

2010

SESSION LAWS

OF THE

STATE OF WASHINGTON

REGULAR SESSION
SIXTY-FIRST LEGISLATURE
Convened January 11, 2010. Adjourned March 11, 2010.



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**WASHINGTON SESSION LAWS
GENERAL INFORMATION**

1. EDITIONS AVAILABLE.

- (a) *General Information.* The session laws are printed in a permanent softbound edition containing the accumulation of all laws adopted in the legislative session. The edition contains a subject index and tables indicating Revised Code of Washington sections affected.
- (b) *Where and how obtained - price.* The permanent session laws may be ordered from the Statute Law Committee, Pritchard Building, P.O. Box 40552, Olympia, Washington 98504-0552. The edition costs \$25.00 per set plus applicable state and local sales taxes and \$7.00 shipping and handling. All orders must be accompanied by payment.

2. PRINTING STYLE - INDICATION OF NEW OR DELETED MATTER.

The session laws are presented in the form in which they were enacted by the legislature. This style quickly and graphically portrays the current changes to existing law as follows:

- (a) In amendatory sections
 - (i) underlined matter is new matter.
 - (ii) deleted matter is (~~lined out and bracketed between double parentheses~~).
- (b) Complete new sections are prefaced by the words NEW SECTION.

3. PARTIAL VETOES.

- (a) Vetoed matter is *printed in bold italics*.
- (b) Pertinent excerpts of the governor's explanation of partial vetoes are printed at the end of the chapter concerned.

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

5. EFFECTIVE DATE OF LAWS.

- (a) The state Constitution provides that unless otherwise qualified, the laws of any session take effect ninety days after adjournment sine die. The Secretary of State has determined the pertinent date for the Laws of the 2010 regular session to be the first moment of June 10, 2010.
- (b) Laws that carry an emergency clause take effect immediately upon approval by the Governor.
- (c) Laws that prescribe an effective date take effect upon that date.

6. INDEX AND TABLES.

A cumulative index and tables of all 2010 laws may be found at the back of the final volume.

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CHAPTER 161

[Senate Bill 6379]

VEHICLE AND VESSEL TITLE AND REGISTRATION STATUTES—REORGANIZATION

AN ACT Relating to streamlining and making technical corrections to vehicle and vessel registration and title provisions; amending RCW 46.04.125, 46.04.3815, 46.04.670, 46.01.011, 46.01.110, 46.01.130, 46.01.140, 46.01.230, 46.01.235, 46.01.260, 46.01.270, 46.01.310, 46.08.066, 46.08.150, 46.09.020, 46.09.030, 46.09.040, 46.09.050, 46.09.070, 46.09.080, 46.09.115, 46.09.240, 46.09.280, 46.10.010, 46.10.020, 46.10.030, 46.10.040, 46.10.043, 46.10.050, 46.10.055, 46.10.060, 46.10.070, 46.10.220, 46.12.010, 46.12.030, 46.12.047, 46.12.050, 46.12.070, 46.12.080, 46.12.101, 46.12.102, 46.12.103, 46.12.124, 46.12.130, 46.12.151, 46.12.160, 46.12.170, 46.12.181, 46.12.190, 46.12.210, 46.12.250, 46.12.280, 46.12.290, 46.12.420, 46.12.440, 46.16.004, 46.16.006, 46.16.010, 46.16.015, 46.16.020, 46.16.022, 46.16.025, 46.16.028, 46.16.029, 46.16.030, 46.16.040, 46.16.045, 46.16.047, 46.16.048, 46.16.068, 46.16.070, 46.16.076, 46.16.086, 46.16.086, 46.16.090, 46.16.125, 46.16.160, 46.16.162, 46.16.210, 46.16.212, 46.16.216, 46.16.225, 46.16.260, 46.16.265, 46.16.460, 46.16.500, 46.16.700, 46.16.705, 46.16.715, 46.16.725, 46.16.735, 46.16.745, 46.16.755, 46.16.765, 46.16.775, 46.16.690, 46.16.301, 46.16.324, 46.16.335, 46.16.390, 46.68.010, 46.68.020, 46.68.030, 46.68.035, 46.68.220, 46.16.685, 46.09.110, 46.10.075, 35.95A.090, 35.95A.130, 81.104.160, 82.12.045, 82.12.0254, 82.36.280, 82.44.015, 82.44.035, 82.44.060, 82.44.065, 82.44.090, 82.44.100, 82.44.120, 82.80.130, 82.80.140, 88.02.010, 88.02.035, 88.02.055, 88.02.110, 88.02.118, 88.02.200, 88.02.120, 88.02.070, 88.02.180, 88.02.075, 88.02.020, 88.02.030, 88.02.050, 88.02.052, 88.02.250, 88.02.260, 88.02.040, 88.02.045, 88.02.053, 88.02.060, 88.02.230, 88.02.078, 88.02.188, 88.02.112, 88.02.115, 88.02.189, 88.02.220, 88.02.210, 88.02.023, 88.02.184, 88.02.125, 82.49.010, 82.49.030, 82.49.065, 19.116.050, 28B.10.890, 29A.04.037, 35A.46.010, 41.04.007, 43.60A.140, 46.01.030, 46.01.040, 46.01.160, 46.01.320, 46.08.010, 46.08.150, 46.20.025, 46.29.605, 46.30.020, 46.32.100, 46.44.0941, 46.44.170, 46.55.105, 46.55.140, 46.55.240, 46.61.581, 46.61.582, 46.63.020, 46.63.160, 46.63.170, 46.68.080, 46.68.250, 46.70.011, 46.70.051, 46.70.101, 46.70.122, 46.70.124, 46.70.135, 46.72.060, 46.80.010, 46.80.090, 46.87.010, 46.87.020, 46.87.030, 46.87.140, 46.87.220, 47.10.704, 47.68.255, 48.22.110, 59.21.050, 62A.9A-311, 63.14.130, 65.20.020, 65.20.040, 68.64.010, 68.64.210, 70.168.040, 73.04.115, 77.12.471, 79.100.100, 79A.05.059, 79A.05.065, 79A.05.215, 82.08.0264, 82.44.010, 84.37.070, and 84.38.100; 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Be it enacted by the Legislature of the State of Washington:

NEW SECTION. **Sec. 1.** This act is intended to streamline and make technical amendments to certain codified statutes that deal with vehicle and vessel registration and title. Any statutory changes made by this act should be interpreted as technical in nature and not be interpreted to have any substantive policy or legal implications.

PART I. DEFINITIONS

NEW SECTION. **Sec. 101.** A new section is added to chapter 46.04 RCW to read as follows:

"Affidavit of loss" means a written statement confirming that the certificate of title, registration certificate, gross weight license, validation tab, or decal has been lost, stolen, destroyed, or mutilated. The statement must be in a form prescribed by the director.

NEW SECTION. **Sec. 102.** A new section is added to chapter 46.04 RCW to read as follows:

"Agent," for the purposes of entering into the standard contract required under RCW 46.01.140(1), means any county auditor or other individual, government, or business entity other than a subagent that is appointed to carry out vehicle registration and certificate of title functions for the department.

NEW SECTION. **Sec. 103.** A new section is added to chapter 46.04 RCW to read as follows:

"Amateur radio operator license plates" means special license plates displaying amateur radio call letters assigned by the federal communications commission.

NEW SECTION. **Sec. 104.** A new section is added to chapter 46.04 RCW to read as follows:

"Armed forces license plate collection" means the collection of six separate license plate designs issued under section 612 of this act. Each license plate design displays a symbol representing one of the five branches of the armed forces, and one representing the national guard.

NEW SECTION. **Sec. 105.** A new section is added to chapter 46.04 RCW to read as follows:

"Baseball stadium license plate" means special license plates commemorating the construction of a baseball stadium as defined in RCW 82.14.0485.

NEW SECTION. Sec. 106. A new section is added to chapter 46.04 RCW to read as follows:

"Business day" means Monday through Friday and excludes Saturday, Sunday, and state and federal holidays.

NEW SECTION. Sec. 107. A new section is added to chapter 46.04 RCW to read as follows:

"Cab and chassis" means an incomplete vehicle manufactured and sold with only a cab, frame, and running gear.

Sec. 108. RCW 46.04.125 and 1996 c 225 s 2 are each amended to read as follows:

"Collector" means the owner of one or more vehicles described in (~~RCW 46.16.305(1))~~ section 617(1) of this act who collects, purchases, acquires, trades, or disposes of the vehicle or parts of it, for his or her personal use, in order to preserve, restore, and maintain the vehicle for hobby or historical purposes.

NEW SECTION. Sec. 109. A new section is added to chapter 46.04 RCW to read as follows:

"Collector vehicle license plate" means a special license plate that may be assigned to a vehicle that is more than thirty years old.

NEW SECTION. Sec. 110. A new section is added to chapter 46.04 RCW to read as follows:

"Commercial trailer" means a trailer that is principally used to transport commodities, merchandise, produce, freight, or animals.

NEW SECTION. Sec. 111. A new section is added to chapter 46.04 RCW to read as follows:

"Confidential license plates" and "undercover license plates" mean standard issue license plates assigned to vehicles owned or operated by public agencies. These license plates are used as specifically authorized under RCW 46.08.066.

NEW SECTION. Sec. 112. A new section is added to chapter 46.04 RCW to read as follows:

"Converter gear" means an auxiliary axle, booster axle, dolly, or jeep axle.

NEW SECTION. Sec. 113. A new section is added to chapter 46.04 RCW to read as follows:

"Disabled American veteran license plates" means special license plates issued to a veteran, as defined in RCW 41.04.007, who meets the requirements provided in section 619 of this act.

NEW SECTION. Sec. 114. A new section is added to chapter 46.04 RCW to read as follows:

"Empty scale weight" means the weight of a vehicle as it stands without a load.

NEW SECTION. Sec. 115. A new section is added to chapter 46.04 RCW to read as follows:

"Endangered wildlife license plates" means special license plates that display a symbol or artwork symbolizing endangered wildlife in Washington state.

NEW SECTION. Sec. 116. A new section is added to chapter 46.04 RCW to read as follows:

"Fixed load vehicle" means a commercial vehicle that has a structure or machinery permanently attached such as, but not limited to, an air compressor, a bunk house, a conveyor, a cook house, a donkey engine, a hoist, a rock crusher, a tool house, or a well drilling machine. Fixed load vehicles are not capable of carrying any additional load other than the structure or machinery permanently attached.

NEW SECTION. Sec. 117. A new section is added to chapter 46.04 RCW to read as follows:

"Former prisoner of war license plates" means special license plates that may be issued to former prisoners of war as authorized under section 619 of this act.

NEW SECTION. Sec. 118. A new section is added to chapter 46.04 RCW to read as follows:

"Gross vehicle weight rating" means the value specified by the manufacturer as the maximum load weight of a single vehicle.

NEW SECTION. Sec. 119. A new section is added to chapter 46.04 RCW to read as follows:

"Helping kids speak license plates" means special license plates that commemorate an organization that supports programs that provide free diagnostic and therapeutic services to children who have a severe delay in language or speech development.

NEW SECTION. Sec. 120. A new section is added to chapter 46.04 RCW to read as follows:

"Horseless carriage license plate" is a special license plate that may be assigned to a vehicle that is more than forty years old.

NEW SECTION. Sec. 121. A new section is added to chapter 46.04 RCW to read as follows:

"Hybrid motor vehicle" means a motor vehicle that uses multiple power sources or fuel types for propulsion and meets the federal definition of a hybrid motor vehicle.

NEW SECTION. Sec. 122. A new section is added to chapter 46.04 RCW to read as follows:

"Light truck" means a motor vehicle manufactured as a truck with a declared gross weight of twelve thousand pounds or less.

NEW SECTION. Sec. 123. A new section is added to chapter 46.04 RCW to read as follows:

"Market value threshold amount" means an amount set by rule by the department that is used to determine, together with the age of the vehicle, whether vehicle certificates of title for vehicles aged six years through twenty years should be identified as having been previously destroyed or reported as an insurance total loss.

NEW SECTION. Sec. 124. A new section is added to chapter 46.04 RCW to read as follows:

"Military affiliate radio system license plates" means special license plates displaying official military affiliate radio system call letters assigned by the United States department of defense.

NEW SECTION. Sec. 125. A new section is added to chapter 46.04 RCW to read as follows:

"Natural person" means a human being.

NEW SECTION. Sec. 126. A new section is added to chapter 46.04 RCW to read as follows:

"New motor vehicle" means any motor vehicle that (1) is self-propelled and is required to be registered and titled under this title, (2) has not been previously titled to a retail purchaser or lessee, and (3) is not a used vehicle as defined under RCW 46.04.660.

NEW SECTION. Sec. 127. A new section is added to chapter 46.04 RCW to read as follows:

"Off-road vehicle" or "ORV" means a nonstreet registered vehicle when used for recreational purposes on nonhighway roads, trails, or a variety of other natural terrain. "Off-road vehicle" or "ORV" includes, but is not limited to, all-terrain vehicles, motorcycles, four-wheel drive vehicles, and dune buggies.

NEW SECTION. Sec. 128. A new section is added to chapter 46.04 RCW to read as follows:

"ORV registration" means a registration certificate or decal issued under the laws of this state pertaining to the registration of off-road vehicles under chapter 46.09 RCW.

NEW SECTION. Sec. 129. A new section is added to chapter 46.04 RCW to read as follows:

"Ownership in doubt" means that a vehicle or vessel owner is unable to obtain satisfactory evidence of ownership or releases of interest and is permitted to apply for a three-year registration period without a certificate of title or a three-year period with a bond covering the certificate of title.

Sec. 130. RCW 46.04.3815 and 1996 c 225 s 3 are each amended to read as follows:

"Parts car" means a motor vehicle that is owned by a collector to furnish parts for restoration or maintenance of a vehicle described in ((RCW 46.16.305(1)) section 617(1) of this act, thus enabling a collector to preserve, restore, and maintain such a vehicle.

NEW SECTION. Sec. 131. A new section is added to chapter 46.04 RCW to read as follows:

"Personalized license plates" means license plates that display the license plate number assigned to the vehicle or camper for which the license plate number was issued in a combination of letters or numbers, or both, requested by the owner of the vehicle or camper in accordance with chapter 46.... RCW (the new chapter created in section 1224 of this act).

NEW SECTION. Sec. 132. A new section is added to chapter 46.04 RCW to read as follows:

"Private use single-axle trailer" means a trailer owned by a natural person and used for the private noncommercial use of the owner.

NEW SECTION. Sec. 133. A new section is added to chapter 46.04 RCW to read as follows:

"Purple heart license plates" means special license plates that may be assigned to a motor vehicle to recipients of the Purple Heart medal or to another qualified person.

NEW SECTION. Sec. 134. A new section is added to chapter 46.04 RCW to read as follows:

"Registration" means the registration certificate or license plates issued under the laws of this state pertaining to the registration of vehicles.

NEW SECTION. Sec. 135. A new section is added to chapter 46.04 RCW to read as follows:

"Renewal notice" means the notice to renew a vehicle registration sent to the registered owner by the department.

NEW SECTION. Sec. 136. A new section is added to chapter 46.04 RCW to read as follows:

"Report of sale" means a document or electronic record transaction that when properly completed and filed protects the seller of a vehicle from certain criminal and civil liabilities arising from use of the vehicle by another person after the vehicle has been sold or a change in ownership has occurred.

NEW SECTION. Sec. 137. A new section is added to chapter 46.04 RCW to read as follows:

"Ride share license plates" means special license plates issued for motor vehicles that are used primarily for commuter ride sharing as defined in RCW 46.74.010.

NEW SECTION. Sec. 138. A new section is added to chapter 46.04 RCW to read as follows:

"Salvage vehicle" means a vehicle whose certificate of title has been surrendered to the department under RCW 46.12.070 (as recodified by this act) due to the vehicle's destruction or declaration as a total loss or for which there is documentation indicating that the vehicle has been declared salvage or has been damaged to the extent that the owner, an insurer, or other person acting on behalf of the owner, has determined that the cost of parts and labor plus the salvage value has made it uneconomical to repair the vehicle. "Salvage vehicle" does not include a motor vehicle having a model year designation of a calendar year that is at least six years before the calendar year in which the vehicle was wrecked, destroyed, or damaged, unless, after June 13, 2002, and immediately before the vehicle was wrecked, destroyed, or damaged, the vehicle had a retail fair market value of at least the then market value threshold amount and has a model year designation of a calendar year not more than twenty years before the calendar year in which the vehicle was wrecked, destroyed, or damaged.

NEW SECTION. Sec. 139. A new section is added to chapter 46.04 RCW to read as follows:

"Scale weight" means the weight of a vehicle without a load.

NEW SECTION. Sec. 140. A new section is added to chapter 46.04 RCW to read as follows:

"Secured party" has the same meaning as in RCW 62A.1-201.

NEW SECTION. Sec. 141. A new section is added to chapter 46.04 RCW to read as follows:

"Security interest" has the same meaning as in RCW 62A.1-201.

NEW SECTION. Sec. 142. A new section is added to chapter 46.04 RCW to read as follows:

"Share the road license plates" means special license plates displaying a symbol or artwork recognizing an organization that promotes bicycle safety and awareness education. Share the road license plates commemorate the life of Cooper Jones.

NEW SECTION. Sec. 143. A new section is added to chapter 46.04 RCW to read as follows:

"Ski & ride Washington license plates" means special license plates displaying a symbol or artwork recognizing the Washington snowsports industry.

NEW SECTION. Sec. 144. A new section is added to chapter 46.04 RCW to read as follows:

(1) "Special highway construction equipment" means any vehicle that is (a) designed and used primarily for the grading of highways, the paving of highways, earth moving, and other construction work on highways, (b) not designed or used primarily to transport persons or property on a public highway, and (c) only incidentally operated or moved over the highway.

(2) "Special highway construction equipment" includes, but is not limited to, road construction and maintenance machinery that is designed and used for the purposes described under subsection (1) of this section, such as portable air compressors, air drills, asphalt spreaders, bituminous mixers, bucket loaders, track laying tractors, ditchers, leveling graders, finishing machines, motor graders, paving mixers, road rollers, scarifiers, earth moving scrapers and carryalls, lighting plants, welders, pumps, power shovels and draglines, and self-propelled and tractor-drawn earth moving equipment and machinery, including dump trucks and tractor-dump trailer combinations that (a) are in excess of the legal width, (b) because of their length, height, or unladen weight, may not be moved on a public highway without the permit specified in RCW 46.44.090 and are not operated laden except within the boundaries of the project limits as defined by the contract, and other similar types of construction equipment, or (c) are driven or moved upon a public highway only for the purpose of crossing the highway from one property to another, provided that the movement does not exceed five hundred feet and the vehicle is equipped with wheels or pads that will not damage the roadway surface.

NEW SECTION. Sec. 145. A new section is added to chapter 46.04 RCW to read as follows:

"Snowmobile" means a self-propelled vehicle that is capable of traveling over snow or ice that (1) utilizes as its means of propulsion an endless belt tread or cleats, or any combination of these or other similar means of contact with the surface upon which it is operated, (2) is steered wholly or in part by skis or sled type runners, and (3) is not otherwise registered as, or subject to, the motor vehicle excise tax in the state of Washington.

NEW SECTION. Sec. 146. A new section is added to chapter 46.04 RCW to read as follows:

"Sport utility vehicle" means a high performance motor vehicle weighing six thousand pounds or less, designed to carry ten passengers or less or designated as a sport utility vehicle by the manufacturer.

NEW SECTION. Sec. 147. A new section is added to chapter 46.04 RCW to read as follows:

"Square dancer license plates" means special license plates displaying a symbol of square dancers.

NEW SECTION. Sec. 148. A new section is added to chapter 46.04 RCW to read as follows:

"Standard issue license plates" means license plates that are held for general issue, and does not mean personalized license plates or any other special license plate.

NEW SECTION. Sec. 149. A new section is added to chapter 46.04 RCW to read as follows:

"Subagency" means the licensing office in which vehicle title and registration functions are carried out by a subagent.

NEW SECTION. Sec. 150. A new section is added to chapter 46.04 RCW to read as follows:

"Subagent" means a person or governmental entity recommended by a county auditor or other agent and who is appointed by the director to provide vehicle registration and certificate of title services under contract with the county auditor or other agent.

NEW SECTION. Sec. 151. A new section is added to chapter 46.04 RCW to read as follows:

"Tab" or "license tab" means a sticker issued by the department and affixed to the rear license plate to identify the vehicle license expiration month and year for a specific vehicle.

NEW SECTION. Sec. 152. A new section is added to chapter 46.04 RCW to read as follows:

"Total loss vehicle" means a vehicle that has been reported to the department as destroyed by an insurance company, self-insurer, or the vehicle owner or the owner's authorized representative.

NEW SECTION. Sec. 153. A new section is added to chapter 46.04 RCW to read as follows:

"Tow dolly" means a trailer equipped with between one and three axles designed to connect to a tow bar on the rear of a motor vehicle that is used to tow another vehicle. The front or rear wheels of the towed vehicle are secured to and rest on the tow dolly.

NEW SECTION. Sec. 154. A new section is added to chapter 46.04 RCW to read as follows:

"Transit permit" means a document that authorizes a person to operate a vehicle on a public highway of this state solely for the purpose of obtaining the necessary documentation to complete and apply for a Washington certificate of title or vehicle registration. Unlimited use of the vehicle is prohibited when operated under a transit permit.

Sec. 155. RCW 46.04.670 and 2003 c 141 s 6 are each amended to read as follows:

"Vehicle" includes every device capable of being moved upon a public highway and in, upon, or by which any persons or property is or may be transported or drawn upon a public highway, including bicycles. ~~((The term))~~ "Vehicle" does not include power wheelchairs or devices other than bicycles moved by human or animal power or used exclusively upon stationary rails or tracks. Mopeds ~~((shall))~~ are not ~~((be))~~ considered vehicles or motor vehicles for the purposes of chapter 46.70 RCW. Bicycles ~~((shall))~~ are not ~~((be))~~ considered vehicles for the purposes of chapter 46.12, 46.16, or 46.70 RCW or RCW 82.12.045. Electric personal assistive mobility devices are not considered vehicles or motor vehicles for the purposes of chapter 46.12, 46.16, 46.29, 46.37, or 46.70 RCW.

NEW SECTION. Sec. 156. A new section is added to chapter 46.04 RCW to read as follows:

"Vehicle license fee" means a fee collected by the state of Washington as a license fee, as that term is construed in Article II, section 40 of the state Constitution, for the act of registering a vehicle under chapter 46.16 RCW. "Vehicle license fee" does not include license plate fees, or taxes and fees collected by the department for other jurisdictions.

NEW SECTION. Sec. 157. A new section is added to chapter 46.04 RCW to read as follows:

"Vintage snowmobile" means a snowmobile manufactured at least thirty years ago.

NEW SECTION. Sec. 158. A new section is added to chapter 46.04 RCW to read as follows:

"Washington state parks license plates" means special license plates displaying a symbol or artwork recognizing Washington state parks as premier destinations of uncommon quality that preserve significant natural, cultural, historical, and recreational resources.

NEW SECTION. Sec. 159. A new section is added to chapter 46.04 RCW to read as follows:

"Washington's wildlife license plate collection" means the collection of three separate license plate designs. Each license plate design displays a distinct symbol or artwork, to include bear, deer, and elk, recognizing the wildlife of Washington.

NEW SECTION. Sec. 160. A new section is added to chapter 46.04 RCW to read as follows:

"We love our pets license plates" means special license plates displaying a symbol or artwork recognizing an organization that assists local member agencies of the federation of animal welfare and control agencies to promote and perform spay or neuter surgery on Washington state pets in order to reduce pet overpopulation.

NEW SECTION. Sec. 161. A new section is added to chapter 46.04 RCW to read as follows:

"Wild on Washington license plates" means special license plates that display a symbol or artwork symbolizing wildlife viewing in Washington state.

PART II. GENERAL PROVISIONS AND NONHIGHWAY VEHICLES

Sec. 201. RCW 46.01.011 and 1994 c 92 s 500 are each amended to read as follows:

The legislature finds that the department of licensing administers laws relating to the licensing and regulation of professions, businesses, ~~((gambling,))~~ and other activities in addition to administering laws relating to the licensing and regulation of vehicles and vehicle operators, dealers, and manufacturers. The laws administered by the department have the common denominator of licensing and regulation and are directed toward protecting and enhancing the well-being of the residents of the state.

Sec. 202. RCW 46.01.110 and 1995 c 403 s 108 are each amended to read as follows:

The director ~~((of licensing is hereby authorized to))~~ may adopt and enforce ~~((such reasonable rules as may be consistent with and necessary))~~ rules to carry out ~~((the))~~ provisions ~~((relating))~~ related to vehicle ~~((licenses))~~ registrations, certificates of ~~((ownership and license registration and drivers' licenses not in conflict with the provisions of Title 46 RCW: PROVIDED, That the director of licensing may not adopt rules after July 23, 1995, that are based))~~ title, and drivers' licenses. These rules must not be based:

- (1) Solely on a section of law stating a statute's intent or purpose(,);
- (2) On the enabling provisions of the statute establishing the agency(,); or
- (3) On any combination of ~~((such provisions, for statutory authority to adopt any rule))~~ subsections (1) and (2) of this section.

Sec. 203. RCW 46.01.130 and 2009 c 169 s 1 are each amended to read as follows:

~~((1) The department of licensing shall have the general supervision))~~ The director:

(1) Shall supervise and control ~~((of))~~ the issuing of vehicle ~~((licenses))~~ certificates of title, vehicle registrations, and vehicle license ~~((number))~~ plates, and ~~((shall have))~~ has the full power to do all things necessary and proper to carry out the provisions of the law relating to the ~~((licensing))~~ registration of vehicles; ~~((the director shall have the power to))~~

(2) May appoint and employ deputies, assistants ~~((and)),~~ representatives, and ~~((such clerks as may be required from time to time, and to provide for their operation))~~ clerks:

(3) May establish branch offices in different parts of the state~~((, and the director shall have the power to));~~

(4) May appoint ~~((the))~~ county auditors ~~((of the several counties as the director's agents for the licensing of vehicles.~~

(2)(a) The director)) in Washington state or, in the absence of a county auditor, the department or an official of county government as agents for applications for and the issuance of vehicle certificates of title and vehicle registrations; and

(5)(a) Shall investigate the conviction records and pending charges of any current employee of or prospective employee being considered for any position with the department that has or will have:

- (i) The ability to create or modify records of applicants for enhanced drivers' licenses and identicards issued under RCW 46.20.202; and

(ii) The ability to issue enhanced drivers' licenses and identicards under RCW 46.20.202.

(b) The investigation consists of a background check as authorized under RCW 10.97.050, 43.43.833, and 43.43.834, and the federal bureau of investigation. The background check must be conducted through the Washington state patrol criminal identification section and may include a national check from the federal bureau of investigation, which is through the submission of fingerprints. The director shall use the information solely to determine the character, suitability, and competence of current or prospective employees subject to this section.

(c) The director shall investigate the conviction records and pending charges of an employee subject to this subsection every five years.

(d) Criminal justice agencies shall provide the director with information that they may possess and that the director may require solely to determine the employment suitability of current or prospective employees subject to this section.

Sec. 204. RCW 46.01.140 and 2005 c 343 s 1 are each amended to read as follows:

~~((1) The county auditor, if appointed by the director of licensing shall carry out the provisions of this title relating to the licensing of vehicles and the issuance of vehicle license number plates under the direction and supervision of the director and may with the approval of the director appoint assistants as special deputies and recommend subagents to accept applications and collect fees for vehicle licenses and transfers and to deliver vehicle license number plates.~~

~~(2) A county auditor appointed by the director may request that the director appoint subagencies within the county.~~

~~(a) Upon authorization of the director, the auditor shall use an open competitive process including, but not limited to, a written business proposal and oral interview to determine the qualifications of all interested applicants.~~

~~(b) A subagent may recommend a successor who is either the subagent's sibling, spouse, or child, or a subagency employee, as long as the recommended successor participates in the open, competitive process used to select an applicant. In making successor recommendation and appointment determinations, the following provisions apply:~~

~~(i) If a subagency is held by a partnership or corporate entity, the nomination must be submitted on behalf of, and agreed to by, all partners or corporate officers.~~

~~(ii) No subagent may receive any direct or indirect compensation or remuneration from any party or entity in recognition of a successor nomination. A subagent may not receive any financial benefit from the transfer or termination of an appointment.~~

~~(iii) (a) and (b) of this subsection are intended to assist in the efficient transfer of appointments in order to minimize public inconvenience. They do not create a proprietary or property interest in the appointment.~~

~~(c) The auditor shall submit all proposals to the director, and shall recommend the appointment of one or more subagents who have applied through the open competitive process. The auditor shall include in his or her recommendation to the director, not only the name of the successor who is a~~

relative or employee, if applicable and if otherwise qualified, but also the name of one other applicant who is qualified and was chosen through the open competitive process. The director has final appointment authority.

~~(3)(a) A county auditor who is appointed as an agent by the department shall enter into a standard contract provided by the director, developed with the advice of the title and registration advisory committee.~~

~~(b) A subagent appointed under subsection (2) of this section shall enter into a standard contract with the county auditor, developed with the advice of the title and registration advisory committee. The director shall provide the standard contract to county auditors.~~

~~(c) The contracts provided for in (a) and (b) of this subsection must contain at a minimum provisions that:~~

~~(i) Describe the responsibilities, and where applicable, the liability, of each party relating to the service expectations and levels, equipment to be supplied by the department, and equipment maintenance;~~

~~(ii) Require the specific type of insurance or bonds so that the state is protected against any loss of collected motor vehicle tax revenues or loss of equipment;~~

~~(iii) Specify the amount of training that will be provided by the state, the county auditor, or subagents;~~

~~(iv) Describe allowable costs that may be charged to vehicle licensing activities as provided for in (d) of this subsection;~~

~~(v) Describe the causes and procedures for termination of the contract, which may include mediation and binding arbitration.~~

~~(d) The department shall develop procedures that will standardize and prescribe allowable costs that may be assigned to vehicle licensing and vessel registration and title activities performed by county auditors.~~

~~(e) The contracts may include any provision that the director deems necessary to ensure acceptable service and the full collection of vehicle and vessel tax revenues.~~

~~(f) The director may waive any provisions of the contract deemed necessary in order to ensure that readily accessible service is provided to the citizens of the state.~~

~~(4)(a) At any time any application is made to the director, the county auditor, or other agent pursuant to any law dealing with licenses, registration, or the right to operate any vehicle or vessel upon the public highways or waters of this state, excluding applicants already paying such fee under RCW 46.16.070 or 46.16.085, the applicant shall pay to the director, county auditor, or other agent a fee of three dollars for each application in addition to any other fees required by law.~~

~~(b) Counties that do not cover the expenses of vehicle licensing and vessel registration and title activities may submit to the department a request for cost-coverage moneys. The request must be submitted on a form developed by the department. The department shall develop procedures to verify whether a request is reasonable. Payment shall be made on requests found to be allowable from the licensing services account.~~

~~(c) Applicants for certificates of ownership, including applicants paying fees under RCW 46.16.070 or 46.16.085, shall pay to the director, county~~

auditor, or other agent a fee of four dollars in addition to any other fees required by law.

~~(d) The fees under (a) and (c) of this subsection, if paid to the county auditor as agent of the director, or if paid to a subagent of the county auditor, shall be paid to the county treasurer in the same manner as other fees collected by the county auditor and credited to the county current expense fund. If the fee is paid to another agent of the director, the fee shall be used by the agent to defray his or her expenses in handling the application.~~

~~(e) Applicants required to pay the three dollar fee established under (a) of this subsection, must pay an additional seventy five cents, which must be collected and remitted to the state treasurer and distributed as follows:~~

~~(i) Fifty cents must be deposited into the department of licensing services account of the motor vehicle fund and must be used for agent and subagent support, which is to include but not be limited to the replacement of department-owned equipment in the possession of agents and subagents.~~

~~(ii) Twenty five cents must be deposited into the license plate technology account created under RCW 46.16.685.~~

~~(5) A subagent shall collect a service fee of (a) ten dollars for changes in a certificate of ownership, with or without registration renewal, or verification of record and preparation of an affidavit of lost title other than at the time of the title application or transfer and (b) four dollars for registration renewal only, issuing a transit permit, or any other service under this section.~~

~~(6) If the fee is collected by the state patrol as agent for the director, the fee so collected shall be certified to the state treasurer and deposited to the credit of the state patrol highway account. If the fee is collected by the department of transportation as agent for the director, the fee shall be certified to the state treasurer and deposited to the credit of the motor vehicle fund. All such fees collected by the director or branches of his office shall be certified to the state treasurer and deposited to the credit of the highway safety fund.~~

~~(7) Any county revenues that exceed the cost of providing vehicle licensing and vessel registration and title activities in a county, calculated in accordance with the procedures in subsection (3)(d) of this section, shall be expended as determined by the county legislative authority during the process established by law for adoption of county budgets.~~

~~(8) The director may adopt rules to implement this section.)~~

~~(1) **County auditor/agent duties.** A county auditor or other agent appointed by the director shall:~~

~~(a) Enter into a standard contract provided by the director, as developed in consultation with the advice of the title and registration advisory committee;~~

~~(b) Provide all services authorized by the director for vehicle certificates of title and vehicle registration applications and issuance under the direction and supervision of the director including, but not limited to:~~

~~(i) Processing reports of sale;~~

~~(ii) Processing transitional ownership transactions;~~

~~(iii) Processing mail-in vehicle registration renewals until directed otherwise by legislative authority;~~

~~(iv) Issuing registrations and temporary ORV use permits for off-road vehicles as required under chapter 46.09 RCW;~~

(v) Issuing registrations for snowmobiles as required under chapter 46.10 RCW; and

(vi) Collecting fees and taxes as required.

(2) **County auditor/agent assistants and subagents.** A county auditor or other agent appointed by the director may, with approval of the director:

(a) Appoint assistants as special deputies to accept applications for vehicle certificates of title and to issue vehicle registrations; and

(b) Recommend and request that the director appoint subagencies within the county to accept applications for vehicle certificates of title and vehicle registration application issuance.

(3) **Appointing subagents.** A county auditor or other agent appointed by the director who requests a subagency shall, with approval of the director:

(a) Use an open competitive process including, but not limited to, a written business proposal and oral interview to determine the qualifications of all interested applicants; and

(b) Submit all proposals to the director with a recommendation for appointment of one or more subagents who have applied through the open competitive process. If a qualified successor who is an existing subagent's sibling, spouse, or child, or a subagency employee has applied, the county auditor shall provide the name of the qualified successor and the name of one other applicant who is qualified and was chosen through the open competitive process.

(4) **Subagent duties.** A subagent appointed by the director shall:

(a) Enter into a standard contract with the county auditor or agent provided by the director, as developed in consultation with the title and registration advisory committee; and

(b) Provide all services authorized by the director for vehicle certificates of title and vehicle registration applications and issuance under the direction and supervision of the county auditor or agent and the director including, but not limited to:

(i) Processing reports of sale;

(ii) Processing transitional ownership transactions;

(iii) Mailing out vehicle registrations and replacement plates to internet payment option customers until directed otherwise by legislative authority;

(iv) Issuing registrations and temporary ORV use permits for off-road vehicles as required under chapter 46.09 RCW;

(v) Issuing registrations for snowmobiles as required under chapter 46.10 RCW; and

(vi) Collecting fees and taxes as required.

(5) **Subagent successorship.** A subagent appointed by the director who no longer wants his or her appointment may recommend a successor who is the subagent's sibling, spouse, or child, or a subagency employee. The recommended successor must participate in the open competitive process used to select an applicant. In making successor recommendations and appointment determinations, the following provisions apply:

(a) If a subagency is held by a partnership or corporate entity, the nomination must be submitted on behalf of, and agreed to by, all partners or corporate officers;

(b) A subagent may not receive any direct or indirect compensation or remuneration from any party or entity in recognition of a successor nomination. A subagent may not receive any financial benefit from the transfer or termination of an appointment; and

(c) The appointment of a successor is intended to assist in the efficient transfer of appointments to minimize public inconvenience. The appointment of a successor does not create a proprietary or property interest in the appointment.

(6) **Standard contracts.** The standard contracts provided by the director in this section may include provisions that the director deems necessary to ensure that readily accessible and acceptable service is provided to the citizens of the state, including the full collection of fees and taxes. The standard contracts must include provisions that:

(a) Describe responsibilities and liabilities of each party related to service expectations and levels;

(b) Describe the equipment to be supplied by the department and equipment maintenance;

(c) Require specific types of insurance or bonds, or both, to protect the state against any loss of collected revenue or loss of equipment;

(d) Specify the amount of training that will be provided by each of the parties;

(e) Describe allowable costs that may be charged for vehicle registration activities as described in subsection (7) of this section; and

(f) Describe causes and procedures for termination of the contract, which may include mediation and binding arbitration.

(7) **County auditor/agent cost reimbursement.** A county auditor or other agent appointed by the director who does not cover expenses for services provided by the standard contract may submit to the department a request for cost-coverage moneys. The request must be submitted on a form developed by the department. The department shall develop procedures to standardize and identify allowable costs and to verify whether a request is reasonable. Payment must be made on those requests found to be allowable from the licensing services account.

(8) **County auditor/agent revenue disbursement.** County revenues that exceed the cost of providing services described in the standard contract, calculated in accordance with the procedures in subsection (7) of this section, must be expended as determined by the county legislative authority during the process established by law for adoption of county budgets.

(9) **Appointment authority.** The director has final appointment authority for county auditors or other agents or subagents.

(10) **Rules.** The director may adopt rules to implement this section.

Sec. 205. RCW 46.01.230 and 2003 c 369 s 1 are each amended to read as follows:

~~((1) The department of licensing is authorized to accept checks and money orders for payment of drivers' licenses, certificates of ownership and registration, motor vehicle excise taxes, gross weight fees, and other fees and taxes collected by the department, in accordance with regulations adopted by the director. The director's regulations shall duly provide for the public's convenience consistent with sound business practice and shall encourage the annual renewal of vehicle registrations by mail to the department, authorizing~~

~~checks and money orders for payment. Such regulations shall contain provisions for cancellation of any registrations, licenses, or permits paid for by checks or money orders which are not duly paid and for the necessary accounting procedures in such cases: PROVIDED, That any bona fide purchaser for value of a vehicle shall not be liable or responsible for any prior uncollected taxes and fees paid, pursuant to this section, by a check which has subsequently been dishonored: AND PROVIDED FURTHER, That no transfer of ownership of a vehicle may be denied to a bona fide purchaser for value of a vehicle if there are outstanding uncollected fees or taxes for which a predecessor paid, pursuant to this section, by check which has subsequently been dishonored nor shall the new owner be required to pay any fee for replacement vehicle license number plates that may be required pursuant to RCW 46.16.270 as now or hereafter amended.~~

~~(2) It is a traffic infraction to fail to surrender within ten days to the department or any authorized agent of the department any certificate, license, or permit after being notified that such certificate, license, or permit has been canceled pursuant to this section. Notice of cancellation may be accomplished by sending a notice by first class mail using the last known address in department records for the holder of the certificate, license, or permit, and recording the transmittal on an affidavit of first class mail.~~

~~(3) Whenever registrations, licenses, or permits have been paid for by checks that have been dishonored by nonacceptance or nonpayment, a reasonable handling fee may be assessed for each such instrument. Notwithstanding provisions of any other laws, county auditors, agents, and subagents, appointed or approved by the director pursuant to RCW 46.01.140, may collect restitution, and where they have collected restitution may retain the reasonable handling fee. The amount of the reasonable handling fee may be set by rule by the director.~~

~~(4) In those counties where the county auditor has been appointed an agent of the director under RCW 46.01.140, the auditor shall continue to process mail-in registration renewals until directed otherwise by legislative authority. Subagents appointed by the director under RCW 46.01.140 have the same authority to mail out registrations and replacement plates to Internet payment option customers as the agents until directed otherwise by legislative authority. The department shall provide separate statements giving notice to Internet payment option customers that: (a) A subagent service fee, as provided in RCW 46.01.140(5)(b), will be collected by a subagent office for providing mail and pick-up services; and (b) a filing fee will be collected on all transactions listed under RCW 46.01.140(4)(a). The statement must include the amount of the fee and be published on the department's Internet web site on the page that lists each department, county auditor, and subagent office, eligible to provide mail or pick-up services for registration renewals and replacement plates. The statements must be published below each office listed.)~~

(1) The department may accept checks and money orders for the payment of drivers' licenses, certificates of title and vehicle registrations, vehicle excise taxes, gross weight fees, and other fees and taxes collected by the department. Whenever registrations, licenses, or permits have been paid for by checks or money orders that have been dishonored by nonacceptance or nonpayment, the department shall:

(a) Cancel the registration, license, or permit;

(b) Send a notice of cancellation by first-class mail using the last known address in department records for the holder of the certificate, license, or permit, and complete an affidavit of first-class mail; and

(c) Assess a handling fee, set by rule.

(2) It is a traffic infraction to fail to surrender a certificate of title, registration certificate, or permit to the department or to an authorized agent within ten days of being notified that the certificate, registration, or permit has been cancelled.

(3) County auditors, agents, and subagents appointed by the director may collect restitution for dishonored checks and money orders and keep the handling fee.

(4) A person who has recently acquired a vehicle by purchase, exchange, gift, lease, inheritance, or legal action is not liable or responsible for the payment of uncollected fees and taxes that were paid for by a predecessor's check or money order that was subsequently dishonored. The department may not deny an application to transfer ownership for the uncollected amount.

(5) The director may adopt rules to implement this section. The rules must provide for the public's convenience consistent with sound business practice and encourage annual renewal of vehicle registrations by mail, authorizing checks and money orders for payment.

NEW SECTION. Sec. 206. A new section is added to chapter 46.01 RCW to read as follows:

(1) The department shall provide on its internet payment option web site:

(a) That a filing fee will be collected on all transactions subject to a filing fee;

(b) That a subagent service fee will be collected by a subagent office for mail or pick-up licensing services; and

(c) The amount of the filing and subagent service fees.

(2) The filing and subagent service fees must be shown below each office listed.

Sec. 207. RCW 46.01.235 and 2004 c 249 s 9 are each amended to read as follows:

The department may adopt necessary rules and procedures to allow use of credit and debit cards for payment of fees and excise taxes to the department and its agents or subagents related to the licensing of drivers, the issuance of identicards, and vehicle and vessel (~~(title)~~) certificates of title and registration. The department may establish a convenience fee to be paid by the credit or debit card user whenever a credit or debit card is chosen as the payment method. The fee must be sufficient to offset the charges imposed on the department and its agents and subagents by credit and debit card companies. In no event may the use of credit or debit cards authorized by this section create a loss of revenue to the state.

The use of a personal credit card does not rely upon the credit of the state as prohibited by Article VIII, section 5 of the state Constitution.

Sec. 208. RCW 46.01.260 and 2009 c 276 s 2 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, the director (~~(, in his or her discretion,))~~ may destroy applications for vehicle (~~(licenses))~~)

registrations, copies of vehicle (~~(licenses)~~) registrations issued, applications for drivers' licenses, copies of issued drivers' licenses, certificates of title and registration or other documents, and records or supporting papers on file in (~~(his or her office which)~~) the department that have been microfilmed or photographed or are more than five years old. (~~(If the)~~) The director may destroy applications for vehicle (~~(licenses)~~) registrations that are renewal applications (~~(, the director may destroy such applications)~~) when the computer record (~~(thereof)~~) of the applications has been updated.

(2)(a) The director shall not destroy records of convictions or adjudications of RCW 46.61.502, 46.61.504, 46.61.520, and 46.61.522, or records of deferred prosecutions granted under RCW 10.05.120 and shall maintain such records permanently on file.

(b) The director shall not, within fifteen years from the date of conviction or adjudication, destroy records if the offense was originally charged as one of the offenses designated in (a) of this subsection, convictions or adjudications of the following offenses: RCW 46.61.500 or 46.61.5249 or any other violation that was originally charged as one of the offenses designated in (a) of this subsection.

(c) For purposes of RCW 46.52.101 and 46.52.130, offenses subject to this subsection shall be considered "alcohol-related" offenses.

Sec. 209. RCW 46.01.270 and 1991 c 339 s 18 are each amended to read as follows:

~~(The)~~ A county auditor or other agent appointed by the director may destroy applications for vehicle (~~(licenses)~~) registrations and any copies of vehicle (~~(licenses)~~) registrations or other records issued after (~~(such)~~) those records have been on file in the county auditor's or other agent's office for a period of eighteen months, unless otherwise directed by the director.

Sec. 210. RCW 46.01.310 and 1987 c 302 s 3 are each amended to read as follows:

No civil suit or action may ever be commenced or prosecuted against the director, the state of Washington, any county auditor or other agents appointed by the director, (or against) any other government officer or entity, or against any other person, by reason of any act done or omitted to be done in connection with the titling(~~(, licensing,)~~) or registration of vehicles or vessels while administering duties and responsibilities imposed on the director or as an agent of the director (of licensing), or as (an agent) a subagent of an agent of the director (of licensing, pursuant to RCW 46.01.140. However,). This section does not bar the state of Washington or the director (~~(of licensing)~~) from bringing any action, whether civil or criminal, against any (~~(such)~~) agent, nor shall it bar a county auditor or other agent of the director from bringing an action against (~~(his or her)~~) the agent.

Sec. 211. RCW 46.08.066 and 1986 c 158 s 20 are each amended to read as follows:

(1) (~~(Except as provided in subsection (3) of this section,)~~) The department (of licensing is authorized to) may issue confidential (~~(motor vehicle)~~) license plates to:

(a) Units of local government and (to) agencies of the federal government for law enforcement purposes only;

(b) Any state official elected on a statewide basis for use on official business. Only one set of confidential license plates may be issued to these elected officials;

(c) Any other public officer or public employee for the personal security of the officer or employee when recommended by the chief of the Washington state patrol. These confidential license plates may only be used on an unmarked publicly owned or controlled vehicle of the employing government agency for the conduct of official business for the period of time that the personal security of the state official, public officer, or other public employee may require; and

(d) The office of the state treasurer. These confidential license plates may only be used on an unmarked state owned or controlled vehicle when required for the safe transportation of either state funds or negotiable securities to or from the office of the state treasurer.

~~(2) ((Except as provided in subsections (3) and (4) of this section))~~ The use of confidential license plates on other vehicles owned or operated by the state of Washington by any officer or employee ~~((thereof, shall be))~~ of the state is limited to confidential, investigative, or undercover work of state law enforcement agencies, confidential public health work, and confidential public assistance fraud or support investigations.

~~(3) ((Any state official elected on a statewide basis shall be provided on request with one set of confidential plates for use on official business. When necessary for the personal security of any other public officer, or public employee, the chief of the Washington state patrol may recommend that the director issue confidential plates for use on an unmarked publicly owned or controlled vehicle of the appropriate governmental unit for the conduct of official business for the period of time that the personal security of such state official, public officer, or other public employee may require. The office of the state treasurer may use an unmarked state owned or controlled vehicle with confidential plates where required for the safe transportation of either state funds or negotiable securities to or from the office of the state treasurer.~~

~~(4))~~ The director ~~((of licensing))~~ may ~~((issue))~~ adopt rules ~~((and regulations))~~ governing applications for, and the use of, ~~((such))~~ confidential license plates ~~((by law enforcement and other public agencies))~~.

Sec. 212. RCW 46.08.150 and 1995 c 384 s 2 are each amended to read as follows:

The director of general administration shall have power to devise and promulgate rules and regulations for the control of vehicular and pedestrian traffic and the parking of motor vehicles on the state capitol grounds. However, the monetary penalty for parking a motor vehicle without a valid special license plate or placard in a parking place reserved for ~~((physically disabled))~~ persons with physical disabilities shall be the same as provided in ~~((RCW 46.16.381))~~ section 706 of this act. Such rules and regulations shall be promulgated by publication in one issue of a newspaper published at the state capitol and shall be given such further publicity as the director may deem proper.

Sec. 213. RCW 46.09.020 and 2007 c 241 s 13 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Advisory committee" means the nonhighway and off-road vehicle activities advisory committee established in RCW 46.09.280 (as recodified by this act).

(2) "Board" means the recreation and conservation funding board established in RCW 79A.25.110.

(3) "Dealer" means a person, partnership, association, or corporation engaged in the business of selling off-road vehicles at wholesale or retail in this state.

~~(4) ("Department" means the department of licensing.~~

~~(5))~~ (5) "Highway," for the purpose of this chapter only, means the entire width between the boundary lines of every roadway publicly maintained by the state department of transportation or any county or city with funding from the motor vehicle fund. A highway is generally capable of travel by a conventional two-wheel drive passenger automobile during most of the year and in use by such vehicles.

~~((6) "Motorized vehicle" means a vehicle that derives motive power from an internal combustion engine.~~

~~(7))~~ (5) "Nonhighway road" means any road owned or managed by a public agency or any private road for which the owner has granted an easement for public use for which appropriations from the motor vehicle fund were not used for (a) original construction or reconstruction in the last twenty-five years; or (b) maintenance in the last four years.

~~((8))~~ (6) "Nonhighway road recreation facilities" means recreational facilities that are adjacent to, or accessed by, a nonhighway road and intended primarily for nonhighway road recreational users.

~~((9))~~ (7) "Nonhighway road recreational user" means a person whose purpose for consuming fuel on a nonhighway road or off-road is primarily for nonhighway road recreational purposes, including, but not limited to, hunting, fishing, camping, sightseeing, wildlife viewing, picnicking, driving for pleasure, kayaking/canoeing, and gathering berries, firewood, mushrooms, and other natural products.

~~((10))~~ (8) "Nonhighway vehicle" means any motorized vehicle including an ORV when used for recreational purposes on nonhighway roads, trails, or a variety of other natural terrain.

Nonhighway vehicle does not include:

(a) Any vehicle designed primarily for travel on, over, or in the water;

(b) Snowmobiles or any military vehicles; or

(c) Any vehicle eligible for a motor vehicle fuel tax exemption or rebate under chapter 82.36 RCW while an exemption or rebate is claimed. This exemption includes but is not limited to farm, construction, and logging vehicles.

~~((11))~~ (9) "Nonmotorized recreational facilities" means recreational trails and facilities that are adjacent to, or accessed by, a nonhighway road and intended primarily for nonmotorized recreational users.

~~((12))~~ (10) "Nonmotorized recreational user" means a person whose purpose for consuming fuel on a nonhighway road or off-road is primarily for nonmotorized recreational purposes including, but not limited to, walking, hiking, backpacking, climbing, cross-country skiing, snowshoeing, mountain biking, horseback riding, and pack animal activities.

~~((13)) "Off road vehicle" or "ORV" means any nonstreet licensed vehicle when used for recreational purposes on nonhighway roads, trails, or a variety of other natural terrain. Such vehicles include, but are not limited to, all terrain vehicles, motorcycles, four wheel drive vehicles, and dune buggies.~~

~~(14) "Operator" means each person who operates, or is in physical control of, any nonhighway vehicle.~~

~~(15))~~ (11) "Organized competitive event" means any competition, advertised in advance through written notice to organized clubs or published in local newspapers, sponsored by recognized clubs, and conducted at a predetermined time and place.

~~((16))~~ (12) "ORV recreation facilities" include, but are not limited to, ORV trails, trailheads, campgrounds, ORV sports parks, and ORV use areas, designated for ORV use by the managing authority that are intended primarily for ORV recreational users.

~~((17))~~ (13) "ORV recreational user" means a person whose purpose for consuming fuel on nonhighway roads or off-road is primarily for ORV recreational purposes, including but not limited to riding an all-terrain vehicle, motorcycling, or driving a four-wheel drive vehicle or dune buggy.

~~((18))~~ (14) "ORV sports park" means a facility designed to accommodate competitive ORV recreational uses including, but not limited to, motocross racing, four-wheel drive competitions, and flat track racing. Use of ORV sports parks can be competitive or noncompetitive in nature.

~~((19))~~ (15) "ORV trail" means a multiple-use corridor designated by the managing authority and maintained for recreational use by motorized vehicles.

~~((20)) "ORV use permit" means a permit issued for operation of an off road vehicle under this chapter.~~

~~(21) "Owner" means the person other than the lienholder, having an interest in or title to a nonhighway vehicle, and entitled to the use or possession thereof.~~

~~(22) "Person" means any individual, firm, partnership, association, or corporation.)~~

NEW SECTION. Sec. 214. A new section is added to chapter 46.09 RCW under the subchapter heading "general provisions" to read as follows:

The department shall issue a certificate of title to the owner of an off-road vehicle. The owner shall pay the fee established under section 508 of this act. Issuance of the certificate of title does not qualify the vehicle for registration under chapter 46.16 RCW.

Sec. 215. RCW 46.09.030 and 1990 c 250 s 23 are each amended to read as follows:

The department shall ~~((provide for the issuance of use permits for off road vehicles and may appoint agents for collecting fees and issuing permits. The department shall charge each applicant for registration the actual cost of the deal. The department shall make available replacement decals for a fee equivalent to the actual cost of the decals. The provisions of RCW 46.01.130 and 46.01.140 apply to the issuance of use permits for off road vehicles as they do to the issuance of vehicle licenses, the appointment of agents and the collection of application fees))~~:

(1) Issue registrations and temporary ORV use permits for off-road vehicles:

(2) Issue decals for off-road vehicles. The decals serve the same function as license plates for vehicles registered under chapter 46.16 RCW; and

(3) Charge a fee for each decal covering the actual cost of the decal.

Sec. 216. RCW 46.09.040 and 1977 ex.s. c 220 s 3 are each amended to read as follows:

Except as provided in this chapter, ~~((no))~~ a person shall not operate ~~((any))~~ an off-road vehicle within this state ~~((after January 1, 1978,))~~ unless the off-road vehicle has been assigned an ORV registration or temporary ORV use permit and displays ((a current ORV tag in accordance with the provisions of this chapter: PROVIDED, That registration and display of an unexpired ATV use permit shall be deemed to have complied with this section)) current decals and tabs as required under this chapter.

Sec. 217. RCW 46.09.050 and 2004 c 105 s 9 are each amended to read as follows:

ORV ~~((use permits))~~ registrations and ~~((ORV tags shall be))~~ decals are required under ~~((the provisions of))~~ this chapter except for the following:

(1) Off-road vehicles owned and operated by the United States, another state, or a political subdivision ~~((thereof))~~ of the United States or another state.

(2) Off-road vehicles owned and operated by this state, ~~((or by any))~~ a municipality, or a political subdivision ~~((thereof))~~ of this state or the municipality.

(3) Off-road vehicles operated on agricultural lands owned or leased by the ~~((ORV))~~ off-road vehicle owner or operator.

(4) Off-road vehicles owned by a resident of another state that have a valid ORV use permit or vehicle ((license)) registration issued in accordance with the laws of the other state. This exemption ~~((shall apply))~~ applies only to the extent that a similar exemption or privilege is granted under the laws of that state.

(5) Off-road vehicles while being used for search and rescue purposes under the authority or direction of an appropriate search and rescue or law enforcement agency.

(6) Vehicles ~~((which are licensed pursuant to))~~ registered under chapter 46.16 RCW or, in the case of nonresidents, vehicles ~~((which are))~~ validly ((licensed)) registered for operation over public highways in the jurisdiction of the owner's residence.

Sec. 218. RCW 46.09.070 and 2004 c 106 s 1 are each amended to read as follows:

~~((1) Application for annual or temporary ORV use permits shall be made to the department or its authorized agent in such manner and upon such forms as the department shall prescribe and shall state the name and address of each owner of the off-road vehicle.~~

~~((2) An application for an annual permit shall be signed by at least one owner, and shall be accompanied by a fee of eighteen dollars. Upon receipt of the annual permit application and the application fee, the off-road vehicle shall be assigned a use permit number tag or decal, which shall be affixed to the off-road vehicle in a manner prescribed by the department. The annual permit is valid for a period of one year and is renewable each year in such manner as the department may prescribe for an additional period of one year upon payment of a renewal fee of eighteen dollars.~~

~~Any person acquiring an off-road vehicle for which an annual permit has been issued who desires to continue to use the permit must, within fifteen days of the acquisition of the off-road vehicle, make application to the department or its authorized agent for transfer of the permit, and the application shall be accompanied by a transfer fee of five dollars.~~

~~(3) A temporary use permit is valid for sixty days. Application for a temporary permit shall be accompanied by a fee of seven dollars. The permit shall be carried on the vehicle at all times during its operation in the state.~~

~~(4) Except as provided in RCW 46.09.050, any out-of-state operator of an off-road vehicle shall, when operating in this state, comply with this chapter, and if an ORV use permit is required under this chapter, the operator shall obtain an annual or temporary permit and tag.)~~

(1) The application for an original ORV registration has the same requirements as described for original vehicle registrations in RCW 46.16.040 (as recodified by this act) and must be accompanied by the annual off-road vehicle license fee required under section 531 of this act, in addition to any other fees or taxes due for the application.

(2) The application for renewal of an ORV registration has the same requirements as described for the renewal of vehicle registrations in RCW 46.16.210 (as recodified by this act) and must be accompanied by the annual off-road vehicle license fee required under section 531 of this act, in addition to any other fees or taxes due for the application.

(3) The annual ORV registration is valid for one year and may be renewed each subsequent year as prescribed by the department.

(4) A person who acquires an off-road vehicle that has an ORV registration must:

(a) Apply to the department, county auditor or other agent, or subagent appointed by the director for a transfer of the ORV registration within fifteen days of taking possession of the off-road vehicle; and

(b) Pay the ORV registration transfer fee required under section 536 of this act, in addition to any other fees or taxes due at the time of application.

(5) The department shall issue an ORV registration, decals, and tabs upon receipt of:

(a) A properly completed application for an original ORV registration; and

(b) The payment of all fees and taxes due at the time of application.

(6) The ORV registration must be carried on the vehicle for which it was issued at all times during its operation in this state.

(7) Off-road vehicle decals must be affixed to the off-road vehicle in a manner prescribed by the department.

(8) Unless exempt under RCW 46.09.050 (as recodified by this act), any out-of-state operator of an off-road vehicle, when operating in this state, must comply with this chapter. If an ORV registration is required under this chapter, the out-of-state operator must obtain an ORV registration and decal or a temporary ORV use permit.

NEW SECTION, Sec. 219. A new section is added to chapter 46.09 RCW under the subchapter heading "use permits" to read as follows:

(1) The application for a temporary ORV use permit must be made by the owner or the owner's authorized representative to the department, county auditor

or other agent, or subagent appointed by the director on a form furnished or approved by the department. The application must contain:

- (a) The name and address of each owner of the off-road vehicle; and
- (b) Other information that the department may require.

(2) The owner or the owner's authorized representative shall sign the application for a temporary ORV use permit.

(3) The application for a temporary ORV use permit must be accompanied by the temporary ORV use permit fee required under section 535 of this act, in addition to any other fees or taxes due for the application.

(4) A temporary ORV use permit:

- (a) Is valid for sixty days; and
- (b) Must be carried on the vehicle for which it was issued at all times during its operation in this state.

Sec. 220. RCW 46.09.080 and 1990 c 250 s 24 are each amended to read as follows:

(1) Each dealer of off-road vehicles in this state (~~(who does not have a current "dealer's plate" for vehicle use pursuant to chapter 46.70 RCW)~~) shall obtain either a miscellaneous vehicle dealer license as defined in RCW 46.70.011 or an ((ORV)) off-road vehicle dealer ((permit)) license from the department in ~~((such))~~ a manner ~~((and upon such forms as))~~ prescribed by the department ((shall prescribe)). Upon receipt of an application for an ((ORV)) off-road vehicle dealer ((permit)) license and the fee described under subsection (2) of this section, the dealer ~~((shall be registered))~~ is licensed and an ((ORV)) off-road vehicle dealer ((permit)) license number must be assigned.

(2) The annual fee for ((ORV)) an off-road vehicle dealer ((permits shall be)) license is twenty-five dollars ~~((per year))~~, which covers all of the off-road vehicles owned by a dealer and not rented. Off-road vehicles rented on a regular, commercial basis by a dealer ~~((shall))~~ must have separate ~~((use permits))~~ registrations.

(3) Upon the issuance of an ((ORV)) off-road vehicle dealer ((permit)) license, each dealer may purchase, at a cost to be determined by the department, ((ORV)) off-road vehicle dealer ((number)) license plates of a size and color to be determined by the department~~((, that))~~. The off-road vehicle dealer license plates must contain the off-road vehicle dealer ((ORV permit)) license number assigned to the dealer. Each off-road vehicle operated by a dealer, dealer representative, or prospective customer for the purposes of testing or demonstration shall display ~~((such number))~~ dealer license plates assigned ~~((pursuant to the dealer permit provisions in chapter 46.70 RCW or this section, in a manner prescribed))~~ by the department.

(4) ~~((No))~~ A dealer, dealer representative, or prospective customer ~~((shall use such number))~~ may only use dealer license plates for ~~((any purpose other than))~~ the purposes prescribed in subsection (3) of this section.

(5) ((ORV)) Off-road vehicle dealer ((permit)) license numbers ~~((shall be))~~ are nontransferable.

(6) It is unlawful for any dealer to sell any off-road vehicle at wholesale or retail or to test or demonstrate any off-road vehicle within the state unless ~~((he has a motor vehicle dealers' license pursuant to chapter 46.70 RCW or an ORV dealer permit number in accordance with))~~ the dealer has either a miscellaneous

vehicle dealer license as defined in RCW 46.70.011 or an off-road vehicle dealer license as required under this section.

(7) When an (~~ORV~~) off-road vehicle is sold by a dealer, the dealer shall apply for a certificate of title in the purchaser's name within fifteen days following the sale.

(8) Except as provided in RCW 46.09.050, it is unlawful for any dealer to sell at retail an off-road vehicle without registration required in RCW 46.09.040.

Sec. 221. RCW 46.09.115 and 2006 c 212 s 2 are each amended to read as follows:

(1) Except as otherwise provided in this section, it is lawful to operate an off-road vehicle upon:

(a) A nonhighway road and in parking areas serving designated off-road vehicle areas if the state, federal, local, or private authority responsible for the management of the nonhighway road authorizes the use of off-road vehicles; and

(b) A street, road, or highway as authorized under RCW 46.09.180 (as recodified by this act).

(2) Operations of an off-road vehicle on a nonhighway road, or on a street, road, or highway as authorized under RCW 46.09.180 (as recodified by this act), under this section is exempt from (~~licensing~~) registration requirements of chapter 46.16 RCW (~~46.16.010~~) and vehicle lighting and equipment requirements of chapter 46.37 RCW.

(3) It is unlawful to operate an off-road vehicle upon a private nonhighway road if the road owner has not authorized the use of off-road vehicles.

(4) Nothing in this section authorizes trespass on private property.

(5) The provisions of RCW 4.24.210(5) shall apply to public landowners who allow members of the public to use public facilities accessed by a highway, street, or nonhighway road for recreational off-road vehicle use.

Sec. 222. RCW 46.09.170 and 2009 c 564 s 944 and 2009 c 187 s 2 are each reenacted and amended to read as follows:

(1) From time to time, but at least once each year, the state treasurer shall refund from the motor vehicle fund one percent of the motor vehicle fuel tax revenues collected under chapter 82.36 RCW, based on a tax rate of: (a) Nineteen cents per gallon of motor vehicle fuel from July 1, 2003, through June 30, 2005; (b) twenty cents per gallon of motor vehicle fuel from July 1, 2005, through June 30, 2007; (c) twenty-one cents per gallon of motor vehicle fuel from July 1, 2007, through June 30, 2009; (d) twenty-two cents per gallon of motor vehicle fuel from July 1, 2009, through June 30, 2011; and (e) twenty-three cents per gallon of motor vehicle fuel beginning July 1, 2011, and thereafter, less proper deductions for refunds and costs of collection as provided in RCW 46.68.090.

(2) The treasurer shall place these funds in the general fund as follows:

(a) Thirty-six percent shall be credited to the ORV and nonhighway vehicle account and administered by the department of natural resources solely for acquisition, planning, development, maintenance, and management of ORV, nonmotorized, and nonhighway road recreation facilities, and information programs and maintenance of nonhighway roads;

(b) Three and one-half percent shall be credited to the ORV and nonhighway vehicle account and administered by the department of fish and wildlife solely

for the acquisition, planning, development, maintenance, and management of ORV, nonmotorized, and nonhighway road recreation facilities and the maintenance of nonhighway roads;

(c) Two percent shall be credited to the ORV and nonhighway vehicle account and administered by the parks and recreation commission solely for the acquisition, planning, development, maintenance, and management of ORV, nonmotorized, and nonhighway road recreation facilities; and

(d) Fifty-eight and one-half percent shall be credited to the nonhighway and off-road vehicle activities program account to be administered by the board for planning, acquisition, development, maintenance, and management of ORV, nonmotorized, and nonhighway road recreation facilities and for education, information, and law enforcement programs. The funds under this subsection shall be expended in accordance with the following limitations:

(i) Not more than thirty percent may be expended for education, information, and law enforcement programs under this chapter;

(ii) Not less than seventy percent may be expended for ORV, nonmotorized, and nonhighway road recreation facilities. Except as provided in (d)(iii) of this subsection, of this amount:

(A) Not less than thirty percent, together with the funds the board receives under RCW 46.09.110 (as recodified by this act), may be expended for ORV recreation facilities;

(B) Not less than thirty percent may be expended for nonmotorized recreation facilities. Funds expended under this subsection (2)(d)(ii)(B) shall be known as Ira Spring outdoor recreation facilities funds; and

(C) Not less than thirty percent may be expended for nonhighway road recreation facilities;

(iii) The board may waive the minimum percentage cited in (d)(ii) of this subsection due to insufficient requests for funds or projects that score low in the board's project evaluation. Funds remaining after such a waiver must be allocated in accordance with board policy.

(3) On a yearly basis an agency may not, except as provided in RCW 46.09.110 (as recodified by this act), expend more than ten percent of the funds it receives under this chapter for general administration expenses incurred in carrying out this chapter.

(4) During the 2009-2011 fiscal biennium, the legislature may appropriate such amounts as reflect the excess fund balance in the NOVA account to the department of natural resources to install consistent off-road vehicle signage at department-managed recreation sites, and to implement the recreation opportunities on department-managed lands in the Reiter block and Ahtanum state forest, and to the state parks and recreation commission for maintenance and operation of parks and to improve accessibility for boaters and off-road vehicle users. This appropriation is not required to follow the specific distribution specified in subsection (2) of this section.

Sec. 223. RCW 46.09.240 and 2007 c 241 s 17 are each amended to read as follows:

(1) After deducting administrative expenses and the expense of any programs conducted under this chapter, the board shall, at least once each year, distribute the funds it receives under RCW 46.09.110 and 46.09.170 (as recodified by this act) to state agencies, counties, municipalities, federal

agencies, nonprofit ((ORV)) off-road vehicle organizations, and Indian tribes. Funds distributed under this section to nonprofit ((ORV)) off-road vehicle organizations may be spent only on projects or activities that benefit ((ORV)) off-road vehicle recreation on lands once publicly owned that come into private ownership in a federally approved land exchange completed between January 1, 1998, and January 1, 2005.

(2) The board shall adopt rules governing applications for funds administered by the recreation and conservation office under this chapter and shall determine the amount of money distributed to each applicant. Agencies receiving funds under this chapter for capital purposes shall consider the possibility of contracting with the state parks and recreation commission, the department of natural resources, or other federal, state, and local agencies to employ the youth development and conservation corps or other youth crews in completing the project.

(3) The board shall require each applicant for acquisition or development funds under this section to comply with the requirements of either the state environmental policy act, chapter 43.21C RCW, or the national environmental policy act (42 U.S.C. Sec. 4321 et seq.).

Sec. 224. RCW 46.09.280 and 2007 c 241 s 19 are each amended to read as follows:

(1) The board shall establish the nonhighway and off-road vehicle activities advisory committee to provide advice regarding the administration of this chapter. The committee consists of governmental representatives, land managers, and a proportional representation of persons with recreational experience in areas identified in the most recent fuel use study, including but not limited to people with ((ORV)) off-road vehicle, hiking, equestrian, mountain biking, hunting, fishing, and wildlife viewing experience.

(2) After the advisory committee has made recommendations regarding the expenditure of the fuel tax revenue portion of the nonhighway and off-road vehicle account moneys, the advisory committee's ((ORV)) off-road vehicle and mountain biking recreationists, governmental representatives, and land managers will make recommendations regarding the expenditure of funds received under RCW 46.09.110 (as recodified by this act).

(3) At least once a year, the board, the department of natural resources, the department of fish and wildlife, and the state parks and recreation commission shall report to the nonhighway and off-road vehicle activities advisory committee on the expenditures of funds received under RCW 46.09.110 and 46.09.170 (as recodified by this act) and must proactively seek the advisory committee's advice regarding proposed expenditures.

(4) The advisory committee shall advise these agencies regarding the allocation of funds received under RCW 46.09.170 (as recodified by this act) to ensure that overall expenditures reflect consideration of the results of the most recent fuel use study.

Sec. 225. RCW 46.10.010 and 2005 c 235 s 1 are each amended to read as follows:

~~((As used in this chapter the words and phrases in this section shall have the designated meanings unless a different meaning is expressly provided or the context otherwise clearly indicated.~~

~~(1) "Person" shall mean any individual, firm, partnership, association, or corporation.~~

~~(2) "Snowmobile" shall mean any self propelled vehicle capable of traveling over snow or ice, which utilizes as its means of propulsion an endless belt tread, or cleats, or any combination of these or other similar means of contact with the surface upon which it is operated, and which is steered wholly or in part by skis or sled type runners, and which is not otherwise registered as, or subject to the motor vehicle excise tax in the state of Washington.~~

~~(3) "Vintage snowmobile" means a snowmobile manufactured at least thirty years ago.~~

~~(4)) The following definitions apply throughout this chapter unless the context clearly requires otherwise.~~

~~(1) "All terrain vehicle" (~~shall~~) means any self-propelled vehicle other than a snowmobile, capable of cross-country travel on or immediately over land, water, snow, ice, marsh, swampland, and other natural terrain, including, but not limited to, four-wheel vehicles, amphibious vehicles, ground effect or air cushion vehicles, and any other means of land transportation deriving motive power from any source other than muscle or wind; except any vehicle designed primarily for travel on, over, or in the water, farm vehicles, or any military or law enforcement vehicles.~~

~~((5) "Owner" shall mean the person, other than a lienholder, having the property in or title to a snowmobile or all terrain vehicle, and entitled to the use or possession thereof.~~

~~(6) "Operator" means each person who operates, or is in physical control of, any snowmobile or all terrain vehicle.~~

~~(7)) (2) "Public roadway" (~~shall~~) means the entire width of the right-of-way of any road or street designed and ordinarily used for travel or parking of motor vehicles, which is controlled by a public authority other than the Washington state department of transportation, and which is open as a matter of right to the general public for ordinary vehicular traffic.~~

~~((8)) (3) "Highway(s)" (~~shall~~) means the entire width of the right-of-way of (~~all~~) a primary and secondary state highway(s), including (~~all~~) any portion(s) of the interstate highway system.~~

~~((9)) (4) "Dealer" means a person, partnership, association, or corporation engaged in the business of selling snowmobiles or all terrain vehicles at wholesale or retail in this state.~~

~~((10) "Department" shall mean the department of licensing.~~

~~(11) "Director" shall mean the director of the department of licensing.~~

~~(12)) (5) "Commission" (~~shall~~) means the Washington state parks and recreation commission.~~

~~((13)) (6) "Hunt" (~~shall~~) means any effort to kill, injure, capture, or disturb a wild animal or wild bird.~~

~~((14)) (7) "Committee" means the Washington state parks and recreation commission snowmobile advisory committee.~~

Sec. 226. RCW 46.10.020 and 2008 c 52 s 1 are each amended to read as follows:

(1) Except as provided in this chapter, a person may not operate ~~((any))~~ a snowmobile within this state unless ~~((such))~~ the snowmobile has been registered ~~((in accordance with the provisions of))~~ as required under this chapter.

