~((e))~~ (b) No license of any kind may be issued to:

(i) A person under the age of twenty-one years;

(ii) A person doing business as a sole proprietor who has not lawfully resided in the state for at least six months prior to applying to receive a license;

(iii) A partnership, employee cooperative, association, nonprofit corporation, or corporation unless formed under the laws of this state, and unless all of the members thereof are qualified to obtain a license as provided in this section; or

(iv) A person whose place of business is conducted by a manager or agent, unless the manager or agent possesses the same qualifications required of the licensee.

(2)(a) The state liquor and cannabis board may, in its discretion, subject to the provisions of RCW 69.50.334, suspend or cancel any license; and all protections of the licensee from criminal or civil sanctions under state law for producing, processing, researching, or selling marijuana, marijuana concentrates, useable marijuana, or marijuana-infused products thereunder must be suspended or terminated, as the case may be.

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

(c) The state liquor and cannabis 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 rules and regulations the state liquor and cannabis board may adopt.

(d) Witnesses must be allowed fees and mileage each way to and from any inquiry, investigation, hearing, or proceeding at the rate authorized by RCW 34.05.446. Fees need not be paid in advance of appearance of witnesses to testify or to produce books, records, or other legal evidence.

(e) In case of disobedience of any person to comply with the order of the state liquor and cannabis board or a subpoena issued by the state liquor and cannabis 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, compels 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.

(3) Upon receipt of notice of the suspension or cancellation of a license, the licensee must forthwith deliver up the license to the state liquor and cannabis board. Where the license has been suspended only, the state liquor and cannabis board must return the license to the licensee at the expiration or termination of the period of suspension. The state liquor and cannabis board must

notify all other licensees in the county where the subject licensee has its premises of the suspension or cancellation of the license; and no other licensee or employee of another licensee may allow or cause any marijuana, marijuana concentrates, useable marijuana, or marijuana-infused products to be delivered to or for any person at the premises of the subject licensee.

(4) Every license issued under this chapter is subject to all conditions and restrictions imposed by this chapter or by rules adopted by the state liquor and cannabis board to implement and enforce this chapter. All conditions and restrictions imposed by the state liquor and cannabis board in the issuance of an individual license must be listed on the face of the individual license along with the trade name, address, and expiration date.

(5) Every licensee must post and keep posted its license, or licenses, in a conspicuous place on the premises.

(6) No licensee may employ any person under the age of twenty-one years.

(7)(a) Before the state liquor and cannabis board issues a new or renewed license to an applicant it must give notice of the application to the chief executive officer of the incorporated city or town, if the application is for a license within an incorporated city or town, or to the county legislative authority, if the application is for a license outside the boundaries of incorporated cities or towns, or to the tribal government if the application is for a license within Indian country, or to the port authority if the application for a license is located on property owned by a port authority.

(b) The 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, the tribal government, or port authority has the right to file with the state liquor and cannabis board within twenty days after the date of transmittal of the notice for applications, or at least thirty days prior to the expiration date for renewals, written objections against the applicant or against the premises for which the new or renewed license is asked. The state liquor and cannabis board may extend the time period for submitting written objections upon request from the authority notified by the state liquor and cannabis board.

(c) The written objections must include a statement of all facts upon which the objections are based, and in case written objections are filed, the city or town or county legislative authority may request, and the state liquor and cannabis board may in its discretion hold, a hearing subject to the applicable provisions of Title 34 RCW. If the state liquor and cannabis board makes an initial decision to deny a license or renewal based on the written objections of an incorporated city or town or county legislative authority, the applicant may request a hearing subject to the applicable provisions of Title 34 RCW. If a hearing is held at the request of the applicant, state liquor and cannabis board representatives must present and defend the state liquor and cannabis board's initial decision to deny a license or renewal.

(d) Upon the granting of a license under this title the state liquor and cannabis board must send 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.

(8)(a) Except as provided in (b) through (d) of this subsection, the state liquor and cannabis board may not issue a license for any premises within one thousand feet of the perimeter of the grounds of any elementary or secondary school, playground, recreation center or facility, child care center, public park, public transit center, or library, or any game arcade admission to which is not restricted to persons aged twenty-one years or older.

(b) A city, county, or town may permit the licensing of premises within one thousand feet but not less than one hundred feet of the facilities described in (a) of this subsection, except elementary schools, secondary schools, and playgrounds, by enacting an ordinance authorizing such distance reduction, provided that such distance reduction will not negatively impact the jurisdiction's civil regulatory enforcement, criminal law enforcement interests, public safety, or public health.

(c) A city, county, or town may permit the licensing of research premises allowed under RCW 69.50.372 within one thousand feet but not less than one hundred feet of the facilities described in (a) of this subsection by enacting an ordinance authorizing such distance reduction, provided that the ordinance will not negatively impact the jurisdiction's civil regulatory enforcement, criminal law enforcement, public safety, or public health.

(d) The state liquor and cannabis board may license premises located in compliance with the distance requirements set in an ordinance adopted under (b) or (c) of this subsection. Before issuing or renewing a research license for premises within one thousand feet but not less than one hundred feet of an elementary school, secondary school, or playground in compliance with an ordinance passed pursuant to (c) of this subsection, the board must ensure that the facility:

- (i) Meets a security standard exceeding that which applies to marijuana producer, processor, or retailer licensees;
- (ii) Is inaccessible to the public and no part of the operation of the facility is in view of the general public; and
- (iii) Bears no advertising or signage indicating that it is a marijuana research facility.

(e) The state liquor and cannabis board may not issue a license for any premises within Indian country, as defined in 18 U.S.C. Sec. 1151, including any fee patent lands within the exterior boundaries of a reservation, without the consent of the federally recognized tribe associated with the reservation or Indian country.

~~(9) ((Subject to section 1601 of this act.))~~ A city, town, or county may adopt an ordinance prohibiting a marijuana producer or marijuana processor from operating or locating a business within areas zoned primarily for residential use or rural use with a minimum lot size of five acres or smaller.

(10) In determining whether to grant or deny a license or renewal of any license, the state liquor and cannabis board must give substantial weight to objections from an incorporated city or town or county legislative authority based upon chronic illegal activity associated with the applicant's operations of the premises proposed to be licensed or the applicant's operation of any other licensed premises, or the conduct of the applicant's patrons inside or outside the licensed premises. "Chronic illegal activity" means (a) a pervasive pattern of activity that threatens the public health, safety, and welfare of the city, town, or county including, but not limited to, open container violations, assaults, disturbances, disorderly conduct, or other criminal law violations, or as documented in crime statistics, police reports, emergency medical response data, calls for service, field data, or similar records of a law enforcement agency for the city, town, county, or any other municipal corporation or any state agency; or (b) an unreasonably high number of citations for violations of RCW 46.61.502 associated with the applicant's or licensee's operation of any licensed premises as indicated by the reported statements given to law enforcement upon arrest.

**Sec. 1497.** RCW 69.50.372 and 2016 sp.s. c 9 s 1 are each amended to read as follows:

(1) A marijuana research license is established that permits a licensee to produce, process, and possess marijuana for the following limited research purposes:

- (a) To test chemical potency and composition levels;

(b) To conduct clinical investigations of marijuana-derived drug products;

(c) To conduct research on the efficacy and safety of administering marijuana as part of medical treatment; and

(d) To conduct genomic or agricultural research.

(2) As part of the application process for a marijuana research license, an applicant must submit to the liquor and cannabis board's designated scientific reviewer a description of the research that is intended to be conducted. The liquor and cannabis board must select a scientific reviewer to review an applicant's research project and determine that it meets the requirements of subsection (1) of this section, as well as assess the following:

(a) Project quality, study design, value, or impact;

(b) Whether applicants have the appropriate personnel, expertise, facilities/infrastructure, funding, and human/animal/other federal approvals in place to successfully conduct the project; and

(c) Whether the amount of marijuana to be grown by the applicant is consistent with the project's scope and goals.

If the scientific reviewer determines that the research project does not meet the requirements of subsection (1) of this section, the application must be denied.

(3) A marijuana research licensee may only sell marijuana grown or within its operation to other marijuana research licensees. The liquor and cannabis board may revoke a marijuana research license for violations of this subsection.

(4) A marijuana research licensee may contract with the University of Washington or Washington State University to perform research in conjunction with the university. All research projects, not including those projects conducted pursuant to a contract entered into under RCW 28B.20.502(3), must be approved by the scientific reviewer and meet the requirements of subsection (1) of this section.

(5) In establishing a marijuana research license, the liquor and cannabis board may adopt rules on the following:

(a) Application requirements;

(b) Marijuana research license renewal requirements, including whether additional research projects may be added or considered;

(c) Conditions for license revocation;

(d) Security measures to ensure marijuana is not diverted to purposes other than research;

(e) Amount of plants, useable marijuana, marijuana concentrates, or marijuana-infused products a licensee may have on its premises;

(f) Licensee reporting requirements;

(g) Conditions under which marijuana grown by licensed marijuana producers and other product types from licensed marijuana processors may be donated to marijuana research licensees; and

(h) Additional requirements deemed necessary by the liquor and cannabis board.

(6) The production, processing, possession, delivery, donation, and sale of marijuana, including immature plants or clones and seeds, in accordance with this section, RCW 69.50.366(3), and the rules adopted to implement and enforce ((#)) this section and RCW 69.50.366(3), by a validly licensed marijuana researcher, shall not be a criminal or civil offense under Washington state law. Every marijuana research license must be issued in the name of the applicant, must specify the location at which the marijuana researcher intends to operate, which must be within the state of Washington, and the holder thereof may not allow any other person to use the license.

(7) The application fee for a marijuana research license is two hundred fifty dollars. The annual fee for issuance and renewal of a marijuana research license is one thousand dollars. The applicant must pay the cost of the review process directly to the

scientific reviewer as designated by the liquor and cannabis board.

(8) The scientific reviewer shall review any reports made by marijuana research licensees under liquor and cannabis board rule and provide the liquor and cannabis board with its determination on whether the research project continues to meet research qualifications under this section.

(9) For the purposes of this section, "scientific reviewer" means an organization that convenes or contracts with persons who have the training and experience in research practice and research methodology to determine whether a project meets the criteria for a marijuana research license under this section and to review any reports submitted by marijuana research licensees under liquor and cannabis board rule. "Scientific reviewers" include, but are not limited to, educational institutions, research institutions, peer review bodies, or such other organizations that are focused on science or research in its day-to-day activities.

**Sec. 1498.** RCW 66.08.100 and 2012 c 117 s 269 are each amended to read as follows:

No court of the state of Washington other than the superior court of Thurston county shall have jurisdiction over any action or proceeding against the board or any member thereof for anything done or omitted to be done in or arising out of the performance of his or her or their duties under this title. Neither the board nor any member or members thereof shall be personally liable in any action at law for damages sustained by any person because of any acts performed or done or omitted to be done by the board or any employee of the board in the performance of his or her duties and in the administration of this title or chapter 69.50 or 69.51A RCW.

**Sec. 1499.** RCW 69.50.101 and 2015 2nd sp.s. c 4 s 901 are each reenacted and amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(a) "Administer" means to apply a controlled substance, whether by injection, inhalation, ingestion, or any other means, directly to the body of a patient or research subject by:

(1) a practitioner authorized to prescribe (or, by the practitioner's authorized agent); or

(2) the patient or research subject at the direction and in the presence of the practitioner.

(b) "Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser. It does not include a common or contract carrier, public warehouseperson, or employee of the carrier or warehouseperson.

(c) "CBD concentration" has the meaning provided in RCW 69.51A.010.

(d) "Commission" means the pharmacy quality assurance commission.

(e) "Controlled substance" means a drug, substance, or immediate precursor included in Schedules I through V as set forth in federal or state laws, or federal or commission rules.

(f)(1) "Controlled substance analog" means a substance the chemical structure of which is substantially similar to the chemical structure of a controlled substance in Schedule I or II and:

(i) that has a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance included in Schedule I or II; or

(ii) with respect to a particular individual, that the individual represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance included in Schedule I or II.

(2) The term does not include:

- (i) a controlled substance;
- (ii) a substance for which there is an approved new drug application;
- (iii) a substance with respect to which an exemption is in effect for investigational use by a particular person under Section 505 of the federal Food, Drug and Cosmetic Act, 21 U.S.C. Sec. 355, to the extent conduct with respect to the substance is pursuant to the exemption; or
- (iv) any substance to the extent not intended for human consumption before an exemption takes effect with respect to the substance.

(g) "Deliver" or "delivery(~~(s)~~)" means the actual or constructive transfer from one person to another of a substance, whether or not there is an agency relationship.

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

(i) "Designated provider" has the meaning provided in RCW 69.51A.010.

(j) "Dispense" means the interpretation of a prescription or order for a controlled substance and, pursuant to that prescription or order, the proper selection, measuring, compounding, labeling, or packaging necessary to prepare that prescription or order for delivery.

(k) "Dispenser" means a practitioner who dispenses.

(l) "Distribute" means to deliver other than by administering or dispensing a controlled substance.

(m) "Distributor" means a person who distributes.

(n) "Drug" means (1) a controlled substance recognized as a drug in the official United States pharmacopoeia/national formulary or the official homeopathic pharmacopoeia of the United States, or any supplement to them; (2) controlled substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in individuals or animals; (3) controlled substances (other than food) intended to affect the structure or any function of the body of individuals or animals; and (4) controlled substances intended for use as a component of any article specified in (1), (2), or (3) of this subsection. The term does not include devices or their components, parts, or accessories.

(o) "Drug enforcement administration" means the drug enforcement administration in the United States Department of Justice, or its successor agency.

(p) "Electronic communication of prescription information" means the transmission of a prescription or refill authorization for a drug of a practitioner using computer systems. The term does not include a prescription or refill authorization verbally transmitted by telephone nor a facsimile manually signed by the practitioner.

(q) "Immature plant or clone" means a plant or clone that has no flowers, is less than twelve inches in height, and is less than twelve inches in diameter.

(r) "Immediate precursor" means a substance:

- (1) that the commission has found to be and by rule designates as being the principal compound commonly used, or produced primarily for use, in the manufacture of a controlled substance;
- (2) that is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance; and
- (3) the control of which is necessary to prevent, curtail, or limit the manufacture of the controlled substance.

(~~(s)~~) (s) "Isomer" means an optical isomer, but in subsection (~~(cc)~~) (ce)(5) of this section, RCW 69.50.204(a) (12) and (34), and 69.50.206(b)(4), the term includes any geometrical isomer; in RCW 69.50.204(a) (8) and (42), and 69.50.210(c) the term includes any positional isomer; and in RCW 69.50.204(a)(35),

69.50.204(c), and 69.50.208(a) the term includes any positional or geometric isomer.

(~~(t)~~) (t) "Lot" means a definite quantity of marijuana, marijuana concentrates, useable marijuana, or marijuana-infused product identified by a lot number, every portion or package of which is uniform within recognized tolerances for the factors that appear in the labeling.

(~~(u)~~) (u) "Lot number" must identify the licensee by business or trade name and Washington state unified business identifier number, and the date of harvest or processing for each lot of marijuana, marijuana concentrates, useable marijuana, or marijuana-infused product.

(~~(v)~~) (v) "Manufacture" means the production, preparation, propagation, compounding, conversion, or processing of a controlled substance, either directly or indirectly or by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container. The term does not include the preparation, compounding, packaging, repackaging, labeling, or relabeling of a controlled substance:

- (1) by a practitioner as an incident to the practitioner's administering or dispensing of a controlled substance in the course of the practitioner's professional practice; or
- (2) by a practitioner, or by the practitioner's authorized agent under the practitioner's supervision, for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale.

(~~(w)~~) (w) "Marijuana" or "marihuana" means all parts of the plant *Cannabis*, whether growing or not, with a THC concentration greater than 0.3 percent on a dry weight basis; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. The term does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.

(~~(x)~~) (x) "Marijuana concentrates" means products consisting wholly or in part of the resin extracted from any part of the plant *Cannabis* and having a THC concentration greater than ten percent.

(~~(y)~~) (y) "Marijuana processor" means a person licensed by the state liquor and cannabis board to process marijuana into marijuana concentrates, useable marijuana, and marijuana-infused products, package and label marijuana concentrates, useable marijuana, and marijuana-infused products for sale in retail outlets, and sell marijuana concentrates, useable marijuana, and marijuana-infused products at wholesale to marijuana retailers.

(~~(z)~~) (z) "Marijuana producer" means a person licensed by the state liquor and cannabis board to produce and sell marijuana at wholesale to marijuana processors and other marijuana producers.

(~~(aa)~~) (aa) "Marijuana products" means useable marijuana, marijuana concentrates, and marijuana-infused products as defined in this section.

(~~(ab)~~) (bb) "Marijuana researcher" means a person licensed by the state liquor and cannabis board to produce, process, and possess marijuana for the purposes of conducting research on marijuana and marijuana-derived drug products.

(~~(ac)~~) (cc) "Marijuana retailer" means a person licensed by the state liquor and cannabis board to sell marijuana concentrates,

useable marijuana, and marijuana-infused products in a retail outlet.

~~((ee))~~ ~~(dd)~~ "Marijuana-infused products" means products that contain marijuana or marijuana extracts, are intended for human use, are derived from marijuana as defined in subsection ~~((+))~~ ~~(v)~~ of this section, and have a THC concentration no greater than ten percent. The term "marijuana-infused products" does not include either useable marijuana or marijuana concentrates.

~~((dd))~~ ~~(ee)~~ "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(1) Opium, opium derivative, and any derivative of opium or opium derivative, including their salts, isomers, and salts of isomers, whenever the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation. The term does not include the isoquinoline alkaloids of opium.

(2) Synthetic opiate and any derivative of synthetic opiate, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, whenever the existence of the isomers, esters, ethers, and salts is possible within the specific chemical designation.

(3) Poppy straw and concentrate of poppy straw.

(4) Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives or ecgonine or their salts have been removed.

(5) Cocaine, or any salt, isomer, or salt of isomer thereof.

(6) Cocaine base.

(7) Ecgonine, or any derivative, salt, isomer, or salt of isomer thereof.

(8) Any compound, mixture, or preparation containing any quantity of any substance referred to in subparagraphs (1) through (7).

~~((ee))~~ ~~(ff)~~ "Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. The term includes opium, substances derived from opium (opium derivatives), and synthetic opiates. The term does not include, unless specifically designated as controlled under RCW 69.50.201, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). The term includes the racemic and levorotatory forms of dextromethorphan.

~~((ff))~~ ~~(gg)~~ "Opium poppy" means the plant of the species *Papaver somniferum* L., except its seeds.

~~((gg))~~ ~~(hh)~~ "Person" means individual, corporation, business trust, estate, trust, partnership, association, joint venture, government, governmental subdivision or agency, or any other legal or commercial entity.

~~((hh))~~ ~~(ii)~~ "Plant" has the meaning provided in RCW 69.51A.010.

~~((ii))~~ ~~(jj)~~ "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

~~((jj))~~ ~~(kk)~~ "Practitioner" means:

(1) A physician under chapter 18.71 RCW; a physician assistant under chapter 18.71A RCW; an osteopathic physician and surgeon under chapter 18.57 RCW; an osteopathic physician assistant under chapter 18.57A RCW who is licensed under RCW 18.57A.020 subject to any limitations in RCW 18.57A.040; an optometrist licensed under chapter 18.53 RCW who is certified by the optometry board under RCW 18.53.010 subject to any limitations in RCW 18.53.010; a dentist under chapter 18.32 RCW; a podiatric physician and surgeon under chapter 18.22 RCW; a veterinarian under chapter 18.92 RCW; a registered nurse, advanced registered nurse practitioner, or licensed

practical nurse under chapter 18.79 RCW; a naturopathic physician under chapter 18.36A RCW who is licensed under RCW 18.36A.030 subject to any limitations in RCW 18.36A.040; a pharmacist under chapter 18.64 RCW or a scientific investigator under this chapter, licensed, registered or otherwise permitted insofar as is consistent with those licensing laws to distribute, dispense, conduct research with respect to or administer a controlled substance in the course of their professional practice or research in this state.

(2) A pharmacy, hospital or other institution licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to or to administer a controlled substance in the course of professional practice or research in this state.

(3) A physician licensed to practice medicine and surgery, a physician licensed to practice osteopathic medicine and surgery, a dentist licensed to practice dentistry, a podiatric physician and surgeon licensed to practice podiatric medicine and surgery, a licensed physician assistant or a licensed osteopathic physician assistant specifically approved to prescribe controlled substances by his or her state's medical quality assurance commission or equivalent and his or her supervising physician, an advanced registered nurse practitioner licensed to prescribe controlled substances, or a veterinarian licensed to practice veterinary medicine in any state of the United States.

~~((kk))~~ ~~(ll)~~ "Prescription" means an order for controlled substances issued by a practitioner duly authorized by law or rule in the state of Washington to prescribe controlled substances within the scope of his or her professional practice for a legitimate medical purpose.

~~((ll))~~ ~~(mm)~~ "Production" includes the manufacturing, planting, cultivating, growing, or harvesting of a controlled substance.

~~((mm))~~ ~~(nn)~~ "Qualifying patient" has the meaning provided in RCW 69.51A.010.

~~((nn))~~ ~~(oo)~~ "Recognition card" has the meaning provided in RCW 69.51A.010.

~~((oo))~~ ~~(pp)~~ "Retail outlet" means a location licensed by the state liquor and cannabis board for the retail sale of marijuana concentrates, useable marijuana, and marijuana-infused products.

~~((pp))~~ ~~(qq)~~ "Secretary" means the secretary of health or the secretary's designee.

~~((qq))~~ ~~(rr)~~ "State," unless the context otherwise requires, means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or insular possession subject to the jurisdiction of the United States.

~~((rr))~~ ~~(ss)~~ "THC concentration" means percent of delta-9 tetrahydrocannabinol content per dry weight of any part of the plant *Cannabis*, or per volume or weight of marijuana product, or the combined percent of delta-9 tetrahydrocannabinol and tetrahydrocannabinolic acid in any part of the plant *Cannabis* regardless of moisture content.

~~((ss))~~ ~~(tt)~~ "Ultimate user" means an individual who lawfully possesses a controlled substance for the individual's own use or for the use of a member of the individual's household or for administering to an animal owned by the individual or by a member of the individual's household.

~~((tt))~~ ~~(uu)~~ "Useable marijuana" means dried marijuana flowers. The term "useable marijuana" does not include either marijuana-infused products or marijuana concentrates.

**Sec. 1500.** RCW 69.50.366 and 2015 c 207 s 8 are each amended to read as follows:

The following acts, when performed by a validly licensed marijuana producer or employee of a validly licensed marijuana producer in compliance with rules adopted by the state liquor ~~(control)~~ and cannabis board to implement and enforce this

ONE HUNDRED FIRST DAY, APRIL 19, 2017

2017 REGULAR SESSION

chapter (~~(3, Laws of 2013)~~), do not constitute criminal or civil offenses under Washington state law:

(1) Production or possession of quantities of marijuana that do not exceed the maximum amounts established by the state liquor (~~(control)~~) and cannabis board under RCW 69.50.345(3);

(2) Delivery, distribution, and sale of marijuana to a marijuana processor or another marijuana producer validly licensed under this chapter (~~(3, Laws of 2013)~~); (~~and~~)

(3) Delivery, distribution, and sale of immature plants or clones and marijuana seeds to a licensed marijuana researcher, and to receive or purchase immature plants or clones and seeds from a licensed marijuana researcher; and

(4) Delivery, distribution, and sale of marijuana or useable marijuana to a federally recognized Indian tribe as permitted under an agreement between the state and the tribe entered into under RCW 43.06.490.

**Sec. 1501.** RCW 69.50.382 and 2015 2nd sp.s. c 4 s 501 are each amended to read as follows:

(1) A licensed marijuana producer, marijuana processor, marijuana researcher, or marijuana retailer, or their employees, in accordance with the requirements of this chapter and the administrative rules adopted thereunder, may use the services of a common carrier subject to regulation under chapters 81.28 and 81.29 RCW and licensed in compliance with the regulations established under RCW 69.50.385, to physically transport or deliver, as authorized under this chapter, marijuana, useable marijuana, marijuana concentrates, immature plants or clones, marijuana seeds, and marijuana-infused products between licensed marijuana businesses located within the state.

(2) An employee of a common carrier engaged in marijuana-related transportation or delivery services authorized under subsection (1) of this section is prohibited from carrying or using a firearm during the course of providing such services, unless:

(a) Pursuant to RCW 69.50.385, the state liquor and cannabis board explicitly authorizes the carrying or use of firearms by such employee while engaged in the transportation or delivery services;

(b) The employee has an armed private security guard license issued pursuant to RCW 18.170.040; and

(c) The employee is in full compliance with the regulations established by the state liquor and cannabis board under RCW 69.50.385.

(3) A common carrier licensed under RCW 69.50.385 may, for the purpose of transporting and delivering marijuana, useable marijuana, marijuana concentrates, and marijuana-infused products, utilize Washington state ferry routes for such transportation and delivery.

(4) The possession of marijuana, useable marijuana, marijuana concentrates, and marijuana-infused products being physically transported or delivered within the state, in amounts not exceeding those that may be established under RCW 69.50.385(3), by a licensed employee of a common carrier when performing the duties authorized under, and in accordance with, this section and RCW 69.50.385, is not a violation of this section, this chapter, or any other provision of Washington state law.

**Sec. 1502.** RCW 69.51A.250 and 2016 c 170 s 2 are each amended to read as follows:

(1) Qualifying patients or designated providers may form a cooperative and share responsibility for acquiring and supplying the resources needed to produce and process marijuana only for the medical use of members of the cooperative. No more than four qualifying patients or designated providers may become members of a cooperative under this section and all members must hold valid recognition cards. All members of the cooperative must be at least twenty-one years old. The designated provider of a

qualifying patient who is under twenty-one years old may be a member of a cooperative on the qualifying patient's behalf. All plants grown in the cooperative must be (~~(purchased or cloned)~~) from an immature plant or clone purchased from a licensed marijuana producer as defined in RCW 69.50.101. Cooperatives may also purchase marijuana seeds from a licensed marijuana producer.

(2) Qualifying patients and designated providers who wish to form a cooperative must register the location with the state liquor and cannabis board and this is the only location where cooperative members may grow or process marijuana. This registration must include the names of all participating members and copies of each participant's recognition card. Only qualifying patients or designated providers registered with the state liquor and cannabis board in association with the location may participate in growing or receive useable marijuana or marijuana-infused products grown at that location.

(3) No cooperative may be located in any of the following areas:

(a) Within one mile of a marijuana retailer;

(b) Within the smaller of either:

(i) One thousand feet of the perimeter of the grounds of any elementary or secondary school, playground, recreation center or facility, child care center, public park, public transit center, library, or any game arcade that admission to which is not restricted to persons aged twenty-one years or older; or

(ii) The area restricted by ordinance, if the cooperative is located in a city, county, or town that has passed an ordinance pursuant to RCW 69.50.331(8); or

(c) Where prohibited by a city, town, or county zoning provision.

(4) The state liquor and cannabis board must deny the registration of any cooperative if the location does not comply with the requirements set forth in subsection (3) of this section.

(5) If a qualifying patient or designated provider no longer participates in growing at the location, he or she must notify the state liquor and cannabis board within fifteen days of the date the qualifying patient or designated provider ceases participation. The state liquor and cannabis board must remove his or her name from connection to the cooperative. Additional qualifying patients or designated providers may not join the cooperative until sixty days have passed since the date on which the last qualifying patient or designated provider notifies the state liquor and cannabis board that he or she no longer participates in that cooperative.

(6) Qualifying patients or designated providers who participate in a cooperative under this section:

(a) May grow up to the total amount of plants for which each participating member is authorized on their recognition cards, up to a maximum of sixty plants. At the location, the qualifying patients or designated providers may possess the amount of useable marijuana that can be produced with the number of plants permitted under this subsection, but no more than seventy-two ounces;

(b) May only participate in one cooperative;

(c) May only grow plants in the cooperative and if he or she grows plants in the cooperative may not grow plants elsewhere;

(d) Must provide assistance in growing plants. A monetary contribution or donation is not to be considered assistance under this section. Participants must provide nonmonetary resources and labor in order to participate; and

(e) May not sell, donate, or otherwise provide marijuana, marijuana concentrates, useable marijuana, or marijuana-infused products to a person who is not participating under this section.

(7) The location of the cooperative must be the domicile of one of the participants. Only one cooperative may be located per property tax parcel. A copy of each participant's recognition card must be kept at the location at all times.

(8) The state liquor and cannabis board may adopt rules to implement this section including:

(a) Any security requirements necessary to ensure the safety of the cooperative and to reduce the risk of diversion from the cooperative;

(b) A seed to sale traceability model that is similar to the seed to sale traceability model used by licensees that will allow the state liquor and cannabis board to track all marijuana grown in a cooperative.