(2) ~~((A registration number shall))~~ Snowmobile decals must be assigned, without the payment of a fee, to snowmobiles owned by the state of Washington or its political subdivisions ~~((, and the assigned registration number shall))~~. The snowmobile decals must be displayed upon each snowmobile in ~~((such manner as provided by))~~ accordance with rules adopted by the department.

Sec. 227. RCW 46.10.030 and 1986 c 16 s 1 are each amended to read as follows:

~~((No))~~ Registration ((shall be)) is not required under ~~((the provisions of))~~ this chapter for the following ~~((described))~~ snowmobiles:

(1) Snowmobiles owned and operated by the United States, another state, or a political subdivision thereof.

(2) A snowmobile owned by a resident of another state or Canadian province if that snowmobile is registered ~~((in accordance with))~~ under the laws of the state or province in which its owner resides ~~((, but only to the extent that a similar exemption or privilege is granted under the laws of that state or province for snowmobiles registered in this state: PROVIDED, That))~~. This exemption applies only to the extent that a similar exemption or privilege is granted under the laws of that state or province. Any snowmobile ~~((which))~~ that is validly registered in another state or province and ~~((which))~~ that is physically located in this state for a period of more than fifteen consecutive days ~~((shall be))~~ is subject to registration under ~~((the provisions of))~~ this chapter.

Sec. 228. RCW 46.10.040 and 2008 c 52 s 2 are each amended to read as follows:

~~((1))~~ Application for registration shall be made to the department in the manner and upon forms the department prescribes, and shall state the name and address of each owner of the snowmobile to be registered, and shall be signed by at least one such owner, and shall be accompanied by an annual registration fee as described in (a) of this subsection.

~~((a))~~ The annual registration fee for snowmobiles manufactured less than thirty years is thirty dollars. The annual registration fee for vintage snowmobiles is twelve dollars. The department shall design, in cooperation with the commission, a distinct registration decal which shall be issued to vintage snowmobiles upon payment of the annual registration fee.

~~((b))~~ Upon receipt of the application and the application fee, the snowmobile shall be registered and a registration number assigned, which shall be affixed to the snowmobile in a manner provided in RCW 46.10.070.

~~((2))~~ The registration provided in this section shall be valid for a period of one year. At the end of the period of registration, every owner of a snowmobile in this state shall renew his or her registration in the manner the department prescribes, for an additional period of one year, upon payment of the annual registration fee.

~~((3))~~ Any person acquiring a snowmobile already validly registered under the provisions of this chapter must, within ten days of the acquisition or purchase of the snowmobile, make application to the department for transfer of the registration, and the application shall be accompanied by a transfer fee of five dollars.

~~((4))~~ A snowmobile owned by a resident of another state or Canadian province where registration is not required by law may be issued a nonresident

~~registration permit valid for not more than sixty days. Application for the permit shall state the name and address of each owner of the snowmobile to be registered and shall be signed by at least one owner and shall be accompanied by a registration fee of five dollars. The registration permit shall be carried on the vehicle at all times during its operation in this state.~~

~~(5) The registration fees provided in this section shall be in lieu of any personal property or excise tax heretofore imposed on snowmobiles by this state or any political subdivision thereof, and no city, county, or other municipality, and no state agency shall hereafter impose any other registration or license fee on any snowmobile in this state.~~

~~(6) The department shall make available a pair of uniform decals consistent with the provisions of RCW 46.10.070. In addition to the registration fee provided in this section the department shall charge each applicant for registration the actual cost of the decal. The department shall make available replacement decals for a fee equivalent to the actual cost of the decals.)~~

(1) The application for an original snowmobile registration has the same requirements as described for original vehicle registrations in RCW 46.16.040 (as recodified by this act) and must be accompanied by the annual snowmobile registration fee required under section 531 of this act, in addition to any other fees and taxes due at the time of application.

(2) The application for renewal of a snowmobile registration has the same requirements as described for the renewal of vehicle registrations in RCW 46.16.210 (as recodified by this act) and must be accompanied by the annual snowmobile registration fee required under section 531 of this act, in addition to any other fees or taxes due at the time of application.

(3) The snowmobile registration is valid for one year and must be renewed each year thereafter as determined by the department.

(4) A person who acquires a snowmobile that has a valid snowmobile registration must:

(a) Apply to the department, county auditor or other agent, or subagent appointed by the director for a transfer of the snowmobile registration within ten days of taking possession of the snowmobile; and

(b) Pay the snowmobile registration transfer fee required under section 537 of this act, in addition to any other fees or taxes due at the time of application.

(5) The department shall issue a snowmobile registration and snowmobile decals upon receipt of:

(a) A properly completed application for an original snowmobile registration; and

(b) The payment of all fees and taxes due at the time of application.

(6) The snowmobile registration must be carried on the vehicle for which it was issued at all times during its operation in this state.

(7) Snowmobile decals must be affixed to the snowmobile as provided in RCW 46.10.070 (as recodified by this act).

(8) Snowmobile registration fees provided in this section and in section 531 of this act are in lieu of any personal property or excise tax imposed on snowmobiles by this state or any political subdivision. A state agency, city, county, or other municipality may not impose other registration fees on a snowmobile in this state.

NEW SECTION. Sec. 229. A new section is added to chapter 46.10 RCW under the subchapter heading "registration and permits" to read as follows:

(1) The application for a nonresident temporary snowmobile permit must be made by the snowmobile owner or the owner's authorized representative to the department, county auditor or other agent, or subagent appointed by the director on a form furnished or approved by the department. The application must contain:

- (a) The name and address of each owner of the snowmobile; and
- (b) Other information the department may require.

(2) The snowmobile owner or the owner's authorized representative shall sign the application for a nonresident temporary snowmobile permit.

(3) The application for a nonresident temporary snowmobile permit must be accompanied by the nonresident temporary snowmobile permit fee required under section 535 of this act, in addition to any other fees or taxes due at the time of application.

(4) Nonresident temporary snowmobile permits:

- (a) Are available for snowmobiles owned by residents of another state or Canadian province where registration is not required by law;
- (b) Are valid for not more than sixty days; and
- (c) Must be carried on the snowmobile at all times during its operation in this state.

Sec. 230. RCW 46.10.043 and 1982 c 17 s 3 are each amended to read as follows:

~~((Each snowmobile dealer registered pursuant to the provisions of RCW 46.10.050 shall register the snowmobile or, in the event the snowmobile is currently registered, transfer the registration to the new owner prior to delivering the snowmobile to that new owner subsequent to the sale thereof by the dealer. Applications for registration and transfer of registration of snowmobiles shall be made to agents of the department authorized as such in accordance with RCW 46.01.140 and 46.01.150 as now or hereafter amended.~~

~~All registrations for snowmobiles must be valid for the current registration period prior to the transfer of any registration, including assignment to a dealer. Upon the sale of a snowmobile by a dealer, the dealer may issue a temporary registration as provided by rules adopted by the department.))~~

A snowmobile registration must be valid for the current registration period before transfer of the registration, including assignment to a dealer.

Sec. 231. RCW 46.10.050 and 1990 c 250 s 26 are each amended to read as follows:

(1) Each dealer of snowmobiles in this state shall ~~((register with))~~ obtain a snowmobile dealer license from the department in ~~((such))~~ a manner ~~((and upon such forms as))~~ prescribed by the department ~~((shall prescribe))~~. Upon receipt of an application for a snowmobile dealer's ~~((application for registration))~~ license and the ~~((registration))~~ fee provided ~~((for))~~ in subsection (2) of this section, ~~((such))~~ the dealer ~~((shall be registered))~~ is licensed and a ~~((registration))~~ snowmobile dealer license number must be assigned.

(2) The ~~((registration))~~ annual license fee for a snowmobile dealer~~((s shall be))~~ is twenty-five dollars ~~((per year, and such fee shall))~~, which covers all of the snowmobiles offered by a dealer for sale and not rented on a regular, commercial

basis (~~PROVIDED, That~~). Snowmobiles rented on a regular commercial basis by a snowmobile dealer ~~(shall)~~ must be registered separately under ~~(the provisions of)~~ RCW 46.10.020, 46.10.040, 46.10.060, and 46.10.070 (as recodified by this act).

(3) Upon ~~(registration each dealer)~~ the issuance of a snowmobile dealer license, a snowmobile dealer may purchase, at a cost to be determined by the department, snowmobile dealer ~~(number)~~ license plates of a size and color to be determined by the department ~~(, which shall)~~. The snowmobile dealer license plates must contain the ~~(registration)~~ snowmobile license number assigned to ~~(that)~~ the dealer. Each snowmobile operated by a dealer, dealer representative, or prospective customer for the purposes of demonstration or testing shall display ~~(such number)~~ snowmobile dealer license plates in a clearly visible manner.

(4) ~~(No person other than)~~ Only a dealer, dealer representative, or prospective customer ~~(shall)~~ may display a snowmobile dealer ~~(number)~~ plate, and ~~(no)~~ only a dealer, dealer representative, or prospective customer ~~(shall)~~ may use a snowmobile dealer's ~~(number)~~ license plate for ~~(any purpose other than)~~ the purposes described in subsection (3) of this section.

(5) Snowmobile dealer ~~(registration numbers)~~ licenses are nontransferable.

(6) It is unlawful for any snowmobile dealer to sell ~~(any)~~ a snowmobile at wholesale or retail, or to test or demonstrate any snowmobile, within the state, unless ~~(registered in accordance with the provisions of this section)~~ the dealer has a snowmobile dealer license as required under this section.

(7) When a snowmobile is sold by a snowmobile dealer, the dealer:

(a) Shall apply for licensing in the purchaser's name within fifteen days following the sale; and

(b) May issue a temporary license as provided by rules adopted by the department.

Sec. 232. RCW 46.10.055 and 1982 c 17 s 4 are each amended to read as follows:

The director may by order deny, suspend, or revoke the ~~(registration)~~ license of any snowmobile dealer or, in lieu thereof or in addition thereto, may by order assess monetary civil penalties not to exceed five hundred dollars per violation, if the director finds that the order is in the public interest and that the applicant or ~~(registrant)~~ licensee, or any partner, officer, director, or owner of ten percent of the assets of the firm, or any employee or agent:

(1) Has failed to comply with the applicable provisions of this chapter or any rules adopted under this chapter; or

(2) Has failed to pay any monetary civil penalty assessed by the director under this section within ten days after the assessment becomes final.

Sec. 233. RCW 46.10.060 and 1971 ex.s. c 29 s 6 are each amended to read as follows:

~~(The registration number)~~ (1) Snowmobile decals assigned to a snowmobile in this state at the time of its original registration ~~(shall)~~ must remain with that snowmobile until the ~~(vehicle)~~ snowmobile is destroyed, abandoned, or permanently removed from this state, or until changed or terminated by the department.

(2) The department shall ~~((; upon assignment of such registration number;))~~ issue and deliver to the snowmobile owner ~~((a certificate of))~~ upon proper application:

(a) A registration certificate, in ~~((such))~~ a form as prescribed by the department ~~((shall prescribe))~~. The ~~((certificate of))~~ registration ~~((shall))~~ certificate is not ~~((be))~~ valid unless it is signed by the person who signed the application for registration ~~((;~~

At the time of the original registration, and at the time of each subsequent renewal thereof, the department shall issue to the registrant a date tag or tags indicating the validity of the current registration and the expiration date thereof, which validating date, tag, or tags shall)); and

(b) License tabs showing the current expiration of the snowmobile registration. The license tabs must be affixed to the snowmobile ~~((in such manner))~~ as prescribed by the department ~~((may prescribe. Notwithstanding the fact that a snowmobile has been assigned a registration number, it shall not be considered as validly registered within the meaning of this section unless a validating date tag and current registration certificate has been issued))~~.

(3) A snowmobile is not properly registered unless license tabs and a current registration certificate have been issued.

Sec. 234. RCW 46.10.070 and 1973 1st ex.s. c 128 s 2 are each amended to read as follows:

~~((The registration number))~~ (1) Snowmobile decals assigned to each snowmobile ~~((shall))~~ must be:

(a) Permanently affixed to and displayed upon each snowmobile ~~((in such manner))~~ as provided by rules adopted by the department ~~((;))~~; and ~~((shall be))~~

(b) Maintained in a legible condition ~~((; except))~~.

(2) Dealer number license plates as provided for in RCW 46.10.050 (as recodified by this act) may be temporarily affixed.

(3) The department shall make available a pair of identical snowmobile decals consistent with subsection (1) of this section. The decals serve the same function as license plates for vehicles registered under chapter 46.16 RCW. The department shall charge each applicant for an original registration the actual cost of the snowmobile decal. The department shall make available replacement snowmobile decals for a fee equivalent to the actual cost of the snowmobile decals.

Sec. 235. RCW 46.10.220 and 1994 c 264 s 38 are each amended to read as follows:

(1) There is created in the Washington state parks and recreation commission a snowmobile advisory committee to advise the commission regarding the administration of this chapter.

(2) The purpose of the committee is to assist and advise the commission in the planned development of snowmobile facilities and programs.

(3) The committee shall consist of:

(a) Six interested snowmobilers, appointed by the commission; each such member shall be a resident of one of the six geographical areas throughout this state where snowmobile activity occurs, as defined by the commission;

(b) Three representatives of the nonsnowmobiling public, appointed by the commission; and

(c) One representative of the department of natural resources, one representative of the department of fish and wildlife, and one representative of the Washington state association of counties; each of whom shall be appointed by the director of such department or association.

(4) Terms of the members appointed under subsection (3)(a) and (b) of this section shall commence on October 1st of the year of appointment and shall be for three years or until a successor is appointed, except in the case of appointments to fill vacancies which shall be for the remainder of the unexpired term: PROVIDED, That the first such members shall be appointed for terms as follows: Three members shall be appointed for one year, three members shall be appointed for two years, and three members shall be appointed for three years.

(5) Members of the committee shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060. Expenditures under this subsection shall be from the snowmobile account created by RCW 46.10.075 (as recodified by this act).

(6) The committee may meet at times and places fixed by the committee. The committee shall meet not less than twice each year and additionally as required by the committee chairman or by majority vote of the committee. One of the meetings shall be coincident with a meeting of the commission at which the committee shall provide a report to the commission. The chairman of the committee shall be chosen under procedures adopted by the committee from those members appointed under subsection (3)(a) and (b) of this section.

(7) The Washington state parks and recreation commission shall serve as recording secretary to the committee. A representative of the department of licensing shall serve as an ex officio member of the committee and shall be notified of all meetings of the committee. The recording secretary and the ex officio member shall be nonvoting members.

(8) The committee shall adopt procedures to govern its proceedings.

NEW SECTION. Sec. 236. The following acts or parts of acts are each repealed:

(1) RCW 46.09.085 (Selling ORV without use permit) and 2004 c 105 s 10; and

(2) RCW 46.10.080 (Distribution of snowmobile registration fees, civil penalties, and fuel tax moneys) and 1982 c 17 s 7, 1979 ex.s. c 182 s 8, 1975 1st ex.s. c 181 s 2, 1973 1st ex.s. c 128 s 3, 1972 ex.s. c 153 s 22, & 1971 ex.s. c 29 s 8.

PART III. CERTIFICATES OF TITLE

Sec. 301. RCW 46.12.010 and 1997 c 241 s 3 are each amended to read as follows:

~~((It shall be unlawful for any person to operate any vehicle in this state under a certificate of license registration of this state without securing and having in full force and effect a certificate of ownership therefor that contains the name of the registered owner exactly as it appears on the certificate of license registration and it shall further be unlawful for any person to sell or transfer any vehicle without complying with all the provisions of this chapter relating to certificates of ownership and license registration of vehicles: PROVIDED, No certificate of title need be obtained for a vehicle owned by a~~

~~manufacturer or dealer and held for sale, even though incidentally moved on the highway or used for purposes of testing and demonstration, or a vehicle used by a manufacturer solely for testing: PROVIDED, That a security interest in a vehicle held as inventory by a manufacturer or dealer shall be perfected in accordance with RCW 62A.9-302(1) and no endorsement on the certificate of title shall be necessary for perfection: AND PROVIDED FURTHER, That nothing in this title shall be construed to prevent any person entitled thereto from securing a certificate of ownership upon a vehicle without securing a certificate of license registration and vehicle license plates, when, in the judgment of the director of licensing, it is proper to do so:))~~

(1) A person shall not:

(a) Operate a vehicle in this state with a registration certificate issued by the department without having a certificate of title for the vehicle that contains the name of the registered owner exactly as it appears on the registration certificate;
or

(b) Sell or transfer a vehicle without complying with the provisions of this chapter relating to certificates of title and vehicle registration.

(2) A certificate of title does not need to be obtained for a vehicle owned by a manufacturer or dealer and held for sale, even though incidentally moved on the highway or used for purposes of testing and demonstration, or for a vehicle used by a manufacturer or dealer solely for testing. A security interest in a vehicle held as inventory by a manufacturer or dealer must be perfected as described in chapter 62A.9A RCW. An endorsement is not required on certificates of title held by a manufacturer or dealer to perfect the security interest. A certificate of title may be issued for any vehicle without the vehicle needing to be registered.

Sec. 302. RCW 46.12.030 and 2007 c 420 s 1 are each amended to read as follows:

~~((1) The application for a certificate of ownership shall be upon a form furnished or approved by the department and shall contain:~~

~~(a) A full description of the vehicle, which shall contain the proper vehicle identification number, the number of miles indicated on the odometer at the time of delivery of the vehicle, and any distinguishing marks of identification;~~

~~(b) The name and address of the person who is to be the registered owner of the vehicle and, if the vehicle is subject to a security interest, the name and address of the secured party;~~

~~(c) Such other information as the department may require.~~

~~(2) The department may in any instance, in addition to the information required on the application, require additional information and a physical examination of the vehicle or of any class of vehicles, or either.~~

~~(3)(a) A physical examination of the vehicle is mandatory if (i) it has been rebuilt after surrender of the certificate of ownership to the department under RCW 46.12.070 due to the vehicle's destruction or declaration as a total loss and (ii) it is not retained by the registered owner at the time of the vehicle's destruction or declaration as a total loss. The inspection must verify that the vehicle identification number is genuine and agrees with the number shown on the title and registration certificate. The inspection must be made by a member of the Washington state patrol or other person authorized by the department to make such inspections.~~

~~(b)(i) A physical examination of the vehicle is mandatory if the vehicle was declared totaled or salvage under the laws of this state, or the vehicle is presented with documents from another state showing the vehicle was totaled or salvage and has not been reissued a valid registration from that state after the declaration of total loss or salvage.~~

~~(ii) The inspection must verify that the vehicle identification number is genuine and agrees with the number shown on the original documents supporting the vehicle purchase or ownership.~~

~~(iii) A Washington state patrol VIN specialist must ensure that all major component parts used for the reconstruction of a salvage or rebuildable vehicle were obtained legally. Original invoices for new and used parts must be from a vendor that is registered with the department of revenue for the collection of retail sales or use taxes or comparable agency in the jurisdiction where the major component parts were purchased. The invoices must include the name and address of the business, a description of the part or parts sold, the date of sale, and the amount of sale to include all taxes paid unless exempted by the department of revenue or comparable agency in the jurisdiction where the major component parts were purchased. Original invoices for used parts must be from a vehicle wrecker licensed under chapter 46.80 RCW or a comparable business in the jurisdiction outside Washington state where the major component part was purchased. If the parts or components were purchased from a private individual, the private individual must have title to the vehicle the parts were taken from, except as provided by RCW 46.04.3815, and the bill of sale for the parts must be notarized. The bills of sale must include the names and addresses of the sellers and purchasers, a description of the vehicle, the part or parts being sold, including the make, model, year, and identification or serial number, that date of sale, and the purchase price of the vehicle or part or parts. If the presenter is unable to provide an acceptable release of interest or proof of ownership for a vehicle or major component part as described above, an inspection must be completed for ownership in doubt purposes as prescribed by WAC 308-56A-210.~~

~~(iv) A vehicle presented for inspection must have all damaged major component parts replaced or repaired to meet RCW and WAC requirements before inspection of the salvage vehicle by the Washington state patrol.~~

~~(4) To the extent that the Washington state patrol has a backlog of vehicle inspections that it is to perform under this section, chapter 420, Laws of 2007 shall not be construed to reduce the vehicle inspection workload of the Washington state patrol.~~

~~(5) Rebuilt or salvage vehicles licensed in Washington must meet the requirements found under chapter 46.37 RCW to be driven upon public roadways.~~

~~(6) The application shall be subscribed by the person applying to be the registered owner and be sworn to by that applicant in the manner described by RCW 9A.72.085. The department shall retain the application in either the original, computer, or photostatic form.))~~

(1) The application for a certificate of title of a vehicle must be made by the owner or owner's representative to the department, county auditor or other agent, or subagent appointed by the director on a form furnished or approved by the department and must contain:

(a) A description of the vehicle, including make, model, vehicle identification number, type of body, and the odometer reading at the time of delivery of the vehicle;

(b) The name and address of the person who is to be the registered owner of the vehicle and, if the vehicle is subject to a security interest, the name and address of the secured party; and

(c) Other information the department may require.

(2) The department may require additional information and a physical examination of the vehicle or of any class of vehicles, or either.

(3) The application for a certificate of title must be signed by the person applying to be the registered owner and be sworn to by that person in the manner described under RCW 9A.72.085. The department shall keep the application in the original, computer, or photostatic form.

(4) The application for an original certificate of title must be accompanied by:

(a) A draft, money order, certified bank check, or cash for all fees and taxes due for the application for certificate of title; and

(b) The most recent certificate of title or other satisfactory evidence of ownership.

(5) Once issued, a certificate of title is not subject to renewal.

NEW SECTION. Sec. 303. A new section is added to chapter 46.12 RCW under the subchapter heading "general provisions" to read as follows:

(1)(a) Before accepting an application for a certificate of title, the department, county auditor or other agent, or subagent appointed by the director shall require an applicant to provide a certificate of vehicle inspection completed by the Washington state patrol or other authorized inspector if the vehicle:

(i) Was declared a total loss or salvage vehicle under the laws of this state;

(ii) Has been rebuilt after the certificate of title was returned to the department under RCW 46.12.070 (as recodified by this act) and the vehicle was not kept by the registered owner at the time of the vehicle's destruction or declaration as a total loss; or

(iii) Is presented with documents from another state showing that the vehicle was a total loss or salvage vehicle and has not been reissued a valid registration certificate from that state after the declaration of total loss or salvage.

(b) A vehicle presented for inspection must have all damaged major component parts replaced or repaired to meet all requirements in law and rule before the Washington state patrol will inspect the vehicle. The inspection must verify that the vehicle identification number is genuine and agrees with the number shown on the certificate of title and registration certificate.

(c) A Washington state patrol vehicle identification number specialist must ensure that all major component parts used for the reconstruction of a salvage or rebuilt vehicle were obtained legally, and must securely attach a marking at the driver's door latch pillar indicating the vehicle was previously destroyed or declared a total loss. It is a class C felony for a person to remove the marking indicating that the vehicle was previously destroyed or declared a total loss.

(2) A person presenting a vehicle for inspection under subsection (1) of this section must provide original invoices for new and used parts from:

(a) A vendor that is registered with the department of revenue or a comparable agency in the jurisdiction where the major component parts were purchased for the collection of retail sales or use taxes. The invoices must include:

- (i) The name and address of the business;
- (ii) A description of the part or parts sold;
- (iii) The date of sale; and

(iv) The amount of sale to include all taxes paid unless exempted by the department of revenue or a comparable agency in the jurisdiction where the major component parts were purchased;

(b) A vehicle wrecker licensed under chapter 46.80 RCW or a comparable business in the jurisdiction outside Washington state where the major component part was purchased; and

(c) Private individuals. The private individual must have the certificate of title to the vehicle where the parts were taken from unless the parts were obtained from a parts car, as defined in RCW 46.04.3815, owned by a collector. Bills of sale for parts must be notarized and include:

- (i) The names and addresses of the sellers and purchasers;
- (ii) A description of the vehicle and the part or parts being sold, including the make, model, year, and identification or serial number;
- (iii) The date of sale; and
- (iv) The purchase price of the vehicle part or parts.

(3) A person presenting a vehicle for inspection under this section who is unable to provide an acceptable release of interest or proof of ownership for a vehicle or major component part as described in this section shall apply for an ownership in doubt application described in RCW 46.12.151 (as recodified by this act).

(4)(a) Before accepting an application for a certificate of title, the department, county auditor or other agent, or subagent appointed by the director shall require an applicant to provide a certificate of vehicle inspection completed by the Washington state patrol or other authorized inspector when the application is for a vehicle being titled for the first time as:

- (i) Assembled;
- (ii) Glider kit;
- (iii) Homemade;
- (iv) Kit vehicle;
- (v) Street rod; or

(vi) Subject to ownership in doubt under RCW 46.12.151 (as recodified by this act).

(b) The inspection must verify that the vehicle identification number is genuine and agrees with the number shown on the certificate of title and registration certificate.

(5)(a) Before accepting an application for a certificate of title, the department, county auditor or other agent, or subagent appointed by the director shall require an applicant to provide a certificate of vehicle inspection completed by the Washington state patrol when the application is for a vehicle with a vehicle identification number that has been:

- (i) Altered;
- (ii) Defaced;

- (iii) Obliterated;
- (iv) Omitted;
- (v) Removed; or
- (vi) Otherwise absent.

(b) The application must include payment of the fee required in section 515 of this act.

(c) The Washington state patrol shall assign a new vehicle identification number to the vehicle and place or stamp the new number in a conspicuous position on the vehicle.

(d) The department shall use the new vehicle identification number assigned by the Washington state patrol as the official vehicle identification number assigned to the vehicle.

(6) The department may adopt rules as necessary to implement this section.

Sec. 304. RCW 46.12.047 and 2002 c 246 s 1 are each amended to read as follows:

The department shall institute software and systems modifications to enable a WACIC/NCIC stolen vehicle search of out-of-state vehicles as part of the application for a certificate of title transaction. During the stolen vehicle search, if the information obtained indicates the vehicle is stolen, ~~((that information))~~ the department shall ((be)) immediately ((reported)) report that the vehicle is stolen to the Washington state patrol and the applicant ((shall)) must not be issued a certificate of ((ownership)) title for the vehicle. Vehicles for which the stolen vehicle check is negative ((shall)) must be issued a certificate of ((ownership)) title if the department is satisfied that all other requirements have been met.

Sec. 305. RCW 46.12.050 and 1996 c 26 s 2 are each amended to read as follows:

~~((The department, if satisfied from the statements upon the application that the applicant is the legal owner of the vehicle or otherwise entitled to have a certificate of ownership thereof in the applicant's name, shall issue an appropriate electronic record of ownership or a written certificate of ownership, over the director's signature, authenticated by seal, and if required, a new written certificate of license registration if certificate of license registration is required.~~

~~The certificates of ownership and the certificates of license registration shall contain upon the face thereof, the date of application, the registration number assigned to the registered owner and to the vehicle, the name and address of the registered owner and legal owner, the vehicle identification number, and such other description of the vehicle and facts as the department shall require, and in addition thereto, if the vehicle described in such certificates shall have ever been licensed and operated as an exempt vehicle or a taxicab, or if it has been rebuilt after becoming a salvage vehicle, such fact shall be clearly shown thereon.~~

~~All certificates of ownership of motor vehicles issued after April 30, 1990, shall reflect the odometer reading as provided by the odometer disclosure statement submitted with the title application involving a transfer of ownership.~~

~~A blank space shall be provided on the face of the certificate of license registration for the signature of the registered owner.~~

~~Upon issuance of the certificate of license registration and certificate of ownership and upon any reissue thereof, the department shall deliver the~~

~~certificate of license registration to the registered owner and the certificate of ownership to the legal owner, or both to the person who is both the registered owner and legal owner.)~~

(1) The department shall issue an electronic record of ownership or a written certificate of title if the department is satisfied from the statements on the application that the applicant is the legal owner of the vehicle or otherwise entitled to have a certificate of title in the applicant's name.

(2) Each certificate of title issued by the department must contain:

(a) The date of application;

(b) The certificate of title number assigned to the vehicle;

(c) The name and address of the registered owner and legal owner;

(d) The vehicle identification number;

(e) The mileage reading, if required, as provided by the odometer disclosure statement submitted with the application involving a transfer of ownership;

(f) A notation that the recorded mileage is actual, not actual, or exceeds mechanical limits;

(g) A blank space on the face of the certificate of title for the signature of the registered owner;

(h) Information on whether the vehicle was ever registered and operated as an exempt vehicle or taxicab;

(i) A brand conspicuously shown across its front if indicating that the vehicle has been rebuilt after becoming a salvage vehicle;

(j) The director's signature and the seal of the department; and

(k) Any other description of the vehicle and facts the department may require.

(3) The department shall deliver the registration certificate to the registered owner and the certificate of title to the legal owner, or both to the person who is both the registered owner and legal owner.

Sec. 306. RCW 46.12.070 and 2003 c 53 s 235 are each amended to read as follows:

~~((1) Upon the destruction of any vehicle issued a certificate of ownership under this chapter or a license registration under chapter 46.16 RCW, the registered owner and the legal owner shall forthwith and within fifteen days thereafter forward and surrender the certificate to the department, together with a statement of the reason for the surrender and the date and place of destruction. Failure to notify the department or the possession by any person of any such certificate for a vehicle so destroyed, after fifteen days following its destruction, is prima facie evidence of violation of the provisions of this chapter and constitutes a gross misdemeanor.~~

~~(2) Any insurance company settling an insurance claim on a vehicle that has been issued a certificate of ownership under this chapter or a certificate of license registration under chapter 46.16 RCW as a total loss, less salvage value, shall notify the department thereof within fifteen days after the settlement of the claim. Notification shall be provided regardless of where or in what jurisdiction the total loss occurred.~~

~~(3) For a motor vehicle having a model year designation at least six years before the calendar year of destruction, the notification to the department must include a statement of whether the retail fair market value of the motor vehicle~~

~~immediately before the destruction was at least the then market value threshold amount as defined in RCW 46.12.005-.)~~

(1)(a) The registered owner or legal owner shall:

(i) Report the destruction of the vehicle issued a certificate of title or registration certificate to the department within fifteen days of its destruction; and

(ii) Submit the certificate of title or affidavit in lieu of title marked "DESTROYED." The registered owner's name, address, and the date of destruction must be clearly shown on the certificate of title or affidavit in lieu of title.

(b) It is a gross misdemeanor to fail to notify the department and be in possession of a certificate of title of a destroyed vehicle on the sixteenth day after the vehicle is destroyed and each day thereafter.

(2) The insurance company or self-insurer shall report the destruction or total loss of vehicles issued a certificate of title or registration certificate to the department within fifteen days after the settlement claim. The report must be submitted regardless of where or in what jurisdiction the total loss occurred. An insurer shall report total loss vehicles to the department in any of the following manners:

(a) Electronically through the department's online reporting system. An insurer choosing this option must immediately destroy ownership documents after filing the electronic report;

(b) Submitting the certificate of title or affidavit in lieu of title marked "DESTROYED." The insurer's name, address, and the date of loss must be clearly shown on the certificate of title or affidavit in lieu of title; or

(c) Submitting a properly completed total loss claim settlement form provided by the department.

(3) The registered owner, legal owner, or insurer reporting the destruction or total loss of a motor vehicle six years old or older must include a statement on whether the fair market value of the motor vehicle immediately before its destruction was at least equal to the market value threshold. The age of the motor vehicle is determined by subtracting the model year from the current calendar year.

(4) Beginning January 1, 2011, the market value threshold is six thousand seven hundred ninety dollars or a greater amount as set by rule of the department. The department shall:

(a) Increase the market value threshold amount:

(i) When the consumer price index for all urban consumers, compiled by the bureau of labor statistics, United States department of labor, or its successor, for the west region, in the expenditure category "used cars and trucks," shows an annual average increase over the previous year;

(ii) By the same percentage increase of the annual average shown in the consumer price index; and

(iii) On July 1st of the year immediately following the year with the increase of the annual average;

(b) Round each increase of the market value threshold to the nearest ten dollars;

(c) Not increase the market value threshold amount if the amount of the increase would be less than fifty dollars; and

(d) Carry forward any unmade increases to succeeding years until the cumulative increase is at least fifty dollars.

Sec. 307. RCW 46.12.080 and 2002 c 352 s 4 are each amended to read as follows:

~~((Any person holding the certificate of ownership for a motorcycle or any vehicle registered by its motor number in which there has been installed a new or different motor than that with which it was issued certificates of ownership and license registration shall forthwith and within five days after such installation forward and surrender such certificates to the department, together with an application for issue of corrected certificates of ownership and license registration and a fee of five dollars, and a statement of the disposition of the former motor. The possession by any person of any such certificates for such vehicle in which a new or different motor has been installed, after five days following such installation, shall be prima facie evidence of a violation of the provisions of this chapter and shall constitute a misdemeanor.))~~

(1) A person shall apply for a new certificate of title for any motor vehicle registered by its motor number when:

(a) A new or different motor has been installed; and

(b) The most recent certificate of title issued for the motor vehicle has recorded on it the previous motor number.

(2) The application for a new certificate of title required in subsection (1) of this section must:

(a) Be made within five days after installation of the new motor;

(b) Be made by the owner or owner's authorized representative to the department, county auditor or other agent, or subagent;

(c) Require the most recent certificate of title to be returned to the department;

(d) Include a statement of the disposition of the former motor; and

(e) Include the fee required under section 508 of this act in addition to any other fee or tax required by law.

(3) A person who possesses a certificate of title that shows the previous motor number for a motor vehicle in which a new or different motor has been installed, after five days following the installation of the new motor, is in violation of this chapter. A violation of this section constitutes a misdemeanor.

NEW SECTION. Sec. 308. A new section is added to chapter 46.12 RCW under the subchapter heading "general provisions" to read as follows:

(1) A local health officer may notify the department that a vehicle has been:

(a) Declared unfit and prohibited from use as authorized in chapter 64.44 RCW if the vehicle has become contaminated as defined in RCW 64.44.010;

(b) Satisfactorily decontaminated and retested according to the written work plan approved by the local health officer.

(2) The department shall brand vehicle records and certificates of title when it receives the notification from a local health officer as provided in subsection (1) of this section.

(3) A person is guilty of a gross misdemeanor if he or she advertises for sale or sells a vehicle that has been declared unfit and prohibited from use by a local health officer if:

(a) The person has knowledge that the local health officer has issued an order declaring the vehicle unfit and prohibiting its use; or

(b) A notification has been placed on the certificate of title under subsection (2) of this section that the vehicle has been declared unfit and prohibited from use.

(4) A person may advertise or sell a vehicle if a release for reuse document has been issued by a local health officer under chapter 64.44 RCW or a notification has been placed on the certificate of title under subsection (2) of this section that the vehicle has been decontaminated and released for reuse.

Sec. 309. RCW 46.12.101 and 2008 c 316 s 1 are each amended to read as follows:

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

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

~~(b) By January 1, 2008, the department shall provide instructions on release of interest forms that allow the seller of a vehicle to release his or her interest in a vehicle at the same time a financial institution, as defined in RCW 30.22.040, releases its lien on the vehicle.~~

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

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

~~application to be transmitted to the department accompanied by a fee of five dollars in addition to any other fees required.~~

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

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

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

- ~~(a) The department requesting additional supporting documents;~~
- ~~(b) Extended hospitalization or illness of the purchaser;~~
- ~~(c) Failure of a legal owner to release his or her interest;~~
- ~~(d) Failure, negligence, or nonperformance of the department, auditor, or subagent;~~
- ~~(e) The transferee had no knowledge of the filing of the vehicle report of sale and signs an affidavit to the fact.~~

~~Failure or neglect to make application to transfer the certificate of ownership and license registration within forty five days after the date of delivery of the vehicle is a misdemeanor and a continuing offense for each day during which the purchaser or transferee does not make application to transfer the certificate of ownership and license registration. Despite the continuing nature of this offense, it shall be considered a single offense, regardless of the number of days that have elapsed following the forty-five day time period.~~

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

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

(1) Releasing interest. An owner releasing interest in a vehicle shall:

(a) Sign the release of interest section provided on the certificate of title or on a release of interest document or form approved by the department;

(b) Give the certificate of title or most recent evidence of ownership to the person gaining the interest in the vehicle;

(c) Give the person gaining interest in the vehicle an odometer disclosure statement if one is required; and

(d) Report the vehicle sold as provided in subsection (2) of this section.

(2) **Report of sale.** An owner shall notify the department, county auditor or other agent, or subagent appointed by the director in writing within five business days after a vehicle is or has been:

(a) Sold;

(b) Given as a gift to another person;

(c) Traded, either privately or to a dealership;

(d) Donated to charity;

(e) Turned over to an insurance company or wrecking yard; or

(f) Disposed of.

(3) **Report of sale properly filed.** A report of sale is properly filed if it is received by the department, county auditor or other agent, or subagent appointed by the director within five business days after the date of sale or transfer and it includes:

(a) The date of sale or transfer;

(b) The owner's name and address;

(c) The name and address of the person acquiring the vehicle;

(d) The vehicle identification number and license plate number;

(e) A date or stamp by the department showing it was received on or before the fifth business day after the date of sale or transfer; and

(f) Payment of the fees required under section 505 of this act if the report of sale is processed by a county auditor or other agent or subagent appointed by the director.

(4) **Report of sale - administration.** The department shall:

(a) Provide or approve reports of sale forms;

(b) Provide a system enabling an owner to submit reports of sale electronically;

(c) Immediately update the department's vehicle record when a report of sale has been filed;

(d) Provide instructions on release of interest forms that allow the seller of a vehicle to release their interest in a vehicle at the same time a financial institution, as defined in RCW 30.22.040, releases its lien on the vehicle; and

(e) Send a report to the department of revenue that lists vehicles for which a report of sale has been received but no transfer of ownership has taken place. The department shall send the report once each quarter.

(5)(a) **Transferring ownership.** A person who has recently acquired a vehicle by purchase, exchange, gift, lease, inheritance, or legal action shall apply to the department, county auditor or other agent, or subagent appointed by the director for a new certificate of title within fifteen days of delivery of the vehicle. A secured party who has possession of the certificate of title shall either:

(i) Apply for a new certificate of title on behalf of the owner and pay the fee required under section 508 of this act; or

(ii) Provide all required documents to the owner, as long as the transfer was not a breach of its security agreement, to allow the owner to apply for a new certificate of title.

(b) Compliance with this subsection does not affect the rights of the secured party.

(6) **Certificate of title delivered to secured party.** The certificate of title must be kept by or delivered to the person who becomes the secured party when a security interest is reserved or created at the time of the transfer of ownership. The parties must comply with RCW 46.12.170 (as recodified by this act).

(7) **Penalty for late transfer.** A person who has recently acquired a motor vehicle by purchase, exchange, gift, lease, inheritance, or legal action who does not apply for a new certificate of title within fifteen calendar days of delivery of the vehicle is charged a penalty, as described in section 512 of this act, when applying for a new certificate of title. It is a misdemeanor to fail or neglect to apply for a transfer of ownership within forty-five days after delivery of the vehicle. The misdemeanor is a single continuing offense for each day that passes regardless of the number of days that have elapsed following the forty-five day time period.

(8) **Penalty for late transfer - exceptions.** The penalty is not charged if the delay in application is due to at least one of the following:

(a) The department requests additional supporting documents;

(b) The department, county auditor or other agent, or subagent fails to perform or is neglectful;

(c) The owner is prevented from applying due to an illness or extended hospitalization;

(d) The legal owner fails or neglects to release interest;

(e) The owner did not know of the filing of a report of sale by the previous owner and signs an affidavit to the fact; or

(f) The department finds other conditions exist that adequately explain the delay.

(9) **Review and issue.** The department shall review applications for certificates of title and issue certificates of title when it has determined that all applicable provisions of law have been complied with.

(10) **Rules.** The department may adopt rules as necessary to implement this section.

Sec. 310. RCW 46.12.102 and 2006 c 291 s 3 are each amended to read as follows:

~~((1) An owner who has made a bona fide sale or transfer of a vehicle and has delivered possession of it to a purchaser shall not by reason of any of the provisions of this title be deemed the owner of the vehicle so as to be subject to civil liability or criminal liability for the operation of the vehicle thereafter by another person when the owner has also fulfilled both of the following requirements:~~

~~(a) When the owner has made proper endorsement and delivery of the certificate of ownership and has delivered the certificate of registration as provided in this chapter;~~

~~(b) When the owner has delivered to the department either a properly filed report of sale that includes all of the information required in RCW 46.12.101(1) and is delivered to the department within five days of the sale of the vehicle~~

~~excluding Saturdays, Sundays, and state and federal holidays, or appropriate documents for registration of the vehicle pursuant to the sale or transfer.~~

~~(2) An owner who has made a bona fide sale or transfer of a vehicle, has delivered possession of it to a purchaser, and has fulfilled the requirements of subsection (1)(a) and (b) of this section is relieved of liability and liability is transferred to the purchaser of the vehicle, for any traffic violation under this title, whether designated as a traffic infraction or classified as a criminal offense, that occurs after the date of the sale or transfer that is based on the vehicle's identification, including, but not limited to, parking infractions, high occupancy toll lane violations, and violations recorded by automated traffic safety cameras.~~

~~(3) When a registered tow truck operator submits an abandoned vehicle report to the department for a vehicle sold at an abandoned vehicle auction, any previous owner is relieved of civil or criminal liability for the operation of the vehicle from the date of sale thereafter, and liability is transferred to the purchaser of the vehicle as listed on the abandoned vehicle report.~~

~~(4) When a transferee had no knowledge of the filing of the vehicle report of sale, he or she is relieved of civil or criminal liability for the operation of the vehicle, and liability is transferred to the seller shown on the report of sale.))~~

~~(1) An owner is relieved of civil or criminal liability for the operation of a vehicle by another person when the owner has:~~

~~(a) Made a bona fide sale or transfer of a vehicle;~~

~~(b) Delivered possession of the vehicle to the person acquiring ownership;~~

~~(c) Released interest in the vehicle and provided the certificate of title and registration certificate to the person acquiring ownership; and~~

~~(d) Filed a report of sale that meets all the requirements in RCW 46.12.101(2) (as recodified by this act).~~

~~(2) A person acquiring a vehicle assumes civil or criminal liability for any traffic violation under this title, whether designated as a traffic infraction or classified as a criminal offense, that occurs after the date of sale or transfer of ownership based on the vehicle's identification including, but not limited to:~~

~~(a) Parking infractions;~~

~~(b) High occupancy toll lane violations; and~~

~~(c) Violations recorded by automated traffic safety cameras.~~

~~(3) A person shown as the buyer of a vehicle on an abandoned vehicle report submitted to the department by a registered tow truck operator assumes liability for the vehicle. Any previous owner is relieved of civil or criminal liability for the operation of the vehicle from the date of sale.~~

~~(4) A person who had no knowledge of the filing of the report of sale is relieved of civil or criminal liability for the operation of the vehicle. Liability is then transferred to the seller shown on the report of sale.~~

Sec. 311. RCW 46.12.103 and 2000 c 250 s 9A-823 are each amended to read as follows:

~~(1) ((The purpose of)) A transitional ownership record ((is to));~~

~~(a) Enables a security interest in a motor vehicle to be perfected in a timely manner when the certificate of ((ownership)) title is not available at the time the security interest is created((-and to));~~

~~(b) Provides for timely notification to security interest holders under chapter 46.55 RCW((-~~

~~(2) A transitional ownership record)); and~~

(c) Is only acceptable as an ownership record for motor vehicles currently stored on the department's computer system and if the certificate of ~~((ownership))~~ title or other authorized proof of ownership for the motor vehicle is not in the possession of the selling vehicle dealer or new security interest holder ~~((at the time))~~ when the transitional ownership record is submitted to the department.

~~((3))~~ (2) A person shall submit the transitional ownership record to the department or to ~~((any of its))~~ the county auditor or other agents or subagents. ~~((Agents and subagents shall immediately electronically transmit the transitional ownership records to the department. A transitional ownership document processed and recorded by an agent or subagent may be subject to fees as specified in RCW 46.01.140 (4)(a) or (5)(b).~~

~~(4))~~ (3) A transitional ownership record ~~((means a record containing))~~ must contain all of the following information:

- (a) The date of sale;
- (b) The name and address of each owner of the vehicle;
- (c) The name and address of each security interest holder;
- (d) ~~The priorities of interest if there are multiple security interest holders~~ ~~((the priorities of interest if))~~ and the security interest holders do not jointly hold a single security interest;
- (e) The vehicle identification number, the license plate number, if any, the year, make, and model of the vehicle;
- (f) The name of the selling dealer or security interest holder who is submitting the transitional ownership record; and
- (g) The transferee's driver's license number, if available.

~~((5))~~ (4) The report of sale form ~~((prescribed))~~ provided or approved by the department under RCW 46.12.101 ~~((as recodified by this act))~~ may be used by a vehicle dealer as the transitional ownership record.

~~((6) Compliance with))~~ (5) A security interest is perfected in a motor vehicle on the date the department receives the transitional ownership record when:

(a) ~~The requirements of this section~~ ~~((shall result in perfection of a security interest in the vehicle as of the date the department receives the transitional ownership record))~~ have been met; and

(b) Any required fees ~~((required under subsection (3) of this section.))~~ have been paid.

~~(6)(a) The selling dealer or new security interest holder shall submit to the department, within ten days of receipt of the certificate of~~ ~~((ownership))~~ title for the vehicle, ~~((or of))~~ written confirmation that only an electronic record of ownership exists or that the certificate of ~~((ownership))~~ title has been lost or destroyed ~~((the selling dealer or new security interest holder shall promptly submit the same to the department together))~~ with:

(i) An application for a new certificate of ~~((ownership))~~ title containing the name and address of the secured party ~~((and tender))~~; and

(ii) Payment of the required fees as provided in ~~((RCW 46.12.095(1). In the event))~~ section 507 of this act.

(b) A security interest becomes unperfected when a secured party fails to submit an application for a certificate of title within the ten-day time period

provided in this subsection (6), ~~((its security interest shall become unperfected,))~~ unless the security interest is perfected otherwise.

Sec. 312. RCW 46.12.124 and 1990 c 238 s 6 are each amended to read as follows:

(1) ~~The department, county auditor or other agent, or subagent appointed by the director shall require ~~((an))~~ a written odometer disclosure statement ~~((to accompany))~~ with every application for a certificate of ~~((ownership, unless specifically exempted))~~ title for a motor vehicle. The odometer disclosure statement must be on either the certificate of title or on a separate form approved by the department. A secure odometer disclosure statement is required if the certificate of ~~((ownership))~~ title was issued after April 30, 1990~~((, a secure odometer statement is required, unless specifically exempted))~~. ~~((The))~~ Odometer disclosure statements ~~((shall))~~ must include, at a minimum, the following:~~

(a) ~~The miles shown on the odometer at the time of transfer of ownership, but not to include tenths of miles;~~

(b) ~~The date of transfer of ownership;~~

(c) ~~The transferor's printed name, current address, and signature;~~

(d) ~~The transferee's printed name, current address, and signature;~~

(e) ~~The identity of the motor vehicle, including its make, model, year, body type, and vehicle identification number;~~

(f) ~~Information that the odometer statement is required by the federal truth in mileage act of 1986 and that failure to complete the odometer statement or providing false information may result in fines or imprisonment, or both; and~~

(g) ~~One of the following statements:~~

(i) ~~The mileage ~~((reflected))~~ shown is actual to the best of transferor's knowledge;~~

(ii) ~~The odometer reading exceeds the mechanical limits of the odometer to the best of the transferor's knowledge; or~~

(iii) ~~The odometer reading is not the actual mileage~~((:))~~.~~

If the odometer reading is under one hundred thousand miles, the only options that can be certified are "actual to the best of the transferor's knowledge" or "not the actual mileage." If the odometer reading is one hundred thousand miles or more, the options "actual to the best of the transferor's knowledge" or "not the actual mileage" cannot be used unless the odometer has six digit capability~~((;~~

~~(d) A complete description of the vehicle, including the:~~

~~(i) Model year;~~

~~(ii) Make;~~

~~(iii) Series and body type (model);~~

~~(iv) Vehicle identification number;~~

~~(v) License plate number and state (optional);~~

~~(e) The name, address, and signature of the transferor, in accordance with the following conditions:~~

~~(i))~~.

(2) ~~The transferee and the transferor shall each sign the odometer disclosure statement.~~ Only one registered owner is required to complete the odometer disclosure statement~~((;~~

~~(ii) When the registered owner is a business))~~ for the transferee, and only one owner is required to complete the odometer disclosure statement for the transferor. When applicable, both the business name and a company representative's name must be shown on the odometer disclosure statement;

~~(f) The name and address of the transferee and the transferee's signature to acknowledge the transferor's information. If the transferee represents a company, both the company name and the agent's name must be shown on the odometer disclosure statement;~~

~~(g) A statement that the notice is required by the federal Truth in Mileage Act of 1986; and~~

~~(h) A statement that failure to complete the odometer disclosure statement or providing false information may result in fines or imprisonment or both.~~

~~(2)) when the registered owner is a business or the transferee represents a company, or both.~~

(3) The transferee shall return a signed copy of the odometer disclosure statement to the transferor at the time of transfer of ownership.

~~((3))~~ (4) The following vehicles are not subject to ((the)) odometer disclosure requirements at the time of ownership transfer:

(a) A motor vehicle having a declared gross vehicle weight of more than sixteen thousand pounds;

(b) A vehicle that is not self-propelled;

(c) A motor vehicle that is ten years old or older;

(d) A motor vehicle sold directly by a manufacturer to a federal agency in conformity with contract specifications; or

(e) A new motor vehicle before its first retail sale.

(5) The requirements of this section also apply to the transfer of a motor vehicle held:

(a) For lease when transferred to a lessee and then to the lessor at the end of the leasehold; and

(b) In a fleet when transferred to a purchaser.

Sec. 313. RCW 46.12.130 and 1967 c 140 s 3 are each amended to read as follows:

(1) The department shall file and index certificates of ((ownership)) title when assigned and returned to the department, together with ((subsequently assigned reissues thereof, shall be retained by the department and appropriately filed and indexed)) subsequent transactions so that at all times it will be possible to trace ownership to the vehicle designated ((therein:)) on each certificate of title.

~~((1) If the))~~ (2)(a) A person who acquires an interest ((of an owner)) in a vehicle ((passes to another)), other than by voluntary transfer, ((the transferee shall, except as provided in subsection (3) of this section, promptly)) shall within fifteen days mail or deliver to the department, county auditor or other agent, or subagent appointed by the director:

(i) The last certificate of ((ownership)) title if available((:));

(ii) Proof of transfer((, and his)); and

(iii) An application for a new certificate ((in the form the department prescribes)) of title.

~~((2) If the interest of the owner is terminated or the))~~ (b) This subsection shall not apply to transactions described in subsection (4) of this section.

(3) A secured party named in the certificate of title who repossesses a vehicle ((is sold)) under a security agreement ((by a secured party named in the certificate of ownership, the transferee)) shall ((promptly)) within fifteen days mail or deliver to the department, county auditor or other agent, or subagent appointed by the director:

(a) The last certificate of ((ownership, his)) title;

(b) An application for a new certificate ((in the form the department prescribes,)) of title; and

(c) An affidavit made by or on the behalf of the secured party that the vehicle was repossessed and that the interest of the owner was lawfully terminated or sold ((pursuant to)) under the terms of the security agreement.

~~((3) If the)) (4) A secured party ((succeeds to the interest of the owner and)) named in the certificate of title who holds the vehicle for resale((, he need not secure)) is not required to apply for a new certificate of ((ownership but, upon transfer to another person,)) title. When the vehicle is sold, the secured party shall promptly mail or deliver to the ((transferee)) buyer or to the department, county auditor or other agent, or subagent appointed by the director:~~

~~(a) The certificate((, affidavit and)) of title;~~

~~(b) An affidavit made by or on the behalf of the secured party that the vehicle was repossessed and that the interest of the owner was lawfully terminated or sold under the terms of the security agreement; and~~

~~(c) Any other documents ((and articles)) required to be sent to the department by the ((transferee)) buyer.~~

Sec. 314. RCW 46.12.151 and 1990 c 250 s 30 are each amended to read as follows:

~~((If the department is not satisfied as to the ownership of the vehicle or that there are no undisclosed security interests in it, the department may register the vehicle but shall either:~~

~~(1) Withhold issuance of a certificate of ownership for a period of three years or until the applicant presents documents reasonably sufficient to satisfy the department as to the applicant's ownership of the vehicle and that there are no undisclosed security interests in it; or~~

~~(2) As a condition of issuing a certificate of ownership, require the applicant to file with the department a bond for a period of three years in the form prescribed by the department and executed by the applicant. The bond shall be in an amount equal to one and one-half times the value of the vehicle as determined by the department and conditioned to indemnify any prior owner and secured party and any subsequent purchaser of the vehicle or person acquiring any security interest in it, and their respective successors in interest, against any expense, loss or damage, including reasonable attorney's fees, by reason of the issuance of the certificate of ownership of the vehicle or on account of any defect in or undisclosed security interest upon the right, title and interest of the applicant in and to the vehicle. Any such interested person has a right of action to recover on the bond for any breach of its conditions, but the aggregate liability of the surety to all persons shall not exceed the amount of the bond. At the end of three years or prior thereto if the vehicle is no longer registered in this state or when satisfactory evidence of ownership is surrendered to the department, the owner may apply to the department for a replacement certificate of ownership without reference to the bond.))~~

(1) The department, county auditor or other agent, or subagent appointed by the director may register a vehicle and withhold issuance of a certificate of title or require a bond as a condition of issuing a certificate of title if the department is not satisfied:

- (a) As to the ownership of the vehicle; or
- (b) That there are no undisclosed security interests in the vehicle.

(2) A person who is unable to provide satisfactory evidence of ownership may:

- (a) Apply for ownership in doubt and receive either a:
 - (i) Registration without a certificate of title for a three-year period; or
 - (ii) A bonded certificate of title with or without registration as described in subsection (3) of this section; or
- (b) Petition any district court or superior court of any county in this state to receive a judgment awarding ownership of the vehicle.

(3) A person who is either required by the department, county auditor or other agent, or subagent appointed by the director to file a bond or wants a certificate of title for a vehicle when ownership is in doubt shall file the bond for a three-year period. The bond must:

- (a) Be in the form approved by the department;
- (b) Be in an amount equal to one and one-half times the value of the vehicle as determined by the department;
- (c) Be signed by the applicant and the bonding agent; and
- (d) Offer protection to any previous owner, secured party, future purchaser, or their successors against any expense, loss, or damage, including reasonable attorneys' fees.

(4) A person who has or has held an interest in the vehicle may, during the three-year ownership in doubt period, petition any district court or superior court of any county in this state to receive a judgment either awarding ownership of the vehicle or be compensated for any expense, loss, or damage, including reasonable attorneys' fees. The total claim must not be more than the amount of the bond if a bond has been filed with the department.

(5) A person who has applied for ownership in doubt may apply for a certificate of title at any time during the three-year ownership in doubt period when satisfactory evidence of ownership becomes available. At the end of the three-year ownership in doubt period, the owner must apply to the department, county auditor or other agent, or subagent appointed by the director for a certificate of title. The new certificate of title will not include reference to the bond if a bond was filed with the department.

(6) A person applying for ownership in doubt must have acquired the vehicle by purchase, exchange, gift, lease, or inheritance from the owner of record or interim owner.

- (7) Ownership in doubt does not apply to:
 - (a) Unauthorized vehicles, as defined in RCW 46.55.010;
 - (b) Abandoned vehicles, as defined in RCW 46.55.010;
 - (c) Snowmobiles, as defined in section 145 of this act; or
 - (d) Washington vehicle dealer sales, as defined in RCW 46.70.011.

Sec. 315. RCW 46.12.160 and 1994 c 262 s 5 are each amended to read as follows:

~~((H))~~ (1) The department may refuse to issue or may cancel a certificate of title at any time if the department determines ((at any time)) that an applicant for a certificate of ((ownership or for a certificate of license registration for a vehicle is not entitled thereto, the department may refuse to issue such certificate or to license the vehicle and may, for like reason, after notice, and in the exercise of discretion, cancel license registration already acquired or any outstanding certificate of ownership)) title is not entitled to a certificate of title. Notice of cancellation may be accomplished by sending a notice by first-class mail using the last known address in department records for the registered or legal ((vehicle)) owner or owners, and ((recording the transmittal on)) completing an affidavit of first-class mail. It ((shall then be)) is unlawful for any person to remove, drive, or operate the vehicle until a proper certificate of ((ownership or license registration)) title has been issued((, and)). Any person removing, driving, or operating ((such)) a vehicle after the refusal to issue or cancellation of the ((department to issue)) certificate((s or the revocation thereof shall be)) of title is guilty of a gross misdemeanor.

(2)(a) The suspension of, revocation of, cancellation of, or refusal to issue a certificate of title or vehicle registration provided for in chapters 46.12 and 46.16 RCW by the director is conclusive unless the person whose registration or certificate is suspended, revoked, canceled, or refused appeals to the superior court of Thurston county or the person's county of residence.

(b) Notice of appeal must be filed within ten days after receipt of the notice of suspension, revocation, cancellation, or refusal. Upon the filing of the notice of appeal, the court shall issue an order to the director to show cause why the registration should not be granted or reinstated and return the order not less than ten days after the date of service of the notice to the director. Service must be in the manner as prescribed for the service of a summons and complaint in other civil actions.

(c) Upon the hearing on the order to show cause, the court shall hear evidence concerning matters with reference to the suspension, revocation, cancellation, or refusal of the registration or certificate and enter judgment either affirming or setting aside the suspension, revocation, cancellation, or refusal.

Sec. 316. RCW 46.12.170 and 2007 c 96 s 2 are each amended to read as follows:

~~((1) If, after a certificate of ownership is issued, a security interest is granted on the vehicle described therein, the registered owner or secured party shall, within ten days thereafter, present an application to the department, to which shall be attached the certificate of ownership last issued covering the vehicle, or such other documentation as may be required by the department, which application shall be upon a form approved by the department and shall be accompanied by a fee of five dollars in addition to all other fees. The department, if satisfied that there should be a reissue of the certificate, shall note such change upon the vehicle records and issue to the secured party a new certificate of ownership.~~

~~(2) Whenever there is no outstanding secured obligation and no commitment to make advances and incur obligations or otherwise give value, the secured party must either:~~

~~(a) Assign the certificate of ownership to the debtor or the debtor's assignee or transferee, and transmit the certificate to the department with an accompanying fee of five dollars in addition to all other fees; or~~

~~(b) Assign the certificate of ownership to the debtor's assignee or transferee together with the debtor's or debtor's assignee's release of interest.~~

~~(3) Upon receipt of the certificate of ownership and the debtor's release of interest and required fees as provided in subsection (2)(a) of this section, the department shall issue a new certificate of ownership and transmit it to the registered owner.~~

~~(4) If the affected secured party fails to either assign the certificate of ownership to the debtor or the debtor's assignee or transferee or transmit the certificate of ownership to the department within ten days after proper demand, that secured party shall be liable to the debtor or the debtor's assignee or transferee for one hundred dollars, and in addition for any loss caused to the debtor or the debtor's assignee or transferee by such failure.))~~

(1) A security interest in a vehicle other than one held as inventory by a manufacturer or a dealer and for which a certificate of title is required is perfected only by:

(a) Complying with the requirements of RCW 46.12.103 (as recodified by this act) or this section;

(b) Receipt by the department, county auditor or other agent, or subagent appointed by the director of:

(i) The existing certificate of title, if any;

(ii) An application for a certificate of title containing the name and address of the secured party; and

(iii) Payment of the required fees.

(2) A security interest is perfected when it is created if the secured party's name and address appear on the most recently issued certificate of title or, if not, it is created when the department, county auditor or other agent, or subagent appointed by the director receives the certificate of title or an application for a certificate of title and the fees required in subsection (1) of this section.

(3) If a vehicle is subject to a security interest when brought into this state, perfection of the security interest is determined by the law of the jurisdiction where the vehicle was when the security interest was attached, subject to the following:

(a) The security interest continues perfected in this state if the name of the secured party is shown on the existing certificate of title issued by that jurisdiction. The name of the secured party must be shown on the certificate of title issued for the vehicle by this state. The security interest continues perfected in this state when the department issues the certificate of title.

(b) If the security interest was not perfected under the law of the jurisdiction where the vehicle was when the security interest was attached, it may be perfected in this state. Perfection begins when the department receives the information and fees required in subsection (1) of this section.

(4)(a) After a certificate of title has been issued, the registered owner or secured party must apply to the department, county auditor or other agent, or subagent appointed by the director for a new certificate of title when a security interest is granted on a vehicle. Within ten days after creating a security agreement, the registered owner or secured party must submit:

(i) An application for a certificate of title;

(ii) The certificate of title last issued for the vehicle, or other documentation required by the department; and

(iii) The fee required in section 508 of this act.

(b) If satisfied that a certificate of title should be reissued, the department shall change the vehicle record and issue a new certificate of title to the secured party.

(5) A secured party shall release the security interest when the conditions within the security agreement have been met and there is no further secured obligation. The secured party must either:

(a) Assign the certificate of title to the registered owner or the registered owner's designee and send the certificate of title to the department, county auditor or other agent, or subagent appointed by the director with the fee required in section 508 of this act; or

(b) Assign the certificate of title to the person acquiring the vehicle from the registered owner with the registered owner's release of interest.

(6) The department shall issue a new certificate of title to the registered owner when the department receives the release of interest and required fees as provided in subsection (5)(a) of this section.

(7) A secured party is liable for one hundred dollars payable to the registered owner or person acquiring the vehicle from the registered owner when:

(a) The secured party fails to either assign the certificate of title to the registered owner or to the person acquiring the vehicle from the registered owner or apply for a new certificate of title; and

(b) The failure of the secured party to act as described in (a) of this subsection results in a loss to the registered owner or person acquiring the vehicle from the registered owner.

Sec. 317. RCW 46.12.181 and 2002 c 352 s 6 are each amended to read as follows:

A legal owner or the legal owner's authorized representative may apply for a duplicate certificate of title if a certificate of ((ownership)) title is lost, stolen, mutilated, or destroyed, or becomes illegible((, the first priority secured party or, if none, the owner or legal representative of the owner named in the certificate, as shown by the records of the department, shall promptly make application for and may obtain a duplicate upon tender of five dollars in addition to all other fees and upon furnishing information satisfactory to the department)). The application for a duplicate certificate of title must include information required by the department and be accompanied by the fee required in section 508 of this act. The duplicate certificate of ((ownership shall)) title must contain the ((legend)) word, "duplicate." It ((shall)) must be provided to the first priority secured party named in it or, if none, to the legal owner.

A person recovering ((an original)) a certificate of ((ownership)) title for which a duplicate has been issued shall promptly ((surrender)) return the ((original)) certificate of title that has been recovered to the department.

Sec. 318. RCW 46.12.190 and 1961 c 12 s 46.12.190 are each amended to read as follows:

~~((The person, firm, copartnership, association or corporation to whom a certificate of ownership shall have been issued shall))~~ A person shown as the legal owner on a certificate of title which has a different person shown as the registered owner does not ((thereby)) incur liability ((or be)) and is not responsible for damage((, or otherwise,)) or any liability resulting from any act or contract made by the registered owner or by any other person acting for, or by or under the authority of ~~((such)),~~ the registered owner.

Sec. 319. RCW 46.12.210 and 2003 c 53 s 236 are each amended to read as follows:

~~((Any))~~ (1) A person ((who)) is guilty of a class B felony if the person:

(a) Knowingly makes any false statement of a material fact, either ((in his or her)) on an application for ((the)) a certificate of ((ownership)) title or in any ((assignment thereof, or who with intent to procure)) transfer of a certificate of title;

(b) Intentionally acquires or ((pass)) passes ownership ((to)) of a vehicle which ((he or she)) that person knows or has reason to believe has been stolen((:));

(c) Receives or transfers possession of ((the same)) a stolen vehicle from or to another ((or who has in his or her possession)) person;

(d) Possesses any vehicle which ((he or she)) that person knows or has reason to believe has been stolen((, and who is not an officer of the law engaged at the time in the performance of his or her duty as such officer, is guilty of a class B felony and upon conviction shall));

(e) Alters or forges or causes the alteration or forgery of:

(i) A certificate of title or registration certificate issued by the department;

(ii) An assignment of a certificate of title or registration certificate; or

(iii) A release or notice of release of an encumbrance referred to on a certificate of title or registration certificate; or

(f) Holds or uses a certificate of title, registration certificate, assignment, release, or notice of release, knowing that it has been altered or forged.

(2) A person convicted of violating subsection (1) of this section must be punished by a fine of not more than five thousand dollars or by imprisonment for not more than ten years, or both such fine and imprisonment. This ((provision shall)) subsection does not exclude any other offenses or penalties prescribed by any existing or future law for the larceny or unauthorized taking of a ((motor)) vehicle.

(3) It is a class C felony for a person to sell or convey a vehicle certificate of title except in conjunction with the sale or transfer of the vehicle for which the certificate was originally issued.

(4) This section does not apply to an officer of the law engaged at the time in the performance of official authorized law enforcement activities.

Sec. 320. RCW 46.12.250 and 1969 ex.s. c 125 s 1 are each amended to read as follows:

~~((It shall be unlawful for any person under the age of eighteen to be the registered or legal owner of any motor vehicle: PROVIDED, That RCW 46.12.250 through 46.12.270 shall not apply to any person who is on active duty in the United States armed forces nor to any minor who is in effect emancipated: PROVIDED further, That RCW 46.12.250 through 46.12.270 shall not apply to~~

~~any person who is the registered owner of a motor vehicle prior to August 11, 1969 or who became the registered or legal owner of a motor vehicle while a nonresident of this state:))~~

~~(1) A person under the age of eighteen may not be the registered or legal owner of a motor vehicle unless the:~~

~~(a) Motor vehicle was previously registered in the person's name in another jurisdiction while a resident of that jurisdiction;~~

~~(b) Person is on active military duty with the United States armed forces; or~~

~~(c) Person is, in effect, emancipated.~~

~~(2) It is unlawful for any person to convey, sell, or transfer the ownership of any motor vehicle to a person under the age of eighteen. This subsection does not apply to a vehicle dealer properly licensed under chapter 46.70 RCW if the minor provides the dealer with a certified copy of an original birth certificate showing that the minor is over eighteen years of age. The vehicle dealer shall submit the certified copy of the original birth certificate with an application for certificate of title to the department, county auditor or other agent, or subagent appointed by the director.~~

~~(3) A person is guilty of a misdemeanor punishable by a fine of not more than two hundred fifty dollars or by imprisonment in a county jail for not more than ninety days if that person with actual notice of the prohibition:~~

~~(a) Gives, sells, or transfers the ownership of a motor vehicle to a person under the age of eighteen;~~

~~(b) Is a registered or legal owner of a motor vehicle in violation of subsection (1) of this section; or~~

~~(c) Transfers, sells, or encumbers an interest in a motor vehicle in violation of RCW 46.61.5058.~~

Sec. 321. RCW 46.12.280 and 1979 c 158 s 136 are each amended to read as follows:

~~((The provisions of chapter 46.12 RCW concerning the registration and titling of vehicles, and the perfection of security interests therein shall apply to campers, as defined in RCW 46.04.085. In addition, the director of licensing shall have the power to adopt such rules and regulations he deems necessary to implement the registration and titling of campers and the perfection of security interests therein:))~~

~~A camper is considered a vehicle for the purposes of certificates of title, perfection of security interests, and registrations. The director may adopt rules to implement this section.~~

Sec. 322. RCW 46.12.290 and 2005 c 399 s 4 are each amended to read as follows:

~~((1) The provisions of chapter 46.12 RCW insofar as they are not inconsistent with the provisions of chapter 231, Laws of 1971 ex. sess. or chapter 65.20 RCW apply to mobile or manufactured homes: PROVIDED, That RCW 46.12.080 and 46.12.250 through 46.12.270 shall not apply to mobile or manufactured homes.~~

~~(2) In order to transfer ownership of a mobile home, all registered owners of record must sign the title certificate releasing their ownership. If the mobile home was manufactured before June 15, 1976, the registered owner must sign an affidavit in the form prescribed by the department of licensing that notice was~~

~~provided to the purchaser of the mobile home that failure of the mobile home to meet federal housing and urban development standards or failure of the mobile home to meet a fire and safety inspection by the department of labor and industries may result in denial by a local jurisdiction of a permit to site the mobile home.~~

~~(3) The director of licensing shall have the power to adopt such rules as necessary to implement the provisions of this chapter relating to mobile homes.)~~

(1) **Titling options.** An owner of a manufactured home shall establish ownership in the manufactured home by either:

(a) Applying for a certificate of title as required under this chapter; or

(b) Eliminating the certificate of title under chapter 65.20 RCW.

(2) **Exemption.** This section does not apply to a manufactured home held for resale by a dealer or manufacturer.

(3) **Transferring ownership.** A registered owner of record must sign the certificate of title releasing the owner's interest when transferring ownership of a manufactured home. If the mobile home was manufactured before June 15, 1976, the registered owner must sign an affidavit on a form approved by the department. The affidavit must state that the purchaser was notified that failure of the mobile home to meet federal housing and urban development standards or failure of the mobile home to meet a fire and safety inspection by the department of labor and industries may result in denial by a local jurisdiction of a permit to site the mobile home.

(4) **Evidence of taxes paid.** Before accepting an application for a certificate of title for a manufactured home, the department, county auditor or other agent, or subagent appointed by the director shall require the applicant to provide evidence that any taxes due on the sale of the manufactured home under chapters 82.45 and 84.52 RCW have been paid. Acceptable evidence includes a copy of:

(a) The real estate excise tax affidavit that has been stamped by the county treasurer; or

(b) A treasurer certificate that is prepared by the treasurer of the county in which a used manufactured home is located and that states that all property taxes due upon the used manufactured home being sold have been satisfied.

(5) **County assessor notification.** The department shall notify the county assessor of the county where the manufactured home is located when ownership of a manufactured home is transferred. The notification must include the name and address of the former owner and the new owner.

(6) **Title elimination.** The certificate of title for a manufactured home may be eliminated or not issued when the manufactured home is registered under chapter 65.20 RCW. If the certificate of title is eliminated or not issued, the application must be recorded in the county property records of the county where the real property to which the home is affixed is located. All vehicle license fees and taxes applicable to manufactured homes under this chapter are due and must be collected before recording the ownership with the county auditor.

(7) **Rules.** The department may adopt rules as necessary to implement this section.