(9) The state liquor and cannabis board or law enforcement may inspect a cooperative registered under this section to ensure members are in compliance with this section. The state liquor and cannabis board must adopt rules on reasonable inspection hours and reasons for inspections.

**Sec. 1503.** RCW 15.120.020 and 2016 sp.s. c 11 s 3 are each amended to read as follows:

Except as otherwise provided in this chapter, industrial hemp is an agricultural product that may be grown, produced, possessed, processed, and exchanged in the state solely and exclusively as part of an industrial hemp research program supervised by the department. Processing any part of industrial hemp, except seed, as food, extract, oil, cake, concentrate, resin, or other preparation for topical use, oral consumption, or inhalation by humans is prohibited, unless authorized by the department under section 10 of this act.

**NEW SECTION. Sec. 1504.** A new section is added to chapter 15.120 RCW to read as follows:

(1) The department may allow a person holding an industrial hemp license authorizing the licensee to grow, produce, possess, or process industrial hemp to sell or transfer industrial hemp to a marijuana processor licensed under chapter 69.50 RCW and the rules adopted by the state liquor and cannabis board, for use by the marijuana processor.

(2) A licensed marijuana processor is not required to obtain an industrial hemp license from the department in order to possess or process industrial hemp for the purposes authorized under this section.

(3) A licensed marijuana processor may use any part of industrial hemp obtained in accordance with this section. A licensee's use of industrial hemp must comply with the requirements of chapter 69.50 RCW, the rules adopted by the state liquor and cannabis board, and the rules adopted by the department of health for marijuana products.

(4) The department may adopt rules, in consultation with the state liquor and cannabis board, to implement this section.

**NEW SECTION. Sec. 1505.** The legislature finds that protecting the state's children, youth, and young adults under the legal age to purchase and consume marijuana, by establishing limited restrictions on the advertising of marijuana and marijuana products, is necessary to assist the state's efforts to discourage and prevent underage consumption and the potential risks associated with underage consumption. The legislature finds that these restrictions assist the state in maintaining a strong and effective regulatory and enforcement system as specified by the federal government. The legislature finds this act leaves ample opportunities for licensed marijuana businesses to market their products to those who are of legal age to purchase them, without infringing on the free speech rights of business owners. Finally, the legislature finds that the state has a substantial and compelling interest in enacting this act aimed at protecting Washington's children, youth, and young adults.

**Sec. 1506.** RCW 69.50.357 and 2016 c 171 s 1 are each amended to read as follows:

(1) Retail outlets may not sell products or services other than marijuana concentrates, useable marijuana, marijuana-infused products, or paraphernalia intended for the storage or use of marijuana concentrates, useable marijuana, or marijuana-infused products.

(2) Licensed marijuana retailers may not employ persons under twenty-one years of age or allow persons under twenty-one years of age to enter or remain on the premises of a retail outlet. However, qualifying patients between eighteen and twenty-one years of age with a recognition card may enter and remain on the premises of a retail outlet holding a medical marijuana endorsement and may purchase products for their personal medical use. Qualifying patients who are under the age of eighteen with a recognition card and who accompany their designated providers may enter and remain on the premises of a retail outlet holding a medical marijuana endorsement, but may not purchase products for their personal medical use.

(3)(a) Licensed marijuana retailers must ensure that all employees are trained on the rules adopted to implement this chapter, identification of persons under the age of twenty-one, and other requirements adopted by the state liquor and cannabis board to ensure that persons under the age of twenty-one are not permitted to enter or remain on the premises of a retail outlet.

(b) Licensed marijuana retailers with a medical marijuana endorsement must ensure that all employees are trained on the subjects required by (a) of this subsection as well as identification of authorizations and recognition cards. Employees must also be trained to permit qualifying patients who hold recognition cards and are between the ages of eighteen and twenty-one to enter the premises and purchase marijuana for their personal medical use and to permit qualifying patients who are under the age of eighteen with a recognition card to enter the premises if accompanied by their designated providers.

(4) Except as otherwise provided under RCW 69.50.369, licensed marijuana retailers may not display any signage outside of the licensed premises, other than two signs identifying the retail outlet by the licensee's business or trade name, stating the location of the business, and identifying the nature of the business. Each sign must be no larger than one thousand six hundred square inches, be permanently affixed to a building or other structure, and be posted not less than one thousand feet from any elementary school, secondary school, or playground. Such signs may not contain any depictions of marijuana plants, marijuana products, or images that might be appealing to children. The content of the signs authorized under this subsection (4) are subject to all requirements and restrictions applicable to outdoor signs as set forth in RCW 69.50.369.

(5) Except for the purposes of disposal as authorized by the state liquor and cannabis board, no licensed marijuana retailer or employee of a retail outlet may open or consume, or allow to be opened or consumed, any marijuana concentrates, useable marijuana, or marijuana-infused product on the outlet premises.

(6) The state liquor and cannabis board must fine a licensee one thousand dollars for each violation of any subsection of this section. Fines collected under this section must be deposited into the dedicated marijuana account created under RCW 69.50.530.

**Sec. 1507.** RCW 69.50.369 and 2015 2nd sp.s. c 4 s 204 are each amended to read as follows:

(1) No licensed marijuana producer, processor, researcher, or retailer may place or maintain, or cause to be placed or maintained, an advertisement of marijuana, useable marijuana, marijuana concentrates, or a marijuana-infused product in any form or through any medium whatsoever(=)

ONE HUNDRED FIRST DAY, APRIL 19, 2017

2017 REGULAR SESSION

~~(a))~~ within one thousand feet of the perimeter of a school grounds, playground, recreation center or facility, child care center, public park, or library, or any game arcade admission to which is not restricted to persons aged twenty-one years or older;

~~(b) On or in a public transit vehicle or public transit shelter; or (c) On or in a publicly owned or operated property).~~

(2) A marijuana licensee may not utilize transit advertisements for the purpose of advertising its business or product line. "Transit advertisements" means advertising on or within private or public vehicles and all advertisements placed at, on, or within any bus stop, taxi stand, transportation waiting area, train station, airport, or any similar transit-related location.

(3) A marijuana licensee may not engage in advertising or other marketing practice that specifically targets persons residing outside of the state of Washington.

(4) All signs, billboards, or other print advertising for marijuana businesses or marijuana products must contain text stating that marijuana products may be purchased or possessed only by persons twenty-one years of age or older.

(5) A marijuana licensee may not:

(a) Take any action, directly or indirectly, to target youth in the advertising, promotion, or marketing of marijuana and marijuana products, or take any action the primary purpose of which is to initiate, maintain, or increase the incidence of youth use of marijuana or marijuana products;

(b) Use objects such as toys or inflatables, movie or cartoon characters, or any other depiction or image likely to be appealing to youth, where such objects, images, or depictions indicate an intent to cause youth to become interested in the purchase or consumption of marijuana products; or

(c) Use or employ a commercial mascot outside of, and in proximity to, a licensed marijuana business. A "commercial mascot" means live human being, animal, or mechanical device used for attracting the attention of motorists and passersby so as to make them aware of marijuana products or the presence of a marijuana business. Commercial mascots include, but are not limited to, inflatable tube displays, persons in costume, or wearing, holding, or spinning a sign with a marijuana-related commercial message or image, where the intent is to draw attention to a marijuana business or its products.

(6) A marijuana licensee that engages in outdoor advertising is subject to the advertising requirements and restrictions set forth in this subsection (6) and elsewhere in this chapter.

(a) All outdoor advertising signs, including billboards, are limited to text that identifies the retail outlet by the licensee's business or trade name, states the location of the business, and identifies the type or nature of the business. Such signs may not contain any depictions of marijuana plants, marijuana products, or images that might be appealing to children. The state liquor and cannabis board is granted rule-making authority to regulate the text and images that are permissible on outdoor advertising. Such rule making must be consistent with other administrative rules generally applicable to the advertising of marijuana businesses and products.

(b) Outdoor advertising is prohibited:

(i) On signs and placards in arenas, stadiums, shopping malls, fairs that receive state allocations, farmers markets, and video game arcades, whether any of the foregoing are open air or enclosed, but not including any such sign or placard located in an adult only facility; and

(ii) Billboards that are visible from any street, road, highway, right-of-way, or public parking area are prohibited, except as provided in (c) of this subsection.

(c) Licensed retail outlets may use a billboard or outdoor sign solely for the purpose of identifying the name of the business, the nature of the business, and providing the public with directional information to the licensed retail outlet. Billboards advertising is subject to the same requirements and restrictions as set forth in (a) of this subsection.

(d) Advertising signs within the premises of a retail marijuana business outlet that are visible to the public from outside the premises must meet the signage regulations and requirements applicable to outdoor signs as set forth in this section.

(e) The restrictions and regulations applicable to outdoor advertising under this section are not applicable to:

(i) An advertisement inside a licensed retail establishment that sells marijuana products that is not placed on the inside surface of a window facing outward; or

(ii) An outdoor advertisement at the site of an event to be held at an adult only facility that is placed at such site during the period the facility or enclosed area constitutes an adult only facility, but in no event more than fourteen days before the event, and that does not advertise any marijuana product other than by using a brand name to identify the event.

(7) Merchandising within a retail outlet is not advertising for the purposes of this section.

~~((3))~~ (8) This section does not apply to a noncommercial message.

~~((4))~~ (9)(a) The state liquor and cannabis board must:

(i) Adopt rules implementing this section and specifically including provisions regulating the billboards and outdoor signs authorized under this section; and

(ii) Fine a licensee one thousand dollars for each violation of ~~(subsection (1) of)~~ this section until the state liquor and cannabis board adopts rules prescribing penalties for violations of this section. The rules must establish escalating penalties including fines and up to suspension or revocation of a marijuana license for subsequent violations.

(b) Fines collected under this subsection must be deposited into the dedicated marijuana account created under RCW 69.50.530.

(10) A city, town, or county may adopt rules of outdoor advertising by licensed marijuana retailers that are more restrictive than the advertising restrictions imposed under this chapter. Enforcement of restrictions to advertising by a city, town, or county is the responsibility of the city, town, or county.

**Sec. 1508.** RCW 69.50.4013 and 2015 2nd sp.s. c 4 s 503 are each amended to read as follows:

(1) It is unlawful for any person to possess a controlled substance unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of his or her professional practice, or except as otherwise authorized by this chapter.

(2) Except as provided in RCW 69.50.4014, any person who violates this section is guilty of a class C felony punishable under chapter 9A.20 RCW.

(3)(a) The possession, by a person twenty-one years of age or older, of useable marijuana, marijuana concentrates, or marijuana-infused products in amounts that do not exceed those set forth in RCW 69.50.360(3) is not a violation of this section, this chapter, or any other provision of Washington state law.

(b) The possession of marijuana, useable marijuana, marijuana concentrates, and marijuana-infused products being physically transported or delivered within the state, in amounts not exceeding those that may be established under RCW 69.50.385(3), by a licensed employee of a common carrier when performing the duties authorized in accordance with RCW 69.50.382 and 69.50.385, is not a violation of this section, this chapter, or any other provision of Washington state law.



(4) The delivery by a person twenty-one years of age or older to one or more persons twenty-one years of age or older, during a twenty-four hour period, for noncommercial purposes and not conditioned upon or done in connection with the provision or receipt of financial consideration, of any of the following marijuana products, is not a violation of this section, this chapter, or any other provisions of Washington state law:

- (a) One-half ounce of useable marijuana;
- (b) Eight ounces of marijuana-infused product in solid form;
- (c) Thirty-six ounces of marijuana-infused product in liquid form; or
- (d) Three and one-half grams of marijuana concentrates.

(5) No person under twenty-one years of age may possess, manufacture, sell, or distribute marijuana, marijuana-infused products, or marijuana concentrates, regardless of THC concentration. This does not include qualifying patients with a valid authorization.

~~((5))~~ (6) The possession by a qualifying patient or designated provider of marijuana concentrates, useable marijuana, marijuana-infused products, or plants in accordance with chapter 69.51A RCW is not a violation of this section, this chapter, or any other provision of Washington state law.

**NEW SECTION. Sec. 1509.** A new section is added to chapter 69.50 RCW to read as follows:

(1) A licensed marijuana business may enter into a licensing agreement, or consulting contract, with any individual, partnership, employee cooperative, association, nonprofit corporation, or corporation, for:

- (a) Any goods or services that are registered as a trademark under federal law or under chapter 19.77 RCW;
- (b) Any unregistered trademark, trade name, or trade dress; or
- (c) Any trade secret, technology, or proprietary information used to manufacture a cannabis product or used to provide a service related to a marijuana business.

(2) All agreements or contracts entered into by a licensed marijuana business, as authorized under this section, must be disclosed to the state liquor and cannabis board.

**Sec. 1510.** RCW 42.56.270 and 2016 sp.s. c 9 s 3, 2016 sp.s. c 8 s 1, and 2016 c 178 s 1 are each reenacted and amended to read as follows:

The following financial, commercial, and proprietary information is exempt from disclosure under this chapter:

(1) Valuable formulae, designs, drawings, computer source code or object code, and research data obtained by any agency within five years of the request for disclosure when disclosure would produce private gain and public loss;

(2) 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 (a) a ferry system construction or repair contract as required by RCW 47.60.680 through 47.60.750 or (b) highway construction or improvement as required by RCW 47.28.070;

(3) Financial and commercial information and records supplied by private persons pertaining to export services provided under chapters 43.163 and 53.31 RCW, and by persons pertaining to export projects under RCW 43.23.035;

(4) Financial and commercial information and records supplied by businesses or individuals during application for loans or program services provided by chapters 43.325, 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;

(5) 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;

(6) 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;

(7) Financial and valuable trade information under RCW 51.36.120;

(8) 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;

(9) Financial and commercial information requested by the public stadium authority from any person or organization that leases or uses the stadium and exhibition center as defined in RCW 36.102.010;

(10)(a) Financial information, including but not limited to account numbers and values, and other identification numbers supplied by or on behalf of a person, firm, corporation, limited liability company, partnership, or other entity related to an application for a horse racing license submitted pursuant to RCW 67.16.260(1)(b), marijuana producer, processor, or retailer license, liquor license, gambling license, or lottery retail license;

(b) Internal control documents, independent auditors' reports and financial statements, and supporting documents: (i) Of house-banked social card game licensees required by the gambling commission pursuant to rules adopted under chapter 9.46 RCW; or (ii) submitted by tribes with an approved tribal/state compact for class III gaming;

(11) Proprietary data, trade secrets, or other information that relates to: (a) A vendor's unique methods of conducting business; (b) data unique to the product or services of the vendor; or (c) determining prices or rates to be charged for services, submitted by any vendor to the department of social and health services for purposes of the development, acquisition, or implementation of state purchased health care as defined in RCW 41.05.011;

(12)(a) When supplied to and in the records of the department of commerce:

(i) Financial and proprietary information collected from any person and provided to the department of commerce pursuant to RCW 43.330.050(8); and

(ii) Financial or proprietary information collected from any person and provided to the department of commerce or the office of the governor in connection with the siting, recruitment, expansion, retention, or relocation of that person's business and until a siting decision is made, identifying information of any person supplying information under this subsection and the locations being considered for siting, relocation, or expansion of a business;

(b) When developed by the department of commerce based on information as described in (a)(i) of this subsection, any work product is not exempt from disclosure;

(c) For the purposes of this subsection, "siting decision" means the decision to acquire or not to acquire a site;

(d) If there is no written contact for a period of sixty days to the department of commerce from a person connected with siting, recruitment, expansion, retention, or relocation of that person's business, information described in (a)(ii) of this subsection will be available to the public under this chapter;

(13) Financial and proprietary information submitted to or obtained by the department of ecology or the authority created under chapter 70.95N RCW to implement chapter 70.95N RCW;

(14) Financial, commercial, operations, and technical and research information and data submitted to or obtained by the life sciences discovery fund authority in applications for, or delivery of, grants under chapter 43.350 RCW, to the extent that such

ONE HUNDRED FIRST DAY, APRIL 19, 2017

2017 REGULAR SESSION

information, if revealed, would reasonably be expected to result in private loss to the providers of this information;

(15) Financial and commercial information provided as evidence to the department of licensing as required by RCW 19.112.110 or 19.112.120, except information disclosed in aggregate form that does not permit the identification of information related to individual fuel licensees;

(16) Any production records, mineral assessments, and trade secrets submitted by a permit holder, mine operator, or landowner to the department of natural resources under RCW 78.44.085;

(17)(a) Farm plans developed by conservation districts, unless permission to release the farm plan is granted by the landowner or operator who requested the plan, or the farm plan is used for the application or issuance of a permit;

(b) Farm plans developed under chapter 90.48 RCW and not under the federal clean water act, 33 U.S.C. Sec. 1251 et seq., are subject to RCW 42.56.610 and 90.64.190;

(18) Financial, commercial, operations, and technical and research information and data submitted to or obtained by a health sciences and services authority in applications for, or delivery of, grants under RCW 35.104.010 through 35.104.060, to the extent that such information, if revealed, would reasonably be expected to result in private loss to providers of this information;

(19) Information gathered under chapter 19.85 RCW or RCW 34.05.328 that can be identified to a particular business;

(20) Financial and commercial information submitted to or obtained by the University of Washington, other than information the university is required to disclose under RCW 28B.20.150, when the information relates to investments in private funds, to the extent that such information, if revealed, would reasonably be expected to result in loss to the University of Washington consolidated endowment fund or to result in private loss to the providers of this information;

(21) Market share data submitted by a manufacturer under RCW 70.95N.190(4);

(22) Financial information supplied to the department of financial institutions or to a portal under RCW 21.20.883, when filed by or on behalf of an issuer of securities for the purpose of obtaining the exemption from state securities registration for small securities offerings provided under RCW 21.20.880 or when filed by or on behalf of an investor for the purpose of purchasing such securities;

(23) Unaggregated or individual notices of a transfer of crude oil that is financial, proprietary, or commercial information, submitted to the department of ecology pursuant to RCW 90.56.565(1)(a), and that is in the possession of the department of ecology or any entity with which the department of ecology has shared the notice pursuant to RCW 90.56.565;

(24) Financial institution and retirement account information, and building security plan information, supplied to the liquor and cannabis board pursuant to RCW 69.50.325, 69.50.331, 69.50.342, and 69.50.345, when filed by or on behalf of a licensee or prospective licensee for the purpose of obtaining, maintaining, or renewing a license to produce, process, transport, or sell marijuana as allowed under chapter 69.50 RCW; (~~and~~)

(25) Marijuana transport information, vehicle and driver identification data, and account numbers or unique access identifiers issued to private entities for traceability system access, submitted by an individual or business to the liquor and cannabis board under the requirements of RCW 69.50.325, 69.50.331, 69.50.342, and 69.50.345 for the purpose of marijuana product traceability. Disclosure to local, state, and federal officials is not considered public disclosure for purposes of this section; (~~and~~)

(26) Financial and commercial information submitted to or obtained by the retirement board of any city that is responsible for

the management of an employees' retirement system pursuant to the authority of chapter 35.39 RCW, when the information relates to investments in private funds, to the extent that such information, if revealed, would reasonably be expected to result in loss to the retirement fund or to result in private loss to the providers of this information except that (a) the names and commitment amounts of the private funds in which retirement funds are invested and (b) the aggregate quarterly performance results for a retirement fund's portfolio of investments in such funds are subject to disclosure; (~~and~~)

(27) Proprietary financial, commercial, operations, and technical and research information and data submitted to or obtained by the liquor and cannabis board in applications for marijuana research licenses under RCW 69.50.372, or in reports submitted by marijuana research licensees in accordance with rules adopted by the liquor and cannabis board under RCW 69.50.372; and

(28) Trade secrets, technology, proprietary information, and financial considerations contained in any agreements or contracts, entered into by a licensed marijuana business under section 15 of this act, which may be submitted to or obtained by the state liquor and cannabis board.

**Sec. 1511.** RCW 69.07.010 and 1992 c 34 s 3 are each amended to read as follows:

For the purposes of this chapter:

(1) "Department" means the department of agriculture of the state of Washington;

(2) "Director" means the director of the department;

(3) "Food" means any substance used for food or drink by any person, including ice, bottled water, and any ingredient used for components of any such substance regardless of the quantity of such component;

(4) "Sale" means selling, offering for sale, holding for sale, preparing for sale, trading, bartering, offering a gift as an inducement for sale of, and advertising for sale in any media;

(5) "Food processing" means the handling or processing of any food in any manner in preparation for sale for human consumption: PROVIDED, That it shall not include fresh fruit or vegetables merely washed or trimmed while being prepared or packaged for sale in their natural state;

(6) "Food processing plant" includes but is not limited to any premises, plant, establishment, building, room, area, facilities and the appurtenances thereto, in whole or in part, where food is prepared, handled or processed in any manner for distribution or sale for resale by retail outlets, restaurants, and any such other facility selling or distributing to the ultimate consumer: PROVIDED, That, as set forth herein, establishments processing foods in any manner for resale shall be considered a food processing plant as to such processing;

(7) "Food service establishment" shall mean any fixed or mobile restaurant, coffee shop, cafeteria, short order cafe, luncheonette, grill, tearoom, sandwich shop, soda fountain, tavern, bar, cocktail lounge, night club, roadside stand, industrial-feeding establishment, retail grocery, retail food market, retail meat market, retail bakery, private, public, or nonprofit organization routinely serving food, catering kitchen, commissary or similar place in which food or drink is prepared for sale or for service on the premises or elsewhere, and any other eating or drinking establishment or operation where food is served or provided for the public with or without charge.

For the purpose of this chapter any custom cannery or processing plant where raw food products, food, or food products are processed for the owner thereof, or the food processing facilities are made available to the owners or persons in control

of raw food products or food or food products for processing in any manner, shall be considered to be food processing plants;

(8) "Person" means an individual, partnership, corporation, or association;

(9) "Board" means the state liquor and cannabis board;

(10) "Marijuana" has the meaning provided in RCW 69.50.101;

(11) "Marijuana-infused edible" means "marijuana-infused products," which is defined in RCW 69.50.101, but limited to products intended for oral consumption;

(12) "Marijuana-infused edible processing" means processing, packaging, or making marijuana-infused edibles using marijuana, marijuana extract, or marijuana concentrates as an ingredient. The term does not include preparation of marijuana as an ingredient including, but not limited to, processing marijuana extracts or marijuana concentrates;

(13) "Marijuana processor" has the meaning provided in RCW 69.50.101.

**Sec. 1512.** RCW 69.07.020 and 1969 c 68 s 1 are each amended to read as follows:

(1) The department shall enforce and carry out the provisions of this chapter, and may adopt the necessary rules to carry out its purposes.

(2) Such rules may include:

(a) Standards for temperature controls in the storage of foods, so as to provide proper refrigeration.

(b) Standards for temperatures at which low acid foods must be processed and the length of time such temperatures must be applied and at what pressure in the processing of such low acid foods.

(c) Standards and types of recording devices that must be used in providing records of the processing of low acid foods, and how they shall be made available to the department of agriculture for inspection.

(d) Requirements for the keeping of records of the temperatures, times and pressures at which foods were processed, or for the temperatures at which refrigerated products were stored by the licensee and the furnishing of such records to the department.

(e) Standards that must be used to establish the temperature and purity of water used in the processing of foods.

(3) The department may adopt rules specific to marijuana-infused edibles. The rules must be written and interpreted to be consistent with rules adopted by the board and the department of health.

**Sec. 1513.** RCW 19.02.110 and 2013 c 144 s 25 are each amended to read as follows:

(1) In addition to the licenses processed under the business licensing system prior to April 1, 1982, on July 1, 1982, use of the business licensing system is expanded as provided by this section.

(2) Applications for the following must be filed with the business licensing service and must be processed, and renewals must be issued, under the business licensing system:

(a) Nursery dealer's licenses required by chapter 15.13 RCW;

(b) Seed dealer's licenses required by chapter 15.49 RCW;

(c) Pesticide dealer's licenses required by chapter 15.58 RCW;

(d) Shopkeeper's licenses required by chapter 18.64 RCW;

(e) Egg dealer's licenses required by chapter 69.25 RCW; and

(f) Marijuana-infused edible endorsements required by chapter 69.07 RCW.

**NEW SECTION. Sec. 1514.** A new section is added to chapter 69.07 RCW to read as follows:

(1) In addition to the requirements administered by the board under chapter 69.50 RCW, the department shall regulate marijuana-infused edible processing the same as other food processing under this chapter, except:

(a) The department shall not consider foods containing marijuana to be adulterated when produced in compliance with chapter 69.50 RCW and the rules adopted by the board;

(b) Initial issuance and renewal for an annual marijuana-infused edible endorsement in lieu of a food processing license under RCW 69.07.040 must be made through the business licensing system under chapter 19.02 RCW;

(c) Renewal of the endorsement must coincide with renewal of the endorsement holder's marijuana processor license;

(d) The department shall adopt a penalty schedule specific to marijuana processors, which may have values equivalent to the penalty schedule adopted by the board. The penalties are in addition to any penalties imposed under the penalty schedule adopted by the board; and

(e) The department shall notify the board of violations by marijuana processors under this chapter.

(2) A marijuana processor that processes, packages, or makes marijuana-infused edibles must obtain an annual marijuana-infused edible endorsement, as provided in this subsection (2).

(a) The marijuana processor must apply for issuance and renewal for the endorsement from the department through the business licensing system under chapter 19.02 RCW.

(b) The marijuana processor must have a valid marijuana processor license before submitting an application for initial endorsement. The application and initial endorsement fees total eight hundred ninety-five dollars. Applicants for endorsement otherwise must meet the same requirements as applicants for a food processing license under this chapter including, but not limited to, successful completion of inspection by the department.

(c) Annual renewal of the endorsement must coincide with renewal of the endorsement holder's marijuana processor license. The endorsement renewal fee is eight hundred ninety-five dollars.

(d) A marijuana processor must obtain a separate endorsement for each location at which the marijuana processor intends to process marijuana-infused edibles. Premises used for marijuana-infused edible processing may not be used for processing food that does not use marijuana as an ingredient, with the exception of edibles produced solely for tasting samples or internal product testing.

(3) The department may deny, suspend, or revoke a marijuana-infused edible endorsement on the same grounds as the department may deny, suspend, or revoke a food processing license under this chapter.

(4) Information about processors otherwise exempt from public inspection and copying under chapter 42.56 RCW is also exempt from public inspection and copying if submitted to or used by the department.

**NEW SECTION. Sec. 1515.** The department of agriculture, state liquor and cannabis board, and department of revenue shall take the necessary steps to ensure that section 20 of this act is implemented on its effective date.

**NEW SECTION. Sec. 1516.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Board" means the state liquor and cannabis board.

(2) "Licensee facilities" means any premises regulated by the board for producing, processing, or retailing marijuana or marijuana products.

(3) "Marijuana" has the meaning provided in RCW 69.50.101.

(4) "Marijuana processor" has the meaning provided in RCW 69.50.101.

(5) "Marijuana producer" has the meaning provided in RCW 69.50.101.

(6) "Marijuana products" has the meaning provided in RCW 69.50.101.

ONE HUNDRED FIRST DAY, APRIL 19, 2017

2017 REGULAR SESSION

(7) "Marijuana retailer" has the meaning provided in RCW 69.50.101.

(8) "Person" means any natural person, firm, partnership, association, private or public corporation, governmental entity, or other business entity.

**NEW SECTION. Sec. 1517.** (1) The department may adopt rules establishing:

(a) Standards for marijuana and marijuana products produced and processed in a manner consistent with, to the extent practicable, 7 C.F.R. Part 205;

(b) A self-sustaining program for certifying marijuana producers and marijuana processors as meeting the standards established under (a) of this subsection; and

(c) Other rules as necessary for administration of this chapter.

(2) To the extent practicable, the program must be consistent with the program established by the director under chapter 15.86 RCW.

(3) The rules must include a fee schedule that will provide for the recovery of the full cost of the program including, but not limited to, application processing, inspections, sampling and testing, notifications, public awareness programs, and enforcement.

**NEW SECTION. Sec. 1518.** (1) No marijuana or marijuana product may be labeled, sold, or represented as produced or processed under the standards established under this chapter unless produced or processed by a person certified by the department under the program established under this chapter.

(2) No person may represent, sell, or offer for sale any marijuana or marijuana products as produced or processed under standards adopted under this chapter if the person knows, or has reason to know, that the marijuana or marijuana product has not been produced or processed in conformance with the standards established under this chapter.

(3) No person may represent, sell, or offer for sale any marijuana or marijuana products as "organic products" as that term has meaning under chapter 15.86 RCW.

**NEW SECTION. Sec. 1519.** (1) The department may inspect licensee facilities to verify compliance with this chapter and rules adopted under it.

(2) The department may deny, suspend, or revoke a certification provided for in this chapter if the department determines that an applicant or certified person has violated this chapter or rules adopted under it.

(3) The department may impose on and collect from any person who has violated this chapter or rules adopted under it a civil fine not exceeding the total of:

(a) The state's estimated costs of investigating and taking appropriate administrative and enforcement actions for the violation; and

(b) One thousand dollars.