Sec. 323. RCW 46.12.420 and 1996 c 225 s 6 are each amended to read as follows:

~~((The state patrol shall inspect a street rod vehicle and assign a vehicle identification number in accordance with this chapter.))~~

A street rod vehicle ~~((shall be titled))~~ must:

~~(1) Be recorded in department records as the make and year of the vehicle as originally manufactured~~~~((The title shall be));~~ and

~~(2) Have the certificate of title branded with the designation "street rod."~~

Sec. 324. RCW 46.12.440 and 2009 c 284 s 1 are each amended to read as follows:

~~((The following procedures must be followed when applying for a certificate of ownership for a kit vehicle:~~

~~(1) The vehicle identification number (VIN) of a new vehicle kit and of a body kit will be taken from the manufacturer's certificate of origin belonging to that vehicle. If the VIN is not available, the Washington state patrol shall assign a VIN at the time of inspection.~~

~~(2) The department shall use the model year of a manufactured new vehicle kit and manufactured body kit as the year reflected on the manufacturer's certificate of origin.~~

~~(3) The make shall be listed as "KITV," and the series and body designation must describe a discrete vehicle model.~~

~~(4) Except for kit vehicles licensed under RCW 46.16.680(5), kit vehicles must comply with chapter 204-10 WAC.))~~

(1) A person who applies for an original certificate of title for a kit vehicle shall provide:

(a) The manufacturer's certificate of origin or an equivalent document if the kit vehicle is a new manufactured vehicle kit or body kit;

(b) The certificate of title or a certified copy or equivalent document for the frame;

(c) Proof of ownership for all major parts used in the construction of the vehicle. Major parts include the frame, engine, axles, transmission, and any other parts that carry vehicle identification numbers;

(d) Bills of sale or invoices for all major components used in the construction of the vehicle. The bills of sale must be notarized unless the vendor is registered with the department of revenue for the collection of retail sales or use tax and must include:

(i) The names and addresses of the seller and purchaser;

(ii) A description of the vehicle or part being sold, including the make, model, and identification or serial number or the yard number if from a wrecking yard;

(iii) The date of sale; and

(iv) The purchase price of the vehicle or part;

(e) A certificate of vehicle inspection completed by the Washington state patrol or other authorized inspector verifying the vehicle identification number, and year and make when applicable. A Washington state patrol vehicle identification number inspector must ensure that all parts are documented by certificates of title, notarized bills of sale, or business receipts, such as those obtained from a wrecking yard purchase;

(f) A completed declaration of value form to determine the value for excise tax purposes if the purchase cost and year is unknown or incomplete;

(g) Payment of use tax on the frame and all component parts used, unless proof of payment of the sales or use tax is submitted; and

(h) An odometer disclosure statement on all originals and transfers of certificates of title for kit vehicles under ten years old, unless otherwise exempt by law.

(2) If the frame from a donor vehicle is used and the remainder of the donor vehicle is to be sold or destroyed, the certificate of title is required as an ownership document to the buyer. The department may make a certified copy of the certificate of title for documentation of the frame for this transaction.

(3) When accepting an application for an original certificate of title for a kit vehicle, the department, county auditor or other agent, or subagent appointed by the director shall:

(a) Use the vehicle identification number provided on the manufacturer's certificate of origin. If the vehicle identification number is not available, the Washington state patrol shall assign a vehicle identification number at the time of inspection;

(b) Use the actual model year provided on the manufacturer's certificate of origin as the model year. This is not the model year of the vehicle being replicated;

(c) Record the make as "KITV";

(d) Record in the series and body designation a discrete vehicle model; and

(e) Assign a use class identifying the actual use of the vehicle, such as a passenger car or truck.

(4) A kit vehicle may be registered under section 617 of this act as a street rod vehicle if the vehicle is manufactured to have the same appearance as a similar vehicle manufactured before 1949. Kit vehicles must comply with chapter 204-10 WAC unless the kit vehicle is registered under section 617 of this act.

(5) A kit vehicle is exempt from the welding requirements under WAC 204-10-022(8) if, upon application for a certificate of ((ownership)) title, the owner furnishes documentation from the manufacturer of the vehicle frame that informs the owner that the welding on the frame was not completed by a certified welder and that the structural strength of the frame has not been certified by an engineer as meeting the applicable federal motor vehicle safety standards set under 49 C.F.R. Sec. 571.201, 571.214, 571.216, and 571.220 through 571.224, and the applicable SAE standards.

((5) The application for the certificate of ownership must be accompanied by the following documents:

(a) For a manufactured new vehicle kit, the manufacturer's certificate of origin or equivalent document;

(b)(i) For a manufactured body kit, the manufacturer's certificate of origin or equivalent document; (ii) for the frame, the title or a certified copy or equivalent document;

(c) Bills of sale or invoices for all major components used in the construction of the vehicle. The bills of sale must be notarized unless the vendor is registered with the department of revenue for the collection of retail sales or use tax. The bills of sale must include the names and addresses of the seller and purchaser, a description of the vehicle or part being sold, including the make,

~~model, and identification or serial number, the date of sale, and the purchase price of the vehicle or part;~~

~~(d) A statement as defined in WAC 308-56A-150 by an authorized inspector of the Washington state patrol or other person authorized by the department of licensing verifying the vehicle identification number, and year and make when applicable;~~

~~(e) A completed declaration of value form (TD 420-737) to determine the value for excise tax if the purchase cost and year is unknown or incomplete.~~

~~(6) A Washington state patrol VIN inspector must ensure that all parts are documented by titles, notarized bills of sale, or business receipts such as obtained from a wrecking yard purchase. The bills of sale must contain the VIN of the vehicle the parts came from, or the yard number if from a wrecking yard.~~

~~(7)) (6) The department may not deny a certificate of ((ownership)) title to an applicant who completes the requisite application, complies with this section, and pays the requisite titling fees and taxes.~~

NEW SECTION. Sec. 325. The following acts or parts of acts are each repealed:

(1) RCW 46.12.005 (Definitions) and 2002 c 245 s 1, 1996 c 26 s 1, & 1967 c 140 s 5;

(2) RCW 46.12.020 (Prerequisite to issuance of vehicle license and plates) and 1989 c 337 s 22;

(3) RCW 46.12.040 (Certificate of ownership—Fees) and 2007 c 420 s 2, 2004 c 200 s 1, 2002 c 352 s 3, 2001 c 125 s 2, 1990 c 238 s 2, 1989 c 110 s 1, 1975 1st ex.s. c 138 s 1, 1974 ex.s. c 128 s 2, & 1961 c 12 s 46.12.040;

(4) RCW 46.12.042 (Emergency medical services fee) and 1997 c 331 s 5;

(5) RCW 46.12.045 (Off-road vehicles, certificate of ownership for title purposes only) and 1986 c 186 s 4;

(6) RCW 46.12.055 (Certificate of ownership—Manufactured homes) and 1989 c 343 s 19;

(7) RCW 46.12.060 (Procedure when identification number altered or obliterated) and 2001 c 125 s 4, 1975 c 25 s 10, 1974 ex.s. c 36 s 1, & 1961 c 12 s 46.12.060;

(8) RCW 46.12.075 (Rebuilt vehicles) and 1996 c 26 s 3 & 1995 c 256 s 24;

(9) RCW 46.12.095 (Requirements for perfecting security interest) and 2000 c 250 s 9A-822, 1998 c 203 s 10, 1969 ex.s. c 170 s 16, & 1967 c 140 s 6;

(10) RCW 46.12.105 (Transfer of ownership of mobile home, county assessor notified—Evidence of taxes paid) and 1979 ex.s. c 266 s 5, 1979 c 158 s 133, & 1971 ex.s. c 231 s 13;

(11) RCW 46.12.200 (State or director not liable for acts in administering chapter) and 1979 c 158 s 134, 1967 c 32 s 11, & 1961 c 12 s 46.12.200;

(12) RCW 46.12.215 (Unlawful sale of certificate of ownership) and 1995 c 256 s 1;

(13) RCW 46.12.220 (Alteration or forgery—Penalty) and 2003 c 53 s 237, 1967 c 32 s 12, & 1961 c 12 s 46.12.220;

(14) RCW 46.12.230 (Permit to licensed wrecker to junk vehicle—fee) and 1975 c 25 s 14, 1967 c 32 s 13, & 1961 c 12 s 46.12.230;

(15) RCW 46.12.240 (Appeals to superior court from suspension, revocation, cancellation, or refusal of license or certificate) and 1987 c 388 s 8, 1965 ex.s. c 121 s 42, & 1961 c 12 s 46.20.340;

(16) RCW 46.12.260 (Sale or transfer of motor vehicle ownership to person under eighteen prohibited) and 1979 c 158 s 135 & 1969 ex.s. c 125 s 2;

(17) RCW 46.12.270 (Penalty for violation of RCW 46.12.250 or 46.12.260) and 1994 c 139 s 2, 1993 c 487 s 6, & 1969 ex.s. c 125 s 3;

(18) RCW 46.12.450 (Kit vehicles—Issuance of certificate of ownership or registration) and 1996 c 225 s 9;

(19) RCW 46.12.500 (Commercial vehicle—Compliance statement) and 1999 c 351 s 4; and

(20) RCW 46.12.510 (Donations for organ donation awareness) and 2008 c 139 s 26 & 2003 c 94 s 6.

PART IV. REGISTRATION CERTIFICATES

Sec. 401. RCW 46.16.004 and 2007 c 419 s 3 are each amended to read as follows:

For the purposes of this chapter unless the context clearly requires otherwise:

(1) "Commercial motor vehicle," for the purposes of requiring a department of transportation number, means the same as defined in RCW 46.25.010(6), or a motor vehicle used in commerce when the motor vehicle: (a) Has a gross vehicle weight rating of 11,794 kilograms or more (26,001 pounds or more) inclusive of a towed unit of a gross vehicle weight rating of more than 4,536 kilograms (10,000 pounds or more); (b) has a gross vehicle weight rating of 11,794 kilograms or more (26,001 pounds or more); or (c) is used in the transportation of hazardous materials, as defined in RCW 46.25.010(13);

~~(2) ("Department" means the department of licensing;~~

~~(3))~~ (3) "Department of transportation number" means a department of transportation number from the federal motor carrier safety administration;

~~((4))~~ (3) "Interstate commercial motor vehicle" means a commercial vehicle that operates in more than one state;

~~((5))~~ (4) "Intrastate commercial motor vehicle" means a commercial vehicle that operates exclusively within the state of Washington;

~~((6))~~ (5) "Motor carrier" means a person or entity who has been issued a department of transportation number and who owns a commercial motor vehicle;

(6) "Registration year" means the effective period of a vehicle registration issued by the department. A registration year begins at 12:01 a.m. on the date of the calendar year designated by the department and ends at 12:00 a.m. the same day the following year unless otherwise specified;

(7) "Renewal notice" means the notice to renew a vehicle registration sent to the registered owner by the department.

Sec. 402. RCW 46.16.006 and 2009 c 159 s 1 are each amended to read as follows:

~~(1) ((The term "registration year" for the purposes of chapters 46.16, 82.44, and 82.50 RCW means the effective period of a vehicle license issued by the department. Such year commences at 12:01 a.m. on the date of the calendar year designated by the department and ends at 12:01 a.m. on the same date of the next succeeding calendar year.~~

~~(a) If a vehicle license previously issued in this state has expired and is renewed with a different registered owner, a new registration year is deemed to~~

~~commence upon the date the expired license is renewed in order that the renewed license be useable for a full twelve-month period.~~

~~(b) A new registration year is deemed to commence upon the date the expired license is renewed in order that the renewed license be useable for a full twelve months when))~~

The department, county auditor or other agent, or subagent appointed by the director shall assign a new registration year to a vehicle if:

(a) The Washington state vehicle registration has expired and registered ownership to the vehicle is being transferred. The renewed license is valid for a full twelve-month period unless a specific expiration date is required by law, rule, or program; or

(b) The Washington vehicle registration has expired and the registered owner:

(i) Is a member of the United States armed forces;

(ii) Was stationed outside of Washington under military orders during the prior vehicle registration year; and

(iii) Provides the department a copy of the military orders.

(2) Each registration year may be divided into twelve registration months. Each registration month ((commences on the day numerically corresponding to the day of the calendar month on which the registration year begins, and terminates on the numerically corresponding day of the next succeeding calendar month)) begins at 12:01 a.m. on a day of the month assigned by the department and ends at 12:00 a.m. on the same day the following month.

~~(3) ((Where the term "last day of the month" is used in chapters 46.16, 82.44, and 82.50 RCW in lieu of a specified day of any calendar month it means the last day of such calendar month or months irrespective of the numerical designation of that day.~~

~~(4) If)) A registration period extends through the end of the next business day when the final day of a registration year or month falls on a Saturday, Sunday, or legal holiday((, such period extends through the end of the next business day)).~~

Sec. 403. RCW 46.16.010 and 2007 c 242 s 2 are each amended to read as follows:

(1) Vehicles must be registered as required by this chapter and must display license plates or decals assigned by the department.

(2) It is unlawful for a person to operate any vehicle ((over and along)) on a public highway of this state without ((first having obtained and)) having in full force and effect a current and proper vehicle ((license)) registration and ((display vehicle)) displaying license ((number)) plates ((therefor as by this chapter provided)) on the vehicle.

~~((2))~~ (3) Vehicle license plates or registration certificates, whether original issues or duplicates, may not be issued or furnished by the department until the applicant makes satisfactory application for a certificate of title or presents satisfactory evidence that a certificate of title covering the vehicle has been previously issued.

(4) Failure to make initial registration before ((operation)) operating a vehicle on the public highways of this state is a traffic infraction((, and any)). A person committing this infraction shall pay a penalty of five hundred twenty-

nine dollars, ~~((no part of))~~ which may not be suspended ~~((or))~~, deferred, or reduced.

~~((3))~~ (5) Failure to renew an expired registration before ((operation)) operating a vehicle on the public highways of this state is a traffic infraction.

~~((4) The licensing of)~~ (6) It is a gross misdemeanor for a resident, as identified in RCW 46.16.028 (as recodified by this act), to register a vehicle in another state ((by a resident of this state, as defined in RCW 46.16.028)), evading the payment of any tax or vehicle license fee imposed in connection with registration(;). It is ((a gross misdemeanor)) punishable as follows:

(a) For a first offense, up to one year in the county jail and payment of a fine of five hundred twenty-nine dollars plus twice the amount of delinquent taxes and fees, no part of which may be suspended or deferred;

(b) For a second or subsequent offense, up to one year in the county jail and payment of a fine of five hundred twenty-nine dollars plus four times the amount of delinquent taxes and fees, no part of which may be suspended or deferred;

(c) For fines levied under (b) of this subsection, an amount equal to the avoided taxes and fees owed will be deposited in the vehicle licensing fraud account created in the state treasury;

(d) The avoided taxes and fees shall be deposited and distributed in the same manner as if the taxes and fees were properly paid in a timely fashion.

~~((5) These provisions shall not apply to the following vehicles:~~

~~(a) Motorized foot scooters;~~

~~(b) Electric-assisted bicycles;~~

~~(c) Off-road vehicles operating on nonhighway roads under RCW 46.09.115;~~

~~(d) Farm vehicles if operated within a radius of fifteen miles of the farm where principally used or garaged, farm tractors and farm implements including trailers designed as cook or bunk houses used exclusively for animal herding temporarily operating or drawn upon the public highways, and trailers used exclusively to transport farm implements from one farm to another during the daylight hours or at night when such equipment has lights that comply with the law;~~

~~(e) Spray or fertilizer applicator rigs designed and used exclusively for spraying or fertilization in the conduct of agricultural operations and not primarily for the purpose of transportation, and nurse rigs or equipment auxiliary to the use of and designed or modified for the fueling, repairing, or loading of spray and fertilizer applicator rigs and not used, designed, or modified primarily for the purpose of transportation;~~

~~(f) Fork lifts operated during daylight hours on public highways adjacent to and within five hundred feet of the warehouses which they serve: PROVIDED FURTHER, That these provisions shall not apply to vehicles used by the state parks and recreation commission exclusively for park maintenance and operations upon public highways within state parks;~~

~~(g) "Trams" used for transporting persons to and from facilities related to the horse racing industry as regulated in chapter 67.16 RCW, as long as the public right-of-way routes over which the trams operate are not more than one mile from end to end, the public rights-of-way over which the tram operates have an average daily traffic of not more than 15,000 vehicles per day, and the activity is in conformity with federal law. The operator must be a licensed driver~~

and at least eighteen years old. For the purposes of this section, "tram" also means a vehicle, or combination of vehicles linked together with a single mode of propulsion, used to transport persons from one location to another;

(h) ~~"Special highway construction equipment" defined as follows: Any vehicle which is designed and used primarily for grading of highways, paving of highways, earth moving, and other construction work on highways and which is not designed or used primarily for the transportation of persons or property on a public highway and which is only incidentally operated or moved over the highway. It includes, but is not limited to, road construction and maintenance machinery so designed and used such as portable air compressors, air drills, asphalt spreaders, bituminous mixers, bucket loaders, track laying tractors, ditchers, leveling graders, finishing machines, motor graders, paving mixers, road rollers, scarifiers, earth moving scrapers and carryalls, lighting plants, welders, pumps, power shovels and draglines, self propelled and tractor drawn earth moving equipment and machinery, including dump trucks and tractor-dump trailer combinations which either (i) are in excess of the legal width, or (ii) which, because of their length, height, or unladen weight, may not be moved on a public highway without the permit specified in RCW 46.44.090 and which are not operated laden except within the boundaries of the project limits as defined by the contract, and other similar types of construction equipment, or (iii) which are driven or moved upon a public highway only for the purpose of crossing such highway from one property to another, provided such movement does not exceed five hundred feet and the vehicle is equipped with wheels or pads which will not damage the roadway surface.~~

~~Exclusions:~~

~~"Special highway construction equipment" does not include any of the following:~~

~~Dump trucks originally designed to comply with the legal size and weight provisions of this code notwithstanding any subsequent modification which would require a permit, as specified in RCW 46.44.090, to operate such vehicles on a public highway, including trailers, truck-mounted transit mixers, cranes and shovels, or other vehicles designed for the transportation of persons or property to which machinery has been attached.~~

~~(6) The following vehicles, whether operated solo or in combination, are exempt from license registration and displaying license plates as required by this chapter:~~

~~(a) A converter gear used to convert a semitrailer into a trailer or a two-axle truck or tractor into a three or more axle truck or tractor or used in any other manner to increase the number of axles of a vehicle. Converter gear includes an auxiliary axle, booster axle, dolly, and jeep axle.~~

~~(b) A tow dolly that is used for towing a motor vehicle behind another motor vehicle. The front or rear wheels of the towed vehicle are secured to and rest on the tow dolly that is attached to the towing vehicle by a tow bar.~~

~~(c) An off-road vehicle operated on a street, road, or highway as authorized under RCW 46.09.180.~~

~~(7)(a) A motor vehicle subject to initial or renewal registration under this section shall not be registered to a natural person unless the person at time of application:~~

~~(i) Presents an unexpired Washington state driver's license; or~~

(ii) Certifies that he or she is:

(A) A Washington resident who does not operate a motor vehicle on public roads; or

(B) Exempt from the requirement to obtain a Washington state driver's license under RCW 46.20.025.

(b) For shared or joint ownership, the department will set up procedures to verify that all owners meet the requirements of this subsection.

(c) A person falsifying residency is guilty of a gross misdemeanor punishable only by a fine of five hundred twenty-nine dollars.

(d) The department may adopt rules necessary to implement this subsection, including rules under which a natural person applying for registration may be exempt from the requirements of this subsection where the person provides evidence satisfactory to the department that he or she has a valid and compelling reason for not being able to meet the requirements of this subsection.

(8)) (7) A vehicle with an expired registration of more than forty-five days parked on a public street may be impounded by a police officer under RCW 46.55.113(2).

NEW SECTION. Sec. 404. A new section is added to chapter 46.16 RCW under the subchapter heading "general provisions" to read as follows:

The following vehicles are not required to be registered under this chapter:

(1) Converter gears used to convert a semitrailer into a trailer or a two-axle truck or tractor into a three or more axle truck or tractor or used in any other manner to increase the number of axles of a vehicle;

(2) Electric-assisted bicycles;

(3)(a) Farm implements, tractors, trailers, and other farm vehicles (i) operated within a radius of fifteen miles of the farm where it is principally used or garaged, including trailers designed as cook or bunk houses, (ii) used exclusively for animal herding, and (iii) temporarily operating or drawn upon the public highways, and (b) trailers used exclusively to transport farm implements from one farm to another during daylight hours or at night when the trailer is equipped with lights that comply with applicable law;

(4) Forklifts operated during daylight hours on public highways adjacent to and within five hundred feet of the warehouses they serve;

(5) Motor vehicles operated solely within a national recreation area that is not accessible by a state highway, including motorcycles, motor homes, passenger cars, and sport utility vehicles. This exemption applies only after initial registration;

(6) Motorized foot scooters;

(7) Nurse rigs or equipment auxiliary for the use of and designed or modified for the fueling, repairing, or loading of spray and fertilizer applicator rigs and not used, designed, or modified primarily for the purpose of transportation;

(8) Off-road vehicles operated on a street, road, or highway as authorized under RCW 46.09.180 (as recodified by this act), or nonhighway roads under RCW 46.09.115 (as recodified by this act);

(9) Special highway construction equipment;

(10) Dump trucks and tractor-dump trailer combinations that are:

(a) Designed and used primarily for construction work on highways;

(b) Not designed or used primarily for the transportation of persons or property on a public highway; and

(c) Only incidentally operated or moved over the highways;

(11) Spray or fertilizer applicator rigs designed and used exclusively for spraying or fertilization in the conduct of agricultural operations and not primarily for the purpose of transportation;

(12) Tow dollies;

(13) Trams used for transporting persons to and from facilities related to the horse racing industry as regulated in chapter 67.16 RCW, as long as the public right-of-way routes over which the trams operate are not more than one mile from end to end, the public rights-of-way over which the tram operates have average daily traffic of not more than fifteen thousand vehicles per day, and the activity is in conformity with federal law. The operator must be a licensed driver and at least eighteen years old. For the purposes of this section, "tram" also means a vehicle, or combination of vehicles linked together with a single mode of propulsion, used to transport persons from one location to another; and

(14) Vehicles used by the state parks and recreation commission exclusively for park maintenance and operations upon public highways within state parks.

NEW SECTION. Sec. 405. A new section is added to chapter 46.16 RCW under the subchapter heading "general provisions" to read as follows:

(1) The department, county auditor or other agent, or subagent appointed by the director shall not issue an initial or renewal registration certificate for a motor vehicle to a natural person under this chapter unless the natural person at time of application:

(a) Presents an unexpired Washington state driver's license; or

(b) Certifies that he or she is:

(i) A Washington state resident who does not operate a motor vehicle on public roads; or

(ii) Exempt from the requirement to obtain a Washington state driver's license under RCW 46.20.025.

(2) The department must set up procedures to verify that all owners meet the requirements of this section.

(3) A person falsifying residency is guilty of a gross misdemeanor punishable only by a fine of five hundred twenty-nine dollars.

(4) The department may adopt rules necessary to implement this section, including rules under which a natural person applying for registration may be exempt from the requirements of this section if the person provides evidence satisfactory to the department that he or she has a valid and compelling reason for not being able to meet the requirements of this section.

Sec. 406. RCW 46.16.015 and 2002 c 24 s 1 are each amended to read as follows:

(1) ~~((Neither))~~ The department ((of licensing nor its agents)), county auditor or other agent, or subagent appointed by the director may not issue or renew a motor vehicle ~~((license for any vehicle))~~ registration or change the registered owner of a ~~((licensed))~~ registered vehicle~~((;))~~ for any motor vehicle ~~((that is))~~ required to be inspected under chapter 70.120 RCW, unless the application for issuance or renewal is: (a) Accompanied by a valid certificate of compliance or a valid certificate of acceptance issued ~~((pursuant to))~~ as required under chapter

70.120 RCW; or (b) ~~((exempted from this requirement pursuant to))~~ exempt, as described in subsection (2) of this section. The certificates must have a date of validation ~~((which))~~ that is within ~~((six))~~ twelve months of the ~~((date of application for the vehicle license or license))~~ assigned registration renewal date. Certificates for fleet or owner tested diesel vehicles may have a date of validation ~~((which))~~ that is within twelve months of the assigned ~~((license))~~ registration renewal date.

~~(2)~~ (2) ((Subsection (1) of this section does not apply to the following vehicles:

~~(a)~~ (a) New motor vehicles whose equitable or legal title has never been transferred to a person who in good faith purchases the vehicle for purposes other than resale;

~~(b)~~ (b) Motor vehicles with a model year of 1967 or earlier;

~~(c)~~ (c) Motor vehicles that use propulsion units powered exclusively by electricity;

~~(d)~~ (d) Motor vehicles fueled by propane, compressed natural gas, or liquid petroleum gas, unless it is determined that federal sanctions will be imposed as a result of this exemption;

~~(e))~~ (e)) The following motor vehicles are exempt from emission test requirements:

~~(a)~~ (a) Motor vehicles that are less than five years old or more than twenty-five years old;

~~(b)~~ (b) Motor vehicles that are a 2009 model year or newer;

~~(c)~~ (c) Motor vehicles powered exclusively by electricity, propane, compressed natural gas, or liquid petroleum gas;

~~(d)~~ (d) Motorcycles as defined in RCW 46.04.330 and motor-driven cycles as defined in RCW 46.04.332;

~~((f))~~ (e) Farm vehicles as defined in RCW 46.04.181;

~~((g))~~ (f) Used vehicles ~~((which))~~ that are offered for sale by a motor vehicle dealer licensed under chapter 46.70 RCW;

~~((h))~~ (g) Classes of motor vehicles exempted by the director of the department of ecology; and

~~((i))~~ (i) Collector cars as identified by the department of licensing under RCW 46.16.305(1);

~~(j)~~ (j) Beginning January 1, 2000, vehicles that are less than five years old or more than twenty-five years old; or

~~((k))~~ (h) Hybrid motor vehicles that obtain a rating by the environmental protection agency of at least fifty miles per gallon of gas during city driving. For purposes of this section, a hybrid motor vehicle is one that uses propulsion units powered by both electricity and gas.

~~((The provisions of (a) of this subsection may not be construed as exempting from the provisions of subsection (1) of this section applications for the renewal of licenses for motor vehicles that are or have been leased.))~~

~~(3)~~ (3) The department of ecology shall provide information to motor vehicle owners:

~~(a)~~ (a) Regarding the boundaries of emission contributing areas and restrictions established under this section that apply to vehicles registered in such areas~~((In addition the department of ecology shall provide information to motor vehicle owners)); and~~

(b) On the relationship between motor vehicles and air pollution and steps motor vehicle owners should take to reduce motor vehicle related air pollution. ((The department of licensing shall send to all registered motor vehicle owners affected by the emission testing program notice that they must have an emission test to renew their registration.))

(4) The department of licensing shall:

(a) Notify all registered motor vehicle owners affected by the emission testing program that they must have an emission test to renew their registration;

(b) Adopt rules implementing and enforcing this section, except for subsection (2)(e) of this section, as specified in chapter 34.05 RCW.

(5) A motor vehicle may not be registered, leased, rented, or sold for use in the state, starting with the model year as provided in RCW 70.120A.010, unless the vehicle:

(a) Has seven thousand five hundred miles or more; or

(b)(i) Is consistent with the vehicle emission standards and carbon dioxide equivalent emission standards adopted by the department of ecology; and

(ii) Has a California certification label for all emission standards, and carbon dioxide equivalent emission standards necessary to meet fleet average requirements.

(6) The department of licensing, in consultation with the department of ecology, may adopt rules necessary to implement this section and may provide for reasonable exemptions to these requirements. The department of ecology may exempt public safety vehicles from meeting the standards where the department finds that vehicles necessary to meet the needs of public safety agencies are not otherwise reasonably available.

Sec. 407. RCW 46.16.020 and 1986 c 30 s 1 are each amended to read as follows:

(1) The following vehicles are exempt from the payment of vehicle license fees:

(a) Any vehicle owned, rented, or leased by the state of Washington, or by any county, city, town, school district, or other political subdivision of the state of Washington and used exclusively by them(~~, and all~~);

(b) Vehicles owned or leased with an option to purchase by the United States government, or by the government of foreign countries, or by international bodies to which the United States government is a signatory by treaty(~~, or~~);

(c) Vehicles owned or leased by the governing body of an Indian tribe located within this state and recognized as a governmental entity by the United States department of the interior, and used exclusively in its (~~or their~~) service ((shall be exempt from the payment of license fees for the licensing thereof as in this chapter provided: PROVIDED, HOWEVER, That such vehicles, except those));

(d) Any bus or vehicle owned and operated by a private school or schools meeting the requirements of RCW 28A.195.010 and used by that school or schools primarily to transport children to and from school or to transport children in connection with school activities. A registration issued by the department for these buses or vehicles is exempt from the motor vehicle excise tax provided in chapter 82.44 RCW;

(e) Vehicles owned and used exclusively by the United States government and ~~((which))~~ are clearly identified by ~~((clearly exhibited))~~ displaying registration numbers or license plates assigned by ~~((an instrumentality of that))~~ the United States government ~~((, shall be))~~ if the vehicle is registered ~~((as prescribed for the license registration of other vehicles and shall))~~ and displays ~~((the vehicle))~~ license ~~((number))~~ plates assigned to it by the United States government; and

(f) Except for payment of the license plate fee required under section 517 of this act, vehicles owned and used exclusively by the United States government and are clearly identified by displaying registration numbers of license plates assigned by the state of Washington if the vehicle is registered and displays license plates assigned to it by the state of Washington.

(2) The department shall assign a license plate or plates to each vehicle or may assign a block of license plates to an agency or political subdivision for further assignment by the agency or political subdivision to individual vehicles registered to it ~~((pursuant to this section))~~. The agency, political subdivision, or Indian tribe, except a foreign government or international body, shall pay ~~((a))~~ the fee ~~((of two dollars))~~ required in section 517 of this act for the license plate or plates for each vehicle.

(3) An Indian tribe located within this state and recognized as a governmental entity by the United States department of the interior is not entitled to ~~((license and))~~ register any tribal government service vehicle under this section if that tribe itself ~~((licenses or))~~ registers any tribal government service vehicles under tribal law.

~~((No))~~ (4) A vehicle ~~((license))~~ registration or license ~~((number))~~ plates ~~((shall))~~ may not be issued to any ~~((such))~~ vehicle under ~~((the provisions of))~~ this section for the transportation of school children unless ~~((and until such))~~ the vehicle ~~((shall have))~~ has been first ~~((personally))~~ inspected by the director or the director's ~~((duly))~~ authorized representative.

Sec. 408. RCW 46.16.022 and 1986 c 30 s 2 are each amended to read as follows:

(1) The provisions of this chapter relating to ~~((licensing of))~~ registering vehicles by this state, including the display of ~~((vehicle))~~ license ~~((number))~~ plates and ~~((license))~~ registration certificates, do not apply to vehicles owned or leased by the governing body of an Indian tribe located within this state and recognized as a governmental entity by the United States department of the interior ~~((, only when))~~ if:

(a) The vehicle is used exclusively in tribal government service; ~~((and))~~

(b) The vehicle has been ~~((licensed and))~~ registered under a law adopted by ~~((such))~~ the tribal government; ~~((and))~~

(c) ~~((Vehicle))~~ License ~~((number))~~ plates issued by the tribe showing the initial or abbreviation of the name of the tribe are displayed on the vehicle ~~((substantially as provided therefor))~~ as required in this state; ~~((and))~~

(d) The tribe has not elected to receive ~~((any))~~ Washington state license plates for tribal government service vehicles ~~((pursuant to))~~ as authorized in RCW 46.16.020 ~~((as recodified by this act)); and~~

(e) If required by the department, the tribe provides the department with vehicle description and ownership information similar to that required for vehicles registered in this state, which may include the model year, make, model

series, body type, type of power (~~((gasoline, diesel, or other), VIN)), vehicle identification number, and the license plate number assigned to each government service vehicle (~~(licensed))~~ registered by that tribe.~~

(2) ~~((The provisions of)) This section ((are operative as to a vehicle owned or leased by an Indian tribe located within this state and used exclusively in tribal government service only to the extent that under)) applies only if the laws of the tribe (~~(like)~~);~~

(a) Allow similar exemptions and privileges (~~((are granted))~~) to all vehicles (~~((duly licensed))~~) registered under the laws of this state (~~((for operation of such vehicles))~~) on all tribal roads within the tribe's reservation(~~((If under the laws of the tribe,))~~); and

(b) Do not require persons operating vehicles (~~(licensed))~~ registered by this state (~~((are required))~~) to pay a (~~(license or))~~ registration fee or to carry or display (~~((vehicle))~~) license (~~(number))~~ plates or a registration certificate issued by the tribe(~~((the tribal government shall comply with the provisions of this state's laws relating to the licensing and registration of vehicles operating on the highways of this state))~~).

Sec. 409. RCW 46.16.025 and 1979 c 158 s 139 are each amended to read as follows:

~~((Before any "farm vehicle", as defined in RCW 46.04.181, shall operate on or move along a public highway, there shall be displayed upon it in a conspicuous manner a decal or other device, as may be prescribed by the director of licensing and issued by the department of licensing, which shall describe in some manner the vehicle and identify it as a vehicle exempt from the licensing requirements of this chapter. Application for such identifying devices shall be made to the department on a form furnished for that purpose by the director. Such application shall be made by the owner or lessee of the vehicle, or his duly authorized agent over the signature of such owner or agent, and he shall certify that the statements therein are true to the best of his knowledge. The application must show:~~

- ~~(1) The name and address of the owner of the vehicle;~~
- ~~(2) The trade name of the vehicle, model, year, type of body, the motor number or the identification number thereof if such vehicle be a motor vehicle, or the serial number thereof if such vehicle be a trailer;~~
- ~~(3) The purpose for which said vehicle is to be principally used;~~
- ~~(4) Such other information as shall be required upon such application by the director; and~~
- ~~(5) Place where farm vehicle is principally used or garaged.~~

~~A fee of five dollars shall be charged for and submitted with such application for an identification decal as in this section provided as to each farm vehicle which fee shall be deposited in the motor vehicle fund and distributed proportionately as otherwise provided for vehicle license fees under RCW 46.68.030. Only one application need be made as to each such vehicle, and the status as an exempt vehicle shall continue until suspended or revoked for misuse, or when such vehicle no longer is used as a farm vehicle.))~~

(1) A farmer shall apply to the department, county auditor or other agent, or subagent appointed by the director for a farm exempt decal for a farm vehicle if the farm vehicle is exempt under section 404(3) of this act. The farm exempt decal:

(a) Allows the farm vehicle to be operated within a radius of fifteen miles of the farm where it is principally used or garaged;

(b) Must be displayed on the farm vehicle so that it is clearly visible from outside of the farm vehicle; and

(c) Must identify that the farm vehicle is exempt from the registration requirements of this chapter.

(2) A farmer or the farmer's representative must apply for a farm exempt decal on a form furnished or approved by the department. The application must show:

(a) The name and address of the person who is the owner of the vehicle;

(b) A full description of the vehicle, including its make, model, year, the motor number or the vehicle identification number if the vehicle is a motor vehicle, or the serial number if the vehicle is a trailer;

(c) The purpose for which the vehicle is principally used;

(d) The place where the farm vehicle is principally used or garaged; and

(e) Other information as required by the department upon application.

(3) The department, county auditor or other agent, or subagent appointed by the director shall collect the fee required under section 526 of this act when issuing a farm exempt decal.

(4) A farm exempt decal may not be renewed. The status as an exempt vehicle continues until suspended or revoked for misuse, or when the vehicle is no longer used as a farm vehicle.

(5) The department may adopt rules to implement this section.

Sec. 410. RCW 46.16.028 and 1997 c 59 s 7 are each amended to read as follows:

(1) For the purposes of vehicle (~~license~~) registration, a resident is a person who manifests an intent to live or be located in this state on more than a temporary or transient basis. Evidence of residency includes, but is not limited to:

(a) Becoming a registered voter in this state; (~~or~~)

(b) Receiving benefits under one of the Washington public assistance programs; or

(c) Declaring (~~that he or she is a resident~~) residency for the purpose of obtaining a state license or tuition fees at resident rates.

(2) (~~The term~~) A natural person may be a resident of this state even though that person has or claims residency or domicile in another state or intends to leave this state at some future time. A natural person is presumed a resident if the natural person meets at least two of the following conditions:

(a) Maintains a residence in this state for personal use;

(b) Has a Washington state driver's license or a Washington state resident hunting or fishing license;

(c) Uses a Washington state address for federal income tax or state tax purposes;

(d) Has previously maintained a residence in this state for personal use and has not established a permanent residence outside the state of Washington, such as a person who retires and lives in a motor home or vessel that is not permanently attached to any property;

(e) Claims this state as his or her residence for obtaining eligibility to hold a public office or for judicial actions;

(f) Is a custodial parent with a child attending public schools in this state.

~~(3)~~ "Washington public assistance programs," as referred to in subsection (1)(b) of this section, includes only public assistance programs for which more than fifty percent of the combined costs of benefits and administration are paid from state funds. ~~((Programs which are not included within the term))~~ "Washington public assistance programs" ~~((pursuant to the above criteria))~~ does not include~~((, but are not limited to))~~: The food stamp program under the federal food stamp act of 1964; programs under the child nutrition act of 1966, 42 U.S.C. Secs. 1771 through 1788; and temporary assistance for needy families.

~~((3))~~ ~~(4)~~ A resident of the state shall apply for a certificate of title under chapter 46.12 RCW and register under this chapter~~((s 46.12 and 46.16 RCW))~~ a vehicle to be operated on the highways of the state. New Washington residents ~~((shall be))~~ are allowed thirty days from the date they become residents as defined in this section to ~~((procure))~~ obtain Washington registration for their vehicles. This thirty-day period ~~((shall))~~ may not be combined with any other period of reciprocity provided for in this chapter or chapter 46.85 RCW.

Sec. 411. RCW 46.16.029 and 1987 c 142 s 2 are each amended to read as follows:

~~((It is unlawful to))~~ A person may not purchase a vehicle ~~((bearing))~~ displaying foreign license plates without removing and destroying the license plates unless:

(1) The out-of-state vehicle is sold to a Washington resident by a resident of a jurisdiction where the license plates follow the owner ~~((or))~~;

(2) The out-of-state license plates may be returned to the jurisdiction of issuance by the owner for refund purposes; or

(3) For ~~((such))~~ other reasons as determined by the department ~~((may deem appropriate))~~ by rule.

Sec. 412. RCW 46.16.030 and 1991 c 163 s 2 are each amended to read as follows:

~~((Except as is herein provided for foreign businesses,))~~ ~~(1)~~ The provisions ~~((relative))~~ of this chapter relating to the ~~((licensing))~~ registration of vehicles and display of ~~((vehicle))~~ license ~~((number))~~ plates and ~~((license))~~ registration certificates ~~((shall))~~ do not apply to ~~((any))~~ vehicles owned by nonresidents of this state if:

(a) The owner ~~((thereof))~~ has complied with the law requiring the ~~((licensing))~~ registration of vehicles in the names of the owners ~~((thereof))~~ in force in the state, foreign country, territory, or federal district of ~~((his or her))~~ residence; and

(b) The ~~((vehicle))~~ license ~~((number))~~ plate showing the initial or abbreviation of the name of ~~((such))~~ the state, foreign country, territory, or federal district~~((;))~~ is displayed on ~~((such))~~ the vehicle substantially as ~~((is provided therefor))~~ required in this state. ~~((The provisions of this section shall be operative as to a vehicle owned by a nonresident of this state only to the extent that under the laws of the state, foreign country, territory or federal district of his or her residence, like))~~

(2) This section applies only if the laws of the state, foreign country, territory, or federal district of the nonresident's residence allow similar exemptions and privileges ~~((are granted))~~ to vehicles ~~((duly licensed))~~ registered

under the laws of ~~((and owned by residents of this state. If under the laws of such))~~ the foreign state, ~~((foreign))~~ country, territory, or federal district~~((; vehicles owned by residents of this state, operating upon the highways of such state, foreign country, territory or federal district, are required to pay the license fee and carry the vehicle license number plates of such state, foreign country, territory or federal district, the vehicles owned by residents of such state, foreign country, territory or federal district, and operating upon the highways of this state, shall comply with the provisions of this state relating to the licensing of vehicles))~~.

(3) Foreign businesses owning, maintaining, or operating places of business in this state and using vehicles in connection with ~~((such))~~ those places of business~~((;))~~ shall comply with ~~((the provisions relating to the licensing of vehicles insofar as vehicles used in connection with such places of business are concerned))~~ this chapter. Under provisions of the international registration plan, the nonmotor vehicles of member and nonmember jurisdictions ~~((which))~~ that are properly based and ~~((licensed))~~ registered in such jurisdictions ~~((are granted))~~ have reciprocity in this state as provided in RCW 46.87.070~~((2))~~.

(4) The director ~~((is empowered to make))~~ may adopt and enforce rules ~~((and regulations))~~ for the ~~((licensing))~~ registration of nonresident vehicles ~~((upon))~~ on a reciprocal basis and with respect to any character or class of operation.

Sec. 413. RCW 46.16.040 and 1987 c 244 s 2 are each amended to read as follows:

~~((Application for original vehicle license shall be made on [a] form furnished for the purpose by the department. Such application shall be made by the owner of the vehicle or duly authorized agent over the signature of such owner or agent, and the applicant shall certify that the statements therein are true to the best of the applicant's knowledge. The application must show:~~

(1) ~~Name and address of the owner of the vehicle and, if the vehicle is subject to a security agreement, the name and address of the secured party;~~

(2) ~~Trade name of the vehicle, model, year, type of body, the identification number thereof;~~

(3) ~~The power to be used—whether electric, steam, gas or other power;~~

(4) ~~The purpose for which said vehicle is to be used and the nature of the license required;~~

(5) ~~The licensed gross weight for such vehicle which in the case of for hire vehicles and auto stages with seating capacity of more than six shall be the adult seating capacity thereof, including the operator, as provided for in RCW 46.16.111. In the case of motor trucks, tractors, and truck tractors, the licensed gross weight shall be the gross weight declared by the applicant pursuant to the provisions of RCW 46.16.111;~~

(6) ~~The unladen weight of such vehicle, if it be a motor truck or trailer, which shall be the shipping weight thereof as given by the manufacturer thereof unless another weight is shown by weight slip verified by a certified weighmaster, which slip shall be attached to the original application;~~

(7) ~~Such other information as shall be required upon such application by the department.)~~

(1) An owner or the owner's authorized representative must apply for an original vehicle registration to the department, county auditor or other agent, or

subagent appointed by the director on a form furnished by the department. The application must contain:

(a) A description of the vehicle, including its make, model, vehicle identification number, type of body, and power to be used;

(b) The name and address of the person who is the registered owner of the vehicle and, if the vehicle is subject to a security interest, the name and address of the secured party;

(c) The purpose for which the vehicle is to be used;

(d) The licensed gross weight for the vehicle, which is:

(i) The adult seating capacity, including the operator, as provided for in RCW 46.16.070(1) (as recodified by this act) if the vehicle will be operated as a for hire vehicle or auto stage and has a seating capacity of more than six; or

(ii) The gross weight declared by the applicant as required in RCW 46.16.070(2) (as recodified by this act) if the vehicle will be operated as a motor truck, tractor, or truck tractor;

(e) The empty scale weight of the vehicle; and

(f) Other information that the department may require.

(2) The registered owner or the registered owner's authorized representative shall sign the application for an original vehicle registration and certify that the statements on the application are true to the best of the applicant's knowledge.

(3) The application for an original vehicle registration must be accompanied by a draft, money order, certified bank check, or cash for all fees and taxes due for the application for an original vehicle registration.

NEW SECTION. Sec. 414. A new section is added to chapter 46.16 RCW under the subchapter heading "general provisions" to read as follows:

(1) The department may refuse to issue or may cancel a registration at any time when the department determines that an applicant for registration is not entitled to one. Notice of cancellation may be accomplished by sending a notice by first-class mail using the last known address in department records for the registered or legal owner or owners, and completing an affidavit of first-class mail. It is unlawful for any person to remove, drive, or operate the vehicle until a proper registration certificate has been issued. A person removing, driving, or operating a vehicle after the refusal to issue or cancellation of the registration is guilty of a gross misdemeanor.

(2) The suspension, revocation, cancellation, or refusal by the director of a registration certificate provided under this chapter is conclusive unless the person whose registration or certificate is suspended, revoked, canceled, or refused appeals to the superior court of Thurston county or the person's county of residence.

(a) Notice of appeal must be filed within ten days after receipt of the notice of suspension, revocation, cancellation, or refusal. Upon the filing of the notice of appeal, the court shall issue an order to the director to show cause why the registration should not be granted or reinstated and return the order not less than ten days after the date of service to the director. Service must be in the same manner as prescribed for the service of a summons and complaint in other civil actions.

(b) Upon the hearing on the order to show cause, the court shall hear evidence concerning matters with reference to the suspension, revocation,

cancellation, or refusal of the registration and shall enter judgment either affirming or setting aside the suspension, revocation, cancellation, or refusal.

Sec. 415. RCW 46.16.045 and 2008 c 51 s 1 are each amended to read as follows:

~~(1) ((The department in its discretion may grant a temporary permit to operate a vehicle for which application for registration has been made, where such application is accompanied by the proper fee pending action upon said application by the department.~~

~~(2))~~ The department may authorize vehicle dealers properly licensed ~~((pursuant to))~~ under chapters 46.09, 46.10, and 46.70 RCW to issue temporary permits to operate vehicles under ~~((such))~~ rules ~~((and regulations as))~~ adopted by the department ~~((deems appropriate)).~~

~~((3))~~ (2) The ((fee)) department, county auditor or other agent, or subagent appointed by the director shall collect the fee required under section 535(1)(a) of this act for each temporary permit application ((distributed)) sold to an authorized vehicle dealer ((shall be fifteen dollars, five dollars of which shall be credited to the payment of registration fees at the time application for registration is made. The remainder shall be deposited to the state patrol highway account)).

~~((4))~~ (3) The payment of ((the registration)) vehicle license fees to an authorized dealer is considered payment to the state of Washington.

~~((5) By July 1, 2009,))~~ (4) The department shall provide access to a secure system that allows temporary permits issued by vehicle dealers properly licensed ((pursuant to)) under chapters 46.09, 46.10, and 46.70 RCW to be generated and printed on demand. By July 1, 2011, all such permits must be generated using the designated system.

Sec. 416. RCW 46.16.047 and 1961 c 12 s 46.16.047 are each amended to read as follows:

~~((Forms for such temporary permits shall be prescribed and furnished by the department. Temporary permits shall bear consecutive numbers, shall show the name and address of the applicant, trade name of the vehicle, model, year, type of body, identification number and date of application, and shall be such as may be affixed to the vehicle at the time of issuance, and remain on such vehicle only during the period of such registration and until the receipt of permanent license plates. The application shall be registered in the office of the person issuing the permit and shall be forwarded by him to the department each day together with the fee accompanying it.~~

~~A fee of fifty cents shall be charged by the person authorized to issue such permit which shall be accounted for in the same manner as the other fees collected by such officers, provided that such fees collected by county auditors or their agents shall be paid to the county treasurer in the same manner as other fees collected by the county auditor and credited to the county current expense fund.))~~

(1) The department, county auditor or other agent, or subagent appointed by the director may grant a temporary permit to operate a vehicle for which an application for registration has been made. The application for a temporary permit must be made by the owner or the owner's representative to the

department, county auditor or other agent, or subagent appointed by the director on a form furnished by the department and must contain:

(a) A full description of the vehicle, including its make, model, vehicle identification number, and type of body;

(b) The name and address of the applicant;

(c) The date of application; and

(d) Other information that the department may require.

(2) Temporary permits must:

(a) Be consecutively numbered;

(b) Be displayed where it is visible from outside of the vehicle, such as on the inside left side of the rear window; and

(c) Remain on the vehicle only until the receipt of permanent license plates.

(3) The application must be accompanied by the fee required under section 535(1)(b) of this act.

Sec. 417. RCW 46.16.048 and 1977 c 25 s 2 are each amended to read as follows:

The department (~~in its discretion~~) may issue a temporary letter of authority authorizing the movement of an (~~unlicensed~~) unregistered vehicle or the temporary (~~usage~~) use of a special plate for the purpose of promoting or participating in an event such as a parade, pageant, fair, convention, or other special community activity. The letter of authority may not be issued to or used by anyone for personal gain, but public identification of the sponsor or owner of the donated vehicle shall not be considered to be personal gain.

Sec. 418. RCW 46.16.068 and 1998 c 321 s 32 are each amended to read as follows:

~~((Trailing units which are subject to RCW 82.44.020(4) shall, upon application, be issued a permanent license plate that is valid until the vehicle is sold, permanently removed from the state, or otherwise disposed of by the registered owner. The fee for this license plate is thirty-six dollars. Upon the sale, permanent removal from the state, or other disposition of a trailing unit bearing a permanent license plate the registered owner is required to return the license plate and registration certificate to the department. Violations of this section or misuse of a permanent license plate may subject the registered owner to prosecution or denial, or both, of future permanent registration of any trailing units. This section does not apply to any trailing units subject to the annual excise taxes prescribed in RCW 82.44.020. The department is authorized to adopt rules to implement this section for leased vehicles and other applications as necessary.))~~

(1) Trailers that are towed in combination with a truck, motor truck, truck tractor, road tractor, or tractor and used to transport loads in excess of forty thousand pounds combined gross weight may be issued a permanent license plate and registration. The permanent license plate and registration is valid until the trailer is sold, permanently removed from the state, or otherwise disposed of by the registered owner. The owner of the trailer shall:

(a) Apply for the permanent license plate and registration with the department, county auditor or other agent, or subagent;

(b) Pay the combination trailer license plate fee required under section 516 of this act in addition to any other fee or taxes due by law; and

(c) Return the license plate and registration certificate to the department if the trailer is sold, permanently removed from the state, or otherwise disposed of.

(2) The permanent license plate and registration authorized in subsection (1) of this section may not be issued to trailers that haul logs.

(3) A violation of this section or misuse of a permanent license plate may subject the registered owner to prosecution or denial, or both, of future permanent registration of any trailer.

(4) The department may adopt rules to implement this section for leased vehicles and other applications as necessary.

Sec. 419. RCW 46.16.070 and 2005 c 314 s 204 are each amended to read as follows:

~~((1) In lieu of all other vehicle licensing fees, unless specifically exempt, and in addition to the mileage fees prescribed for buses and stages in RCW 46.16.125, there shall be paid and collected annually for each truck, motor truck, truck tractor, road tractor, tractor, bus, auto stage, or for hire vehicle with seating capacity of more than six, based upon the declared combined gross weight or declared gross weight under chapter 46.44 RCW, the following licensing fees by weight:~~

WEIGHT	SCHEDULE	SCHEDULE B
	A	
4,000 lbs.	\$ 40.00	\$ 40.00
6,000 lbs.	\$ 50.00	\$ 50.00
8,000 lbs.	\$ 60.00	\$ 60.00
10,000 lbs.	\$ 62.00	\$ 62.00
12,000 lbs.	\$ 79.00	\$ 79.00
14,000 lbs.	\$ 90.00	\$ 90.00
16,000 lbs.	\$ 102.00	\$ 102.00
18,000 lbs.	\$ 154.00	\$ 154.00
20,000 lbs.	\$ 171.00	\$ 171.00
22,000 lbs.	\$ 185.00	\$ 185.00
24,000 lbs.	\$ 200.00	\$ 200.00
26,000 lbs.	\$ 211.00	\$ 211.00
28,000 lbs.	\$ 249.00	\$ 249.00
30,000 lbs.	\$ 287.00	\$ 287.00
32,000 lbs.	\$ 346.00	\$ 346.00
34,000 lbs.	\$ 368.00	\$ 368.00
36,000 lbs.	\$ 399.00	\$ 399.00
38,000 lbs.	\$ 438.00	\$ 438.00
40,000 lbs.	\$ 501.00	\$ 501.00
42,000 lbs.	\$ 521.00	\$ 611.00
44,000 lbs.	\$ 532.00	\$ 622.00
46,000 lbs.	\$ 572.00	\$ 662.00
48,000 lbs.	\$ 596.00	\$ 686.00
50,000 lbs.	\$ 647.00	\$ 737.00
52,000 lbs.	\$ 680.00	\$ 770.00
54,000 lbs.	\$ 734.00	\$ 824.00
56,000 lbs.	\$ 775.00	\$ 865.00

58,000 lbs.	\$ 806.00	\$ 896.00
60,000 lbs.	\$ 859.00	\$ 949.00
62,000 lbs.	\$ 921.00	\$ 1,011.00
64,000 lbs.	\$ 941.00	\$ 1,031.00
66,000 lbs.	\$ 1,048.00	\$ 1,138.00
68,000 lbs.	\$ 1,093.00	\$ 1,183.00
70,000 lbs.	\$ 1,177.00	\$ 1,267.00
72,000 lbs.	\$ 1,259.00	\$ 1,349.00
74,000 lbs.	\$ 1,368.00	\$ 1,458.00
76,000 lbs.	\$ 1,478.00	\$ 1,568.00
78,000 lbs.	\$ 1,614.00	\$ 1,704.00
80,000 lbs.	\$ 1,742.00	\$ 1,832.00
82,000 lbs.	\$ 1,863.00	\$ 1,953.00
84,000 lbs.	\$ 1,983.00	\$ 2,073.00
86,000 lbs.	\$ 2,104.00	\$ 2,194.00
88,000 lbs.	\$ 2,225.00	\$ 2,315.00
90,000 lbs.	\$ 2,346.00	\$ 2,436.00
92,000 lbs.	\$ 2,466.00	\$ 2,556.00
94,000 lbs.	\$ 2,587.00	\$ 2,677.00
96,000 lbs.	\$ 2,708.00	\$ 2,798.00
98,000 lbs.	\$ 2,829.00	\$ 2,919.00
100,000 lbs.	\$ 2,949.00	\$ 3,039.00
102,000 lbs.	\$ 3,070.00	\$ 3,160.00
104,000 lbs.	\$ 3,191.00	\$ 3,281.00
105,500 lbs.	\$ 3,312.00	\$ 3,402.00

((Schedule A applies to vehicles either used exclusively for hauling logs or that do not tow trailers. Schedule B applies to vehicles that tow trailers and are not covered under Schedule A.

Every truck, motor truck, truck tractor, and tractor exceeding 6,000 pounds empty scale weight registered under chapter 46.16, 46.87, or 46.88 RCW shall be licensed for not less than one hundred fifty percent of its empty weight unless the amount would be in excess of the legal limits prescribed for such a vehicle in RCW 46.44.041 or 46.44.042, in which event the vehicle shall be licensed for the maximum weight authorized for such a vehicle or unless the vehicle is used only for the purpose of transporting any well drilling machine, air compressor, rock crusher, conveyor, hoist, donkey engine, cook house, tool house, bunk house, or similar machine or structure attached to or made a part of such vehicle.

The following provisions apply when increasing gross or combined gross weight for a vehicle licensed under this section:

(a) The new license fee will be one-twelfth of the fee listed above for the new gross weight, multiplied by the number of months remaining in the period for which licensing fees have been paid, including the month in which the new gross weight is effective.

(b) Upon surrender of the current certificate of registration or cab card, the new licensing fees due shall be reduced by the amount of the licensing fees previously paid for the same period for which new fees are being charged.

~~(2) The proceeds from the fees collected under subsection (1) of this section shall be distributed in accordance with RCW 46.68.035.~~

~~(3) In lieu of the gross weight fee under subsection (1) of this section, farm vehicles may be licensed upon payment of the fee in effect under subsection (1) of this section on May 1, 2005. In order to qualify for the reduced fee under this subsection, the farm vehicle must be exempt from property taxes in accordance with RCW 84.36.630. The applicant must submit copies of the forms required under RCW 84.36.630. The application for the reduced fee under this subsection shall require the applicant to attest that the vehicle shall be used primarily for farming purposes. The department shall provide licensing agents and subagents with a schedule of the appropriate licensing fees for farm vehicles:))~~

(1) **Auto stage, bus, for hire vehicle - more than six seats.** The declared gross weight for an auto stage, bus, or for hire vehicle, except taxicabs, with a seating capacity of more than six is determined by:

(a) Multiplying the number of seats, including the driver, times one hundred fifty pounds per seat;

(b) Adding the scale weight to the product derived in (a) of this subsection;
and

(c) Locating the sum derived in (b) of this subsection in the registration fee based on declared gross weight table provided in section 530 of this act and rounding up to the next greater weight.

(2) **Motor truck, road tractor, truck, truck tractor - sufficient declared gross weight required.** The declared gross weight for a motor truck, road tractor, truck, or truck tractor must have a sufficient declared gross weight, as required under chapter 46.44 RCW, to cover:

(a) Its empty scale weight plus the maximum load it will carry; and

(b) The empty scale weight of any trailer it will tow and the maximum load that the trailer will carry. The declared gross weight of the motor vehicle does not need to include the trailer if:

(i) The empty scale weight of the trailer and the maximum load the trailer will carry does not exceed four thousand pounds; or

(ii) The trailer is for personal use, such as a horse trailer, travel trailer, or utility trailer.

(3) **Motor truck, road tractor, truck, and truck tractor - exceeding six thousand pounds empty scale weight.** Every truck, motor truck, truck tractor, and tractor exceeding six thousand pounds empty scale weight registered under chapter 46.16 or 46.87 RCW must be licensed for not less than one hundred fifty percent of its empty weight unless:

(a) The amount would exceed the legal limits described in RCW 46.44.041 or 46.44.042, in which event the vehicle must be licensed for the maximum weight authorized for the vehicle; or

(b) The vehicle is a fixed load vehicle.

(4) **Increasing declared gross weight.** The following provisions apply when increasing declared gross weight for a motor vehicle licensed under this section:

(a) The declared gross weight must be increased to the end of the current registration year when the declared gross weight remains at 12,000 pounds or less.

(b) For motor vehicles increasing to a declared gross weight of 14,000 pounds or more, the declared gross weight must be increased, at a minimum, to the expiration of the current declared gross weight license.

(c) The new license fee is one-twelfth of the annual license fee listed in section 530 of this act for each of the number of months remaining in the registration period. The department shall:

(i) Apply credit to any gross weight license fees already paid for the full months remaining in the registration period;

(ii) Charge the monthly declared gross weight license fee required under section 532 of this act, in addition to any other fees or taxes due; and

(iii) Not apply credit to monthly declared gross weight license fees already used.

(d) (c) of this subsection does not apply to motor vehicles described in (a) of this subsection.

(e) Upon surrender of the current registration certificate or cab card, credit must be applied as described in (c) of this subsection.

(5) **Monthly license—Authorized.** The annual license fees required in section 530 of this act for any motor vehicle or combination of vehicles having a declared gross weight of twelve thousand one pounds or more may be paid for any full registration month or months at one-twelfth of the annual license fee plus the monthly declared gross weight license fee required in section 532 of this act. This sum must be multiplied by the number of full months for which the fees are paid if for less than a full year.

(6) **Monthly license—Penalty.** Operation of a vehicle registered under subsection (5) of this section by any person upon the public highways after the expiration of the monthly license is a traffic infraction. The person shall pay a license fee for the vehicle involved covering an entire registration year's operation, less the fees for any registration month or months of the registration year already paid. If, within five days, a license fee for a full registration year has not been paid as required, the Washington state patrol, county sheriff, or city police shall impound the vehicle until the fees have been paid.

(7) **Camper, school bus—Exemptions.** (a) The weight of a camper must not be included when determining declared gross weight.

(b) Motor vehicles used for the transportation of school children or teachers to and from school and other school activities are exempt from subsection (1) of this section and the seating capacity fee provided in section 529 of this act. If the motor vehicle is used for any other purpose, it must be appropriately registered as required under this chapter.

(8) **Credit for unused license fee.** A registered owner of a motor vehicle with a declared gross weight of more than twelve thousand pounds may obtain credit for the unused portion of the license fee paid or transfer the credit to a new owner under the following conditions:

(a) The motor vehicle must have been recently sold or transferred to another owner, is no longer in the possession of the owner, or is reported destroyed under RCW 46.12.070 (as recodified by this act);

(b) The available credit must be fifteen dollars or more;

(c) Credit will be given for any unused months of the declared gross weight license already purchased at the rate of one-twelfth for each full or partial month of registration;

(d) Credit only applies to license fees due under section 530 of this act for the registration year for which it was purchased;

(e) Credit as used in this section may not be refunded.

Sec. 420. RCW 46.16.076 and 2009 c 512 s 1 are each amended to read as follows:

~~((1)(a) Except as otherwise provided in this section, the department shall collect from the owners of vehicles registered under RCW 46.16.0621 and vehicles licensed under RCW 46.16.070 with a declared gross weight of ten thousand pounds or less a voluntary donation of five dollars at the time of initial or renewal registration. The donation must be deposited in the state parks renewal and stewardship account established in RCW 79A.05.215 to be used for the operation and maintenance of state parks.~~

~~(b) The donation required under this section may not be collected from any vehicle owner actively opting not to participate in the donation program. The department shall ensure that the opt-out donation under this section shall be clear, visible, and prominently displayed in both paper and online vehicle registration renewals. Notification of intent to not participate in the donation program must be provided annually at the time of vehicle registration renewal.~~

~~(2) This section applies to registrations due or to become due on or after September 1, 2009.)~~

(1) The department, county auditor or other agent, or subagent appointed by the director shall provide an opportunity for a vehicle owner to make a voluntary donation as provided in this section when applying for an initial or renewal vehicle registration.

(2)(a) A vehicle owner who registers a vehicle under this chapter may donate one dollar or more to the organ and tissue donation awareness account to promote the donation of organs and tissues under the uniform anatomical gift act as described in chapter 68.64 RCW. The donation of one or more dollars is voluntary and may be refused by the vehicle owner.

(b) The department, county auditor or other agent, or subagent appointed by the director shall:

(i) Ask a vehicle owner applying for a vehicle registration if the owner would like to donate one dollar or more;

(ii) Inform a vehicle owner of the option for organ and tissue donations as required under RCW 46.20.113; and

(iii) Make information booklets or other informational material available regarding the importance of organ and tissue donations to vehicle owners.

(c) All reasonable costs associated with the creation of the donation program created under this section must be paid proportionally or by another agreement by a participating Washington state organ procurement organization established for organ and tissue donation awareness purposes by the Washington state organ procurement organizations. For the purposes of this section, "reasonable costs" and "Washington state organ procurement organization" have the same meaning as in RCW 68.64.010.

(3) The department shall collect from a vehicle owner who pays a vehicle license fee under section 531(1) (a), (d), (e), (g), (h), (j), (n), (o), or (g) of this act or who registers a vehicle under RCW 46.16.070 (as recodified by this act) with a declared gross weight of ten thousand pounds or less a voluntary donation of five dollars. The donation may not be collected from any vehicle owner

actively opting not to participate in the donation program. The department shall ensure that the opt-out donation under this section is clear, visible, and prominently displayed in both paper and online vehicle registration renewals. Notification of intent to not participate in the donation program must be provided annually at the time of vehicle registration renewal. The donation must be deposited in the state parks renewal and stewardship account established in RCW 79A.05.215 to be used for the operation and maintenance of state parks.

Sec. 421. RCW 46.16.086 and 2006 c 337 s 2 are each amended to read as follows:

~~((In lieu of the license tab fees provided in RCW 46.16.0621, private use single axle trailers of two thousand pounds scale weight or less may be licensed upon the payment of a license fee in the sum of fifteen dollars, but only if))~~ Private use single-axle trailers of two thousand pounds scale weight or less may qualify for a reduced vehicle license fee described in section 531(1)(k) of this act. To qualify for the reduced vehicle license fee:

(1) The trailer ~~((is))~~ must be operated upon public highways~~((-));~~;

(2) The vehicle license fee must be collected annually for each registration year or fraction of a registration year~~((—This reduced license fee applies only to));~~ and

(3) The trailer~~((s))~~ must be operated for personal use of the owner~~((s,))~~ and not ~~((trailers))~~ held for rental to the public or used in any commercial or business endeavor. ~~((The proceeds from the fees collected under this section shall be distributed in accordance with RCW 46.68.035(2).))~~

NEW SECTION. Sec. 422. A new section is added to chapter 46.16 RCW under the subchapter heading "general provisions" to read as follows:

(1) **Design.** All license plates may be obtained by the director from the metal working plant of a state correctional facility or from any source in accordance with existing state of Washington purchasing procedures. License plates:

(a) May vary in background, color, and design;

(b) Must be legible and clearly identifiable as a Washington state license plate;

(c) Must designate the name of the state of Washington without abbreviation;

(d) Must be treated with fully reflectorized materials designed to increase visibility and legibility at night;

(e) Must be of a size and color and show the registration period as determined by the director; and

(f) May display a symbol or artwork approved by the special license plate review board and the legislature.

(2) **Exceptions to reflectorized materials.** License plates issued before January 1, 1968, are not required to be treated with reflectorized materials.

(3) **Dealer license plates.** License plates issued to a dealer must contain an indication that the license plates have been issued to a vehicle dealer.

(4)(a) **Furnished.** The director shall furnish to all persons making satisfactory application for a vehicle registration:

(i) Two identical license plates each containing the license plate number; or

(ii) One license plate if the vehicle is a trailer, semitrailer, camper, moped, collector vehicle, horseless carriage, or motorcycle.

(b) The director may adopt types of license plates to be used as long as the license plates are legible.

(5)(a) **Display.** License plates must be:

(i) Attached conspicuously at the front and rear of each vehicle if two license plates have been issued;

(ii) Attached to the rear of the vehicle if one license plate has been issued;

(iii) Kept clean and be able to be plainly seen and read at all times; and

(iv) Attached in a horizontal position at a distance of not more than four feet from the ground.

(b) The Washington state patrol may grant exceptions to this subsection if the body construction of the vehicle makes compliance with this section impossible.

(6) **Change of license classification.** A person who has altered a vehicle that makes the current license plate or plates invalid for the vehicle's use shall:

(a) Surrender the current license plate or plates to the department, county auditor or other agent, or subagent appointed by the director;

(b) Apply for a new license plate or plates; and

(c) Pay a change of classification fee required under section 523 of this act.

(7) **Unlawful acts.** It is unlawful to:

(a) Display a license plate or plates on the front or rear of any vehicle that were not issued by the director for the vehicle;

(b) Display a license plate or plates on any vehicle that have been changed, altered, or disfigured, or have become illegible;

(c) Use holders, frames, or other materials that change, alter, or make a license plate or plates illegible. License plate frames may be used on license plates only if the frames do not obscure license tabs or identifying letters or numbers on the plates and the license plates can be plainly seen and read at all times;

(d) Operate a vehicle unless a valid license plate or plates are attached as required under this section;

(e) Transfer a license plate or plates issued under this chapter between two or more vehicles without first making application to transfer the license plates. A violation of this subsection (7)(e) is a traffic infraction subject to a fine not to exceed five hundred dollars. Any law enforcement agency that determines that a license plate or plates have been transferred between two or more vehicles shall confiscate the license plate or plates and return them to the department for nullification along with full details of the reasons for confiscation. Each vehicle identified in the transfer will be issued a new license plate or plates upon application by the owner or owners and the payment of full fees and taxes; or

(f) Fail, neglect, or refuse to endorse the registration certificate and deliver the license plate or plates to the purchaser or transferee of the vehicle, except as authorized under this section.

(8) **Transfer.** (a) Standard issue license plates follow the vehicle when ownership of the vehicle changes unless the registered owner wishes to retain the license plates and transfer them to a replacement vehicle of the same use. A registered owner wishing to keep standard issue license plates shall pay the

license plate transfer fee required under section 518(1)(c) of this act when applying for license plate transfer.

(b) Special license plates may be treated in the same manner as described in (a) of this subsection unless otherwise limited by law.

(c) License plates issued to the state or any county, city, town, school district, or other political subdivision entitled to exemption as provided by law may be treated in the same manner as described in (a) of this subsection.

(9) **Replacement.** (a) An owner or the owner's authorized representative shall apply for a replacement license plate or plates if the current license plate or plates assigned to the vehicle have been lost, defaced, or destroyed, or if one or both plates have become so illegible or are in such a condition as to be difficult to distinguish. An owner or the owner's authorized representative may apply for a replacement license plate or plates at any time the owner chooses.

(b) The application for a replacement license plate or plates must:

(i) Be on a form furnished or approved by the director; and

(ii) Be accompanied by the fee required under section 518(1)(a) of this act.

(c) The department shall not require the payment of any fee to replace a license plate or plates for vehicles owned, rented, or leased by foreign countries or international bodies to which the United States government is a signatory by treaty.

(10)(a) **Periodic replacement.** License plates must be replaced periodically to ensure maximum legibility and reflectivity. The department shall:

(i) Use empirical studies documenting the longevity of the reflective materials used to make license plates;

(ii) Determine how frequently license plates must be replaced; and

(iii) Offer to owners the option of retaining the current license plate number when obtaining replacement license plates for the fee required in section 518(1)(b) of this act.

(b) Commercial motor vehicles with a gross weight in excess of twenty-six thousand pounds are exempt from periodic license plate replacement.

(11) **Periodic replacement—exceptions.** The following license plates are not required to be periodically replaced as required in subsection (10) of this section:

(a) Horseless carriage license plates issued under section 623 of this act before January 1, 1987;

(b) Congressional Medal of Honor license plates issued under section 618 of this act;

(c) License plates for commercial motor vehicles with a gross weight greater than twenty-six thousand pounds.

(12) **Rules.** The department may adopt rules to implement this section.

(13) **Tabs or emblems.** The director may issue tabs or emblems to be attached to license plates or elsewhere on the vehicle to signify initial registration and renewals. Renewals become effective when tabs or emblems have been issued and properly displayed on license plates.

Sec. 423. RCW 46.16.090 and 1989 c 156 s 3 are each amended to read as follows:

~~((Motor trucks, truck tractors, and tractors may be specially licensed based on the declared gross weight thereof for the various amounts set forth in the schedule provided in RCW 46.16.070 less twenty-three dollars; divide the~~

~~difference by two and add twenty-three dollars, when such vehicles are owned and operated by farmers, but only if the following condition or conditions exist:~~

~~(1) When such vehicles are to be used for the transportation of the farmer's own farm, orchard, or dairy products, or the farmer's own private sector cultured aquatic products as defined in RCW 15.85.020, from point of production to market or warehouse, and of supplies to be used on the farmer's farm. Fish other than those that are such private sector cultured aquatic products and forestry products are not considered as farm products; and/or~~

~~(2) When such vehicles are to be used for the infrequent or seasonal transportation by one farmer for another farmer in the farmer's neighborhood of products of the farm, orchard, dairy, or aquatic farm owned by the other farmer from point of production to market or warehouse, or supplies to be used on the other farm, but only if transportation for another farmer is for compensation other than money. Farmers shall be permitted an allowance of an additional eight thousand pounds, within the legal limits, on such vehicles, when used in the transportation of the farmer's own farm machinery between the farmer's own farm or farms and for a distance of not more than thirty-five miles from the farmer's farm or farms.~~

~~The department shall prepare a special form of application to be used by farmers applying for licenses under this section, which form shall contain a statement to the effect that the vehicle concerned will be used subject to the limitations of this section. The department shall prepare special insignia which shall be placed upon all such vehicles to indicate that the vehicle is specially licensed, or may, in its discretion, substitute a special license plate for such vehicle for such designation.~~

~~Operation of such a specially licensed vehicle in transportation upon public highways in violation of the limitations of this section is a traffic infraction.))~~

~~(1) Motor trucks, truck tractors, and tractors owned and operated by farmers may receive a reduction in gross weight license fees as described in section 527 of this act only if the vehicle is used exclusively to transport:~~

~~(a) The farmer's own farm, orchard, dairy, or private sector cultured aquatic products as defined in RCW 15.85.020, from point of production to market or warehouse. Fish other than private sector cultured aquatic products or forestry products are not considered farm products;~~

~~(b) Supplies used on the farmer's farm; or~~

~~(c) Products owned by the farm as listed in (a) of this subsection for another farmer in the neighborhood on a seasonal or infrequent basis. This may only be for compensation other than money.~~

~~(2) Farm vehicles that meet the requirements provided in subsection (1)(a) through (c) of this section may receive a reduction in gross weight license fees if the farm is exempt from property taxes under RCW 84.36.630. The reduction is the reduced gross weight license fee provided in section 527 of this act. To qualify for the additional gross weight license fee reduction, the farmer must submit copies of the forms as required under RCW 84.36.630.~~

~~(3) An additional eight thousand pounds gross weight within the legal limits on farm vehicles may be used if the farmer is transporting the farmer's own farm machinery between the farmer's own farm or farms and for a distance of not more than thirty-five miles.~~

(4) The application for a reduced gross weight license fee must be made by the farmer or the farmer's authorized representative to the department, county auditor or other agent, or subagent appointed by the director on a form furnished or approved by the department and must contain a statement that the vehicle will be used subject to the limitations of this section.

(5) The department, county auditor or other agent, or subagent appointed by the director shall issue a unique series of license tabs for farm vehicles registered under this section. Farm tabs must be placed on all farm vehicles registered under this section to indicate that the vehicle is registered as a farm vehicle. The department may substitute a special license plate for farm vehicles.

(6) It is a traffic infraction to operate a farm vehicle registered under this section on the public highways in violation of the limitations of this section.

Sec. 424. RCW 46.16.125 and 1997 c 215 s 2 are each amended to read as follows:

In addition to the license fees required ~~((by))~~ under section 530 of this act for registering vehicles under RCW 46.16.070 (as recodified by this act), operators of auto stages with seating capacity over six shall pay, at the time they file gross earning returns with the utilities and transportation commission, the sum of fifteen cents for each one hundred vehicle miles operated by each auto stage over the public highways of this state. However, in the case of each auto stage propelled by steam, electricity, natural gas, diesel oil, butane, or propane, the payment required in this section is twenty cents per one hundred miles of such operation. The commission shall transmit all sums so collected to the state treasurer, who shall deposit the same in the motor vehicle fund. Any person failing to make any payment required by this section is subject to a penalty of one hundred percent of the payment due in this section, in addition to any penalty provided for failure to submit a report. Any penalties so collected shall be credited to the public service revolving fund.

Sec. 425. RCW 46.16.160 and 2007 c 419 s 6 are each amended to read as follows:

~~((1) The owner of a vehicle which under reciprocal relations with another jurisdiction would be required to obtain a license registration in this state or an unlicensed vehicle which would be required to obtain a license registration for operation on public highways of this state may, as an alternative to such license registration, secure and operate such vehicle under authority of a trip permit issued by this state in lieu of a Washington certificate of license registration, and licensed gross weight if applicable. The licensed gross weight may not exceed eighty thousand pounds for a combination of vehicles nor forty thousand pounds for a single unit vehicle with three or more axles. Trip permits are required for movement of mobile homes or park model trailers and may only be issued if property taxes are paid in full. For the purpose of this section, a vehicle is considered unlicensed if the licensed gross weight currently in effect for the vehicle or combination of vehicles is not adequate for the load being carried. Vehicles registered under RCW 46.16.135 shall not be operated under authority of trip permits in lieu of further registration within the same registration year.~~

~~(2) Each trip permit shall authorize the operation of a single vehicle at the maximum legal weight limit for such vehicle for a period of three consecutive days commencing with the day of first use. No more than three such permits~~

~~may be used for any one vehicle in any period of thirty consecutive days, except that in the case of a recreational vehicle as defined in RCW 43.22.335, no more than two trip permits may be used for any one vehicle in a one-year period. Every permit shall identify, as the department may require, the vehicle for which it is issued and shall be completed in its entirety and signed by the operator before operation of the vehicle on the public highways of this state. Correction of data on the permit such as dates, license number, or vehicle identification number invalidates the permit. The trip permit shall be displayed on the vehicle to which it is issued as prescribed by the department.~~

~~(3) Vehicles operating under authority of trip permits are subject to all laws, rules, and regulations affecting the operation of like vehicles in this state.~~

~~(4) Prorate operators operating commercial vehicles on trip permits in Washington shall retain the customer copy of such permit for four years.~~

~~(5) Trip permits may be obtained from field offices of the department of transportation, department of licensing, or other agents appointed by the department. The fee for each trip permit is twenty dollars. Five dollars from every twenty dollar trip permit fee shall be deposited into the state patrol highway account and must be used for commercial motor vehicle inspections. For each permit issued, the fee includes a filing fee as provided by RCW 46.01.140 and an excise tax of one dollar. The remaining portion of the trip permit fee must be deposited to the credit of the motor vehicle fund as an administrative fee. If the filing fee amount of three dollars as prescribed in RCW 46.01.140 is increased or decreased after July 1, 2002, the administrative fee must be increased or decreased by the same amount so that the total trip permit would be adjusted equally to compensate. These fees and taxes are in lieu of all other vehicle license fees and taxes. No exchange, credits, or refunds may be given for trip permits after they have been purchased.~~

~~(6) The department may appoint county auditors or businesses as agents for the purpose of selling trip permits to the public. County auditors or businesses so appointed may retain the filing fee collected for each trip permit to defray expenses incurred in handling and selling the permits.~~

~~(7) Commercial motor vehicles that are owned by a motor carrier subject to RCW 46.32.080, must not be operated on trip permits authorized by RCW 46.16.160 or 46.16.162 if the motor carrier's department of transportation number has been placed out of service by the Washington state patrol. A violation of or a failure to comply with this subsection is a gross misdemeanor, subject to a minimum monetary penalty of two thousand five hundred dollars for the first violation and five thousand dollars for each subsequent violation.~~

~~(8) Except as provided in subsection (7) of this section, a violation of or a failure to comply with any provision of this section is a gross misdemeanor.~~

~~(9) The department of licensing may adopt rules as it deems necessary to administer this section.~~

~~(10) A surcharge of five dollars is imposed on the issuance of trip permits. The portion of the surcharge paid by motor carriers must be deposited in the motor vehicle fund for the purpose of supporting vehicle weigh stations, weigh-in-motion programs, and the commercial vehicle information systems and networks program. The remaining portion of the surcharge must be deposited in the motor vehicle fund for the purpose of supporting congestion relief programs. All other administrative fees and excise taxes collected under the provisions of~~

~~this chapter shall be forwarded by the department with proper identifying detailed report to the state treasurer who shall deposit the administrative fees to the credit of the motor vehicle fund and the excise taxes to the credit of the general fund. Filing fees will be forwarded and reported to the state treasurer by the department as prescribed in RCW 46.01.140.)~~

(1)(a) A vehicle owner may operate an unregistered vehicle on public highways under the authority of a trip permit issued by this state. For purposes of trip permits, a vehicle is considered unregistered if:

(i) Under reciprocal relations with another jurisdiction, the owner would be required to register the vehicle in this state;

(ii) The license tabs have expired; or

(iii) The current gross weight license is insufficient for the load being carried. The licensed gross weight may not exceed eighty thousand pounds for a combination of vehicles or forty thousand pounds for a single unit vehicle with three or more axles.

(b) Trip permits are required to move mobile homes or park model trailers and may only be issued if property taxes are paid in full.

(2) Trip permits may not be:

(a) Issued to vehicles registered under RCW 46.16.070(5) (as recodified by this act) in lieu of further registration within the same registration year; or

(b) Used for commercial motor vehicles owned by a motor carrier subject to RCW 46.32.080 if the motor carrier's department of transportation number has been placed out of service by the Washington state patrol. A violation of or a failure to comply with this subsection is a gross misdemeanor, subject to a minimum monetary penalty of two thousand five hundred dollars for the first violation and five thousand dollars for each subsequent violation.

(3)(a) Each trip permit authorizes the operation of a single vehicle at the maximum legal weight limit for the vehicle for a period of three consecutive days beginning with the day of first use. No more than three trip permits may be used for any one vehicle in any thirty consecutive day period. No more than two trip permits may be used for any one recreational vehicle, as defined in RCW 43.22.335, in a one-year period. Every trip permit must:

(i) Identify the vehicle for which it is issued;

(ii) Be completed in its entirety;

(iii) Be signed by the operator before operation of the vehicle on the public highways of this state;

(iv) Not be altered or corrected. Altering or correcting data on the trip permit invalidates the trip permit; and

(v) Be displayed on the vehicle for which it is issued as required by the department.

(b) Vehicles operating under the authority of trip permits are subject to all laws, rules, and regulations affecting the operation of similar vehicles in this state.

(4) Prorate operators operating commercial vehicles on trip permits in Washington shall retain the customer copy of each permit for four years.

(5) Trip permits may be obtained from field offices of the department of transportation, department of licensing, county auditors or other agents, and subagents appointed by the department for the fee provided in section 535(1)(h)

of this act. Exchanges, credits, or refunds may not be given for trip permits after they have been purchased.

(6) Except as provided in subsection (2)(b) of this section, a violation of or a failure to comply with this section is a gross misdemeanor.

(7) The department may adopt rules necessary to administer this section.

Sec. 426. RCW 46.16.162 and 2009 c 452 s 1 are each amended to read as follows:

(1) The owner of a farm vehicle ~~((licensed))~~ registered under RCW 46.16.090 purchasing a monthly ~~((license))~~ registration under RCW ~~((46.16.135))~~ 46.16.070(5) (as recodified by this act) may ~~((, as an alternative to the))~~ operate the farm vehicle under the authority of a farm vehicle trip permit if:

(a) There is less than one full month remaining in the first ~~((partial))~~ month of the ~~((license))~~ registration~~((, secure and operate the vehicle under authority of a farm vehicle trip permit issued by this state)); or~~

(b) A previously issued monthly registration has expired.

(2) A vehicle operating under the authority of a farm vehicle trip permit is subject to all laws and rules affecting the operation of similar vehicles in this state. The licensed gross weight of a vehicle operating under a farm vehicle trip permit may not exceed eighty thousand pounds for a combination of vehicles ~~((nor))~~ or forty thousand pounds for a single unit vehicle with three or more axles.

~~((2) If a monthly license previously issued has expired, the owner of a farm vehicle may, as an alternative to purchasing a full monthly license, secure and operate the vehicle under authority of a farm vehicle trip permit issued by this state. The licensed gross weight may not exceed eighty thousand pounds for a combination of vehicles nor forty thousand pounds for a single unit vehicle with three or more axles.))~~

(3) Each farm vehicle trip permit ~~((shall))~~ authorizes the operation of a single vehicle at the maximum legal weight limit for the vehicle for thirty days, ~~((commencing))~~ beginning with the day of first use. No more than four ~~((such))~~ farm vehicle trip permits may be used for any one vehicle in any twelve-month period. Every farm vehicle trip permit ~~((shall))~~ must:

(a) Identify~~((, as the department may require,))~~ the vehicle for which it is issued ~~((and shall));~~

(b) Be completed in its entirety ~~((and));~~

(c) Be signed by the operator before operation of the vehicle on the public highways of this state~~((, Correction of data on the permit such as dates, license number, or vehicle identification number));~~

(d) Not be altered or corrected. Altering or correcting data on the farm vehicle trip permit invalidates the permit~~((, The farm vehicle trip permit shall));~~ and

(e) Be displayed on the vehicle to which it is issued as ~~((prescribed))~~ required by the department.

~~((4) (Vehicles operating under authority of farm vehicle trip permits are subject to all laws, rules, and regulations affecting the operation of like vehicles in this state.~~

~~((5))~~ Farm vehicle trip permits may be obtained from the department ~~((of licensing)), county auditors or other agents ~~((and)), or~~ subagents appointed by the ~~((department))~~ director for the fee provided in section 535(1)(c) of this act.~~

~~((The fee for each farm vehicle trip permit is six dollars and twenty-five cents. Farm vehicle trip permits sold by the department's agents or subagents are subject to fees specified in RCW 46.01.140 (4)(a), (5)(b), or (6).~~

~~(6) The proceeds from farm vehicle trip permits received by the director shall be forwarded to the state treasurer to be distributed as provided in RCW 46.68.035(2).~~

~~(7) No~~) Exchanges, credits, or refunds may not be given for farm vehicle trip permits after they have been purchased.

~~((8))~~ (5) The department ~~((of licensing))~~ may adopt rules as it deems necessary to administer this section.

NEW SECTION. Sec. 427. A new section is added to chapter 46.16 RCW under the subchapter heading "permits and uses" to read as follows:

The owner of a commercial vehicle properly registered in another state may apply to the department, county auditor or other agent, or subagent appointed by the director for an out-of-state commercial vehicle intrastate permit when operating the commercial vehicle in Washington state for periods less than one year. The permit may be issued for a thirty, sixty, or ninety-day period. For each thirty-day period, the cost of each permit is one-twelfth of the fees required under chapter 82.44 RCW if the vehicle is subject to locally imposed motor vehicle excise taxes and (1) under section 530(1) of this act if the vehicle is a motor vehicle or (2) under section 531(1)(c) of this act if the vehicle is a commercial trailer.

Sec. 428. RCW 46.16.210 and 2001 c 206 s 1 are each amended to read as follows:

~~((1) Upon receipt of the application and proper fee for original vehicle license, the director shall make a recheck of the application and in the event that there is any error in the application it may be returned to the county auditor or other agent to effectively secure the correction of such error, who shall return the same corrected to the director.~~

~~(2) Application for the renewal of a vehicle license shall be made to the director or his agents, including county auditors, by the registered owner on a form prescribed by the director. The application must be accompanied by the payment of such license fees and excise tax as may be required by law. Such application shall be handled in the same manner and the fees transmitted to the state treasurer in the same manner as in the case of an original application. Any such application which upon validation becomes a renewal certificate need not have entered upon it the name of the lien holder, if any, of the vehicle concerned.~~

~~(3) Persons expecting to be out of the state during the normal renewal period of a vehicle license may secure renewal of such vehicle license and have license plates or tabs preissued by making application to the director or his agents upon forms prescribed by the director. The application must be accompanied by such license fees, and excise tax as may be required by law.~~

~~(4) Application for the annual renewal of a vehicle license number plate to the director or the director's agents shall not be required for those vehicles owned, rented, or leased by the state of Washington, or by any county, city, town, school district, or other political subdivision of the state of Washington or a governing body of an Indian tribe located within this state and recognized as a governmental entity by the United States department of the interior.))~~

(1) A registered owner or the registered owner's authorized representative must apply for a renewal vehicle registration to the department, county auditor or other agent, or subagent appointed by the director on a form approved by the director. The application for a renewal vehicle registration must be accompanied by a draft, money order, certified bank check, or cash for all fees and taxes required by law for the application for a renewal vehicle registration.

(2) An application and the fees and taxes for a renewal vehicle registration must be handled in the same manner as an original vehicle registration application. The registration does not need to show the name of the lien holder when the application for renewal vehicle registration becomes the renewal registration upon validation.

(3) A person expecting to be out of state during the normal renewal period of a vehicle registration may renew a vehicle registration and have license plates or tabs preissued by applying for a renewal as described in subsection (1) of this section. A vehicle registration may be renewed for the subsequent registration year up to eighteen months before the current expiration date and must be displayed from the date of issue or from the day of the expiration of the current registration year, whichever date is later.

(4) An application for a renewal vehicle registration is not required for those vehicles owned, rented, or leased by:

(a) The state of Washington, or by any county, city, town, school district, or other political subdivision of the state of Washington; or

(b) A governing body of an Indian tribe located within this state and recognized as a governmental entity by the United States department of the interior.

Sec. 429. RCW 46.16.212 and 1989 c 353 s 10 are each amended to read as follows:

The department ~~((of licensing))~~ shall notify ~~((the public))~~ motor vehicle owners of the liability insurance requirements ~~((of))~~ described in RCW 46.30.020 through 46.30.040 at the time of ~~((new))~~ issuance of an original motor vehicle registration and when the department sends a motor vehicle registration renewal notice.

Sec. 430. RCW 46.16.216 and 2004 c 231 s 4 are each amended to read as follows:

~~((1) To renew a vehicle license, an applicant shall satisfy all listed standing, stopping, and parking violations, and other infractions issued under RCW 46.63.030(1)(d) for the vehicle incurred while the vehicle was registered in the applicant's name and forwarded to the department pursuant to RCW 46.20.270(3). For the purposes of this section, "listed" standing, stopping, and parking violations, and other infractions issued under RCW 46.63.030(1)(d) include only those violations for which notice has been received from state or local agencies or courts by the department one hundred twenty days or more before the date the vehicle license expires and that are placed on the records of the department. Notice of such violations received by the department later than one hundred twenty days before that date that are not satisfied shall be considered by the department in connection with any applications for license renewal in any subsequent license year. The renewal application may be processed by the department or its agents only if the applicant:~~

~~(a) Presents a preprinted renewal application showing no listed standing, stopping, or parking violations, or other infractions issued under RCW 46.63.030(1)(d), or in the absence of such presentation, the agent verifies the information that would be contained on the preprinted renewal application; or~~

~~(b) If listed standing, stopping, or parking violations, or other infractions issued under RCW 46.63.030(1)(d) exist, presents proof of payment and pays a fifteen dollar surcharge.~~

~~(2) The surcharge shall be allocated as follows:~~

~~(a) Ten dollars shall be deposited in the motor vehicle fund to be used exclusively for the administrative costs of the department of licensing; and~~

~~(b) Five dollars shall be retained by the agent handling the renewal application to be used by the agent for the administration of this section.~~

~~(3) If there is a change in the registered owner of the vehicle, the department shall forward the information regarding the change to the state or local charging jurisdiction and release any hold on the renewal of the vehicle license resulting from parking violations or other infractions issued under RCW 46.63.030(1)(d) incurred while the certificate of license registration was in a previous registered owner's name.~~

~~(4) The department shall send to all registered owners of vehicles who have been reported to have outstanding listed parking violations or other infractions issued under RCW 46.63.030(1)(d), at the time of renewal, a statement setting out the dates and jurisdictions in which the violations occurred as well as the amounts of unpaid fines and penalties relating to them and the surcharge to be collected.)~~

(1) Each court and government agency located in this state having jurisdiction over standing, stopping, and parking violations, the use of a photo enforcement system under RCW 46.63.160, and the use of automated traffic safety cameras under RCW 46.63.170 may forward to the department any outstanding:

(a) Standing, stopping, and parking violations;

(b) Photo enforcement infractions issued under RCW 46.63.030(1)(d); and

(c) Automated traffic safety camera infractions issued under RCW 46.63.030(1)(e).

(2) Violations and infractions described in subsection (1) of this section must be reported to the department in the manner described in RCW 46.20.270(3).

(3) The department shall:

(a) Record the violations and infractions on the matching vehicle records; and

(b) Send notice approximately one hundred twenty days in advance of the current vehicle registration expiration date to the registered owner listing the dates and jurisdictions in which the violations occurred, the amounts of unpaid fines and penalties, and the surcharge to be collected. Only those violations and infractions received by the department one hundred twenty days or more before the current vehicle registration expiration date will be included in the notice. Violations and infractions received by the department later than one hundred twenty days before the current vehicle registration expiration date that are not satisfied will be delayed until the next vehicle registration expiration date.

(4) The department, county auditor or other agent, or subagent appointed by the director shall not renew a vehicle registration if there are any outstanding standing, stopping, and parking violations, and other infractions issued under RCW 46.63.030(1)(d) for the vehicle unless:

(a) The outstanding, standing, or parking violations were received by the department within one hundred twenty days before the current vehicle registration expiration;

(b) There is a change in registered ownership; or

(c) The registered owner presents proof of payment of each violation and infraction provided in this section and the registered owner pays the surcharge required under section 504 of this act.

(5) The department shall:

(a) Forward a change in registered ownership information to the court or government agency who reported the outstanding violations or infractions; and

(b) Remove the outstanding violations and infractions from the vehicle record.

Sec. 431. RCW 46.16.225 and 1986 c 18 s 15 are each amended to read as follows:

~~((Notwithstanding any provision of law to the contrary,))~~ The department may by rule extend or ((diminish)) reduce vehicle ((license)) registration periods for the purpose of staggering renewal periods. ((Such extension or diminishment of a vehicle license registration period shall be by rule of the department adopted in accordance with the provisions of chapter 34.05 RCW.)) The rules may ~~((provide for the omission of))~~ exclude any classes or classifications of vehicles from the staggered renewal system and may provide for the gradual introduction of classes or classifications of vehicles into the system. The rules shall provide for the collection of proportionately increased or decreased vehicle license ~~((registration))~~ fees and of excise or property taxes required to be paid at the time of registration.

It is the intent of the legislature that there shall be neither a significant net gain nor loss of revenue to the state general fund or the motor vehicle fund as the result of implementing and maintaining a staggered vehicle registration system.

Sec. 432. RCW 46.16.260 and 1986 c 18 s 16 are each amended to read as follows:

(1) A registration certificate ((of license registration to be valid must have endorsed thereon the signature of)) must be:

(a) Signed by the registered owner, or ((f))if a firm or corporation, the signature of one of its officers or other ((duly)) authorized agent((- and must be)), to be valid;

(b) Carried in the vehicle for which it is issued((- at all times in the manner prescribed by the department)); and

(c) Provided to law enforcement and the department by the operator of the vehicle upon demand.

(2) It ((shall be)) is unlawful for any person to operate or ((have)) be in ((his)) possession of a vehicle without carrying ((thereon such certificate of license)) a registration certificate for the vehicle. Any person in charge of ((such)) a vehicle shall, upon demand of any of the local authorities or of any police officer or of any representative of the department, permit an inspection of

~~((such certificate of license))~~ the vehicle registration certificate. This section does not apply to a vehicle for which ~~((annual renewal of its license plates))~~ registration is not required to be renewed annually and ~~((which))~~ is a publicly owned vehicle marked ~~((in accordance with the provisions of))~~ as required under RCW 46.08.065.

Sec. 433. RCW 46.16.265 and 1997 c 241 s 6 are each amended to read as follows:

A registered owner or the registered owner's authorized representative shall promptly apply for a duplicate registration certificate if a registration certificate ((of license registration)) is lost, stolen, mutilated, or destroyed, or becomes illegible((= the registered owner or owners, as shown by the records of the department, shall promptly make application for and may obtain a duplicate upon tender of one dollar and twenty-five cents in addition to all other fees and upon furnishing information satisfactory to the department)). The application for a duplicate registration certificate must include information required by the department and be accompanied by the fee required in section 525 of this act. The duplicate ((of the license)) registration ((shall)) certificate must contain the ~~((legend))~~ word, "duplicate."

A person recovering ~~((an original))~~ a registration certificate ((of license registration)) for which a duplicate has been issued shall promptly ~~((surrender))~~ return the ~~((original))~~ recovered registration certificate to the department.

NEW SECTION. Sec. 434. A new section is added to chapter 46.16 RCW under the subchapter heading "general provisions" to read as follows:

The registration certificate for a commercial vehicle must include a statement that the owner or person operating a commercial vehicle must be in compliance with the requirements of the United States department of transportation federal motor carrier safety regulations contained in 49 C.F.R. Part 382.

Sec. 435. RCW 46.16.460 and 1979 c 158 s 141 are each amended to read as follows:

~~((Upon the payment of a fee of ten dollars therefor, the department of licensing shall issue a temporary motor vehicle license for a motor vehicle in this state for a period of forty-five days when such motor vehicle has been or is being purchased by a nonresident member of the armed forces of the United States and an application, accompanied with prepayment of required fees, for out of state registration has been made by the purchaser.))~~

(1) A nonresident member of the armed forces of the United States may apply to the department, county auditor or other agent, or subagent appointed by the director for a temporary permit for a recently purchased motor vehicle. The permit:

(a) Allows the motor vehicle to be used in Washington state while the owner applies for out-of-state registration;

(b) Is valid for forty-five days; and

(c) Must be carried on the motor vehicle so that it is clearly visible from outside of the motor vehicle.

(2) A person applying for the forty-five day permit provided in subsection (1) of this section is not subject to sales and use taxes or motor vehicle excise

taxes during or after the forty-five day period of the permit unless the motor vehicle is:

- (a) Still in Washington state after the forty-five day period of the permit; or
- (b) Returned to Washington state within one year after the forty-five day permit has expired.

(3) The department, county auditor or other agent, or subagent appointed by the director shall collect the fee required under section 535(1)(d) of this act when issuing the forty-five day permit described in this section.

(4) The department shall adopt rules to implement this section. Those rules may require proof that the nonresident member of the armed forces of the United States qualifies for the forty-five day permit before the permit may be issued.

Sec. 436. RCW 46.16.500 and 1980 c 104 s 3 are each amended to read as follows:

((Whenever an)) Both a person operating a vehicle with the express or implied permission of the owner and the owner of the vehicle are responsible for any act or omission that is declared ((to be)) unlawful in this chapter ((46.16 RCW, if the operator of the vehicle is not the owner or lessee of such vehicle, but is so operating or moving the vehicle with the express or implied permission of the owner or lessee, then the operator and/or owner or lessee are both subject to the provisions of this chapter with the primary responsibility to be that of the owner or lessee)). The primary responsibility is the owner's.

If the person operating the vehicle at the time of the unlawful act or omission is not the owner ((or lessee)) of the vehicle, ((such person is fully authorized to)) the operator may accept the citation and execute the promise to appear on behalf of the owner ((or lessee)).

NEW SECTION. Sec. 437. A new section is added to chapter 46.16 RCW under the subchapter heading "specific vehicles" to read as follows:

This chapter applies to the following:

(1) Campers are considered vehicles for the purposes of vehicle registration and license plate display, except for campers held as part of a manufacturer's or dealer's inventory that:

- (a) Are unoccupied at all times;
- (b) Have been issued a dated demonstration permit that is valid for no more than seventy-two hours. The permit must be carried in the vehicle on which the camper is mounted; and
- (c) Are mounted on a properly registered vehicle.

(2) Mopeds are considered vehicles for the purposes of vehicle registration and license plate display. Mopeds are exempt from personal property taxes and vehicle excise taxes imposed under chapter 82.44 RCW.

(3) Wheelchair conveyances are considered vehicles for the purposes of vehicle registration and license plate display. Wheelchair conveyances that do not meet braking equipment requirements described in RCW 46.37.340 must be registered as mopeds.

NEW SECTION. Sec. 438. The following acts or parts of acts are each repealed:

- (1) RCW 46.16.0105 (Exemption—Vehicles in national recreation areas) and 2005 c 79 s 1;

(2) RCW 46.16.016 (Emission control inspections—Rules for licensing requirements) and 1979 ex.s. c 163 s 15;

(3) RCW 46.16.017 (Emission standards—Compliance required to register, lease, rent, or sell vehicles—Exemptions) and 2005 c 295 s 7;

(4) RCW 46.16.023 (Ride-sharing vehicles—Special plates—Gross misdemeanor) and 2004 c 223 s 2, 1993 c 488 s 5, & 1987 c 175 s 2;

(5) RCW 46.16.035 (Exemptions—Private school buses) and 1990 c 33 s 584 & 1980 c 88 s 1;

(6) RCW 46.16.0621 (License fee) and 2003 c 1 s 2, 2002 c 352 s 7, & 2000 1st sp.s. c 1 s 1;

(7) RCW 46.16.063 (Additional fee for recreational vehicles) and 1996 c 237 s 1 & 1980 c 60 s 2;

(8) RCW 46.16.071 (Additional fees) and 1996 c 315 s 4;

(9) RCW 46.16.079 (Fixed load motor vehicle equipped for lifting or towing—Capacity fee in addition to and in lieu) and 1986 c 18 s 5, 1975 c 25 s 16, & 1963 c 18 s 1;

(10) RCW 46.16.085 (Commercial trailers, pole trailers—Fee in lieu) and 1991 c 163 s 3, 1989 c 156 s 2, 1987 c 244 s 4, 1986 c 18 s 8, & 1985 c 380 s 16;

(11) RCW 46.16.088 (Transfer of license plates—Penalty) and 1986 c 18 s 9 & 1985 c 380 s 17;

(12) RCW 46.16.111 (Gross weight, how computed) and 1987 c 244 s 5, 1986 c 18 s 11, 1971 ex.s. c 231 s 1, 1969 ex.s. c 170 s 6, & 1967 ex.s. c 83 s 57;

(13) RCW 46.16.121 (Seating capacity fees on stages, for hire vehicles) and 1967 ex.s. c 83 s 58;

(14) RCW 46.16.135 (Monthly license fee—Penalty) and 1986 c 18 s 12, 1985 c 380 s 19, 1979 ex.s. c 136 s 46, 1979 c 134 s 1, 1975-'76 2nd ex.s. c 64 s 3, 1975 1st ex.s. c 118 s 6, 1969 ex.s. c 170 s 7, & 1961 c 12 s 46.16.135;

(15) RCW 46.16.150 (School buses exempt from load and seat capacity fees) and 1961 c 12 s 46.16.150;

(16) RCW 46.16.200 (Applications to agents—Transmittal to director) and 1961 c 12 s 46.16.200;

(17) RCW 46.16.220 (Time of renewal of licenses—Duration) and 1997 c 241 s 9, 1991 c 339 s 20, 1975 1st ex.s. c 118 s 9, 1969 ex.s. c 170 s 9, & 1961 c 12 s 46.16.220;

(18) RCW 46.16.230 (License plates furnished) and 1992 c 7 s 41, 1975 c 25 s 19, & 1961 c 12 s 46.16.230;

(19) RCW 46.16.233 (Standard background—Periodic replacement—Retention of current plate number) and 2003 c 361 s 501, 2003 c 196 s 401, 2000 c 37 s 1, & 1997 c 291 s 2;

(20) RCW 46.16.235 (State name not abbreviated) and 1965 ex.s. c 78 s 2;

(21) RCW 46.16.237 (Reflectorized materials—Fee) and 2005 c 314 s 301, 1987 c 52 s 1, & 1967 ex.s. c 145 s 60;

(22) RCW 46.16.240 (Attachment of plates to vehicles—Violations enumerated) and 2006 c 326 s 1;

(23) RCW 46.16.270 (Replacement of plates—Fee) and 2005 c 314 s 302, 1997 c 291 s 3, 1990 c 250 s 32, & 1987 c 178 s 2;

(24) RCW 46.16.280 (Sale, loss, or destruction of commercial vehicle—Credit for unused fee—Change in license classification) and 1987 c 244 s 7, 1986 c 18 s 17, 1967 c 32 s 20, & 1961 c 12 s 46.16.280;

- (25) RCW 46.16.290 (Disposition of license plates, certificate on vehicle transfer) and 2004 c 223 s 3, 1997 c 291 s 4, 1986 c 18 s 18, 1983 c 27 s 2, & 1961 c 12 s 46.16.290;
- (26) RCW 46.16.295 (Returned plates—Reuse) and 2003 c 359 s 1;
- (27) RCW 46.16.305 (Special license plates—Continuance of earlier issues—Conditions for current issues) and 2008 c 72 s 1;
- (28) RCW 46.16.307 (Collectors' vehicles—Use restrictions) and 1996 c 225 s 11;
- (29) RCW 46.16.30901 (Professional firefighters and paramedics plate) and 2004 c 35 s 1;
- (30) RCW 46.16.30902 (Washington State Council of Firefighters benevolent fund) and 2004 c 35 s 4;
- (31) RCW 46.16.30903 (Helping Kids Speak plate) and 2004 c 48 s 1;
- (32) RCW 46.16.30904 ("Helping Kids Speak" account) and 2004 c 48 s 4;
- (33) RCW 46.16.30905 (Law enforcement memorial plate) and 2004 c 221 s 1;
- (34) RCW 46.16.30906 (Law enforcement memorial account) and 2004 c 221 s 4;
- (35) RCW 46.16.30907 (Washington's Wildlife plate collection) and 2005 c 42 s 1;
- (36) RCW 46.16.30908 (Washington's Wildlife license plate collection—Definition) and 2005 c 42 s 2;
- (37) RCW 46.16.30909 (Washington state parks and recreation commission plate) and 2005 c 44 s 1;
- (38) RCW 46.16.30910 (Washington state parks and recreation commission special license plate—Definition) and 2005 c 44 s 2;
- (39) RCW 46.16.30911 ("Washington Lighthouses" plate) and 2005 c 48 s 1;
- (40) RCW 46.16.30912 (Lighthouse environmental programs account) and 2005 c 48 s 4;
- (41) RCW 46.16.30913 ("Keep Kids Safe" plate) and 2005 c 53 s 1;
- (42) RCW 46.16.30914 ("We love our pets" plate) and 2005 c 71 s 1;
- (43) RCW 46.16.30915 (We love our pets account) and 2005 c 71 s 4;
- (44) RCW 46.16.30916 (Gonzaga University alumni association plate) and 2005 c 85 s 1;
- (45) RCW 46.16.30917 (Gonzaga University alumni association account) and 2005 c 85 s 4;
- (46) RCW 46.16.30918 ("Washington's National Park Fund" plate) and 2005 c 177 s 1;
- (47) RCW 46.16.30919 ("Washington's National Park Fund" account) and 2005 c 177 s 4;
- (48) RCW 46.16.30920 (Armed forces plate collection) and 2008 c 183 s 1 & 2005 c 216 s 1;
- (49) RCW 46.16.30921 (Armed forces license plate collection—Definition—No free issuance) and 2008 c 183 s 2 & 2005 c 216 s 2;
- (50) RCW 46.16.30923 ("Ski & Ride Washington" account) and 2005 c 220 s 4;
- (51) RCW 46.16.30924 (Wild On Washington plate) and 2005 c 224 s 1;

- (52) RCW 46.16.30925 (Wild On Washington license plates—Definition) and 2005 c 224 s 2;
- (53) RCW 46.16.30926 (Endangered Wildlife plate) and 2005 c 225 s 1;
- (54) RCW 46.16.30927 (Endangered Wildlife license plates—Definition) and 2005 c 225 s 2;
- (55) RCW 46.16.30928 ("Share the Road" plate) and 2005 c 426 s 1;
- (56) RCW 46.16.30929 ("Share the Road" account) and 2005 c 426 s 4;
- (57) RCW 46.16.313 (Special license plates—Fees) and 2005 c 426 s 3, 2005 c 225 s 3, 2005 c 224 s 3, 2005 c 220 s 3, 2005 c 216 s 3, 2005 c 177 s 3, 2005 c 85 s 3, 2005 c 71 s 3, 2005 c 53 s 3, 2005 c 48 s 3, 2005 c 44 s 3, & 2005 c 42 s 3;
- (58) RCW 46.16.316 (Special license plates—Transfer of vehicle—Replacement plates) and 2005 c 210 s 2;
- (59) RCW 46.16.333 (Cooper Jones emblems) and 2005 c 426 s 5 & 2002 c 264 s 3;
- (60) RCW 46.16.335 (Special license plates and emblems—Rules) and 1990 c 250 s 10;
- (61) RCW 46.16.340 (Amateur radio operator plates—Information furnished to various agencies) and 1995 c 391 s 8, 1986 c 266 s 49, 1985 c 7 s 112, 1974 ex.s. c 171 s 43, 1967 c 32 s 23, & 1961 c 12 s 46.16.340;
- (62) RCW 46.16.350 (Amateur radio operator plates—Expiration or revocation of radio license—Penalty) and 1997 c 291 s 11, 1990 c 250 s 11, 1979 ex.s. c 136 s 49, 1967 c 32 s 24, & 1961 c 12 s 46.16.350;
- (63) RCW 46.16.371 (Special plates for honorary consul, foreign government representative) and 1987 c 237 s 1;
- (64) RCW 46.16.374 (Taipei Economic and Cultural Office—Special plates) and 2001 c 64 s 5 & 1996 c 139 s 1;
- (65) RCW 46.16.376 (Taipei Economic and Cultural Office—Fee exemption) and 1996 c 139 s 2;
- (66) RCW 46.16.381 (Special parking for persons with disabilities—Penalties—Enforcement—Definition) and 2007 c 262 s 1, 2007 c 44 s 1, 2006 c 357 s 2, 2005 c 390 s 2, 2004 c 222 s 2, 2003 c 371 s 1, 2002 c 175 s 33, 2001 c 67 s 1, 1999 c 136 s 1, 1998 c 294 s 1, 1995 c 384 s 1, 1994 c 194 s 6, 1993 c 106 s 1, 1992 c 148 s 1, 1991 c 339 s 21, 1990 c 24 s 1, 1986 c 96 s 1, & 1984 c 154 s 2;
- (67) RCW 46.16.385 (Versions of special plates for persons with disabilities) and 2005 c 390 s 3, 2005 c 210 s 3, & 2004 c 222 s 1;
- (68) RCW 46.16.470 (Temporary license—Display) and 1967 c 202 s 5;
- (69) RCW 46.16.480 (Nonresident members of armed forces—Exemption from sales, use, or motor vehicle excise taxes—Extent of exemption) and 1967 c 202 s 6;
- (70) RCW 46.16.490 (Nonresident members of armed forces—Rules and regulations—Proof) and 1979 c 158 s 142 & 1967 c 202 s 7;
- (71) RCW 46.16.505 (Campers—License and plates—Application—Fee) and 1975 1st ex.s. c 118 s 11, 1975 c 41 s 1, & 1971 ex.s. c 231 s 7;
- (72) RCW 46.16.560 (Personalized license plates—Defined) and 1975 c 59 s 1 & 1973 1st ex.s. c 200 s 2;
- (73) RCW 46.16.565 (Personalized license plates—Application) and 1985 c 173 s 1, 1983 c 27 s 4, 1975 c 59 s 2, & 1973 1st ex.s. c 200 s 3;

(74) RCW 46.16.570 (Personalized license plates—Design) and 2005 c 210 s 4, 1986 c 108 s 1, 1983 1st ex.s. c 24 s 1, 1975 c 59 s 3, & 1973 1st ex.s. c 200 s 4;

(75) RCW 46.16.575 (Personalized license plates—Issuance to registered owner only) and 1973 1st ex.s. c 200 s 5;

(76) RCW 46.16.580 (Personalized license plates—Application requirements) and 1973 1st ex.s. c 200 s 6;

(77) RCW 46.16.585 (Personalized license plates—Fees—Renewal—Penalty) and 1979 ex.s. c 136 s 51, 1975 c 59 s 4, & 1973 1st ex.s. c 200 s 7;

(78) RCW 46.16.590 (Personalized license plates—Transfer fees) and 2004 c 223 s 5, 1975 c 59 s 5, & 1973 1st ex.s. c 200 s 8;

(79) RCW 46.16.595 (Personalized license plates—Transfer or surrender upon sale or release of vehicle—Penalty) and 1979 ex.s. c 136 s 52, 1975 c 59 s 6, & 1973 1st ex.s. c 200 s 9;

(80) RCW 46.16.600 (Personalized license plates—Rules and regulations) and 2005 c 210 s 5, 1979 c 158 s 143, & 1973 1st ex.s. c 200 s 10;

(81) RCW 46.16.601 (Personalized special plates) and 2005 c 210 s 1;

(82) RCW 46.16.605 (Personalized license plates—Disposition of fees—Costs) and 1988 c 36 s 27, 1983 1st ex.s. c 24 s 2, 1983 c 3 s 118, 1979 c 158 s 144, & 1973 1st ex.s. c 200 s 11;

(83) RCW 46.16.606 (Personalized license plates—Additional fee) and 2007 c 246 s 2 & 1991 sp.s. c 7 s 13;

(84) RCW 46.16.630 (Moped registration) and 2002 c 352 s 9, 1997 c 241 s 11, & 1979 ex.s. c 213 s 5;

(85) RCW 46.16.640 (Wheelchair conveyances) and 1983 c 200 s 2;

(86) RCW 46.16.670 (Boat trailers—Fee for freshwater aquatic weeds account) and 1991 c 302 s 3;

(87) RCW 46.16.680 (Kit vehicles) and 2009 c 284 s 2 & 1996 c 225 s 10;

(88) RCW 46.17.010 (Vehicle weight fee—Motor vehicles, except motor homes) and 2006 c 337 s 9 & 2005 c 314 s 201; and

(89) RCW 46.17.020 (Vehicle weight fee—Motor homes) and 2005 c 314 s 202.

PART V. FEES

A. FILING AND SERVICE FEES

NEW SECTION. Sec. 501. A new section is added to chapter 46.17 RCW to read as follows:

(1) A person who applies for a vehicle registration or for any other right to operate a vehicle on the highways of this state shall pay a three dollar filing fee in addition to any other fees and taxes required by law.

(2) A person who applies for a certificate of title shall pay a four dollar filing fee in addition to any other fees and taxes required by law.

(3) The filing fees established in this section must be distributed under section 819 of this act.

NEW SECTION. Sec. 502. A new section is added to chapter 46.17 RCW to read as follows:

(1) A person who applies for a vehicle registration or for any other right to operate a vehicle on the highways of this state shall pay a twenty-five cent

license plate technology fee in addition to any other fees and taxes required by law. The license plate technology fee must be distributed under RCW 46.16.685 (as recodified by this act).

(2) A vehicle registered under RCW 46.16.070 (as recodified by this act) or section 527 of this act is not subject to the license plate technology fee.

NEW SECTION. Sec. 503. A new section is added to chapter 46.17 RCW to read as follows:

(1) A person who applies for a vehicle registration or for any other right to operate a vehicle on the highways of this state shall pay a fifty cent license service fee in addition to any other fees and taxes required by law. The license service fee must be distributed under RCW 46.68.220.

(2) A vehicle registered under RCW 46.16.070 (as recodified by this act) or section 527 of this act is not subject to the license service fee.

NEW SECTION. Sec. 504. A new section is added to chapter 46.17 RCW to read as follows:

The department, county auditor or other agent, or subagent appointed by the director shall require a person who applies for a vehicle registration for a vehicle subject to RCW 46.16.216 (as recodified by this act) to pay a fifteen dollar parking ticket surcharge. The fifteen dollar surcharge must be distributed under section 816 of this act.

NEW SECTION. Sec. 505. A new section is added to chapter 46.17 RCW to read as follows:

Before accepting a report of sale filed under RCW 46.12.101(2) (as recodified by this act), the county auditor or other agent or subagent appointed by the director shall require the applicant to pay:

(1) The filing fee under section 501(1) of this act, the license plate technology fee under section 502 of this act, and the license service fee under section 503 of this act to the county auditor or other agent; and

(2) The subagent service fee under section 506(2) of this act to the subagent.

NEW SECTION. Sec. 506. A new section is added to chapter 46.17 RCW to read as follows:

A subagent appointed by the director shall collect a service fee of:

(1) Ten dollars for changes in a certificate of title, with or without registration renewal, or for verification of record and preparation of an affidavit of lost title other than at the time of the certificate of title application or transfer; and

(2) Four dollars for a registration renewal, issuing a transit permit, or any other service under this section.

NEW SECTION. Sec. 507. A new section is added to chapter 46.17 RCW to read as follows:

Before accepting a transitional ownership record filed under RCW 46.12.103 (as recodified by this act), the county auditor or other agent or subagent appointed by the director shall require the applicant to pay:

(1) The filing fee under section 501(1) of this act, the license plate technology fee under section 502 of this act, and the license service fee under section 503 of this act to the county auditor or other agent; and

(2) The subagent service fee under section 506(2) of this act to the subagent.

B. CERTIFICATE OF TITLE FEES

NEW SECTION. Sec. 508. A new section is added to chapter 46.17 RCW to read as follows:

Before accepting an application for a certificate of title as required in this title, the department, county auditor or other agent, or subagent appointed by the director shall require the applicant to pay a five dollar application fee in addition to any other fees and taxes required by law. The certificate of title application fee must be distributed under RCW 46.68.020.

NEW SECTION. Sec. 509. A new section is added to chapter 46.17 RCW to read as follows:

(1) Before accepting an application for a certificate of title for a motor vehicle as required in this title, the department, county auditor or other agent, or subagent appointed by the director shall require the applicant to pay a six dollar and fifty cent emergency medical services fee for the following transactions:

- (a) All retail sales or leases of any new or used motor vehicles; and
- (b) Original and transfer certificate of title transactions.

(2) The emergency medical services fee:

(a) Is not considered a violation of RCW 46.70.180(2);

(b) Does not apply to motor vehicles declared a total loss by an insurer or self-insurer unless an application for certificate of title is made to the department, county auditor or other agent, or subagent appointed by the director after the declaration of total loss; and

(c) Must be distributed under section 820 of this act.

NEW SECTION. Sec. 510. A new section is added to chapter 46.17 RCW to read as follows:

Before accepting an application for a transfer of certificate of title for a new or used manufactured home as required in this title and chapter 65.20 RCW, the department, county auditor or other agent, or subagent appointed by the director shall require the applicant to pay a fifteen dollar fee in addition to any other fees and taxes required by law. The fifteen dollar fee must be forwarded to the state treasurer, who shall deposit the fee in the manufactured housing account created in RCW 59.22.070.

NEW SECTION. Sec. 511. A new section is added to chapter 46.17 RCW to read as follows:

(1) Before accepting an application for a certificate of title for an original or transfer manufactured home transaction as required in this title or chapter 65.20 RCW, the department, county auditor or other agent, or subagent appointed by the director shall require the applicant to pay a one hundred dollar fee in addition to any other fees and taxes required by law if the manufactured home:

(a) Is located in a mobile home park;

(b) Is one year old or older;

(c) Is new or ownership changes, excluding changes that involve adding or deleting spouse or domestic partner coregistered owners or legal owners; and

(d) Sales price is five thousand dollars or more.

(2) The one hundred dollar fee must be forwarded to the state treasurer, who shall deposit the fee in the mobile home park relocation fund created in RCW 59.21.050.

(3) The department and the state treasurer may adopt rules necessary to carry out this section.

NEW SECTION. Sec. 512. A new section is added to chapter 46.17 RCW to read as follows:

The penalty for a late transfer under RCW 46.12.101(7) (as recodified by this act) is twenty-five dollars assessed on the sixteenth day after the date of delivery and two dollars for each additional day thereafter, but the total penalty must not exceed one hundred dollars. The penalty must be distributed under RCW 46.68.020.

NEW SECTION. Sec. 513. A new section is added to chapter 46.17 RCW to read as follows:

Before accepting an application for a certificate of title for a vehicle previously registered in any other state or country, the department, county auditor or other agent, or subagent appointed by the director shall require the applicant to pay a fee of fifteen dollars. The fifteen dollar fee must be distributed under RCW 46.68.020.

NEW SECTION. Sec. 514. A new section is added to chapter 46.17 RCW to read as follows:

Before accepting an application for a certificate of title, the department, county auditor or other agent, or subagent appointed by the director shall require an applicant to pay a sixty-five dollar inspection fee if an inspection of the vehicle was completed by the Washington state patrol. The inspection fee must be distributed under RCW 46.68.020.

NEW SECTION. Sec. 515. A new section is added to chapter 46.17 RCW to read as follows:

Before accepting an application for a certificate of title, the department, county auditor or other agent, or subagent appointed by the director shall require an applicant to pay a five dollar vehicle identification number reassignment fee if the Washington state patrol has reassigned an identification number as authorized under section 303 of this act. The reassignment fee must be deposited in the motor vehicle fund created in RCW 46.68.070.

C. LICENSE PLATE FEES

NEW SECTION. Sec. 516. A new section is added to chapter 46.17 RCW to read as follows:

Before accepting an application for a combination trailer license plate authorized under RCW 46.16.068 (as recodified by this act), the department, county auditor or other agent, or subagent appointed by the director shall require an applicant to pay a thirty-six dollar license plate fee. The thirty-six dollar license plate fee must be deposited and distributed under RCW 46.68.035.

NEW SECTION. Sec. 517. A new section is added to chapter 46.17 RCW to read as follows:

State agencies, political subdivisions, Indian tribes, and the United States government, except foreign governments or international bodies, shall pay a fee of two dollars for a license plate or plates for each vehicle when the department assigns license plates for further assignment by the entity.

NEW SECTION. Sec. 518. A new section is added to chapter 46.17 RCW to read as follows:

(1) In addition to all other fees and taxes required by law, the department, county auditor or other agent, or subagent appointed by the director shall charge:

(a) The following license plate fees for each license plate, unless the owner or type of vehicle is exempt from payment:

FEE TYPE	FEE	DISTRIBUTION
Reflectivity	\$ 2.00	RCW 46.68.070
Replacement	\$10.00	RCW 46.68.070
Replacement, motorcycle	\$ 2.00	RCW 46.68.070

(b) A license plate retention fee, as required under section 422(10)(a)(iii) of this act, of twenty dollars if the owner wishes to retain the current license plate number upon license plate replacement, unless the owner or type of vehicle is exempt from payment. The twenty dollar fee must be deposited in the multimodal transportation account created in RCW 47.66.070.

(c) A ten dollar license plate transfer fee, as required under section 422(8)(a) of this act, when transferring standard issue license plates from one vehicle to another, unless the owner or type of vehicle is exempt from payment. The ten dollar license plate transfer fee must be deposited in the motor vehicle fund created in RCW 46.68.070.

(d) Former prisoner of war license plates, as described in section 619 of this act, may be transferred to a replacement vehicle upon payment of a five dollar license plate fee, in addition to any other fee required by law.

(2) The department may, upon request, provide license plates that have been used and returned to the department to individuals for nonvehicular use. The department may charge a fee of up to five dollars per license plate to cover costs or recovery for postage and handling. The department may waive the fee for license plates used in educational projects and may, by rule, provide standards for the fee waiver and restrictions on the number of license plates provided to any one person. The fee must be deposited in the motor vehicle fund created in RCW 46.68.070.

NEW SECTION. Sec. 519. A new section is added to chapter 46.17 RCW to read as follows:

Before accepting an application for a replacement license tab, the department, county auditor or other agent, or subagent appointed by the director shall charge a one dollar fee for each pair of tabs or windshield emblem. The license tab or windshield emblem replacement fee must be deposited in the motor vehicle fund created in RCW 46.68.070.

NEW SECTION. Sec. 520. A new section is added to chapter 46.17 RCW to read as follows:

In addition to all fees and taxes required to be paid upon application for a vehicle registration under chapter 46.16 RCW, the holder of a personalized license plate shall pay an initial fee of forty-two dollars and thirty-two dollars for each renewal. The personalized license plate fee must be distributed as provided in section 821 of this act.

NEW SECTION. Sec. 521. A new section is added to chapter 46.17 RCW to read as follows:

(1) In addition to all fees and taxes required to be paid upon application for a vehicle registration in chapter 46.16 RCW, the holder of a special license plate shall pay the appropriate special license plate fee as listed in this section.

PLATE TYPE	INITIAL FEE	RENEWAL FEE	DISTRIBUTED UNDER
(a) Amateur radio license	\$ 5.00	N/A	RCW 46.68.070
(b) Armed forces	\$ 40.00	\$ 30.00	Section 810 of this act
(c) Baseball stadium	\$ 40.00	\$ 30.00	Subsection (2) of this section
(d) Collector vehicle	\$ 35.00	N/A	RCW 46.68.030
(e) Collegiate	\$ 40.00	\$ 30.00	Section 811 of this act
(f) Endangered wildlife	\$ 40.00	\$ 30.00	Section 810 of this act
(g) Gonzaga University alumni	\$ 40.00	\$ 30.00	Section 809 of this act
(h) Helping kids speak	\$ 40.00	\$ 30.00	Section 809 of this act
(i) Horseless carriage	\$ 35.00	N/A	RCW 46.68.030
(j) Keep kids safe	\$ 45.00	\$ 30.00	Section 810 of this act
(k) Law enforcement memorial	\$ 40.00	\$ 30.00	Section 809 of this act
(l) Military affiliate radio system	\$ 5.00	N/A	RCW 46.68.070
(m) Professional firefighters and paramedics	\$ 40.00	\$ 30.00	Section 809 of this act
(n) Ride share	\$ 25.00	N/A	RCW 46.68.030
(o) Share the road	\$ 40.00	\$ 30.00	Section 809 of this act
(p) Ski and ride Washington	\$ 40.00	\$ 30.00	Section 809 of this act
(q) Square dancer	\$ 40.00	N/A	RCW 46.68.070
(r) Washington lighthouses	\$ 40.00	\$ 30.00	Section 809 of this act
(s) Washington state parks	\$ 40.00	\$ 30.00	Section 810 of this act
(t) Washington's national parks	\$ 40.00	\$ 30.00	Section 809 of this act
(u) Washington's wildlife collection	\$ 40.00	\$ 30.00	Section 810 of this act
(v) We love our pets	\$ 40.00	\$ 30.00	Section 809 of this act
(w) Wild on Washington	\$ 40.00	\$ 30.00	Section 810 of this act

(2) After deducting administration and collection expenses for the sale of baseball stadium license plates, the remaining proceeds must be distributed to a county for the purpose of paying the principal and interest payments on bonds issued by the county to construct a baseball stadium, as defined in RCW 82.14.0485, including reasonably necessary preconstruction costs, while the taxes are being collected under RCW 82.14.360. After this date, the state treasurer shall credit the funds to the state general fund.

D. VEHICLE LICENSE FEES

NEW SECTION. Sec. 522. A new section is added to chapter 46.17 RCW to read as follows:

Before accepting an application for a vehicle registration for a boat trailer, the department, county auditor or other agent, or subagent appointed by the director shall require the applicant to pay a three dollar aquatic weed fee in addition to any other fees and taxes required by law. The three dollar fee must be deposited in the freshwater aquatic weeds account created in RCW 43.21A.650.

NEW SECTION. Sec. 523. A new section is added to chapter 46.17 RCW to read as follows:

Before accepting an application for a change of class as required under section 422(6) of this act, the department, county auditor or other agent, or subagent appointed by the director shall require the applicant to pay a one dollar fee. The one dollar fee must be deposited in the motor vehicle fund created in RCW 46.68.070.

NEW SECTION. Sec. 524. A new section is added to chapter 46.17 RCW to read as follows:

(1) Before accepting an application for a motor vehicle base plated in the state of Washington that is subject to highway inspections and compliance reviews under RCW 46.32.080 or the international registration plan if base plated in a foreign jurisdiction, the department, county auditor or other agent, or subagent appointed by the director shall require the applicant to pay a sixteen dollar commercial vehicle safety enforcement fee in addition to any other fees and taxes required by law. The sixteen dollar fee:

(a) Must be apportioned for those vehicles operating interstate and registered under the international registration plan;

(b) Does not apply to trailers; and

(c) Is not refundable when the motor vehicle is no longer subject to RCW 46.32.080.

(2) The department may deduct an amount equal to the cost of administering the program. All remaining fees must be deposited with the state treasurer and credited to the state patrol highway account of the motor vehicle fund created in RCW 46.68.070.

NEW SECTION. Sec. 525. A new section is added to chapter 46.17 RCW to read as follows:

Before accepting an application for a duplicate registration as required under RCW 46.16.265 (as recodified by this act), the department, county auditor or other agent, or subagent appointed by the director shall require the applicant to pay a one dollar and twenty-five cent fee in addition to any other fees and taxes required by law. The one dollar and twenty-five cent fee must be deposited in the motor vehicle fund created in RCW 46.68.070.

NEW SECTION. Sec. 526. A new section is added to chapter 46.17 RCW to read as follows:

Before accepting an application for a farm exempt decal as required under RCW 46.16.025 (as recodified by this act), the department, county auditor or other agent, or subagent appointed by the director shall require the applicant to

pay a five dollar fee in addition to any other fees and taxes required by law. The five dollar fee must be deposited in the motor vehicle fund created in RCW 46.68.070.

NEW SECTION. Sec. 527. A new section is added to chapter 46.17 RCW to read as follows:

(1) In lieu of the vehicle license fee required under section 531 of this act and before accepting an application for a vehicle registration for farm vehicles described in RCW 46.16.090 (as recodified by this act), the department, county auditor or other agent, or subagent appointed by the director shall require the applicant, unless specifically exempt, to pay the following farm vehicle reduced gross weight license fee by weight:

WEIGHT	SCHEDULE A	SCHEDULE B
4,000 pounds	\$24.50	\$24.50
6,000 pounds	\$24.50	\$24.50
8,000 pounds	\$24.50	\$24.50
10,000 pounds	\$40.50	\$40.50
12,000 pounds	\$49.00	\$49.00
14,000 pounds	\$54.50	\$54.50
16,000 pounds	\$60.50	\$60.50
18,000 pounds	\$86.50	\$86.50
20,000 pounds	\$95.00	\$95.00
22,000 pounds	\$102.00	\$102.00
24,000 pounds	\$109.50	\$109.50
26,000 pounds	\$115.00	\$115.00
28,000 pounds	\$134.00	\$134.00
30,000 pounds	\$153.00	\$153.00
32,000 pounds	\$182.50	\$182.50
34,000 pounds	\$193.50	\$193.50
36,000 pounds	\$209.00	\$209.00
38,000 pounds	\$228.50	\$228.50
40,000 pounds	\$260.00	\$260.00
42,000 pounds	\$270.00	\$315.00
44,000 pounds	\$275.50	\$320.50
46,000 pounds	\$295.50	\$340.50
48,000 pounds	\$307.50	\$352.50
50,000 pounds	\$333.00	\$378.00
52,000 pounds	\$349.50	\$394.50
54,000 pounds	\$376.50	\$421.50
56,000 pounds	\$397.00	\$442.00

58,000 pounds	\$412.50	\$457.50
60,000 pounds	\$439.00	\$484.00
62,000 pounds	\$470.00	\$515.00
64,000 pounds	\$480.00	\$525.00
66,000 pounds	\$533.50	\$578.50
68,000 pounds	\$556.00	\$601.00
70,000 pounds	\$598.00	\$643.00
72,000 pounds	\$639.00	\$684.00
74,000 pounds	\$693.50	\$738.50
76,000 pounds	\$748.50	\$793.50
78,000 pounds	\$816.50	\$861.50
80,000 pounds	\$880.50	\$925.50
82,000 pounds	\$941.00	\$986.00
84,000 pounds	\$1,001.00	\$1,046.00
86,000 pounds	\$1,061.50	\$1,106.50
88,000 pounds	\$1,122.00	\$1,167.00
90,000 pounds	\$1,182.50	\$1,127.50
92,000 pounds	\$1,242.50	\$1,287.50
94,000 pounds	\$1,303.00	\$1,348.00
96,000 pounds	\$1,363.50	\$1,408.50
98,000 pounds	\$1,424.00	\$1,469.00
100,00 pounds	\$1,484.00	\$1,529.00
102,000 pounds	\$1,544.50	\$1,589.50
104,000 pounds	\$1,605.00	\$1,650.00
105,500 pounds	\$1,665.50	\$1,710.50

(2) Schedule A applies to vehicles either used exclusively for hauling logs or that do not tow trailers. Schedule B applies to vehicles that tow trailers and are not covered under Schedule A.

(3) If the resultant gross weight is not listed in the table provided in subsection (1) of this section, it must be increased to the next higher weight.

(4) The farm vehicle reduced gross weight license fees provided in subsection (1) of this section are in addition to the filing fee required under section 501 of this act and any other fee or tax required by law.

(5) The farm vehicle reduced gross weight license fee as provided in subsection (1) of this section must be distributed under RCW 46.68.030.

NEW SECTION. Sec. 528. A new section is added to chapter 46.17 RCW to read as follows:

Before accepting an application for a fixed load motor vehicle registration, the department, county auditor or other agent, or subagent appointed by the director shall require an applicant to pay:

(1) The license fee based on declared gross weight as provided in section 530 of this act. The declared gross weight must be equal to the scale weight of the motor vehicle, rounded up to the next higher amount in the schedule provided in section 530 of this act, up to the legal limit provided in chapter 46.44 RCW; or

(2) A twenty-five dollar capacity fee if the vehicle is equipped for lifting or towing any abandoned, disabled, or impounded vehicle or parts of vehicles. The twenty-five dollar capacity fee is in lieu of the license fee based on declared gross weight as provided in section 530 of this act and must be deposited under RCW 46.68.030.

NEW SECTION. Sec. 529. A new section is added to chapter 46.17 RCW to read as follows:

(1) Before accepting an application for a vehicle registration for a for hire vehicle or auto stage with a seating capacity of six or less, the department, county auditor or other agent, or subagent appointed by the director shall require the applicant to pay a fifteen dollar seating capacity fee. The seating capacity fee must be deposited in the motor vehicle fund created in RCW 46.68.070.

(2) The for hire vehicle and auto stage seating capacity fee imposed in subsection (1) of this section does not apply to taxicabs.

NEW SECTION. Sec. 530. A new section is added to chapter 46.17 RCW to read as follows:

(1) In lieu of the vehicle license fee required under section 531 of this act and before accepting an application for a vehicle registration for motor vehicles described in RCW 46.16.070 (as recodified by this act), the department, county auditor or other agent, or subagent appointed by the director shall require the applicant, unless specifically exempt, to pay the following license fee by weight:

WEIGHT	SCHEDULE A	SCHEDULE B
4,000 pounds	\$ 38.00	\$ 38.00
6,000 pounds	\$ 48.00	\$ 48.00
8,000 pounds	\$ 58.00	\$ 58.00
10,000 pounds	\$ 60.00	\$ 60.00
12,000 pounds	\$ 77.00	\$ 77.00
14,000 pounds	\$ 88.00	\$ 88.00
16,000 pounds	\$ 100.00	\$ 100.00
18,000 pounds	\$ 152.00	\$ 152.00
20,000 pounds	\$ 169.00	\$ 169.00
22,000 pounds	\$ 183.00	\$ 183.00
24,000 pounds	\$ 198.00	\$ 198.00
26,000 pounds	\$ 209.00	\$ 209.00
28,000 pounds	\$ 247.00	\$ 247.00
30,000 pounds	\$ 285.00	\$ 285.00
32,000 pounds	\$ 344.00	\$ 344.00
34,000 pounds	\$ 366.00	\$ 366.00

36,000 pounds	\$ 397.00	\$ 397.00
40,000 pounds	\$ 499.00	\$ 499.00
42,000 pounds	\$ 519.00	\$ 609.00
44,000 pounds	\$ 530.00	\$ 620.00
46,000 pounds	\$ 570.00	\$ 660.00
48,000 pounds	\$ 594.00	\$ 684.00
50,000 pounds	\$ 645.00	\$ 735.00
52,000 pounds	\$ 678.00	\$ 768.00
54,000 pounds	\$ 732.00	\$ 822.00
56,000 pounds	\$ 773.00	\$ 863.00
58,000 pounds	\$ 804.00	\$ 894.00
60,000 pounds	\$ 857.00	\$ 947.00
62,000 pounds	\$ 919.00	\$ 1,009.00
64,000 pounds	\$ 939.00	\$ 1,029.00
66,000 pounds	\$ 1,046.00	\$ 1,136.00
68,000 pounds	\$ 1,091.00	\$ 1,181.00
70,000 pounds	\$ 1,175.00	\$ 1,265.00
72,000 pounds	\$ 1,257.00	\$ 1,347.00
74,000 pounds	\$ 1,366.00	\$ 1,456.00
76,000 pounds	\$ 1,476.00	\$ 1,566.00
78,000 pounds	\$ 1,612.00	\$ 1,702.00
80,000 pounds	\$ 1,740.00	\$ 1,830.00
82,000 pounds	\$ 1,861.00	\$ 1,951.00
84,000 pounds	\$ 1,981.00	\$ 2,071.00
86,000 pounds	\$ 2,102.00	\$ 2,192.00
88,000 pounds	\$ 2,223.00	\$ 2,313.00
90,000 pounds	\$ 2,344.00	\$ 2,434.00
92,000 pounds	\$ 2,464.00	\$ 2,554.00
94,000 pounds	\$ 2,585.00	\$ 2,675.00
96,000 pounds	\$ 2,706.00	\$ 2,796.00
98,000 pounds	\$ 2,827.00	\$ 2,917.00
100,000 pounds	\$ 2,947.00	\$ 3,037.00
102,000 pounds	\$ 3,068.00	\$ 3,158.00
104,000 pounds	\$ 3,189.00	\$ 3,279.00
105, 500 pounds	\$ 3,310.00	\$ 3,400.00

(2) Schedule A applies to vehicles either used exclusively for hauling logs or that do not tow trailers. Schedule B applies to vehicles that tow trailers and are not covered under Schedule A.

(3) If the resultant gross weight is not listed in the table provided in subsection (1) of this section, it must be increased to the next higher weight.

(4) The license fees provided in subsection (1) of this section are in addition to the filing fee required under section 501 of this act and any other fee or tax required by law.

(5) The license fee based on declared gross weight as provided in subsection (1) of this section must be distributed under RCW 46.68.035.

NEW SECTION. Sec. 531. A new section is added to chapter 46.17 RCW to read as follows:

(1) Before accepting an application for a vehicle registration, the department, county auditor or other agent, or subagent appointed by the director shall require the applicant, unless specifically exempt, to pay the following vehicle license fee by vehicle type:

VEHICLE TYPE	INITIAL FEE	RENEWAL FEE	DISTRIBUTED UNDER
(a) Auto stage, six seats or less	\$ 30.00	\$ 30.00	RCW 46.68.030
(b) Camper	\$ 4.90	\$ 3.50	RCW 46.68.030
(c) Commercial trailer	\$ 34.00	\$ 30.00	RCW 46.68.035
(d) For hire vehicle, six seats or less	\$ 30.00	\$ 30.00	RCW 46.68.030
(e) Mobile home (if registered)	\$ 30.00	\$ 30.00	RCW 46.68.030
(f) Moped	\$ 30.00	\$ 30.00	RCW 46.68.030
(g) Motor home	\$ 30.00	\$ 30.00	RCW 46.68.030
(h) Motorcycle	\$ 30.00	\$ 30.00	RCW 46.68.030
(i) Off-road vehicle	\$ 18.00	\$ 18.00	Section 822 of this act
(j) Passenger car	\$ 30.00	\$ 30.00	RCW 46.68.030
(k) Private use single-axle trailer	\$ 15.00	\$ 15.00	RCW 46.68.035(2)
(l) Snowmobile	\$ 30.00	\$ 30.00	Section 823 of this act
(m) Snowmobile, vintage	\$ 12.00	\$ 12.00	Section 823 of this act
(n) Sport utility vehicle	\$ 30.00	\$ 30.00	RCW 46.68.030
(o) Tow truck	\$ 30.00	\$ 30.00	RCW 46.68.030
(p) Trailer, over 2000 pounds	\$ 30.00	\$ 30.00	RCW 46.68.030
(q) Travel trailer	\$ 30.00	\$ 30.00	RCW 46.68.030

(2) The vehicle license fee required in subsection (1) of this section is in addition to the filing fee required under section 501 of this act, and any other fee or tax required by law.

NEW SECTION. Sec. 532. A new section is added to chapter 46.17 RCW to read as follows:

A person applying for a monthly declared gross weight license as authorized in RCW 46.16.070 (as recodified by this act) shall pay an additional two dollars for each month of the declared gross weight license, plus an additional two

dollars. These two dollar fees must be deposited in the motor vehicle fund created in RCW 46.68.070.

NEW SECTION. Sec. 533. A new section is added to chapter 46.17 RCW to read as follows:

(1) A person applying for a motor vehicle registration and paying the vehicle license fee required in section 531(1)(a), (d), (e), (h), (j), (n), and (o) of this act shall pay a motor vehicle weight fee in addition to all other fees and taxes required by law. The motor vehicle weight fee:

- (a) Must be based on the motor vehicle scale weight;
- (b) Is the difference determined by subtracting the vehicle license fee required in section 531 of this act from the license fee in Schedule B of section 530 of this act, plus two dollars; and
- (c) Must be distributed under section 813 of this act.

(2) A person applying for a motor home vehicle registration shall, in lieu of the motor vehicle weight fee required in subsection (1) of this section, pay a motor home vehicle weight fee of seventy-five dollars in addition to all other fees and taxes required by law. The motor home vehicle weight fee must be distributed under section 813 of this act.

(3) The department shall:

- (a) Rely on motor vehicle empty scale weights provided by vehicle manufacturers, or other sources defined by the department, to determine the weight of each motor vehicle; and
- (b) Adopt rules for determining weight for vehicles without manufacturer empty scale weights.

NEW SECTION. Sec. 534. A new section is added to chapter 46.17 RCW to read as follows:

(1) Before accepting an application for registration for a recreational vehicle, the department, county auditor or other agent, or subagent appointed by the director shall require an applicant to pay a three dollar fee in addition to any other fees and taxes required by law. The recreational vehicle sanitary disposal fee must be deposited in the RV account created in RCW 46.68.170.

(2) For the purposes of this section, "recreational vehicle" means a camper, motor home, or travel trailer.

E. PERMIT AND TRANSFER FEES

NEW SECTION. Sec. 535. A new section is added to chapter 46.17 RCW to read as follows:

(1) Before accepting an application for one of the following permits, the department, county auditor or other agent, or subagent appointed by the director shall require the applicant to pay the following permit fee by permit type in addition to any other fee or tax required by law:

PERMIT TYPE	FEE	AUTHORITY	DISTRIBUTION
(a) Dealer temporary	\$15.00	RCW 46.16.045 (as recodified by this act)	RCW 46.68.030
(b) Department temporary	\$.50	RCW 46.16.047 (as recodified by this act)	Section 814 of this act

(c) Farm vehicle trip	\$6.25	RCW 46.16.162 (as recodified by this act)	RCW 46.68.035
(d) Nonresident military	\$10.00	RCW 46.16.460 (as recodified by this act)	RCW 46.68.070
(e) Nonresident temporary snowmobile	\$5.00	Section 229 of this act	Section 823 of this act
(f) Special fuel trip	\$25.00	RCW 82.38.100	Section 817 of this act
(g) Temporary ORV use	\$7.00	Section 219 of this act	Section 822 of this act
(h) Vehicle trip	\$25.00	RCW 46.16.160 (as recodified by this act)	Section 815 of this act

(2) Permit fees as provided in subsection (1) of this section are in addition to the filing fee required under section 501 of this act, except an additional filing fee may not be charged for:

- (a) Dealer temporary permits;
- (b) Special fuel trip permits; and
- (c) Vehicle trip permits.

(3) Five dollars of the fifteen dollar dealer temporary permit fee provided in subsection (1)(a) of this section must be credited to the payment of vehicle license fees at the time application for registration is made. The remainder must be deposited to the state patrol highway account created in RCW 46.68.030.

(4) A surcharge of five dollars must be collected when issuing a special fuel trip permit or vehicle trip permit as provided in subsection (1) of this section and must be distributed as follows:

- (a) Under section 817 of this act for special fuel trip permits; and
- (b) Under section 815 of this act for vehicle trip permits.

NEW SECTION. Sec. 536. A new section is added to chapter 46.17 RCW to read as follows:

Before accepting an application for a transfer of an off-road vehicle registration as required under RCW 46.09.070 (as recodified by this act), the department, county auditor or other agent, or subagent appointed by the director shall require the applicant to pay a five dollar off-road vehicle registration transfer fee. The five dollar off-road vehicle registration transfer fee must be distributed under RCW 46.68.020.