(4) The board may take enforcement actions against a marijuana producer, marijuana processor, or marijuana retailer license issued by the board, including suspension or revocation of the license, when a licensee continues to violate this chapter after revocation of its certification or, if uncertified, receiving written notice from the department of certification requirements.

(5) The provisions of this chapter are cumulative and nonexclusive and do not affect any other remedy at law.

**NEW SECTION. Sec. 1520.** Information about marijuana producers, marijuana processors, and marijuana retailers otherwise exempt from public inspection and copying under chapter 42.56 RCW is also exempt from public inspection and copying if submitted to or used by the department.

**NEW SECTION. Sec. 1521.** All fees collected under this chapter must be deposited in an account within the agricultural

local fund. The revenue from the fees must be used solely for carrying out the provisions of this chapter, and no appropriation is required for disbursement from the fund.

**NEW SECTION. Sec. 1522.** This act applies prospectively only and not retroactively. It applies only to causes of action that arise (if change is substantive) or that are commenced (if change is procedural) on or after the effective date of this section.

**NEW SECTION. Sec. 1523.** 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. 1524.** Sections 22 through 27 of this act constitute a new chapter in Title 15 RCW.

**NEW SECTION. Sec. 1525.** Section 20 of this act takes effect April 1, 2018."

Correct the title.

NONA SNELL, Deputy Chief Clerk

MOTION

Senator Rivers moved that the Senate refuse to concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5131 and request of the House a conference thereon.

Senators Rivers, Baumgartner, Keiser, Padden and Carlyle spoke in favor of the motion.

The President declared the question before the Senate to be motion by Senator Rivers that the Senate refuse to concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5131 and request a conference thereon.

The motion by Senator Rivers carried and the Senate refused to concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5131 and requested of the House a conference thereon by voice vote.

APPOINTMENT OF CONFERENCE COMMITTEE

The President appointed as members of the Conference Committee on Engrossed Substitute Senate Bill No. 5131 and the House amendment(s) thereto: Senators Rivers, Keiser and Baumgartner.

MOTION

On motion of Senator Fain, the appointments to the conference committee were confirmed.

MESSAGE FROM THE HOUSE

April 11, 2017

MR. PRESIDENT:

The House passed ENGROSSED SUBSTITUTE SENATE BILL NO. 5106 with the following amendment(s): 5106-S.E AMH ENGR H2602.E

Strike everything after the enacting clause and insert the following:

**"Part One – Joel's Law Amendments**

**Sec. 1526.** RCW 71.05.201 and 2016 c 107 s 1 are each amended to read as follows:

(1) If a designated mental health professional decides not to detain a person for evaluation and treatment under RCW 71.05.150 or 71.05.153 or forty-eight hours have elapsed since a

designated mental health professional received a request for investigation and the designated mental health professional has not taken action to have the person detained, an immediate family member or guardian or conservator of the person may petition the superior court for the person's initial detention.

(2) A petition under this section must be filed within ten calendar days following the designated mental health professional investigation or the request for a designated mental health professional investigation. If more than ten days have elapsed, the immediate family member, guardian, or conservator may request a new designated mental health professional investigation.

(3)(a) The petition must be filed in the county in which the designated mental health professional investigation occurred or was requested to occur and must be submitted on forms developed by the administrative office of the courts for this purpose. The petition must be accompanied by a sworn declaration from the petitioner, and other witnesses if desired, describing why the person should be detained for evaluation and treatment. The description of why the person should be detained may contain, but is not limited to, the information identified in RCW 71.05.212.

(b) The petition must contain:

(i) A description of the relationship between the petitioner and the person; and

(ii) The date on which an investigation was requested from the designated mental health professional.

((3)) (4) The court shall, within one judicial day, review the petition to determine whether the petition raises sufficient evidence to support the allegation. If the court so finds, it shall provide a copy of the petition to the designated mental health professional agency with an order for the agency to provide the court, within one judicial day, with a written sworn statement describing the basis for the decision not to seek initial detention and a copy of all information material to the designated mental health professional's current decision.

((4)) (5) Following the filing of the petition and before the court reaches a decision, any person, including a mental health professional, may submit a sworn declaration to the court in support of or in opposition to initial detention.

((5)) (6) The court shall dismiss the petition at any time if it finds that a designated mental health professional has filed a petition for the person's initial detention under RCW 71.05.150 or 71.05.153 or that the person has voluntarily accepted appropriate treatment.

((6)) (7) The court must issue a final ruling on the petition within five judicial days after it is filed. After reviewing all of the information provided to the court, the court may enter an order for initial detention if the court finds that: (a) There is probable cause to support a petition for detention; and (b) the person has refused or failed to accept appropriate evaluation and treatment voluntarily. The court shall transmit its final decision to the petitioner.

((7)) (8) If the court enters an order for initial detention, it shall provide the order to the designated mental health professional agency ~~(, which shall execute the order without delay)~~ and issue a written order for apprehension of the person by a peace officer for delivery of the person to a facility or emergency room determined by the designated mental health professional. The designated mental health agency serving the jurisdiction of the court must collaborate and coordinate with law enforcement regarding apprehensions and detentions under this subsection, including sharing of information relating to risk and which would assist in locating the person. A person may not be detained to jail pursuant to a written order issued under this subsection. An order for detention under this section should contain the advisement of rights which the person would receive

if the person were detained by a designated mental health professional. An order for initial detention under this section expires one hundred eighty days from issuance.

((8)) (9) Except as otherwise expressly stated in this chapter, all procedures must be followed as if the order had been entered under RCW 71.05.150. RCW 71.05.160 does not apply if detention was initiated under the process set forth in this section.

((9)) (10) For purposes of this section, "immediate family member" means a spouse, domestic partner, child, stepchild, parent, stepparent, grandparent, or sibling.

**Sec. 1527.** RCW 71.05.201 and 2016 sp.s. c 29 s 222 and 2016 c 107 s 1 are each reenacted and amended to read as follows:

(1) If a designated crisis responder decides not to detain a person for evaluation and treatment under RCW 71.05.150 or 71.05.153 or forty-eight hours have elapsed since a designated crisis responder received a request for investigation and the designated crisis responder has not taken action to have the person detained, an immediate family member or guardian or conservator of the person may petition the superior court for the person's initial detention.

(2) A petition under this section must be filed within ten calendar days following the designated crisis responder investigation or the request for a designated crisis responder investigation. If more than ten days have elapsed, the immediate family member, guardian, or conservator may request a new designated crisis responder investigation.

(3)(a) The petition must be filed in the county in which the designated ~~(mental health professional)~~ crisis responder investigation occurred or was requested to occur and must be submitted on forms developed by the administrative office of the courts for this purpose. The petition must be accompanied by a sworn declaration from the petitioner, and other witnesses if desired, describing why the person should be detained for evaluation and treatment. The description of why the person should be detained may contain, but is not limited to, the information identified in RCW 71.05.212.

(b) The petition must contain:

(i) A description of the relationship between the petitioner and the person; and

(ii) The date on which an investigation was requested from the designated crisis responder.

((3)) (4) The court shall, within one judicial day, review the petition to determine whether the petition raises sufficient evidence to support the allegation. If the court so finds, it shall provide a copy of the petition to the designated crisis responder agency with an order for the agency to provide the court, within one judicial day, with a written sworn statement describing the basis for the decision not to seek initial detention and a copy of all information material to the designated crisis responder's current decision.

((4)) (5) Following the filing of the petition and before the court reaches a decision, any person, including a mental health professional, may submit a sworn declaration to the court in support of or in opposition to initial detention.

((5)) (6) The court shall dismiss the petition at any time if it finds that a designated crisis responder has filed a petition for the person's initial detention under RCW 71.05.150 or 71.05.153 or that the person has voluntarily accepted appropriate treatment.

((6)) (7) The court must issue a final ruling on the petition within five judicial days after it is filed. After reviewing all of the information provided to the court, the court may enter an order for initial detention if the court finds that: (a) There is probable cause to support a petition for detention; and (b) the person has refused or failed to accept appropriate evaluation and treatment voluntarily. The court shall transmit its final decision to the petitioner.

ONE HUNDRED FIRST DAY, APRIL 19, 2017

2017 REGULAR SESSION

~~((7))~~ (8) If the court enters an order for initial detention, it shall provide the order to the designated crisis responder agency ~~(, which shall execute the order without delay)~~ and issue a written order for apprehension of the person by a peace officer for delivery of the person to a facility or emergency room determined by the designated crisis responder. The designated crisis responder agency serving the jurisdiction of the court must collaborate and coordinate with law enforcement regarding apprehensions and detentions under this subsection, including sharing of information relating to risk and which would assist in locating the person. A person may not be detained to jail pursuant to a written order issued under this subsection. An order for detention under this section should contain the advisement of rights which the person would receive if the person were detained by a designated crisis responder. An order for initial detention under this section expires one hundred eighty days from issuance.

~~((8))~~ (9) Except as otherwise expressly stated in this chapter, all procedures must be followed as if the order had been entered under RCW 71.05.150. RCW 71.05.160 does not apply if detention was initiated under the process set forth in this section.

~~((9))~~ (10) For purposes of this section, "immediate family member" means a spouse, domestic partner, child, stepchild, parent, stepparent, grandparent, or sibling.

**Sec. 1528.** RCW 71.05.203 and 2015 c 258 s 3 are each amended to read as follows:

(1) The department and each ~~(regional support network)~~ behavioral health organization or agency employing designated mental health professionals shall publish information in an easily accessible format describing the process for an immediate family member, guardian, or conservator to petition for court review of a detention decision under RCW 71.05.201.

(2) A designated mental health professional or designated mental health professional agency that receives a request for investigation for possible detention under this chapter must inquire whether the request comes from an immediate family member, guardian, or conservator who would be eligible to petition under RCW 71.05.201. If the designated mental health professional decides not to detain the person for evaluation and treatment under RCW 71.05.150 or 71.05.153 or forty-eight hours have elapsed since the request for investigation was received and the designated mental health professional has not taken action to have the person detained, the designated mental health professional or designated mental health professional agency must inform the immediate family member, guardian, or conservator who made the request for investigation about the process to petition for court review under RCW 71.05.201.

(3) A designated mental health professional or designated mental health professional agency must, upon request, disclose the date of a designated mental health professional investigation under this chapter to an immediate family member, guardian, or conservator of a person to assist in the preparation of a petition under RCW 71.05.201.

**Sec. 1529.** RCW 71.05.203 and 2016 sp.s. c 29 s 223 are each amended to read as follows:

(1) The department and each behavioral health organization or agency employing designated crisis responders shall publish information in an easily accessible format describing the process for an immediate family member, guardian, or conservator to petition for court review of a detention decision under RCW 71.05.201.

(2) A designated crisis responder or designated crisis responder agency that receives a request for investigation for possible detention under this chapter must inquire whether the request comes from an immediate family member, guardian, or conservator who would be eligible to petition under RCW

71.05.201. If the designated crisis responder decides not to detain the person for evaluation and treatment under RCW 71.05.150 or 71.05.153 or forty-eight hours have elapsed since the request for investigation was received and the designated crisis responder has not taken action to have the person detained, the designated crisis responder or designated crisis responder agency must inform the immediate family member, guardian, or conservator who made the request for investigation about the process to petition for court review under RCW 71.05.201.

(3) A designated crisis responder or designated crisis responder agency must, upon request, disclose the date of a designated crisis responder investigation under this chapter to an immediate family member, guardian, or conservator of a person to assist in the preparation of a petition under RCW 71.05.201.

**NEW SECTION. Sec. 1530.** By December 15, 2017, the administrative office of the courts, in collaboration with stakeholders, including but not limited to judges, prosecutors, defense attorneys, the department of social and health services, behavioral health advocates, and families, shall: (1) Develop a user's guide to assist pro se litigants in the preparation and filing of a petition under RCW 71.05.201; and (2) develop a model order of detention under RCW 71.05.201 which contains an advisement of rights for the detained person.

**NEW SECTION. Sec. 1531.** Sections 1 and 3 of this act expire April 1, 2018.

**NEW SECTION. Sec. 1532.** Sections 2 and 4 of this act take effect April 1, 2018.

**Part Two – Less Restrictive Alternative Revocations**

**Sec. 1533.** RCW 71.05.590 and 2015 c 250 s 13 are each amended to read as follows:

(1) Either an agency or facility designated to monitor or provide services under a less restrictive alternative order or conditional release order, or a designated mental health professional, may take action to enforce, modify, or revoke a less restrictive alternative order or conditional release order ~~((if)).~~ The agency, facility, or designated mental health professional ~~((determines))~~ must determine that:

- (a) The person is failing to adhere to the terms and conditions of the court order;
- (b) Substantial deterioration in the person's functioning has occurred;
- (c) There is evidence of substantial decompensation with a reasonable probability that the decompensation can be reversed by further evaluation, intervention, or treatment; or
- (d) The person poses a likelihood of serious harm.

(2) Actions taken under this section must include a flexible range of responses of varying levels of intensity appropriate to the circumstances and consistent with the interests of the individual and the public in personal autonomy, safety, recovery, and compliance. Available actions may include, but are not limited to, any of the following:

- (a) To counsel ~~((,))~~ or advise ~~((, or admonish))~~ the person as to their rights and responsibilities under the court order, and to offer appropriate incentives to motivate compliance;
- (b) To increase the intensity of outpatient services provided to the person by increasing the frequency of contacts with the provider, referring the person for an assessment for assertive community services, or by other means;

~~((To request a court hearing for review and modification of the court order. The request must be made to the court with jurisdiction over the order and specify the circumstances that give rise to the request and what modification is being sought. The county prosecutor shall assist the agency or facility in requesting this hearing and issuing an appropriate summons to the person. This subsection does not limit the inherent authority of a~~

~~treatment provider to alter conditions of treatment for clinical reasons, and is intended to be used only when court intervention is necessary or advisable to secure the person's compliance and prevent decompensation or deterioration;~~

~~(d)) To cause the person to be transported by a peace officer, designated mental health professional, or other means to the agency or facility monitoring or providing services under the court order, or to a triage facility, crisis stabilization unit, emergency department, or evaluation and treatment facility for up to twelve hours for the purpose of an evaluation to determine whether modification, revocation, or commitment proceedings are necessary and appropriate to stabilize the person and prevent decompensation, deterioration, or physical harm. Temporary detention for evaluation under this subsection is intended to occur only following a pattern of noncompliance or the failure of reasonable attempts at outreach and engagement, and may occur only when in the clinical judgment of a designated mental health professional or the professional person in charge of an agency or facility designated to monitor less restrictive alternative services temporary detention is appropriate. This subsection does not limit the ability or obligation to pursue revocation or modification procedures under ~~(subsection (4) of)~~ this section in appropriate circumstances; and~~

~~((e)) (d) To initiate revocation or modification procedures under ~~(subsection (4) of)~~ this section. This subsection does not limit the inherent authority of a treatment provider to alter conditions of treatment for clinical reasons, and is intended to be used only when court intervention is necessary or advisable to secure the person's compliance and prevent decompensation or deterioration.~~

(3) The facility or agency designated to provide outpatient treatment shall notify the secretary or designated mental health professional when a person fails to adhere to terms and conditions of court ordered treatment or experiences substantial deterioration in his or her condition and, as a result, presents an increased likelihood of serious harm.

(4)(a) A designated mental health professional or the secretary may upon their own motion or notification by the facility or agency designated to provide outpatient care order a person subject to a court order under this section to be apprehended and taken into custody and temporary detention in an evaluation and treatment facility in or near the county in which he or she is receiving outpatient treatment, or initiate proceedings under ~~(this)~~ subsection ~~((4))~~ (5) of this section without ordering the apprehension and detention of the person.

(b) A person detained under this subsection (4) must be held until such time, not exceeding five days, as a hearing can be scheduled to determine whether or not the person should be returned to the hospital or facility from which he or she had been released. If the person is not detained, the hearing must be scheduled within five days of service on the person. The designated mental health professional or the secretary may modify or rescind the order at any time prior to commencement of the court hearing.

~~((e)) (5)(a) The designated mental health professional or secretary shall ~~(notify the court that originally ordered commitment within two judicial days of a person's detention and)~~ file a petition for revocation ~~(petition)~~ or modification and an order of apprehension and detention, if applicable, with the court ~~(and)~~ of the county where the person is currently located or being detained. The designated mental health professional shall serve the person and their attorney, guardian, and conservator, if any. The person has the same rights with respect to notice, hearing, and counsel as in any involuntary treatment proceeding, except as specifically set forth in this section. There is no right to jury trial. The venue for proceedings ~~(regarding a petition for~~~~

modification or revocation must be in) is the county ~~((in which))~~ where the petition ~~((was))~~ is filed. Notice of the filing must be provided to the court that originally ordered commitment, if different from the court where the petition for revocation or modification is filed, within two judicial days of the person's detention.

~~((4)) (b) The issues for the court to determine are whether: (i) The person adhered to the terms and conditions of the court order; (ii) substantial deterioration in the person's functioning has occurred; (iii) there is evidence of substantial decompensation with a reasonable probability that the decompensation can be reversed by further inpatient treatment; or (iv) there is a likelihood of serious harm; and, if any of the above conditions apply, whether the court should reinstate or modify the person's less restrictive alternative or conditional release order or order the person's detention for inpatient treatment. The person may waive the court hearing and allow the court to enter a stipulated order upon the agreement of all parties. If the court orders detention for inpatient treatment, the treatment period may be for no longer than the period authorized in the original court order.~~

~~((e)) (c) Revocation proceedings under this subsection ~~((4))~~ (5) are not allowable if the current commitment is solely based on the person being in need of assisted outpatient mental health treatment. In order to obtain a court order for detention for inpatient treatment under this circumstance, a petition must be filed under RCW 71.05.150 or 71.05.153.~~

~~((5)) (6) In determining whether or not to take action under this section the designated mental health professional, agency, or facility must consider the factors specified under RCW 71.05.212 and the court must consider the factors specified under RCW 71.05.245 as they apply to the question of whether to enforce, modify, or revoke a court order for involuntary treatment.~~

**Sec. 1534.** RCW 71.05.590 and 2016 sp.s. c 29 s 242 are each amended to read as follows:

(1) Either an agency or facility designated to monitor or provide services under a less restrictive alternative order or conditional release order, or a designated crisis responder, may take action to enforce, modify, or revoke a less restrictive alternative order or conditional release order ~~((#))~~. The agency, facility, or designated crisis responder ~~((determines))~~ must determine that:

(a) The person is failing to adhere to the terms and conditions of the court order;

(b) Substantial deterioration in the person's functioning has occurred;

(c) There is evidence of substantial decompensation with a reasonable probability that the decompensation can be reversed by further evaluation, intervention, or treatment; or

(d) The person poses a likelihood of serious harm.

(2) Actions taken under this section must include a flexible range of responses of varying levels of intensity appropriate to the circumstances and consistent with the interests of the individual and the public in personal autonomy, safety, recovery, and compliance. Available actions may include, but are not limited to, any of the following:

(a) To counsel ~~((;))~~ or advise ~~((or admonish))~~ the person as to their rights and responsibilities under the court order, and to offer appropriate incentives to motivate compliance;

(b) To increase the intensity of outpatient services provided to the person by increasing the frequency of contacts with the provider, referring the person for an assessment for assertive community services, or by other means;

~~((To request a court hearing for review and modification of the court order. The request must be made to the court with jurisdiction over the order and specify the circumstances that give rise to the request and what modification is being sought. The~~

ONE HUNDRED FIRST DAY, APRIL 19, 2017

2017 REGULAR SESSION

~~county prosecutor shall assist the agency or facility in requesting this hearing and issuing an appropriate summons to the person. This subsection does not limit the inherent authority of a treatment provider to alter conditions of treatment for clinical reasons, and is intended to be used only when court intervention is necessary or advisable to secure the person's compliance and prevent decompensation or deterioration;~~

~~(d))~~ To cause the person to be transported by a peace officer, designated crisis responder, or other means to the agency or facility monitoring or providing services under the court order, or to a triage facility, crisis stabilization unit, emergency department, or to an evaluation and treatment facility if the person is committed for mental health treatment, or to a secure detoxification facility with available space or an approved substance use disorder treatment program with available space if the person is committed for substance use disorder treatment. The person may be detained at the facility for up to twelve hours for the purpose of an evaluation to determine whether modification, revocation, or commitment proceedings are necessary and appropriate to stabilize the person and prevent decompensation, deterioration, or physical harm. Temporary detention for evaluation under this subsection is intended to occur only following a pattern of noncompliance or the failure of reasonable attempts at outreach and engagement, and may occur only when in the clinical judgment of a designated crisis responder or the professional person in charge of an agency or facility designated to monitor less restrictive alternative services temporary detention is appropriate. This subsection does not limit the ability or obligation to pursue revocation or modification procedures under ~~((subsection (4) of))~~ this section in appropriate circumstances; and

~~((e))~~ (d) To initiate revocation or modification procedures under ~~((subsection (4) of))~~ this section. This subsection does not limit the inherent authority of a treatment provider to alter conditions of treatment for clinical reasons, and is intended to be used only when court intervention is necessary or advisable to secure the person's compliance and prevent decompensation or deterioration.

(3) The facility or agency designated to provide outpatient treatment shall notify the secretary or designated crisis responder when a person fails to adhere to terms and conditions of court ordered treatment or experiences substantial deterioration in his or her condition and, as a result, presents an increased likelihood of serious harm.

(4)(a) A designated crisis responder or the secretary may upon their own motion or notification by the facility or agency designated to provide outpatient care order a person subject to a court order under this chapter to be apprehended and taken into custody and temporary detention in an evaluation and treatment facility in or near the county in which he or she is receiving outpatient treatment if the person is committed for mental health treatment, or, if the person is committed for substance use disorder treatment, in a secure detoxification facility or approved substance use disorder treatment program if either is available in or near the county in which he or she is receiving outpatient treatment and has adequate space. Proceedings under ~~((this))~~ subsection ~~((4))~~ (5) of this section may be initiated without ordering the apprehension and detention of the person.

(b) A person detained under this subsection (4) must be held until such time, not exceeding five days, as a hearing can be scheduled to determine whether or not the person should be returned to the hospital or facility from which he or she had been released. If the person is not detained, the hearing must be scheduled within five days of service on the person. The designated crisis responder or the secretary may modify or

rescind the order at any time prior to commencement of the court hearing.

~~((e))~~ (5)(a) The designated crisis responder or secretary shall ~~((notify the court that originally ordered commitment within two judicial days of a person's detention and))~~ file a petition for revocation ((petition)) or modification and an order of apprehension and detention, if applicable, with the court ~~((and))~~ of the county where the person is currently located or being detained. The designated crisis responder shall serve the person and their attorney, guardian, and conservator, if any. The person has the same rights with respect to notice, hearing, and counsel as in any involuntary treatment proceeding, except as specifically set forth in this section. There is no right to jury trial. The venue for proceedings ~~((regarding a petition for modification or revocation must be in))~~ is the county ((in which)) where the petition ((was)) is filed. Notice of the filing must be provided to the court that originally ordered commitment, if different from the court where the petition for revocation or modification is filed, within two judicial days of the person's detention.

~~((4))~~ (b) The issues for the court to determine are whether: (i) The person adhered to the terms and conditions of the court order; (ii) substantial deterioration in the person's functioning has occurred; (iii) there is evidence of substantial decompensation with a reasonable probability that the decompensation can be reversed by further inpatient treatment; or (iv) there is a likelihood of serious harm; and, if any of the above conditions apply, whether the court should reinstate or modify the person's less restrictive alternative or conditional release order or order the person's detention for inpatient treatment. The person may waive the court hearing and allow the court to enter a stipulated order upon the agreement of all parties. If the court orders detention for inpatient treatment, the treatment period may be for no longer than the period authorized in the original court order. A court may not issue an order to detain a person for inpatient treatment in a secure detoxification facility or approved substance use disorder treatment program under this subsection unless there is a secure detoxification facility or approved substance use disorder treatment program available and with adequate space for the person.

~~((e))~~ (c) Revocation proceedings under this subsection ~~((4))~~ (5) are not allowable if the current commitment is solely based on the person being in need of assisted outpatient mental health treatment. In order to obtain a court order for detention for inpatient treatment under this circumstance, a petition must be filed under RCW 71.05.150 or 71.05.153.

~~((5))~~ (6) In determining whether or not to take action under this section the designated crisis responder, agency, or facility must consider the factors specified under RCW 71.05.212 and the court must consider the factors specified under RCW 71.05.245 as they apply to the question of whether to enforce, modify, or revoke a court order for involuntary treatment.

**Sec. 1535.** RCW 71.05.590 and 2016 sp.s. c 29 s 243 are each amended to read as follows:

(1) Either an agency or facility designated to monitor or provide services under a less restrictive alternative order or conditional release order, or a designated crisis responder, may take action to enforce, modify, or revoke a less restrictive alternative order or conditional release order ~~((#))~~. The agency, facility, or designated crisis responder ((determines)) must determine that:

(a) The person is failing to adhere to the terms and conditions of the court order;

(b) Substantial deterioration in the person's functioning has occurred;



(c) There is evidence of substantial decompensation with a reasonable probability that the decompensation can be reversed by further evaluation, intervention, or treatment; or

(d) The person poses a likelihood of serious harm.

(2) Actions taken under this section must include a flexible range of responses of varying levels of intensity appropriate to the circumstances and consistent with the interests of the individual and the public in personal autonomy, safety, recovery, and compliance. Available actions may include, but are not limited to, any of the following:

(a) To counsel~~((7))~~ or advise~~((7-or-admonish))~~ the person as to their rights and responsibilities under the court order, and to offer appropriate incentives to motivate compliance;

(b) To increase the intensity of outpatient services provided to the person by increasing the frequency of contacts with the provider, referring the person for an assessment for assertive community services, or by other means;

~~(c) ((To request a court hearing for review and modification of the court order. The request must be made to the court with jurisdiction over the order and specify the circumstances that give rise to the request and what modification is being sought. The county prosecutor shall assist the agency or facility in requesting this hearing and issuing an appropriate summons to the person. This subsection does not limit the inherent authority of a treatment provider to alter conditions of treatment for clinical reasons, and is intended to be used only when court intervention is necessary or advisable to secure the person's compliance and prevent decompensation or deterioration;~~

~~((d))~~ To cause the person to be transported by a peace officer, designated crisis responder, or other means to the agency or facility monitoring or providing services under the court order, or to a triage facility, crisis stabilization unit, emergency department, or to an evaluation and treatment facility if the person is committed for mental health treatment, or to a secure detoxification facility or an approved substance use disorder treatment program if the person is committed for substance use disorder treatment. The person may be detained at the facility for up to twelve hours for the purpose of an evaluation to determine whether modification, revocation, or commitment proceedings are necessary and appropriate to stabilize the person and prevent decompensation, deterioration, or physical harm. Temporary detention for evaluation under this subsection is intended to occur only following a pattern of noncompliance or the failure of reasonable attempts at outreach and engagement, and may occur only when in the clinical judgment of a designated crisis responder or the professional person in charge of an agency or facility designated to monitor less restrictive alternative services temporary detention is appropriate. This subsection does not limit the ability or obligation to pursue revocation or modification procedures under ~~((subsection (4) of))~~ this section in appropriate circumstances; and

~~((e))~~ (d) To initiate revocation or modification procedures under ((subsection (4) of)) this section. This subsection does not limit the inherent authority of a treatment provider to alter conditions of treatment for clinical reasons, and is intended to be used only when court intervention is necessary or advisable to secure the person's compliance and prevent decompensation or deterioration.

(3) The facility or agency designated to provide outpatient treatment shall notify the secretary or designated crisis responder when a person fails to adhere to terms and conditions of court ordered treatment or experiences substantial deterioration in his or her condition and, as a result, presents an increased likelihood of serious harm.

(4)(a) A designated crisis responder or the secretary may upon their own motion or notification by the facility or agency

designated to provide outpatient care order a person subject to a court order under this chapter to be apprehended and taken into custody and temporary detention in an evaluation and treatment facility in or near the county in which he or she is receiving outpatient treatment if the person is committed for mental health treatment, or, if the person is committed for substance use disorder treatment, in a secure detoxification facility or approved substance use disorder treatment program if either is available in or near the county in which he or she is receiving outpatient treatment. Proceedings under ~~((this))~~ subsection ~~((4))~~ (5) of this section may be initiated without ordering the apprehension and detention of the person.

(b) A person detained under this subsection (4) must be held until such time, not exceeding five days, as a hearing can be scheduled to determine whether or not the person should be returned to the hospital or facility from which he or she had been released. If the person is not detained, the hearing must be scheduled within five days of service on the person. The designated crisis responder or the secretary may modify or rescind the order at any time prior to commencement of the court hearing.