NEW SECTION. Sec. 537. A new section is added to chapter 46.17 RCW to read as follows:

Before accepting an application for a transfer of a snowmobile registration as required under RCW 46.10.040 (as recodified by this act), the department, county auditor or other agent, or subagent appointed by the director shall require the applicant to pay a five dollar snowmobile registration transfer fee. The five dollar snowmobile registration transfer fee must be distributed under RCW 46.10.075 (as recodified by this act).

PART VI. SPECIAL LICENSE PLATES
A. REVIEW BOARD

Sec. 601. RCW 46.16.700 and 2003 c 196 s 1 are each amended to read as follows:

The legislature has seen an increase in the demand from constituent groups seeking recognition and funding through the establishment of commemorative or special license plates. The high cost of implementing a new special license plate series coupled with the uncertainty of the state's ability to recoup its costs~~(;)~~ has led the legislature to delay the implementation of new special license plates. In order to address these issues, it is the intent of the legislature to create a mechanism that will allow for the evaluation of special license plate requests and establish a funding policy that will alleviate the financial burden currently placed on the state. Using these two strategies, the legislature will be better equipped to efficiently process special license plate legislation.

Sec. 602. RCW 46.16.705 and 2005 c 319 s 117 are each amended to read as follows:

- (1) The special license plate review board is created.
- (2) The board will consist of seven members: One member appointed by the governor ~~((and))~~ who will serve as chair of the board; four members of the legislature, one from each caucus of the house of representatives and the senate; a department of licensing representative appointed by the director; and a Washington state patrol representative appointed by the chief.
- (3) Members shall serve terms of four years, except that four of the members initially appointed will be appointed for terms of two years. ~~((No))~~ A member may not be appointed for more than three consecutive terms.
- (4) The respective appointing authority may remove members from the board before the expiration of their terms only for cause based upon a determination of incapacity, incompetence, neglect of duty, or malfeasance in office as ordered by the Thurston county superior court, upon petition and show cause proceedings brought for that purpose in that court and directed to the board member in question.

Sec. 603. RCW 46.16.715 and 2005 c 319 s 118 are each amended to read as follows:

- (1) The board shall meet periodically at the call of the chair, but must meet at least ~~((one time))~~ once each year within ninety days before an upcoming regular session of the legislature. The board may adopt its own rules and may establish its own procedures. It shall act collectively in harmony with recorded resolutions or motions adopted by a majority vote of the members, and it must have a quorum present to take a vote on a special license plate application.
- (2) The board will be compensated from the general appropriation for the department ~~((of licensing))~~ in accordance with RCW 43.03.250. Each board member will be compensated in accordance with RCW 43.03.250 and reimbursed for actual necessary traveling and other expenses in going to, attending, and returning from meetings of the board or that are incurred in the discharge of duties requested by the chair. However, ~~((in no event may))~~ a board member may not be compensated in any year for more than one hundred twenty days, except the chair may be compensated for not more than one hundred fifty days. Service on the board does not qualify as a service credit for the purposes of a public retirement system.
- (3) The board shall keep proper records and is subject to audit by the state auditor or other auditing entities.

(4) The department (~~(of licensing)~~) shall provide administrative support to the board, which must include at least the following:

- (a) Provide general staffing to meet the administrative needs of the board;
- (b) Report to the board on the reimbursement status of any new special license plate series for which the state had to pay the start-up costs;
- (c) Process special license plate applications and confirm that the sponsoring organization has submitted all required documentation. If an incomplete application is received, the department must return it to the sponsoring organization; and
- (d) Compile the annual financial reports submitted by sponsoring organizations with active special license plate series and present those reports to the board for review and approval.

Sec. 604. RCW 46.16.725 and 2009 c 470 s 710 are each amended to read as follows:

(1) The creation of the board does not in any way preclude the authority of the legislature to independently propose and enact special license plate legislation.

(2) The board must review and either approve or reject special license plate applications submitted by sponsoring organizations.

(3) Duties of the board include but are not limited to the following:

(a) Review and approve the annual financial reports submitted by sponsoring organizations with active special license plate series and present those annual financial reports to the senate and house transportation committees;

(b) Report annually to the senate and house of representatives transportation committees on the special license plate applications that were considered by the board;

(c) Issue approval and rejection notification letters to sponsoring organizations, the department, the chairs of the senate and house of representatives transportation committees, and the legislative sponsors identified in each application. The letters must be issued within seven days of making a determination on the status of an application;

(d) Review annually the number of plates sold for each special license plate series created after January 1, 2003. The board may submit a recommendation to discontinue a special plate series to the chairs of the senate and house of representatives transportation committees; and

(e) Provide policy guidance and directions to the department concerning the adoption of rules necessary to limit the number of special license plates (~~(that)~~) for which an organization or a governmental entity may apply (~~(for)~~).

(4) Except as provided in (~~(chapter 72, Laws of 2008)~~) section 621 of this act, in order to assess the effects and impact of the proliferation of special license plates, the legislature declares a temporary moratorium on the issuance of any additional plates until July 1, 2011. During this period of time, the special license plate review board created in RCW 46.16.705 (as recodified by this act) and the department (~~(of licensing)~~) are prohibited from accepting, reviewing, processing, or approving any applications. Additionally, (~~(no)~~) a special license plate may not be enacted by the legislature during the moratorium, unless the proposed license plate has been approved by the board before February 15, 2005.

B. REQUIREMENTS AND PROCEDURES

Sec. 605. RCW 46.16.735 and 2004 c 222 s 3 are each amended to read as follows:

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

~~(a))~~ that the organization is:

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

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

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

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

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

(c) A state agency that has received approval from the director of the agency or the department head; or

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

Sec. 606. RCW 46.16.745 and 2005 c 210 s 8 are each amended to read as follows:

(1) A sponsoring organization meeting the requirements of RCW 46.16.735 (as recodified by this act), applying for the creation of a special license plate to the special license plate review board must, on an application supplied by the department, provide the minimum application requirements in subsection (2) of this section.

(2) The sponsoring organization shall:

(a) Submit prepayment of all start-up costs associated with the creation and implementation of the special license plate in an amount determined by the department. The department shall place this money into the special license plate applicant trust account created under ~~((RCW 46.16.755(4)))~~ section 808 of this act;

(b) Provide a proposed license plate design;

(c) Provide a marketing strategy outlining short and long-term marketing plans for each special license plate and a financial analysis outlining the anticipated revenue and the planned expenditures of the revenues derived from the sale of the special license plate;

(d) Provide a signature of a legislative sponsor and proposed legislation creating the special license plate;

(e) Provide proof of organizational qualifications as determined by the department as provided for in RCW 46.16.735 (as recodified by this act);

(f) Provide signature sheets that include signatures from individuals who intend to purchase the special license plate and the number of plates each individual intends to purchase. The sheets must reflect a minimum of three thousand five hundred intended purchases of the special license plate.

(3) After an application is approved by the special license plate review board, the application need not be reviewed again by the board for a period of three years.

Sec. 607. RCW 46.16.755 and 2004 c 222 s 4 are each amended to read as follows:

(1)~~((a))~~ Revenues generated from the sale of special license plates for those sponsoring organizations who used the application process in RCW 46.16.745~~((3))~~ (as recodified by this act) must be deposited into the motor vehicle ~~((account))~~ fund created in RCW 46.68.070 until the department determines that the state's implementation costs have been fully reimbursed. ~~((The department shall apply the application fee required under RCW 46.16.745(3)(a) towards those costs.~~

~~((b))~~ (2) When it is determined that the state has been fully reimbursed the department must notify the house of representatives and senate transportation committees, the sponsoring organization, and the state treasurer, and ~~((commence the distribution of))~~ begin distributing the revenue as otherwise provided by law.

~~((2))~~ (3) If reimbursement does not occur within two years from the date the special license plate is first offered for sale to the public, the special license plate series must be placed in probationary status for a period of one year from that date. If the state is still not fully reimbursed for its implementation costs after the one-year probation, the special license plate series must be discontinued immediately. Special license plates issued before discontinuation are valid until replaced under ~~((RCW 46.16.233))~~ section 422(10) of this act.

~~((3))~~ (4) The special license plate applicant trust account is created in the custody of the state treasurer. All receipts from special license plate applicants~~((, except the application fee as provided in RCW 46.16.745(3),))~~ must be deposited into the account. Only the director of the department or the director's designee may authorize disbursements from the account. The account is not subject to the allotment procedures under chapter 43.88 RCW, nor is an appropriation required for disbursements.

~~((4))~~ (5) The department shall:

(a) Provide the special license plate applicant with a written receipt for the payment~~((,~~

~~((5) The department shall)); and~~

(b) Maintain a record of each special license plate applicant trust account deposit~~((;))~~ including, but not limited to, the name and address of each special license plate applicant whose funds are being deposited, the amount paid, and the date of the deposit.

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

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

~~(b))~~ fund created in RCW 46.68.070.

(7) After the department receives written notice that the special license plate applicant's application has been denied by the special license plate review board or the legislature, the director shall provide a refund to the applicant within thirty days~~((; or~~

~~(e))~~.

(8) After the department receives written notice that the special license plate applicant's application has been withdrawn by the special license plate applicant, the director shall provide a refund to the applicant within thirty days.

Sec. 608. RCW 46.16.765 and 2003 c 196 s 303 are each amended to read as follows:

(1) Within thirty days of legislative enactment of a new special license plate series for a qualifying organization meeting the requirements of RCW 46.16.735(1) (as recodified by this act), the department shall enter into a written agreement with the organization that sponsored the special license plate. The agreement must identify the services to be performed by the sponsoring organization. The agreement must be consistent with all applicable state law and include the following provision:

"No portion of any funds disbursed under the agreement may be used, directly or indirectly, for any of the following purposes:

(a) Attempting to influence: (i) The passage or defeat of legislation by the legislature of the state of Washington, by a county, city, town, or other political subdivision of the state of Washington, or by the Congress; or (ii) the adoption or rejection of a rule, standard, rate, or other legislative enactment of a state agency;

(b) Making contributions reportable under chapter 42.17 RCW; or

(c) Providing a: (i) Gift; (ii) honoraria; or (iii) travel, lodging, meals, or entertainment to a public officer or employee."

(2) The sponsoring organization must submit an annual financial report by September 30th of each year to the department detailing actual revenues and expenditures of the revenues received from sales of the special license plate. Consistent with the agreement under subsection (1) of this section, the sponsoring organization must expend the revenues generated from the sale of the special license plate series for the benefit of the public, and it must be spent within this state. Disbursement of the revenue generated from the sale of the special license plate to the sponsoring organization is contingent upon the organization meeting all reporting and review requirements as required by the department.

(3) If the sponsoring organization ceases to exist or the purpose of the special license plate series ceases to exist, revenues generated from the sale of the special license plates must be deposited into the motor vehicle ~~((account))~~ fund created in RCW 46.68.070.

(4) A sponsoring organization may not seek to redesign its special license plate series until ~~((all of))~~ the entire inventory is sold or purchased by the organization itself. All costs for the redesign of a special license plate series must be paid by the sponsoring organization.

Sec. 609. RCW 46.16.775 and 2003 c 196 s 304 are each amended to read as follows:

(1) A special license plate series created by the legislature after January 1, 2004, that has not been reviewed and approved by the special license plate review board is subject to the following requirements:

(a) The organization sponsoring the license plate series shall, within thirty days of enactment of the legislation creating the special license plate series, submit prepayment of all start-up costs associated with the creation and implementation of the special license plate in an amount determined by the department. The prepayment will be credited to the motor vehicle fund created in RCW 46.68.070. The creation and implementation of the special license plate series may not (~~commence~~) begin until payment is received by the department.

(b) If the sponsoring organization is not able to meet the prepayment requirements in (a) of this subsection and can demonstrate this fact to the satisfaction of the department, the revenues generated from the sale of the special license plates must be deposited in the motor vehicle (~~account~~) fund created in RCW 46.68.070 until the department determines that the state's portion of the implementation costs have been fully reimbursed. When it (~~is~~) has determined that the state has been fully reimbursed, the department must notify the treasurer to commence distribution of the revenue according to statutory provisions.

(c) The sponsoring organization must provide a proposed special license plate design to the department within thirty days of enactment of the legislation creating the special license plate series.

(2) The state must be reimbursed for its portion of the implementation costs within two years from the date the new special license plate series goes on sale to the public. If the reimbursement does not occur within the two-year time frame, the special license plate series must be placed in probationary status for a period of one year from that date. If the state is still not fully reimbursed for its implementation costs after the one-year probation, the special license plate series must be discontinued immediately. Those special license plates issued before discontinuation are valid until replaced under (~~RCW 46.16.233~~) section 422(10) of this act.

(3) If the sponsoring organization ceases to exist or the purpose of the special license plate series ceases to exist, revenues generated from the sale of the special license plates must be deposited into the motor vehicle (~~account~~) fund created in RCW 46.68.070.

(4) A sponsoring organization may not seek to redesign (~~their~~) its special license plate series until (~~all of~~) the entire existing inventory is sold or purchased by the organization itself. All costs for the redesign of a special license plate series must be paid by the sponsoring organization.

Sec. 610. RCW 46.16.690 and 2005 c 210 s 6 are each amended to read as follows:

The department shall offer special license plate design services to organizations that are sponsoring a new special license plate series (~~or are~~) and organizations seeking to redesign the appearance of an existing special license plate series that they sponsored. In providing this service, the department must work with the requesting organization in determining the specific qualities of the new special license plate design and must provide full design services to the

organization. The department shall collect from the requesting organization a fee of two hundred dollars for providing special license plate design services. This fee includes one original special license plate design and up to five additional renditions of the original design. If the organization requests the department to provide further renditions, in addition to the five renditions provided for under the original fee, the department shall collect an additional fee of one hundred dollars per rendition. All revenue collected under this section must be deposited into the multimodal transportation account created in RCW 47.66.070.

C. PLATE TYPES, DECALS, AND EMBLEMS

NEW SECTION. Sec. 611. (1) The legislature recognizes that the special license plate review board established in RCW 46.16.705 (as recodified by this act) reviews and approves applications for special license plate series.

(2) Special license plate series reviewed and approved by the special license plate review board:

(a) May be issued in lieu of standard issue or personalized license plates for vehicles required to display one and two license plates unless otherwise specified;

(b) Must be issued under terms and conditions established by the department;

(c) Must not be issued for vehicles registered under chapter 46.87 RCW; and

(d) Must display a symbol or artwork approved by the special license plate review board.

(3) The special license plate review board approves, and the department shall issue, the following special license plates:

LICENSE PLATE	DESCRIPTION, SYMBOL, OR ARTWORK
Armed forces collection	Recognizes the contribution of veterans, active duty military personnel, reservists, and members of the national guard, and includes six separate designs, each containing a symbol representing a different branch of the armed forces to include army, navy, air force, marine corps, coast guard, and national guard.
Endangered wildlife	Displays a symbol or artwork, approved by the special license plate review board and the legislature.
Gonzaga University alumni	Recognizes the Gonzaga University alumni association.
Helping kids speak	Recognizes an organization that supports programs that provide no-cost speech pathology programs to children.
Keep kids safe	Recognizes efforts to prevent child abuse and neglect.
Law enforcement memorial	Honors law enforcement officers in Washington killed in the line of duty.

Professional firefighters and paramedics	Recognizes professional firefighters and paramedics who are members of the Washington state council of firefighters.
Share the road	Recognizes an organization that promotes bicycle safety and awareness education.
Ski & ride Washington	Recognizes the Washington snowsports industry.
Washington lighthouses	Recognizes an organization that supports selected Washington state lighthouses and provides environmental education programs.
Washington state parks	Recognizes Washington state parks as premier destinations of uncommon quality that preserve significant natural, cultural, historical, and recreational resources.
Washington's national park fund	Builds awareness of Washington's national parks and supports priority park programs and projects in Washington's national parks, such as enhancing visitor experience, promoting volunteerism, engaging communities, and providing educational opportunities related to Washington's national parks.
Washington's wildlife collection	Recognizes Washington's wildlife.
We love our pets	Recognizes an organization that assists local member agencies of the federation of animal welfare and control agencies to promote and perform spay/neuter surgery on Washington state pets to reduce pet overpopulation.
Wild on Washington	Symbolizes wildlife viewing in Washington state.

(4) Applicants for initial and renewal professional firefighters and paramedics special license plates must show proof eligibility by providing a certificate of current membership from the Washington state council of firefighters.

NEW SECTION. Sec. 612. (1) A registered owner may apply to the department for special armed forces license plates for motor vehicles representing the following:

- (a) Air force;
 - (b) Army;
 - (c) Coast guard;
 - (d) Marine corps;
 - (e) National guard; or
 - (f) Navy.
- (2) Armed forces license plates may be purchased by:
- (a) Active duty military personnel;
 - (b) Families of veterans and service members;
 - (c) Members of the national guard;

- (d) Reservists; or
 - (e) Veterans, as defined in RCW 41.04.007.
- (3) A person who applies for special armed forces license plates shall provide:
- (a) DD-214 or discharge papers if the applicant is a veteran;
 - (b) A military identification card or retired military identification card; or
 - (c) A declaration of fact attesting to the applicant's eligibility as required under this section.
- (4) For the purposes of this section:
- (a) "Child" includes stepchild, adopted child, foster child, grandchild, or son or daughter-in-law.
 - (b) "Family" or "families" includes an individual's spouse, child, parent, sibling, aunt, uncle, or cousin.
 - (c) "Parent" includes stepparent, grandparent, or in-laws.
 - (d) "Sibling" includes brother, half brother, stepbrother, sister, half sister, stepsister, or brother or sister-in-law.
- (5) Armed forces license plates are not free of charge to disabled veterans, former prisoners of war, or spouses or domestic partners of deceased former prisoners of war under section 619 of this act.

NEW SECTION. Sec. 613. (1) The department must make available, upon request by a purchaser of special armed forces license plates, at no additional cost, a decal indicating the purchaser's military status. The list of available decals must include, but is not limited to:

- (a) Active duty;
 - (b) Disabled veteran;
 - (c) Reservist;
 - (d) Retiree;
 - (e) Veteran; or
 - (f) Other decals established in cooperation with the department of veterans affairs.
- (2) Armed forces decals must be made available only for standard six-inch by twelve-inch license plates. The department may specify where the decal may be placed on the license plate.
- (3) The department of veterans affairs must enter into an agreement with the department to reimburse the department for the costs associated with providing military status decals described in this section.

Sec. 614. RCW 46.16.301 and 1997 c 291 s 5 are each amended to read as follows:

The department shall create, design, and issue a special baseball stadium license plate that may be used in lieu of ~~((regular))~~ standard issue or personalized license plates for motor vehicles required to display two ~~((motor vehicle))~~ license plates, excluding vehicles registered under chapter 46.87 RCW, upon terms and conditions established by the department. The special license plates ~~((shall))~~ commemorate the construction of a baseball stadium, as defined in RCW 82.14.0485. The department shall also issue to each recipient of a special baseball stadium license plate a certificate of participation in the construction of the baseball stadium.

Sec. 615. RCW 46.16.324 and 1994 c 194 s 3 are each amended to read as follows:

~~((Effective January 1, 1995,))~~ A state university, regional university, or state college as defined in RCW 28B.10.016 may apply to the department, in a form ~~((prescribed))~~ approved by the department~~((;))~~ and request the department to issue a series of collegiate license plates, for display on motor vehicles, depicting the name and mascot or symbol of the college or university, as submitted and approved for use by the requesting institution.

NEW SECTION. **Sec. 616.** (1) A registered owner may apply to the department for special license plates showing the official amateur radio call letters assigned by the federal communications commission. The amateur radio operator must:

(a) Provide a copy of the current valid federal communications commission amateur radio license;

(b) Pay the amateur radio license plate fee required under section 521(1)(a) of this act, in addition to any other fees and taxes due; and

(c) Be recorded as the registered owner of the vehicle on which the amateur radio license plates will be displayed.

(2) Amateur radio license plates must be issued only for motor vehicles owned by persons who have a valid official radio operator license issued by the federal communications commission.

(3) The department shall not issue or may refuse to issue amateur radio license plates that display the consecutive letters "WSP."

(4) A person who has been issued amateur radio operator license plates as provided in this section must:

(a) Notify the department within thirty days after the federal communications commission license assigned is canceled or expires, and return the amateur radio license plates; and

(b) Provide a copy of the renewed federal communications commission license to the department after it is renewed.

(5) Amateur radio license plates may be transferred from one motor vehicle to another motor vehicle owned by the amateur radio operator upon application to the department, county auditor or other agent, or subagent appointed by the director.

(6) Facilities of official amateur radio stations may be utilized to the fullest extent in the work of governmental agencies. The director shall furnish the state military department, the department of commerce, the Washington state patrol, and all county sheriffs a list of the names, addresses, and license plate or official amateur radio call letters of each person possessing the amateur radio license plates.

(7) Failure to return the amateur radio license plates as required under subsection (4) of this section is a traffic infraction.

NEW SECTION. **Sec. 617.** (1) A registered owner may apply to the department, county auditor or other agent, or subagent appointed by the director for a collector vehicle license plate for a motor vehicle that is at least thirty years old. The motor vehicle must be operated primarily as a collector vehicle and be in good running order. The applicant for the collector vehicle license plate shall:

(a) Purchase a registration for the motor vehicle as required under chapters 46.16 and 46.17 RCW; and

(b) Pay the special license plate fee established under section 521(1)(d) of this act, in addition to any other fees or taxes required by law.

(2) A person applying for a collector vehicle license plate may:

(a) Receive a collector vehicle license plate assigned by the department; or

(b) Provide a Washington state issued license plate designated for general use in the year of the vehicle's manufacture.

(3) Collector vehicle license plates:

(a) Are valid for the life of the motor vehicle;

(b) Are not required to be renewed; and

(c) Must be displayed on the rear of the motor vehicle.

(4) A collector vehicle registered under this section may only be used for participation in club activities, exhibitions, tours, parades, and occasional pleasure driving.

(5) Collector vehicle license plates may be transferred from one motor vehicle to another motor vehicle described in subsection (1) of this section upon application to the department, county auditor or other agent, or subagent appointed by the director.

NEW SECTION. Sec. 618. (1) A registered owner who has been awarded the Congressional Medal of Honor may apply to the department for special license plates for use on a passenger vehicle. The Congressional Medal of Honor recipient must:

(a) Provide proof from the Washington state department of veterans affairs showing receipt of the medal; and

(b) Be recorded as the registered owner of the vehicle on which the Congressional Medal of Honor license plates will be displayed.

(2) Congressional Medal of Honor license plates must be issued:

(a) Only for a personal passenger motor vehicle owned by persons who have received the Congressional Medal of Honor; and

(b) Without payment of vehicle license fees, license plate fees, and motor vehicle excise taxes.

(3) Congressional Medal of Honor license plates must be replaced, free of charge, if the license plates become lost, stolen, damaged, defaced, or destroyed.

(4) Congressional Medal of Honor license plates may be transferred, free of charge, from one motor vehicle to another motor vehicle owned by the Congressional Medal of Honor recipient upon application to the department, county auditor or other agent, or subagent appointed by the director.

NEW SECTION. Sec. 619. (1) A registered owner who is a veteran, as defined in RCW 41.04.007, may apply to the department for disabled American veteran or former prisoner of war license plates, for use on one personal use motor vehicle. The veteran must be recorded as the registered owner of the vehicle on which the disabled American veteran or former prisoner of war license plates will be displayed and:

(a) Provide certification from the veterans administration or the military service from which the veteran was discharged that the veteran has a service-connected disability rating;

(b) Have lost the use of both hands or one foot;

(c) Have been captured and incarcerated by an enemy of the United States during a period of war with the United States and have received a prisoner of war medal;

(d) Have become blind in both eyes as the result of military service; or

(e) Be rated by the veterans administration or the military service from which the veteran was discharged and be receiving service-connected compensation at the one hundred percent rate that is expected to exist for more than one year.

(2) The special license plates under this section must:

(a) Display distinguishing marks, letters, or numerals indicating that the registered owner is a disabled American veteran or former prisoner of war; and

(b) Be issued for one personal use vehicle without the payment of any vehicle license fees, license plate fees, or excise taxes.

(3) A registered owner who is a veteran, as defined in RCW 41.04.007, may, in lieu of applying for the special license plates under this section, apply for regular issue or any qualifying special license plate and receive the full benefit of the vehicle license fee and excise tax exemption provided in subsection (2)(b) of this section.

(4) The department may periodically verify the one hundred percent rate as described in subsection (1)(e) of this section.

(5) A veteran who has been issued disabled American veteran or former prisoner of war license plates under this section before July 1, 1983, continues to be eligible for the vehicle license fee and excise tax exemption described in subsection (2)(b) of this section.

(6) Disabled American veteran and former prisoner of war license plates may be transferred from one motor vehicle to another motor vehicle owned by the veteran upon application to the department, county auditor or other agent, or subagent appointed by the director.

(7) For the purposes of this section:

(a) "Blind" means the definition of "blind" used by the state of Washington in determining eligibility for financial assistance to the blind under Title 74 RCW; and

(b) "Special license plates" does not include any plate from the armed forces license plate collection established in section 611(3) of this act.

(8) Any unauthorized use of a special license plate under this section is a gross misdemeanor.

NEW SECTION. Sec. 620. (1) A registered owner who is an officer of the Taipei economic and cultural office may apply to the department for special license plates for a motor vehicle owned or leased by the officer. The special license plates must:

(a) Be issued for passenger vehicles having a manufacturer's rated carrying capacity of one ton or less;

(b) Show the words "Foreign Organization";

(c) Be in a distinguishing color and a separate numerical series;

(d) Be returned to the department when no longer in use or when the owner or lessee is relieved of his or her duties as a representative of the recognized foreign organization; and

(e) Be removed from the vehicle when the officer of the Taipei economic and cultural office transfers or assigns the interest or certificate of title in the motor vehicle for which the special license plates were issued.

(2) Motor vehicles described in subsection (1) of this section are exempt from the vehicle license fees under section 531 of this act.

(3) Foreign organization license plates may be transferred from one motor vehicle to another motor vehicle owned by the officer as described in subsection (1) of this section upon application to the department, county auditor or other agent, or subagent appointed by the director.

(4) The Taipei economic and cultural office shall bear the entire cost of production of the special license plates described in subsection (1) of this section.

NEW SECTION. Sec. 621. (1) A registered owner who is the mother or father of a member of the United States armed forces who died while in service to his or her country, or as a result of his or her service, may apply to the department for special gold star license plates for use on a motor vehicle. The registered owner must:

(a) Be a resident of this state;

(b) Provide certification from the Washington state department of veterans affairs that the registered owner qualifies for the special license plate under this section;

(c) Be recorded as the registered owner of the motor vehicle on which the gold star license plates will be displayed; and

(d) Pay all fees and taxes required by law for registering the motor vehicle.

(2) Gold star license plates must be issued:

(a) Only for motor vehicles owned by qualifying applicants; and

(b) Without payment of any license plate fee.

(3) Gold star license plates must be replaced, free of charge, if the license plates become lost, stolen, damaged, defaced, or destroyed.

(4) Gold star license plates may be transferred from one motor vehicle to another motor vehicle owned by the mother or father, as described in subsection (1) of this section, upon application to the department, county auditor or other agent, or subagent appointed by the director.

NEW SECTION. Sec. 622. (1) A registered owner who is an honorary consul or official representative of any foreign government may apply to the department for special license plates for a motor vehicle owned or leased by the honorary consul or official representative. The honorary consul or official representative must be a citizen of the United States, pay all required vehicle license fees and taxes, and either (a) provide a copy of the honorary consul identification card or (b) show the exequatur issued by the United States department of state.

(2) The special honorary consul license plates must be:

(a) A distinguishing color and separate numerical series;

(b) Returned to the department when no longer in use or when the honorary consul or official representative is relieved of his or her official duties; and

(c) Removed from the vehicle when the honorary consul or official representative transfers or assigns the interest or certificate of title in the motor vehicle for which the special license plates were issued.

(3) The special honorary consul license plates may be transferred to a replacement vehicle. The honorary consul or official representative shall immediately notify the department of the transfer of the special license plates.

NEW SECTION. Sec. 623. (1) A registered owner may apply to the department, county auditor or other agent, or subagent appointed by the director for a horseless carriage license plate for a motor vehicle that is at least forty years old. The motor vehicle must be operated primarily as a collector vehicle and be in good running order. The applicant for the horseless carriage license plate shall:

(a) Purchase a registration for the motor vehicle as required under chapters 46.16 and 46.17 RCW; and

(b) Pay the special license plate fee established under section 521(1)(i) of this act, in addition to any other fees or taxes required by law.

(2) Horseless carriage license plates:

(a) Are valid for the life of the motor vehicle;

(b) Are not required to be renewed;

(c) Are not transferrable to any other motor vehicle; and

(d) Must be displayed on the rear of the motor vehicle.

NEW SECTION. Sec. 624. (1) A registered owner who has a valid military affiliate radio system station license may apply to the department for special license plates for use on only one motor vehicle owned by the qualified applicant. The applicant must:

(a) Be a resident of this state;

(b) Provide a copy of the current official military affiliate radio system station license authorized by the department of defense and issued by the United States army, air force, navy, or marine corps;

(c) Be recorded as the registered owner of the motor vehicle on which the military affiliate radio system license plates will be displayed; and

(d) Pay the military affiliate radio system license plate fee required under section 521(1)(l) of this act, in addition to any other fees or taxes required by law.

(2) A person who has been issued military affiliate radio system license plates as provided in this section must:

(a) Notify the department if the military affiliate radio system station license assigned is canceled or expires; and

(b) Provide a copy of the renewed military affiliate radio system station license to the department when it is renewed.

(3) Military affiliate radio system license plates:

(a) Are not available for motorcycles; and

(b) May be transferred from one motor vehicle to another motor vehicle owned by the military affiliate radio system operator upon application to the department, county auditor or other agent, or subagent appointed by the director.

NEW SECTION. Sec. 625. (1) A registered owner who has survived the attack on Pearl Harbor on December 7, 1941, may apply to the department for special license plates for use on only one motor vehicle owned by the qualified applicant. The applicant must:

(a) Be a resident of this state;

(b) Have been a member of the United States armed forces on December 7, 1941;

(c) Have been on station on December 7, 1941, between the hours of 7:55 a.m. and 9:45 a.m. Hawaii time at Pearl Harbor, the island of Oahu, or offshore at a distance not to exceed three miles;

(d) Have received an honorable discharge from the United States armed forces;

(e) Provide certification by a Washington state chapter of the Pearl Harbor survivors association showing that qualifications in (c) of this subsection have been met;

(f) Be recorded as the registered owner of the vehicle on which the Pearl Harbor survivor license plates will be displayed; and

(g) Pay all fees and taxes required by law for registering the motor vehicle.

(2) Pearl Harbor survivor license plates must be issued without the payment of any license plate fee.

(3) Pearl Harbor survivor license plates must be replaced, free of charge, if the license plates have become lost, stolen, damaged, defaced, or destroyed.

(4) Pearl Harbor survivor license plates may be issued to the surviving spouse or domestic partner of a Pearl Harbor survivor who met the requirements in subsection (1) of this section. The surviving spouse or domestic partner must be a resident of this state. If the surviving spouse remarries or the surviving domestic partner marries or enters into a new domestic partnership, he or she must return the special plates to the department within fifteen days and apply for regular license plates or another type of special license plate.

(5) Pearl Harbor survivor license plates may be transferred from one motor vehicle to another motor vehicle owned by the Pearl Harbor survivor or the surviving spouse or domestic partner as described in subsection (4) of this section upon application to the department, county auditor or other agent, or subagent appointed by the director.

NEW SECTION. Sec. 626. (1) A registered owner may apply to the department for a personalized license plate for any vehicle required to display one or two vehicle license plates, excluding vehicles registered under chapter 46.87 RCW, upon terms and conditions established by the department. The application for personalized license plates must contain the combination of letters or numbers, or both, requested by the registered owner.

(2) Personalized license plates must:

(a) Be the same design as standard issue license plates;

(b) Consist of numbers or letters or any combination of numbers or letters;

(c) Not exceed seven positions unless proposed by the department and approved by the Washington state patrol; and

(d) Not contain less than one character.

(3) A person who purchased personalized license plates containing three letters and three digits on or between the dates of August 9, 1971, and November 6, 1973, is not required to pay the additional annual renewal fee described in section 520 of this act.

(4) The department shall not issue or may refuse to issue personalized license plates that:

(a) Duplicate or conflict with an existing or projected vehicle license plate series or other numbering systems for records kept by the department; or

(b) May carry connotations offensive to good taste and decency or which would be misleading.

(5) Personalized license plates must be issued only to the registered owner of the vehicle on which they are to be displayed. The registered owner must:

(a) Pay the personalized license plate fee required under section 520 of this act, in addition to any other fee or taxes due;

(b) Renew personalized license plates annually, regardless of whether or not the vehicle on which the personalized license plates are displayed will be driven on the public highways;

(c) Surrender personalized license plates that have not been renewed to the department. The failure to surrender expired personalized license plates is a traffic infraction; and

(d) Immediately report to the department when personalized license plates have been transferred to another vehicle or another owner.

(6) The department may establish rules as necessary to carry out this section including, but not limited to, identifying the maximum number of positions on personalized license plates for motorcycles.

NEW SECTION. Sec. 627. (1) A registered owner may purchase personalized license plates with a special license plate background for any vehicle required to display one or two vehicle license plates, excluding:

(a) Amateur radio license plates;

(b) Collector vehicle license plates;

(c) Disabled American veteran license plates;

(d) Former prisoner of war license plates;

(e) Horseless carriage license plates;

(f) Congressional Medal of Honor license plates;

(g) Military affiliate radio system license plates;

(h) Pearl Harbor survivor license plates;

(i) Restored license plates; and

(j) Vehicles registered under chapter 46.87 RCW.

(2) Personalized special license plates issued under this section must:

(a) Consist of numbers or letters or any combination of numbers or letters;

(b) Not exceed seven characters; and

(c) Not contain less than one character.

(3) The department may not issue or may refuse to issue personalized special license plates that:

(a) Duplicate or conflict with existing or projected vehicle license plate series or other numbering systems for records kept by the department; or

(b) May carry connotations offensive to good taste and decency or which would be misleading.

(4) Personalized special license plates must be issued only to the registered owner of the vehicle on which they are to be displayed. The registered owner must:

(a) Pay both the personalized license plate fee required under section 520 of this act and the special license plate fee required under the applicable special license plate provision, in addition to any other fee or taxes due. License plate fees must be distributed as provided in chapter 46.68 RCW;

(b) Renew personalized special license plates annually, regardless of whether or not the vehicle on which the personalized special license plates are displayed will be driven on the public highways;

(c) Surrender personalized special license plates that have not been renewed to the department. The failure to surrender expired personalized special license plates is a traffic infraction; and

(d) Immediately report to the department when personalized special license plates have been transferred to another vehicle or another owner.

(5) The department may establish rules as necessary to carry out this section including, but not limited to, identifying the maximum number of positions on personalized special license plates for motorcycles.

NEW SECTION. Sec. 628. (1) A registered owner who has been awarded a Purple Heart medal by any branch of the United States armed forces, including the merchant marines and the women's air forces service pilots may apply to the department for special license plates for use on only one motor vehicle owned by the qualified applicant. The applicant must:

(a) Be a resident of this state;

(b) Have been wounded during one of this nation's wars or conflicts identified in RCW 41.04.005;

(c) Have received an honorable discharge from the United States armed forces;

(d) Provide a copy of the armed forces document showing the recipient was awarded the Purple Heart medal;

(e) Be recorded as the registered owner of the vehicle on which the Purple Heart survivor license plates will be displayed; and

(f) Pay all fees and taxes required by law for registering the motor vehicle.

(2) Purple Heart license plates must be issued without the payment of any special license plate fee.

(3) Purple Heart license plates may be issued to the surviving spouse or domestic partner of a Purple Heart recipient who met the requirements in subsection (1) of this section. The surviving spouse or domestic partner must be a resident of this state. If the surviving spouse remarries or the surviving domestic partner marries or enters into a new domestic partnership, he or she must return the special plates to the department within fifteen days and apply for regular license plates or another type of special license plate.

(4) Purple Heart license plates may be transferred from one motor vehicle to another motor vehicle owned by the Purple Heart recipient or the surviving spouse or domestic partner as described in subsection (3) of this section upon application to the department, county auditor or other agent, or subagent appointed by the director.

NEW SECTION. Sec. 629. A registered owner who uses a passenger motor vehicle for commuter ride sharing or ride sharing for persons with special transportation needs, as defined in RCW 46.74.010, shall apply to the director, county auditor or other agent, or subagent appointed by the director for special ride share license plates. The registered owner must qualify for the tax exemptions provided in RCW 82.08.0287, 82.12.0282, or 82.44.015, and pay the special ride share license plate fee required under section 521(1)(n) of this act when the special ride share license plates are initially issued.

(2) The special ride share license plates:

(a) Must be of a distinguishing separate numerical series or design as defined by the department;

(b) Must be returned to the department when no longer in use or when the registered owner no longer qualifies for the tax exemptions provided in subsection (1) of this section; and

(c) Are not required to be renewed annually for motor vehicles described in RCW 46.16.020 (as recodified by this act).

(3) Special ride share license plates may be transferred from one motor vehicle to another motor vehicle as described in subsection (1) of this section upon application to the department, county auditor or other agent, or subagent appointed by the director.

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

NEW SECTION. Sec. 630. A registered owner may apply to the department, county auditor or other agent, or subagent appointed by the director for a square dancer license plate. The registered owner shall pay the special license plate fee required under section 521(1)(q) of this act, in addition to any other fee or tax required by law. The square dancer license plate may be issued in lieu of standard issue or personalized license plates for vehicles required to display two license plates, but may not be issued for vehicles registered under chapter 46.87 RCW.

D. MISCELLANEOUS

Sec. 631. RCW 46.16.335 and 1990 c 250 s 10 are each amended to read as follows:

The director shall adopt rules to implement ~~((RCW 46.16.301 through 46.16.332))~~ chapter 46.... RCW (the new chapter created in section 1224 of this act), including setting of fees.

PART VII. SPECIAL PARKING PRIVILEGES FOR PERSONS WITH DISABILITIES

NEW SECTION. Sec. 701. (1) A natural person who has a disability that meets one of the following criteria may apply for special parking privileges:

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

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

(c) Has such a severe disability that the person cannot walk without the use of or assistance from a brace, cane, another person, prosthetic device, wheelchair, or other assistive device;

(d) Uses portable oxygen;

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

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

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

(h) Has limited mobility and has no vision or whose vision with corrective lenses is so limited that the person requires alternative methods or skills to do efficiently those things that are ordinarily done with sight by persons with normal vision;

(i) Has an eye condition of a progressive nature that may lead to blindness; or

(j) Is restricted by a form of porphyria to the extent that the applicant would significantly benefit from a decrease in exposure to light.

(2) The disability must be determined by either:

(a) A licensed physician;

(b) An advanced registered nurse practitioner licensed under chapter 18.79 RCW; or

(c) A physician assistant licensed under chapter 18.71A or 18.57A RCW.

(3) The application for special parking privileges for persons with disabilities must contain:

(a) The following statement immediately below the physician's, advanced registered nurse practitioner's, or physician assistant's signature: "A parking permit for a person with disabilities may be issued only for a medical necessity that severely affects mobility or involves acute sensitivity to light (section 701 of this act). Knowingly providing false information on this application is a gross misdemeanor. The penalty is up to one year in jail and a fine of up to \$5,000 or both"; and

(b) Other information as required by the department.

(4) A natural person who has a disability described in subsection (1) of this section and is expected to improve within six months may be issued a temporary placard for a period not to exceed six months. If the disability exists after six months, a new temporary placard must be issued upon receipt of a new application with certification from the person's physician. Special license plates for persons with disabilities may not be issued to a person with a temporary disability.

(5) A natural person who qualifies for special parking privileges under this section must receive an identification card showing the name and date of birth of the person to whom the parking privilege has been issued and the serial number of the placard.

(6) A natural person who qualifies for permanent special parking privileges under this section may receive one of the following:

(a) Up to two parking placards;

(b) One set of special license plates for persons with disabilities if the person with the disability is the registered owner of the vehicle on which the license plates will be displayed;

(c) One parking placard and one set of special license plates for persons with disabilities if the person with the disability is the registered owner of the vehicle on which the license plates will be displayed; or

(d) One special parking year tab for persons with disabilities and one parking placard.

(7) Parking placards and identification cards described in this section must be issued free of charge.

(8) The parking placard and identification card must be immediately returned to the department upon the placard holder's death.

NEW SECTION. Sec. 702. (1) The following organizations may apply for special parking privileges:

(a) Public transportation authorities;

(b) Nursing homes licensed under chapter 18.51 RCW;

(c) Boarding homes licensed under chapter 18.20 RCW;

(d) Senior citizen centers;

(e) Private nonprofit corporations, as defined in RCW 24.03.005; and

(f) Cabulance companies that regularly transport persons with disabilities who have been determined eligible for special parking privileges under this section and who are registered with the department under chapter 46.72 RCW.

(2) An organization that qualifies for special parking privileges may receive, upon application, parking license plates or placards, or both, for persons with disabilities as defined by the department.

(3) Public transportation authorities, nursing homes, boarding homes, senior citizen centers, private nonprofit corporations, and cabulance services are responsible for ensuring that the special placards and license plates are not used improperly and are responsible for all fines and penalties for improper use.

(4) The department shall adopt rules to determine organization eligibility.

NEW SECTION. Sec. 703. (1) Parking privileges for persons with disabilities must be renewed at least every five years, as required by the director, by satisfactory proof of the right to continued use of the privileges.

(2) The department shall match and purge its database of parking permits issued to persons with disabilities with available death record information at least every twelve months.

(3) The department shall adopt rules to administer the parking privileges for persons with disabilities program.

NEW SECTION. Sec. 704. (1) The department shall design special license plates for persons with disabilities, parking placards, and year tabs displaying the international symbol of access.

(2) Special license plates for persons with disabilities must be displayed on the motor vehicle as standard issue license plates as described in section 422 of this act.

(3) Parking placards must be displayed when the motor vehicle is parked by suspending it from the rearview mirror. In the absence of a rearview mirror, the parking placard must be displayed on the dashboard.

(4) Special year tabs for persons with disabilities must be displayed on license plates as defined by the department.

(5) Persons who have been issued special license plates for persons with disabilities, parking placards, or special license plates with a special year tab for

persons with disabilities may park in places reserved for persons with physical disabilities.

NEW SECTION. Sec. 705. (1) An additional fee may not be charged for special license plates for persons with disabilities except for any other fees and taxes required to be paid upon registration of a motor vehicle.

(2) A registered owner who qualifies for special parking privileges as described in section 701 of this act may apply to the department for special license plates for persons with disabilities or special license plates with a special year tab for persons with disabilities. Special license plates with a special year tab for persons with disabilities are available on the following special license plate designs:

PLATE TYPE	ISSUED UNDER
Armed forces collection	Section 612 of this act
Baseball stadium	RCW 46.16.301 (as recodified by this act)
Collegiate	RCW 46.16.324 (as recodified by this act)
Disabled American veteran	Section 619 of this act
Endangered wildlife	Section 611 of this act
Former prisoner of war	Section 619 of this act
Helping kids speak	Section 611 of this act
Keep kids safe	Section 611 of this act
Law enforcement memorial	Section 611 of this act
Pearl Harbor survivor	Section 625 of this act
Personalized	Section 626 of this act
Professional firefighters and paramedics	Section 611 of this act
Purple Heart	Section 628 of this act
Share the road	Section 611 of this act
Ski & ride Washington	Section 611 of this act
Square dancer	Section 630 of this act
Washington lighthouses	Section 611 of this act
Washington's national park fund	Section 611 of this act
Washington state parks	Section 611 of this act
Washington's wildlife collection	Section 611 of this act
We love our pets	Section 611 of this act
Wild on Washington	Section 611 of this act

(3) A registered owner who chooses to purchase special license plates as described in subsection (2) of this section shall pay the applicable special license plate fee, in addition to any other fees or taxes required for registering a motor vehicle.

(4) Special license plates for persons with disabilities or special license plates with a special year tab for persons with disabilities must be renewed in the same manner and at the time required for the renewal of standard motor vehicle license plates under chapter 46.16 RCW.

(5) Special license plates for persons with disabilities or special license plates with a special year tab for persons with disabilities may be transferred from one motor vehicle to another motor vehicle owned by the person with the parking privilege upon application to the department, county auditor or other agent, or subagent appointed by the director.

(6) Special license plates for persons with disabilities or special license plates with a special year tab for persons with disabilities must be removed from the motor vehicle when the person with disabilities transfers or assigns his or her interest in the motor vehicle.

NEW SECTION. Sec. 706. (1) **False information.** Knowingly providing false information in conjunction with the application for special parking privileges for persons with disabilities is a gross misdemeanor punishable under chapter 9A.20 RCW.

(2) **Unauthorized use.** Any unauthorized use of the special placard, special license, or identification card issued under this chapter is a traffic infraction with a monetary penalty of two hundred fifty dollars.

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

(4) **Parking without placard/plate.** It is a parking infraction, with a monetary penalty of two hundred fifty dollars, for any person to park a vehicle in a parking place provided on private property without charge or on public property reserved for persons with physical disabilities without a placard or special license plate issued under this chapter. If a person is charged with a violation, the person will not be determined to have committed an infraction if the person produces in court or before the court appearance the placard or special license plate issued under this chapter as required under this chapter. A local jurisdiction providing nonmetered, on-street parking places reserved for persons with physical disabilities may impose by ordinance time restrictions of no less than four hours on the use of these parking places.

(5) **Time restrictions.** A local jurisdiction may impose by ordinance time restrictions of no less than four hours on the use of nonreserved, on-street parking spaces by vehicles displaying the special parking placards or special license plates issued under this chapter. All time restrictions must be clearly posted.

(6) **Use of funds - reimbursement.** Funds from the penalties imposed under subsections (3) and (4) of this section must be used by that local jurisdiction exclusively for law enforcement. The court may also impose an additional penalty sufficient to reimburse the local jurisdiction for any costs that it may have incurred in the removal and storage of the improperly parked vehicle.

(7) **Illegal obtainment.** Except as provided in subsection (1) of this section, it is a traffic infraction with a monetary penalty of two hundred fifty dollars for any person willfully to obtain a special license plate, placard, or identification

card issued under this chapter in a manner other than that established under this chapter.

(8) **Volunteer appointment.** A law enforcement agency authorized to enforce parking laws may appoint volunteers, with a limited commission, to issue notices of infractions for violations of sections 701 and 704 of this act or RCW 46.61.581. Volunteers must be at least twenty-one years of age. The law enforcement agency appointing volunteers may establish any other qualifications that the agency deems desirable.

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

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

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

(9) **Community restitution.** For second or subsequent violations of this section, in addition to a monetary penalty, the violator must complete a minimum of forty hours of:

(a) Community restitution for a nonprofit organization that serves persons with disabilities or disabling diseases; or

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

(10) **Fine suspension.** The court may not suspend more than one-half of any fine imposed under subsection (2), (3), (4), or (7) of this section.

Sec. 707. RCW 46.16.390 and 2005 c 390 s 4 are each amended to read as follows:

A special license plate or card issued by another state or country that indicates that an occupant of ~~((the))~~ a vehicle has disabilities~~((s))~~ entitles the vehicle on or in which it is displayed and being used to transport the person with disabilities to lawfully park in a parking place reserved for persons with physical disabilities pursuant to chapter 70.92 RCW ~~((or authority implemental thereof)).~~

PART VIII. FEE DISTRIBUTION

Sec. 801. RCW 46.68.010 and 2003 c 53 s 248 are each amended to read as follows:

~~((1) Whenever any license fee, paid under the provisions of this title, has been erroneously paid, either wholly or in part, the payor is entitled to have refunded the amount so erroneously paid.~~

~~(2) A license fee is refundable in one or more of the following circumstances: (a) If the vehicle for which the renewal license was purchased was destroyed before the beginning date of the registration period for which the renewal fee was paid; (b) if the vehicle for which the renewal license was purchased was permanently removed from the state before the beginning date of the registration period for which the renewal fee was paid; (c) if the vehicle license was purchased after the owner has sold the vehicle; (d) if the vehicle is currently licensed in Washington and is subsequently licensed in another~~

jurisdiction, in which case any full months of Washington fees between the date of license application in the other jurisdiction and the expiration of the Washington license are refundable; or (c) if the vehicle for which the renewal license was purchased is sold before the beginning date of the registration period for which the renewal fee was paid, and the payor returns the new, unused, never affixed license renewal tabs to the department before the beginning of the registration period for which the registration was purchased.

~~(3) Upon the refund being certified to the state treasurer by the director as correct and being claimed in the time required by law the state treasurer shall mail or deliver the amount of each refund to the person entitled thereto. No claim for refund shall be allowed for such erroneous payments unless filed with the director within three years after such claimed erroneous payment was made.~~

~~(4) If due to error a person has been required to pay a vehicle license fee under this title and an excise tax under Title 82 RCW that amounts to an overpayment of ten dollars or more, that person shall be entitled to a refund of the entire amount of the overpayment, regardless of whether a refund of the overpayment has been requested.~~

~~(5) If due to error the department or its agent has failed to collect the full amount of the license fee and excise tax due and the underpayment is in the amount of ten dollars or more, the department shall charge and collect such additional amount as will constitute full payment of the tax and fees.~~

~~(6) Any person who makes a false statement under which he or she obtains a refund to which he or she is not entitled under this section is guilty of a gross misdemeanor.))~~

(1) A person who has paid all or part of a vehicle license fee under this title is entitled to a refund if the amount was paid in error or if the vehicle:

(a) Was destroyed before the new registration period began;

(b) Was permanently removed from Washington state before the new registration period began;

(c) Registration was purchased after the owner sold the vehicle;

(d) Was registered in another jurisdiction after the Washington state registration had been purchased. Any full months of Washington vehicle license fees remaining after application for out-of-state registration was made are refundable; or

(e) Registration was purchased before the vehicle was sold and before the new registration period began. The person who paid the fees must return the unused, never-affixed license tabs to the department before the new registration period begins.

(2) The department shall refund overpayments of vehicle license fees and motor vehicle excise taxes under Title 82 RCW that are ten dollars or more. A request for a refund is not required.

(3) The department shall certify refunds to the state treasurer as correct and being claimed in the time required by law. The state treasurer shall mail or deliver the amount of each refund to the person who is entitled to the refund. The department shall not authorize refunds of fees paid in error unless the request is made within three years after the fees were paid.

(4) If due to error the department, county auditor or other agent, or subagent appointed by the director has failed to collect the full amount of the vehicle license fee and excise tax due and the underpayment is in the amount of ten

dollars or more, the department shall charge and collect the additional amount to constitute full payment of the tax and fees.

(5) Any person who makes a false statement under which he or she obtains a refund that he or she is not entitled to under this section is guilty of a gross misdemeanor.

Sec. 802. RCW 46.68.020 and 2004 c 200 s 3 are each amended to read as follows:

~~((The director shall forward all fees for certificates of ownership or other moneys accruing under the provisions of chapter 46.12 RCW to the state treasurer, together with a proper identifying detailed report. The state treasurer shall credit such moneys as follows:~~

~~(1) The fees collected under RCW 46.12.040(1) and 46.12.101(6) shall be credited to the multimodal transportation account in RCW 47.66.070.~~

~~(2)(a) Beginning July 27, 2003, and until July 1, 2008, the fees collected under RCW 46.12.080, 46.12.101(3), 46.12.170, and 46.12.181 shall be credited as follows:~~

~~(i) 58.12 percent shall be credited to a segregated subaccount of the air pollution control account in RCW 70.94.015;~~

~~(ii) 16.60 percent shall be credited to the vessel response account created in RCW 90.56.335; and~~

~~(iii) The remainder shall be credited into the transportation 2003 account (nickel account).~~

~~(b) Beginning July 1, 2008, and thereafter, the fees collected under RCW 46.12.080, 46.12.101(3), 46.12.170, and 46.12.181 shall be credited to the transportation 2003 account (nickel account).~~

~~(3) The fees collected under RCW 46.12.040(3) and 46.12.060 shall be credited to the motor vehicle account.))~~

(1) The director shall forward all fees for certificates of title or other moneys accruing under chapters 46.12 and 46.17 RCW to the state treasurer, together with a proper identifying detailed report. The state treasurer shall credit these moneys as follows:

<u>FEE</u>	<u>REQUIRED IN</u>	<u>ESTABLISHED IN</u>	<u>DISTRIBUTION</u>
<u>ORV registration fee</u>	<u>Section 214 of this act</u>	<u>Section 508 of this act</u>	<u>RCW 47.66.070</u>
<u>Original certificate of title</u>	<u>RCW 46.12.030 (as recodified by this act)</u>	<u>Section 508 of this act</u>	<u>RCW 47.66.070</u>
<u>Penalty for late transfer</u>	<u>RCW 46.12.101 (as recodified by this act)</u>	<u>Section 512 of this act</u>	<u>RCW 47.66.070</u>
<u>Motor change</u>	<u>RCW 46.12.080 (as recodified by this act)</u>	<u>Section 508 of this act</u>	<u>RCW 46.68.280</u>
<u>Transfer certificate of title</u>	<u>RCW 46.12.101 (as recodified by this act)</u>	<u>Section 508 of this act</u>	<u>RCW 46.68.280</u>
<u>Security interest changes</u>	<u>RCW 46.12.170 (as recodified by this act)</u>	<u>Section 508 of this act</u>	<u>RCW 46.68.280</u>
<u>Duplicate certificate of title</u>	<u>RCW 46.12.181 (as recodified by this act)</u>	<u>Section 508 of this act</u>	<u>RCW 46.68.280</u>
<u>Stolen vehicle check</u>	<u>RCW 46.12.047 (as recodified by this act)</u>	<u>Section 513 of this act</u>	<u>RCW 46.68.070</u>

Vehicle identification number assignment Section 303 of this act Section 515 of this act RCW 46.68.070

(2) The vehicle identification number inspection fee created in section 514 of this act must be credited as follows:

(a) Fifteen dollars to the state patrol highway account created in RCW 46.68.030; and

(b) Fifty dollars to the motor vehicle fund created in RCW 46.68.070.

Sec. 803. RCW 46.68.030 and 2002 c 352 s 22 are each amended to read as follows:

~~(Except for proceeds from fees for vehicle licensing for vehicles paying such fees under RCW 46.16.070 and 46.16.085, and as otherwise provided for in chapter 46.16 RCW, all fees received by the director for vehicle licenses under the provisions of chapter 46.16 RCW shall be forwarded to the state treasurer, accompanied by a proper identifying detailed report, and be deposited to the credit of the motor vehicle fund, except that the proceeds from the vehicle license fee and renewal license fee shall be deposited by the state treasurer as hereinafter provided. After July 1, 2002,)~~ (1) The director shall forward all fees for vehicle registrations under chapters 46.16 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) \$20.35 of each ~~((original))~~ 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 ~~((shall))~~ 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 ~~((therefor))~~.

(b) \$2.02 of each ~~((original))~~ initial vehicle license fee and \$0.93 of each renewal vehicle license fee ~~((shall))~~ 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.

Sec. 804. RCW 46.68.035 and 2006 c 337 s 1 are each amended to read as follows:

The director shall forward all proceeds from ~~((combined))~~ vehicle ~~((licensing))~~ license fees received by the director for vehicles ~~((licensed))~~ registered under ~~((RCW 46.16.070 and 46.16.085 shall be forwarded))~~ sections 530, 531(1) (c) and (k), and 535(1)(c) of this act to the state treasurer to be distributed into accounts according to the following method:

(1) ~~((The sum of two dollars for each vehicle shall be deposited into the multimodal transportation account, except that for each vehicle registered by a county auditor or agent to a county auditor pursuant to RCW 46.01.140, the sum of two dollars shall be credited to the current county expense fund.~~

~~(2) The remainder and the proceeds from the license fee under RCW 46.16.086 and the farm vehicle trip permit under RCW 46.16.162 shall be distributed as follows:~~

~~(a))~~ 22.36 percent ~~((shall))~~ must be deposited into the state patrol highway account of the motor vehicle fund;

~~((b))~~ ~~(2)~~ 1.375 percent ~~((shall))~~ must be deposited into the Puget Sound ferry operations account of the motor vehicle fund;

~~((c))~~ ~~(3)~~ 5.237 percent ~~((shall))~~ must be deposited into the transportation 2003 account (nickel account);

~~((d))~~ ~~(4)~~ 11.533 percent ~~((shall))~~ must be deposited into the transportation partnership account created in RCW 46.68.290; and

~~((e))~~ ~~(5)~~ The remaining proceeds ~~((shall))~~ must be deposited into the motor vehicle fund.

NEW SECTION. Sec. 805. A new section is added to chapter 46.68 RCW to read as follows:

At least quarterly, the department shall transmit donations made to the organ and tissue donation awareness account under RCW 46.16.076(2) (as recodified by this act) to the foundation established for organ and tissue donation awareness purposes by the Washington state organ procurement organizations. All Washington state organ procurement organizations have proportional access to these funds to conduct public education in their service areas.

NEW SECTION. Sec. 806. A new section is added to chapter 46.68 RCW to read as follows:

All receipts from the voluntary donation received under RCW 46.16.076(3) (as recodified by this act) must be deposited in the state parks renewal and stewardship account established in RCW 79A.05.215 to be used for the operation and maintenance of state parks.

Sec. 807. RCW 46.68.220 and 2009 c 470 s 712 are each amended to read as follows:

The department of licensing services account is created in the motor vehicle fund. All receipts from service fees received under ~~((RCW 46.01.140(4)(b) shall))~~ section 503 of this act must be deposited into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for:

(1) Information and service delivery systems for the department~~((, and for))~~;

(2) Reimbursement of county licensing activities; and

(3) County auditor or other agent and subagent support including, but not limited to, the replacement of department-owned equipment in the possession of county auditors or other agents and subagents appointed by the director. During the 2007-2009 and 2009-2011 fiscal biennia, the legislature may transfer from the department of licensing services account such amounts as reflect the excess fund balance of the account.

NEW SECTION. Sec. 808. A new section is added to chapter 46.68 RCW to read as follows:

(1) The special license plate applicant trust account is created in the custody of the state treasurer. All receipts from special license plate applicants must be deposited into the account. Only the director or the director's designee may authorize disbursements from the account. The account is not subject to the

allotment procedures under chapter 43.88 RCW, and an appropriation is not required for disbursements.

(2)(a) Revenues generated from the sale of special license plates for those sponsoring organizations that used the application process in section 606 of this act must be deposited into the motor vehicle fund until the department determines that the state's implementation costs have been fully reimbursed.

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

(3) If reimbursement does not occur within two years from the date the plate is first offered for sale to the public, the special license plate series must be placed in probationary status for a period of one year from that date. If the state is still not fully reimbursed for its implementation costs after the one-year probation, the plate series must be discontinued immediately. Special license plates issued before discontinuation are valid until replaced under section 422(10) of this act.

NEW SECTION. Sec. 809. A new section is added to chapter 46.68 RCW to read as follows:

(1) The department shall:

(a) Collect special license plate fees established under section 521 of this act that were approved by the special license plate review board under section 611 of this act;

(b) Deduct an amount not to exceed twelve dollars for initial issue and two dollars for renewal issue for administration and collection expenses incurred by it; and

(c) Remit the remaining proceeds to the custody of the state treasurer with a proper identifying detailed report.

(2) The state treasurer shall credit the proceeds to the motor vehicle account until the department determines that the state has been reimbursed for the cost of implementing the special license plate. Upon determination by the department that the state has been reimbursed, the state treasurer shall credit the remaining special license plate fee amounts for each special license plate to the following appropriate account:

ACCOUNT	CONDITIONS FOR USE OF FUNDS
Gonzaga university alumni association	Scholarship funds to needy and qualified students attending or planning to attend Gonzaga university
Helping kids speak	Provide free diagnostic and therapeutic services to families of children who suffer from a delay in language or speech development

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Law enforcement memorial	Provide support and assistance to survivors and families of law enforcement officers in Washington killed in the line of duty and to organize, finance, fund, construct, utilize, and maintain a memorial on the state capitol grounds to honor those fallen officers
Lighthouse environmental programs	Support selected Washington state lighthouses that are accessible to the public and staffed by volunteers; provide environmental education programs; provide grants for other Washington lighthouses to assist in funding infrastructure preservation and restoration; encourage and support interpretive programs by lighthouse docents
Share the road	Promote bicycle safety and awareness education in communities throughout Washington
Ski & ride Washington	Promote winter snowsports, such as skiing and snowboarding, and related programs, such as ski and ride safety programs, underprivileged youth ski and ride programs, and active, healthy lifestyle programs
Washington state council of firefighters benevolent fund	Receive and disseminate funds for charitable purposes on behalf of members of the Washington state council of firefighters, their families, and others deemed in need
Washington's national park fund	Build awareness of Washington's national parks and support priority park programs and projects in Washington's national parks, such as enhancing visitor experience, promoting volunteerism, engaging communities, and providing educational opportunities related to Washington's national parks
We love our pets	Support and enable the Washington federation of animal welfare and control agencies to promote and perform spay/neuter surgery of Washington state pets in order to reduce pet population

(3) Only the director or the director's designee may authorize expenditures from the accounts described in subsection (2) of this section. The accounts are subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

(4) Funds in the special license plate accounts described in subsection (2) of this section must be disbursed subject to the conditions described in subsection (2) of this section and under contract between the department and qualified

nonprofit organizations that provide the services described in subsection (2) of this section.

(5) For the purposes of this section, a "qualified nonprofit organization" means a not-for-profit corporation operating in Washington that has received a determination of tax exempt status under 26 U.S.C. Sec. 501(c)(3). The qualified nonprofit organization must meet all the requirements under RCW 46.16.735(1) (as recodified by this act).

NEW SECTION. Sec. 810. A new section is added to chapter 46.68 RCW to read as follows:

(1) The department shall:

(a) Collect special license plate fees established under section 521 of this act that were approved by the special license plate review board under section 611 of this act;

(b) Deduct an amount not to exceed twelve dollars for initial issue and two dollars for renewal issue for administration and collection expenses incurred by it; and

(c) Remit the remaining proceeds to the custody of the state treasurer with a proper identifying detailed report.

(2) The state treasurer shall credit the proceeds to the motor vehicle fund until the department determines that the state has been reimbursed for the cost of implementing the special license plate. Upon determination by the department that the state has been reimbursed, the state treasurer shall credit the remaining special license plate fees to the following accounts by special license plate type:

SPECIAL LICENSE PLATE TYPE	ACCOUNT	CONDITIONS FOR USE OF FUNDS
Armed forces	RCW 43.60A.140	N/A
Endangered wildlife	RCW 77.12.170	Must be used only for the department of fish and wildlife's endangered wildlife program activities
Keep kids safe	RCW 43.121.100	As specified in RCW 43.121.050
Washington state parks	RCW 79A.05.059	Provide public educational opportunities and enhancement of Washington state parks
Washington's wildlife collection	RCW 77.12.170	Only for the department of fish and wildlife's game species management activities
Wild on Washington	RCW 77.12.170	Dedicated to the department of fish and wildlife's watchable wildlife activities, as defined in RCW 77.32.560

NEW SECTION. Sec. 811. A new section is added to chapter 46.68 RCW to read as follows:

(1) The department shall:

(a) Collect special license plates fees established under section 521(1) (c) and (e) of this act;

(b) Deduct an amount not to exceed twelve dollars for initial issue and two dollars for renewal issue for administration and collection expenses incurred by it; and

(c) Remit the remaining proceeds to the custody of the state treasurer with a proper identifying detailed report.

(2) The state treasurer shall credit the remaining special license plate fees to the following accounts by special license plate type:

SPECIAL LICENSE PLATE TYPE	ACCOUNT	PURPOSE
Baseball stadium	A county	To pay the principal and interest payments on bonds issued by the county to construct a baseball stadium, as defined in RCW 82.14.0485, including reasonably necessary preconstruction costs, while the taxes are being collected under RCW 82.14.360. After the principal and interest payments on bonds have been made, the state treasurer shall credit the funds to the state general fund
Collegiate	RCW 28B.10.890	Student scholarships

NEW SECTION. Sec. 812. A new section is added to chapter 46.68 RCW to read as follows:

The vehicle identification number inspection fee collected under section 514 of this act must be distributed as follows:

- (1) Fifteen dollars to the state patrol highway account created in RCW 46.68.030; and
- (2) Fifty dollars to the motor vehicle fund created in RCW 46.68.070.

NEW SECTION. Sec. 813. A new section is added to chapter 46.68 RCW to read as follows:

(1) The motor vehicle weight fee imposed under section 533(1) of this act must be deposited every July 1st as follows:

- (a) Three million dollars to the freight mobility multimodal account created in RCW 46.68.310; and
- (b) The remainder to the multimodal transportation account created in RCW 47.66.070.

(2) The motor vehicle weight fee:

- (a) Must be used for transportation purposes;
- (b) May not be used for the general support of state government; and
- (c) Is imposed to provide funds to mitigate the impact of vehicle loads on the state roads and highways and is separate and distinct from other vehicle license fees. Proceeds from the fee may be used for transportation purposes, or for facilities and activities that reduce the number of vehicles or load weights on the state roads and highways.

(3) The motor home vehicle weight fee imposed under section 533(2) of this act must be deposited in the multimodal transportation account created in RCW 47.66.070.

NEW SECTION. Sec. 814. A new section is added to chapter 46.68 RCW to read as follows:

The department temporary permit fee imposed under section 535(1)(b) of this act must be distributed as follows:

- (1) If collected by the department, the fee must be distributed under RCW 46.68.030; and
- (2) If collected by the county auditor or other agent or subagent, the fee must be distributed to the county current expense fund.

NEW SECTION. Sec. 815. A new section is added to chapter 46.68 RCW to read as follows:

(1) The vehicle trip permit fee imposed under section 535(1)(h) of this act must be distributed as follows:

(a) Five dollars to the state patrol highway account for commercial motor vehicle inspections;

(b) A one dollar excise tax to the state general fund;

(c) The amount of the filing fee imposed under section 501(1)(a) of this act to be credited as required under section 819 of this act; and

(d) The remainder to the credit of the motor vehicle fund created in RCW 46.68.070 as an administrative fee.

(2) The administrative fee under subsection (1)(d) of this section must be increased or decreased in an equal amount if the amount of the filing fee imposed under section 501(1)(a) of this act increases or decreases, so that the total trip permit fee is adjusted equally to compensate.

(3) The vehicle trip permit surcharge imposed under section 535(4) of this act must be distributed as follows:

(a) The portion of the surcharge paid by motor carriers to the motor vehicle fund created in RCW 46.68.070 for the purpose of supporting vehicle weigh stations, weigh-in-motion programs, and the commercial vehicle information systems and networks program; and

(b) The remainder to the motor vehicle fund created in RCW 46.68.070 for the purpose of supporting congestion relief programs.

NEW SECTION. Sec. 816. A new section is added to chapter 46.68 RCW to read as follows:

The parking ticket surcharge imposed under section 504 of this act must be distributed as follows:

(1) Ten dollars to the motor vehicle fund created in RCW 46.68.070 to be used exclusively for the administrative costs of the department; and

(2) Five dollars to be retained by the department, county auditor or other agent, or subagent appointed by the director handling the renewal application to be used for the administration of the parking ticket program.

NEW SECTION. Sec. 817. A new section is added to chapter 46.68 RCW to read as follows:

The special fuel trip permit fee imposed under section 535(1)(f) of this act for special fuel trip permits issued under RCW 82.38.100 must be distributed as follows:

(1) One dollar to be retained by the county auditor or businesses appointed by the department to defray expenses incurred in handling and selling special fuel trip permits;

(2) Five dollars to the state patrol highway account to be used for commercial motor vehicle inspections;

(3) Five dollars to the motor vehicle fund to be distributed as follows:

(a) If paid by motor carriers, to be used for supporting vehicle weigh stations, weigh-in-motion programs, and the commercial vehicle information systems and networks program;

(b) If paid by a person other than a motor carrier, to be used for supporting congestion relief programs; and

(4) Nineteen dollars to the credit of the motor vehicle fund created in RCW 46.68.070.

Sec. 818. RCW 46.16.685 and 2009 c 470 s 704 are each amended to read as follows:

The license plate technology account is created in the state treasury. All receipts collected under ((RCW 46.01.140(4)(e)(ii))) section 502 of this act must be deposited into this account. Expenditures from this account must support current and future license plate technology and systems integration upgrades for both the department and correctional industries. Moneys in the account may be spent only after appropriation. Additionally, the moneys in this account may be used to reimburse the motor vehicle account for any appropriation made to implement the digital license plate system. During the 2009-2011 fiscal biennium, the legislature may transfer from the license plate technology account to the highway safety account such amounts as reflect the excess fund balance of the license plate technology account.

NEW SECTION. **Sec. 819.** A new section is added to chapter 46.68 RCW to read as follows:

A filing fee established in section 501 of this act must be distributed as follows:

(1) If paid to the county auditor or other agent or subagent appointed by the director, the fee must be distributed to the county treasurer and credited to the county current expense fund.

(2) If the fee is paid to another agent of the director, the fee must be used by the agent to defray his or her expenses in handling the application.

(3) If the fee is collected by the state patrol as agent for the director, the fee must be certified to the state treasurer and deposited to the credit of the state patrol highway account.

(4) If the fee is collected by the department of transportation as agent for the director, the fee must be certified to the state treasurer and deposited to the credit of the motor vehicle fund created in RCW 46.68.070.

(5) If the fee is collected by the director or branches of the department, the fee must be certified to the state treasurer and deposited to the credit of the highway safety fund, except that two dollars of the fee must be deposited into the multimodal transportation account if the fee is collected in conjunction with section 530 or 531(1) (c) or (k).

NEW SECTION. **Sec. 820.** A new section is added to chapter 46.68 RCW to read as follows:

The emergency medical services fee imposed under section 509 of this act must be distributed as follows:

(1) If collected by a vehicle dealer, the vehicle dealer must keep two dollars and fifty cents as an administrative fee and the remainder must be deposited in the emergency medical services and trauma care system trust account created in RCW 70.168.040; and

(2) If not collected by a vehicle dealer, the fee must be deposited in the emergency medical services and trauma care system trust account created in RCW 70.168.040.

NEW SECTION. **Sec. 821.** A new section is added to chapter 46.68 RCW to read as follows:

(1) All revenue derived from personalized license plate fees provided for in section 520 of this act must be forwarded to the state treasurer and deposited as follows:

(a) Ten dollars to the state wildlife account and used for the management of resources associated with the nonconsumptive use of wildlife;

(b) Two dollars to the wildlife rehabilitation account created under RCW 77.12.471; and

(c) The remainder to the state wildlife account to be used for the preservation, protection, perpetuation, and enhancement of nongame species of wildlife including, but not limited to, song birds, raptors, protected wildlife, rare and endangered wildlife, aquatic life, and specialized-habitat types, both terrestrial and aquatic, as well as all unclassified marine fish, shellfish, and marine invertebrates.