~~((e))~~ (5)(a) The designated crisis responder or secretary shall ((notify the court that originally ordered commitment within two judicial days of a person's detention and)) file a petition for revocation ((petition)) or modification and an order of apprehension and detention, if applicable, with the court ((and)) of the county where the person is currently located or being detained. The designated crisis responder shall serve the person and their attorney, guardian, and conservator, if any. The person has the same rights with respect to notice, hearing, and counsel as in any involuntary treatment proceeding, except as specifically set forth in this section. There is no right to jury trial. The venue for proceedings ((regarding a petition for modification or revocation must be in)) is the county ((in which)) where the petition ((was)) is filed. Notice of the filing must be provided to the court that originally ordered commitment, if different from the court where the petition for revocation or modification is filed, within two judicial days of the person's detention.

~~((d))~~ (b) The issues for the court to determine are whether: (i) The person adhered to the terms and conditions of the court order; (ii) substantial deterioration in the person's functioning has occurred; (iii) there is evidence of substantial decompensation with a reasonable probability that the decompensation can be reversed by further inpatient treatment; or (iv) there is a likelihood of serious harm; and, if any of the above conditions apply, whether the court should reinstate or modify the person's less restrictive alternative or conditional release order or order the person's detention for inpatient treatment. The person may waive the court hearing and allow the court to enter a stipulated order upon the agreement of all parties. If the court orders detention for inpatient treatment, the treatment period may be for no longer than the period authorized in the original court order.

~~((e))~~ (c) Revocation proceedings under this subsection ((4)) (5) are not allowable if the current commitment is solely based on the person being in need of assisted outpatient mental health treatment. In order to obtain a court order for detention for inpatient treatment under this circumstance, a petition must be filed under RCW 71.05.150 or 71.05.153.

~~((5))~~ (6) In determining whether or not to take action under this section the designated crisis responder, agency, or facility must consider the factors specified under RCW 71.05.212 and the court must consider the factors specified under RCW 71.05.245 as they apply to the question of whether to enforce, modify, or revoke a court order for involuntary treatment.

### Part Three – Initial Detention Investigations

**Sec. 1536.** RCW 71.05.154 and 2013 c 334 s 1 are each amended to read as follows:

~~((A))~~ If a person subject to evaluation under RCW 71.05.150 or 71.05.153 is located in an emergency room at the time of evaluation, the designated mental health professional conducting ~~((an))~~ the evaluation ~~((of a person under RCW 71.05.150 or 71.05.153 must consult with any examining emergency room physician regarding the physician's observations and opinions relating to the person's condition, and whether, in the view of the physician, detention is appropriate. The designated mental health professional))~~ shall take serious consideration of observations and opinions by an examining emergency room physician ~~((s)),~~ advanced registered nurse practitioner, or physician assistant in determining whether detention under this chapter is appropriate. The designated mental health professional must document ~~((the))~~ his or her consultation with ~~((an examining emergency room physician))~~ this professional, ~~((including))~~ if the professional is available, or his or her review of the ~~((physician's))~~ professional's written observations or opinions regarding whether detention of the person is appropriate.

**Sec. 1537.** RCW 71.05.154 and 2016 sp.s. c 29 s 214 are each amended to read as follows:

~~((A))~~ If a person subject to evaluation under RCW 71.05.150 or 71.05.153 is located in an emergency room at the time of evaluation, the designated crisis responder conducting ~~((an))~~ the evaluation ~~((of a person under RCW 71.05.150 or 71.05.153 must consult with any examining emergency room physician regarding the physician's observations and opinions relating to the person's condition, and whether, in the view of the physician, detention is appropriate. The designated crisis responder))~~ shall take serious consideration of observations and opinions by an examining emergency room physician ~~((s)),~~ advanced registered nurse practitioner, or physician assistant in determining whether detention under this chapter is appropriate. The designated crisis responder must document ~~((the))~~ his or her consultation with ~~((an examining emergency room physician))~~ this professional, ~~((including))~~ if the professional is available, or his or her review of the ~~((physician's))~~ professional's written observations or opinions regarding whether detention of the person is appropriate.

**Part Four – Evaluation and Petition by Chemical Dependency Professionals**

**Sec. 1538.** RCW 70.96A.140 and 2016 sp.s. c 29 s 102 are each amended to read as follows:

(1)(a) When a designated chemical dependency specialist receives information alleging that a person presents a likelihood of serious harm or is gravely disabled as a result of ~~((chemical dependency))~~ a substance use disorder, the designated chemical dependency specialist, after investigation and evaluation of the specific facts alleged and of the reliability and credibility of the information, may file a petition for commitment of such person with the superior court, district court, or in another court permitted by court rule.

If a petition for commitment is not filed in the case of a minor, the parent, guardian, or custodian who has custody of the minor may seek review of that decision made by the designated chemical dependency specialist in superior or district court. The parent, guardian, or custodian shall file notice with the court and provide a copy of the designated chemical dependency specialist's report.

If the designated chemical dependency specialist finds that the initial needs of such person would be better served by placement within the mental health system, the person shall be referred to either a designated mental health professional or an evaluation and treatment facility as defined in RCW 71.05.020 or 71.34.020.

(b) If placement in a ~~((chemical dependency))~~ substance use disorder treatment program is available and deemed appropriate, the petition shall allege that: The person is chemically dependent and presents a likelihood of serious harm or is gravely disabled by alcohol or drug addiction, or that the person has twice before in the preceding twelve months been admitted for withdrawal management, sobering services, or ~~((chemical dependency))~~ substance use disorder treatment pursuant to RCW 70.96A.110 or 70.96A.120, and is in need of a more sustained treatment program, or that the person ~~((is chemically dependent))~~ has a substance use disorder and has threatened, attempted, or inflicted physical harm on another and is likely to inflict physical harm on another unless committed. A refusal to undergo treatment, by itself, does not constitute evidence of lack of judgment as to the need for treatment.

(c) If involuntary detention is sought, the petition must state facts that support a finding of the grounds identified in (b) of this subsection and that there are no less restrictive alternatives to detention in the best interest of such person or others. The petition must state specifically that less restrictive alternative treatment was considered and specify why treatment less restrictive than detention is not appropriate. If an involuntary less restrictive alternative is sought, the petition must state facts that support a finding of the grounds for commitment identified in (b) of this subsection and set forth the proposed less restrictive alternative.

(d)(i) The petition must be signed by:

(A) ~~((Two physicians;))~~ One physician, physician assistant, or psychiatric advanced registered nurse practitioner; and

(B) ~~((One physician and a mental health professional;))~~

~~((C) One physician assistant and a mental health professional; or~~

~~((D) One psychiatric advanced registered nurse practitioner and a mental health professional.~~

~~((ii))~~ The persons signing the petition must have examined the person One physician, physician assistant, psychiatric advanced registered nurse practitioner, or designated chemical dependency specialist.

(2) Upon filing the petition, the court shall fix a date for a hearing no less than two and no more than seven days after the date the petition was filed unless the person petitioned against is presently being detained in a program, pursuant to RCW 70.96A.120, 71.05.210, or 71.34.710, in which case the hearing shall be held within seventy-two hours of the filing of the petition ~~((: PROVIDED, HOWEVER, That))~~ The ~~((above specified))~~ seventy-two hours shall be computed by excluding Saturdays, Sundays, and holidays ~~((: PROVIDED FURTHER, That))~~ The court may, upon motion of the person whose commitment is sought, or upon motion of petitioner with written permission of the person whose commitment is sought, or his or her counsel and, upon good cause shown, extend the date for the hearing. A copy of the petition and of the notice of the hearing, including the date fixed by the court, shall be served ~~((by the designated chemical dependency specialist))~~ on the person whose commitment is sought, his or her next of kin, a parent or his or her legal guardian if he or she is a minor, and any other person the court believes advisable. A copy of the petition and certificate shall be delivered to each person notified.

(3) At the hearing the court shall hear all relevant testimony including, if possible, the testimony, which may be telephonic, of at least one licensed physician, psychiatric advanced registered nurse practitioner, physician assistant, or ~~((mental health professional))~~ designated chemical dependency specialist who has examined the person whose commitment is sought. Communications otherwise deemed privileged under the laws of this state are deemed to be waived in proceedings under this

chapter when a court of competent jurisdiction in its discretion determines that the waiver is necessary to protect either the detained person or the public. The waiver of a privilege under this section is limited to records or testimony relevant to evaluation of the detained person for purposes of a proceeding under this chapter. Upon motion by the detained person, or on its own motion, the court shall examine a record or testimony sought by a petitioner to determine whether it is within the scope of the waiver.

The record maker shall not be required to testify in order to introduce medical, nursing, or psychological records of detained persons so long as the requirements of RCW 5.45.020 are met, except that portions of the record that contain opinions as to whether the detained person (~~(is chemically dependent)~~) has a substance use disorder shall be deleted from the records unless the person offering the opinions is available for cross-examination. The person shall be present unless the court believes that his or her presence is likely to be injurious to him or her; in this event the court may deem it appropriate to appoint a guardian ad litem to represent him or her throughout the proceeding. If deemed advisable, the court may examine the person out of courtroom. If the person has refused to be examined by a licensed physician, psychiatric advanced registered nurse practitioner, physician assistant, or (~~(mental health professional)~~) designated chemical dependency specialist, he or she shall be given an opportunity to be examined by a court appointed licensed physician, psychiatric advanced registered nurse practitioner, physician assistant, or other professional person qualified to provide such services. If he or she refuses and there is sufficient evidence to believe that the allegations of the petition are true, or if the court believes that more medical evidence is necessary, the court may make a temporary order committing him or her to the department for a period of not more than five days for purposes of a diagnostic examination.

(4)(a) If, after hearing all relevant evidence, including the results of any diagnostic examination, the court finds that grounds for involuntary commitment have been established by a preponderance of the evidence and, after considering less restrictive alternatives to involuntary detention and treatment, finds that no such alternatives are in the best interest of the person or others, it shall make an order of commitment to an approved substance use disorder treatment program. It shall not order commitment of a person unless it determines that an approved substance use disorder treatment program is available and able to provide adequate and appropriate treatment for him or her.

(b) If the court finds that the grounds for commitment have been established by a preponderance of the evidence, but that treatment in a less restrictive setting than detention is in the best interest of such person or others, the court shall order an appropriate less restrictive course of treatment. The less restrictive order may impose treatment conditions and other conditions that are in the best interest of the respondent and others. A copy of the less restrictive order must be given to the respondent, the designated chemical dependency specialist, and any program designated to provide less restrictive treatment. If the program designated to provide the less restrictive treatment is other than the program providing the initial involuntary treatment, the program so designated must agree in writing to assume such responsibility. The court may not order commitment of a person to a less restrictive course of treatment unless it determines that an approved substance use disorder treatment program is available and able to provide adequate and appropriate treatment for him or her.

(5) A person committed to inpatient treatment under this section shall remain in the program for treatment for a period of fourteen days unless sooner discharged. A person committed to a

less restrictive course of treatment under this section shall remain in the program of treatment for a period of ninety days unless sooner discharged. At the end of the fourteen-day period, or ninety-day period in the case of a less restrictive alternative to inpatient treatment, he or she shall be discharged automatically unless the program or the designated chemical dependency specialist, before expiration of the period, files a petition for his or her recommitment upon the grounds set forth in subsection (1) of this section for a further period of ninety days of inpatient treatment or ninety days of less restrictive alternative treatment unless sooner discharged. The petition for ninety-day inpatient or less restrictive alternative treatment must be filed with the clerk of the court at least three days before expiration of the fourteen-day period of intensive treatment.

If a petition for recommitment is not filed in the case of a minor, the parent, guardian, or custodian who has custody of the minor may seek review of that decision made by the designated chemical dependency specialist in superior or district court. The parent, guardian, or custodian shall file notice with the court and provide a copy of the treatment progress report.

If a person has been committed because he or she (~~(is chemically dependent)~~) has a substance use disorder and is likely to inflict physical harm on another, the program or designated chemical dependency specialist shall apply for recommitment if after examination it is determined that the likelihood still exists.

(6) Upon the filing of a petition for recommitment under subsection (5) of this section, the court shall fix a date for hearing no less than two and no more than seven days after the date the petition was filed (~~(- PROVIDED, That,)~~). The court may, upon motion of the person whose commitment is sought and upon good cause shown, extend the date for the hearing. A copy of the petition and of the notice of hearing, including the date fixed by the court, shall be served by the treatment program on the person whose commitment is sought, his or her next of kin, the original petitioner under subsection (1) of this section if different from the petitioner for recommitment, one of his or her parents or his or her legal guardian if he or she is a minor, and his or her attorney and any other person the court believes advisable. At the hearing the court shall proceed as provided in subsections (3) and (4) of this section, except that the burden of proof upon a hearing for recommitment must be proof by clear, cogent, and convincing evidence.

(7) The approved substance use disorder treatment program shall provide for adequate and appropriate treatment of a person committed to its custody on an inpatient or outpatient basis. A person committed under this section may be transferred from one approved public treatment program to another if transfer is medically advisable.

(8) A person committed to a program for treatment shall be discharged at any time before the end of the period for which he or she has been committed and he or she shall be discharged by order of the court if either of the following conditions are met:

(a) In case of a (~~(chemically dependent)~~) person with a substance use disorder committed on the grounds of likelihood of infliction of physical harm upon himself, herself, or another, the likelihood no longer exists; or further treatment will not be likely to bring about significant improvement in the person's condition, or treatment is no longer adequate or appropriate.

(b) In case of a (~~(chemically dependent)~~) person with a substance use disorder committed on the grounds of the need of treatment and incapacity, that the incapacity no longer exists.

(9) The court shall inform the person whose commitment or recommitment is sought of his or her right to contest the application, be represented by counsel at every stage of any proceedings relating to his or her commitment and recommitment, and have counsel appointed by the court or

ONE HUNDRED FIRST DAY, APRIL 19, 2017

2017 REGULAR SESSION

provided by the court, if he or she wants the assistance of counsel and is unable to obtain counsel. If the court believes that the person needs the assistance of counsel, the court shall require, by appointment if necessary, counsel for him or her regardless of his or her wishes. The person shall, if he or she is financially able, bear the costs of such legal service; otherwise such legal service shall be at public expense. The person whose commitment or recommitment is sought shall be informed of his or her right to be examined by a licensed physician, psychiatric advanced registered nurse practitioner, physician assistant, designated chemical dependency specialist, or other professional person of his or her choice who is qualified to provide such services. If the person is unable to obtain a qualified person and requests an examination, the court shall employ a licensed physician, psychiatric advanced registered nurse practitioner, physician assistant, designated chemical dependency specialist, or other professional person to conduct an examination and testify on behalf of the person.

(10) A person committed under this chapter may at any time seek to be discharged from commitment by writ of habeas corpus in a court of competent jurisdiction.

(11) The venue for proceedings under this section is the county in which person to be committed resides or is present.

(12) When in the opinion of the professional person in charge of the program providing involuntary inpatient treatment under this chapter, the committed patient can be appropriately served by less restrictive treatment before expiration of the period of commitment, then the less restrictive care may be required as a condition for early release for a period which, when added to the initial treatment period, does not exceed the period of commitment. If the program designated to provide the less restrictive treatment is other than the program providing the initial involuntary treatment, the program so designated must agree in writing to assume such responsibility. A copy of the conditions for early release shall be given to the patient, the designated chemical dependency specialist of original commitment, and the court of original commitment. The program designated to provide less restrictive care may modify the conditions for continued release when the modifications are in the best interests of the patient. If the program providing less restrictive care and the designated chemical dependency specialist determine that a conditionally released patient is failing to adhere to the terms and conditions of his or her release, or that substantial deterioration in the patient's functioning has occurred, then the designated chemical dependency specialist shall notify the court of original commitment and request a hearing to be held no less than two and no more than seven days after the date of the request to determine whether or not the person should be returned to more restrictive care. The designated chemical dependency specialist shall file a petition with the court stating the facts substantiating the need for the hearing along with the treatment recommendations. The patient shall have the same rights with respect to notice, hearing, and counsel as for the original involuntary treatment proceedings. The issues to be determined at the hearing are whether the conditionally released patient did or did not adhere to the terms and conditions of his or her release to less restrictive care or that substantial deterioration of the patient's functioning has occurred and whether the conditions of release should be modified or the person should be returned to a more restrictive program. The hearing may be waived by the patient and his or her counsel and his or her guardian or conservator, if any, but may not be waived unless all such persons agree to the waiver. Upon waiver, the person may be returned for involuntary treatment or continued on conditional release on the same or modified conditions. The grounds and procedures for revocation of less restrictive

alternative treatment ordered by the court must be the same as those set forth in this section for less restrictive care arranged by an approved substance use disorder treatment program as a condition for early release.

**Sec. 1539.** RCW 71.05.020 and 2016 sp.s. c 29 s 204 and 2016 c 155 s 1 are each reenacted and amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Admission" or "admit" means a decision by a physician, physician assistant, or psychiatric advanced registered nurse practitioner that a person should be examined or treated as a patient in a hospital;

(2) "Alcoholism" means a disease, characterized by a dependency on alcoholic beverages, loss of control over the amount and circumstances of use, symptoms of tolerance, physiological or psychological withdrawal, or both, if use is reduced or discontinued, and impairment of health or disruption of social or economic functioning;

(3) "Antipsychotic medications" means that class of drugs primarily used to treat serious manifestations of mental illness associated with thought disorders, which includes, but is not limited to atypical antipsychotic medications;

(4) "Approved substance use disorder treatment program" means a program for persons with a substance use disorder provided by a treatment program certified by the department as meeting standards adopted under chapter 71.24 RCW;

(5) "Attending staff" means any person on the staff of a public or private agency having responsibility for the care and treatment of a patient;

(6) "Chemical dependency" means:

(a) Alcoholism;

(b) Drug addiction; or

(c) Dependence on alcohol and one or more psychoactive chemicals, as the context requires;

(7) "Chemical dependency professional" means a person certified as a chemical dependency professional by the department of health under chapter 18.205 RCW;

(8) "Commitment" means the determination by a court that a person should be detained for a period of either evaluation or treatment, or both, in an inpatient or a less restrictive setting;

(9) "Conditional release" means a revocable modification of a commitment, which may be revoked upon violation of any of its terms;

(10) "Crisis stabilization unit" means a short-term facility or a portion of a facility licensed by the department of health and certified by the department of social and health services under RCW 71.24.035, such as an evaluation and treatment facility or a hospital, which has been designed to assess, diagnose, and treat individuals experiencing an acute crisis without the use of long-term hospitalization;

(11) "Custody" means involuntary detention under the provisions of this chapter or chapter 10.77 RCW, uninterrupted by any period of unconditional release from commitment from a facility providing involuntary care and treatment;

(12) "Department" means the department of social and health services;

(13) "Designated crisis responder" means a mental health professional appointed by the behavioral health organization to perform the duties specified in this chapter;

(14) "Detention" or "detain" means the lawful confinement of a person, under the provisions of this chapter;

(15) "Developmental disabilities professional" means a person who has specialized training and three years of experience in directly treating or working with persons with developmental disabilities and is a psychiatrist, physician assistant working with

a supervising psychiatrist, psychologist, psychiatric advanced registered nurse practitioner, or social worker, and such other developmental disabilities professionals as may be defined by rules adopted by the secretary;

(16) "Developmental disability" means that condition defined in RCW 71A.10.020(5);

(17) "Discharge" means the termination of hospital medical authority. The commitment may remain in place, be terminated, or be amended by court order;

(18) "Drug addiction" means a disease, characterized by a dependency on psychoactive chemicals, loss of control over the amount and circumstances of use, symptoms of tolerance, physiological or psychological withdrawal, or both, if use is reduced or discontinued, and impairment of health or disruption of social or economic functioning;

(19) "Evaluation and treatment facility" means any facility which can provide directly, or by direct arrangement with other public or private agencies, emergency evaluation and treatment, outpatient care, and timely and appropriate inpatient care to persons suffering from a mental disorder, and which is certified as such by the department. The department may certify single beds as temporary evaluation and treatment beds under RCW 71.05.745. A physically separate and separately operated portion of a state hospital may be designated as an evaluation and treatment facility. A facility which is part of, or operated by, the department or any federal agency will not require certification. No correctional institution or facility, or jail, shall be an evaluation and treatment facility within the meaning of this chapter;

(20) "Gravely disabled" means a condition in which a person, as a result of a mental disorder, or as a result of the use of alcohol or other psychoactive chemicals: (a) Is in danger of serious physical harm resulting from a failure to provide for his or her essential human needs of health or safety; or (b) manifests severe deterioration in routine functioning evidenced by repeated and escalating loss of cognitive or volitional control over his or her actions and is not receiving such care as is essential for his or her health or safety;

(21) "Habilitative services" means those services provided by program personnel to assist persons in acquiring and maintaining life skills and in raising their levels of physical, mental, social, and vocational functioning. Habilitative services include education, training for employment, and therapy. The habilitative process shall be undertaken with recognition of the risk to the public safety presented by the person being assisted as manifested by prior charged criminal conduct;

(22) "History of one or more violent acts" refers to the period of time ten years prior to the filing of a petition under this chapter, excluding any time spent, but not any violent acts committed, in a mental health facility, a long-term alcoholism or drug treatment facility, or in confinement as a result of a criminal conviction;

(23) "Imminent" means the state or condition of being likely to occur at any moment or near at hand, rather than distant or remote;

(24) "Individualized service plan" means a plan prepared by a developmental disabilities professional with other professionals as a team, for a person with developmental disabilities, which shall state:

(a) The nature of the person's specific problems, prior charged criminal behavior, and habilitation needs;

(b) The conditions and strategies necessary to achieve the purposes of habilitation;

(c) The intermediate and long-range goals of the habilitation program, with a projected timetable for the attainment;

(d) The rationale for using this plan of habilitation to achieve those intermediate and long-range goals;

(e) The staff responsible for carrying out the plan;

(f) Where relevant in light of past criminal behavior and due consideration for public safety, the criteria for proposed movement to less-restrictive settings, criteria for proposed eventual discharge or release, and a projected possible date for discharge or release; and

(g) The type of residence immediately anticipated for the person and possible future types of residences;

(25) "Information related to mental health services" means all information and records compiled, obtained, or maintained in the course of providing services to either voluntary or involuntary recipients of services by a mental health service provider. This may include documents of legal proceedings under this chapter or chapter 71.34 or 10.77 RCW, or somatic health care information;

(26) "Intoxicated person" means a person whose mental or physical functioning is substantially impaired as a result of the use of alcohol or other psychoactive chemicals;

(27) "In need of assisted outpatient mental health treatment" means that a person, as a result of a mental disorder: (a) Has been committed by a court to detention for involuntary mental health treatment at least twice during the preceding thirty-six months, or, if the person is currently committed for involuntary mental health treatment, the person has been committed to detention for involuntary mental health treatment at least once during the thirty-six months preceding the date of initial detention of the current commitment cycle; (b) is unlikely to voluntarily participate in outpatient treatment without an order for less restrictive alternative treatment, in view of the person's treatment history or current behavior; (c) is unlikely to survive safely in the community without supervision; (d) is likely to benefit from less restrictive alternative treatment; and (e) requires less restrictive alternative treatment to prevent a relapse, decompensation, or deterioration that is likely to result in the person presenting a likelihood of serious harm or the person becoming gravely disabled within a reasonably short period of time. For purposes of (a) of this subsection, time spent in a mental health facility or in confinement as a result of a criminal conviction is excluded from the thirty-six month calculation;

(28) "Judicial commitment" means a commitment by a court pursuant to the provisions of this chapter;

(29) "Legal counsel" means attorneys and staff employed by county prosecutor offices or the state attorney general acting in their capacity as legal representatives of public mental health and substance use disorder service providers under RCW 71.05.130;

(30) "Less restrictive alternative treatment" means a program of individualized treatment in a less restrictive setting than inpatient treatment that includes the services described in RCW 71.05.585;

(31) "Licensed physician" means a person licensed to practice medicine or osteopathic medicine and surgery in the state of Washington;

(32) "Likelihood of serious harm" means:

(a) A substantial risk that: (i) Physical harm will be inflicted by a person upon his or her own person, as evidenced by threats or attempts to commit suicide or inflict physical harm on oneself; (ii) physical harm will be inflicted by a person upon another, as evidenced by behavior which has caused such harm or which places another person or persons in reasonable fear of sustaining such harm; or (iii) physical harm will be inflicted by a person upon the property of others, as evidenced by behavior which has caused substantial loss or damage to the property of others; or

(b) The person has threatened the physical safety of another and has a history of one or more violent acts;

(33) "Medical clearance" means a physician or other health care provider has determined that a person is medically stable and ready for referral to the designated crisis responder;

ONE HUNDRED FIRST DAY, APRIL 19, 2017

2017 REGULAR SESSION

(34) "Mental disorder" means any organic, mental, or emotional impairment which has substantial adverse effects on a person's cognitive or volitional functions;

(35) "Mental health professional" means a psychiatrist, psychologist, physician assistant working with a supervising psychiatrist, psychiatric advanced registered nurse practitioner, psychiatric nurse, or social worker, and such other mental health professionals as may be defined by rules adopted by the secretary pursuant to the provisions of this chapter;

(36) "Mental health service provider" means a public or private agency that provides mental health services to persons with mental disorders or substance use disorders as defined under this section and receives funding from public sources. This includes, but is not limited to, hospitals licensed under chapter 70.41 RCW, evaluation and treatment facilities as defined in this section, community mental health service delivery systems or behavioral health programs as defined in RCW 71.24.025, facilities conducting competency evaluations and restoration under chapter 10.77 RCW, approved substance use disorder treatment programs as defined in this section, secure detoxification facilities as defined in this section, and correctional facilities operated by state and local governments;

(37) "Peace officer" means a law enforcement official of a public agency or governmental unit, and includes persons specifically given peace officer powers by any state law, local ordinance, or judicial order of appointment;

(38) "Physician assistant" means a person licensed as a physician assistant under chapter 18.57A or 18.71A RCW;

(39) "Private agency" means any person, partnership, corporation, or association that is not a public agency, whether or not financed in whole or in part by public funds, which constitutes an evaluation and treatment facility or private institution, or hospital, or approved substance use disorder treatment program, which is conducted for, or includes a department or ward conducted for, the care and treatment of persons with mental illness, substance use disorders, or both mental illness and substance use disorders;

(40) "Professional person" means a mental health professional, chemical dependency professional, or designated crisis responder and shall also mean a physician, physician assistant, psychiatric advanced registered nurse practitioner, registered nurse, and such others as may be defined by rules adopted by the secretary pursuant to the provisions of this chapter;

(41) "Psychiatric advanced registered nurse practitioner" means a person who is licensed as an advanced registered nurse practitioner pursuant to chapter 18.79 RCW; and who is board certified in advanced practice psychiatric and mental health nursing;

(42) "Psychiatrist" means a person having a license as a physician and surgeon in this state who has in addition completed three years of graduate training in psychiatry in a program approved by the American medical association or the American osteopathic association and is certified or eligible to be certified by the American board of psychiatry and neurology;

(43) "Psychologist" means a person who has been licensed as a psychologist pursuant to chapter 18.83 RCW;

(44) "Public agency" means any evaluation and treatment facility or institution, secure detoxification facility, approved substance use disorder treatment program, or hospital which is conducted for, or includes a department or ward conducted for, the care and treatment of persons with mental illness, substance use disorders, or both mental illness and substance use disorders, if the agency is operated directly by federal, state, county, or municipal government, or a combination of such governments;

(45) "Registration records" include all the records of the department, behavioral health organizations, treatment facilities, and other persons providing services to the department, county departments, or facilities which identify persons who are receiving or who at any time have received services for mental illness or substance use disorders;

(46) "Release" means legal termination of the commitment under the provisions of this chapter;

(47) "Resource management services" has the meaning given in chapter 71.24 RCW;

(48) "Secretary" means the secretary of the department of social and health services, or his or her designee;

(49) "Secure detoxification facility" means a facility operated by either a public or private agency or by the program of an agency that:

(a) Provides for intoxicated persons:

(i) Evaluation and assessment, provided by certified chemical dependency professionals;

(ii) Acute or subacute detoxification services; and

(iii) Discharge assistance provided by certified chemical dependency professionals, including facilitating transitions to appropriate voluntary or involuntary inpatient services or to less restrictive alternatives as appropriate for the individual;

(b) Includes security measures sufficient to protect the patients, staff, and community; and

(c) Is certified as such by the department;

(50) "Serious violent offense" has the same meaning as provided in RCW 9.94A.030;

(51) "Social worker" means a person with a master's or further advanced degree from a social work educational program accredited and approved as provided in RCW 18.320.010;

(52) "Substance use disorder" means a cluster of cognitive, behavioral, and physiological symptoms indicating that an individual continues using the substance despite significant substance-related problems. The diagnosis of a substance use disorder is based on a pathological pattern of behaviors related to the use of the substances;

(53) "Therapeutic court personnel" means the staff of a mental health court or other therapeutic court which has jurisdiction over defendants who are dually diagnosed with mental disorders, including court personnel, probation officers, a court monitor, prosecuting attorney, or defense counsel acting within the scope of therapeutic court duties;

(54) "Treatment records" include registration and all other records concerning persons who are receiving or who at any time have received services for mental illness, which are maintained by the department, by behavioral health organizations and their staffs, and by treatment facilities. Treatment records include mental health information contained in a medical bill including but not limited to mental health drugs, a mental health diagnosis, provider name, and dates of service stemming from a medical service. Treatment records do not include notes or records maintained for personal use by a person providing treatment services for the department, behavioral health organizations, or a treatment facility if the notes or records are not available to others;

(55) "Triage facility" means a short-term facility or a portion of a facility licensed by the department of health and certified by the department of social and health services under RCW 71.24.035, which is designed as a facility to assess and stabilize an individual or determine the need for involuntary commitment of an individual, and must meet department of health residential treatment facility standards. A triage facility may be structured as a voluntary or involuntary placement facility;

(56) "Violent act" means behavior that resulted in homicide, attempted suicide, nonfatal injuries, or substantial damage to property.

**Sec. 1540.** RCW 71.05.210 and 2016 sp.s. c 29 s 224 and 2016 c 155 s 2 are each reenacted and amended to read as follows:

(1) Each person involuntarily detained and accepted or admitted at an evaluation and treatment facility, secure detoxification facility, or approved substance use disorder treatment program:

(a) Shall, within twenty-four hours of his or her admission or acceptance at the facility, not counting time periods prior to medical clearance, be examined and evaluated by:

(i) One physician ~~((and a mental health professional)),~~ physician assistant, or psychiatric advanced registered nurse practitioner; and

~~(ii) One ((physician assistant and a)) mental health professional((; or~~

~~(iii) One advanced registered nurse practitioner and a mental health)).~~ If the person is detained for substance use disorder evaluation and treatment, the person may be examined by a chemical dependency professional instead of a mental health professional; and

(b) Shall receive such treatment and care as his or her condition requires including treatment on an outpatient basis for the period that he or she is detained, except that, beginning twenty-four hours prior to a trial or hearing pursuant to RCW 71.05.215, 71.05.240, 71.05.310, 71.05.320, 71.05.590, or 71.05.217, the individual may refuse psychiatric medications, but may not refuse: (i) Any other medication previously prescribed by a person licensed under Title 18 RCW; or (ii) emergency lifesaving treatment, and the individual shall be informed at an appropriate time of his or her right of such refusal. The person shall be detained up to seventy-two hours, if, in the opinion of the professional person in charge of the facility, or his or her professional designee, the person presents a likelihood of serious harm, or is gravely disabled. A person who has been detained for seventy-two hours shall no later than the end of such period be released, unless referred for further care on a voluntary basis, or detained pursuant to court order for further treatment as provided in this chapter.

(2) If, after examination and evaluation, the mental health professional or chemical dependency professional and licensed physician, physician assistant, or psychiatric advanced registered nurse practitioner determine that the initial needs of the person, if detained to an evaluation and treatment facility, would be better served by placement in a substance use disorder treatment ~~((facility))~~ program, or, if detained to a secure detoxification facility or approved substance use disorder treatment program, would be better served in an evaluation and treatment facility then the person shall be referred to the more appropriate placement; however, a person may only be referred to a secure detoxification facility or approved substance use disorder treatment program if there is an available secure detoxification facility or approved substance use disorder treatment program with adequate space for the person.

(3) An evaluation and treatment center, secure detoxification facility, or approved substance use disorder treatment program admitting or accepting any person pursuant to this chapter whose physical condition reveals the need for hospitalization shall assure that such person is transferred to an appropriate hospital for evaluation or admission for treatment. Notice of such fact shall be given to the court, the designated attorney, and the designated crisis responder and the court shall order such continuance in proceedings under this chapter as may be necessary, but in no event may this continuance be more than fourteen days.

**Sec. 1541.** RCW 71.05.210 and 2016 sp.s. c 29 s 225 are each amended to read as follows:

(1) Each person involuntarily detained and accepted or admitted at an evaluation and treatment facility, secure detoxification facility, or approved substance use disorder treatment program:

(a) Shall, within twenty-four hours of his or her admission or acceptance at the facility, not counting time periods prior to medical clearance, be examined and evaluated by:

(i) One physician ~~((and a mental health professional)),~~ physician assistant, or psychiatric advanced registered nurse practitioner; and

~~(ii) One ((physician assistant and a)) mental health professional((; or~~

~~(iii) One advanced registered nurse practitioner and a mental health)).~~ If the person is detained for substance use disorder evaluation and treatment, the person may be examined by a chemical dependency professional instead of a mental health professional; and

(b) Shall receive such treatment and care as his or her condition requires including treatment on an outpatient basis for the period that he or she is detained, except that, beginning twenty-four hours prior to a trial or hearing pursuant to RCW 71.05.215, 71.05.240, 71.05.310, 71.05.320, 71.05.590, or 71.05.217, the individual may refuse psychiatric medications, but may not refuse: (i) Any other medication previously prescribed by a person licensed under Title 18 RCW; or (ii) emergency lifesaving treatment, and the individual shall be informed at an appropriate time of his or her right of such refusal. The person shall be detained up to seventy-two hours, if, in the opinion of the professional person in charge of the facility, or his or her professional designee, the person presents a likelihood of serious harm, or is gravely disabled. A person who has been detained for seventy-two hours shall no later than the end of such period be released, unless referred for further care on a voluntary basis, or detained pursuant to court order for further treatment as provided in this chapter.

(2) If, after examination and evaluation, the mental health professional or chemical dependency professional and licensed physician, physician assistant, or psychiatric advanced registered nurse practitioner determine that the initial needs of the person, if detained to an evaluation and treatment facility, would be better served by placement in a substance use disorder treatment ~~((facility))~~ program, or, if detained to a secure detoxification facility or approved substance use disorder treatment program, would be better served in an evaluation and treatment facility then the person shall be referred to the more appropriate placement.

(3) An evaluation and treatment center, secure detoxification facility, or approved substance use disorder treatment program admitting or accepting any person pursuant to this chapter whose physical condition reveals the need for hospitalization shall assure that such person is transferred to an appropriate hospital for evaluation or admission for treatment. Notice of such fact shall be given to the court, the designated attorney, and the designated crisis responder and the court shall order such continuance in proceedings under this chapter as may be necessary, but in no event may this continuance be more than fourteen days.

**Sec. 1542.** RCW 71.05.230 and 2016 sp.s. c 29 s 230, 2016 c 155 s 5, and 2016 c 45 s 1 are each reenacted and amended to read as follows:

A person detained or committed for seventy-two hour evaluation and treatment or for an outpatient evaluation for the purpose of filing a petition for a less restrictive alternative treatment order may be committed for not more than fourteen additional days of involuntary intensive treatment or ninety additional days of a less restrictive alternative to involuntary

ONE HUNDRED FIRST DAY, APRIL 19, 2017

2017 REGULAR SESSION

intensive treatment. A petition may only be filed if the following conditions are met:

(1) The professional staff of the agency or facility providing evaluation services has analyzed the person's condition and finds that the condition is caused by mental disorder or substance use disorder and results in a likelihood of serious harm, results in the person being gravely disabled, or results in the person being in need of assisted outpatient mental health treatment, and are prepared to testify those conditions are met; and

(2) The person has been advised of the need for voluntary treatment and the professional staff of the facility has evidence that he or she has not in good faith volunteered; and

(3) The agency or facility providing intensive treatment or which proposes to supervise the less restrictive alternative is certified to provide such treatment by the department; and

(4) The professional staff of the agency or facility or the designated crisis responder has filed a petition with the court for a fourteen day involuntary detention or a ninety day less restrictive alternative. The petition must be signed (~~either~~) by:

(a) ~~((Two physicians))~~ One physician, physician assistant, or psychiatric advanced registered nurse practitioner; and

(b) ~~One physician ((and a)), physician assistant, psychiatric advanced registered nurse practitioner, or mental health professional((;~~

~~(c) One physician assistant and a mental health professional; or~~

~~(d) One psychiatric advanced registered nurse practitioner and a mental health professional)).~~ If the petition is for substance use disorder treatment, the petition may be signed by a chemical dependency professional instead of a mental health professional.

The persons signing the petition must have examined the person. If involuntary detention is sought the petition shall state facts that support the finding that such person, as a result of a mental disorder or substance use disorder, presents a likelihood of serious harm, or is gravely disabled and that there are no less restrictive alternatives to detention in the best interest of such person or others. The petition shall state specifically that less restrictive alternative treatment was considered and specify why treatment less restrictive than detention is not appropriate. If an involuntary less restrictive alternative is sought, the petition shall state facts that support the finding that such person, as a result of a mental disorder or as a result of a substance use disorder, presents a likelihood of serious harm, is gravely disabled, or is in need of assisted outpatient mental health treatment, and shall set forth any recommendations for less restrictive alternative treatment services; and

(5) A copy of the petition has been served on the detained or committed person, his or her attorney and his or her guardian or conservator, if any, prior to the probable cause hearing; and

(6) The court at the time the petition was filed and before the probable cause hearing has appointed counsel to represent such person if no other counsel has appeared; and

(7) The petition reflects that the person was informed of the loss of firearm rights if involuntarily committed for mental health treatment; and

(8) At the conclusion of the initial commitment period, the professional staff of the agency or facility or the designated crisis responder may petition for an additional period of either ninety days of less restrictive alternative treatment or ninety days of involuntary intensive treatment as provided in RCW 71.05.290; and

(9) If the hospital or facility designated to provide less restrictive alternative treatment is other than the facility providing involuntary treatment, the outpatient facility so designated to provide less restrictive alternative treatment has agreed to assume such responsibility.

**Sec. 1543.** RCW 71.05.290 and 2016 sp.s. c 29 s 235, 2016 c 155 s 6, and 2016 c 45 s 3 are each reenacted and amended to read as follows:

(1) At any time during a person's fourteen day intensive treatment period, the professional person in charge of a treatment facility or his or her professional designee or the designated crisis responder may petition the superior court for an order requiring such person to undergo an additional period of treatment. Such petition must be based on one or more of the grounds set forth in RCW 71.05.280.

(2) The petition shall summarize the facts which support the need for further commitment and shall be supported by affidavits based on an examination of the patient and signed by:

(a) ~~((Two physicians))~~ One physician, physician assistant, or psychiatric advanced registered nurse practitioner; and

(b) ~~One physician ((and a)), physician assistant, psychiatric advanced registered nurse practitioner, or mental health professional((;~~

~~(c) One physician assistant and a mental health professional; or~~

~~(d) One psychiatric advanced registered nurse practitioner and a mental health professional)).~~ If the petition is for substance use disorder treatment, the petition may be signed by a chemical dependency professional instead of a mental health professional.

The affidavits shall describe in detail the behavior of the detained person which supports the petition and shall explain what, if any, less restrictive treatments which are alternatives to detention are available to such person, and shall state the willingness of the affiant to testify to such facts in subsequent judicial proceedings under this chapter. If less restrictive alternative treatment is sought, the petition shall set forth any recommendations for less restrictive alternative treatment services.

(3) If a person has been determined to be incompetent pursuant to RCW 10.77.086(4), then the professional person in charge of the treatment facility or his or her professional designee or the designated crisis responder may directly file a petition for one hundred eighty day treatment under RCW 71.05.280(3). No petition for initial detention or fourteen day detention is required before such a petition may be filed.

**Sec. 1544.** RCW 71.05.760 and 2016 sp.s. c 29 s 201 are each amended to read as follows:

(1)(a) By April 1, 2018, the department, by rule, must combine the functions of a designated mental health professional and designated chemical dependency specialist by establishing a designated crisis responder who is authorized to conduct investigations, detain persons up to seventy-two hours to the proper facility, and carry out the other functions identified in this chapter and chapter 71.34 RCW. The behavioral health organizations shall provide training to the designated crisis responders as required by the department.

(b)(i) To qualify as a designated crisis responder, a person must have received chemical dependency training as determined by the department and be a:

(A) Psychiatrist, psychologist, physician assistant working with a supervising psychiatrist, psychiatric advanced registered nurse practitioner, or social worker;

(B) Person with a master's degree or further advanced degree in counseling or one of the social sciences from an accredited college or university and who have, in addition, at least two years of experience in direct treatment of persons with mental illness or emotional disturbance, such experience gained under the direction of a mental health professional;

(C) Person who meets the waiver criteria of RCW 71.24.260, which waiver was granted before 1986;

(D) Person who had an approved waiver to perform the duties of a mental health professional that was requested by the regional



support network and granted by the department before July 1, 2001; or

(E) Person who has been granted an exception of the minimum requirements of a mental health professional by the department consistent with rules adopted by the secretary.

(ii) Training must include chemical dependency training specific to the duties of a designated crisis responder, including diagnosis of substance abuse and dependence and assessment of risk associated with substance use.

(c) The department must develop a transition process for any person who has been designated as a designated mental health professional or a designated chemical dependency specialist before April 1, 2018, to be converted to a designated crisis responder. The behavioral health organizations shall provide training, as required by the department, to persons converting to designated crisis responders, which must include both mental health and chemical dependency training applicable to the designated crisis responder role.

(2)(a) The department must ensure that at least one sixteen-bed secure detoxification facility is operational by April 1, 2018, and that at least two sixteen-bed secure detoxification facilities are operational by April 1, 2019. In addition, the department shall ensure that an additional sixteen-bed secure detoxification facility is operational by April 1st of each year beginning in 2020 until there is adequate capacity to meet the involuntary treatment requirements for substance use disorder clients.

(b) If, at any time during the implementation of secure detoxification facility capacity, federal funding becomes unavailable for federal match for services provided in secure detoxification facilities, then the department must cease any expansion of secure detoxification facilities until further direction is provided by the legislature.

#### Part Five - Technical

NEW SECTION. Sec. 1545. 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 immediately.

NEW SECTION. Sec. 1546. Sections 8, 11, and 13 of this act expire April 1, 2018.

NEW SECTION. Sec. 1547. Sections 9, 12, 14, 15, and 17 through 19 of this act take effect April 1, 2018.

NEW SECTION. Sec. 1548. Sections 9 and 15 of this act expire July 1, 2026.

NEW SECTION. Sec. 1549. Sections 10 and 16 of this act take effect July 1, 2026."

Correct the title.

NONA SNELL, Deputy Chief Clerk

#### MOTION

Senator O'Ban moved that the Senate refuse to concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5106 and ask the House to recede therefrom.

Senator O'Ban spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator O'Ban that the Senate refuse to concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5106 and ask the House to recede therefrom.

The motion by Senator O'Ban carried and the Senate refused to concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5106 and asked the House to recede therefrom by voice vote.

MESSAGE FROM THE HOUSE

April 17, 2017

MR. PRESIDENT:

The Speaker ruled that the Senate amendment 1058 AMS LAW S2350.2 to HOUSE BILL NO. 1058 to be beyond scope & object of the bill. The House refuses to concur in said amendment and asks the Senate to recede therefrom.

NONA SNELL, Deputy Chief Clerk

#### MOTION

Senator Padden moved that the Senate recede from its position on the Senate amendments to House Bill No. 1058.

Senator Padden spoke in favor of the motion.

The President declared the question before the Senate to be motion by Senator Padden that the Senate recede from its position on the Senate amendments to House Bill No. 1058.

The motion by Senator Padden carried and the Senate receded from its amendments to House Bill No. 1058.

#### MOTION

On motion of Senator Padden, the rules were suspended and House Bill No. 1058 was returned to second reading for the purposes of amendment.

#### MOTION

Senator Padden moved that the following floor striking amendment no. 273 by Senator Padden be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1550. The legislature finds that providing a victim with the opportunity for restitution from the perpetrator of the crime is an important part of the criminal justice system. It is the intent of the legislature to reaffirm the priority of restitution and, by this act, clarify that any outstanding debt for restitution be paid prior to the payment of any other legal financial obligation owed by the offender.

Sec. 1551. RCW 9.94A.760 and 2011 c 106 s 3 are each amended to read as follows:

(1) Whenever a person is convicted in superior court, the court may order the payment of a legal financial obligation as part of the sentence. The court must on either the judgment and sentence or on a subsequent order to pay, designate the total amount of a legal financial obligation and segregate this amount among the separate assessments made for restitution, costs, fines, and other assessments required by law. On the same order, the court is also to set a sum that the offender is required to pay on a monthly basis towards satisfying the legal financial obligation. If the court fails to set the offender monthly payment amount, the department shall set the amount if the department has active supervision of the offender, otherwise the county clerk shall set the amount.

(2) Upon receipt of ~~((an offender's monthly))~~ each payment ~~((, restitution shall be paid prior to any payments of other monetary obligations. After restitution is satisfied))~~ made by or on behalf of an offender, the county clerk shall distribute the payment ~~((proportionally among all other fines, costs, and assessments imposed, unless otherwise ordered by the court))~~ in the following order of priority:

(a) First, proportionally to restitution owed to victims that have not been fully compensated from other sources until satisfied;

ONE HUNDRED FIRST DAY, APRIL 19, 2017

2017 REGULAR SESSION

(b) Second, proportionally to restitution owed to insurance or other sources with respect to a loss that has provided compensation to victims until satisfied;

(c) Third, proportionally to crime victims' assessments until satisfied; and

(d) Fourth, proportionally to costs, fines, and other assessments required by law.

~~((2))~~ (3) If the court determines that the offender, at the time of sentencing, has the means to pay for the cost of incarceration, the court may require the offender to pay for the cost of incarceration at a rate of fifty dollars per day of incarceration, if incarcerated in a prison, or the court may require the offender to pay the actual cost of incarceration per day of incarceration, if incarcerated in a county jail. In no case may the court require the offender to pay more than one hundred dollars per day for the cost of incarceration. Payment of other court-ordered financial obligations, including all legal financial obligations and costs of supervision shall take precedence over the payment of the cost of incarceration ordered by the court. All funds recovered from offenders for the cost of incarceration in the county jail shall be remitted to the county and the costs of incarceration in a prison shall be remitted to the department.

(4) The court may add to the judgment and sentence or subsequent order to pay a statement that a notice of payroll deduction is to be issued immediately. If the court chooses not to order the immediate issuance of a notice of payroll deduction at sentencing, the court shall add to the judgment and sentence or subsequent order to pay a statement that a notice of payroll deduction may be issued or other income-withholding action may be taken, without further notice to the offender if a monthly court-ordered legal financial obligation payment is not paid when due, and an amount equal to or greater than the amount payable for one month is owed.

If a judgment and sentence or subsequent order to pay does not include the statement that a notice of payroll deduction may be issued or other income-withholding action may be taken if a monthly legal financial obligation payment is past due, the department or the county clerk may serve a notice on the offender stating such requirements and authorizations. Service shall be by personal service or any form of mail requiring a return receipt.

~~((4))~~ (5) Independent of the department or the county clerk, the party or entity to whom the legal financial obligation is owed shall have the authority to use any other remedies available to the party or entity to collect the legal financial obligation. These remedies include enforcement in the same manner as a judgment in a civil action by the party or entity to whom the legal financial obligation is owed. Restitution collected through civil enforcement must be paid through the registry of the court and must be distributed proportionately according to each victim's loss when there is more than one victim. The judgment and sentence shall identify the party or entity to whom restitution is owed so that the state, party, or entity may enforce the judgment. If restitution is ordered pursuant to RCW 9.94A.750(6) or 9.94A.753(6) to a victim of rape of a child or a victim's child born from the rape, the Washington state child support registry shall be identified as the party to whom payments must be made. Restitution obligations arising from the rape of a child in the first, second, or third degree that result in the pregnancy of the victim may be enforced for the time periods provided under RCW 9.94A.750(6) and 9.94A.753(6). All other legal financial obligations for an offense committed prior to July 1, 2000, may be enforced at any time during the ten-year period following the offender's release from total confinement or within ten years of entry of the judgment and sentence, whichever period ends later. Prior to the expiration of the initial ten-year period, the superior

court may extend the criminal judgment an additional ten years for payment of legal financial obligations including crime victims' assessments. All other legal financial obligations for an offense committed on or after July 1, 2000, may be enforced at any time the offender remains under the court's jurisdiction. For an offense committed on or after July 1, 2000, the court shall retain jurisdiction over the offender, for purposes of the offender's compliance with payment of the legal financial obligations, until the obligation is completely satisfied, regardless of the statutory maximum for the crime. The department may only supervise the offender's compliance with payment of the legal financial obligations during any period in which the department is authorized to supervise the offender in the community under RCW 9.94A.728, 9.94A.501, or in which the offender is confined in a state correctional institution or a correctional facility pursuant to a transfer agreement with the department, and the department shall supervise the offender's compliance during any such period. The department is not responsible for supervision of the offender during any subsequent period of time the offender remains under the court's jurisdiction. The county clerk is authorized to collect unpaid legal financial obligations at any time the offender remains under the jurisdiction of the court for purposes of his or her legal financial obligations.

~~((5))~~ (6) In order to assist the court in setting a monthly sum that the offender must pay during the period of supervision, the offender is required to report to the department for purposes of preparing a recommendation to the court. When reporting, the offender is required, under oath, to respond truthfully and honestly to all questions concerning present, past, and future earning capabilities and the location and nature of all property or financial assets. The offender is further required to bring all documents requested by the department.

~~((6))~~ (7) After completing the investigation, the department shall make a report to the court on the amount of the monthly payment that the offender should be required to make towards a satisfied legal financial obligation.

~~((7))~~ (8)(a) During the period of supervision, the department may make a recommendation to the court that the offender's monthly payment schedule be modified so as to reflect a change in financial circumstances. If the department sets the monthly payment amount, the department may modify the monthly payment amount without the matter being returned to the court. During the period of supervision, the department may require the offender to report to the department for the purposes of reviewing the appropriateness of the collection schedule for the legal financial obligation. During this reporting, the offender is required under oath to respond truthfully and honestly to all questions concerning earning capabilities and the location and nature of all property or financial assets. The offender shall bring all documents requested by the department in order to prepare the collection schedule.

(b) Subsequent to any period of supervision, or if the department is not authorized to supervise the offender in the community, the county clerk may make a recommendation to the court that the offender's monthly payment schedule be modified so as to reflect a change in financial circumstances. If the county clerk sets the monthly payment amount, or if the department set the monthly payment amount and the department has subsequently turned the collection of the legal financial obligation over to the county clerk, the clerk may modify the monthly payment amount without the matter being returned to the court. During the period of repayment, the county clerk may require the offender to report to the clerk for the purpose of reviewing the appropriateness of the collection schedule for the legal financial obligation. During this reporting, the offender is required under

oath to respond truthfully and honestly to all questions concerning earning capabilities and the location and nature of all property or financial assets. The offender shall bring all documents requested by the county clerk in order to prepare the collection schedule.

~~((8))~~ (9) After the judgment and sentence or payment order is entered, the department is authorized, for any period of supervision, to collect the legal financial obligation from the offender. Subsequent to any period of supervision or, if the department is not authorized to supervise the offender in the community, the county clerk is authorized to collect unpaid legal financial obligations from the offender. Any amount collected by the department shall be remitted daily to the county clerk for the purpose of disbursements. The department and the county clerks are authorized, but not required, to accept credit cards as payment for a legal financial obligation, and any costs incurred related to accepting credit card payments shall be the responsibility of the offender.

~~((9))~~ (10) The department or any obligee of the legal financial obligation may seek a mandatory wage assignment for the purposes of obtaining satisfaction for the legal financial obligation pursuant to RCW 9.94A.7701. Any party obtaining a wage assignment shall notify the county clerk. The county clerks shall notify the department, or the administrative office of the courts, whichever is providing the monthly billing for the offender.

~~((10))~~ (11) The requirement that the offender pay a monthly sum towards a legal financial obligation constitutes a condition or requirement of a sentence and the offender is subject to the penalties for noncompliance as provided in RCW 9.94B.040, 9.94A.737, or 9.94A.740.

~~((11))~~ (12)(a) The administrative office of the courts shall mail individualized periodic billings to the address known by the office for each offender with an unsatisfied legal financial obligation.

(b) The billing shall direct payments, other than outstanding cost of supervision assessments under RCW 9.94A.780, parole assessments under RCW 72.04A.120, and cost of probation assessments under RCW 9.95.214, to the county clerk, and cost of supervision, parole, or probation assessments to the department.

(c) The county clerk shall provide the administrative office of the courts with notice of payments by such offenders no less frequently than weekly.

(d) The county clerks, the administrative office of the courts, and the department shall maintain agreements to implement this subsection.

~~((12))~~ (13) The department shall arrange for the collection of unpaid legal financial obligations during any period of supervision in the community through the county clerk. The department shall either collect unpaid legal financial obligations or arrange for collections through another entity if the clerk does not assume responsibility or is unable to continue to assume responsibility for collection pursuant to subsection ~~((4))~~ (5) of this section. The costs for collection services shall be paid by the offender.

~~((13))~~ (14) The county clerk may access the records of the employment security department for the purposes of verifying employment or income, seeking any assignment of wages, or performing other duties necessary to the collection of an offender's legal financial obligations.

~~((14))~~ (15) Nothing in this chapter makes the department, the state, the counties, or any state or county employees, agents, or other persons acting on their behalf liable under any circumstances for the payment of these legal financial obligations or for the acts of any offender who is no longer, or was not, subject to supervision by the department for a term of community

custody, and who remains under the jurisdiction of the court for payment of legal financial obligations."

On page 1, line 1 of the title, after "restitution;" strike the remainder of the title and insert "amending RCW 9.94A.760; and creating a new section."

Senators Padden and Pedersen spoke in favor of adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of floor striking amendment no. 273 by Senator Padden to House Bill No. 1058.

The motion by Senator Padden carried and floor striking amendment no. 273 was adopted by voice vote.

#### MOTION

On motion of Senator Padden, the rules were suspended, House Bill No. 1058 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the final passage of House Bill No. 1058 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1058 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 48; Nays, 1; Absent, 0; Excused, 0.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Billig, Braun, Brown, Carlyle, Chase, Cleveland, Conway, Darneille, Ericksen, Fain, Fortunato, Frockt, Hawkins, Hobbs, Honeyford, Hunt, Keiser, King, Kuderer, Lias, McCoy, Miloscia, Mullet, Nelson, O'Ban, Padden, Palumbo, Pearson, Pedersen, Ranker, Rivers, Rolfes, Rossi, Saldaña, Schoesler, Sheldon, Short, Takko, Van De Wege, Walsh, Warnick, Wellman, Wilson and Zeiger

Voting nay: Senator Hasegawa

HOUSE BILL NO. 1058, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MESSAGE FROM THE HOUSE

April 13, 2017

MR. PRESIDENT:

The House refuses to concur in the Senate amendment(s) to HOUSE BILL NO. 1337 and asks the Senate to recede therefrom.

NONA SNELL, Deputy Chief Clerk

#### MOTION

Senator Rivers moved that the Senate recede from its position on House Bill No. 1337 and pass the bill without the Senate amendment(s).

Senator River spoke in favor of the motion.

The President declared the question before the Senate to be motion by Senator Rivers that the Senate recede from its position on House Bill No. 1337 and pass the bill without Senate amendment(s).

ONE HUNDRED FIRST DAY, APRIL 19, 2017

2017 REGULAR SESSION

The motion by Senator Rivers carried and the Senate receded from its position on House Bill No. 1337 and passed the bill without the Senate amendment(s) by voice vote.

Schoesler, Sheldon, Short, Takko, Van De Wege, Walsh, Warnick, Wellman, Wilson and Zeiger

Senator Padden spoke in favor of the final passage of the bill.

HOUSE BILL NO. 1337, without the Senate amendment(s), having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

POINT OF INQUIRY

MESSAGE FROM THE HOUSE

Senator Padden: "I believe that House Bill 1337, which enacts the Interstate Medical Licensure Compact, grants unchecked rulemaking authority to an un-elected Interstate Compact Commission with no mechanism for active state oversight. Section 24 of the bill makes all rules and bylaws promulgated by the Commission binding upon member states. I fear that if enacted as drafted, the Medical Compact would allow the Compact Commission to unilaterally adopt rules that have the force and effect of law in Washington State, which could expand the scope of the Compact or go beyond the scope of the Compact entirely. Does the Senator from the 47th district yield to a question?"

April 18, 2017

MR. PRESIDENT:

The House refuses to concur in the Senate amendment(s) to ENGROSSED SUBSTITUTE HOUSE BILL NO. 1465 and asks the Senate to recede therefrom.

President Habib: "He does."

NONA SNELL, Deputy Chief Clerk

Senator Padden: "Does House Bill 1337 limit the scope of rule-making of the Compact Commission, and does the bill provide the state with any oversight over the rule-making of the Commission?"

MOTION

Senator Short moved that the Senate recede from its position on the Senate amendments to Engrossed Substitute House Bill No. 1465.

Senator Short spoke in favor of the motion.