(2) Administrative costs incurred by the department as a direct result of administering the personalized license plate program must be appropriated by the legislature from the state wildlife account from those funds deposited in the account resulting from the sale of personalized license plates. If the actual costs incurred by the department are less than that which has been appropriated by the legislature, the remainder must revert to the state wildlife account.

Sec. 822. RCW 46.09.110 and 2007 c 241 s 14 are each amended to read as follows:

The moneys collected by the department for ORV registrations, temporary ORV use permits, decals, and tabs under this chapter ~~((shall))~~ and chapter 46.17 RCW must be distributed from time to time, but at least once a year, in the following manner:

(1) The department shall retain enough money to cover expenses incurred in the administration of this chapter ~~((: PROVIDED, That such retention shall))~~. The amount kept by the department must never exceed eighteen percent of fees collected.

(2) The remaining moneys ~~((shall))~~ must be distributed for ~~((ORV))~~ off-road vehicle recreation facilities by the board in accordance with RCW 46.09.170(2)(d)(ii)(A) (as recodified by this act).

Sec. 823. RCW 46.10.075 and 1991 sp.s. c 13 s 9 are each amended to read as follows:

~~((There is created a))~~ (1) The snowmobile account is created within the state treasury. Snowmobile registration fees, monetary civil penalties from snowmobile dealers, and snowmobile fuel tax moneys collected under this chapter and chapter 46.17 RCW and in excess of the amounts fixed for the administration of the registration and fuel tax provisions of this chapter ~~((shall))~~ must be deposited ~~((in))~~ into the ~~((snowmobile))~~ account and ~~((shall))~~ must be appropriated only to the state parks and recreation commission for the administration and coordination of this chapter.

(2) The moneys collected by the department as snowmobile registration fees, monetary civil penalties from snowmobile dealers, and fuel tax moneys placed into the account must be distributed in the following manner:

(a) Actual expenses not to exceed three percent for each year must be retained by the department to cover expenses incurred in the administration of the registration and fuel tax provisions of this chapter; and

(b) The remainder of funds each year must be remitted to the state treasurer to be deposited into the snowmobile account of the general fund and must be appropriated only to the commission to be expended for snowmobile purposes. Purposes may include, but not necessarily be limited to, the administration, acquisition, development, operation, and maintenance of snowmobile facilities and development and implementation of snowmobile safety, enforcement, and education programs.

(3) This section is not intended to discourage any public agency in this state from developing and implementing snowmobile programs. The commission may award grants to public agencies and contract with any public or private agency or person for the purpose of developing and implementing snowmobile programs, as long as the programs are not inconsistent with the rules adopted by the commission.

PART IX. TAXES

Sec. 901. RCW 35.95A.090 and 2002 c 248 s 10 are each amended to read as follows:

(1) Every authority has the power to fix and impose a fee, not to exceed one hundred dollars per vehicle, for each vehicle that is subject to relicensing tab fees under ~~((RCW 46.16.062+))~~ section 531(1) (a), (c), (d), (e), (g), (h), (j), or (n) through (q) of this act and for each vehicle that is subject to ~~((RCW 46.16.070))~~ section 530 of this act with ~~((an unladen))~~ a scale weight of six thousand pounds or less, and that is determined by the department of licensing to be registered within the boundaries of the authority area. The department of licensing must provide an exemption from the fee for any vehicle the owner of which demonstrates is not operated within the authority area.

(2) The department of licensing will administer and collect the fee. The department will deduct a percentage amount, as provided by contract, not to exceed two percent of the taxes collected, for administration and collection expenses incurred by it. The remaining proceeds will be remitted to the custody of the state treasurer for monthly distribution to the authority.

(3) The authority imposing this fee will delay the effective date at least six months from the date the fee is approved by the qualified voters of the authority area to allow the department of licensing to implement administration and collection of the fee.

(4) Before any authority may impose any of the fees authorized under this section, the authorization for imposition of the fees must be approved by a majority of the qualified electors of the authority area voting.

Sec. 902. RCW 35.95A.130 and 2002 c 248 s 14 are each amended to read as follows:

The special excise tax imposed under RCW 35.95A.080(1) will be collected at the same time and in the same manner as relicensing tab fees under ~~((RCW 46.16.062+))~~ section 531(1) (a), (c), (d), (e), (g), (h), (j), and (n) through (q) of this act and RCW 35.95A.090. Every year on January 1st, April 1st, July 1st, and October 1st the department of licensing shall remit special excise taxes collected on behalf of an authority, back to the authority, at no cost to the authority. Valuation of motor vehicles for purposes of the special excise tax

imposed under RCW 35.95A.080(1) must be consistent with chapter 82.44 RCW.

Sec. 903. RCW 81.104.160 and 2009 c 280 s 4 are each amended to read as follows:

An agency and high capacity transportation corridor area may impose a sales and use tax solely for the purpose of providing high capacity transportation service, in addition to the tax authorized by RCW 82.14.030, upon retail car rentals within the applicable jurisdiction that are taxable by the state under chapters 82.08 and 82.12 RCW. The rate of tax shall not exceed 2.172 percent. The base of the tax shall be the selling price in the case of a sales tax or the rental value of the vehicle used in the case of a use tax.

Any motor vehicle excise tax previously imposed under the provisions of RCW 81.104.160(1) shall be repealed, terminated, and expire on December 5, 2002, except for a motor vehicle excise tax for which revenues have been contractually pledged to repay a bonded debt issued before December 5, 2002, as determined by *Pierce County et al. v. State*, 159 Wn.2d 16, 148 P.3d 1002 (2006). In the case of bonds that were previously issued, the motor vehicle excise tax must comply with chapter 82.44 RCW as it existed on January 1, 1996.

Sec. 904. RCW 82.12.045 and 2003 c 361 s 303 are each amended to read as follows:

(1) In the collection of the use tax on ~~((motor))~~ vehicles, the department of revenue may designate the county auditors of the several counties of the state as its collecting agents. Upon such designation, it shall be the duty of each county auditor to collect the tax at the time an applicant applies for ~~((the registration of, and))~~ transfer of certificate of title to ~~((;))~~ the ~~((motor))~~ vehicle, except ~~((in the following instances))~~ when the applicant:

(a) ~~((Where the applicant))~~ Exhibits a dealer's report of sale showing that the retail sales tax has been collected by the dealer;

(b) ~~((Where the application is for the renewal of registration;~~

~~((e) Where the applicant))~~ Presents a written statement signed by the department of revenue, or its duly authorized agent showing that no use tax is legally due; or

~~((d) Where the applicant))~~ (c) Presents satisfactory evidence showing that the retail sales tax or the use tax has been paid by the applicant on the vehicle in question.

(2) ~~((The term "motor vehicle," as used in this section means and includes all motor vehicles, trailers and semitrailers used, or of a type designed primarily to be used, upon the public streets and highways, for the convenience or pleasure of the owner, or for the conveyance, for hire or otherwise, of persons or property, including fixed loads, facilities for human habitation, and vehicles carrying exempt licenses))~~ As used in this section, "vehicle" has the same meaning as in RCW 46.04.670.

(3) It shall be the duty of every applicant for registration and transfer of certificate of title who is subject to payment of tax under this section to declare upon the application the value of the vehicle for which application is made, which shall consist of the consideration paid or contracted to be paid therefor.

(4) Each county auditor who acts as agent of the department of revenue shall at the time of remitting vehicle license fee receipts on ~~((motor))~~ vehicles subject to the provisions of this section pay over and account to the state treasurer for all use tax revenue collected under this section, after first deducting as a collection fee the sum of two dollars for each motor vehicle upon which the tax has been collected. All revenue received by the state treasurer under this section shall be credited to the general fund. The auditor's collection fee shall be deposited in the county current expense fund. A duplicate of the county auditor's transmittal report to the state treasurer shall be forwarded forthwith to the department of revenue.

(5) Any applicant who has paid use tax to a county auditor under this section may apply to the department of revenue for refund thereof if he or she has reason to believe that such tax was not legally due and owing. No refund shall be allowed unless application therefor is received by the department of revenue within the statutory period for assessment of taxes, penalties, or interest prescribed by RCW 82.32.050~~((3))~~ (4). Upon receipt of an application for refund the department of revenue shall consider the same and issue its order either granting or denying it and if refund is denied the taxpayer shall have the right of appeal as provided in RCW 82.32.170, 82.32.180, and 82.32.190.

(6) The provisions of this section shall be construed as cumulative of other methods prescribed in chapters 82.04 ~~((to))~~ through 82.32 RCW, inclusive, for the collection of the tax imposed by this chapter. The department of revenue shall have power to promulgate such rules as may be necessary to administer the provisions of this section. Any duties required by this section to be performed by the county auditor may be performed by the director of licensing but no collection fee shall be deductible by said director in remitting use tax revenue to the state treasurer.

(7) The use tax revenue collected on the rate provided in RCW 82.08.020(3) shall be deposited in the multimodal transportation account under RCW 47.66.070.

Sec. 905. RCW 82.12.0254 and 2009 c 503 s 2 are each amended to read as follows:

(1) The provisions of this chapter do not apply in respect to the use of:

(a) Any airplane used primarily in (i) conducting interstate or foreign commerce or (ii) providing intrastate air transportation by a commuter air carrier as defined in RCW 82.08.0262;

(b) Any locomotive, railroad car, or watercraft used primarily in conducting interstate or foreign commerce by transporting therein or therewith property and persons for hire or used primarily in commercial deep sea fishing operations outside the territorial waters of the state;

(c) Tangible personal property that becomes a component part of any such airplane, locomotive, railroad car, or watercraft in the course of repairing, cleaning, altering, or improving the same; and

(d) Labor and services rendered in respect to such repairing, cleaning, altering, or improving.

(2) The provisions of this chapter do not apply in respect to the use by a nonresident of this state of any ~~((motor))~~ vehicle ~~((or trailer))~~ used exclusively in transporting persons or property across the boundaries of this state and in intrastate operations incidental thereto when such ~~((motor))~~ vehicle ~~((or trailer))~~

is registered (~~and licensed~~) in a foreign state and in respect to the use by a nonresident of this state of any (~~motor~~) vehicle (~~or trailer~~) so registered (~~and licensed~~) and used within this state for a period not exceeding fifteen consecutive days under such rules as the department must adopt. However, under circumstances determined to be justifiable by the department a second fifteen day period may be authorized consecutive with the first fifteen day period; and for the purposes of this exemption the term "nonresident" as used herein includes a user who has one or more places of business in this state as well as in one or more other states, but the exemption for nonresidents applies only to those vehicles which are most frequently dispatched, garaged, serviced, maintained, and operated from the user's place of business in another state.

(3) The provisions of this chapter do not apply in respect to the use by the holder of a carrier permit issued by the interstate commerce commission or its successor agency of any (~~motor~~) vehicle (~~or trailer~~) whether owned by or leased with or without driver to the permit holder and used in substantial part in the normal and ordinary course of the user's business for transporting therein persons or property for hire across the boundaries of this state; and in respect to the use of any (~~motor~~) vehicle (~~or trailer~~) while being operated under the authority of a (~~one-transit~~) trip permit issued by the director of licensing pursuant to RCW 46.16.160 (as recodified by this act) and moving upon the highways from the point of delivery in this state to a point outside this state; and in respect to the use of tangible personal property which becomes a component part of any (~~motor~~) vehicle (~~or trailer~~) used by the holder of a carrier permit issued by the interstate commerce commission or its successor agency authorizing transportation by motor vehicle across the boundaries of this state whether such (~~motor~~) vehicle (~~or trailer~~) is owned by or leased with or without driver to the permit holder, in the course of repairing, cleaning, altering, or improving the same; also the use of labor and services rendered in respect to such repairing, cleaning, altering, or improving.

Sec. 906. RCW 82.36.280 and 1998 c 176 s 36 are each amended to read as follows:

Any person who uses any motor vehicle fuel for the purpose of operating any internal combustion engine not used on or in conjunction with any motor vehicle (~~licensed~~) registered to be operated (~~over and along~~) on any of the public highways, and as the motive power thereof, upon which motor vehicle fuel excise tax has been paid, shall be entitled to and shall receive a refund of the amount of the motor vehicle fuel excise tax paid on each gallon of motor vehicle fuel so used, whether such motor vehicle excise tax has been paid either directly to the vendor from whom the motor vehicle fuel was purchased or indirectly by adding the amount of such excise tax to the price of such fuel. No refund shall be made for motor vehicle fuel consumed by any motor vehicle as herein defined that is required to be registered (~~and licensed~~) as provided in chapter 46.16 RCW; and is operated (~~over and along~~) on any public highway except that a refund shall be allowed for motor vehicle fuel consumed:

(1) In a motor vehicle owned by the United States that is operated off the public highways for official use; and

(2) By auxiliary equipment not used for motive power, provided such consumption is accurately measured by a metering device that has been

specifically approved by the department or is established by either of the following formulae:

(a) For fuel used in pumping fuel or heating oils by a power take-off unit on a delivery truck, refund shall be allowed claimant for tax paid on fuel purchased at the rate of three-fourths of one gallon for each one thousand gallons of fuel delivered: PROVIDED, That claimant when presenting his or her claim to the department in accordance with the provisions of this chapter, shall provide to said claim, invoices of fuel oil delivered, or such other appropriate information as may be required by the department to substantiate his or her claim; or

(b) For fuel used in operating a power take-off unit on a cement mixer truck or load compactor on a garbage truck, claimant shall be allowed a refund of twenty-five percent of the tax paid on all fuel used in such a truck; and

(c) The department is authorized to establish by rule additional formulae for determining fuel usage when operating other types of equipment by means of power take-off units when direct measurement of the fuel used is not feasible. The department is also authorized to adopt rules regarding the usage of on board computers for the production of records required by this chapter.

Sec. 907. RCW 82.38.100 and 2007 c 515 s 25 and 2007 c 419 s 17 are each reenacted and amended to read as follows:

(1) Any special fuel user operating a motor vehicle (~~((into))~~) in this state for commercial purposes may (~~((make application))~~) apply for a special fuel trip permit (~~((that shall be))~~). The permit:

(a) Is good for a period of three consecutive days beginning and ending on the dates (~~((specified))~~) shown on the face of the permit issued(~~((, and))~~);

(b) Is valid only for the vehicle for which it is issued(~~((~~

~~((2) Every permit shall));~~

(c) Must identify, as the department may require, the vehicle for which it is issued; and (~~((shall))~~)

(d) Must be completed in its entirety, signed, and dated by the operator before operation of the vehicle on the public highways of this state.

(2) Correction of data on the permit such as dates, vehicle license number, or vehicle identification number invalidates the permit. A violation of, or a failure to comply with, this subsection is a gross misdemeanor.

(3) (~~((For each permit issued, there shall be collected a filing fee of one dollar, an administrative fee of fifteen dollars, and an excise tax of nine dollars. Such fees and tax shall be in lieu of the special fuel tax otherwise assessable against the permit holder for importing and using special fuel in a motor vehicle on the public highways of this state, and no report of mileage shall be required with respect to such vehicle. Trip permits will not be issued if the applicant has outstanding fuel taxes, penalties, or interest owing to the state or has had a special fuel license revoked for cause and the cause has not been removed. Five dollars from every fifteen dollar administration fee shall be deposited into the state patrol highway account and must be used for commercial motor vehicle inspections.~~

~~((4))~~) Blank special fuel trip permits may be obtained from field offices of the department of transportation, department of licensing, county auditors or other agents, or subagents appointed by the department for the fee provided in section 535 (1)(f) and (4) of this act. (~~((The department may appoint county auditors or businesses as agents for the purpose of selling trip permits to the~~

~~public. County auditors or businesses so appointed may retain the filing fee collected for each trip permit to defray expenses incurred in handling and selling the permits.~~

~~(5) A surcharge of five dollars is imposed on the issuance of trip permits. The portion of the surcharge paid by motor carriers must be deposited in the motor vehicle fund for the purpose of supporting vehicle weigh stations, weigh-in-motion programs, and the commercial vehicle information systems and networks program. The remaining portion of the surcharge must be deposited in the motor vehicle fund for the purpose of supporting congestion relief programs. All other fees and excise taxes collected by the department for trip permits shall be credited and deposited in the same manner as the special fuel tax collected under this chapter and shall not be subject to exchange, refund, or credit.) The fee is in lieu of the special fuel tax otherwise assessable against the permit holder for importing and using special fuel in a motor vehicle on the public highways of this state. A report of mileage may not be required with respect to the motor vehicle. Special fuel trip permits may not be issued if the applicant has outstanding fuel taxes, penalties, or interest owing to the state or has had a special fuel license revoked for cause and the cause has not been removed.~~

~~(4) Special fuel trip permits are not subject to exchange, refund, or credit.~~

NEW SECTION. Sec. 908. A new section is added to chapter 82.44 RCW to read as follows:

(1) The motor vehicle excise tax authorized under this chapter applies to the following vehicles:

- (a) Commercial trailers, as defined in section 110 of this act;
- (b) Farm trucks registered under RCW 46.16.090 (as recodified by this act);
- (c) Fixed load vehicles, as defined in section 116 of this act;
- (d) Motor homes, as defined in RCW 46.04.305;
- (e) Motor trucks, as defined in RCW 46.04.310, with a scale weight greater than six thousand pounds;
- (f) Motor vehicles, as defined in RCW 46.04.320; and
- (g) Trailers, as defined in RCW 46.04.620.

(2) The motor vehicle excise tax authorized under this chapter does not apply to the following vehicles:

- (a) Campers, as defined in RCW 46.04.085;
- (b) Dock and warehouse tractors and their cars or trailers;
- (c) Equipment not designed primarily for use on public highways;
- (d) Exempt registered vehicles;
- (e) Lumber carriers of the type known as spiders;
- (f) Mobile homes, as defined in RCW 46.04.302;
- (g) Passenger motor vehicles, as described in RCW 82.44.015;
- (h) Travel trailers, as defined in RCW 46.04.623;
- (i) Vehicles not used on the public highways; and
- (j) Vehicles owned by nonresident military personnel of the armed forces of the United States stationed in the state of Washington if the nonresident military member was a nonresident of this state when enlisted into military service.

Sec. 909. RCW 82.44.015 and 1996 c 244 s 7 are each amended to read as follows:

~~((For the purposes of this chapter, in addition to the exclusions under RCW 82.44.010, "motor vehicle" shall not include))~~

(1) Passenger motor vehicles used primarily for commuter ride sharing and ride sharing for persons with special transportation needs, as defined in RCW 46.74.010, are not subject to the motor vehicle excise tax authorized under this chapter.
~~((The registered owner of one of these vehicles shall notify the department of licensing upon termination of primary use of the vehicle in commuter ride sharing or ride sharing for persons with special transportation needs and shall be liable for the tax imposed by this chapter, prorated on the remaining months for which the vehicle is licensed))~~

(2) To qualify for the motor vehicle excise tax exemption, passenger motor vehicles must:~~((those))~~

(a) Have a seating capacity of five or six passengers, including the driver;~~((s))~~

(b) Be used for commuter ride-sharing;~~((must))~~

(c) Be operated either within:

(i) The state's eight largest counties that are required to develop commute trip reduction plans as directed by chapter 70.94 RCW; or

(ii) In other counties, or cities and towns within those counties, that elect to adopt and implement a commute trip reduction plan;~~((Additionally))~~ and

(d) Meet at least one of the following conditions:~~((must apply))~~ (i) The vehicle must be operated by a public transportation agency for the general public;~~((or (2)))~~

(ii) The vehicle must be used by a major employer, as defined in RCW 70.94.524 as an element of its commute trip reduction program for their employees; or~~((3))~~

(iii) The vehicle must be owned and operated by individual employees and must be registered either with the employer as part of its commute trip reduction program or with a public transportation agency serving the area where the employees live or work. Individual employee owned and operated motor vehicles will require certification that the vehicle is registered with a major employer or a public transportation agency. Major employers who own and operate motor vehicles for their employees must certify that the commuter ride-sharing arrangement conforms to a carpool/vanpool element contained within their commute trip reduction program.

(3) The registered owner of a passenger motor vehicle described in subsection (2) of this section:

(a) Shall notify the department upon the termination of the primary use of the vehicle in commuter ride sharing or ride sharing for persons with special transportation needs; and

(b) Is liable for the motor vehicle excise tax imposed under this chapter, prorated on the remaining months for which the vehicle is registered.

Sec. 910. RCW 82.44.035 and 2006 c 318 s 1 are each amended to read as follows:

(1) For the purpose of determining any locally imposed motor vehicle excise tax, the value of a truck~~((type power or trailing unit))~~ or trailer shall be the latest purchase price of the vehicle, excluding applicable federal excise taxes, state and local sales or use taxes, transportation or shipping costs, or preparatory or delivery costs, multiplied by the following percentage based on year of

service of the vehicle since last sale. The latest purchase year shall be considered the first year of service.

YEAR OF SERVICE	PERCENTAGE
1	100
2	81
3	67
4	55
5	45
6	37
7	30
8	25
9	20
10	16
11	13
12	11
13	9
14	7
15	3
16 or older	0

(2) The reissuance of a certificate of title and registration certificate for a truck(~~(type power or trailing unit)) or trailer~~ because of the installation of body or special equipment shall be treated as a sale, and the value of the truck(~~(type power or trailing unit)) or trailer~~ at that time, as determined by the department from such information as may be available, shall be considered the latest purchase price.

(3) For the purpose of determining any locally imposed motor vehicle excise tax, the value of a (~~motor~~) vehicle other than a truck(~~(type power or trailing unit)) or trailer~~ shall be eighty-five percent of the manufacturer's base suggested retail price of the vehicle when first offered for sale as a new vehicle, excluding any optional equipment, applicable federal excise taxes, state and local sales or use taxes, transportation or shipping costs, or preparatory or delivery costs, multiplied by the applicable percentage listed in this subsection (3) based on year of service of the vehicle.

If the manufacturer's base suggested retail price is unavailable or otherwise unascertainable at the time of initial registration in this state, the department shall determine a value equivalent to a manufacturer's base suggested retail price as follows:

(a) The department shall determine a value using any information that may be available, including any guidebook, report, or compendium of recognized standing in the automotive industry or the selling price and year of sale of the vehicle. The department may use an appraisal by the county assessor. In valuing a vehicle for which the current value or selling price is not indicative of the value of similar vehicles of the same year and model, the department shall

establish a value that more closely represents the average value of similar vehicles of the same year and model. The value determined in this subsection (3)(a) shall be divided by the applicable percentage listed in (b) of this subsection (3) to establish a value equivalent to a manufacturer's base suggested retail price and this value shall be multiplied by eighty-five percent.

(b) The year the vehicle is offered for sale as a new vehicle shall be considered the first year of service.

YEAR OF SERVICE	PERCENTAGE
1	100
2	81
3	72
4	63
5	55
6	47
7	41
8	36
9	32
10	27
11	26
12	24
13	23
14	21
15	16
16 or older	10

(4) For purposes of this chapter, value shall exclude value attributable to modifications of a ((motor)) vehicle and equipment that are designed to facilitate the use or operation of the ((motor)) vehicle by a person with a disability.

Sec. 911. RCW 82.44.060 and 2006 c 318 s 3 are each amended to read as follows:

(1) Any locally imposed excise tax ((shall be)):

(a) Is due ((and payable to the department or its agents)) at the time of registration of a ((motor)) vehicle((--Whenever an application is made to the department or its agents for a license for a motor vehicle there shall be collected,));

(b) Must be paid in full before any registration certificate or license tab may be issued;

(c) Is in addition to ((the amount of the license fee or renewal license fee, the amount of any locally imposed excise tax, and no dealer's license or license plates, and no license or license plates for a motor vehicle shall be issued unless such tax is paid in full. Locally imposed excise taxes shall)) any other vehicle license fees required by law;

(d) Must be collected by the department, county auditor or other agent, or subagent appointed by the director of licensing before issuing the registration certificate;

(e) Must be collected for each registration year ~~((—Any locally imposed excise tax upon a motor vehicle licensed for the first time in this state shall));~~ and

(f) Must be levied for one full registration year ~~((commencing))~~ beginning on the date of the calendar year designated by the department and ending on the same date of the next succeeding calendar year. For vehicles registered under chapter 46.87 RCW, proportional registration, and for vehicle dealer plates issued under chapter 46.70 RCW, the registration year is the period provided in those chapters. However, the tax shall in no case be less than two dollars except for proportionally registered vehicles.

(2) A ((motor)) vehicle ((shall be)) is deemed ~~((licensed))~~ registered for the first time in this state when ~~((such))~~ the vehicle was not previously ~~((licensed))~~ registered by this state for the registration year immediately preceding the registration year in which the application for ~~((license))~~ registration is made or when the vehicle has been registered in another jurisdiction subsequent to any prior registration in this state.

~~((No))~~ (3) An additional tax ~~((shall))~~ may not be imposed under this chapter ~~((upon))~~ on any vehicle ~~((upon the transfer of ownership thereof))~~ when the certificate of title is being transferred if the tax ~~((imposed with respect to such vehicle))~~ has already been paid for the registration year or fraction of a registration year in which transfer of ownership occurs.

Sec. 912. RCW 82.44.065 and 2006 c 318 s 5 are each amended to read as follows:

If the department determines a value for a ~~((motor))~~ vehicle equivalent to a manufacturer's base suggested retail price or the value of a truck ~~((type power or trailing unit))~~ or trailer under RCW 82.44.035, any person who pays a locally imposed tax for that vehicle may appeal the valuation to the department under chapter 34.05 RCW. If the taxpayer is successful on appeal, the department shall refund the excess tax in the manner provided in RCW 82.44.120.

Sec. 913. RCW 82.44.090 and 2006 c 318 s 6 are each amended to read as follows:

It ~~((shall be))~~ is unlawful for the county auditor or any other person to issue a dealer's license or dealer's license plates or a ~~((license))~~ registration or identification plates with respect to any motor vehicle without collecting, with the required vehicle license fee, the amount of any locally imposed motor vehicle excise tax due. Any violation of this section shall constitute a gross misdemeanor.

Sec. 914. RCW 82.44.100 and 2006 c 318 s 7 are each amended to read as follows:

The department, county auditor or other agent, or subagent appointed by the director of licensing shall give to each person paying a locally imposed motor vehicle excise tax a receipt ~~((therefor which shall sufficiently designate and identify))~~ identifying the vehicle ~~((with respect to))~~ for which the tax is paid. The receipt may be incorporated in the receipt given for the ~~((motor))~~ vehicle license fee or dealer's license fee paid.

Sec. 915. RCW 82.44.120 and 2006 c 318 s 8 are each amended to read as follows:

~~((1) Whenever any person has paid a motor vehicle license fee, and together therewith has paid a locally imposed excise tax, and the director determines that the payor is entitled to a refund of the entire amount of the license fee as provided by law, then the payor shall also be entitled to a refund of the entire excise tax collected under the provisions of this chapter. In case the director determines that any person is entitled to a refund of only a part of the license fee so paid, the payor shall be entitled to a refund of the difference, if any, between the excise tax collected and that which should have been collected.~~

~~(2) In case no claim is to be made for the refund of the license fee or any part thereof, but claim is made by any person that he or she has paid an erroneously excessive amount of excise tax, the department shall determine in the manner generally provided in this chapter the amount of such excess, if any, that has been paid and shall certify to the state treasurer that such person is entitled to a refund in such amount.~~

~~(3) In any case where due to error, a person has been required to pay an excise tax pursuant to this chapter and a vehicle license fee pursuant to Title 46 RCW which amounts to an overpayment of ten dollars or more, such person shall be entitled to a refund of the entire amount of such overpayment, regardless of whether or not a refund of the overpayment has been requested. Conversely, if due to error, the department or its agents has failed to collect the full amount of the license fee and excise tax due, which underpayment is in the amount of ten dollars or more, the department shall charge and collect such additional amount as will constitute full payment of the tax.~~

~~(4) Any claim for refund of an erroneously excessive amount of excise tax or overpayment of excise tax with a motor vehicle license fee must be filed with the director within three years after the claimed erroneous payment was made.~~

~~(5) If the department approves the claim it shall notify the state treasurer to that effect, and the treasurer shall make such approved refunds from the general fund and shall mail or deliver the same to the person entitled thereto.~~

~~(6) Any person making any false statement under which he or she obtains any amount of refund to which he or she is not entitled under the provisions of this section is guilty of a gross misdemeanor.~~

~~(7)) (1) Refunds of locally imposed motor vehicle excise taxes must be handled in the same manner and under the same terms and conditions as provided in RCW 46.68.010.~~

~~(2) A claim for a refund may be made by a person who:~~

~~(a) Is not seeking a full refund; and~~

~~(b) Believes the amount of the locally imposed motor vehicle excise tax paid was incorrect or too much.~~

~~(3) When a claim for a refund is made as provided in subsection (2) of this section, the department shall:~~

~~(a) Determine the amount of the locally imposed motor vehicle excise tax that had been greater than the amount actually due, if any; and~~

~~(b) Certify to the state treasurer the amount of the partial refund due.~~

~~(4) Before a local government subject to this chapter may impose a motor vehicle excise tax, the local government shall contract with the department for reimbursement for any refunds paid to a person by the treasurer.~~

Sec. 916. RCW 82.80.130 and 2006 c 318 s 4 are each amended to read as follows:

(1) Public transportation benefit areas authorized to implement passenger-only ferry service under RCW 36.57A.200 whose boundaries (a) are on the Puget Sound, but (b) do not include an area where a regional transit authority has been formed, may submit an authorizing proposition to the voters and, if approved, may levy and collect an excise tax, at a rate approved by the voters, but not exceeding four-tenths of one percent on the value of every motor vehicle owned by a resident of the taxing district, solely for the purpose of providing passenger-only ferry service. The tax must be collected only at the time of vehicle ~~((license))~~ registration renewal under chapter 46.16 RCW. The tax will be imposed on vehicles previously registered in another state or nation when they are initially registered in this state. The tax will not be imposed at the time of sale by a licensed vehicle dealer. In a county imposing a motor vehicle excise tax surcharge under RCW 81.100.060, the maximum tax rate under this section must be reduced to a rate equal to four-tenths of one percent on the value less the equivalent motor vehicle excise tax rate of the surcharge imposed under RCW 81.100.060. This rate does not apply to vehicles ~~((licensed))~~ registered under RCW 46.16.070 (as recodified by this act) with ~~((an unladen))~~ a scale weight more than six thousand pounds, or to vehicles ~~((licensed))~~ registered under ~~((RCW 46.16.079, 46.16.085, or))~~ section 528 of this act, section 531(1)(c) of this act, or RCW 46.16.090 (as recodified by this act).

(2) The department of licensing shall administer and collect the tax in accordance with chapter 82.44 RCW. The department shall deduct a percentage amount, as provided by contract, not to exceed one percent of the taxes collected, for administration and collection expenses incurred by it. The remaining proceeds must be remitted to the custody of the state treasurer for monthly distribution to the public transportation benefit area.

(3) The public transportation benefit area imposing this tax shall delay the effective date at least six months from the date the fee is approved by the qualified voters of the authority area to allow the department of licensing to implement administration and collection of the tax.

(4) Before an authority may impose a tax authorized under this section, the authorization for imposition of the tax must be approved by a majority of the qualified electors of the authority area voting on that issue.

Sec. 917. RCW 82.80.140 and 2007 c 329 s 2 are each amended to read as follows:

(1) Subject to the provisions of RCW 36.73.065, a transportation benefit district under chapter 36.73 RCW may fix and impose an annual vehicle fee, not to exceed one hundred dollars per vehicle registered in the district, for each vehicle subject to vehicle license ~~((tab))~~ fees under ~~((RCW 46.16.0621))~~ section 531(1) (a), (c), (d), (e), (g), (h), (j), or (n) through (q) of this act and for each vehicle subject to gross weight license fees under ~~((RCW 46.16.070))~~ section 530 of this act with ~~((an unladen))~~ a scale weight of six thousand pounds or less.

(2)(a) A district that includes all the territory within the boundaries of the jurisdiction, or jurisdictions, establishing the district may impose by a majority vote of the governing board of the district up to twenty dollars of the vehicle fee authorized in subsection (1) of this section. If the district is countywide, the revenues of the fee shall be distributed to each city within the county by interlocal agreement. The interlocal agreement is effective when approved by the county and sixty percent of the cities representing seventy-five percent of the

population of the cities within the county in which the countywide fee is collected.

(b) A district may not impose a fee under this subsection (2):

(i) For a passenger-only ferry transportation improvement unless the vehicle fee is first approved by a majority of the voters within the jurisdiction of the district; or

(ii) That, if combined with the fees previously imposed by another district within its boundaries under RCW 36.73.065(4)(a)(i), exceeds twenty dollars.

If a district imposes or increases a fee under this subsection (2) that, if combined with the fees previously imposed by another district within its boundaries, exceeds twenty dollars, the district shall provide a credit for the previously imposed fees so that the combined vehicle fee does not exceed twenty dollars.

(3) The department of licensing shall administer and collect the fee. The department shall deduct a percentage amount, as provided by contract, not to exceed one percent of the fees collected, for administration and collection expenses incurred by it. The department shall remit remaining proceeds to the custody of the state treasurer. The state treasurer shall distribute the proceeds to the district on a monthly basis.

(4) No fee under this section may be collected until six months after approval under RCW 36.73.065.

(5) The vehicle fee under this section applies only when renewing a vehicle registration, and is effective upon the registration renewal date as provided by the department of licensing.

(6) The following vehicles are exempt from the fee under this section:

(a) Campers, as defined in RCW 46.04.085;

(b) Farm tractors or farm vehicles, as defined in RCW 46.04.180 and 46.04.181;

~~((b))~~ (c) Mopeds, as defined in RCW 46.04.304;

~~((d))~~ (d) Off-road and nonhighway vehicles, as defined in ((RCW 46.09.020)) section 127 of this act;

~~((e))~~ (e) Private use single-axle trailer, as defined in section 132 of this act;

(f) Snowmobiles, as defined in section 145 of this act; and

(g) Vehicles registered under chapter 46.87 RCW and the international registration plan(~~and~~

~~(d) Snowmobiles as defined in RCW 46.10.010).~~

PART X. VESSELS

A. GENERAL PROVISIONS

Sec. 1001. RCW 88.02.010 and 1983 c 7 s 14 are each amended to read as follows:

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

(1) "Vessel" means every watercraft used or capable of being used as a means of transportation on the water, other than a seaplane.

(2) "Owner" means a person who has a lawful right to possession of a vessel by purchase, exchange, gift, lease, inheritance, or legal action whether or not the

vessel is subject to a security interest, and means registered owner where the reference to owner may be construed as either to registered or legal owner.

(3) "Dealer" means a person, partnership, association, or corporation engaged in the business of selling vessels at wholesale or retail in this state.

(4) "Department" means the department of licensing.

(5) "Director" means the director of the department of licensing.

(6) "Person" has the same meaning as in RCW 46.04.405.

(7) "Waters of this state" means any waters within the territorial limits of this state as described in 43 U.S.C. Sec. 1312.

NEW SECTION. Sec. 1002. A new section is added to chapter 88.02 RCW under the subchapter heading "general provisions" to read as follows:

The department:

(1) Shall provide for the issuance of vessel certificates of title and registration certificates;

(2) May appoint county auditors or other agents or subagents under chapter 46.01 RCW for collecting fees and issuing vessel registration certificates, numbers, and decals; and

(3) May adopt rules under chapter 34.05 RCW to implement this chapter.

Sec. 1003. RCW 88.02.035 and 1991 c 339 s 32 are each amended to read as follows:

(1) The department may issue confidential vessel registrations ~~((for law enforcement purposes only))~~ to units of local government and to agencies of the federal government for law enforcement purposes only.

(2) The department shall limit confidential vessel registrations owned or operated by the state of Washington or by any officer or employee ~~((thereof))~~ of the state, to confidential, investigative, or undercover work of state law enforcement agencies.

(3) The director may adopt rules governing applications for and the use of confidential vessel registrations ~~((by law enforcement and other public agencies)).~~

NEW SECTION. Sec. 1004. A new section is added to chapter 88.02 RCW under the subchapter heading "general provisions" to read as follows:

(1) Any person charged with the enforcement of this chapter may inspect the registration certificate of a vessel to ascertain the legal and registered ownership of the vessel. A vessel owner or operator who fails to provide the registration certificate for inspection upon the request of any person charged with enforcement of this chapter is a class 2 civil infraction.

(2) The department may require the inspection of vessels that are brought into this state from another state and for which a certificate of title has not been issued and for any other vessel if the department determines that inspection of the vessel will help to verify the accuracy of the information set forth on the application.

Sec. 1005. RCW 88.02.055 and 2003 c 53 s 413 are each amended to read as follows:

~~((1) Whenever any license fee paid under this chapter has been erroneously paid, in whole or in part, the person paying the fee, upon satisfactory proof to the director of licensing, is entitled to a refund of the amount erroneously paid.~~

~~(2) A license fee is refundable in one or more of the following circumstances: (a) If the vessel for which the renewal license was purchased was destroyed before the beginning date of the registration period for which the renewal fee was paid; (b) if the vessel for which the renewal license was purchased was permanently removed from the state before the beginning date of the registration period for which the renewal fee was paid; (c) if the vessel license was purchased after the owner has sold the vessel; (d) if the vessel is currently licensed in Washington and is subsequently licensed in another jurisdiction, in which case any full months of Washington fees between the date of license application in the other jurisdiction and the expiration of the Washington license are refundable; or (e) if the vessel for which the renewal license was purchased is sold before the beginning date of the registration period for which the renewal fee was paid, and the payor returns the new, unused, never affixed license renewal decal to the department before the beginning of the registration period for which the registration was purchased.~~

~~(3) Upon the refund being certified as correct to the state treasurer by the director and being claimed in the time required by law, the state treasurer shall mail or deliver the amount of each refund to the person entitled to the refund.~~

~~(4) A claim for refund shall not be allowed for erroneous payments unless the claim is filed with the director within three years after such payment was made.~~

~~(5) If due to error a person has been required to pay a license fee under this chapter and excise tax which amounts to an overpayment of ten dollars or more, the person is entitled to a refund of the entire amount of the overpayment, regardless of whether a refund of the overpayment has been requested. If due to error the department or its agents has failed to collect the full amount of the license fee and excise tax due, which underpayment is in the amount of ten dollars or more, the department shall charge and collect the additional amount as will constitute full payment of the tax and fees.)~~

(1) A person who has paid all or part of a vessel registration fee under this chapter is entitled to a refund if the amount was paid in error or if the vessel:

(a) Was destroyed before the new registration period began;

(b) Was permanently removed from Washington state before the new registration period began;

(c) Registration was purchased after the owner sold the vessel;

(d) Was registered in another jurisdiction after the Washington state registration had been purchased. Any full months of Washington state registration fees remaining after the application for out-of-state registration was made are refundable; or

(e) Registration was purchased before the vessel was sold and before the new registration period began. The person who paid the fee must return the unused, never-affixed decals to the department before the new registration period begins.

(2) The department shall refund overpayments of registration fees and watercraft excise tax under chapter 82.49 RCW that are ten dollars or more. A request for a refund is not required.

(3) The department shall certify refunds to the state treasurer as correct and being claimed in the time required by law. The state treasurer shall mail or deliver the amount of each refund to the person who is entitled to the refund.

(4) The department shall not authorize refunds of fees paid in error unless the claim is filed with the director within three years after the fees were paid.

(5) If, due to error, the department, county auditor or other agent, or subagent appointed by the director has failed to collect the full amount of the registration fee and watercraft excise tax due, and the underpayment is in the amount of ten dollars or more, the department shall charge and collect the additional amount to constitute full payment of the tax and fee.

(6) Any person who makes a false statement under which he or she obtains a refund to which he or she is not entitled under this section is guilty of a gross misdemeanor.

Sec. 1006. RCW 88.02.110 and 2006 c 29 s 3 are each amended to read as follows:

(1) Except as otherwise provided in this chapter, a violation of this chapter and the rules adopted by the department (~~((pursuant to these statutes))~~) is a misdemeanor punishable only by a fine not to exceed one hundred dollars per vessel for the first violation. Subsequent violations in the same year are subject to the following fines:

(a) For the second violation, a fine of two hundred dollars per vessel;

(b) For the third and successive violations, a fine of four hundred dollars per vessel.

(2) A violation designated in this chapter as a civil infraction (~~((shall))~~) must be punished accordingly pursuant to chapter 7.80 RCW.

(3) After the subtraction of court costs and administrative collection fees, moneys collected under this section (~~((shall))~~) must be credited to the current expense fund of the arresting jurisdiction.

(4) All law enforcement officers (~~((shall have the authority to))~~) may enforce this chapter(~~(-)~~) and the rules adopted by the department (~~((pursuant to these statutes))~~) within their respective jurisdictions(~~(- PROVIDED, That)~~). A city, town, or county may contract with a fire protection district for (~~((such))~~) enforcement of this chapter and fire protection districts (~~((are authorized to))~~) may engage in (~~((such))~~) enforcement activities.

Sec. 1007. RCW 88.02.118 and 2003 c 53 s 414 are each amended to read as follows:

(1) It is a gross misdemeanor punishable as provided under chapter 9A.20 RCW for any person owning a vessel subject to taxation under chapter 82.49 RCW to:

(a) Register a vessel in another state to avoid Washington state vessel excise tax required under chapter 82.49 RCW; or (~~((to))~~)

(b) Obtain a vessel dealer's (~~((registration))~~) license for the purpose of evading excise tax on vessels under chapter 82.49 RCW.

(2) For a second or subsequent offense, the person convicted is also subject to a fine equal to four times the amount of avoided taxes and fees, (~~((no part of))~~) which may not be suspended or deferred.

(3) Excise taxes owed and fines assessed (~~((will))~~) must be deposited in the manner provided under RCW 46.16.010(~~((4))~~) (6).

Sec. 1008. RCW 88.02.200 and 1985 c 258 s 11 are each amended to read as follows:

~~((No))~~ A suit or action ~~((shall ever))~~ may not be commenced or prosecuted against the department ~~((of licensing))~~ or the state of Washington by reason of any act done or omitted to be done in the administration of the duties and responsibilities imposed upon the department under this chapter ~~((88.02 RCW))~~.

B. CERTIFICATES OF TITLE

Sec. 1009. RCW 88.02.120 and 1985 c 258 s 1 are each amended to read as follows:

It is the intention of the legislature:

(1) To establish a system of certificates of title for vessels ((and watercraft)) similar to that in existence for motor vehicles((- It is the goal of this legislation that the title)) under chapter 46.12 RCW;

(2) That certificates of title become ((prima facie)) sufficient evidence of ownership of the vessel it describes so that persons may rely upon that certificate; and

(3) That security interest in vessels be perfected solely by notation of a secured party upon the ((title)) certificate of title. ((However, there are title certificates issued prior to June 30, 1985, which may not indicate security interests in the certificated vessel. The establishment of a more reliable system will require implementation over several years, as the existing security interests are either satisfied or their perfection is not continued. During this interim period of five years from June 30, 1985, two different classes, class A and class B, of title certificates will be in existence and issued by the department of licensing. The establishment and operation of the system for watercraft and vessels should be patterned upon the system established and operating for motor vehicles and the department of licensing is hereby authorized and directed to adopt the regulations and procedures necessary and desirable to establish such a similar system, excepting only as the same may be inconsistent with this chapter.))

Sec. 1010. RCW 88.02.070 and 1996 c 315 s 5 are each amended to read as follows:

(1) ((The department shall provide for the issuance of vessel certificates of title. Applications for certificates may be made through the agents appointed under RCW 88.02.040. The fee for a vessel certificate of title is five dollars. Fees required for licensing agents under RCW 46.01.140 are in addition to the vessel certificate of title fee. Fees for vessel certificates of title shall be deposited in the general fund.)) Security interests in vessels subject to the requirements of this chapter ((and attaching after July 1, 1983, shall)) must be perfected only by indication upon the vessel's ((title)) certificate of title. The provisions of chapters 46.12 and 46.16 RCW relating to ((motor)) vehicle ((certificates of)) registration certificates, certificates of title(s), certificate issuance, ownership transfer, and perfection of security interests, and other provisions ~~((which))~~ that may be applied to vessels subject to this chapter, may be so applied by rule of the department if they are not inconsistent with this chapter.

(2) ((Whenever a vessel is to be registered for the first time as required by this chapter, except for a vessel having a valid marine document as a vessel of the United States, application shall be made at the same time for a certificate of

title. Any person who purchases or otherwise obtains majority ownership of any vessel subject to the provisions of this chapter, except for a vessel having a valid marine document as a vessel of the United States, shall within fifteen days thereof apply for a new certificate of title which shows the vessel's change of ownership.

~~(3))~~ Security interests may be released or acted upon as provided by the law under which they arose or were perfected. ~~((No))~~ A new security interest or renewal or extension of an existing security interest is not affected except as provided under the terms of this chapter and RCW 46.12.095.

~~((4))~~ Notice shall be given to the issuing authority by the owner indicated on the certificate of registration within fifteen days of the occurrence of any of the following: Any change of address of owner; destruction, loss, abandonment, theft, or recovery of the vessel; or loss or destruction of a valid certificate of registration on the vessel.

~~(5)~~ Within five days, excluding Saturdays, Sundays, and state and federal holidays, the owner shall notify the department in writing, on the appropriate form, of the date of the sale or transfer, the name and address of the owner and of the transferee, and such description of the vessel, including the hull identification number, the vessel decal number, or both, as may be required by the department.)

NEW SECTION, Sec. 1011. A new section is added to chapter 88.02 RCW under the subchapter heading "certificates of title" to read as follows:

(1) An application for a certificate of title must be made at the same time when a vessel is registered for the first time as required under this chapter.

(2) A person who purchases or otherwise obtains majority ownership of any vessel subject to this chapter shall, within fifteen days of purchase or obtainment, apply for a new certificate of title that shows the vessel's change of ownership.

(3) This section does not apply to a vessel that has a valid marine document as a vessel of the United States.

Sec. 1012. RCW 88.02.180 and 1985 c 258 s 6 are each amended to read as follows:

~~(Each)~~ (1) The application for a ((title)) certificate ((shall require)) of title of a vessel must be made by the owner or the owner's representative to the department, county auditor or other agent, or subagent appointed by the director on a form furnished or approved by the department and must contain:

(a) A description of the vessel, including make, model, hull identification number, and type of body;

(b) The name and address of the person who is to be the registered owner of the vessel and, if the vessel is subject to a security interest, the name and address of the secured party; and

(c) Other information the department may require.

(2) The application for a certificate of title must be signed by the person applying to be ((designated as)) the registered owner ((to swear)) and be sworn to by that person under penalty of the perjury laws of this state that ((he)).

(a) The applicant is the owner or an authorized agent of the owner of the vessel((- and that it)); and

(b) The vessel is free of any claim of lien, mortgage, conditional sale, or other security interest of any person except the person or persons ((set forth in)) on the application as secured parties.

(3) The application for a certificate of title must be accompanied by:

(a) A draft, money order, certified bank check, or cash for all fees and taxes due for the application for the certificate of title; and

(b) The most recent certificate of title or other satisfactory evidence of ownership.

NEW SECTION. Sec. 1013. A new section is added to chapter 88.02 RCW under the subchapter heading "certificates of title" to read as follows:

A vessel owner shall notify the department within fifteen days of any of the following:

- (1) A change of address of the owner;
- (2) Destruction, loss, abandonment, theft, or recovery of the vessel; or
- (3) Loss or destruction of a valid registration certificate issued for the vessel.

NEW SECTION. Sec. 1014. A new section is added to chapter 88.02 RCW under the subchapter heading "certificates of title" to read as follows:

(1) A vessel owner shall notify the department in writing within five business days after a vessel is or has been:

- (a) Sold;
- (b) Given as a gift to another person;
- (c) Traded, either privately or to a vessel dealer;
- (d) Donated to charity;
- (e) Turned over to an insurance company or wrecking yard; or
- (f) Disposed of.

(2) A report of sale is properly filed if it is received by the department within five business days after the date of sale or transfer and it includes:

- (a) The date of sale or transfer;
- (b) The owner's name and address;
- (c) The name and address of the person acquiring the vessel;
- (d) The vessel hull identification number and vessel registration number;

and

(e) A date stamp by the department showing it was received on or before the fifth business day after the date of sale or transfer.

Sec. 1015. RCW 88.02.075 and 1997 c 241 s 12 are each amended to read as follows:

~~((1) If a certificate of ownership, a certificate of registration, or a pair of decals is lost, stolen, mutilated, or destroyed or becomes illegible, the first priority secured party or, if none, the owner or legal representative of the owner named in the certificate, as shown by the records of the department, shall promptly apply for and may obtain a duplicate certificate or replacement decals upon payment of one dollar and twenty five cents and furnishing information satisfactory to the department.~~

~~(a) An application for a duplicate certificate of title shall be accompanied by an affidavit of loss or destruction in a form approved by the department and signed by the first secured party or, if none, the owner or legal representative of the owner.~~

~~(b) An application for a duplicate certificate of registration or replacement decals shall be accompanied by an affidavit of loss or destruction in a form approved by the department and signed by the registered owner or legal representative of the owner.~~

~~(2) The duplicate certificate of ownership or registration shall contain the legend, "duplicate." It shall be mailed to the first priority secured party named in it or, if none, to the owner.~~

~~(3) A person recovering an original certificate of ownership, certificate of registration, or decal for which a duplicate or replacement has been issued shall promptly surrender the original to the department.)~~

(1) A legal owner or the legal owner's authorized representative shall promptly apply for a duplicate certificate of title if a certificate of title is lost, stolen, mutilated, or destroyed, or becomes illegible. The application for a duplicate certificate of title must:

(a) Include information required by the department;

(b) Be accompanied by an affidavit of loss or destruction;

(c) Be accompanied by the fee required in section 1028(1)(j) of this act.

(2) The duplicate certificate of title must contain the word "duplicate." It must be mailed to the first priority secured party named in it or, if none, to the registered owner.

(3) A person recovering a certificate of title for which a duplicate has been issued shall promptly return the certificate of title that has been recovered to the department.

NEW SECTION. Sec. 1016. A new section is added to chapter 88.02 RCW under subchapter heading "certificates of title" to read as follows:

(1) A local health officer may notify the department that a vessel has been:

(a) Declared unfit and prohibited from use as authorized in chapter 64.44 RCW if the vessel has become contaminated as defined in RCW 64.44.010;

(b) Satisfactorily decontaminated and the vessel has been retested according to the written work plan approved by the local health officer.

(2) The department shall brand vessel records and certificates of title when it receives the notification from a local health officer as provided in subsection (1) of this section.

(3) A person is guilty of a gross misdemeanor if he or she advertises for sale or sells a vessel that has been declared unfit and prohibited from use by a local health officer if:

(a) The person has knowledge that the local health officer has issued an order declaring the vessel unfit and prohibiting its use; or

(b) A notification has been placed on the certificate of title under subsection (2) of this section that the vessel has been declared unfit and prohibited from use.

(4) A person may advertise or sell a vessel if a release for reuse document has been issued by a local health officer under chapter 64.44 RCW or a notification has been placed on the certificate of title under subsection (2) of this section that the vessel has been decontaminated and released for reuse.

C. REGISTRATION CERTIFICATES

Sec. 1017. RCW 88.02.020 and 2006 c 29 s 1 are each amended to read as follows:

(1) Except as provided in this chapter, ~~((no))~~ a person may not own or operate any vessel, including a rented vessel, on the waters of this state unless the vessel has been registered and displays a registration number and a valid decal in accordance with this chapter~~((, except that))~~. A vessel ~~((which))~~ that has or is required to have a valid marine document as a vessel of the United States is only required to display a valid decal. A violation of this section is a class 2 civil infraction.

(2) A vessel numbered in this state under the federal boat safety act of 1971 (85 Stat. 213, 46 U.S.C. 4301 et seq.) is not required to be registered under this chapter until the certificate of number issued for the vessel under the federal boat safety act expires. When registering under this chapter, this type of vessel is subject to the amount of excise tax due under chapter 82.49 RCW that would have been due under chapter 82.49 RCW if the vessel had been registered at the time otherwise required under this chapter.

Sec. 1018. RCW 88.02.030 and 2007 c 22 s 3 are each amended to read as follows:

Vessel registration is required under this chapter except for the following:

(1) A military ~~((or public))~~ vessel~~((s of))~~ owned by the United States~~((, except recreational type public vessels;~~

~~((2) Vessels))~~ government;

(2) A public vessel owned by the United States government, unless the vessel is a type used for recreation;

(3) A vessel clearly identified as being:

(a) Owned by a state ~~((or subdivision thereof)), county, or city; and~~

(b) Used ~~((principally))~~ primarily for governmental purposes ~~((and clearly identifiable as such));~~

~~((3))~~ (4) A vessel~~((s))~~ either (a) registered or numbered under the laws of a country other than the United States~~((;))~~ or (b) having a valid United States customs service cruising license issued pursuant to 19 C.F.R. Sec. 4.94. Either vessel is exempt from registration only for the first sixty days of use on Washington state waters. On or before the sixty-first day of use ~~((in the))~~ on Washington state waters, any vessel in the state under this subsection ~~((shall))~~ must obtain ~~((an identification document from the department of licensing, its agents, or subagents indicating when the vessel first came into the state. At the time of any issuance of an identification document, a thirty dollar identification document fee shall be paid by the vessel owner to the department of licensing for the cost of providing the identification document by the department of licensing. Five dollars from each such transaction must be deposited in the derelict vessel removal account created in RCW 79.100.100. Any moneys remaining from the fee after the payment of costs and the deposit to the derelict vessel removal account shall be allocated to counties by the state treasurer for approved boating safety programs under RCW 88.02.045. The department of licensing shall adopt rules to implement its duties under this subsection, including issuing and displaying the identification document and collecting the thirty dollar fee))~~ a vessel visitor permit as required under section 1026 of this act;

~~((4))~~ (5) A vessel~~((s))~~ that ~~((have been issued))~~ is currently registered or numbered under the laws of the state of principal operation or that has been issued a valid number under federal law ~~((or by an approved issuing authority of the state of principal operation. However, a vessel that is validly registered in~~

~~another state but that is removed to this state for principal use is subject to registration under this chapter. The issuing authority for this state shall recognize the validity of the numbers previously issued for a period of sixty days after arrival in this state).~~ However, either vessel must be registered in Washington state if the state of principal operation changes to Washington state by the sixty-first day after the vessel arrives in Washington state;

~~((5))~~ (6) A vessel(s) owned by a nonresident if:

(a) The vessel is located upon the waters of this state exclusively for repairs, alteration, or reconstruction, or any testing related to ~~((the repair, alteration, or reconstruction conducted in this state if))~~ these services;

(b) An employee of the ~~((repair, alteration, or construction))~~ facility providing these services is on board the vessel during any testing~~((However, any vessel owned by a nonresident is located upon the waters of this state exclusively for repairs, alteration, reconstruction, or testing for a period longer than sixty days, that)); and~~

(c) The nonresident ~~((shall))~~ files an affidavit with the department of revenue by the sixty-first day verifying that the vessel is located upon the waters of this state for ~~((repair, alteration, reconstruction, or testing and))~~ these services.

The nonresident shall continue to file ((such)) an affidavit every sixty days thereafter, ((while)) as long as the vessel is located upon the waters of this state exclusively for repairs, alteration, reconstruction, or testing;

~~((6))~~ (7) A vessel(s) equipped with propulsion machinery of less than ten horsepower that:

(a) ~~((Are))~~ Is owned by the owner of a vessel for which a valid vessel number has been issued;

(b) Displays the number of that numbered vessel followed by the suffix "1" in the manner prescribed by the department; and

(c) ~~((Are))~~ Is used as a tender for direct transportation between ~~((that))~~ the numbered vessel and the shore and for no other purpose;

~~((7))~~ (8) A vessel(s) under sixteen feet in overall length ~~((which have))~~ that has no propulsion machinery of any type or ~~((which are))~~ that is not used on waters subject to the jurisdiction of the United States or on the high seas beyond the territorial seas for vessels owned in the United States and are powered by propulsion machinery of ten or less horsepower;

~~((8))~~ (9) A vessel(s) with no propulsion machinery of any type for which the primary mode of propulsion is human power;

~~((9))~~ (10) A vessel(s) primarily engaged in commerce ~~((which have or are))~~ that has or is required to have a valid marine document as a vessel of the United States. A commercial vessel((s-which)) that the department of revenue determines ~~((have))~~ has the external appearance of a vessel((s-which)) that would otherwise be required to register under this chapter, must display decals issued annually by the department of revenue that indicate the vessel's exempt status;

~~((10))~~ (11) A vessel(s) primarily engaged in commerce ~~((which are))~~ that is owned by a resident of a country other than the United States;

~~((11))~~ (12) A vessel(s) owned by a nonresident ~~((individual))~~ natural person brought into the state for ~~((his or her))~~ use or enjoyment while temporarily within the state for not more than six months in any continuous twelve-month period~~((, unless the vessel is used in conducting a nontransitory~~

~~business activity within the state. However, the vessel must have)) that (a) is currently registered or numbered under the laws of the state of principal use or (b) has been issued a valid number under federal law ((or by an approved issuing authority of the state of principal operation)). This type of vessel is exempt from registration only for the first sixty days of use on Washington state waters. On or before the sixty-first day of use ((in the)) on Washington state waters, any vessel ((temporarily in the state)) under this subsection ((shall)) must obtain ((an identification document from the department of licensing, its agents, or subagents indicating when the vessel first came into the state. An identification document shall be valid for a period of two months. At the time of any issuance of an identification document, a twenty-five dollar identification document fee shall be paid by the vessel owner to the department of licensing for the cost of providing the identification document by the department of licensing. Any moneys remaining from the fee after payment of costs shall be allocated to counties by the state treasurer for approved boating safety programs under RCW 88.02.045. The department of licensing shall adopt rules to implement its duties under this subsection, including issuing and displaying the identification document and collecting the twenty-five dollar fee)) a nonresident vessel permit as required under section 1027 of this act; ((and~~

~~(12)) (13) A vessel((s)) used in this state by a nonresident individual possessing a valid use permit issued under RCW 82.08.700 or 82.12.700; and~~

~~(14) A vessel held for sale by any licensed dealer.~~

Sec. 1019. RCW 88.02.050 and 2007 c 342 s 5 are each amended to read as follows:

(1) ~~An application for ((a)) vessel registration ((shall)) must be made by the owner or the owner's authorized representative to the department ((or its authorized agent in the manner and upon forms prescribed)), county auditor or other agent, or subagent appointed by the director on a form furnished or approved by the department. The application ((shall state)) must contain:~~

~~(a) The name and address of each owner of the vessel ((and such));~~

~~(b) Other information ((as may be required by)) the department((, shall be signed by)) may require; and~~

~~(c) The signature of at least one owner((, and shall be accompanied by a vessel registration fee of ten dollars and fifty cents per year and the excise tax imposed under chapter 82.49 RCW.~~

~~(2) Five additional dollars must be collected annually from every vessel registration application. These moneys must be distributed in the following manner:~~

~~(a) Two dollars must be deposited into the derelict vessel removal account established in RCW 79.100.100. If the department of natural resources indicates that the balance of the derelict vessel removal account, not including any transfer or appropriation of funds into the account or funds deposited into the account collected under RCW 88.02.270, reaches one million dollars as of March 1st of any year, the collection of the two-dollar fee must be suspended for the following fiscal year.~~

~~(b) One dollar and fifty cents must be deposited in the aquatic invasive species prevention account created in RCW 77.12.879.~~

~~(c) One dollar must be deposited into the freshwater aquatic algae control account created in RCW 43.21A.667.~~

~~(d) Fifty cents must be deposited into the aquatic invasive species enforcement account created in RCW 43.43.400.~~

~~(3) Any fees required for licensing agents under RCW 46.01.140 shall be in addition to the ten dollar and fifty cent annual registration fee and the five dollar fee created in subsection (2) of this section).~~

~~((4)) (2) The application for vessel registration must be accompanied by the:~~

~~(a) Vessel registration fee required under section 1028(1)(h) of this act;~~

~~(b) Derelict vessel and invasive species removal fee and derelict vessel removal surcharge required under section 1028(3)(a) of this act;~~

~~(c) Filing fee required under section 1028(1)(d) of this act;~~

~~(d) License plate technology fee required under section 1028(1)(e) of this act;~~

~~(e) License service fee required under section 1028(1)(f) of this act; and~~

~~(f) Watercraft excise tax required under chapter 82.49 RCW.~~

~~(3) Upon receipt of ~~((the))~~ an application for vessel registration and the ~~((registration))~~ required fees and taxes, the department shall assign a registration number and issue a decal for ~~((each))~~ the vessel. The registration number and decal ~~((shall))~~ must be issued and affixed to the vessel in a manner prescribed by the department consistent with the standard numbering system for vessels ~~((set forth in volume 33, part 174, of the code of federal regulations))~~ required in 33 C.F.R. Part 174. A valid decal affixed as prescribed shall indicate compliance with the annual registration requirements of this chapter.~~

~~((5) The) (4) Vessel registrations and decals are valid for a period of one year, except that the director ~~((of licensing))~~ may extend or diminish vessel registration periods~~((s))~~ and ~~((the))~~ vessel decals ~~((therefor,))~~ for the purpose of staggered renewal periods. For registration periods of more or less than one year, the department may collect prorated annual registration fees and excise taxes based upon the number of months in the registration period.~~

~~(5) Vessel registrations are renewable every year in a manner prescribed by the department upon payment of the ~~((vessel registration fee, excise tax, and the derelict vessel fee))~~ fees and taxes described in subsection (2) of this section. Upon renewing a vessel registration, the department shall issue a new decal to be affixed as prescribed by the department.~~

~~(6) When the department issues either a notice to renew a vessel registration or a decal for a new or renewed vessel registration, it shall also provide information on the location of marine oil recycling tanks and sewage holding tank pumping stations. This information will be provided to the department by the state parks and recreation commission in a form ready for distribution. The form ~~((will))~~ must be developed and prepared by the state parks and recreation commission with the cooperation of the department of ecology. The department, the state parks and recreation commission, and the department of ecology shall enter into a memorandum of agreement to implement this process.~~

~~(7) A person acquiring a vessel from a dealer or a vessel already validly registered under this chapter shall, within fifteen days of the acquisition or purchase of the vessel, apply to the department ~~((or its authorized agent)),~~ county auditor or other agent, or subagent appointed by the director for transfer of the vessel registration, and the application ~~((shall))~~ must be accompanied by a transfer fee ~~((of one dollar))~~ as required in section 1028(1)(k) of this act.~~

Sec. 1020. RCW 88.02.050 and 2007 c 342 s 6 are each amended to read as follows:

(1) An application for a vessel registration ~~((shall))~~ must be made by the owner or the owner's authorized representative to the department ~~((or its authorized agent in the manner and upon forms prescribed)), county auditor or other agent, or subagent appointed by the director on a form furnished or approved by the department. The application ~~((shall state))~~ must contain:~~

(a) The name and address of each owner of the vessel ~~((and such)),~~

(b) Other information ~~((as may be required by))~~ the department ~~((, shall be signed by))~~ may require; and

(c) The signature of at least one owner ~~((, and shall be accompanied by a vessel registration fee of ten dollars and fifty cents per year and the excise tax imposed under chapter 82.49 RCW. In addition, two additional dollars must be collected annually from every vessel registration application. These moneys must be deposited into the derelict vessel removal account established in RCW 79.100.100. If the department of natural resources indicates that the balance of the derelict vessel removal account, not including any transfer or appropriation of funds into the account or funds deposited into the account collected under RCW 88.02.270, reaches one million dollars as of March 1st of any year, the collection of the two dollar fee must be suspended for the following fiscal year. Any fees required for licensing agents under RCW 46.01.140 shall be in addition to the ten dollar and fifty cent annual registration fee and the two dollar derelict vessel fee)).~~

(2) The application for vessel registration must be accompanied by the:

(a) Vessel registration fee required under section 1028(1)(h) of this act;

(b) Derelict vessel and invasive species removal fee and derelict vessel removal surcharge required under section 1028(3)(b) of this act;

(c) Filing fee required under section 1028(1)(d) of this act;

(d) License plate technology fee required under section 1028(1)(e) of this act;

(e) License service fee required under section 1028(1)(f) of this act; and

(f) Watercraft excise tax required under chapter 82.49 RCW.

(3) Upon receipt of ~~((the))~~ an application ~~((and the))~~ for vessel registration and the required fees and taxes, the department shall assign a registration number and issue a decal for each vessel. The registration number and decal ~~((shall))~~ must be issued and affixed to the vessel in a manner prescribed by the department consistent with the standard numbering system for vessels ~~((set forth in volume 33, part 174, of the code of federal regulations))~~ required in 33 C.F.R. Part 174. A valid decal affixed as prescribed ~~((shall))~~ must indicate compliance with the annual registration requirements of this chapter.

~~((The))~~ (4) Vessel registrations and decals are valid for a period of one year, except that the director ~~((of licensing))~~ may extend or diminish vessel registration periods~~((;))~~ and ~~((the))~~ vessel decals ~~((therefor;))~~ for the purpose of staggered renewal periods. For registration periods of more or less than one year, the department may collect prorated annual registration fees and excise taxes based upon the number of months in the registration period.

(5) Vessel registrations are renewable every year in a manner prescribed by the department upon payment of the ~~((vessel registration fee, excise tax, and the derelict vessel fee))~~ fees and taxes described in subsection (2) of this section.

Upon renewing a vessel registration, the department shall issue a new decal to be affixed as prescribed by the department.

(6) When the department issues either a notice to renew a vessel registration or a decal for a new or renewed vessel registration, it shall also provide information on the location of marine oil recycling tanks and sewage holding tank pumping stations. This information ~~((will))~~ must be provided to the department by the state parks and recreation commission in a form ready for distribution. The form ~~((will))~~ must be developed and prepared by the state parks and recreation commission with the cooperation of the department of ecology. The department, the state parks and recreation commission, and the department of ecology shall enter into a memorandum of agreement to implement this process.

(7) A person acquiring a vessel from a dealer or a vessel already validly registered under this chapter shall, within fifteen days of the acquisition or purchase of the vessel, apply to the department ~~((or its authorized agent)), county auditor or other agent, or subagent appointed by the director~~ for transfer of the vessel registration, and the application ~~((shall))~~ must be accompanied by a transfer fee ~~((of one dollar))~~ as required in section 1028(1)(k) of this act.

NEW SECTION. Sec. 1021. A new section is added to chapter 88.02 RCW under the subchapter heading "registration certificates" to read as follows:

(1) A registered owner or the registered owner's authorized representative shall promptly apply for a duplicate registration certificate when a registration certificate is lost, stolen, mutilated, or destroyed, or becomes illegible. The application for a duplicate registration certificate must:

- (a) Be accompanied by an affidavit of loss or destruction;
- (b) Include information required by the department; and
- (c) Be accompanied by the fee required in section 1028(1)(c) of this act, in addition to any other fees or taxes required for the transaction.

(2) A person recovering a registration certificate for which a duplicate has been issued shall promptly return the registration certificate that has been recovered to the department.

NEW SECTION. Sec. 1022. A new section is added to chapter 88.02 RCW under the subchapter heading "registration certificates" to read as follows:

(1) A registered owner or the registered owner's authorized representative shall promptly apply for a pair of replacement decals when the decals are lost, stolen, mutilated, or destroyed, or become illegible. The application for replacement decals must:

- (a) Be accompanied by an affidavit of loss or destruction;
- (b) Include information required by the department;
- (c) Be accompanied by the fee required in section 1028(1)(i) of this act, in addition to any other fees or taxes required for the transaction.

(2) A person recovering decals for which a replacement has been issued shall promptly return the decals that have been recovered to the department.

Sec. 1023. RCW 88.02.052 and 1996 c 3 s 1 are each amended to read as follows:

~~((In conjunction with the registration of vessels under this chapter.))~~ The department shall provide an opportunity for each person registering a vessel under this chapter to make a voluntary donation to support the maritime historic

restoration and preservation activities of the Grays Harbor Historical Seaport and the Steamer Virginia V Foundation. All voluntary donations collected under this section (~~shall~~) must be deposited in the maritime historic restoration and preservation account created under RCW 88.02.053 (as recodified by this act).

Sec. 1024. RCW 88.02.250 and 2006 c 140 s 2 are each amended to read as follows:

~~((1) Any new or used motor driven boat or vessel, as that term is defined in RCW 79A.60.010, other than a personal watercraft, sold within this state must display a carbon monoxide warning sticker developed by the department on the interior of the vessel.~~

~~(2) For vessels sold by a dealer, the dealer shall ensure that the warning sticker has been affixed prior to completing a transaction.~~

~~(3) For a vessel sold by an individual, the department shall include the sticker in the registration materials provided to the new owner, and the department shall notify the new owner that the sticker must be affixed as described in subsection (1) of this section.~~

~~(4) A warning sticker already developed by a vessel manufacturer may satisfy the requirements of this section if it has been approved by the department. The department shall approve a carbon monoxide warning sticker that has been approved by the United States coast guard for similar uses in other states.))~~

(1) The department shall:

(a) Develop and approve a carbon monoxide warning sticker;

(b) Approve a carbon monoxide warning sticker that has been approved by the United States coast guard for similar uses in other states;

(c) Provide the carbon monoxide warning sticker when an application for a certificate of title is made and the ownership of the vessel is transferred between natural persons; and

(d) Notify the new vessel owner described in (c) of this subsection that the carbon monoxide sticker must be affixed to the vessel as described in subsection (2) of this section.

(2) A new or used motor driven vessel, as defined in RCW 79A.60.010, other than a personal watercraft, as defined in RCW 79A.60.010, sold within this state must display a carbon monoxide warning sticker as provided in subsection (1) of this section.

(3) A vessel dealer shall ensure that a carbon monoxide warning sticker has been affixed to any vessel sold by the dealer before completing the sale.

(4) A carbon monoxide warning sticker already developed by a vessel manufacturer satisfies the requirements of this section if it has been approved by the department.

Sec. 1025. RCW 88.02.260 and 2006 c 140 s 3 are each amended to read as follows:

The department shall include an informational brochure about the dangers of carbon monoxide poisoning and vessels and the warning stickers required ~~((by))~~ under RCW 88.02.250 (as recodified by this act) as part of the registration materials mailed by the department for two consecutive years for registrations that are due or become due on or after January 1, 2007, ~~((and thereafter))~~ upon recommendation by the director ~~((of the department))~~. The materials ~~((shall))~~

must instruct the vessel owner to affix the stickers as required ~~((by))~~ under RCW 88.02.250 (as recodified by this act).

D. PERMITS

NEW SECTION. Sec. 1026. A new section is added to chapter 88.02 RCW under the subchapter heading "permits" to read as follows:

(1) A vessel owner shall apply for a vessel visitor permit if the vessel is:

(a) Currently registered or numbered under the laws of a country other than the United States or has a valid United States customs service cruising license issued under 19 C.F.R. Sec. 4.94; and

(b) Being used on Washington state waters for the personal use of the owner for more than sixty days.

(2) A vessel visitor permit:

(a) May be obtained from the department, county auditor or other agent, or subagent appointed by the director;

(b) Must show the date the vessel first came into Washington state; and

(c) Is valid as long as the vessel remains currently registered or numbered under the laws of a country other than the United States or the United States customs service cruising license remains valid.

(3) The department, county auditor or other agent, or subagent appointed by the director shall collect the fee required in section 1028(1)(l) of this act when issuing a vessel visitor permit.