Senator Fain: "The Interstate Medical Licensure Compact, as would be enacted in Washington with the passage of House Bill 1337, would expand access to care for the citizens of this state. The rule-making authority of the Compact Commission, as authorized by the enacting legislation, would be confined to the administration of the Compact and pursuant to Section 15 of the bill, any rule-making that is beyond the scope of the purposes of the compact or the powers granted thereunder would be invalid and have no force or effect. Section 24 further provides that any provisions of the Compact that exceed the constitutional limits imposed by the legislature of any member state shall be ineffective to the extent of the conflict. Physicians practicing with a license issued under the Compact must practice in a manner compliant with the medical practice act in the state in which the physician is practicing. Rule-making procedures provided for in the bill require notice of rule-making and allow for public comment, and as a last resort, the State is entitled to withdraw from the Compact through enactment of future legislation. The scope, then, of rule-making is confined by this bill, and the state does retain certain forms of oversight over the enactment and enforcement of the Compact."

The President declared the question before the Senate to be motion by Senator Short that the Senate recede from its position on the Senate amendments to Engrossed Substitute House Bill No. 1465.

The motion by Senator Short carried and the Senate receded from its amendments to Engrossed Substitute House Bill No. 1465.

MOTION

On motion of Senator Short, the rules were suspended and Engrossed Substitute House Bill No. 1465 was returned to second reading for the purposes of amendment.

MOTION

Senator Short moved that the following floor striking amendment no. 270 by Senator Short be adopted:

The President declared the question before the Senate to be the final passage of House Bill No. 1337 without the Senate amendment(s).

Strike everything after the enacting clause and insert the following:

"Sec. 1552. RCW 42.56.430 and 2008 c 252 s 1 are each amended to read as follows:

The following information relating to fish and wildlife is exempt from disclosure under this chapter:

(1) Commercial fishing catch data from logbooks required to be provided to the department of fish and wildlife under RCW 77.12.047, when the data identifies specific catch location, timing, or methodology and the release of which would result in unfair competitive disadvantage to the commercial fisher providing the catch data, however, this information may be released to government agencies concerned with the management of fish and wildlife resources;

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1337, without the Senate amendment(s), and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

(2) Sensitive fish and wildlife data. Sensitive fish and wildlife data may be released to the following entities and their agents for fish, wildlife, land management purposes, or scientific research needs: Government agencies, public utilities, and accredited colleges and universities. Sensitive fish and wildlife data may be released to tribal governments. Sensitive fish and wildlife data may also be released to the owner, lessee, or right-of-way or

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Billig, Braun, Brown, Carlyle, Chase, Cleveland, Conway, Darneille, Ericksen, Fain, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Honeyford, Hunt, Keiser, King, Kuderer, Lias, McCoy, Miloscia, Mullet, Nelson, O'Ban, Padden, Palumbo, Pearson, Pedersen, Ranker, Rivers, Rolfes, Rossi, Saldaña,

easement holder of the private land to which the data pertains. The release of sensitive fish and wildlife data may be subject to a confidentiality agreement, except upon release of sensitive fish and wildlife data to the owner, lessee, or right-of-way or easement holder of private land who initially provided the data. Sensitive fish and wildlife data does not include data related to reports of predatory wildlife as specified in RCW 77.12.885. Sensitive fish and wildlife data must meet at least one of the following criteria of this subsection as applied by the department of fish and wildlife:

(a) The nesting sites or specific locations of endangered species designated under RCW 77.12.020, or threatened or sensitive species classified by rule of the department of fish and wildlife;

(b) Radio frequencies used in, or locational data generated by, telemetry studies; or

(c) Other location data that could compromise the viability of a specific fish or wildlife population, and where at least one of the following criteria are met:

(i) The species has a known commercial or black market value;

(ii) There is a history of malicious take of that species and the species behavior or ecology renders it especially vulnerable;

(iii) There is a known demand to visit, take, or disturb the species; or

(iv) The species has an extremely limited distribution and concentration;

(3) The following information regarding any damage prevention cooperative agreement, or nonlethal preventative measures deployed to minimize wolf interactions with pets and livestock:

(a) The name, telephone number, residential address, and other personally identifying information of any person who has a current damage prevention cooperative agreement with the department, including a pet or livestock owner, and his or her employees or immediate family members, who agrees to deploy, or is responsible for the deployment of, nonlethal, preventative measures; and

(b) The legal description or name of any residential property, ranch, or farm, that is owned, leased, or used by any person included in (a) of this subsection;

(4) The following information regarding a reported depredation by wolves on pets or livestock:

(a) The name, telephone number, residential address, and other personally identifying information of:

(i) Any person who reported the depredation;

(ii) Any pet or livestock owner, and his or her employees or immediate family members, whose pet or livestock was the subject of a reported depredation; and

(iii) Any department of fish and wildlife employee, range rider contractor, or trapper contractor who directly:

(A) Responds to a depredation; or

(B) Assists in the lethal removal of a wolf; and

(b) The legal description, location coordinates, or name that identifies any residential property, or ranch or farm that contains a residence, that is owned, leased, or used by any person included in (a) of this subsection;

(5) The personally identifying information of persons who acquire recreational licenses under RCW 77.32.010 or commercial licenses under chapter 77.65 or 77.70 RCW, except name, address of contact used by the department, and type of license, endorsement, or tag; however, the department of fish and wildlife may disclose personally identifying information to:

(a) Government agencies concerned with the management of fish and wildlife resources;

(b) The department of social and health services, child support division, and to the department of licensing in order to implement RCW 77.32.014 and 46.20.291; and

(c) Law enforcement agencies for the purpose of firearm possession enforcement under RCW 9.41.040; and

~~((4))~~ (6) Information that the department of fish and wildlife has received or accessed but may not disclose due to confidentiality requirements in the Magnuson-Stevens fishery conservation and management reauthorization act of 2006 (16 U.S.C. Sec. 1861(h)(3) and (i), and Sec. 1881a(b)).

**Sec. 1553.** RCW 77.12.885 and 2007 c 293 s 2 are each amended to read as follows:

Except for the personal information on reported depredations by wolves that is exempted from disclosure as provided in RCW 42.56.430, the department shall post on its internet web site all reported predatory wildlife interactions, including reported human safety confrontations or sightings as well as the known details of reported depredations by predatory wildlife on humans, pets, or livestock, within ten days of receiving the report. The posted material must include, but is not limited to, the location and time, the known details, and a running summary of such reported interactions by identified specie and interaction type within each affected county. For the purposes of this section and RCW 42.56.430, "predatory wildlife" means grizzly bears, wolves, and cougars.

**NEW SECTION. Sec. 1554.** A new section is added to chapter 42.56 RCW to read as follows:

By December 1, 2021, the public records exemptions accountability committee, in addition to its duties in RCW 42.56.140, must prepare and submit a report to the legislature that includes recommendations on whether the exemptions created in section 1, chapter . . . , Laws of 2017 (section 1 of this act) should be continued or allowed to expire. The report should focus on whether the exemption continues to serve the intent of the legislature in section 1, chapter . . . , Laws of 2017 (section 1 of this act) to provide protections of personal information during the period the state establishes and implements new policies regarding wolf management. The committee must consider whether the development of wolf management policy, by the time of the report, has diminished risks of threats to personal safety so that the protection of personal information in section 1, chapter . . . , Laws of 2017 (section 1 of this act) is no longer an ongoing necessity.

**NEW SECTION. Sec. 1555.** This act expires June 30, 2022."

On page 1, line 2 of the title, after "depredations;" strike the remainder of the title and insert "amending RCW 42.56.430 and 77.12.885; adding a new section to chapter 42.56 RCW; and providing an expiration date."

Senator Short spoke in favor of adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of floor striking amendment no. 270 by Senator Short to Engrossed Substitute House Bill No. 1465.

The motion by Senator Short carried and floor striking amendment no. 270 was adopted by voice vote.

#### MOTION

On motion of Senator Short, the rules were suspended, Engrossed Substitute House Bill No. 1465 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1465 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1465 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 45; Nays, 4; Absent, 0; Excused, 0.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Billig, Braun, Brown, Carlyle, Chase, Cleveland, Conway, Darneille, Ericksen, Fain, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Honeyford, Hunt, Keiser, King, Kuderer, McCoy, Miloscia, Mullet, Nelson, O'Ban, Padden, Pearson, Pedersen, Ranker, Rivers, Rolfes, Rossi, Saldaña, Schoesler, Sheldon, Short, Takko, Walsh, Warnick, Wilson and Zeiger

Voting nay: Senators Liias, Palumbo, Van De Wege and Wellman

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1465, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Fain, the Senate advanced to the sixth order of business.

SECOND READING

SENATE BILL NO. 5867, by Senator Braun

Creating a flexible voluntary program to allow family members to provide personal care services to persons with developmental disabilities or long-term care needs under a consumer-directed medicaid service program.

The measure was read the second time.

MOTION

Senator Van De Wege moved that the following floor striking amendment no. 267 by Senators Van De Wege, McCoy and Braun be adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1556.** The legislature finds that the most common form of long-term care provided to persons who are elderly, disabled, or have a developmental disability is provided by a family member in a personal residence. The legislature also finds that care provided by a family member who is chosen by the recipient is often the most appropriate form of care, allowing vulnerable individuals to remain independent while maintaining a sense of dignity and choice. The current system of medicaid services has complexities that may create obstacles for consumers who wish to be cared for by a family member and for family members who enter the system solely to provide care for their loved ones.

Therefore, the legislature intends to create an optional consumer-directed program for providing personal care services for individuals with long-term care needs or developmental disabilities receiving care from a family member. This program is intended to provide individuals with more flexibility in accessing their benefits and to reduce obstacles for consumers who wish to hire family members to provide their care.

**NEW SECTION. Sec. 1557.** A new section is added to chapter 74.39A RCW to read as follows:

The department is directed to develop and implement a consumer-directed medicaid program as provided in chapter . . . , Laws of 2017 (this act). This program is intended to be a voluntary alternative option for individuals with long-term care needs or developmental disabilities who choose to receive personal care services from a family member. The department shall review existing medicaid programs and determine the appropriate waiver to seek from the centers for medicare and medicaid services. The department shall seek stakeholder input on the new consumer-directed program's design to inform its submission of a waiver proposal to the centers for medicare and medicaid services. The department's waiver proposal must be submitted to the centers for medicare and medicaid services by March 1, 2018. By January 1, 2019, and September 1, 2019, the department must submit status reports to the legislature that provide information about the department's activities, program design, necessary statutory changes, barriers to implementation, and estimated implementation date, caseload, and costs. The consumer-directed medicaid program as provided in chapter . . . , Laws of 2017 (this act) must be available to consumers by January 1, 2019.

**NEW SECTION. Sec. 1558.** A new section is added to chapter 74.39A RCW to read as follows:

(1) The consumer-directed medicaid program is a voluntary alternative option for consumers who seek to receive personal care services from a family member. The consumer-directed medicaid program must also reduce barriers that prevent consumers from being able to select a family member as their paid personal care or respite provider. The consumer, or his or her representatives, if applicable, must have decision-making authority to recruit, hire and fire, determine wages, train, supervise, and determine other conditions of employment for his or her family member providing personal care and respite services. The consumer, or his or her representatives, or both, must also have decision-making authority over how the medicaid funds in his or her individual budgets are spent.

(2) The consumer-directed medicaid program must include the following characteristics:

(a) A consumer-centered planning process that is directed by the consumer with assistance as needed or desired by a representative of the consumer's choosing. The process must include an assessment and service plan that establishes eligibility, the available budget amount, and the preferences, abilities, needs, and desired measurable outcomes of the consumer. The process may include other persons, freely chosen by the consumer, who are able to serve as important contributors to the process. The planning process must include planning for contingencies such as when a needed service is not provided due to the family member being unavailable. As part of the contingency planning process, an assessment of the risks to the consumer must be completed, and a discussion about how risks will be addressed must be held;

(b) A service plan that specifies the services and supports that are to be furnished to meet the preferences, choices, abilities, and needs of the consumer, and that assists the consumer to direct those services and supports so he or she is able to remain in his or her community; and

(c) An individualized budget that is under the control and direction of either the consumer, or his or her representative, or both. The budget plan is developed using a consumer-centered planning process and is individually tailored in accordance with the consumer's needs and preferences as established in the service plan. The department must describe the method for calculating the dollar values of consumer budgets and define a process for

making adjustments to the budget amount when there are significant changes in the consumer's support and service needs.

(3) The program must also include a system of supports to provide information and assistance to consumers to address assessed needs including, but not limited to:

(a) Information regarding how consumer-directed programs work;

(b) Information about a consumer's rights and responsibilities when enrolled in a consumer-directed program;

(c) A consumer may provide training directly to his or her family members or determine training topics that must be completed. The content of the training must be related to the consumer's preferences, care needs, conditions, health, safety, or topics relevant to his or her consumer-centered plan and spending plan under the program. The department may assist consumers by offering voluntary training, including training offered under RCW 74.39A.351, on how to select, manage, train, and dismiss employees. This may include referrals to other agencies, educational institutions, and consumer and community advocacy organizations to obtain information and assistance; and

(d) A consumer must determine the compensation, hours, and working conditions of his or her family members. The hourly wage paid must be at least the state minimum wage.

(4) The department must contract with an independent third party to provide financial management services to assist consumers in exercising their budget authority unless they are able to perform some or all of these functions themselves. Financial management services may include assistance in understanding billing and documentation responsibilities, performance of payroll and employer-related duties, assistance purchasing approved goods and services, tracking and monitoring goods and services purchased and provided, and identifying expenditures that are over or under the budget.

(5) The program must include necessary safeguards to protect the health and welfare of consumers. The program must include a requirement that any family member providing services pass appropriate state and federal criminal background checks to verify that he or she does not have a criminal history that would disqualify him or her from working with vulnerable persons. The family member providing services also must not be listed on any long-term care abuse and neglect registry, child abuse registry, or any other registry or list used by the department to disqualify the person from caring for vulnerable persons.

(6) A consumer must be allowed to disenroll from the program at any time and return to a traditional service delivery system.

(7) For the purposes of this section and section 2 of this act:

(a) "Consumer" means a person who:

(i) Is functionally disabled and eligible for personal care or respite care services under medicaid personal care, community first choice option, community options program entry system, chore services program, new freedom system, or respite care program;

(ii) Is eligible for respite care or residential service and support as a person with developmental disabilities under Title 71A RCW; or

(iii) Is eligible for respite care as defined in RCW 74.13.270.

(b) "Family member" means a person who is related by blood, adoption, or marriage as a child, parent, or sibling, including those relations denoted with the prefix "grand" or "great."

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

**Sec. 1559.** RCW 74.39A.074 and 2012 c 164 s 401 are each amended to read as follows:

(1)(a) Beginning January 7, 2012, except for long-term care workers exempt from certification under RCW 18.88B.041(1) (a)

and (f) and, until January 1, 2016, those exempt under RCW 18.88B.041(1)(b), all persons hired as long-term care workers must meet the minimum training requirements in this section within one hundred twenty calendar days after the date of being hired or within one hundred twenty calendar days after March 29, 2012, whichever is later. In computing the time periods in this subsection, the first day is the date of hire or March 29, 2012, whichever is applicable.

(b) Except as provided in RCW 74.39A.076, the minimum training requirement is seventy-five hours of entry-level training approved by the department. A long-term care worker must successfully complete five of these seventy-five hours before being eligible to provide care.

(c) Training required by (d) of this subsection applies toward the training required under RCW 18.20.270 or 70.128.230 or any statutory or regulatory training requirements for long-term care workers employed by community residential service businesses.

(d) The seventy-five hours of entry-level training required shall be as follows:

(i) Before a long-term care worker is eligible to provide care, he or she must complete:

(A) Two hours of orientation training regarding his or her role as caregiver and the applicable terms of employment; and

(B) Three hours of safety training, including basic safety precautions, emergency procedures, and infection control; and

(ii) Seventy hours of long-term care basic training, including training related to core competencies and population specific competencies.

(2) Only training curriculum approved by the department may be used to fulfill the training requirements specified in this section. The department shall only approve training curriculum that:

(a) Has been developed with input from consumer and worker representatives; and

(b) Requires comprehensive instruction by qualified instructors on the competencies and training topics in this section.

(3) Individual providers under RCW 74.39A.270 shall be compensated for training time required by this section.

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

**Sec. 1560.** RCW 74.39A.076 and 2015 c 152 s 2 are each amended to read as follows:

(1) Beginning January 7, 2012, except for long-term care workers exempt from certification under RCW 18.88B.041(1) (a) and (f):

(a) A biological, step, or adoptive parent who is the individual provider only for his or her developmentally disabled son or daughter must receive twelve hours of training relevant to the needs of adults with developmental disabilities within the first one hundred twenty days after becoming an individual provider or within one hundred twenty calendar days after March 29, 2012, whichever is later.

(b) Individual providers identified in (b)(i), (ii), and (iii) of this subsection must complete thirty-five hours of training within the first one hundred twenty days after becoming an individual provider or within one hundred twenty calendar days after March 29, 2012, whichever is later. Five of the thirty-five hours must be completed before becoming eligible to provide care. Two of these five hours shall be devoted to an orientation training regarding an individual provider's role as caregiver and the applicable terms of employment, and three hours shall be devoted to safety training, including basic safety precautions, emergency procedures, and infection control. Individual providers subject to this requirement include:

ONE HUNDRED FIRST DAY, APRIL 19, 2017

2017 REGULAR SESSION

(i) An individual provider caring only for his or her biological, step, or adoptive child or parent unless covered by (a) of this subsection;

(ii) A person working as an individual provider who provides twenty hours or less of care for one person in any calendar month; and

(iii) A person working as an individual provider who only provides respite services and works less than three hundred hours in any calendar year.

(2) In computing the time periods in this section, the first day is the date of hire or March 29, 2012, whichever is applicable.

(3) Only training curriculum approved by the department may be used to fulfill the training requirements specified in this section. The department shall only approve training curriculum that:

(a) Has been developed with input from consumer and worker representatives; and

(b) Requires comprehensive instruction by qualified instructors.

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

**Sec. 1561.** RCW 74.39A.240 and 2011 1st sp.s. c 21 s 7 are each amended to read as follows:

The definitions in this section apply throughout RCW 74.39A.030 ~~((and))~~, 74.39A.095 ~~((and))~~, 74.39A.220 through 74.39A.300, and 41.56.026 unless the context clearly requires otherwise.

(1) "Consumer" means a person to whom an individual provider provides any such services.

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

(3) "Individual provider" means a person, including a personal aide, who has contracted with the department to provide personal care or respite care services to functionally disabled persons under the medicaid personal care, community options program entry system, chore services program, or respite care program, or to provide respite care or residential services and support to persons with developmental disabilities under chapter 71A.12 RCW, or to provide respite care as defined in RCW 74.13.270. "Individual provider" does not include a family member providing personal care and respite services to a consumer under the consumer-directed medicaid program created in sections 2 and 3 of this act.

**Sec. 1562.** RCW 74.39A.341 and 2015 c 152 s 3 are each amended to read as follows:

(1) All long-term care workers shall complete twelve hours of continuing education training in advanced training topics each year. This requirement applies beginning July 1, 2012.

(2) Completion of continuing education as required in this section is a prerequisite to maintaining home care aide certification under chapter 18.88B RCW.

(3) Unless voluntarily certified as a home care aide under chapter 18.88B RCW, subsection (1) of this section does not apply to:

(a) An individual provider caring only for his or her biological, step, or adoptive child;

(b) Registered nurses and licensed practical nurses licensed under chapter 18.79 RCW;

(c) Before January 1, 2016, a long-term care worker employed by a community residential service business;

(d) A person working as an individual provider who provides twenty hours or less of care for one person in any calendar month; ~~((or))~~

(e) A person working as an individual provider who only provides respite services and works less than three hundred hours in any calendar year; or

(f) A family member providing personal care and respite services to a consumer under the consumer-directed medicaid program created in sections 2 and 3 of this act.

(4) Only training curriculum approved by the department may be used to fulfill the training requirements specified in this section. The department shall only approve training curriculum that:

(a) Has been developed with input from consumer and worker representatives; and

(b) Requires comprehensive instruction by qualified instructors.

(5) Individual providers under RCW 74.39A.270 shall be compensated for training time required by this section.

(6) The department of health shall adopt rules to implement subsection (1) of this section.

(7) The department shall adopt rules to implement subsection (2) of this section.

**Sec. 1563.** RCW 18.88B.041 and 2015 c 152 s 1 are each amended to read as follows:

(1) The following long-term care workers are not required to become a certified home care aide pursuant to this chapter:

(a)(i)(A) Registered nurses, licensed practical nurses, certified nursing assistants or persons who are in an approved training program for certified nursing assistants under chapter 18.88A RCW, medicare-certified home health aides, or other persons who hold a similar health credential, as determined by the secretary, or persons with special education training and an endorsement granted by the superintendent of public instruction, as described in RCW 28A.300.010, if the secretary determines that the circumstances do not require certification.

(B) A person who was initially hired as a long-term care worker prior to January 7, 2012, and who completes all of his or her training requirements in effect as of the date he or she was hired.

(ii) Individuals exempted by (a)(i) of this subsection may obtain certification as a home care aide without fulfilling the training requirements in RCW 74.39A.074(1)(d)(ii) but must successfully complete a certification examination pursuant to RCW 18.88B.031.

(b) All long-term care workers employed by community residential service businesses.

(c) An individual provider caring only for his or her biological, step, or adoptive child or parent.

(d) A person working as an individual provider who provides twenty hours or less of care for one person in any calendar month.

(e) A person working as an individual provider who only provides respite services and works less than three hundred hours in any calendar year.

(f) A family member providing personal care and respite services to a consumer under the consumer-directed medicaid program created in sections 2 and 3 of this act.

(2) A long-term care worker exempted by this section from the training requirements contained in RCW 74.39A.074 may not be prohibited from enrolling in training pursuant to that section.

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

**Sec. 1564.** RCW 74.39A.326 and 2009 c 571 s 1 are each amended to read as follows:

(1)(a) Except as provided under (b) of this subsection, the department shall not pay a home care agency licensed under chapter 70.127 RCW for in-home personal care or respite services provided under this chapter, Title 71A RCW, or chapter 74.39



RCW if the care is provided to a client by a family member of the client. To the extent permitted under federal law, the provisions of this subsection shall not apply if the family member providing care is older than the client.

(b) The department may, on a case-by-case basis based on the client's health and safety, make exceptions to (a) of this subsection to authorize payment or to provide for payment during a transition period of up to three months. The restrictions under (a) of this subsection do not apply when the care is provided to: (i) A client who is an enrolled member of a federally recognized Indian tribe; or (ii) a client who resides in the household of an enrolled member of a federally recognized Indian tribe.

(2) The department shall take appropriate enforcement action against a home care agency found to have charged the state for hours of service for which the department is not authorized to pay under this section, including requiring recoupment of any payment made for those hours and, under criteria adopted by the department by rule, terminating the contract of an agency that violates a recoupment requirement.

(3) For purposes of this section:

(a) "Client" means a person who has been deemed eligible by the department to receive in-home personal care or respite services.

(b) "Family member" shall be liberally construed to include, but not be limited to, a parent, child, sibling, aunt, uncle, cousin, grandparent, grandchild, grandniece, or grandnephew, or such relatives when related by marriage.

(4) The department shall adopt rules to implement this section. The rules shall not result in affecting the amount, duration, or scope of the personal care or respite services benefit to which a client may be entitled pursuant to RCW 74.09.520 or Title XIX of the federal social security act."

On page 1, line 4 of the title, after "program;" strike the remainder of the title and insert "amending RCW 74.39A.074, 74.39A.076, 74.39A.240, 74.39A.341, 18.88B.041, and 74.39A.326; adding new sections to chapter 74.39A RCW; and creating a new section."

#### MOTION

Senator Liias moved that the following floor amendment no. 268 by Senator Liias to floor striking amendment no. 267 be adopted:

Beginning on page 1, line 21 of the amendment, strike sections 2 through 8 and insert the following:

NEW SECTION. Sec. 2. (1) The legislative advisory committee on aging established in Engrossed Substitute Senate Bill No. 5180 shall study the various state programs allowing for the delivery of medicaid personal care services, and develop recommendations for a comprehensive and effective statewide policy to support streamlined access to personal care services for the state's citizens who are aging, disabled, or who have a developmental disability. The committee must consult with stakeholders knowledgeable about the interests and needs of both consumers and caregivers, and shall include a discussion of consumer-directed approaches, including those approaches that allow family members of the consumer to provide care. The recommendations must include strategies to:

- (a) Promote consumer health, safety, and autonomy;
- (b) Ensure adequate caregiver training and support;
- (c) Verify the quality and appropriateness of care;
- (d) Reduce barriers for consumers who prefer to receive care from caregivers of their choosing, including family members; and

(e) Mitigate or minimize potential liability issues that may arise in the context of consumer-directed programs.

(2) In the alternative, if Engrossed Substitute Senate Bill No. 5180 is not enacted by July 1, 2017, the department of social and health services shall convene a work group consisting of stakeholders knowledgeable about the interests and needs of both consumers and caregivers to conduct the study and develop the recommendations described in subsection (1) of this section.

(3) The advisory legislative committee on aging or the department of social and health services must submit a report with recommendations to the appropriate policy and fiscal committee of the legislature by July 1, 2018.

(4) This section expires July 1, 2018."

Renumber the remaining section consecutively and correct any internal references accordingly.

On page 10, beginning on line 13 of the amendment, after "RCW" strike the remainder of the title amendment and insert "74.39A.326; creating new sections; and providing an expiration date."

Senator Liias spoke in favor of adoption of the amendment to the striking amendment.

Senator Braun spoke against adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 268 by Senator Liias on page 1, line 21 to floor striking amendment no. 267.

The motion by Senator Liias did not carry and floor amendment no. 268 was not adopted by voice vote.

Senators Van De Wege and Braun spoke in favor of adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of floor striking amendment no. 267 by Senators Van De Wege, McCoy and Braun to Senate Bill No. 5867.

The motion by Senator Van De Wege carried and floor striking amendment no. 267 was adopted by voice vote.

#### MOTION

On motion of Senator Braun, the rules were suspended, Engrossed Senate Bill No. 5867 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Braun spoke in favor of passage of the bill.

Senator Liias spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Senate Bill No. 5867.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Senate Bill No. 5867 and the bill passed the Senate by the following vote: Yeas, 28; Nays, 21; Absent, 0; Excused, 0.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Braun, Brown, Ericksen, Fain, Fortunato, Hawkins, Honeyford, King, McCoy, Miloscia, O'Ban, Padden, Pearson, Rivers, Rossi, Schoesler, Sheldon, Short, Takko, Van De Wege, Walsh, Warnick, Wilson and Zeiger

Voting nay: Senators Billig, Carlyle, Chase, Cleveland, Conway, Darneille, Frockt, Hasegawa, Hobbs, Hunt, Keiser, Kuderer, Liias, Mullet, Nelson, Palumbo, Pedersen, Ranker, Rolfes, Saldaña and Wellman

ONE HUNDRED FIRST DAY, APRIL 19, 2017

2017 REGULAR SESSION

ENGROSSED SENATE BILL NO. 5867, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

Senator Zeiger moved that the following floor striking amendment no. 271 by Senator Zeiger be adopted:

MOTION

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

Strike everything after the enacting clause and insert the following:

MESSAGE FROM THE HOUSE

"NEW SECTION. **Sec. 3.** A new section is added to chapter 70.02 RCW to read as follows:

April 18, 2017

MR. PRESIDENT:

The House insists on its position regarding the House amendment(s) to SECOND SUBSTITUTE SENATE BILL NO. 5201 and asks the Senate to concur thereon.

(1)(a) A health care provider or health care facility may use or disclose the health care information of a patient without obtaining an authorization from the patient or the patient's personal representative if the conditions in (b) of this subsection are met and:

NONA SNELL, Deputy Chief Clerk

MOTION

Senator O'Ban moved that the Senate refuse to concur and insist on its position on the House amendment(s) to Second Substitute Senate Bill No. 5201 and ask the House to recede therefrom.

(i) The disclosure is to a family member, including a patient's state registered domestic partner, other relative, a close personal friend, or other person identified by the patient, and the health care information is directly relevant to the person's involvement with the patient's health care or payment related to the patient's health care; or

Senators O'Ban and Darneille spoke in favor of the motion.

The President declared the question before the Senate to be motion by Senator O'Ban that the Senate refuse to concur and insist on its position on the House amendment(s) to Second Substitute Senate Bill No. 5201 and ask the House to recede therefrom.

(ii) The use or disclosure is for the purpose of notifying, or assisting in the notification of, including identifying or locating, a family member, a personal representative of the patient, or another person responsible for the care of the patient of the patient's location, general condition, or death.

The motion by Senator O'Ban carried and the Senate refused to concur and insisted on its position in the Senate amendment(s) to Second Substitute Senate Bill No. 5201 and asked the House to recede therefrom by voice vote.

(b) A health care provider or health care facility may make the uses and disclosures described in (a) of this subsection if:

MESSAGE FROM THE HOUSE

April 17, 2017

MR. PRESIDENT:

The House refuses to concur in the Senate amendment(s) to SUBSTITUTE HOUSE BILL NO. 1477 and asks the Senate to recede therefrom.

(i) The patient is not present or obtaining the patient's authorization or providing the opportunity to agree or object to the use or disclosure is not practicable due to the patient's incapacity or an emergency circumstance, the health care provider or health care facility may in the exercise of professional judgment, determine whether the use or disclosure is in the best interests of the patient and, if so, disclose only the health care information that is directly relevant to the person's involvement with the patient's health care or payment related to the patient's health care; or

NONA SNELL, Deputy Chief Clerk

MOTION

Senator Zeiger moved that the Senate recede from its position on the Senate amendments to Substitute House Bill No. 1477.

(ii) The patient is present for, or otherwise available prior to, the use or disclosure and has the capacity to make health care decisions, the health care provider or health care facility may use or disclose the information if it:

The President declared the question before the Senate to be motion by Senator Zeiger that the Senate recede from its position on the Senate amendments to Substitute House Bill No. 1477.

(A) Obtains the patient's agreement;

(B) Provides the patient with the opportunity to object to the use or disclosure, and the patient does not express an objection; or

The motion by Senator Zeiger carried and the Senate receded from its amendments to Substitute House Bill No. 1477.

(C) Reasonably infers from the circumstances, based on the exercise of professional judgment, that the patient does not object to the use or disclosure.

MOTION

On motion of Senator Zeiger, the rules were suspended and Substitute House Bill No. 1477 was returned to second reading for the purposes of amendment.

(2) With respect to information and records related to mental health services provided to a patient by a health care provider, the health care information disclosed under this section may include, to the extent consistent with the health care provider's professional judgment and standards of ethical conduct:

(a) The patient's diagnoses and the treatment recommendations;

(b) Issues concerning the safety of the patient, including risk factors for suicide, steps that can be taken to make the patient's home safer, and a safety plan to monitor and support the patient;

(c) Information about resources that are available in the community to help the patient, such as case management and support groups; and

(d) The process to ensure that the patient safely transitions to a higher or lower level of care, including an interim safety plan.

(3) Any use or disclosure of health care information under this section must be limited to the minimum necessary to accomplish the purpose of the use or disclosure.

(4) A health care provider or health care facility is not subject to any civil liability for making or not making a use or disclosure in accordance with this section.

**Sec. 4.** RCW 70.02.050 and 2014 c 220 s 6 are each amended to read as follows:

(1) A health care provider or health care facility may disclose health care information, except for information and records related to sexually transmitted diseases which are addressed in RCW 70.02.220, about a patient without the patient's authorization to the extent a recipient needs to know the information, if the disclosure is:

(a) To a person who the provider or facility reasonably believes is providing health care to the patient;

(b) To any other person who requires health care information for health care education, or to provide planning, quality assurance, peer review, or administrative, legal, financial, actuarial services to, or other health care operations for or on behalf of the health care provider or health care facility; or for assisting the health care provider or health care facility in the delivery of health care and the health care provider or health care facility reasonably believes that the person:

(i) Will not use or disclose the health care information for any other purpose; and

(ii) Will take appropriate steps to protect the health care information;

(c) To any person if the health care provider or health care facility (~~reasonably~~) believes, in good faith, that use or disclosure ((will avoid or minimize an imminent danger)) is necessary to prevent or lessen a serious and imminent threat to the health or safety of ((the patient or any other individual, however)) a person or the public, and the information is disclosed only to a person or persons reasonably able to prevent or lessen the threat, including the target of the threat. There is no obligation under this chapter on the part of the provider or facility to so disclose (~~The fact of admission to a provider for mental health services and all information and records compiled, obtained, or maintained in the course of providing mental health services to either voluntary or involuntary recipients of services at public or private agencies is not subject to disclosure unless disclosure is permitted in RCW 70.02.230~~); or

(d) For payment, including information necessary for a recipient to make a claim, or for a claim to be made on behalf of a recipient for aid, insurance, or medical assistance to which he or she may be entitled.

(2) A health care provider shall disclose health care information, except for information and records related to sexually transmitted diseases, unless otherwise authorized in RCW 70.02.220, about a patient without the patient's authorization if the disclosure is:

(a) To federal, state, or local public health authorities, to the extent the health care provider is required by law to report health care information; when needed to determine compliance with state or federal licensure, certification or registration rules or laws, or to investigate unprofessional conduct or ability to practice with reasonable skill and safety under chapter 18.130 RCW. Any health care information obtained under this subsection is exempt from public inspection and copying pursuant to chapter 42.56 RCW; or

(b) When needed to protect the public health.

**Sec. 5.** RCW 70.02.200 and 2015 c 267 s 7 are each amended to read as follows:

(1) In addition to the disclosures authorized by RCW 70.02.050 and 70.02.210, a health care provider or health care facility may

disclose health care information, except for information and records related to sexually transmitted diseases and information related to mental health services which are addressed by RCW 70.02.220 through 70.02.260, about a patient without the patient's authorization, to:

(a) Any other health care provider or health care facility reasonably believed to have previously provided health care to the patient, to the extent necessary to provide health care to the patient, unless the patient has instructed the health care provider or health care facility in writing not to make the disclosure;

(b) ~~((Immediate family members of the patient, including a patient's state registered domestic partner, or any other individual with whom the patient is known to have a close personal relationship, if made in accordance with good medical or other professional practice, unless the patient has instructed the health care provider or health care facility in writing not to make the disclosure;))~~ Persons under section 1 of this act if the conditions in section 1 of this act are met;

(c) A health care provider or health care facility who is the successor in interest to the health care provider or health care facility maintaining the health care information;

(d) A person who obtains information for purposes of an audit, if that person agrees in writing to:

(i) Remove or destroy, at the earliest opportunity consistent with the purpose of the audit, information that would enable the patient to be identified; and

(ii) Not to disclose the information further, except to accomplish the audit or report unlawful or improper conduct involving fraud in payment for health care by a health care provider or patient, or other unlawful conduct by the health care provider;

(e) Provide directory information, unless the patient has instructed the health care provider or health care facility not to make the disclosure;

(f) Fire, police, sheriff, or other public authority, that brought, or caused to be brought, the patient to the health care facility or health care provider if the disclosure is limited to the patient's name, residence, sex, age, occupation, condition, diagnosis, estimated or actual discharge date, or extent and location of injuries as determined by a physician, and whether the patient was conscious when admitted;

(g) Federal, state, or local law enforcement authorities and the health care provider, health care facility, or third-party payor believes in good faith that the health care information disclosed constitutes evidence of criminal conduct that occurred on the premises of the health care provider, health care facility, or third-party payor;

(h) Another health care provider, health care facility, or third-party payor for the health care operations of the health care provider, health care facility, or third-party payor that receives the information, if each entity has or had a relationship with the patient who is the subject of the health care information being requested, the health care information pertains to such relationship, and the disclosure is for the purposes described in RCW 70.02.010(17) (a) and (b);

(i) An official of a penal or other custodial institution in which the patient is detained; and

(j) Any law enforcement officer, corrections officer, or guard supplied by a law enforcement or corrections agency who is accompanying a patient pursuant to RCW 10.110.020, only to the extent the disclosure is incidental to the fulfillment of the role of the law enforcement officer, corrections officer, or guard under RCW 10.110.020.

(2) In addition to the disclosures required by RCW 70.02.050 and 70.02.210, a health care provider shall disclose health care information, except for information related to sexually

ONE HUNDRED FIRST DAY, APRIL 19, 2017

2017 REGULAR SESSION

transmitted diseases and information related to mental health services which are addressed by RCW 70.02.220 through 70.02.260, about a patient without the patient's authorization if the disclosure is:

(a) To federal, state, or local law enforcement authorities to the extent the health care provider is required by law;

(b) To federal, state, or local law enforcement authorities, upon receipt of a written or oral request made to a nursing supervisor, administrator, or designated privacy official, in a case in which the patient is being treated or has been treated for a bullet wound, gunshot wound, powder burn, or other injury arising from or caused by the discharge of a firearm, or an injury caused by a knife, an ice pick, or any other sharp or pointed instrument which federal, state, or local law enforcement authorities reasonably believe to have been intentionally inflicted upon a person, or a blunt force injury that federal, state, or local law enforcement authorities reasonably believe resulted from a criminal act, the following information, if known:

- (i) The name of the patient;
- (ii) The patient's residence;
- (iii) The patient's sex;
- (iv) The patient's age;
- (v) The patient's condition;
- (vi) The patient's diagnosis, or extent and location of injuries as determined by a health care provider;
- (vii) Whether the patient was conscious when admitted;
- (viii) The name of the health care provider making the determination in (b)(v), (vi), and (vii) of this subsection;
- (ix) Whether the patient has been transferred to another facility; and

(x) The patient's discharge time and date;

(c) Pursuant to compulsory process in accordance with RCW 70.02.060.

**Sec. 6.** RCW 70.02.220 and 2013 c 200 s 6 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 section, RCW 70.02.210, or chapter 70.24 RCW.

(2) No person may disclose or be compelled to disclose information and records related to sexually transmitted diseases, except as authorized by this section, RCW 70.02.210, section 1 of this act, or chapter 70.24 RCW. A person may disclose information related to sexually transmitted diseases about a patient without the patient's authorization, to the extent a recipient needs to know the information, if the disclosure is to:

(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 fourteen years of age or over and otherwise competent;

(b) The state public health officer as defined in RCW 70.24.017, 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;

(c) 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 was provided prior to March 23, 1988, for the purpose of artificial insemination; or (iii) blood specimens;

(d) Any state or local public health officer conducting an investigation pursuant to RCW 70.24.024, so long as the record

was obtained by means of court-ordered HIV testing pursuant to RCW 70.24.340 or 70.24.024;

(e) 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 must: (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;

(f) 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;

(g) A law enforcement officer, firefighter, 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 of health 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;

(h) 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 must be confidential and may not be released or available to persons who are not involved in handling or determining medical claims payment; and

(i) 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)(d) of this section, is 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 must be made available by department of corrections health care providers and local public health officers to the department of corrections 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) may 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 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 must be made available by the local public health officer to a jail health care administrator or infection control coordinator. The information made available to a health care administrator under this subsection (4)(b) may 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 the sexually transmitted disease status of an offender or detained person is confidential and may be disclosed by a correctional 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, must be immediately disclosed to the staff person in accordance with the Washington Administrative Code rules governing employees' occupational exposure to blood-borne pathogens. Disclosure must be accompanied by appropriate counseling for the staff member, including information regarding follow-up testing and treatment. Disclosure must 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 must also be informed whether the offender or detained person had any other communicable disease, as defined in RCW 72.09.251(3), 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, as defined in RCW 70.24.017, may not be disclosed to a staff person except as provided in this section and RCW 70.02.050(1)((~~e~~)) (d) and 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 this section and RCW 70.02.050(1)((~~e~~)) (d) and 70.24.340(4).

(5) The requirements of this section do 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 do they apply within health care facilities where there is a need for access to confidential medical information to fulfill professional duties.

(6) Upon request of the victim, disclosure of test results under this section to victims of sexual offenses under chapter 9A.44 RCW must be made if the result is negative or positive. The county prosecuting attorney shall notify the victim of the right to such disclosure. The disclosure must be accompanied by appropriate counseling, including information regarding follow-up testing.

(7) A person, including a health care facility or health care provider, shall disclose the identity of any person who has investigated, considered, or requested a test or treatment for a sexually transmitted disease and information and records related to sexually transmitted diseases to federal, state, or local public health authorities, to the extent the health care provider is required by law to report health care information; when needed to determine compliance with state or federal certification or registration rules or laws; or when needed to protect the public health. Any health care information obtained under this subsection is exempt from public inspection and copying pursuant to chapter 42.56 RCW.

**Sec. 7.** RCW 70.02.230 and 2014 c 225 s 71 and 2014 c 220 s 9 are each reenacted and amended to read as follows:

(1) Except as provided in this section, RCW 70.02.050, 71.05.445, ((70.96A.150;)) 74.09.295, 70.02.210, 70.02.240, 70.02.250, and 70.02.260, or pursuant to a valid authorization under RCW 70.02.030, the fact of admission to a provider for mental health services and all information and records compiled, obtained, or maintained in the course of providing mental health services to either voluntary or involuntary recipients of services at public or private agencies must be confidential.

(2) Information and records related to mental health services, other than those obtained through treatment under chapter 71.34 RCW, may be disclosed only:

(a) In communications between qualified professional persons to meet the requirements of chapter 71.05 RCW, in the provision of services or appropriate referrals, or in the course of guardianship proceedings if provided to a professional person:

- (i) Employed by the facility;
- (ii) Who has medical responsibility for the patient's care;
- (iii) Who is a designated mental health professional;
- (iv) Who is providing services under chapter 71.24 RCW;
- (v) Who is employed by a state or local correctional facility where the person is confined or supervised; or
- (vi) Who is providing evaluation, treatment, or follow-up services under chapter 10.77 RCW;

(b) When the communications regard the special needs of a patient and the necessary circumstances giving rise to such needs and the disclosure is made by a facility providing services to the operator of a facility in which the patient resides or will reside;

(c)(i) When the person receiving services, or his or her guardian, designates persons to whom information or records may be released, or if the person is a minor, when his or her parents make such a designation;

(ii) A public or private agency shall release to a person's next of kin, attorney, personal representative, guardian, or conservator, if any:

(A) The information that the person is presently a patient in the facility or that the person is seriously physically ill;

(B) A statement evaluating the mental and physical condition of the patient, and a statement of the probable duration of the patient's confinement, if such information is requested by the next of kin, attorney, personal representative, guardian, or conservator; and

(iii) Other information requested by the next of kin or attorney as may be necessary to decide whether or not proceedings should be instituted to appoint a guardian or conservator;

(d)(i) To the courts as necessary to the administration of chapter 71.05 RCW or to a court ordering an evaluation or treatment under chapter 10.77 RCW solely for the purpose of preventing the entry of any evaluation or treatment order that is inconsistent with any order entered under chapter 71.05 RCW.

(ii) To a court or its designee in which a motion under chapter 10.77 RCW has been made for involuntary medication of a defendant for the purpose of competency restoration.

(iii) Disclosure under this subsection is mandatory for the purpose of the federal health insurance portability and accountability act;

(e)(i) When a mental health professional is requested by a representative of a law enforcement or corrections agency, including a police officer, sheriff, community corrections officer, a municipal attorney, or prosecuting attorney to undertake an investigation or provide treatment under RCW 71.05.150, 10.31.110, or 71.05.153, the mental health professional shall, if requested to do so, advise the representative in writing of the results of the investigation including a statement of reasons for the decision to detain or release the person investigated. The written report must be submitted within seventy-two hours of the completion of the investigation or the request from the law enforcement or corrections representative, whichever occurs later.

(ii) Disclosure under this subsection is mandatory for the purposes of the federal health insurance portability and accountability act;

(f) To the attorney of the detained person;

(g) To the prosecuting attorney as necessary to carry out the responsibilities of the office under RCW 71.05.330(2), 71.05.340(1)(b), and 71.05.335. The prosecutor must be provided access to records regarding the committed person's treatment and prognosis, medication, behavior problems, and other records relevant to the issue of whether treatment less restrictive than inpatient treatment is in the best interest of the committed person or others. Information must be disclosed only after giving notice to the committed person and the person's counsel;

(h)(i) To appropriate law enforcement agencies and to a person, when the identity of the person is known to the public or private agency, whose health and safety has been threatened, or who is known to have been repeatedly harassed, by the patient. The person may designate a representative to receive the disclosure. The disclosure must be made by the professional person in charge of the public or private agency or his or her designee and must include the dates of commitment, admission, discharge, or release, authorized or unauthorized absence from the agency's facility, and only any other information that is pertinent to the threat or harassment. The agency or its employees are not civilly liable for the decision to disclose or not, so long as the decision was reached in good faith and without gross negligence.

(ii) Disclosure under this subsection is mandatory for the purposes of the federal health insurance portability and accountability act;

(i)(i) To appropriate corrections and law enforcement agencies all necessary and relevant information in the event of a crisis or emergent situation that poses a significant and imminent risk to the public. The mental health service agency or its employees are not civilly liable for the decision to disclose or not so long as the decision was reached in good faith and without gross negligence.

(ii) Disclosure under this subsection is mandatory for the purposes of the health insurance portability and accountability act;

(j) To the persons designated in RCW 71.05.425 for the purposes described in those sections;

(k) Upon the death of a person. The person's next of kin, personal representative, guardian, or conservator, if any, must be notified. Next of kin who are of legal age and competent must be notified under this section in the following order: Spouse, parents, children, brothers and sisters, and other relatives according to the degree of relation. Access to all records and information compiled, obtained, or maintained in the course of providing services to a deceased patient are governed by RCW 70.02.140;

(l) To mark headstones or otherwise memorialize patients interred at state hospital cemeteries. The department of social and health services shall make available the name, date of birth, and date of death of patients buried in state hospital cemeteries fifty years after the death of a patient;

(m) To law enforcement officers and to prosecuting attorneys as are necessary to enforce RCW 9.41.040(2)(a)((~~iii~~)) (iii). The extent of information that may be released is limited as follows:

(i) Only the fact, place, and date of involuntary commitment, an official copy of any order or orders of commitment, and an official copy of any written or oral notice of ineligibility to possess a firearm that was provided to the person pursuant to RCW 9.41.047(1), must be disclosed upon request;

(ii) The law enforcement and prosecuting attorneys may only release the information obtained to the person's attorney as required by court rule and to a jury or judge, if a jury is waived, that presides over any trial at which the person is charged with violating RCW 9.41.040(2)(a)((~~iii~~)) (iii);

(iii) Disclosure under this subsection is mandatory for the purposes of the federal health insurance portability and accountability act;

(n) When a patient would otherwise be subject to the provisions of this section and disclosure is necessary for the protection of the patient or others due to his or her unauthorized disappearance from the facility, and his or her whereabouts is unknown, notice of the disappearance, along with relevant information, may be made to relatives, the department of corrections when the person is under the supervision of the department, and governmental law enforcement agencies designated by the physician or psychiatric advanced registered nurse practitioner in charge of the patient or the professional person in charge of the facility, or his or her professional designee;

(o) Pursuant to lawful order of a court;

(p) To qualified staff members of the department, to the director of behavioral health organizations, to resource management services responsible for serving a patient, or to service providers designated by resource management services as necessary to determine the progress and adequacy of treatment and to determine whether the person should be transferred to a less restrictive or more appropriate treatment modality or facility;

(q) Within the mental health service agency where the patient is receiving treatment, confidential information may be disclosed to persons employed, serving in bona fide training programs, or participating in supervised volunteer programs, at the facility when it is necessary to perform their duties;

(r) Within the department as necessary to coordinate treatment for mental illness, developmental disabilities, alcoholism, or drug abuse of persons who are under the supervision of the department;

(s) To a licensed physician or psychiatric advanced registered nurse practitioner who has determined that the life or health of the person is in danger and that treatment without the information and records related to mental health services could be injurious to the patient's health. Disclosure must be limited to the portions of the records necessary to meet the medical emergency;

(t) Consistent with the requirements of the federal health information portability and accountability act, to a licensed mental health professional or a health care professional licensed

under chapter 18.71, 18.71A, 18.57, 18.57A, 18.79, or 18.36A RCW who is providing care to a person, or to whom a person has been referred for evaluation or treatment, to assure coordinated care and treatment of that person. Psychotherapy notes may not be released without authorization of the person who is the subject of the request for release of information;

(u) To administrative and office support staff designated to obtain medical records for those licensed professionals listed in (t) of this subsection;

(v) To a facility that is to receive a person who is involuntarily committed under chapter 71.05 RCW, or upon transfer of the person from one evaluation and treatment facility to another. The release of records under this subsection is limited to the information and records related to mental health services required by law, a record or summary of all somatic treatments, and a discharge summary. The discharge summary may include a statement of the patient's problem, the treatment goals, the type of treatment which has been provided, and recommendation for future treatment, but may not include the patient's complete treatment record;

(w) To the person's counsel or guardian ad litem, without modification, at any time in order to prepare for involuntary commitment or recommitment proceedings, reexaminations, appeals, or other actions relating to detention, admission, commitment, or patient's rights under chapter 71.05 RCW;

(x) To staff members of the protection and advocacy agency or to staff members of a private, nonprofit corporation for the purpose of protecting and advocating the rights of persons with mental disorders or developmental disabilities. Resource management services may limit the release of information to the name, birthdate, and county of residence of the patient, information regarding whether the patient was voluntarily admitted, or involuntarily committed, the date and place of admission, placement, or commitment, the name and address of a guardian of the patient, and the date and place of the guardian's appointment. Any staff member who wishes to obtain additional information must notify the patient's resource management services in writing of the request and of the resource management services' right to object. The staff member shall send the notice by mail to the guardian's address. If the guardian does not object in writing within fifteen days after the notice is mailed, the staff member may obtain the additional information. If the guardian objects in writing within fifteen days after the notice is mailed, the staff member may not obtain the additional information;

(y) To all current treating providers of the patient with prescriptive authority who have written a prescription for the patient within the last twelve months. For purposes of coordinating health care, the department may release without written authorization of the patient, information acquired for billing and collection purposes as described in RCW 70.02.050(1)(d). The department shall notify the patient that billing and collection information has been released to named providers, and provide the substance of the information released and the dates of such release. The department may not release counseling, inpatient psychiatric hospitalization, or drug and alcohol treatment information without a signed written release from the client;

(z)(i) To the secretary of social and health services for either program evaluation or research, or both so long as the secretary adopts rules for the conduct of the evaluation or research, or both. Such rules must include, but need not be limited to, the requirement that all evaluators and researchers sign an oath of confidentiality substantially as follows:

"As a condition of conducting evaluation or research concerning persons who have received services from (fill in the facility, agency, or person) I, . . . . ., agree not to divulge,

publish, or otherwise make known to unauthorized persons or the public any information obtained in the course of such evaluation or research regarding persons who have received services such that the person who received such services is identifiable.

I recognize that unauthorized release of confidential information may subject me to civil liability under the provisions of state law.

/s/ . . . . ."

(ii) Nothing in this chapter may be construed to prohibit the compilation and publication of statistical data for use by government or researchers under standards, including standards to assure maintenance of confidentiality, set forth by the secretary;

(aa) To any person if the conditions in section 1 of this act are met.

(3) Whenever federal law or federal regulations restrict the release of information contained in the information and records related to mental health services of any patient who receives treatment for chemical dependency, the department may restrict the release of the information as necessary to comply with federal law and regulations.

(4) Civil liability and immunity for the release of information about a particular person who is committed to the department of social and health services under RCW 71.05.280(3) and 71.05.320(~~((3))~~) (4)(c) after dismissal of a sex offense as defined in RCW 9.94A.030, is governed by RCW 4.24.550.

(5) The fact of admission to a provider of mental health services, as well as all records, files, evidence, findings, or orders made, prepared, collected, or maintained pursuant to chapter 71.05 RCW are not admissible as evidence in any legal proceeding outside that chapter without the written authorization of the person who was the subject of the proceeding except as provided in RCW 70.02.260, in a subsequent criminal prosecution of a person committed pursuant to RCW 71.05.280(3) or 71.05.320(~~((3))~~) (4)(c) on charges that were dismissed pursuant to chapter 10.77 RCW due to incompetency to stand trial, in a civil commitment proceeding pursuant to chapter 71.09 RCW, or, in the case of a minor, a guardianship or dependency proceeding. The records and files maintained in any court proceeding pursuant to chapter 71.05 RCW must be confidential and available subsequent to such proceedings only to the person who was the subject of the proceeding or his or her attorney. In addition, the court may order the subsequent release or use of such records or files only upon good cause shown if the court finds that appropriate safeguards for strict confidentiality are and will be maintained.

(6)(a) Except as provided in RCW 4.24.550, any person may bring an action against an individual who has willfully released confidential information or records concerning him or her in violation of the provisions of this section, for the greater of the following amounts:

(i) One thousand dollars; or

(ii) Three times the amount of actual damages sustained, if any.

(b) It is not a prerequisite to recovery under this subsection that the plaintiff suffered or was threatened with special, as contrasted with general, damages.

(c) Any person may bring an action to enjoin the release of confidential information or records concerning him or her or his or her ward, in violation of the provisions of this section, and may in the same action seek damages as provided in this subsection.

(d) The court may award to the plaintiff, should he or she prevail in any action authorized by this subsection, reasonable attorney fees in addition to those otherwise provided by law.

(e) If an action is brought under this subsection, no action may be brought under RCW 70.02.170.

ONE HUNDRED FIRST DAY, APRIL 19, 2017

2017 REGULAR SESSION

**Sec. 8.** RCW 70.02.230 and 2016 sp.s. c 29 s 417 are each amended to read as follows:

(1) Except as provided in this section, RCW 70.02.050, 71.05.445, 74.09.295, 70.02.210, 70.02.240, 70.02.250, and 70.02.260, or pursuant to a valid authorization under RCW 70.02.030, the fact of admission to a provider for mental health services and all information and records compiled, obtained, or maintained in the course of providing mental health services to either voluntary or involuntary recipients of services at public or private agencies must be confidential.

(2) Information and records related to mental health services, other than those obtained through treatment under chapter 71.34 RCW, may be disclosed only:

(a) In communications between qualified professional persons to meet the requirements of chapter 71.05 RCW, in the provision of services or appropriate referrals, or in the course of guardianship proceedings if provided to a professional person:

- (i) Employed by the facility;
- (ii) Who has medical responsibility for the patient's care;
- (iii) Who is a designated crisis responder;
- (iv) Who is providing services under chapter 71.24 RCW;
- (v) Who is employed by a state or local correctional facility where the person is confined or supervised; or

(vi) Who is providing evaluation, treatment, or follow-up services under chapter 10.77 RCW;

(b) When the communications regard the special needs of a patient and the necessary circumstances giving rise to such needs and the disclosure is made by a facility providing services to the operator of a facility in which the patient resides or will reside;

(c)(i) When the person receiving services, or his or her guardian, designates persons to whom information or records may be released, or if the person is a minor, when his or her parents make such a designation;

(ii) A public or private agency shall release to a person's next of kin, attorney, personal representative, guardian, or conservator, if any:

(A) The information that the person is presently a patient in the facility or that the person is seriously physically ill;

(B) A statement evaluating the mental and physical condition of the patient, and a statement of the probable duration of the patient's confinement, if such information is requested by the next of kin, attorney, personal representative, guardian, or conservator; and

(iii) Other information requested by the next of kin or attorney as may be necessary to decide whether or not proceedings should be instituted to appoint a guardian or conservator;

(d)(i) To the courts as necessary to the administration of chapter 71.05 RCW or to a court ordering an evaluation or treatment under chapter 10.77 RCW solely for the purpose of preventing the entry of any evaluation or treatment order that is inconsistent with any order entered under chapter 71.05 RCW.

(ii) To a court or its designee in which a motion under chapter 10.77 RCW has been made for involuntary medication of a defendant for the purpose of competency restoration.

(iii) Disclosure under this subsection is mandatory for the purpose of the federal health insurance portability and accountability act;

(e)(i) When a mental health professional or designated crisis responder is requested by a representative of a law enforcement or corrections agency, including a police officer, sheriff, community corrections officer, a municipal attorney, or prosecuting attorney to undertake an investigation or provide treatment under RCW 71.05.150, 10.31.110, or 71.05.153, the mental health professional or designated crisis responder shall, if requested to do so, advise the representative in writing of the

results of the investigation including a statement of reasons for the decision to detain or release the person investigated. The written report must be submitted within seventy-two hours of the completion of the investigation or the request from the law enforcement or corrections representative, whichever occurs later.

(ii) Disclosure under this subsection is mandatory for the purposes of the federal health insurance portability and accountability act;

(f) To the attorney of the detained person;

(g) To the prosecuting attorney as necessary to carry out the responsibilities of the office under RCW 71.05.330(2), 71.05.340(1)(b), and 71.05.335. The prosecutor must be provided access to records regarding the committed person's treatment and prognosis, medication, behavior problems, and other records relevant to the issue of whether treatment less restrictive than inpatient treatment is in the best interest of the committed person or others. Information must be disclosed only after giving notice to the committed person and the person's counsel;

(h)(i) To appropriate law enforcement agencies and to a person, when the identity of the person is known to the public or private agency, whose health and safety has been threatened, or who is known to have been repeatedly harassed, by the patient. The person may designate a representative to receive the disclosure. The disclosure must be made by the professional person in charge of the public or private agency or his or her designee and must include the dates of commitment, admission, discharge, or release, authorized or unauthorized absence from the agency's facility, and only any other information that is pertinent to the threat or harassment. The agency or its employees are not civilly liable for the decision to disclose or not, so long as the decision was reached in good faith and without gross negligence.