(4) The department shall adopt rules to implement this section, including rules on issuing and displaying the vessel visitor permit.

NEW SECTION. Sec. 1027. A new section is added to chapter 88.02 RCW under the subchapter heading "permits" to read as follows:

(1) A vessel owner who is a nonresident natural person shall apply for a nonresident vessel permit on or before the sixty-first day of use in Washington state if the vessel:

(a) Is currently registered or numbered under the laws of the state of principal operation or has been issued a valid number under federal law; and

(b) Has been brought into Washington state for personal use for not more than six months in any continuous twelve-month period.

(2) A nonresident vessel permit:

(a) May be obtained from the department, county auditor or other agent, or subagent appointed by the director;

(b) Must show the date the vessel first came into Washington state; and

(c) Is valid for two months.

(3) The department, county auditor or other agent, or subagent appointed by the director shall collect the fee required in section 1028(1)(g) of this act when issuing nonresident vessel permits.

(4) A nonresident vessel permit is not required under this section if the vessel is used in conducting temporary business activity within Washington state.

(5) The department shall adopt rules to implement this section, including rules on issuing and displaying the nonresident vessel permit.

E. TITLE/REGISTRATION FEES AND DISTRIBUTION

NEW SECTION. Sec. 1028. A new section is added to chapter 88.02 RCW under the subchapter heading "title/registration fees and distribution" to read as follows:

(1) In addition to any other fees and taxes required by law, the department, county auditor or other agent, or subagent appointed by the director shall charge the following vessel fees:

FEE	AMOUNT	AUTHORITY	DISTRIBUTION
(a) Dealer temporary permit	\$5.00	RCW 88.02.184(2) (as recodified by this act)	General fund
(b) Derelict vessel and invasive species removal	Subsection (3) of this section	Subsections (3) and (4) of this section	Subsection (3) of this section
(c) Duplicate registration	\$1.25	Section 1021(1)(c) of this act	General fund
(d) Filing	Section 501 of this act	Section 501 of this act	Section 820 of this act
(e) License plate technology	Section 502 of this act	Section 502 of this act	Section 819 of this act
(f) License service	Section 503 of this act	Section 503 of this act	RCW 46.68.220
(g) Nonresident vessel permit	\$25.00	Section 1027(3) of this act	Subsection (6) of this section
(h) Registration	\$10.50	RCW 88.02.050(2) (as recodified by this act)	General fund
(i) Replacement decal	\$1.25	Section 1022(1)(c) of this act	General fund
(j) Title application	\$5.00	RCW 88.02.180 (as recodified by this act)	General fund
(k) Transfer	\$1.00	RCW 88.02.050(7) (as recodified by this act)	General fund
(l) Vessel visitor permit	\$30.00	Section 1026(3) of this act	General fund

(2) The five dollar dealer temporary permit fee required in subsection (1) of this section must be credited to the payment of registration fees at the time application for registration is made.

(3)(a) Until June 30, 2012, the derelict vessel and invasive species removal fee required in subsection (1) of this section is five dollars and must be distributed as follows:

(i) One dollar and fifty cents must be deposited in the aquatic invasive species prevention account created in RCW 77.12.879;

(ii) One dollar must be deposited into the freshwater aquatic algae control account created in RCW 43.21A.667;

(iii) Fifty cents must be deposited into the aquatic invasive species enforcement account created in RCW 43.43.400; and

(iv) Two dollars must be deposited in the derelict vessel removal account created in RCW 79.100.100.

(b) On and after June 30, 2012, the derelict vessel and invasive species removal fee is two dollars and must be deposited into the derelict vessel removal account created in RCW 79.100.100. If the department of natural resources indicates that the balance of the derelict vessel removal account, not including any transfer or appropriation of funds into the account or funds deposited into the account collected under subsection (5) of this section reaches one million dollars as of March 1st of any year, the collection of the two dollar derelict vessel and invasive species removal fee must be suspended for the following fiscal year.

(4) Until January 1, 2014, an annual derelict vessel removal surcharge of one dollar must be charged with each vessel registration. The surcharge:

(a) Is to address the significant backlog of derelict vessels accumulated in Washington state waters that pose a threat to the health and safety of the people and to the environment;

(b) Is to be used only for the removal of vessels that are less than seventy-five feet in length; and

(c) Must be deposited into the derelict vessel removal account created in RCW 79.100.100.

(5) The twenty-five dollar nonresident vessel permit fee must be paid by the vessel owner to the department for the cost of providing the identification document by the department. Any moneys remaining from the fee after the payment of costs must be allocated to counties by the state treasurer for approved boating safety programs under RCW 88.02.045 (as recodified by this act).

(6) The thirty dollar vessel visitor permit fee must be distributed as follows:

(a) Five dollars must be deposited in the derelict vessel removal account created in RCW 79.100.100;

(b) The department may keep an amount to cover costs for providing the vessel visitor permit;

(c) Any moneys remaining must be allocated to counties by the state treasurer for approved boating safety programs under RCW 88.02.045 (as recodified by this act); and

(d) Any fees required for licensing agents under section 501 of this act are in addition to any other fee or tax due for the titling and registration of vessels.

Sec. 1029. RCW 88.02.040 and 2002 c 286 s 14 are each amended to read as follows:

~~((The department shall provide for the issuance of vessel registrations and may appoint agents for collecting fees and issuing registration numbers and deals.))~~ General fees for vessel registrations collected by the director ~~((shall))~~ must be deposited in the general fund ~~((: PROVIDED, That))~~. Any amount above one million one hundred thousand dollars per fiscal year ~~((shall))~~ must be allocated to counties by the state treasurer for boating safety/education and law enforcement programs ~~((and the fee collected specifically for the removal and disposal of derelict vessels must be deposited in the derelict vessel removal account created in RCW 79.100.100)).~~ Eligibility for boating safety/education and law enforcement program allocations ~~((shall be))~~ is contingent upon approval of the local boating safety program by the state parks and recreation

commission. Fund allocation ~~((shall))~~ must be based on the numbers of registered vessels by county of moorage. Each benefitting county ~~((shall be))~~ is responsible for equitable distribution of such allocation to other jurisdictions with approved boating safety programs within ~~((said))~~ the county. Any fees not allocated to counties due to the absence of an approved boating safety program ~~((, shall))~~ must be allocated to the state parks and recreation commission for awards to local governments to offset law enforcement and boating safety impacts of boaters recreating in jurisdictions other than where registered.

Sec. 1030. RCW 88.02.045 and 1993 c 244 s 40 are each amended to read as follows:

Jurisdictions receiving funds under RCW 88.02.040 (as recodified by this act) shall deposit ~~((such))~~ the funds into an account dedicated solely for supporting the jurisdiction's boating safety programs. These funds ~~((shall))~~ may not ~~((supplant))~~ replace existing local funds used for boating safety programs.

Sec. 1031. RCW 88.02.053 and 1996 c 3 s 2 are each amended to read as follows:

(1) The maritime historic restoration and preservation account is created in the custody of the state treasurer. All receipts from the voluntary donations made simultaneously with the registration of vessels under this chapter ~~((88.02 RCW shall))~~ must be deposited into this account. These deposits are not public funds and are not subject to allotment procedures under chapter 43.88 RCW.

(2) At the end of each fiscal year, the state treasurer shall pay from this account to the department ~~((of licensing))~~ an amount equal to the reasonable administrative expenses of that agency for that fiscal year for collecting the voluntary donations and transmitting them to the state treasurer and shall pay to the state treasurer an amount equal to the reasonable administrative expenses of that agency for that fiscal year for maintaining the account and disbursing funds from the account.

(3) At the end of each fiscal year, the state treasurer shall pay one-half of the balance of the funds in the account after payment of the administrative costs provided in subsection (2) of this section, to the Grays Harbor historical seaport or its corporate successor and the remainder to the Steamer Virginia V foundation or its corporate successor.

(4) If either the Grays Harbor historical seaport and its corporate successors or the Steamer Virginia V foundation and its corporate successors legally ceases to exist, the state treasurer shall, at the end of each fiscal year, pay the balance of the funds in the account to the remaining organization.

(5) If both the Grays Harbor historical seaport and its corporate successors and the Steamer Virginia V foundation and its corporate successors legally cease to exist, the department ~~((of licensing))~~ shall discontinue the collection of the voluntary donations in conjunction with the registration of vessels under RCW 88.02.052 (as recodified by this act), and the balance of the funds in the account escheat to the state. If funds in the account escheat to the state, one-half of the fund balance ~~((shall))~~ must be provided to the ~~((office))~~ department of archaeology and historic preservation, and the remainder ~~((shall))~~ must be deposited into the parks renewal and stewardship account.

(6) The secretary of state, the directors of the state historical societies, the director of the ~~((office))~~ department of archaeology and historic preservation

within the department of ~~((community, trade, and economic development))~~ commerce, and two members representing the recreational boating community appointed by the secretary of state, shall review the success of the voluntary donation program for maritime historic restoration and preservation established under RCW 88.02.052 ~~((and report their findings to the appropriate legislative committees by January 31, 1998. The findings must include the progress of the program and the potential to expand the voluntary funding to other historic vessels))~~ (as recodified by this act).

F. DEALER REGISTRATION

Sec. 1032. RCW 88.02.060 and 1987 c 149 s 1 are each amended to read as follows:

~~((1) Each vessel dealer in this state shall register with the department in the manner and upon forms prescribed by the department, in accordance with rules adopted under chapter 34.05 RCW. After the completed vessel dealer application has been satisfactorily filed and the applicant is eligible as determined by the department's rules, the department shall, if no denial proceeding is in effect, issue the vessel dealer's registration on the basis of staggered annual expiration dates.~~

~~(2) Before issuing a vessel dealer's registration, the department shall require the applicant to file with the department a surety bond in the amount of five thousand dollars, running to the state of Washington, and executed by a surety company authorized to do business in the state of Washington. The bond shall be approved by the attorney general as to form and conditioned that the dealer shall conduct his business in conformity with the provisions of this chapter. Any vessel consignor or purchaser who has suffered any loss or damage by reason of any act or omission by a dealer that constitutes a violation of this chapter may institute an action for recovery against the dealer and the surety upon the bond. Successive recoveries against the bond shall be permitted, but the aggregate liability of the surety to all persons shall not exceed the amount of the bond. Upon exhaustion of the penalty of the bond or cancellation of the bond by the surety, the vessel dealer registration shall automatically be deemed canceled.~~

~~(3) Vessel dealers selling fifteen vessels or fewer per year having a retail value of no more than two thousand dollars each shall not be subject to the provisions of subsection (2).~~

~~(4) For the fiscal biennium from July 1, 1987, through June 30, 1989, the registration fee for dealers shall be fifty dollars per year for an original registration, and twenty-five dollars for any subsequent renewal. In addition, a fee of twenty-five dollars shall be collected for the first decal, fifteen dollars for each additional decal, and fifteen dollars for each vessel dealer display decal replacement. In ensuing biennia, the director shall establish the amount of such fees at a sufficient level to defray the costs of administering the vessel dealer registration program. All such fees shall be fixed by rule adopted by the director in accordance with the Administrative Procedure Act, chapter 34.05 RCW. All fees collected under this section shall be deposited with the state treasurer and credited to the general fund.))~~

(1) Each vessel dealer in this state shall:

(a) Obtain a vessel dealer license from the department in a manner prescribed by the department in accordance with rules adopted under chapter 34.05 RCW;

(b) File a surety bond in the amount of five thousand dollars, running to the state of Washington. The surety bond must be:

(i) Issued by a surety company authorized to do business in the state of Washington;

(ii) Approved by the attorney general as to form; and

(iii) Conditioned that the vessel dealer shall conduct business as required under this chapter; and

(c) Pay the vessel dealer license and vessel dealer display decal fees as provided by rules adopted by the department. All vessel dealer license and vessel dealer display decal fees collected under this section must be deposited with the state treasurer and credited to the general fund.

(2) A vessel dealer selling fewer than sixteen vessels per year having a retail value of no more than two thousand dollars each is not required to file a bond as provided in subsection (1)(b) of this section.

(3) The director shall establish by rule vessel dealer license and vessel dealer display decal fees at a sufficient level to defray the costs of administering the vessel dealer license program.

(4) The department shall issue vessel dealer licenses with staggered annual expiration dates when:

(a) The completed vessel dealer application has been satisfactorily filed;

(b) The department determines that the applicant is eligible as determined by department rules; and

(c) No denial proceeding is in effect.

(5) A vessel consignor or purchaser who has suffered any loss or damage by reason of an act or omission by a vessel dealer that constitutes a violation of this chapter may institute an action for recovery against the vessel dealer and the surety upon the bond. Successive recoveries against the bond are permitted, but the aggregate liability of the surety to all persons may not exceed the amount of the bond. Upon exhaustion of the penalty of the bond or cancellation of the bond by the surety, the vessel dealer license must automatically be deemed canceled.

(6) Vessel dealer license numbers are not transferable.

Sec. 1033. RCW 88.02.230 and 2007 c 378 s 1 are each amended to read as follows:

(1) The department may exempt from compliance with the vessel dealer requirements of this chapter, any person who is engaged in the business of selling in this state at wholesale or retail, human-powered watercraft (~~which~~) that is: (a) Under sixteen feet in length; (b) unable to be powered by propulsion machinery or wind propulsion as designed by the manufacturer; and (c) not designed for use on commonly-used navigable waters.

(2) Any person engaged in the business of selling at wholesale or retail, exempt and nonexempt watercraft under this section (~~shall~~) is only (~~be~~) required to comply with (~~the provisions of~~) this chapter in regard to the sale of nonexempt watercraft.

(3) An auction company licensed under chapter 18.11 RCW and licensed as a motor vehicle dealer under chapter 46.70 RCW may sell at auction, without (~~registering~~) being licensed as a vessel dealer, all vessels that a vessel dealer is

authorized to sell, so long as the sale of vessels is incidental to the auction company's primary source of business and the length of any vessel being sold is no greater than twenty-five feet. The auction company shall comply with all other vessel dealer requirements of this chapter and rules adopted ~~((under this chapter))~~ by the department if the ~~((registration))~~ vessel dealer license fees and surety bond requirements in RCW 88.02.060 (as recodified by this act) are ~~((waived))~~ determined to not be due.

Sec. 1034. RCW 88.02.078 and 1987 c 149 s 2 are each amended to read as follows:

(1) A vessel dealer ~~((shall))~~ must have and maintain an office in which to conduct business at the business address of the dealer.

(2) The vessel dealer's place of business ~~((shall))~~ must be identified by an exterior sign with the business name. In the absence of other identifiers that the business conducted is a marine business, the sign must identify the nature of the business, such as marine sales, service, repair, or manufacturing.

Sec. 1035. RCW 88.02.188 and 1987 c 149 s 12 are each amended to read as follows:

~~(1)~~ Except as otherwise provided in this chapter, the director may by order deny, suspend, or revoke ~~((the registration of any))~~ a vessel dealer license, or in lieu ~~((there))~~ of or in addition ~~((there))~~ to, may by order assess monetary penalties of a civil nature not to exceed one thousand dollars per violation, if the director finds that the applicant or ~~((registrant))~~ licensee:

~~((1))~~ (a) Is applying for a dealer's ~~((registration))~~ license or has obtained a dealer's ~~((registration))~~ license for the purpose of evading excise taxes on vessels; ~~((or~~

~~((2))~~ (b) Has been adjudged guilty of a felony that directly relates to marine trade and the time elapsed since the adjudication is less than ten years. For purposes of this section, "adjudged guilty" means, in addition to a final conviction in court, an unvacated forfeiture of bail or collateral deposited to secure a defendant's appearance in court, the payment of a fine, a plea of guilty, or a finding of guilt regardless of whether the sentence is deferred or the penalty is suspended; ~~((or~~

~~((3))~~ (c) Has failed to comply with the trust account requirements of this chapter; ~~((or~~

~~((4))~~ (d) Has failed to transfer a certificate of title to a purchaser as required in this chapter; ~~((or~~

~~((5))~~ (e) Has misrepresented the facts at the time of application for registration or renewal; or

~~((6))~~ (f) Has failed to comply with applicable provisions of this chapter or any rules adopted under it.

(2) The director may deny a vessel dealer license under this chapter if the application is a subterfuge that conceals the real person in interest whose vessel dealer license has been denied, suspended, or revoked for cause under this chapter and (a) the terms have not been fulfilled or a civil penalty has not been paid or (b) the director finds that the application was not filed in good faith. This subsection does not prevent the department from taking an action against a current vessel dealer licensee.

Sec. 1036. RCW 88.02.112 and 1987 c 149 s 3 are each amended to read as follows:

Any person engaging in vessel dealer activities without first obtaining a ~~((registration certificate))~~ vessel dealer license is guilty of a gross misdemeanor.

Sec. 1037. RCW 88.02.115 and 1987 c 149 s 6 are each amended to read as follows:

~~(1)~~ In addition to other penalties imposed ~~((by))~~ under this chapter for unauthorized or personal use of vessel dealer display decals, the director may:

~~(a)~~ Confiscate all vessel dealer display decals for ~~((such))~~ a period ~~((as))~~ that the director deems appropriate ~~((and in addition, or in lieu of other sanctions, the director may))~~; and

~~(b)~~ Impose a monetary penalty not exceeding twice the amount of excise tax that should have been paid to properly register each vessel ~~((properly))~~. ~~((A))~~ The monetary penalty ((assessment)):

~~(i)~~ May be in addition to or in lieu of other sanctions; and

~~(ii)~~ Is in addition to any fees owing to properly register each vessel ~~((properly))~~.

~~(2)~~ Any monetary penalty imposed or vessel dealer display decals confiscated ~~((shall))~~ must be done in accordance with chapter 34.05 RCW. Any monetary penalty imposed by the director and the delinquent excise taxes collected ~~((shall))~~ must be deposited in the general fund.

Sec. 1038. RCW 88.02.189 and 1997 c 58 s 863 are each amended to read as follows:

The department shall immediately suspend the vessel registration or vessel dealer's ~~((registration))~~ 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 ~~((or a residential or visitation order))~~. If the person has continued to meet all other requirements for reinstatement during the suspension, reissuance of the registration ~~((shall))~~ must be automatic upon the department's receipt of a release issued by the department of social and health services stating that the licensee is in compliance with the order.

Sec. 1039. RCW 88.02.220 and 1991 c 339 s 33 are each amended to read as follows:

~~(1)~~ A vessel dealer who receives cash or a negotiable instrument of deposit in excess of one thousand dollars, or a deposit of any amount that will be held for more than fourteen calendar days, shall place the funds in a separate trust account.

~~((1))~~ The cash or negotiable instrument must be:

~~(a)~~ Set aside immediately upon receipt for the trust account, or endorsed to ~~((such a))~~ the trust account immediately upon receipt ~~((-~~

~~(2) The cash or negotiable instrument must be))~~; and

~~(b)~~ Deposited in the trust account by the close of banking hours on the day following the receipt.

~~((3))~~ ~~(2)~~ After delivery of the purchaser's vessel, the vessel dealer shall remove the deposited funds from the trust account.

~~((4))~~ ~~(3)~~ The dealer shall not commingle the purchaser's funds with any other funds at any time.

~~((5))~~ (4) The funds ~~((shall))~~ must remain in the trust account until the delivery of the purchased vessel. However, upon written agreement from the purchaser, the vessel dealer may remove and release trust funds before delivery.

Sec. 1040. RCW 88.02.210 and 1987 c 149 s 10 are each amended to read as follows:

(1) A vessel dealer shall complete and maintain for a period of at least three years a record of the purchase and sale of all vessels purchased or consigned and sold by the vessel dealer. Records ~~((shall))~~ must be made available for inspection by the department during normal business hours.

(2) Before renewal of the vessel dealer ~~((registration))~~ license, the department shall require, on the forms prescribed, a record of the number of vessels sold during the ~~((registration))~~ license year. Vessel dealers who assert that they qualify for the exemption provided in RCW 88.02.060~~((3))~~ (2) (as recodified by this act) shall also record, on forms prescribed, the highest retail value of any vessel sold in the ~~((registration))~~ license year.

Sec. 1041. RCW 88.02.023 and 1987 c 149 s 4 are each amended to read as follows:

(1) Vessel dealer display decals ~~((shall))~~ must only be used:

~~((+))~~ (a) To demonstrate vessels held for sale when operated by a prospective customer holding a dated demonstration permit~~((, and shall))~~. The demonstration permit must be carried in the vessel at all times when it is being operated by ~~((such individual))~~ a prospective customer;

~~((2))~~ (b) On vessels owned or consigned for sale that are ~~((in fact))~~ available for sale and being used only for vessel dealer business purposes by an officer of the corporation, a partner, a proprietor, or by a bona fide employee of the firm ~~((if))~~. A card ~~((so))~~ identifying ~~((any such))~~ the individual ~~((is))~~ as described in this section must be carried in the vessel at all times it is ~~((so))~~ being operated.

(2) A vessel held for sale by a licensed vessel dealer is not required to be registered and display a registration number and a valid vessel decal.

Sec. 1042. RCW 88.02.184 and 1987 c 149 s 9 are each amended to read as follows:

(1) The department may authorize vessel dealers properly ~~((registered pursuant to))~~ licensed under this chapter to issue temporary permits to operate vessels under ~~((such))~~ rules ~~((as))~~ adopted by the department ~~((adopts))~~.

(2) The ~~((fee))~~ department, county auditor or other agent, or subagent appointed by the director shall collect the fee required under section 1028(1)(a) of this act for each temporary permit application ~~((distributed))~~ sold to an authorized vessel dealer ~~((shall be five dollars, which shall be credited to the payment of registration fees at the time application for registration is made))~~.

Sec. 1043. RCW 88.02.125 and 1994 c 262 s 27 are each amended to read as follows:

(1) A vessel dealer(s) shall possess a certificate of ~~((ownership))~~ title, a manufacturer's statement of origin, a carpenter's certificate, or a factory invoice or other evidence of ownership approved by the department for each vessel in the vessel dealer's inventory unless the vessel for sale is consigned or subject to an inventory security agreement. Evidence of ownership ~~((shall))~~ must be either

in the name of the dealer or in the name of the dealer's immediate vendor properly assigned.

(2) A vessel dealer may display and sell consigned vessels or vessels subject to an inventory security agreement if there is a written and signed consignment agreement for each vessel or an inventory security agreement covering all inventory vessels. The consignment agreement ~~((shall))~~ must include verification by the vessel dealer that evidence of ownership by the consignor exists and its location, the name and address of the registered owner, and the legal owner, if any. Vessels that are subject to an inventory security interest ~~((shall))~~ must be supported with evidence of ownership that is in the dealer's possession or the possession of the inventory security party. Upon payment of the debt secured for that vessel, the secured party shall deliver the ownership document, appropriately released, to the dealer. It is the vessel dealer's responsibility to ensure that ownership documents are available for ownership transfer upon the sale of the vessel.

(3) Following the retail sale of any vessel, the dealer shall promptly make application and execute the assignment and warranty of the certificate of ~~((ownership))~~ title. ~~((Such))~~ The assignment ~~((shall))~~ must show any secured party holding a security interest created at the time of sale. The dealer shall deliver the certificate of ~~((ownership))~~ of title and application for registration to the department, county auditor or other agent, or subagent appointed by the director.

G. WATERCRAFT EXCISE TAX

Sec. 1044. RCW 82.49.010 and 2000 c 229 s 5 are each amended to read as follows:

(1) An excise tax is imposed for the privilege of using a vessel upon the waters of this state, except vessels exempt under RCW 82.49.020. The annual amount of the excise tax is one-half of one percent of fair market value, as determined under this chapter, or five dollars, whichever is greater. Violation of this subsection is a misdemeanor.

(2) Persons who are required under chapter 88.02 RCW to register a vessel in this state and who register the vessel in another state or foreign country and avoid the Washington watercraft excise tax are guilty of a gross misdemeanor and are liable for such unpaid excise tax. The department of revenue may assess and collect the unpaid excise tax under chapter 82.32 RCW, including the penalties and interest provided in chapter 82.32 RCW.

(3) The excise tax upon a vessel registered for the first time in this state shall be imposed for a twelve-month period, including the month in which the vessel is registered, unless the director of licensing extends or diminishes vessel registration periods for the purpose of staggered renewal periods under RCW 88.02.050 (as recodified by this act). A vessel is registered for the first time in this state when the vessel was not registered in this state for the immediately preceding registration year, or when the vessel was registered in another jurisdiction for the immediately preceding year. ~~((The excise tax on vessels required to be registered in this state on June 30, 1983, shall be paid by June 30, 1983.))~~

Sec. 1045. RCW 82.49.030 and 2000 c 103 s 18 are each amended to read as follows:

(1) The excise tax imposed under this chapter is due and payable to the department of licensing ~~((or its agents)), county auditor or other agent, or subagent appointed by the director of the department of licensing~~ at the time of registration of a vessel. The department of licensing shall not issue or renew a registration for a vessel until the tax is paid in full.

(2) The excise tax collected under this chapter ~~((shall))~~ must be deposited in the general fund.

Sec. 1046. RCW 82.49.065 and 2003 c 53 s 405 are each amended to read as follows:

~~((1) Whenever any person has paid a vessel license fee, and with the fee has paid an excise tax imposed under this chapter, and the director of licensing determines that the payor is entitled to a refund of the entire amount of the license fee as provided by law, then the payor shall also be entitled to a refund of the entire excise tax collected under this chapter together with interest at the rate specified in RCW 82.32.060. If the director determines that any person is entitled to a refund of only a part of the license fee paid, the payor shall be entitled to a refund of the difference, if any, between the excise tax collected and that which should have been collected together with interest at the rate specified in RCW 82.32.060. The state treasurer shall determine the amount of such refund by reference to the applicable excise tax schedule prepared by the department of revenue in cooperation with the department of licensing.~~

~~(2) If no claim is to be made for the refund of the license fee, or any part of the fee, but claim is made by any person that he or she has paid an erroneously excessive amount of excise tax, the department of licensing shall determine in the manner generally provided in this chapter the amount of such excess, if any, that has been paid and shall certify to the state treasurer that the person is entitled to a refund in that amount together with interest at the rate specified in RCW 82.32.060.~~

~~(3) If due to error a person has been required to pay an excise tax pursuant to this chapter and a license fee under chapter 88.02 RCW which amounts to an overpayment of ten dollars or more, such person shall be entitled to a refund of the entire amount of such overpayment, together with interest at the rate specified in RCW 82.32.060, regardless of whether a refund of the overpayment has been requested. If due to error the department or its agents has failed to collect the full amount of the license fee and excise tax due, which underpayment is in the amount of ten dollars or more, the department shall charge and collect such additional amount as will constitute full payment of the tax and any penalties or interest at the rate specified in RCW 82.32.050.~~

~~(4) If the department approves the claim, it shall notify the state treasurer to that effect and the treasurer shall make such approved refunds and the other refunds provided for in this section from the general fund and shall mail or deliver the same to the person entitled to the refund.~~

~~(5) Any person who makes a false statement under which he or she obtains a refund to which he or she is not entitled under this section is guilty of a gross misdemeanor.))~~

(1) Refunds of the excise tax imposed under this chapter must be handled in the same manner and under the same terms and conditions as provided in RCW 88.02.055 (as recodified by this act).

(2) The excise tax imposed under this chapter may be refunded to the person who paid the excise tax at the same time the registration fee under chapter 88.02 RCW was paid. The amount of the excise tax that may be refunded includes:

(a) The entire amount of the excise tax, if the entire amount of the registration fee is also refunded; or

(b) Any amount that was greater than the amount due.

(3) Excise tax refunds include interest at the rate specified in RCW 82.32.060.

H. MISCELLANEOUS

NEW SECTION. Sec. 1047. The following acts or parts of acts are each repealed:

(1) RCW 88.02.025 (Registration of vessels numbered under the federal boat safety act) and 1984 c 250 s 3;

(2) RCW 88.02.028 (Registration of rented vessels—Dealer's vessels—Dealer registration numbers not transferable) and 1987 c 149 s 5;

(3) RCW 88.02.090 (Inspection of registration—Violation of chapter—Penalty) and 2006 c 29 s 2 & 1983 c 7 s 21;

(4) RCW 88.02.100 (Rule-making authority) and 1983 c 7 s 20;

(5) RCW 88.02.130 (Class A title certificates) and 1985 c 258 s 7;

(6) RCW 88.02.140 (Issuance of class A title certificates—Required evidence) and 1985 c 258 s 8;

(7) RCW 88.02.150 (Issuance of class A title certificates—Limitation) and 1985 c 258 s 9;

(8) RCW 88.02.160 (Class B title certificates) and 1985 c 258 s 2;

(9) RCW 88.02.170 (Class A and class B title certificates to have apparent distinctions—Class B certificate to bear legend) and 1985 c 258 s 5;

(10) RCW 88.02.190 (Inspection of vessels) and 1985 c 258 s 10;

(11) RCW 88.02.235 (Denial of license) and 1997 c 432 s 3; and

(12) RCW 88.02.270 (Derelict vessel removal surcharge) and 2007 c 342 s 7.

PART XI. MISCELLANEOUS I

Sec. 1101. RCW 19.116.050 and 2000 c 171 s 71 are each amended to read as follows:

A dealer engages in an act of unlawful transfer of ownership interest in motor vehicles when all of the following circumstances are met:

(1) The dealer does not pay off any balance due to the secured party on a vehicle acquired by the dealer, no later than the close of the second business day after the acquisition date of the vehicle; and

(2) The dealer does not obtain a certificate of ~~((ownership))~~ title under RCW 46.70.124 for each used vehicle kept in his or her possession unless that certificate is in the possession of the person holding a security interest in the dealer's inventory; and

(3) The dealer does not transfer the certificate of ~~((ownership))~~ title after the transferee has taken possession of the motor vehicle.

Sec. 1102. RCW 28B.10.890 and 1994 c 194 s 7 are each amended to read as follows:

A collegiate license plate fund is established in the custody of the state treasurer for each college or university with a collegiate license plate program approved by the department ~~((of licensing))~~ of licensing under RCW 46.16.324 ~~(as recodified by this act)~~. All receipts from collegiate license plates authorized under ~~((RCW 46.16.301 shall))~~ section 521 of this act must be deposited in the appropriate local college or university nonappropriated, nonallotted fund. Expenditures from the funds may be used only for student scholarships. Only the president of the college or university or the president's designee may authorize expenditures from the fund.

Sec. 1103. RCW 29A.04.037 and 2003 c 111 s 107 are each amended to read as follows:

"Disabled voter" means any registered voter who qualifies for special parking privileges under ~~((RCW 46.16.381))~~ section 701 of this act, or who is defined as blind under RCW 74.18.020, or who qualifies to require assistance with voting under RCW 29A.44.240.

Sec. 1104. RCW 35A.46.010 and 1967 ex.s. c 119 s 35A.46.010 are each amended to read as follows:

The provisions of Title 46 ~~((of the Revised Code of Washington))~~ RCW relating to regulation of motor vehicles shall be applicable to code cities~~((;))~~ and its officers and employees to the same extent as such provisions grant powers and impose duties upon cities of any class~~((;))~~ and their officers and agents, including without limitation the following: (1) Authority to provide for angle parking on certain city streets designated as forming a route of a primary state highway as authorized in RCW 46.61.575; (2) application of city police regulations to port districts as authorized by RCW 53.08.230; (3) authority to establish local regulations relating to city streets forming a part of the state highway system as authorized by RCW 46.44.080; (4) ~~((authority to install and operate a station for the inspection of vehicle equipment in conformity with rules, regulations, procedure and standards prescribed by the Washington state patrol as authorized under RCW 46.32.030; (5)))~~ exemption from the payment of vehicle license fees for city owned vehicles as authorized by RCW 46.16.020 ~~(as recodified by this act)~~ and ~~((46.16.290))~~ section 422(8) of this act; ~~((6))~~ (5) authority to establish traffic schools as provided by chapter 46.83 RCW; and ~~((7))~~ (6) authority to enforce the provisions of RCW 81.48.050 relating to railroad crossings.

Sec. 1105. RCW 41.04.007 and 2007 c 448 s 1 are each amended to read as follows:

"Veteran" includes every person, who at the time he or she seeks the benefits of section 613 of this act, section 619 of this act, or RCW ((46.16.30920;)) 72.36.030, 41.04.010, 73.04.090, ((73.04.110;)) 73.08.010, 73.08.070, 73.08.080, or 43.180.250 has received an honorable discharge or received a discharge for medical reasons with an honorable record, where applicable, and who has served in at least one of the following capacities:

(1) As a member in any branch of the armed forces of the United States, including the national guard and armed forces reserves, and has fulfilled his or her initial military service obligation;

(2) As a member of the women's air forces service pilots;

(3) As a member of the armed forces reserves, national guard, or coast guard, and has been called into federal service by a presidential select reserve call up for at least one hundred eighty cumulative days;

(4) As a civil service crewmember with service aboard a U.S. army transport service or U.S. naval transportation service vessel in oceangoing service from December 7, 1941, through December 31, 1946;

(5) As a member of the Philippine armed forces/scouts during the period of armed conflict from December 7, 1941, through August 15, 1945; or

(6) A United States documented merchant mariner with service aboard an oceangoing vessel operated by the department of defense, or its agents, from both June 25, 1950, through July 27, 1953, in Korean territorial waters and from August 5, 1964, through May 7, 1975, in Vietnam territorial waters, and who received a military commendation.

Sec. 1106. RCW 43.60A.140 and 2008 c 183 s 3 are each amended to read as follows:

(1) The veterans stewardship account is created in the custody of the state treasurer. Disbursements of funds must be on the authorization of the director or the director's designee, and only for the purposes stated in subsection (4) of this section. In order to maintain an effective expenditure and revenue control, funds are subject in all respects to chapter 43.88 RCW, but no appropriation is required to permit expenditure of the funds.

(2) The department may request and accept nondedicated contributions, grants, or gifts in cash or otherwise, including funds generated by the issuance of the armed forces license plate collection under chapter ~~((46.16))~~ 46... RCW (the new chapter created in section 1224 of this act).

(3) All receipts ~~((except as provided in RCW 46.16.313(20) (a) and (b).))~~ from the sale of armed forces license plates as required under section 521(1)(b) of this act must be deposited into the veterans stewardship account.

(4) All moneys deposited into the veterans stewardship account must be used by the department for activities that benefit veterans or their families, including but not limited to, providing programs and services for homeless veterans; establishing memorials honoring veterans; and maintaining a future state veterans' cemetery. Funds from the account may not be used to supplant existing funds received by the department.

Sec. 1107. RCW 46.01.030 and 1990 c 250 s 14 are each amended to read as follows:

The department ~~((shall be))~~ is responsible for administering and recommending the improvement of the motor vehicle laws of this state relating to:

- (1) Driver examining and licensing;
- (2) Driver improvement;
- (3) Driver records;
- (4) Financial responsibility;
- (5) Certificates of ~~((ownership))~~ title;

(6) ~~((certificates of license))~~ Vehicle registration certificates and license plates;

(7) Proration and reciprocity;

(8) Liquid fuel tax collections;

(9) Licensing of dealers, motor vehicle transporters, motor vehicle wreckers, for hire vehicles, and drivers' schools;

(10) General highway safety promotion in cooperation with the Washington state patrol and traffic safety commission; and

(11) Such other activities as the legislature may provide.

Sec. 1108. RCW 46.01.040 and 1983 c 3 s 117 are each amended to read as follows:

The department ~~((of licensing))~~ is vested with all powers, functions, and duties with respect to and including the following:

(1) The motor vehicle fuel excise tax as provided in chapter 82.36 RCW;

(2) The special fuel tax as provided in chapter 82.38 RCW;

(3) The motor vehicle excise tax as provided in chapter 82.44 RCW;

(4) The ~~((house trailer))~~ travel trailers and campers excise tax as provided in chapter 82.50 RCW;

(5) All general powers and duties relating to motor vehicles as provided in chapter 46.08 RCW;

(6) Certificates of ~~((ownership))~~ title and registration certificates as provided in chapters 46.12 and 46.16 RCW;

(7) The registration ~~((and licensing))~~ of motor vehicles as provided in chapter ~~((s 46.12 and))~~ 46.16 RCW;

(8) Dealers' licenses as provided in chapter 46.70 RCW;

(9) The licensing of motor vehicle transporters as provided in chapter 46.76 RCW;

(10) The licensing of ~~((motor))~~ vehicle wreckers as provided in chapter 46.80 RCW;

(11) The administration of the laws relating to reciprocal or proportional registration of motor vehicles as provided in chapter 46.85 RCW;

(12) The licensing of passenger vehicles for hire as provided in chapter 46.72 RCW;

(13) ~~((Operators'))~~ Drivers' licenses as provided in chapter 46.20 RCW;

(14) Commercial driver training schools as provided in chapter 46.82 RCW;

(15) Financial responsibility as provided in chapter 46.29 RCW;

(16) Accident reporting as provided in chapter 46.52 RCW;

(17) Disposition of revenues as provided in chapter 46.68 RCW; and

(18) The administration of all other laws relating to motor vehicles vested in the director of licenses on June 30, 1965.

Sec. 1109. RCW 46.01.160 and 1965 c 156 s 16 are each amended to read as follows:

The director shall prescribe and provide suitable forms of applications, certificates of ~~((ownership))~~ title and registration certificates, drivers' licenses, and all other forms and licenses requisite or deemed necessary to carry out the provisions of this title ~~((46 RCW))~~ and any other laws the enforcement and administration of which are vested in the department.

Sec. 1110. RCW 46.01.320 and 2005 c 319 s 115 are each amended to read as follows:

The title and registration advisory committee is created within the department. The committee consists of the director or a designee, who shall serve as chair, the assistant director for vehicle services, the administrator of title and registration services, two members from each of the house and senate transportation committees, two county auditors nominated by the Washington association of county officials, and two representatives of subagents nominated by an association of vehicle subagents. The committee shall meet at least twice a year, and may meet as often as is necessary.

The committee's purpose is to foster communication between the legislature, the department, county auditors, and subagents. The committee shall make recommendations about revisions to fee structures, implications of fee revisions on cost sharing, and the development of standard contracts provided for in RCW 46.01.140(~~(3)~~) (1)(a) and (4)(a).

Sec. 1111. RCW 46.08.010 and 1990 c 42 s 207 are each amended to read as follows:

The provisions of this title relating to ~~((the))~~ certificates of ~~((ownership))~~ title, ~~((certificate of license))~~ registration certificates, vehicle licenses, vehicle license plates, and ~~((vehicle operator's))~~ drivers' licenses shall be exclusive and no political subdivision of the state of Washington shall require or issue any licenses or certificates for the same or a similar purpose ~~((except as provided in RCW 82.80.020))~~, nor shall any city or town in this state impose a tax, license, or other fee upon vehicles operating exclusively between points outside of such city or town limits, and to points therein.

Sec. 1112. RCW 46.08.150 and 1995 c 384 s 2 are each amended to read as follows:

The director of general administration shall have power to devise and promulgate rules and regulations for the control of vehicular and pedestrian traffic and the parking of motor vehicles on the state capitol grounds. However, the monetary penalty for parking a motor vehicle without a valid special license plate or placard in a parking place reserved for ~~((physically disabled))~~ persons with physical disabilities shall be the same as provided in ~~((RCW 46.16.381))~~ section 706 of this act. Such rules and regulations shall be promulgated by publication in one issue of a newspaper published at the state capitol and shall be given such further publicity as the director may deem proper.

Sec. 1113. RCW 46.20.025 and 1999 c 6 s 6 are each amended to read as follows:

The following persons may operate a motor vehicle on a Washington highway without a valid Washington driver's license:

(1) A member of the United States Army, Navy, Air Force, Marine Corps, or Coast Guard, or in the service of the National Guard of this state or any other state, if licensed by the military to operate an official motor vehicle in such service;

(2) A nonresident driver who is at least:

(a) Sixteen years of age and has immediate possession of a valid driver's license issued to the driver by his or her home state; or

(b) Fifteen years of age with:

(i) A valid instruction permit issued to the driver by his or her home state; and

(ii) A licensed driver who has had at least five years of driving experience occupying a seat beside the driver; or

(c) Sixteen years of age and has immediate possession of a valid driver's license issued to the driver by his or her home country. A nonresident driver may operate a motor vehicle in this state under this subsection (2)(c) for up to one year;

(3) Any person operating special highway construction equipment as defined in ~~((RCW 46.16.010))~~ section 144 of this act;

(4) Any person while driving or operating any farm tractor or implement of husbandry that is only incidentally operated or moved over a highway; or

(5) An operator of a locomotive upon rails, including a railroad crossing over a public highway. A locomotive operator is not required to display a driver's license to any law enforcement officer in connection with the operation of a locomotive or train within this state.

Sec. 1114. RCW 46.29.605 and 1981 c 309 s 6 are each amended to read as follows:

(1) Whenever the involvement in a motor vehicle accident in this state results in the driving privilege of a person being suspended for failure to pay a judgment or deposit security, the department shall suspend the Washington registration of the motor vehicle if the person driving at the time of the accident was also the registered owner of the motor vehicle.

(2) A notice of suspension shall be mailed by first-class mail to the owner's last known address of record in the department and shall be effective notwithstanding the owner's failure to receive the notice.

(3) Upon suspension of the registration of a motor vehicle, the registered owner shall surrender all vehicle license plates registered to the vehicle. The department shall destroy the license plates and, upon reinstatement of the registration, shall issue new vehicle license plates as provided in ~~((RCW 46.16.270))~~ section 422(9) of this act.

(4) Failure to surrender license plates under subsection (3) of this section is a misdemeanor punishable by imprisonment for not less than one day nor more than five days and by a fine of not less than fifty dollars nor more than two hundred fifty dollars.

(5) No vehicle license plates ~~((or))~~, certificate of ~~((ownership))~~ title or registration certificate for a motor vehicle may be issued, and no vehicle ~~((license))~~ registration may be renewed during the time the registration of the motor vehicle is suspended.

(6) Any person who operates a vehicle in this state while the registration of the vehicle is suspended is guilty of a gross misdemeanor and upon conviction thereof shall be imprisoned for not less than two days nor more than five days and fined not less than one hundred dollars nor more than five hundred dollars.

Sec. 1115. RCW 46.30.020 and 2003 c 221 s 1 are each amended to read as follows:

(1)(a) No person may operate a motor vehicle subject to registration under chapter 46.16 RCW in this state unless the person is insured under a motor vehicle liability policy with liability limits of at least the amounts provided in

RCW 46.29.090, is self-insured as provided in RCW 46.29.630, is covered by a certificate of deposit in conformance with RCW 46.29.550, or is covered by a liability bond of at least the amounts provided in RCW 46.29.090. Written proof of financial responsibility for motor vehicle operation must be provided on the request of a law enforcement officer in the format specified under RCW 46.30.030.

(b) A person who drives a motor vehicle that is required to be registered in another state that requires drivers and owners of vehicles in that state to maintain insurance or financial responsibility shall, when requested by a law enforcement officer, provide evidence of financial responsibility or insurance as is required by the laws of the state in which the vehicle is registered.

(c) When asked to do so by a law enforcement officer, failure to display an insurance identification card as specified under RCW 46.30.030 creates a presumption that the person does not have motor vehicle insurance.

(d) Failure to provide proof of motor vehicle insurance is a traffic infraction and is subject to penalties as set by the supreme court under RCW 46.63.110 or community restitution.

(2) If a person cited for a violation of subsection (1) of this section appears in person before the court or a violations bureau and provides written evidence that at the time the person was cited, he or she was in compliance with the financial responsibility requirements of subsection (1) of this section, the citation shall be dismissed and the court or violations bureau may assess court administrative costs of twenty-five dollars at the time of dismissal. In lieu of personal appearance, a person cited for a violation of subsection (1) of this section may, before the date scheduled for the person's appearance before the court or violations bureau, submit by mail to the court or violations bureau written evidence that at the time the person was cited, he or she was in compliance with the financial responsibility requirements of subsection (1) of this section, in which case the citation shall be dismissed without cost, except that the court or violations bureau may assess court administrative costs of twenty-five dollars at the time of dismissal.

(3) The provisions of this chapter shall not govern:

(a) The operation of a motor vehicle registered under ~~((RCW 46.16.305(1)))~~ section 623 of this act, governed by RCW 46.16.020 (as recodified by this act), or registered with the Washington utilities and transportation commission as common or contract carriers; or

(b) The operation of a motorcycle as defined in RCW 46.04.330, a motor-driven cycle as defined in RCW 46.04.332, or a moped as defined in RCW 46.04.304.

(4) RCW 46.29.490 shall not be deemed to govern all motor vehicle liability policies required by this chapter but only those certified for the purposes stated in chapter 46.29 RCW.

Sec. 1116. RCW 46.32.100 and 2009 c 46 s 4 are each amended to read as follows:

(1)(a) In addition to all other penalties provided by law, and except as provided otherwise in (a)(i), (ii), or (iii) of this subsection, a commercial motor vehicle that is subject to compliance reviews under this chapter and an officer, agent, or employee of a company operating a commercial motor vehicle who violates or who procures, aids, or abets in the violation of this title or any order

or rule of the state patrol is liable for a penalty of one hundred dollars for each violation.

(i) It is a violation of this chapter for a person operating a commercial motor vehicle to fail to comply with the requirements of 49 C.F.R. Pt. 382, controlled substances and alcohol use and testing, 49 C.F.R. Sec. 391.15, disqualification of drivers, and 49 C.F.R. Sec. 396.9(c)(2), moving a vehicle placed out of service before the out of service defects have been satisfactorily repaired. For each violation the person is liable for a penalty of five hundred dollars.

(ii) The driver of a commercial motor vehicle who violates an out-of-service order is liable for a penalty of at least one thousand one hundred dollars but not more than two thousand seven hundred fifty dollars for each violation.

(iii) An employer who allows a driver to operate a commercial motor vehicle when there is an out-of-service order is liable for a penalty of at least two thousand seven hundred fifty dollars but not more than eleven thousand dollars for each violation.

(iv) Each violation under this subsection (1)(a) is a separate and distinct offense, and in case of a continuing violation every day's continuance is a separate and distinct violation.

(b) In addition to all other penalties provided by law, any motor carrier, company, or any officer or agent of a motor carrier or company operating a commercial motor vehicle subject to compliance reviews under this chapter who refuses entry or to make the required records, documents, and vehicles available to a duly authorized agent of the state patrol is liable for a penalty of at least five thousand dollars as well as an out-of-service order being placed on the department of transportation number, as defined in RCW 46.16.004 (as recodified by this act), and vehicle registration to operate. Each violation is a separate and distinct offense, and in case of a continuing violation every day's continuance is a separate and distinct violation.

(c) A motor carrier operating a commercial motor vehicle after receiving a final unsatisfactory rating or being placed out of service is liable for a penalty of not more than eleven thousand dollars for each violation. Each violation is a separate and distinct offense, and in case of a continuing violation every day's continuance is a separate and distinct violation.

(d) A high-risk carrier is liable for double the amount of the penalty of a prior violation if the high-risk carrier repeats the same violation during a follow-up compliance review. Each repeat violation is a separate and distinct offense, and in case of a repeat continuing violation every day's continuance is a separate and distinct violation.

(2) The Washington state patrol may place an out-of-service order on a department of transportation number, as defined in RCW 46.16.004 (as recodified by this act), for violations of this chapter or for nonpayment of any monetary penalties assessed by the state patrol or the utilities and transportation commission, as a result of compliance reviews, or for violations of cease and desist orders issued by the utilities and transportation commission. The state patrol shall notify the department of licensing when an out-of-service order has been placed on a motor carrier's department of transportation number. The state patrol shall notify the motor carrier when there has been an out-of-service order placed on the motor carrier's department of transportation number and the vehicle registrations have been revoked by sending a notice by first-class mail

using the last known address for the registered or legal owner or owners, and recording the transmittal on an affidavit of first-class mail. Notices under this section fulfill the requirements of RCW 46.12.160 (as recodified by this act). Motor carriers may not be eligible for a new department of transportation number, vehicle registration, or temporary permits to operate unless the violations that resulted in the out-of-service order have been corrected.

(3) Any penalty provided in this section is due and payable when the person incurring it receives a notice in writing from the state patrol describing the violation and advising the person that the penalty is due.

(a)(i) Any motor carrier who incurs a penalty as provided in this section, except for a high-risk carrier that incurs a penalty for a repeat violation during a follow-up compliance review, may, upon written application, request that the state patrol mitigate the penalty. An application for mitigation must be received by the state patrol within twenty days of the receipt of notice.

(ii) The state patrol may decline to consider any application for mitigation.

(b) Any motor carrier who incurs a penalty as provided in this section has a right to an administrative hearing under chapter 34.05 RCW to contest the violation or the penalty imposed, or both. In all such hearings, the procedure and rules of evidence are as specified in chapter 34.05 RCW except as otherwise provided in this chapter. Any request for an administrative hearing must be made in writing and must be received by the state patrol within twenty days after the later of (i) receipt of the notice imposing the penalty, or (ii) disposition of a request for mitigation, or the right to a hearing is waived.

(c) All penalties recovered under this section shall be paid into the state treasury and credited to the state patrol highway account of the motor vehicle fund.

Sec. 1117. RCW 46.44.0941 and 2004 c 109 s 1 are each amended to read as follows:

The following fees, in addition to the regular license and tonnage fees, shall be paid for all movements under special permit made upon state highways. All funds collected, except the amount retained by authorized agents of the department as provided in RCW 46.44.096, shall be forwarded to the state treasury and shall be deposited in the motor vehicle fund:

All overlegal loads, except overweight, single trip	\$ 10.00
Continuous operation of overlegal loads having either overwidth or overheight features only, for a period not to exceed thirty days	\$ 20.00
Continuous operations of overlegal loads having overlength features only, for a period not to exceed thirty days	\$ 10.00
Continuous operation of a combination of vehicles having one trailing unit that exceeds fifty-three feet and is not more than fifty-six feet in length, for a period of one year	\$ 100.00
Continuous operation of a combination of	

vehicles having two trailing units which together exceed sixty-one feet and are not more than sixty-eight feet in length, for a period of one year	\$ 100.00
Continuous operation of a three-axle fixed load vehicle having less than 65,000 pounds gross weight, for a period not to exceed thirty days	\$ 70.00
Continuous operation of a four-axle fixed load vehicle meeting the requirements of RCW 46.44.091(1) and weighing less than 86,000 pounds gross weight, not to exceed thirty days	\$ 90.00
Continuous movement of a mobile home or manufactured home having nonreducible features not to exceed eighty-five feet in total length and fourteen feet in width, for a period of one year	\$ 150.00
Continuous operation of a class C tow truck or a class E tow truck with a class C rating while performing emergency and nonemergency tows of oversize or overweight, or both, vehicles and vehicle combinations, under rules adopted by the transportation commission, for a period of one year	\$ 150.00
Continuous operation of a class B tow truck or a class E tow truck with a class B rating while performing emergency and nonemergency tows of oversize or overweight, or both, vehicles and vehicle combinations, under rules adopted by the transportation commission, for a period of one year	\$ 75.00
Continuous operation of a two or three-axle collection truck, actually engaged in the collection of solid waste or recyclables, or both, under chapter 81.77 or 35.21 RCW or by contract under RCW 36.58.090, for one year with an additional six thousand pounds more than the weight authorized in RCW 46.16.070 <u>(as recodified by this act)</u> on the rear axle of a two-axle truck or eight thousand pounds for the tandem axles of a three-axle truck. RCW 46.44.041 and 46.44.091 notwithstanding, the tire limits specified in RCW 46.44.042 apply, but none of the excess weight is valid or may be permitted on any part of the federal interstate highway system	\$ 42.00 per thousand pounds

The department may issue any of the above-listed permits that involve height, length, or width for an expanded period of consecutive months, not to exceed one year.

Continuous operation of farm implements under a permit issued as authorized by RCW 46.44.140 by:

- (1) Farmers in the course of farming activities, for any three-month period \$ 10.00
- (2) Farmers in the course of farming activities, for a period not to exceed one year \$ 25.00
- (3) Persons engaged in the business of the sale, repair, or maintenance of such farm implements, for any three-month period \$ 25.00
- (4) Persons engaged in the business of the sale, repair, or maintenance of such farm implements, for a period not to exceed one year \$ 100.00

Overweight Fee Schedule

Excess weight over legal capacity, as provided in RCW 46.44.041.	Cost per mile.
0-9,999 pounds	\$.07
10,000-14,999 pounds	\$.14
15,000-19,999 pounds	\$.21
20,000-24,999 pounds	\$.28
25,000-29,999 pounds	\$.35
30,000-34,999 pounds	\$.49
35,000-39,999 pounds	\$.63
40,000-44,999 pounds	\$.79
45,000-49,999 pounds	\$.93
50,000-54,999 pounds	\$ 1.14
55,000-59,999 pounds	\$ 1.35
60,000-64,999 pounds	\$ 1.56
65,000-69,999 pounds	\$ 1.77
70,000-74,999 pounds	\$ 2.12
75,000-79,999 pounds	\$ 2.47
80,000-84,999 pounds	\$ 2.82
85,000-89,999 pounds	\$ 3.17
90,000-94,999 pounds	\$ 3.52
95,000-99,999 pounds	\$ 3.87
100,000 pounds	\$ 4.25

The fee for weights in excess of 100,000 pounds is \$4.25 plus fifty cents for each 5,000 pound increment or portion thereof exceeding 100,000 pounds.

PROVIDED: (a) The minimum fee for any overweight permit shall be \$14.00, (b) the fee for issuance of a duplicate permit shall be \$14.00, (c) when computing overweight fees prescribed in this section or in RCW 46.44.095 that result in an amount less than even dollars the fee shall be carried to the next full

dollar if fifty cents or over and shall be reduced to the next full dollar if forty-nine cents or under.

The fees levied in this section and RCW 46.44.095 do not apply to vehicles owned and operated by the state of Washington, a county within the state, a city or town or metropolitan municipal corporation within the state, or the federal government.

Sec. 1118. RCW 46.44.170 and 2005 c 399 s 1 are each amended to read as follows:

(1) Any person moving a mobile home as defined in RCW 46.04.302 or a park model trailer as defined in RCW 46.04.622 upon public highways of the state must obtain:

(a) A special permit from the department of transportation and local authorities pursuant to RCW 46.44.090 and 46.44.093 and shall pay the proper fee as prescribed by RCW 46.44.0941 and 46.44.096; and

(b) For mobile homes constructed before June 15, 1976, and already situated in the state: (i) A certification from the department of labor and industries that the mobile home was inspected for fire safety; or (ii) an affidavit in the form prescribed by the department of ~~((community, trade, and economic development))~~ **commerce** signed by the owner at the county treasurer's office at the time of the application for the movement permit stating that the mobile home is being moved by the owner for his or her continued occupation or use; or (iii) a copy of the certificate of ~~((ownership or))~~ title together with an affidavit signed under penalty of perjury by the certified owner stating that the mobile home is being transferred to a wrecking yard or similar facility for disposal. In addition, the destroyed mobile home must be removed from the assessment rolls of the county and any outstanding taxes on the destroyed mobile home must be removed by the county treasurer.

(2) A special permit issued as provided in subsection (1) of this section for the movement of any mobile home or a park model trailer that is assessed for purposes of property taxes shall not be valid until the county treasurer of the county in which the mobile home or park model trailer is located shall endorse or attach his or her certificate that all property taxes which are a lien or which are delinquent, or both, upon the mobile home or park model trailer being moved have been satisfied. Further, any mobile home or park model trailer required to have a special movement permit under this section shall display an easily recognizable decal. However, endorsement or certification by the county treasurer and the display of the decal is not required:

(a) When a mobile home or park model trailer is to enter the state or is being moved from a manufacturer or distributor to a retail sales outlet or directly to the purchaser's designated location or between retail and sales outlets;

(b) When a signed affidavit of destruction is filed with the county assessor and the mobile home or park model trailer is being moved to a disposal site by a landlord as defined in RCW 59.20.030 after (i) the mobile home or park model trailer has been abandoned as defined in RCW 59.20.030; or (ii) a final judgment for restitution of the premises under RCW 59.18.410 has been executed in favor of the landlord with regard to the mobile home or park model trailer. The mobile home or park model trailer will be removed from the tax rolls and, upon notification by the assessor, any outstanding taxes on the destroyed mobile home or park model trailer will be removed by the county treasurer; or

(c) When a signed affidavit of destruction is filed with the county assessor by any mobile home or park model trailer owner or any property owner with an abandoned mobile home or park model trailer, the same shall be removed from the tax rolls and upon notification by the assessor, any outstanding taxes on the destroyed mobile home or park model trailer shall be removed by the county treasurer.

(3) If the landlord of a mobile home park takes ownership of a mobile home or park model trailer with the intent to resell or rent the same under RCW 59.20.030 after (a) the mobile home or park model trailer has been abandoned as defined in RCW 59.20.030; or (b) a final judgment for restitution of the premises under RCW 59.18.410 has been executed in favor of the landlord with regard to the mobile home or park model trailer, the outstanding taxes become the responsibility of the landlord.

(4) It is the responsibility of the owner of the mobile home or park model trailer subject to property taxes or the agent to obtain the endorsement and decal from the county treasurer before a mobile home or park model trailer is moved.

(5) This section does not prohibit the issuance of vehicle license plates for a mobile home or park model trailer subject to property taxes, but plates shall not be issued unless the mobile home or park model trailer subject to property taxes for which plates are sought has been listed for property tax purposes in the county in which it is principally located and the appropriate fee for the license has been paid.

(6) The department of transportation, the department of labor and industries, and local authorities are authorized to adopt reasonable rules for implementing the provisions of this section. The department of transportation shall adopt rules specifying the design, reflective characteristics, annual coloration, and for the uniform implementation of the decal required by this section. ~~((By January 1, 2006,))~~ The department of labor and industries shall ~~((also))~~ adopt procedures for notifying destination local jurisdictions concerning the arrival of mobile homes that failed safety inspections.

Sec. 1119. RCW 46.55.105 and 2002 c 279 s 10 are each amended to read as follows:

(1) The abandonment of any vehicle creates a prima facie presumption that the last registered owner of record is responsible for the abandonment and is liable for costs incurred in removing, storing, and disposing of the abandoned vehicle, less amounts realized at auction.

(2) If an unauthorized vehicle is found abandoned under subsection (1) of this section and removed at the direction of law enforcement, the last registered owner of record is guilty of the traffic infraction of "littering—abandoned vehicle," unless the vehicle is redeemed as provided in RCW 46.55.120. In addition to any other monetary penalty payable under chapter 46.63 RCW, the court shall not consider all monetary penalties as having been paid until the court is satisfied that the person found to have committed the infraction has made restitution in the amount of the deficiency remaining after disposal of the vehicle under RCW 46.55.140.

(3) A vehicle theft report filed with a law enforcement agency relieves the last registered owner of liability under subsection (2) of this section for failure to redeem the vehicle. However, the last registered owner remains liable for the costs incurred in removing, storing, and disposing of the abandoned vehicle

under subsection (1) of this section. Nothing in this section limits in any way the registered owner's rights in a civil action or as restitution in a criminal action against a person responsible for the theft of the vehicle.

(4) Properly filing a report of sale or transfer regarding the vehicle involved in accordance with RCW 46.12.101 (1) through (3) (as recodified by this act) relieves the last registered owner of liability under subsections (1) and (2) of this section. If the date of sale as indicated on the report of sale is on or before the date of impoundment, the buyer identified on the latest properly filed report of sale with the department is assumed liable for the costs incurred in removing, storing, and disposing of the abandoned vehicle, less amounts realized at auction. If the date of sale is after the date of impoundment, the previous registered owner is assumed to be liable for such costs. A licensed vehicle dealer is not liable under subsections (1) and (2) of this section if the dealer, as transferee or assignee of the last registered owner of the vehicle involved, has complied with the requirements of RCW 46.70.122 upon selling or otherwise disposing of the vehicle, or if the dealer has timely filed a transitional ownership record or report of sale under RCW 46.12.103 (as recodified by this act). In that case the person to whom the licensed vehicle dealer has sold or transferred the vehicle is assumed liable for the costs incurred in removing, storing, and disposing of the abandoned vehicle, less amounts realized at auction.

(5) For the purposes of reporting notices of traffic infraction to the department under RCW 46.20.270 and 46.52.101, and for purposes of reporting notices of failure to appear, respond, or comply regarding a notice of traffic infraction to the department under RCW 46.63.070(6), a traffic infraction under subsection (2) of this section is not considered to be a standing, stopping, or parking violation.

(6) A notice of infraction for a violation of this section may be filed with a court of limited jurisdiction organized under Title 3, 35, or 35A RCW, or with a violations bureau subject to the court's jurisdiction.

Sec. 1120. RCW 46.55.113 and 2007 c 242 s 1 and 2007 c 86 s 1 are each reenacted and amended to read as follows:

(1) Whenever the driver of a vehicle is arrested for a violation of RCW 46.61.502, 46.61.504, 46.20.342, or 46.20.345, the vehicle is subject to summary impoundment, pursuant to the terms and conditions of an applicable local ordinance or state agency rule at the direction of a law enforcement officer.

(2) In addition, a police officer may take custody of a vehicle, at his or her discretion, and provide for its prompt removal to a place of safety under any of the following circumstances:

(a) Whenever a police officer finds a vehicle standing upon the roadway in violation of any of the provisions of RCW 46.61.560, the officer may provide for the removal of the vehicle or require the driver or other person in charge of the vehicle to move the vehicle to a position off the roadway;

(b) Whenever a police officer finds a vehicle unattended upon a highway where the vehicle constitutes an obstruction to traffic or jeopardizes public safety;

(c) Whenever a police officer finds an unattended vehicle at the scene of an accident or when the driver of a vehicle involved in an accident is physically or mentally incapable of deciding upon steps to be taken to protect his or her property;

(d) Whenever the driver of a vehicle is arrested and taken into custody by a police officer;

(e) Whenever a police officer discovers a vehicle that the officer determines to be a stolen vehicle;

(f) Whenever a vehicle without a special license plate, placard, or decal indicating that the vehicle is being used to transport a person with disabilities under (~~RCW 46.16.381~~) section 701 of this act is parked in a stall or space clearly and conspicuously marked under RCW 46.61.581 which space is provided on private property without charge or on public property;

(g) Upon determining that a person is operating a motor vehicle without a valid and, if required, a specially endorsed driver's license or with a license that has been expired for ninety days or more;

(h) When a vehicle is illegally occupying a truck, commercial loading zone, restricted parking zone, bus, loading, hooded-meter, taxi, street construction or maintenance, or other similar zone where, by order of the director of transportation or chiefs of police or fire or their designees, parking is limited to designated classes of vehicles or is prohibited during certain hours, on designated days or at all times, if the zone has been established with signage for at least twenty-four hours and where the vehicle is interfering with the proper and intended use of the zone. Signage must give notice to the public that a vehicle will be removed if illegally parked in the zone;

(i) When a vehicle with an expired registration of more than forty-five days is parked on a public street.

(3) When an arrest is made for a violation of RCW 46.20.342, if the vehicle is a commercial vehicle and the driver of the vehicle is not the owner of the vehicle, before the summary impoundment directed under subsection (1) of this section, the police officer shall attempt in a reasonable and timely manner to contact the owner of the vehicle and may release the vehicle to the owner if the owner is reasonably available, as long as the owner was not in the vehicle at the time of the stop and arrest and the owner has not received a prior release under this subsection or RCW 46.55.120(1)(a)(ii).

(4) Nothing in this section may derogate from the powers of police officers under the common law. For the purposes of this section, a place of safety may include the business location of a registered tow truck operator.

Sec. 1121. RCW 46.55.140 and 1995 c 360 s 8 are each amended to read as follows:

(1) A registered tow truck operator who has a valid and signed impoundment authorization has a lien upon the impounded vehicle for services provided in the towing and storage of the vehicle, unless the impoundment is determined to have been invalid. The lien does not apply to personal property in or upon the vehicle that is not permanently attached to or is not an integral part of the vehicle except for items of personal property registered or titled with the department. The registered tow truck operator also has a deficiency claim against the registered owner of the vehicle for services provided in the towing and storage of the vehicle not to exceed the sum of five hundred dollars after deduction of the amount bid at auction, and for vehicles of over ten thousand pounds gross vehicle weight, the operator has a deficiency claim of one thousand dollars after deduction of the amount bid at auction, unless the impound is determined to be invalid. The limitation on towing and storage deficiency

claims does not apply to an impound directed by a law enforcement officer. In no case may the cost of the auction or a buyer's fee be added to the amount charged for the vehicle at the auction, the vehicle's lien, or the overage due. A registered owner who has completed and filed with the department the ((seller's)) report of sale as provided for ((by)) in RCW 46.12.101 (as recodified by this act) and has timely and properly filed the ((seller's)) report of sale is relieved of liability under this section. The person named as the new owner of the vehicle on the timely and properly filed ((seller's)) report of sale shall assume liability under this section.

(2) Any person who tows, removes, or otherwise disturbs any vehicle parked, stalled, or otherwise left on privately owned or controlled property, and any person owning or controlling the private property, or either of them, are liable to the owner or operator of a vehicle, or each of them, for consequential and incidental damages arising from any interference with the ownership or use of the vehicle which does not comply with the requirements of this chapter.

Sec. 1122. RCW 46.55.240 and 1994 c 176 s 2 are each amended to read as follows:

(1) A city, town, or county that adopts an ordinance or resolution concerning unauthorized, abandoned, or impounded vehicles shall include the applicable provisions of this chapter.

(a) A city, town, or county may, by ordinance, authorize other impound situations that may arise locally upon the public right-of-way or other publicly owned or controlled property.

(b) A city, town, or county ordinance shall contain language that establishes a written form of authorization to impound, which may include a law enforcement notice of infraction or citation, clearly denoting the agency's authorization to impound.

(c) A city, town, or county may, by ordinance, provide for release of an impounded vehicle by means of a promissory note in lieu of immediate payment, if at the time of redemption the legal or registered owner requests a hearing on the validity of the impoundment. If the municipal ordinance directs the release of an impounded vehicle before the payment of the impoundment charges, the municipality is responsible for the payment of those charges to the registered tow truck operator within thirty days of the hearing date.

(d) The hearing specified in RCW 46.55.120(2) and in this section may be conducted by an administrative hearing officer instead of in the district court. A decision made by an administrative hearing officer may be appealed to the district court for final judgment.

(2) A city, town, or county may adopt an ordinance establishing procedures for the abatement and removal as public nuisances of junk vehicles or parts thereof from private property. Costs of removal may be assessed against the registered owner of the vehicle if the identity of the owner can be determined, unless the owner in the transfer of ownership of the vehicle has complied with RCW 46.12.101 (as recodified by this act), or the costs may be assessed against the owner of the property on which the vehicle is stored. A city, town, or county may also provide for the payment to the tow truck operator or wrecker as a part of a neighborhood revitalization program.

(3) Ordinances pertaining to public nuisances shall contain:

(a) A provision requiring notice to the last registered owner of record and the property owner of record that a hearing may be requested and that if no hearing is requested, the vehicle will be removed;

(b) A provision requiring that if a request for a hearing is received, a notice giving the time, location, and date of the hearing on the question of abatement and removal of the vehicle or part thereof as a public nuisance shall be mailed, by certified mail, with a five-day return receipt requested, to the owner of the land as shown on the last equalized assessment roll and to the last registered and legal owner of record unless the vehicle is in such condition that identification numbers are not available to determine ownership;

(c) A provision that the ordinance shall not apply to (i) a vehicle or part thereof that is completely enclosed within a building in a lawful manner where it is not visible from the street or other public or private property or (ii) a vehicle or part thereof that is stored or parked in a lawful manner on private property in connection with the business of a licensed dismantler or licensed vehicle dealer and is fenced according to RCW 46.80.130;

(d) A provision that the owner of the land on which the vehicle is located may appear in person at the hearing or present a written statement in time for consideration at the hearing, and deny responsibility for the presence of the vehicle on the land, with his reasons for the denial. If it is determined at the hearing that the vehicle was placed on the land without the consent of the landowner and that he has not subsequently acquiesced in its presence, then the local agency shall not assess costs of administration or removal of the vehicle against the property upon which the vehicle is located or otherwise attempt to collect the cost from the owner;

(e) A provision that after notice has been given of the intent of the city, town, or county to dispose of the vehicle and after a hearing, if requested, has been held, the vehicle or part thereof shall be removed at the request of a law enforcement officer with notice to the Washington state patrol and the department of licensing that the vehicle has been wrecked. The city, town, or county may operate such a disposal site when its governing body determines that commercial channels of disposition are not available or are inadequate, and it may make final disposition of such vehicles or parts, or may transfer such vehicle or parts to another governmental body provided such disposal shall be only as scrap.

(4) A registered disposer under contract to a city or county for the impounding of vehicles shall comply with any administrative regulations adopted by the city or county on the handling and disposing of vehicles.

Sec. 1123. RCW 46.61.581 and 2005 c 390 s 1 are each amended to read as follows:

A parking space or stall for a person with a disability shall be indicated by a vertical sign with the international symbol of access, whose colors are white on a blue background, described under RCW 70.92.120. The sign may include additional language such as, but not limited to, an indication of the amount of the monetary penalty defined in ~~((RCW 46.16.381))~~ section 706 of this act for parking in the space without a valid permit.

Failure of the person owning or controlling the property where required parking spaces are located to erect and maintain the sign is a class 2 civil infraction under chapter 7.80 RCW for each parking space that should be so

designated. The person owning or controlling the property where the required parking spaces are located shall ensure that the parking spaces are not blocked or made inaccessible, and failure to do so is a class 2 civil infraction.

Sec. 1124. RCW 46.61.582 and 1991 c 339 s 25 are each amended to read as follows:

Any person who meets the criteria for special parking privileges under ~~((RCW 46.16.381))~~ section 701 of this act shall be allowed free of charge to park a vehicle being used to transport that person for unlimited periods of time in parking zones or areas including zones or areas with parking meters which are otherwise restricted as to the length of time parking is permitted. This section does not apply to those zones or areas in which the stopping, parking, or standing of all vehicles is prohibited or which are reserved for special types of vehicles. The person shall obtain and display a special placard or license plate under ~~((RCW 46.16.381))~~ section 701 of this act to be eligible for the privileges under this section.