(ii) Disclosure under this subsection is mandatory for the purposes of the federal health insurance portability and accountability act;

(i)(i) To appropriate corrections and law enforcement agencies all necessary and relevant information in the event of a crisis or emergent situation that poses a significant and imminent risk to the public. The mental health service agency or its employees are not civilly liable for the decision to disclose or not so long as the decision was reached in good faith and without gross negligence.

(ii) Disclosure under this subsection is mandatory for the purposes of the health insurance portability and accountability act;

(j) To the persons designated in RCW 71.05.425 for the purposes described in those sections;

(k) Upon the death of a person. The person's next of kin, personal representative, guardian, or conservator, if any, must be notified. Next of kin who are of legal age and competent must be notified under this section in the following order: Spouse, parents, children, brothers and sisters, and other relatives according to the degree of relation. Access to all records and information compiled, obtained, or maintained in the course of providing services to a deceased patient are governed by RCW 70.02.140;

(l) To mark headstones or otherwise memorialize patients interred at state hospital cemeteries. The department of social and health services shall make available the name, date of birth, and date of death of patients buried in state hospital cemeteries fifty years after the death of a patient;

(m) To law enforcement officers and to prosecuting attorneys as are necessary to enforce RCW 9.41.040(2)(a)(iii). The extent of information that may be released is limited as follows:

(i) Only the fact, place, and date of involuntary commitment, an official copy of any order or orders of commitment, and an official copy of any written or oral notice of ineligibility to



possess a firearm that was provided to the person pursuant to RCW 9.41.047(1), must be disclosed upon request;

(ii) The law enforcement and prosecuting attorneys may only release the information obtained to the person's attorney as required by court rule and to a jury or judge, if a jury is waived, that presides over any trial at which the person is charged with violating RCW 9.41.040(2)(a)(iii);

(iii) Disclosure under this subsection is mandatory for the purposes of the federal health insurance portability and accountability act;

(n) When a patient would otherwise be subject to the provisions of this section and disclosure is necessary for the protection of the patient or others due to his or her unauthorized disappearance from the facility, and his or her whereabouts is unknown, notice of the disappearance, along with relevant information, may be made to relatives, the department of corrections when the person is under the supervision of the department, and governmental law enforcement agencies designated by the physician or psychiatric advanced registered nurse practitioner in charge of the patient or the professional person in charge of the facility, or his or her professional designee;

(o) Pursuant to lawful order of a court;

(p) To qualified staff members of the department, to the director of behavioral health organizations, to resource management services responsible for serving a patient, or to service providers designated by resource management services as necessary to determine the progress and adequacy of treatment and to determine whether the person should be transferred to a less restrictive or more appropriate treatment modality or facility;

(q) Within the mental health service agency where the patient is receiving treatment, confidential information may be disclosed to persons employed, serving in bona fide training programs, or participating in supervised volunteer programs, at the facility when it is necessary to perform their duties;

(r) Within the department as necessary to coordinate treatment for mental illness, developmental disabilities, alcoholism, or drug abuse of persons who are under the supervision of the department;

(s) To a licensed physician or psychiatric advanced registered nurse practitioner who has determined that the life or health of the person is in danger and that treatment without the information and records related to mental health services could be injurious to the patient's health. Disclosure must be limited to the portions of the records necessary to meet the medical emergency;

(t) Consistent with the requirements of the federal health information portability and accountability act, to a licensed mental health professional or a health care professional licensed under chapter 18.71, 18.71A, 18.57, 18.57A, 18.79, or 18.36A RCW who is providing care to a person, or to whom a person has been referred for evaluation or treatment, to assure coordinated care and treatment of that person. Psychotherapy notes may not be released without authorization of the person who is the subject of the request for release of information;

(u) To administrative and office support staff designated to obtain medical records for those licensed professionals listed in (t) of this subsection;

(v) To a facility that is to receive a person who is involuntarily committed under chapter 71.05 RCW, or upon transfer of the person from one evaluation and treatment facility to another. The release of records under this subsection is limited to the information and records related to mental health services required by law, a record or summary of all somatic treatments, and a discharge summary. The discharge summary may include a statement of the patient's problem, the treatment goals, the type of treatment which has been provided, and recommendation for future treatment, but may not include the patient's complete treatment record;

(w) To the person's counsel or guardian ad litem, without modification, at any time in order to prepare for involuntary commitment or recommitment proceedings, reexaminations, appeals, or other actions relating to detention, admission, commitment, or patient's rights under chapter 71.05 RCW;

(x) To staff members of the protection and advocacy agency or to staff members of a private, nonprofit corporation for the purpose of protecting and advocating the rights of persons with mental disorders or developmental disabilities. Resource management services may limit the release of information to the name, birthdate, and county of residence of the patient, information regarding whether the patient was voluntarily admitted, or involuntarily committed, the date and place of admission, placement, or commitment, the name and address of a guardian of the patient, and the date and place of the guardian's appointment. Any staff member who wishes to obtain additional information must notify the patient's resource management services in writing of the request and of the resource management services' right to object. The staff member shall send the notice by mail to the guardian's address. If the guardian does not object in writing within fifteen days after the notice is mailed, the staff member may obtain the additional information. If the guardian objects in writing within fifteen days after the notice is mailed, the staff member may not obtain the additional information;

(y) To all current treating providers of the patient with prescriptive authority who have written a prescription for the patient within the last twelve months. For purposes of coordinating health care, the department may release without written authorization of the patient, information acquired for billing and collection purposes as described in RCW 70.02.050(1)(d). The department shall notify the patient that billing and collection information has been released to named providers, and provide the substance of the information released and the dates of such release. The department may not release counseling, inpatient psychiatric hospitalization, or drug and alcohol treatment information without a signed written release from the client;

(z)(i) To the secretary of social and health services for either program evaluation or research, or both so long as the secretary adopts rules for the conduct of the evaluation or research, or both. Such rules must include, but need not be limited to, the requirement that all evaluators and researchers sign an oath of confidentiality substantially as follows:

"As a condition of conducting evaluation or research concerning persons who have received services from (fill in the facility, agency, or person) I, . . . . ., agree not to divulge, publish, or otherwise make known to unauthorized persons or the public any information obtained in the course of such evaluation or research regarding persons who have received services such that the person who received such services is identifiable.

I recognize that unauthorized release of confidential information may subject me to civil liability under the provisions of state law.

/s/ . . . . ."

(ii) Nothing in this chapter may be construed to prohibit the compilation and publication of statistical data for use by government or researchers under standards, including standards to assure maintenance of confidentiality, set forth by the secretary;

(aa) To any person if the conditions in section 1 of this act are met.

(3) Whenever federal law or federal regulations restrict the release of information contained in the information and records related to mental health services of any patient who receives treatment for chemical dependency, the department may restrict

ONE HUNDRED FIRST DAY, APRIL 19, 2017

2017 REGULAR SESSION

the release of the information as necessary to comply with federal law and regulations.

(4) Civil liability and immunity for the release of information about a particular person who is committed to the department of social and health services under RCW 71.05.280(3) and 71.05.320(4)(c) after dismissal of a sex offense as defined in RCW 9.94A.030, is governed by RCW 4.24.550.

(5) The fact of admission to a provider of mental health services, as well as all records, files, evidence, findings, or orders made, prepared, collected, or maintained pursuant to chapter 71.05 RCW are not admissible as evidence in any legal proceeding outside that chapter without the written authorization of the person who was the subject of the proceeding except as provided in RCW 70.02.260, in a subsequent criminal prosecution of a person committed pursuant to RCW 71.05.280(3) or 71.05.320(4)(c) on charges that were dismissed pursuant to chapter 10.77 RCW due to incompetency to stand trial, in a civil commitment proceeding pursuant to chapter 71.09 RCW, or, in the case of a minor, a guardianship or dependency proceeding. The records and files maintained in any court proceeding pursuant to chapter 71.05 RCW must be confidential and available subsequent to such proceedings only to the person who was the subject of the proceeding or his or her attorney. In addition, the court may order the subsequent release or use of such records or files only upon good cause shown if the court finds that appropriate safeguards for strict confidentiality are and will be maintained.

(6)(a) Except as provided in RCW 4.24.550, any person may bring an action against an individual who has willfully released confidential information or records concerning him or her in violation of the provisions of this section, for the greater of the following amounts:

(i) One thousand dollars; or

(ii) Three times the amount of actual damages sustained, if any.

(b) It is not a prerequisite to recovery under this subsection that the plaintiff suffered or was threatened with special, as contrasted with general, damages.

(c) Any person may bring an action to enjoin the release of confidential information or records concerning him or her or his or her ward, in violation of the provisions of this section, and may in the same action seek damages as provided in this subsection.

(d) The court may award to the plaintiff, should he or she prevail in any action authorized by this subsection, reasonable attorney fees in addition to those otherwise provided by law.

(e) If an action is brought under this subsection, no action may be brought under RCW 70.02.170.

NEW SECTION. **Sec. 9.** Section 6 of this act takes effect April 1, 2018.

NEW SECTION. **Sec. 10.** Section 5 of this act expires April 1, 2018."

On page 1, line 2 of the title, after "patient;" strike the remainder of the title and insert "amending RCW 70.02.050, 70.02.200, 70.02.220, and 70.02.230; reenacting and amending RCW 70.02.230; adding a new section to chapter 70.02 RCW; providing an effective date; and providing an expiration date."

Senator Zeiger spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of floor striking amendment no. 271 by Senator Zeiger to Substitute House Bill No. 1477.

The motion by Senator Zeiger carried and floor striking amendment no. 271 was adopted by voice vote.

MOTION

On motion of Senator Zeiger, the rules were suspended, Substitute House Bill No. 1477 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1477 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1477 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 48; Nays, 1; Absent, 0; Excused, 0.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Billig, Braun, Brown, Carlyle, Chase, Cleveland, Conway, Darneille, Ericksen, Fain, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Honeyford, Hunt, Keiser, King, Kuderer, Liias, McCoy, Miloscia, Mullet, Nelson, O'Ban, Padden, Palumbo, Pearson, Pedersen, Ranker, Rivers, Rolfes, Rossi, Saldaña, Schoesler, Sheldon, Takko, Van De Wege, Walsh, Warnick, Wellman, Wilson and Zeiger

Voting nay: Senator Short

SUBSTITUTE HOUSE BILL NO. 1477, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 17, 2017

MR. PRESIDENT:

The House refuses to concur in the Senate amendment(s) to SUBSTITUTE HOUSE BILL NO. 1043 and asks the Senate to recede therefrom.

NONA SNELL, Deputy Chief Clerk

MOTION

Senator Rivers moved that the Senate recede from its position on the Senate amendments to Substitute House Bill No. 1043.

The President declared the question before the Senate to be motion by Senator Rivers that the Senate recede from its position on the Senate amendments to Substitute House Bill No. 1043.

The motion by Senator Rivers carried and the Senate receded from its amendments to Substitute House Bill No. 1043.

MOTION

On motion of Senator Rivers, the rules were suspended and Substitute House Bill No. 1043 was returned to second reading for the purposes of amendment.

MOTION

Senator Becker moved that the following floor amendment no. 275 by Senators Becker and Rivers be adopted:

On page 3, after line 13, after "section." Insert the following:

"(5)The commissioner shall add language in large font to the release consumers use when filing complaints with the office, whether on-line or in writing, informing them that the office may share their personal health information with other entities and for the purposes authorized under subsection (3) of this section, and that the information will only be shared if it is to be held confidential by the other entity. Consumers shall be provided the opportunity to opt out at the time of filing their complaint, indicating that their personal health information may not be shared under subsection (3) of this section.

Senator Becker spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 275 by Senators Becker and Rivers on page 3, after line 13 to House Bill No. 1043.

The motion by Senator Becker carried and floor amendment no. 275 was adopted by voice vote.

#### MOTION

On motion of Senator Rivers, the rules were suspended, Substitute House Bill No. 1043 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1043 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1043 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Billig, Braun, Brown, Carlyle, Chase, Cleveland, Conway, Darneille, Ericksen, Fain, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Honeyford, Hunt, Keiser, King, Kuderer, Lias, McCoy, Miloscia, Mullet, Nelson, O'Ban, Padden, Palumbo, Pearson, Pedersen, Ranker, Rivers, Rolfes, Rossi, Saldaña, Schoesler, Sheldon, Short, Takko, Van De Wege, Walsh, Warnick, Wellman, Wilson and Zeiger

SUBSTITUTE HOUSE BILL NO. 1043, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MESSAGE FROM THE HOUSE

April 19, 2017

MR. PRESIDENT:

The House receded from its amendment(s) to SUBSTITUTE SENATE BILL NO. 5289. Under suspension of the rules, the bill was returned to second reading for the purposes of amendment(s). The House adopted the following amendment(s): 5289-S AMH FARR HAJE 147, and passed the bill as amended by the House.

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 11.** A new section is added to chapter 46.61 RCW to read as follows:

(1) A person who uses a personal electronic device while driving a motor vehicle on a public highway is guilty of a traffic infraction and must pay a fine as provided in RCW 46.63.110(3).

(2) Subsection (1) of this section does not apply to:

(a) A driver who is using a personal electronic device to contact emergency services;

(b) The use of a system by a transit system employee for time-sensitive relay communication between the transit system employee and the transit system's dispatch services;

(c) An individual employed as a commercial motor vehicle driver who uses a personal electronic device within the scope of such individual's employment if such use is permitted under 49 U.S.C. Sec. 31136 as it existed on the effective date of this section; and

(d) A person operating an authorized emergency vehicle.

(3) The state preempts the field of regulating the use of personal electronic devices in motor vehicles while driving, and this section supersedes any local laws, ordinances, orders, rules, or regulations enacted by any political subdivision or municipality to regulate the use of a personal electronic device by the operator of a motor vehicle.

(4) A second or subsequent offense under this section is subject to two times the penalty amount under RCW 46.63.110.

(5) For purposes of this section:

(a) "Driving" means to operate a motor vehicle on a public highway, including while temporarily stationary because of traffic, a traffic control device, or other momentary delays. "Driving" does not include when the vehicle has pulled over to the side of, or off of, an active roadway and has stopped in a location where it can safely remain stationary.

(b) "Personal electronic device" means any portable electronic device that is capable of wireless communication or electronic data retrieval and is not manufactured primarily for hands-free use in a motor vehicle. "Personal electronic device" includes, but is not limited to, a cell phone, tablet, laptop, two-way messaging device, or electronic game. "Personal electronic device" does not include two-way radio, citizens band radio, or amateur radio equipment.

(c) "Use" or "uses" means:

(i) Holding a personal electronic device in either hand or both hands;

(ii) Using your hand or finger to compose, send, read, view, access, browse, transmit, save, or retrieve email, text messages, instant messages, photographs, or other electronic data; however, this does not preclude the minimal use of a finger to activate, deactivate, or initiate a function of the device;

(iii) Watching video on a personal electronic device.

**NEW SECTION. Sec. 12.** The following acts or parts of acts are each repealed:

(1)RCW 46.61.667 (Using a wireless communications device or handheld mobile telephone while driving) and 2013 c 224 s 15, 2010 c 223 s 3, & 2007 c 417 s 2; and

(2)RCW 46.61.668 (Sending, reading, or writing a text message while driving) and 2013 c 224 s 16, 2010 c 223 s 4, & 2007 c 416 s 1.

**NEW SECTION. Sec. 13.** A new section is added to chapter 46.61 RCW to read as follows:

(1)(a) It is a traffic infraction to drive dangerously distracted. Any driver who commits this infraction must be assessed a base penalty of thirty dollars.

(b) Enforcement of the infraction of driving dangerously distracted may be accomplished only as a secondary action when a driver of a motor vehicle has been detained for a suspected violation of a separate traffic infraction or an equivalent local ordinance.

(c) For the purposes of this section, "dangerously distracted" means a person who engages in any activity not related to the actual operation of a motor vehicle in a manner that interferes with the safe operation of such motor vehicle on any highway.

(2) The additional monetary penalty imposed under this section must be deposited into the distracted driving prevention account created in subsection (3) of this section.

(3) The distracted driving prevention account is created in the state treasury. All receipts from the base penalty in subsection (1) of 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 to support programs dedicated to reducing distracted driving and improving driver education on distracted driving.

**Sec. 14.** RCW 46.25.010 and 2013 c 224 s 3 are each amended to read as follows:

The definitions set forth in this section apply throughout this chapter.

(1) "Alcohol" means any substance containing any form of alcohol, including but not limited to ethanol, methanol, propanol, and isopropanol.

(2) "Alcohol concentration" means:

(a) The number of grams of alcohol per one hundred milliliters of blood; or

(b) The number of grams of alcohol per two hundred ten liters of breath.

(3) "Commercial driver's license" (CDL) means a license issued to an individual under chapter 46.20 RCW that has been endorsed in accordance with the requirements of this chapter to authorize the individual to drive a class of commercial motor vehicle.

(4) The "commercial driver's license information system" (CDLIS) is the information system established pursuant to 49 U.S.C. Sec. 31309 to serve as a clearinghouse for locating information related to the licensing and identification of commercial motor vehicle drivers.

(5) "Commercial learner's permit" (CLP) means a permit issued under RCW 46.25.052 for the purposes of behind-the-wheel training.

(6) "Commercial motor vehicle" means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle:

(a) Has a gross combination weight rating or gross combination weight of 11,794 kilograms or more (26,001 pounds or more), whichever is greater, inclusive of any towed unit [or units] with a gross vehicle weight rating or gross vehicle weight of more than 4,536 kilograms (10,000 pounds or more), whichever is greater; or

(b) Has a gross vehicle weight rating or gross vehicle weight of 11,794 kilograms or more (26,001 pounds or more), whichever is greater; or

(c) Is designed to transport sixteen or more passengers, including the driver; or

(d) Is of any size and is used in the transportation of hazardous materials as defined in this section; or

(e) Is a school bus regardless of weight or size.

(7) "Conviction" means an unvacated adjudication of guilt, or a determination that a person has violated or failed to comply with the law in a court of original jurisdiction or by an authorized administrative tribunal, an unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court, a plea of guilty or nolo contendere accepted by the court, the payment of a fine or court cost, entry into a deferred prosecution program under chapter 10.05 RCW, or violation of a condition of

release without bail, regardless of whether or not the penalty is rebated, suspended, or probated.

(8) "Disqualification" means a prohibition against driving a commercial motor vehicle.

(9) "Drive" means to drive, operate, or be in physical control of a motor vehicle in any place open to the general public for purposes of vehicular traffic. For purposes of RCW 46.25.100, 46.25.110, and 46.25.120, "drive" includes operation or physical control of a motor vehicle anywhere in the state.

(10) "Drugs" are those substances as defined by RCW 69.04.009, including, but not limited to, those substances defined by 49 C.F.R. Sec. 40.3.

(11) "Employer" means any person, including the United States, a state, or a political subdivision of a state, who owns or leases a commercial motor vehicle, or assigns a person to drive a commercial motor vehicle.

(12) "Gross vehicle weight rating" (GVWR) means the value specified by the manufacturer as the maximum loaded weight of a single vehicle. The GVWR of a combination or articulated vehicle, commonly referred to as the "gross combined weight rating" or GCWR, is the GVWR of the power unit plus the GVWR of the towed unit or units. If the GVWR of any unit cannot be determined, the actual gross weight will be used. If a vehicle with a GVWR of less than 11,794 kilograms (26,001 pounds or less) has been structurally modified to carry a heavier load, then the actual gross weight capacity of the modified vehicle, as determined by RCW 46.44.041 and 46.44.042, will be used as the GVWR.

(13) "Hazardous materials" means any material that has been designated as hazardous under 49 U.S.C. Sec. 5103 and is required to be placarded under subpart F of 49 C.F.R. Part 172 or any quantity of a material listed as a select agent or toxin in 42 C.F.R. Part 73.

(14) "Motor vehicle" means a vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power used on highways, or any other vehicle required to be registered under the laws of this state, but does not include a vehicle, machine, tractor, trailer, or semitrailer operated exclusively on a rail.

(15) "Out-of-service order" means a declaration by an authorized enforcement officer of a federal, state, Canadian, Mexican, or local jurisdiction that a driver, a commercial motor vehicle, or a motor carrier operation is out-of-service pursuant to 49 C.F.R. Secs. 386.72, 392.5, 395.13, 396.9, or compatible laws, or the North American uniform out-of-service criteria.

(16) "Positive alcohol confirmation test" means an alcohol confirmation test that:

(a) Has been conducted by a breath alcohol technician under 49 C.F.R. Part 40; and

(b) Indicates an alcohol concentration of 0.04 or more.

A report that a person has refused an alcohol test, under circumstances that constitute the refusal of an alcohol test under 49 C.F.R. Part 40, will be considered equivalent to a report of a positive alcohol confirmation test for the purposes of this chapter.

(17) "School bus" means a commercial motor vehicle used to transport preprimary, primary, or secondary school students from home to school, from school to home, or to and from school-sponsored events. School bus does not include a bus used as a common carrier.

(18) "Serious traffic violation" means:

(a) Excessive speeding, defined as fifteen miles per hour or more in excess of the posted limit;

(b) Reckless driving, as defined under state or local law;

(c) Driving while using a ~~handheld wireless communications device [handheld mobile telephone], defined as a violation of RCW 46.61.667(1)(b))~~ personal electronic device, defined as a

violation of section 1 of this act, which includes in the activities it prohibits driving while holding a personal electronic device in either or both hands and using a hand or finger for texting, or an equivalent administrative rule or local law, ordinance, rule, or resolution;

~~(d) ((Texting, defined as a violation of RCW 46.61.668(1)(b) or an equivalent administrative rule or local law, ordinance, rule, or resolution;~~

~~(e))~~ A violation of a state or local law relating to motor vehicle traffic control, other than a parking violation, arising in connection with an accident or collision resulting in death to any person;

~~((f))~~ ~~(c)~~ Driving a commercial motor vehicle without obtaining a commercial driver's license;

~~((g))~~ ~~(f)~~ Driving a commercial motor vehicle without a commercial driver's license in the driver's possession; however, any individual who provides proof to the court by the date the individual must appear in court or pay any fine for such a violation, that the individual held a valid CDL on the date the citation was issued, is not guilty of a "serious traffic violation";

~~((h))~~ ~~(g)~~ Driving a commercial motor vehicle without the proper class of commercial driver's license endorsement or endorsements for the specific vehicle group being operated or for the passenger or type of cargo being transported; and

~~((i))~~ ~~(h)~~ Any other violation of a state or local law relating to motor vehicle traffic control, other than a parking violation, that the department determines by rule to be serious.

(19) "State" means a state of the United States and the District of Columbia.

(20) "Substance abuse professional" means an alcohol and drug specialist meeting the credentials, knowledge, training, and continuing education requirements of 49 C.F.R. Sec. 40.281.

(21) "Tank vehicle" means any commercial motor vehicle that is designed to transport any liquid or gaseous materials within a tank or tanks having an individual rated capacity of more than one hundred nineteen gallons and an aggregate rated capacity of one thousand gallons or more that is either permanently or temporarily attached to the vehicle or the chassis. A commercial motor vehicle transporting an empty storage container tank, not designed for transportation, with a rated capacity of one thousand gallons or more that is temporarily attached to a flatbed trailer is not considered a tank vehicle.

(22) "Type of driving" means one of the following:

(a) "Nonexcepted interstate," which means the CDL or CLP holder or applicant operates or expects to operate in interstate commerce, is both subject to and meets the qualification requirements under 49 C.F.R. Part 391 as it existed on July 8, 2014, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section, and is required to obtain a medical examiner's certificate under 49 C.F.R. Sec. 391.45 as it existed on July 8, 2014, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section;

(b) "Excepted interstate," which means the CDL or CLP holder or applicant operates or expects to operate in interstate commerce, but engages exclusively in transportation or operations excepted under 49 C.F.R. Secs. 390.3(f), 391.2, 391.68, or 398.3, as they existed on July 8, 2014, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section, from all or parts of the qualification requirements of 49 C.F.R. Part 391 as it existed on July 8, 2014, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section, and is therefore not required to obtain a medical examiner's certificate under 49 C.F.R. Sec. 391.45 as it existed on July 8, 2014, or such

subsequent date as may be provided by the department by rule, consistent with the purposes of this section;

(c) "Nonexcepted intrastate," which means the CDL or CLP holder or applicant operates only in intrastate commerce and is therefore subject to state driver qualification requirements; or

(d) "Excepted intrastate," which means the CDL or CLP holder or applicant operates in intrastate commerce, but engages exclusively in transportation or operations excepted from all or parts of the state driver qualification requirements.

(23) "United States" means the fifty states and the District of Columbia.

(24) "Verified positive drug test" means a drug test result or validity testing result from a laboratory certified under the authority of the federal department of health and human services that:

(a) Indicates a drug concentration at or above the cutoff concentration established under 49 C.F.R. Sec. 40.87; and

(b) Has undergone review and final determination by a medical review officer.

A report that a person has refused a drug test, under circumstances that constitute the refusal of a federal department of transportation drug test under 49 C.F.R. Part 40, will be considered equivalent to a report of a verified positive drug test for the purposes of this chapter.

**NEW SECTION. Sec. 15.** This act takes effect January 1, 2019."

Correct the title.

NONA SNELL, Deputy Chief Clerk

#### MOTION

Senator Rivers moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5289.

Senator Rivers spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Rivers that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5289.

The motion by Senator Rivers carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5289 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5289, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5289, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 39; Nays, 10; Absent, 0; Excused, 0.

Voting yea: Senators Bailey, Billig, Braun, Brown, Carlyle, Chase, Cleveland, Conway, Darneille, Fain, Fortunato, Frockt, Hawkins, Hobbs, Hunt, Keiser, King, Kuderer, Liias, McCoy, Miloscia, Mullet, Nelson, O'Ban, Palumbo, Pearson, Pedersen, Ranker, Rivers, Rolfes, Rossi, Saldaña, Schoesler, Takko, Van De Wege, Walsh, Wellman, Wilson and Zeiger

Voting nay: Senators Angel, Baumgartner, Becker, Ericksen, Hasegawa, Honeyford, Padden, Sheldon, Short and Warnick

SUBSTITUTE SENATE BILL NO. 5289, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SIGNED BY THE PRESIDENT

April 17, 2017

Pursuant to Article 2, Section 32 of the State Constitution and Senate Rule 1(5), the President announced the signing of and thereupon did sign in open session:

- SUBSTITUTE SENATE BILL NO. 5035,
- SENATE BILL NO. 5049,
- SENATE BILL NO. 5119,
- ENGROSSED SUBSTITUTE SENATE BILL NO. 5173,
- SENATE BILL NO. 5274,
- SECOND SUBSTITUTE SENATE BILL NO. 5285,
- SENATE BILL NO. 5391,
- SUBSTITUTE SENATE BILL NO. 5402,
- SUBSTITUTE SENATE BILL NO. 5404,
- SENATE BILL NO. 5454,
- ENGROSSED SUBSTITUTE SENATE BILL NO. 5470,
- ENGROSSED SUBSTITUTE SENATE BILL NO. 5552,
- SENATE BILL NO. 5581,
- SUBSTITUTE SENATE BILL NO. 5618,
- ENGROSSED SUBSTITUTE SENATE BILL NO. 5628,
- SENATE BILL NO. 5632,
- SENATE BILL NO. 5635,
- SUBSTITUTE SENATE BILL NO. 5644,
- SENATE BILL NO. 5661,
- ENGROSSED SENATE BILL NO. 5665,
- SENATE BILL NO. 5691,
- SUBSTITUTE SENATE BILL NO. 5705,
- SUBSTITUTE SENATE BILL NO. 5713,
- SENATE BILL NO. 5715,
- SUBSTITUTE SENATE BILL NO. 5779,
- SUBSTITUTE SENATE BILL NO. 5806,
- ENGROSSED SUBSTITUTE SENATE BILL NO. 5808,
- ENGROSSED SENATE BILL NO. 5834,
- SENATE BILL NO. 5849.

MR. PRESIDENT:

The House refuses to concur in the Senate amendment(s) to ENGROSSED SUBSTITUTE HOUSE BILL NO. 1109 and asks the Senate to recede therefrom.

NONA SNELL, Deputy Chief Clerk

MOTION

Senator Padden moved that the Senate insist on its position in the Senate amendment(s) to Engrossed Substitute House Bill No. 1109 and ask the House to concur thereon.

Senators Padden and Pedersen spoke in favor of passage of the motion.

The President declared the question before the Senate to be motion by Senator Padden that the Senate insist on its position in the Senate amendment(s) to Engrossed Substitute House Bill No. 1109 and ask the House to concur thereon.

The motion by Senator Padden carried and the Senate insisted on its position in the Senate amendment(s) to Engrossed Substitute House Bill No. 1109 and asked the House to concur thereon by voice vote.

MOTION

At 5:29 p.m., on motion of Senator Fain, the Senate adjourned until 9:55 o'clock a.m. Thursday, April 20, 2017.

CYRUS HABIB, President of the Senate

HUNTER G. GOODMAN, Secretary of the Senate