Sec. 1125. RCW 46.63.020 and 2009 c 485 s 6 are each amended to read as follows:

Failure to perform any act required or the performance of any act prohibited by this title or an equivalent administrative regulation or local law, ordinance, regulation, or resolution relating to traffic including parking, standing, stopping, and pedestrian offenses, is designated as a traffic infraction and may not be classified as a criminal offense, except for an offense contained in the following provisions of this title or a violation of an equivalent administrative regulation or local law, ordinance, regulation, or resolution:

(1) RCW 46.09.120(2) (as recodified by this act) relating to the operation of a nonhighway vehicle while under the influence of intoxicating liquor or a controlled substance;

(2) RCW 46.09.130 (as recodified by this act) relating to operation of nonhighway vehicles;

(3) RCW 46.10.090(2) (as recodified by this act) relating to the operation of a snowmobile while under the influence of intoxicating liquor or narcotics or habit-forming drugs or in a manner endangering the person of another;

(4) RCW 46.10.130 (as recodified by this act) relating to the operation of snowmobiles;

(5) Chapter 46.12 RCW relating to certificates of ~~((ownership and))~~ title, registration certificates, and markings indicating that a vehicle has been destroyed or declared a total loss;

(6) RCW 46.16.010 (as recodified by this act) and section 405(3) of this act relating to the nonpayment of taxes and fees by failure to register a vehicle and falsifying residency when registering a motor vehicle;

(7) RCW 46.16.011 (as recodified by this act) relating to permitting unauthorized persons to drive;

(8) RCW 46.16.160 (as recodified by this act) relating to vehicle trip permits;

(9) ~~((RCW 46.16.381(2)))~~ Section 706 of this act relating to knowingly providing false information in conjunction with an application for a special placard or license plate for disabled persons' parking;

(10) RCW 46.20.005 relating to driving without a valid driver's license;

(11) RCW 46.20.091 relating to false statements regarding a driver's license or instruction permit;

(12) RCW 46.20.0921 relating to the unlawful possession and use of a driver's license;

(13) RCW 46.20.342 relating to driving with a suspended or revoked license or status;

(14) RCW 46.20.345 relating to the operation of a motor vehicle with a suspended or revoked license;

(15) RCW 46.20.410 relating to the violation of restrictions of an occupational driver's license, temporary restricted driver's license, or ignition interlock driver's license;

(16) RCW 46.20.740 relating to operation of a motor vehicle without an ignition interlock device in violation of a license notation that the device is required;

(17) RCW 46.20.750 relating to circumventing an ignition interlock device;

(18) RCW 46.25.170 relating to commercial driver's licenses;

(19) Chapter 46.29 RCW relating to financial responsibility;

(20) RCW 46.30.040 relating to providing false evidence of financial responsibility;

(21) RCW 46.35.030 relating to recording device information;

~~(22)~~ RCW 46.37.435 relating to wrongful installation of sunscreening material;

~~((22))~~ ~~(23)~~ RCW 46.37.650 relating to the sale, resale, distribution, or installation of a previously deployed air bag;

~~((23))~~ ~~(24)~~ RCW 46.37.671 through 46.37.675 relating to signal preemption devices;

~~((24))~~ ~~(25)~~ RCW 46.44.180 relating to operation of mobile home pilot vehicles;

~~((25))~~ ~~(26)~~ RCW 46.48.175 relating to the transportation of dangerous articles;

~~((26))~~ ~~(27)~~ RCW 46.52.010 relating to duty on striking an unattended car or other property;

~~((27))~~ ~~(28)~~ RCW 46.52.020 relating to duty in case of injury to or death of a person or damage to an attended vehicle;

~~((28))~~ ~~(29)~~ RCW 46.52.090 relating to reports by repairmen, storagemen, and appraisers;

~~((29))~~ ~~(30)~~ RCW 46.52.130 relating to confidentiality of the driving record to be furnished to an insurance company, an employer, and an alcohol/drug assessment or treatment agency;

~~((30))~~ ~~(31)~~ RCW 46.55.020 relating to engaging in the activities of a registered tow truck operator without a registration certificate;

~~((31))~~ ~~(32)~~ RCW 46.55.035 relating to prohibited practices by tow truck operators;

~~((32))~~ ~~(33)~~ RCW 46.55.300 relating to vehicle immobilization;

~~((33))~~ ~~(34)~~ RCW 46.61.015 relating to obedience to police officers, flaggers, or firefighters;

~~((34))~~ ~~(35)~~ RCW 46.61.020 relating to refusal to give information to or cooperate with an officer;

~~((35))~~ (36) RCW 46.61.022 relating to failure to stop and give identification to an officer;
~~((36))~~ (37) RCW 46.61.024 relating to attempting to elude pursuing police vehicles;
~~((37))~~ (38) RCW 46.61.500 relating to reckless driving;
~~((38))~~ (39) RCW 46.61.502 and 46.61.504 relating to persons under the influence of intoxicating liquor or drugs;
~~((39))~~ (40) RCW 46.61.503 relating to a person under age twenty-one driving a motor vehicle after consuming alcohol;
~~((40))~~ (41) RCW 46.61.520 relating to vehicular homicide by motor vehicle;
~~((41))~~ (42) RCW 46.61.522 relating to vehicular assault;
~~((42))~~ (43) RCW 46.61.5249 relating to first degree negligent driving;
~~((43))~~ (44) RCW 46.61.527(4) relating to reckless endangerment of roadway workers;
~~((44))~~ (45) RCW 46.61.530 relating to racing of vehicles on highways;
~~((45))~~ (46) RCW 46.61.655(7) (a) and (b) relating to failure to secure a load;
~~((46))~~ (47) RCW 46.61.685 relating to leaving children in an unattended vehicle with the motor running;
~~((47))~~ (48) RCW 46.61.740 relating to theft of motor vehicle fuel;
~~((48))~~ (49) RCW 46.64.010 relating to unlawful cancellation of or attempt to cancel a traffic citation;
~~((49))~~ (50) RCW 46.64.048 relating to attempting, aiding, abetting, coercing, and committing crimes;
~~((50))~~ (51) Chapter 46.65 RCW relating to habitual traffic offenders;
~~((51))~~ (52) RCW 46.68.010 relating to false statements made to obtain a refund;
~~((52) RCW 46.35.030 relating to recording device information;)~~
(53) Chapter 46.70 RCW relating to unfair motor vehicle business practices, except where that chapter provides for the assessment of monetary penalties of a civil nature;
(54) Chapter 46.72 RCW relating to the transportation of passengers in for hire vehicles;
(55) RCW 46.72A.060 relating to limousine carrier insurance;
(56) RCW 46.72A.070 relating to operation of a limousine without a vehicle certificate;
(57) RCW 46.72A.080 relating to false advertising by a limousine carrier;
(58) Chapter 46.80 RCW relating to motor vehicle wreckers;
(59) Chapter 46.82 RCW relating to driver's training schools;
(60) RCW 46.87.260 relating to alteration or forgery of a cab card, letter of authority, or other temporary authority issued under chapter 46.87 RCW;
(61) RCW 46.87.290 relating to operation of an unregistered or unlicensed vehicle under chapter 46.87 RCW.

Sec. 1126. RCW 46.63.160 and 2009 c 272 s 1 are each amended to read as follows:

(1) This section applies only to infractions issued under RCW 46.61.690 for toll collection evasion.

(2) Nothing in this section prohibits a law enforcement officer from issuing a notice of traffic infraction to a person in control of a vehicle at the time a violation occurs under RCW 46.63.030(1) (a), (b), or (c).

(3) Toll collection systems include manual cash collection, electronic toll collection, and photo enforcement systems.

(4) "Electronic toll collection system" means a system of collecting tolls or charges that is capable of charging the account of the toll patron the appropriate toll or charge by electronic transmission from the motor vehicle to the toll collection system, which information is used to charge the appropriate toll or charge to the patron's account.

(5) "Photo enforcement system" means a vehicle sensor installed to work in conjunction with an electronic toll collection system that automatically produces one or more photographs, one or more microphotographs, a videotape, or other recorded images of a vehicle operated in violation of an infraction under this chapter.

(6) The use of a toll collection system is subject to the following requirements:

(a) The department of transportation shall adopt rules that allow an open standard for automatic vehicle identification transponders used for electronic toll collection to be compatible with other electronic payment devices or transponders from the Washington state ferry system, other public transportation systems, or other toll collection systems to the extent that technology permits. The rules must also allow for multiple vendors providing electronic payment devices or transponders as technology permits.

(b) The department of transportation may not sell, distribute, or make available in any way, the names and addresses of electronic toll collection system account holders.

(7) The use of a photo enforcement system for issuance of notices of infraction is subject to the following requirements:

(a) Photo enforcement systems may take photographs, digital photographs, microphotographs, videotapes, or other recorded images of the vehicle and vehicle license plate only.

(b) A notice of infraction must be mailed to the registered owner of the vehicle or to the renter of a vehicle within sixty days of the violation. The law enforcement officer issuing the notice of infraction shall include with it a certificate or facsimile thereof, based upon inspection of photographs, microphotographs, videotape, or other recorded images produced by a photo enforcement system, stating the facts supporting the notice of infraction. This certificate or facsimile is prima facie evidence of the facts contained in it and is admissible in a proceeding charging a violation under this chapter. The photographs, digital photographs, microphotographs, videotape, or other recorded images evidencing the violation must be available for inspection and admission into evidence in a proceeding to adjudicate the liability for the infraction.

(c) Notwithstanding any other provision of law, all photographs, digital photographs, microphotographs, videotape, or other recorded images prepared under this chapter are for the exclusive use of the tolling agency and law enforcement in the discharge of duties under this section and are not open to the public and may not be used in a court in a pending action or proceeding unless

the action or proceeding relates to a violation under this chapter. No photograph, digital photograph, microphotograph, videotape, or other recorded image may be used for any purpose other than enforcement of violations under this chapter nor retained longer than necessary to enforce this chapter or verify that tolls are paid.

(d) All locations where a photo enforcement system is used must be clearly marked by placing signs in locations that clearly indicate to a driver that he or she is entering a zone where traffic laws are enforced by a photo enforcement system.

(8) Infractions detected through the use of photo enforcement systems are not part of the registered owner's driving record under RCW 46.52.101 and 46.52.120. Additionally, infractions generated by the use of photo enforcement systems under this section shall be processed in the same manner as parking infractions, including for the purposes of RCW 3.50.100, 35.20.220, 46.16.216 (as recodified by this act), and 46.20.270(3).

(9) The penalty for an infraction detected through the use of a photo enforcement system shall be forty dollars plus an additional toll penalty. The toll penalty is equal to three times the cash toll for a standard passenger car during peak hours. The toll penalty may not be reduced. The court shall remit the toll penalty to the department of transportation or a private entity under contract with the department of transportation for deposit in the statewide account in which tolls are deposited for the tolling facility at which the violation occurred. If the driver is found not to have committed an infraction under this section, the driver shall pay the toll due at the time the photograph was taken, unless the toll has already been paid.

(10) If the registered owner of the vehicle is a rental car business the department of transportation or a law enforcement agency shall, before a notice of infraction being issued under this section, provide a written notice to the rental car business that a notice of infraction may be issued to the rental car business if the rental car business does not, within eighteen days of the mailing of the written notice, provide to the issuing agency by return mail:

(a) A statement under oath stating the name and known mailing address of the individual driving or renting the vehicle when the infraction occurred; or

(b) A statement under oath that the business is unable to determine who was driving or renting the vehicle at the time the infraction occurred because the vehicle was stolen at the time of the infraction. A statement provided under this subsection must be accompanied by a copy of a filed police report regarding the vehicle theft; or

(c) In lieu of identifying the vehicle operator, the rental car business may pay the applicable toll and fee.

Timely mailing of this statement to the issuing law enforcement agency relieves a rental car business of any liability under this chapter for the notice of infraction.

Sec. 1127. RCW 46.63.170 and 2009 c 470 s 714 are each amended to read as follows:

(1) The use of automated traffic safety cameras for issuance of notices of infraction is subject to the following requirements:

(a) The appropriate local legislative authority must first enact an ordinance allowing for their use to detect one or more of the following: Stoplight, railroad crossing, or school speed zone violations. At a minimum, the local ordinance

must contain the restrictions described in this section and provisions for public notice and signage. Cities and counties using automated traffic safety cameras before July 24, 2005, are subject to the restrictions described in this section, but are not required to enact an authorizing ordinance.

(b) Use of automated traffic safety cameras is restricted to two-arterial intersections, railroad crossings, and school speed zones only.

(c) During the 2009-2011 fiscal biennium, automated traffic safety cameras may be used to detect speed violations for the purposes of section 201(2), chapter 470, Laws of 2009 if the local legislative authority first enacts an ordinance authorizing the use of cameras to detect speed violations.

(d) Automated traffic safety cameras may only take pictures of the vehicle and vehicle license plate and only while an infraction is occurring. The picture must not reveal the face of the driver or of passengers in the vehicle.

(e) A notice of infraction must be mailed to the registered owner of the vehicle within fourteen days of the violation, or to the renter of a vehicle within fourteen days of establishing the renter's name and address under subsection (3)(a) of this section. The law enforcement officer issuing the notice of infraction shall include with it a certificate or facsimile thereof, based upon inspection of photographs, microphotographs, or electronic images produced by an automated traffic safety camera, stating the facts supporting the notice of infraction. This certificate or facsimile is prima facie evidence of the facts contained in it and is admissible in a proceeding charging a violation under this chapter. The photographs, microphotographs, or electronic images evidencing the violation must be available for inspection and admission into evidence in a proceeding to adjudicate the liability for the infraction. A person receiving a notice of infraction based on evidence detected by an automated traffic safety camera may respond to the notice by mail.

(f) The registered owner of a vehicle is responsible for an infraction under RCW 46.63.030(1)(e) unless the registered owner overcomes the presumption in RCW 46.63.075, or, in the case of a rental car business, satisfies the conditions under subsection (3) of this section. If appropriate under the circumstances, a renter identified under subsection (3)(a) of this section is responsible for an infraction.

(g) Notwithstanding any other provision of law, all photographs, microphotographs, or electronic images prepared under this section are for the exclusive use of law enforcement in the discharge of duties under this section and are not open to the public and may not be used in a court in a pending action or proceeding unless the action or proceeding relates to a violation under this section. No photograph, microphotograph, or electronic image may be used for any purpose other than enforcement of violations under this section nor retained longer than necessary to enforce this section.

(h) All locations where an automated traffic safety camera is used must be clearly marked by placing signs in locations that clearly indicate to a driver that he or she is entering a zone where traffic laws are enforced by an automated traffic safety camera.

(i) If a county or city has established an authorized automated traffic safety camera program under this section, the compensation paid to the manufacturer or vendor of the equipment used must be based only upon the value of the equipment and services provided or rendered in support of the system, and may

not be based upon a portion of the fine or civil penalty imposed or the revenue generated by the equipment.

(2) Infractions detected through the use of automated traffic safety cameras are not part of the registered owner's driving record under RCW 46.52.101 and 46.52.120. Additionally, infractions generated by the use of automated traffic safety cameras under this section shall be processed in the same manner as parking infractions, including for the purposes of RCW 3.50.100, 35.20.220, 46.16.216 (as recodified by this act), and 46.20.270(3). However, the amount of the fine issued for an infraction generated through the use of an automated traffic safety camera shall not exceed the amount of a fine issued for other parking infractions within the jurisdiction.

(3) If the registered owner of the vehicle is a rental car business, the law enforcement agency shall, before a notice of infraction being issued under this section, provide a written notice to the rental car business that a notice of infraction may be issued to the rental car business if the rental car business does not, within eighteen days of receiving the written notice, provide to the issuing agency by return mail:

(a) A statement under oath stating the name and known mailing address of the individual driving or renting the vehicle when the infraction occurred; or

(b) A statement under oath that the business is unable to determine who was driving or renting the vehicle at the time the infraction occurred because the vehicle was stolen at the time of the infraction. A statement provided under this subsection must be accompanied by a copy of a filed police report regarding the vehicle theft; or

(c) In lieu of identifying the vehicle operator, the rental car business may pay the applicable penalty.

Timely mailing of this statement to the issuing law enforcement agency relieves a rental car business of any liability under this chapter for the notice of infraction.

(4) Nothing in this section prohibits a law enforcement officer from issuing a notice of traffic infraction to a person in control of a vehicle at the time a violation occurs under RCW 46.63.030(1) (a), (b), or (c).

(5) For the purposes of this section, "automated traffic safety camera" means a device that uses a vehicle sensor installed to work in conjunction with an intersection traffic control system, a railroad grade crossing control system, or a speed measuring device, and a camera synchronized to automatically record one or more sequenced photographs, microphotographs, or electronic images of the rear of a motor vehicle at the time the vehicle fails to stop when facing a steady red traffic control signal or an activated railroad grade crossing control signal, or exceeds a speed limit in a school speed zone as detected by a speed measuring device. During the 2009-2011 fiscal biennium, an automated traffic safety camera includes a camera used to detect speed violations for the purposes of section 201(2), chapter 470, Laws of 2009.

(6) During the 2009-2011 fiscal biennium, this section does not apply to automated traffic safety cameras for the purposes of section 218(2), chapter 470, Laws of 2009.

Sec. 1128. RCW 46.68.080 and 2006 c 337 s 12 are each amended to read as follows:

(1) ~~((Motor))~~ Vehicle license fees collected under ~~((RCW 46.16.0621 and 46.16.070))~~ sections 530 and 531 of this act and fuel taxes collected under RCW 82.36.025(1) and 82.38.030(1) and directly or indirectly paid by the residents of those counties composed entirely of islands and which have neither a fixed physical connection with the mainland nor any state highways on any of the islands of which they are composed, shall be paid into the motor vehicle fund of the state of Washington and shall monthly, as they accrue, and after deducting therefrom the expenses of issuing such licenses and the cost of collecting such vehicle fuel tax, be paid to the county treasurer of each such county to be by him or her disbursed as hereinafter provided.

(2) One-half of the ~~((motor))~~ vehicle license fees collected under ~~((RCW 46.16.0621 and 46.16.070))~~ sections 530 and 531 of this act and one-half of the fuel taxes collected under RCW 82.36.025(1) and 82.38.030(1) and directly or indirectly paid by the residents of those counties composed entirely of islands and which have either a fixed physical connection with the mainland or state highways on any of the islands of which they are composed, shall be paid into the motor vehicle fund of the state of Washington and shall monthly, as they accrue, and after deducting therefrom the expenses of issuing such licenses and the cost of collecting such motor vehicle fuel tax, be paid to the county treasurer of each such county to be by him or her disbursed as hereinafter provided.

(3) All funds paid to the county treasurer of the counties of either class referred to in subsections (1) and (2) of this section, shall be by such county treasurer distributed and credited to the several road districts of each such county and paid to the city treasurer of each incorporated city and town within each such county, in the direct proportion that the assessed valuation of each such road district and incorporated city and town shall bear to the total assessed valuation of each such county.

(4) The amount of motor vehicle fuel tax paid by the residents of those counties composed entirely of islands shall, for the purposes of this section, be that percentage of the total amount of motor vehicle fuel tax collected in the state that the ~~((motor))~~ vehicle license fees paid by the residents of counties composed entirely of islands bears to the total ~~((motor))~~ vehicle license fees paid by the residents of the state.

(5)(a) An amount of fuel taxes shall be deposited into the Puget Sound ferry operations account. This amount shall equal the difference between the total amount of fuel taxes collected in the state under RCW 82.36.020 and 82.38.030 less the total amount of fuel taxes collected in the state under RCW 82.36.020(1) and 82.38.030(1) and be multiplied by a fraction. The fraction shall equal the amount of ~~((motor))~~ vehicle license fees collected under ~~((RCW 46.16.0621 and 46.16.070))~~ sections 530 and 531 of this act from counties described in subsection (1) of this section divided by the total amount of ~~((motor))~~ vehicle license fees collected in the state under ~~((RCW 46.16.0621 and 46.16.070))~~ sections 530 and 531 of this act.

(b) An additional amount of fuel taxes shall be deposited into the Puget Sound ferry operations account. This amount shall equal the difference between the total amount of fuel taxes collected in the state under RCW 82.36.020 and 82.38.030 less the total amount of fuel taxes collected in the state under RCW 82.36.020(1) and 82.38.030(1) and be multiplied by a fraction. The fraction shall equal the amount of ~~((motor))~~ vehicle license fees collected under ~~((RCW~~

~~46.16.0621 and 46.16.070~~) sections 530 and 531 of this act from counties described in subsection (2) of this section divided by the total amount of ~~((motor))~~ vehicle license fees collected in the state under ~~((RCW 46.16.0621 and 46.16.070))~~ sections 530 and 531 of this act, and this shall be multiplied by one-half.

Sec. 1129. RCW 46.68.250 and 1996 c 184 s 6 are each amended to read as follows:

The vehicle licensing fraud account is created in the state treasury. From penalties and fines imposed under RCW 46.16.010 (as recodified by this act), 47.68.255, and 88.02.118 (as recodified by this act), an amount equal to the taxes and fees owed shall be deposited into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for vehicle license fraud enforcement and collections by the Washington state patrol and the department of revenue.

Sec. 1130. RCW 46.70.011 and 2006 c 364 s 1 are each amended to read as follows:

As used in this chapter:

(1) "Vehicle" means and includes every device capable of being moved upon a public highway and in, upon, or by which any persons or property is or may be transported or drawn upon a public highway, excepting devices moved by human or animal power or used exclusively upon stationary rails or tracks.

(2) "Motor vehicle" means every vehicle which is self-propelled and every vehicle which is propelled by electric power obtained from overhead trolley wires, but not operated upon rails, and which is required to be registered and titled under this title ~~((46 RCW, Motor Vehicles))~~.

(3) "Recreational vehicle" means a travel trailer, motor home, truck camper, or camping trailer that is primarily designed and used as temporary living quarters, is either self-propelled or mounted on or drawn by another vehicle, is transient, is not occupied as a primary residence, and is not immobilized or permanently affixed to a mobile home lot.

(4) "Vehicle dealer" means any person, firm, association, corporation, or trust, not excluded by subsection (5) of this section, engaged in the business of buying, selling, listing, exchanging, offering, brokering, leasing with an option to purchase, auctioning, soliciting, or advertising the sale of new or used vehicles, or arranging or offering or attempting to solicit or negotiate on behalf of others, a sale, purchase, or exchange of an interest in new or used motor vehicles, irrespective of whether the motor vehicles are owned by that person. Vehicle dealers shall be classified as follows:

(a) A "motor vehicle dealer" is a vehicle dealer that deals in new or used motor vehicles, or both;

(b) A "mobile home and travel trailer dealer" is a vehicle dealer that deals in mobile homes, park trailers, or travel trailers, or more than one type of these vehicles;

(c) A "miscellaneous vehicle dealer" is a vehicle dealer that deals in motorcycles or vehicles other than motor vehicles or mobile homes and travel trailers or any combination of such vehicles;

(d) A "recreational vehicle dealer" is a vehicle dealer that deals in travel trailers, motor homes, truck campers, or camping trailers that are primarily

designed and used as temporary living quarters, are either self-propelled or mounted on or drawn by another vehicle, are transient, are not occupied as a primary residence, and are not immobilized or permanently affixed to a mobile home lot.

(5) ~~((The term))~~ "Vehicle dealer" does not include, nor do the licensing requirements of RCW 46.70.021 apply to, the following persons, firms, associations, or corporations:

(a) Receivers, trustees, administrators, executors, guardians, or other persons appointed by, or acting under a judgment or order of, any court; or

(b) Public officers while performing their official duties; or

(c) Employees of vehicle dealers who are engaged in the specific performance of their duties as such employees; or

(d) Any person engaged in an isolated sale of a vehicle in which that person is the registered or legal owner, or both, thereof; or

(e) Any person, firm, association, corporation, or trust, engaged in the selling of equipment other than vehicles, subject to registration, used for agricultural or industrial purposes; or

(f) A real estate broker licensed under chapter 18.85 RCW, or an affiliated licensee, who, on behalf of another negotiates the purchase, sale, lease, or exchange of a manufactured or mobile home in conjunction with the purchase, sale, exchange, rental, or lease of the land upon which the manufactured or mobile home is, or will be, located; or

(g) Owners who are also operators of ~~((the))~~ special highway construction equipment, as defined in section 144 of this act, or of the highway construction equipment for which a vehicle license and display vehicle license number plate is required ~~((as defined in RCW 46.16.010))~~; or

(h) Any bank, trust company, savings bank, mutual savings bank, savings and loan association, credit union, and any parent, subsidiary, or affiliate thereof, authorized to do business in this state under state or federal law with respect to the sale or other disposition of a motor vehicle owned and used in their business; or with respect to the acquisition and sale or other disposition of a motor vehicle in which the entity has acquired an interest as a lessor, lessee, or secured party; or

(i) Any person who is regularly engaged in the business of acquiring leases or installment contracts by assignment, with respect to the acquisition and sale or other disposition of a motor vehicle in which the person has acquired an interest as a result of the business.

(6) "Vehicle salesperson" means any person who for any form of compensation sells, auctions, leases with an option to purchase, or offers to sell or to so lease vehicles on behalf of a vehicle dealer.

(7) "Department" means the department of licensing, which shall administer and enforce the provisions of this chapter.

(8) "Director" means the director of licensing.

(9) "Manufacturer" means any person, firm, association, corporation, or trust, resident or nonresident, who manufactures or assembles new and unused vehicles or remanufactures vehicles in whole or in part and further includes the terms:

(a) "Distributor," which means any person, firm, association, corporation, or trust, resident or nonresident, who in whole or in part offers for sale, sells, or

distributes any new and unused vehicle to vehicle dealers or who maintains factory representatives.

(b) "Factory branch," which means a branch office maintained by a manufacturer for the purpose of selling or offering for sale, vehicles to a distributor, wholesaler, or vehicle dealer, or for directing or supervising in whole or in part factory or distributor representatives, and further includes any sales promotion organization, whether a person, firm, or corporation, which is engaged in promoting the sale of new and unused vehicles in this state of a particular brand or make to vehicle dealers.

(c) "Factory representative," which means a representative employed by a manufacturer, distributor, or factory branch for the purpose of making or promoting for the sale of their vehicles or for supervising or contracting with their dealers or prospective dealers.

(10) "Established place of business" means a location meeting the requirements of RCW 46.70.023(1) at which a vehicle dealer conducts business in this state.

(11) "Principal place of business" means that dealer firm's business location in the state, which place the dealer designates as their principal place of business.

(12) "Subagency" means any place of business of a vehicle dealer within the state, which place is physically and geographically separated from the principal place of business of the firm or any place of business of a vehicle dealer within the state, at which place the firm does business using a name other than the principal name of the firm, or both.

(13) "Temporary subagency" means a location other than the principal place of business or subagency within the state where a licensed vehicle dealer may secure a license to conduct the business and is licensed for a period of time not to exceed ten days for a specific purpose such as auto shows, shopping center promotions, tent sales, exhibitions, or similar merchandising ventures. No more than six temporary subagency licenses may be issued to a licensee in any twelve-month period.

(14) "Wholesale vehicle dealer" means a vehicle dealer who buys and sells other than at retail.

(15) "Retail vehicle dealer" means a vehicle dealer who may buy and sell at both wholesale and retail.

(16) "Listing dealer" means a used mobile home dealer who makes contracts with sellers who will compensate the dealer for obtaining a willing purchaser for the seller's mobile home.

(17) "Auction" means a transaction conducted by means of exchanges between an auctioneer and the members of the audience, constituting a series of oral invitations for offers for the purchase of vehicles made by the auctioneer, offers to purchase by members of the audience, and the acceptance of the highest or most favorable offer to purchase.

(18) "Auction company" means a sole proprietorship, partnership, corporation, or other legal or commercial entity licensed under chapter 18.11 RCW that only sells or offers to sell vehicles at auction or only arranges or sponsors auctions.

(19) "Buyer's agent" means any person, firm, partnership, association, limited liability company, limited liability partnership, or corporation retained or

employed by a consumer to arrange for or to negotiate, or both, the purchase or lease of a new motor vehicle on behalf of the consumer, and who is paid a fee or receives other compensation from the consumer for its services.

(20) "New motor vehicle" means any motor vehicle that is self-propelled and is required to be registered and titled under this title (~~46 RCW~~), has not been previously titled to a retail purchaser or lessee, and is not a "used vehicle" as defined under RCW 46.04.660.

Sec. 1131. RCW 46.70.051 and 2001 c 272 s 4 are each amended to read as follows:

(1) After the application has been filed, the fee paid, and bond posted, if required, the department shall, if no denial order is in effect and no proceeding is pending under RCW 46.70.101, issue the appropriate license, which license, in the case of a vehicle dealer, shall designate the classification of the dealer. Nothing prohibits a vehicle dealer from obtaining licenses for more than one classification, and nothing prevents any vehicle dealer from dealing in other classes of vehicles on an isolated basis.

(2) An auction company licensed under chapter 18.11 RCW may sell at auction all classifications of vehicles under a motor vehicle dealer's license issued under this chapter including motor vehicles, miscellaneous type vehicles, and mobile homes and travel trailers.

(3) At the time the department issues a vehicle dealer license, the department shall provide to the dealer a current, up-to-date vehicle dealer manual that may be provided electronically setting forth the various statutes and rules applicable to vehicle dealers. In addition, at the time any such license is renewed under RCW 46.70.083, the department shall provide the dealer with any updates or current revisions to the vehicle dealer manual. These updates or current revisions may be provided electronically.

(4) The department may contract with responsible private parties to provide them elements of the vehicle database on a regular basis. The private parties may only disseminate this information to licensed vehicle dealers.

(a) Subject to the disclosure agreement provisions of RCW 46.12.380 (as recodified by this act) and the requirements of Executive Order 97-01, the department may provide to the contracted private parties the following information:

(i) All vehicle and title data necessary to accurately disclose known title defects, brands, or flags and odometer discrepancies;

(ii) All registered and legal owner information necessary to determine true ownership of the vehicle and the existence of any recorded liens, including but not limited to liens of the department of social and health services or its successor; and

(iii) Any data in the department's possession necessary to calculate the motor vehicle excise tax, license, and registration fees including information necessary to determine the applicability of regional transit authority excise and use tax surcharges.

(b) The department may provide this information in any form the contracted private party and the department agree upon, but if the data is to be transmitted over the Internet or similar public network from the department to the contracted private party, it must be encrypted.

(c) The department shall give these contracted private parties advance written notice of any change in the information referred to in (a)(i), (ii), or (iii) of this subsection, including information pertaining to the calculation of motor vehicle excise taxes.

(d) The department shall revoke a contract made under this subsection (4) with a private party who disseminates information from the vehicle database to anyone other than a licensed vehicle dealer. A private party who obtains information from the vehicle database under a contract with the department and disseminates any of that information to anyone other than a licensed vehicle dealer is guilty of a gross misdemeanor punishable under chapter 9A.20 RCW.

(e) Nothing in this subsection (4) authorizes a vehicle dealer or any other organization or entity not otherwise appointed as a vehicle licensing subagent under RCW 46.01.140 to perform any of the functions of a vehicle licensing subagent so appointed.

Sec. 1132. RCW 46.70.101 and 2001 c 272 s 6 are each amended to read as follows:

The director may by order deny, suspend, or revoke the license of any vehicle dealer or vehicle manufacturer or, in lieu thereof or in addition thereto, may by order assess monetary penalties of a civil nature not to exceed one thousand dollars per violation, if the director finds that the order is in the public interest and that the applicant or licensee:

(1) In the case of a vehicle dealer:

(a) The applicant or licensee, or any partner, officer, director, owner of ten percent or more of the assets of the firm, or managing employee:

(i) Was the holder of a license issued pursuant to this chapter, which was revoked for cause and never reissued by the department, or which license was suspended for cause and the terms of the suspension have not been fulfilled or which license was assessed a civil penalty and the assessed amount has not been paid;

(ii) Has been adjudged guilty of a crime which directly relates to the business of a vehicle dealer and the time elapsed since the adjudication is less than ten years, or suffering any judgment within the preceding five years in any civil action involving fraud, misrepresentation, or conversion. For the purposes of this section, "adjudged guilty" (~~shall~~) means in addition to a final conviction in either a state or municipal court, an unvacated forfeiture of bail or collateral deposited to secure a defendant's appearance in court, the payment of a fine, a plea of guilty, or a finding of guilt regardless of whether the sentence is deferred or the penalty is suspended;

(iii) Has knowingly or with reason to know made a false statement of a material fact in his or her application for license or any data attached thereto, or in any matter under investigation by the department;

(iv) Has knowingly, or with reason to know, provided the department with false information relating to the number of vehicle sales transacted during the past one year in order to obtain a vehicle dealer license plate;

(v) Does not have an established place of business as required in this chapter;

(vi) Refuses to allow representatives or agents of the department to inspect during normal business hours all books, records, and files maintained within this state;

(vii) Sells, exchanges, offers, brokers, auctions, solicits, or advertises a new or current model vehicle to which a factory new vehicle warranty attaches and fails to have a valid, written service agreement as required by this chapter, or having such agreement refuses to honor the terms of such agreement within a reasonable time or repudiates the same, except for sales by wholesale motor vehicle auction dealers to franchise motor vehicle dealers of the same make licensed under this title (~~(46 RCW)~~) or franchise motor vehicle dealers of the same make licensed by any other state;

(viii) Is insolvent, either in the sense that their liabilities exceed their assets, or in the sense that they cannot meet their obligations as they mature;

(ix) Fails to pay any civil monetary penalty assessed by the director pursuant to this section within ten days after such assessment becomes final;

(x) Fails to notify the department of bankruptcy proceedings in the manner required by RCW 46.70.183;

(xi) Knowingly, or with reason to know, allows a salesperson employed by the dealer, or acting as their agent, to commit any of the prohibited practices set forth in subsection (1)(a) of this section and RCW 46.70.180;

(xii) Fails to have a current certificate or registration with the department of revenue.

(b) The applicant or licensee, or any partner, officer, director, owner of ten percent of the assets of the firm, or any employee or agent:

(i) Has failed to comply with the applicable provisions of chapter 46.12 or 46.16 RCW or this chapter or any rules and regulations adopted thereunder;

(ii) Has defrauded or attempted to defraud the state, or a political subdivision thereof of any taxes or fees in connection with the sale, lease, or transfer of a vehicle;

(iii) Has forged the signature of the registered or legal owner on a certificate of title;

(iv) Has purchased, sold, disposed of, or has in his or her possession any vehicle which he or she knows or has reason to know has been stolen or appropriated without the consent of the owner;

(v) Has willfully failed to deliver to a purchaser or owner a certificate of (~~ownership~~) title to a vehicle which he or she has sold or leased;

(vi) Has committed any act in violation of RCW 46.70.090 relating to vehicle dealer license plates or manufacturer license plates;

(vii) Has committed any act in violation of RCW 46.70.180 relating to unlawful acts and practices;

(viii) Has engaged in practices inimical to the health or safety of the citizens of the state of Washington including but not limited to failure to comply with standards set by the state of Washington or the federal government pertaining to the construction or safety of vehicles, except for sales by wholesale motor vehicle auction dealers to motor vehicle dealers and vehicle wreckers licensed under this title (~~(46 RCW)~~) or motor vehicle dealers licensed by any other state;

(ix) Has aided or assisted an unlicensed dealer or salesperson in unlawful activity through active or passive participation in sales, allowing use of facilities, dealer license number, or by any other means;

(x) Converts or appropriates, whether temporarily or permanently, property or funds belonging to a customer, dealer, or manufacturer, without the consent of the owner of the property or funds; or

- (xi) Has sold any vehicle with actual knowledge that:
 - (A) It has any of the following brands on the title: "SALVAGE/REBUILT," "JUNK," or "DESTROYED"; or
 - (B) It has been declared totaled out by an insurance carrier and then rebuilt;
or
 - (C) The vehicle title contains the specific comment that the vehicle is "rebuilt";
without clearly disclosing that brand or comment in writing.
- (c) The licensee or any partner, officer, director, or owner of ten percent or more of the assets of the firm holds or has held any such position in any other vehicle dealership licensed pursuant to this chapter which is subject to final proceedings under this section.
 - (2) In the case of a manufacturer, or any partner, officer, director, or majority shareholder:
 - (a) Was or is the holder of a license issued pursuant to this chapter which was revoked for cause and never reissued by the department, or which license was suspended for cause and the terms of the suspension have not been fulfilled, or which license was assessed a civil penalty and the assessed amount has not been paid;
 - (b) Has knowingly or with reason to know, made a false statement of a material fact in his or her application for license, or any data attached thereto, or in any matter under investigation by the department;
 - (c) Has failed to comply with the applicable provisions of chapter 46.12 or 46.16 RCW or this chapter or any rules and regulations adopted thereunder;
 - (d) Has defrauded or attempted to defraud the state or a political subdivision thereof, of any taxes or fees in connection with the sale, lease, or transfer of a vehicle;
 - (e) Has purchased, sold, leased, disposed of, or has in his or her possession, any vehicle which he or she knows or has reason to know has been stolen or appropriated without the consent of the owner;
 - (f) Has committed any act in violation of RCW 46.70.090 relating to vehicle dealer license plates and manufacturer license plates;
 - (g) Has committed any act in violation of RCW 46.70.180 relating to unlawful acts and practices;
 - (h) Sells or distributes in this state or transfers into this state for resale or for lease, any new or unused vehicle to which a warranty attaches or has attached and refuses to honor the terms of such warranty within a reasonable time or repudiates the same;
 - (i) Fails to maintain one or more resident employees or agents to provide service or repairs to vehicles located within the state of Washington only under the terms of any warranty attached to new or unused vehicles manufactured and which are or have been sold or distributed in this state or transferred into this state for resale or for lease unless such manufacturer requires warranty service to be performed by all of its dealers pursuant to a current service agreement on file with the department;
 - (j) Fails to reimburse within a reasonable time any vehicle dealer within the state of Washington who in good faith incurs reasonable obligations in giving effect to warranties that attach or have attached to any new or unused vehicle

sold, leased, or distributed in this state or transferred into this state for resale or for lease by any such manufacturer;

(k) Engaged in practices inimical to the health and safety of the citizens of the state of Washington including, but not limited to, failure to comply with standards set by the state of Washington or the federal government pertaining to the construction and safety of vehicles;

(l) Is insolvent either in the sense that his or her liabilities exceed his or her assets or in the sense that he or she cannot meet his or her obligations as they mature;

(m) Fails to notify the department of bankruptcy proceedings in the manner required by RCW 46.70.183.

Sec. 1133. RCW 46.70.122 and 2001 c 272 s 8 are each amended to read as follows:

(1) If the purchaser or transferee is a dealer he or she shall, on selling, leasing, or otherwise disposing of the vehicle, promptly execute the assignment and warranty of title, in such form as the director shall prescribe.

(2) The assignment and warranty shall show any secured party holding a security interest created or reserved at the time of resale or lease, to which shall be attached the assigned certificate(s) of ~~((ownership))~~ title and ~~((license))~~ registration certificate received by the dealer. The dealer shall mail or deliver them to the department with the transferee's application for the issuance of new certificate(s) of ~~((ownership))~~ title and ~~((license))~~ registration certificate. The ~~((title))~~ certificate of title issued for a vehicle possessed by a dealer and subject to a security interest shall be delivered to the secured party who upon request of the dealer's transferee shall, unless the transfer was a breach of the security agreement, either deliver the certificate to the transferee for transmission to the department, or upon receipt from the transferee of the owner's bill of sale or sale document, the transferee's application for a new certificate and the required fee, mail or deliver to the department. Failure of a dealer to deliver the ~~((title))~~ certificate of title to the secured party does not affect perfection of the security interest.

Sec. 1134. RCW 46.70.124 and 1994 c 262 s 11 are each amended to read as follows:

A vehicle dealer(s) shall possess a separate certificate of ~~((ownership))~~ title or other evidence of ownership approved by the department for each used vehicle kept in the dealer's possession. Evidence of ownership shall be either in the name of the dealer or in the name of the dealer's immediate vendor properly assigned. In the case of consigned vehicles, the vehicle dealer may possess a completed consignment contract that includes a guaranteed title from the seller in lieu of the required certificate of ~~((ownership))~~ title.

Sec. 1135. RCW 46.70.135 and 1994 c 284 s 11 are each amended to read as follows:

Mobile home manufacturers and mobile home dealers who sell mobile homes to be assembled on site and used as residences in this state shall conform to the following requirements:

(1) No new manufactured home may be sold unless the purchaser is provided with a manufacturer's written warranty for construction of the home in

compliance with the Magnuson-Moss Warranty Act (88 Stat. 2183; 15 U.S.C. Sec. 47 et seq.; 15 U.S.C. Sec. 2301 et seq.).

(2) No new manufactured home may be sold unless the purchaser is provided with a dealer's written warranty for all installation services performed by the dealer.

(3) The warranties required by subsections (1) and (2) of this section shall be valid for a minimum of one year measured from the date of delivery and shall not be invalidated by resale by the original purchaser to a subsequent purchaser or by the certificate of ~~((ownership))~~ title being eliminated or not issued as described in chapter 65.20 RCW. Copies of the warranties shall be given to the purchaser upon signing a purchase agreement and shall include an explanation of remedies available to the purchaser under state and federal law for breach of warranty, the name and address of the federal department of housing and urban development and the state departments of licensing and labor and industries, and a brief description of the duties of these agencies concerning mobile homes.

(4) Warranty service shall be completed within forty-five days after the owner gives written notice of the defect unless there is a bona fide dispute between the parties. Warranty service for a defect affecting health or safety shall be completed within seventy-two hours of receipt of written notice. Warranty service shall be performed on site and a written work order describing labor performed and parts used shall be completed and signed by the service agent and the owner. If the owner's signature cannot be obtained, the reasons shall be described on the work order. Work orders shall be retained by the dealer or manufacturer for a period of three years.

(5) Before delivery of possession of the home to the purchaser, an inspection shall be performed by the dealer or his or her agent and by the purchaser or his or her agent which shall include a test of all systems of the home to insure proper operation, unless such systems test is delayed pursuant to this subsection. At the time of the inspection, the purchaser shall be given copies of all documents required by state or federal agencies to be supplied by the manufacturer with the home which have not previously been provided as required under subsection (3) of this section, and the dealer shall complete any required purchaser information card and forward the card to the manufacturer. A purchaser is deemed to have taken delivery of the manufactured home when all three of the following events have occurred: (a) The contractual obligations between the purchaser and the seller have been met; (b) the inspection of the home is completed; and (c) the systems test of the home has been completed subsequent to the installation of the home, or fifteen days has elapsed since the transport of the home to the site where it will be installed, whichever is earlier. Occupancy of the manufactured home shall only occur after the systems test has occurred and all required utility connections have been approved after inspection.

(6) Manufacturer and dealer advertising which states the dimensions of a home shall not include the length of the draw bar assembly in a listed dimension, and shall state the square footage of the actual floor area.

Sec. 1136. RCW 46.70.180 and 2009 c 123 s 1 and 2009 c 49 s 1 are each reenacted and amended to read as follows:

Each of the following acts or practices is unlawful:

(1) To cause or permit to be advertised, printed, displayed, published, distributed, broadcasted, televised, or disseminated in any manner whatsoever, any statement or representation with regard to the sale, lease, or financing of a vehicle which is false, deceptive, or misleading, including but not limited to the following:

(a) That no down payment is required in connection with the sale of a vehicle when a down payment is in fact required, or that a vehicle may be purchased for a smaller down payment than is actually required;

(b) That a certain percentage of the sale price of a vehicle may be financed when such financing is not offered in a single document evidencing the entire security transaction;

(c) That a certain percentage is the amount of the service charge to be charged for financing, without stating whether this percentage charge is a monthly amount or an amount to be charged per year;

(d) That a new vehicle will be sold for a certain amount above or below cost without computing cost as the exact amount of the factory invoice on the specific vehicle to be sold;

(e) That a vehicle will be sold upon a monthly payment of a certain amount, without including in the statement the number of payments of that same amount which are required to liquidate the unpaid purchase price.

(2)(a)(i) To incorporate within the terms of any purchase and sale or lease agreement any statement or representation with regard to the sale, lease, or financing of a vehicle which is false, deceptive, or misleading, including but not limited to terms that include as an added cost to the selling price or capitalized cost of a vehicle an amount for licensing or transfer of title of that vehicle which is not actually due to the state, unless such amount has in fact been paid by the dealer prior to such sale.

(ii) However, an amount not to exceed the applicable amount provided in (iii)(A) and (B) of this subsection (2)(a) per vehicle sale or lease may be charged by a dealer to recover administrative costs for collecting motor vehicle excise taxes, licensing and registration fees and other agency fees, verifying and clearing titles, transferring titles, perfecting, releasing, or satisfying liens or other security interests, and other administrative and documentary services rendered by a dealer in connection with the sale or lease of a vehicle and in carrying out the requirements of this chapter or any other provisions of state law.

(iii) A dealer may charge under (a)(ii) of this subsection:

(A) As of July 26, 2009, through June 30, 2014, an amount not to exceed one hundred fifty dollars; and

(B) As of July 1, 2014, an amount not to exceed fifty dollars.

(b) A dealer may charge the documentary service fee in (a) of this subsection under the following conditions:

(i) The documentary service fee is disclosed in writing to a prospective purchaser or lessee before the execution of a purchase and sale or lease agreement;

(ii) The dealer discloses to the purchaser or lessee in writing that the documentary service fee is a negotiable fee. The disclosure must be written in a typeface that is at least as large as the typeface used in the standard text of the document that contains the disclosure and that is bold faced, capitalized, underlined, or otherwise set out from the surrounding material so as to be

conspicuous. The dealer shall not represent to the purchaser or lessee that the fee or charge is required by the state to be paid by either the dealer or prospective purchaser or lessee;

(iii) The documentary service fee is separately designated from the selling price or capitalized cost of the vehicle and from any other taxes, fees, or charges; and

(iv) Dealers disclose in any advertisement that a documentary service fee in an amount provided in (iv)(A) and (B) of this subsection (2)(b) may be added to the sale price or the capitalized cost:

(A) As of July 26, 2009, through June 30, 2014, an amount up to one hundred fifty dollars; and

(B) As of July 1, 2014, an amount up to fifty dollars.

For the purposes of this subsection (2), the term "documentary service fee" means the optional amount charged by a dealer to provide the services specified in (a) of this subsection.

(3) To set up, promote, or aid in the promotion of a plan by which vehicles are to be sold or leased to a person for a consideration and upon further consideration that the purchaser or lessee agrees to secure one or more persons to participate in the plan by respectively making a similar purchase and in turn agreeing to secure one or more persons likewise to join in said plan, each purchaser or lessee being given the right to secure money, credits, goods, or something of value, depending upon the number of persons joining the plan.

(4) To commit, allow, or ratify any act of "bushing" which is defined as follows: Entering into a written contract, written purchase order or agreement, retail installment sales agreement, note and security agreement, or written lease agreement, hereinafter collectively referred to as contract or lease, signed by the prospective buyer or lessee of a vehicle, which:

(a) Is subject to any conditions or the dealer's or his or her authorized representative's future acceptance, and the dealer fails or refuses within four calendar days, exclusive of Saturday, Sunday, or legal holiday, and prior to any further negotiations with said buyer or lessee to inform the buyer or lessee either: (i) That the dealer unconditionally accepts the contract or lease, having satisfied, removed, or waived all conditions to acceptance or performance, including, but not limited to, financing, assignment, or lease approval; or (ii) that the dealer rejects the contract or lease, thereby automatically voiding the contract or lease, as long as such voiding does not negate commercially reasonable contract or lease provisions pertaining to the return of the subject vehicle and any physical damage, excessive mileage after the demand for return of the vehicle, and attorneys' fees authorized by law, and tenders the refund of any initial payment or security made or given by the buyer or lessee, including, but not limited to, any down payment, and tenders return of the trade-in vehicle, key, other trade-in, or certificate of title to a trade-in. Tender may be conditioned on return of the subject vehicle if previously delivered to the buyer or lessee.

The provisions of this subsection (4)(a) do not impair, prejudice, or abrogate the rights of a dealer to assert a claim against the buyer or lessee for misrepresentation or breach of contract and to exercise all remedies available at law or in equity, including those under chapter 62A.9A RCW, if the dealer, bank, or other lender or leasing company discovers that approval of the contract or financing or approval of the lease was based upon material misrepresentations

made by the buyer or lessee, including, but not limited to, misrepresentations regarding income, employment, or debt of the buyer or lessee, as long as the dealer, or his or her staff, has not, with knowledge of the material misrepresentation, aided, assisted, encouraged, or participated, directly or indirectly, in the misrepresentation. A dealer shall not be in violation of this subsection (4)(a) if the buyer or lessee made a material misrepresentation to the dealer, as long as the dealer, or his or her staff, has not, with knowledge of the material misrepresentation, aided, assisted, encouraged, or participated, directly or indirectly, in the misrepresentation.

When a dealer informs a buyer or lessee under this subsection (4)(a) regarding the unconditional acceptance or rejection of the contract, lease, or financing by an electronic mail message, the dealer must also transmit the communication by any additional means;

(b) Permits the dealer to renegotiate a dollar amount specified as trade-in allowance on a vehicle delivered or to be delivered by the buyer or lessee as part of the purchase price or lease, for any reason except:

(i) Failure to disclose that the vehicle's certificate of (~~ownership~~) title has been branded for any reason, including, but not limited to, status as a rebuilt vehicle as provided in RCW 46.12.050 (as recodified by this act) and (~~(46.12.075)~~) section 303 of this act; or

(ii) Substantial physical damage or latent mechanical defect occurring before the dealer took possession of the vehicle and which could not have been reasonably discoverable at the time of the taking of the order, offer, or contract; or

(iii) Excessive additional miles or a discrepancy in the mileage. "Excessive additional miles" means the addition of five hundred miles or more, as reflected on the vehicle's odometer, between the time the vehicle was first valued by the dealer for purposes of determining its trade-in value and the time of actual delivery of the vehicle to the dealer. "A discrepancy in the mileage" means (A) a discrepancy between the mileage reflected on the vehicle's odometer and the stated mileage on the signed odometer statement; or (B) a discrepancy between the mileage stated on the signed odometer statement and the actual mileage on the vehicle; or

(c) Fails to comply with the obligation of any written warranty or guarantee given by the dealer requiring the furnishing of services or repairs within a reasonable time.

(5) To commit any offense relating to odometers, as such offenses are defined in RCW 46.37.540, 46.37.550, 46.37.560, and 46.37.570. A violation of this subsection is a class C felony punishable under chapter 9A.20 RCW.

(6) For any vehicle dealer or vehicle salesperson to refuse to furnish, upon request of a prospective purchaser or lessee, for vehicles previously registered to a business or governmental entity, the name and address of the business or governmental entity.

(7) To commit any other offense under RCW 46.37.423, 46.37.424, or 46.37.425.

(8) To commit any offense relating to a dealer's temporary license permit, including but not limited to failure to properly complete each such permit, or the issuance of more than one such permit on any one vehicle. However, a dealer

may issue a second temporary permit on a vehicle if the following conditions are met:

(a) The lienholder fails to deliver the vehicle title to the dealer within the required time period;

(b) The dealer has satisfied the lien; and

(c) The dealer has proof that payment of the lien was made within two calendar days, exclusive of Saturday, Sunday, or a legal holiday, after the sales contract has been executed by all parties and all conditions and contingencies in the sales contract have been met or otherwise satisfied.

(9) For a dealer, salesperson, or mobile home manufacturer, having taken an instrument or cash "on deposit" from a purchaser or lessee prior to the delivery of the bargained-for vehicle, to commingle the "on deposit" funds with assets of the dealer, salesperson, or mobile home manufacturer instead of holding the "on deposit" funds as trustee in a separate trust account until the purchaser or lessee has taken delivery of the bargained-for vehicle. Delivery of a manufactured home shall be deemed to occur in accordance with RCW 46.70.135(5). Failure, immediately upon receipt, to endorse "on deposit" instruments to such a trust account, or to set aside "on deposit" cash for deposit in such trust account, and failure to deposit such instruments or cash in such trust account by the close of banking hours on the day following receipt thereof, shall be evidence of intent to commit this unlawful practice: PROVIDED, HOWEVER, That a motor vehicle dealer may keep a separate trust account which equals his or her customary total customer deposits for vehicles for future delivery. For purposes of this section, "on deposit" funds received from a purchaser of a manufactured home means those funds that a seller requires a purchaser to advance before ordering the manufactured home, but does not include any loan proceeds or moneys that might have been paid on an installment contract.

(10) For a dealer or manufacturer to fail to comply with the obligations of any written warranty or guarantee given by the dealer or manufacturer requiring the furnishing of goods and services or repairs within a reasonable period of time, or to fail to furnish to a purchaser or lessee, all parts which attach to the manufactured unit including but not limited to the undercarriage, and all items specified in the terms of a sales or lease agreement signed by the seller and buyer or lessee.

(11) For a vehicle dealer to pay to or receive from any person, firm, partnership, association, or corporation acting, either directly or through a subsidiary, as a buyer's agent for consumers, any compensation, fee, purchase moneys or funds that have been deposited into or withdrawn out of any account controlled or used by any buyer's agent, gratuity, or reward in connection with the purchase, sale, or lease of a new motor vehicle.

(12) For a buyer's agent, acting directly or through a subsidiary, to pay to or to receive from any motor vehicle dealer any compensation, fee, gratuity, or reward in connection with the purchase, sale, or lease of a new motor vehicle. In addition, it is unlawful for any buyer's agent to engage in any of the following acts on behalf of or in the name of the consumer:

(a) Receiving or paying any purchase moneys or funds into or out of any account controlled or used by any buyer's agent;

(b) Signing any vehicle purchase orders, sales contracts, leases, odometer statements, or title documents, or having the name of the buyer's agent appear on the vehicle purchase order, sales contract, lease, or title; or

(c) Signing any other documentation relating to the purchase, sale, lease, or transfer of any new motor vehicle.

It is unlawful for a buyer's agent to use a power of attorney obtained from the consumer to accomplish or effect the purchase, sale, lease, or transfer of ownership documents of any new motor vehicle by any means which would otherwise be prohibited under (a) through (c) of this subsection. However, the buyer's agent may use a power of attorney for physical delivery of motor vehicle license plates to the consumer.

Further, it is unlawful for a buyer's agent to engage in any false, deceptive, or misleading advertising, disseminated in any manner whatsoever, including but not limited to making any claim or statement that the buyer's agent offers, obtains, or guarantees the lowest price on any motor vehicle or words to similar effect.

(13) For a buyer's agent to arrange for or to negotiate the purchase, or both, of a new motor vehicle through an out-of-state dealer without disclosing in writing to the customer that the new vehicle would not be subject to chapter 19.118 RCW. This subsection also applies to leased vehicles. In addition, it is unlawful for any buyer's agent to fail to have a written agreement with the customer that: (a) Sets forth the terms of the parties' agreement; (b) discloses to the customer the total amount of any fees or other compensation being paid by the customer to the buyer's agent for the agent's services; and (c) further discloses whether the fee or any portion of the fee is refundable.

(14) Being a manufacturer, other than a motorcycle manufacturer governed by chapter 46.93 RCW, to:

(a) Coerce or attempt to coerce any vehicle dealer to order or accept delivery of any vehicle or vehicles, parts or accessories, or any other commodities which have not been voluntarily ordered by the vehicle dealer: PROVIDED, That recommendation, endorsement, exposition, persuasion, urging, or argument are not deemed to constitute coercion;

(b) Cancel or fail to renew the franchise or selling agreement of any vehicle dealer doing business in this state without fairly compensating the dealer at a fair going business value for his or her capital investment which shall include but not be limited to tools, equipment, and parts inventory possessed by the dealer on the day he or she is notified of such cancellation or termination and which are still within the dealer's possession on the day the cancellation or termination is effective, if: (i) The capital investment has been entered into with reasonable and prudent business judgment for the purpose of fulfilling the franchise; and (ii) the cancellation or nonrenewal was not done in good faith. Good faith is defined as the duty of each party to any franchise to act in a fair and equitable manner towards each other, so as to guarantee one party freedom from coercion, intimidation, or threats of coercion or intimidation from the other party: PROVIDED, That recommendation, endorsement, exposition, persuasion, urging, or argument are not deemed to constitute a lack of good faith;

(c) Encourage, aid, abet, or teach a vehicle dealer to sell or lease vehicles through any false, deceptive, or misleading sales or financing practices including but not limited to those practices declared unlawful in this section;

(d) Coerce or attempt to coerce a vehicle dealer to engage in any practice forbidden in this section by either threats of actual cancellation or failure to renew the dealer's franchise agreement;

(e) Refuse to deliver any vehicle publicly advertised for immediate delivery to any duly licensed vehicle dealer having a franchise or contractual agreement for the retail sale or lease of new and unused vehicles sold or distributed by such manufacturer within sixty days after such dealer's order has been received in writing unless caused by inability to deliver because of shortage or curtailment of material, labor, transportation, or utility services, or by any labor or production difficulty, or by any cause beyond the reasonable control of the manufacturer;

(f) To provide under the terms of any warranty that a purchaser or lessee of any new or unused vehicle that has been sold or leased, distributed for sale or lease, or transferred into this state for resale or lease by the vehicle manufacturer may only make any warranty claim on any item included as an integral part of the vehicle against the manufacturer of that item.

Nothing in this section may be construed to impair the obligations of a contract or to prevent a manufacturer, distributor, representative, or any other person, whether or not licensed under this chapter, from requiring performance of a written contract entered into with any licensee hereunder, nor does the requirement of such performance constitute a violation of any of the provisions of this section if any such contract or the terms thereof requiring performance, have been freely entered into and executed between the contracting parties. This paragraph and subsection (14)(b) of this section do not apply to new motor vehicle manufacturers governed by chapter 46.96 RCW.

(15) Unlawful transfer of an ownership interest in a motor vehicle as defined in RCW 19.116.050.

(16) To knowingly and intentionally engage in collusion with a registered owner of a vehicle to repossess and return or resell the vehicle to the registered owner in an attempt to avoid a suspended license impound under chapter 46.55 RCW. However, compliance with chapter 62A.9A RCW in repossessing, selling, leasing, or otherwise disposing of the vehicle, including providing redemption rights to the debtor, is not a violation of this section.

(17)(a) For a dealer to enter into a new motor vehicle sales contract without disclosing in writing to a buyer of the new motor vehicle, or to a dealer in the case of an unregistered motor vehicle, any known damage and repair to the new motor vehicle if the damage exceeds five percent of the manufacturer's suggested retail price as calculated at the dealer's authorized warranty rate for labor and parts, or one thousand dollars, whichever amount is greater. A manufacturer or new motor vehicle dealer is not required to disclose to a dealer or buyer that glass, tires, bumpers, or cosmetic parts of a new motor vehicle were damaged at any time if the damaged item has been replaced with original or comparable equipment. A replaced part is not part of the cumulative damage required to be disclosed under this subsection.

(b) A manufacturer is required to provide the same disclosure to a dealer of any known damage or repair as required in (a) of this subsection.

(c) If disclosure of any known damage or repair is not required under this section, a buyer may not revoke or rescind a sales contract due to the fact that the new motor vehicle was damaged and repaired before completion of the sale.

(d) As used in this section:

(i) "Cosmetic parts" means parts that are attached by and can be replaced in total through the use of screws, bolts, or other fasteners without the use of welding or thermal cutting, and includes windshields, bumpers, hoods, or trim panels.

(ii) "Manufacturer's suggested retail price" means the retail price of the new motor vehicle suggested by the manufacturer, and includes the retail delivered price suggested by the manufacturer for each accessory or item of optional equipment physically attached to the new motor vehicle at the time of delivery to the new motor vehicle dealer that is not included within the retail price suggested by the manufacturer for the new motor vehicle.

Sec. 1137. RCW 46.72.060 and 1961 c 12 s 46.72.060 are each amended to read as follows:

Every person having a cause of action for damages against any person, firm, or corporation receiving a permit under the provisions of this chapter, for injury, damages or wrongful death caused by any careless, negligent or unlawful act of any such person, firm, or corporation or his, their, or its agents or employees in conducting or carrying on said business or in operating any motor propelled vehicle for the carrying and transporting of passengers (~~over and along~~) on any public street, road or highway shall have a cause of action against the principal and surety upon the bond or the insurance company and the insured for all damages sustained, and in any such action the full amount of damages sustained may be recovered against the principal, but the recovery against the surety shall be limited to the amount of the bond.

Sec. 1138. RCW 46.80.010 and 1999 c 278 s 1 are each amended to read as follows:

The definitions set forth in this section apply throughout this chapter.

(1) "Vehicle wrecker" means every person, firm, partnership, association, or corporation engaged in the business of buying, selling, or dealing in vehicles of a type required to be (~~licensed~~) registered under the laws of this state, for the purpose of wrecking, dismantling, disassembling, or substantially changing the form of a vehicle, or who buys or sells integral secondhand parts of component material thereof, in whole or in part, or who deals in secondhand vehicle parts.

(2) "Core" means a major component part received by a vehicle wrecker in exchange for a like part sold by the vehicle wrecker, is not resold as a major component part except for scrap metal value or for remanufacture, and the vehicle wrecker maintains records for three years from the date of acquisition to identify the name of the person from whom the core was received.

(3) "Established place of business" means a building or enclosure which the vehicle wrecker occupies either continuously or at regular periods and where his books and records are kept and business is transacted and which must conform with zoning regulations.

(4) "Interim owner" means the owner of a vehicle who has the original certificate of (~~ownership~~) title for the vehicle, which certificate has been released by the person named on the certificate and assigned to the person offering to sell the vehicle to the wrecker.

(5) "Major component part" includes at least each of the following vehicle parts: (a) Engines and short blocks; (b) frame; (c) transmission and/or transfer

case; (d) cab; (e) door; (f) front or rear differential; (g) front or rear clip; (h) quarter panel; (i) truck bed or box; (j) seat; (k) hood; (l) bumper; (m) fender; and (n) airbag. The director may supplement this list by rule.

(6) "Wrecked vehicle" means a vehicle which is disassembled or dismantled or a vehicle which is acquired with the intent to dismantle or disassemble and never again to operate as a vehicle, or a vehicle which has sustained such damage that its cost to repair exceeds the fair market value of a like vehicle which has not sustained such damage, or a damaged vehicle whose salvage value plus cost to repair equals or exceeds its fair market value, if repaired, or a vehicle which has sustained such damage or deterioration that it may not lawfully operate upon the highways of this state for which the salvage value plus cost to repair exceeds its fair market value, if repaired; further, it is presumed that a vehicle is a wreck if it has sustained such damage or deterioration that it may not lawfully operate upon the highways of this state.

Sec. 1139. RCW 46.80.090 and 1999 c 278 s 3 are each amended to read as follows:

Within thirty days after acquiring a vehicle, the vehicle wrecker shall furnish a written report to the department. This report shall be in such form as the department shall prescribe and shall be accompanied by evidence of ownership as determined by the department. No vehicle wrecker may acquire a vehicle, including a vehicle from an interim owner, without first obtaining evidence of ownership as determined by the department. For a vehicle from an interim owner, the evidence of ownership may not require that a title be issued in the name of the interim owner as required by RCW 46.12.101 (as recodified by this act). The vehicle wrecker shall furnish a monthly report of all acquired vehicles. This report shall be made on forms prescribed by the department and contain such information as the department may require. This statement shall be signed by the vehicle wrecker or an authorized representative and the facts therein sworn to before a notary public, or before an officer or employee of the department designated by the director to administer oaths or acknowledge signatures, pursuant to RCW 46.01.180.

Sec. 1140. RCW 46.87.010 and 2005 c 194 s 1 are each amended to read as follows:

This chapter applies to proportional registration and reciprocity granted under the provisions of the International Registration Plan (IRP). This chapter shall become effective and be implemented beginning with the 1988 registration year.

(1) Provisions and terms of the IRP prevail unless given a different meaning in chapter 46.04 RCW, this chapter, or in rules adopted under the authority of this chapter.

(2) The director may adopt and enforce rules deemed necessary to implement and administer this chapter.

(3) Owners having a fleet of apportionable vehicles operating in two or more IRP member jurisdictions may elect to proportionally register the vehicles of the fleet under the provisions of the IRP and this chapter in lieu of full or temporary registration as provided for in chapter(~~s~~) 46.16 (~~or 46.88~~) RCW.

(4) If a due date or an expiration date established under authority of this chapter falls on a Saturday, Sunday, or a state legal holiday, such period is automatically extended through the end of the next business day.

Sec. 1141. RCW 46.87.020 and 2005 c 194 s 2 are each amended to read as follows:

Terms used in this chapter have the meaning given to them in the International Registration Plan (IRP), in chapter 46.04 RCW, or as otherwise defined in this section. Definitions given to terms by the IRP prevail unless given a different meaning in this chapter or in rules adopted under authority of this chapter.

(1) "Apportionable vehicle" has the meaning given by the IRP, except that it does not include vehicles with a declared gross weight of twelve thousand pounds or less. Apportionable vehicles include trucks, tractors, truck tractors, road tractors, and buses, each as separate and licensable vehicles.

(2) "Cab card" is a certificate of registration issued for a vehicle upon which is disclosed the jurisdictions and registered gross weights in such jurisdictions for which the vehicle is registered.

(3) "Credentials" means cab cards, apportioned plates (for Washington-based fleets), and validation tabs issued for proportionally registered vehicles.

(4) "Declared combined gross weight" means the total unladen weight of any combination of vehicles plus the weight of the maximum load to be carried on the combination of vehicles as set by the registrant in the application pursuant to chapter 46.44 RCW and for which registration fees have been or are to be paid.

(5) "Declared gross weight" means the total unladen weight of any vehicle plus the weight of the maximum load to be carried on the vehicle as set by the registrant in the application pursuant to chapter 46.44 RCW and for which registration fees have been or are to be paid. In the case of a bus, auto stage, or a passenger-carrying for hire vehicle with a seating capacity of more than six, the declared gross weight shall be determined by multiplying the average load factor of one hundred and fifty pounds by the number of seats in the vehicle, including the driver's seat, and add this amount to the unladen weight of the vehicle. If the resultant gross weight is not listed in (~~RCW 46.16.070~~) section 530 of this act, it will be increased to the next higher gross weight so listed pursuant to chapter 46.44 RCW.

(6) "Department" means the department of licensing.

(7) "Fleet" means one or more apportionable vehicles in the IRP.

(8) "In-jurisdiction miles" means the total miles accumulated in a jurisdiction during the preceding year by vehicles of the fleet while they were a part of the fleet.

(9) "IRP" means the International Registration Plan.

(10) "Jurisdiction" means and includes a state, territory or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, a foreign country, and a state or province of a foreign country.

(11) "Motor carrier" means an entity engaged in the transportation of goods or persons. The term includes a for-hire motor carrier, private motor carrier, contract motor carrier, or exempt motor carrier. The term includes a registrant licensed under this chapter, a motor vehicle lessor, and a motor vehicle lessee.

(12) "Owner" means a person or business firm who holds the legal title to a vehicle, or if a vehicle is the subject of an agreement for its conditional sale with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee, or if a vehicle is subject to a lease, contract, or other legal arrangement vesting right of possession or control, for security or otherwise, or if a mortgagor of a vehicle is entitled to possession, then the owner is deemed to be the person or business firm in whom is vested right of possession or control.

(13) "Preceding year" means the period of twelve consecutive months immediately before July 1st of the year immediately before the commencement of the registration or license year for which apportioned registration is sought.

(14) "Prorate percentage" is the factor that is applied to the total proratable fees and taxes to determine the apportionable or prorate fees required for registration in a particular jurisdiction. It is determined by dividing the jurisdiction miles for a particular jurisdiction by the total miles. This term is synonymous with the term "mileage percentage."

(15) "Registrant" means a person, business firm, or corporation in whose name or names a vehicle or fleet of vehicles is registered.

(16) "Registration year" means the twelve-month period during which the registration plates issued by the base jurisdiction are valid according to the laws of the base jurisdiction.

(17) "Total miles" means the total number of miles accumulated in all jurisdictions during the preceding year by all vehicles of the fleet while they were a part of the fleet. Mileage accumulated by vehicles of the fleet that did not engage in interstate operations is not included in the fleet miles.

Sec. 1142. RCW 46.87.030 and 2005 c 194 s 3 are each amended to read as follows:

(1) When application to register an apportionable vehicle is made, the Washington prorated fees may be reduced by one-twelfth for each full registration month that has elapsed at the time a temporary authorization permit (TAP) was issued or if no TAP was issued, at such time as an application for registration is received in the department. If a vehicle is being added to a currently registered fleet, the prorate percentage previously established for the fleet for such registration year shall be used in the computation of the proportional fees and taxes due.

(2) If any vehicle is withdrawn from a proportionally registered fleet during the period for which it is registered under this chapter, the registrant of the fleet shall notify the department on appropriate forms prescribed by the department. The department may require the registrant to surrender credentials that were issued to the vehicle. If a motor vehicle is permanently withdrawn from a proportionally registered fleet because it has been destroyed, sold, or otherwise completely removed from the service of the fleet registrant, the unused portion of the (~~licensing~~) license fee paid under (~~RCW 46.16.070~~) section 530 of this act with respect to the vehicle reduced by one-twelfth for each calendar month and fraction thereof elapsing between the first day of the month of the current registration year in which the vehicle was registered and the date the notice of withdrawal, accompanied by such credentials as may be required, is received in the department, shall be credited to the fleet proportional registration account of the registrant. Credit shall be applied against the (~~licensing~~) license fee

liability for subsequent additions of motor vehicles to be proportionally registered in the fleet during such registration year or for additional ~~((licensing))~~ license fees due under ~~((RCW 46.16.070))~~ section 530 of this act or to be due upon audit under RCW 46.87.310. If any credit is less than fifteen dollars, no credit will be entered. In lieu of credit, the registrant may choose to transfer the unused portion of the ~~((licensing))~~ license fee for the motor vehicle to the new owner, in which case it shall remain with the motor vehicle for which it was originally paid. In no event may any amount be credited against fees other than those for the registration year from which the credit was obtained nor is any amount subject to refund.

Sec. 1143. RCW 46.87.140 and 2005 c 194 s 9 are each amended to read as follows:

(1) Any owner engaged in interstate operations of one or more fleets of apportionable vehicles may, in lieu of registration of the vehicles under chapter 46.16 RCW, register and license the vehicles of each fleet under this chapter by filing a proportional registration application for each fleet with the department. The application shall contain the following information and such other information pertinent to vehicle registration as the department may require:

(a) A description and identification of each vehicle of the fleet.

(b) The member jurisdictions in which registration is desired and such other information as member jurisdictions require.

(c) An original or renewal application shall also be accompanied by a mileage schedule for each fleet.

(d) The USDOT number issued to the registrant and the USDOT number of the motor carrier responsible for the safety of the vehicle, if different.

(e) A completed Motor Carrier Identification Report (MCS-150) at the time of fleet renewal or at the time of vehicle registration, if required by the department.

(f) The Taxpayer Identification Number of the registrant and the motor carrier responsible for the safety of the vehicle, if different.

(2) Each application shall, at the time and in the manner required by the department, be supported by payment of a fee computed as follows:

(a) Divide the in-jurisdiction miles by the total miles and carry the answer to the nearest thousandth of a percent (three places beyond the decimal, e.g. 10.543%). This factor is known as the prorate percentage.

(b) Determine the total proratable fees and taxes required for each vehicle in the fleet for which registration is requested, based on the regular annual fees and taxes or applicable fees and taxes for the unexpired portion of the registration year under the laws of each jurisdiction for which fees or taxes are to be calculated.

Applicable fees and taxes for vehicles of Washington-based fleets are those prescribed under ~~((RCW 46.16.070))~~ section 530 of this act, ~~((46.16.085))~~ section 531(1)(c) of this act, and RCW 82.38.075, as applicable. If, during the registration period, the lessor of an apportioned vehicle changes and the vehicle remains in the fleet of the registrant, the department shall only charge those fees prescribed for the issuance of new apportioned license plates, validation tabs, and cab card.

(c) Multiply the total, proratable fees or taxes for each motor vehicle by the prorate percentage applicable to the desired jurisdiction and round the results to the nearest cent.

(d) Add the total fees and taxes determined in (c) of this subsection for each vehicle to the nonproratable fees required under the laws of the jurisdiction for which fees are being calculated. Nonproratable fees required for vehicles of Washington-based fleets are the administrative fee required by RCW 82.38.075, if applicable, and the vehicle transaction fee pursuant to the provisions of RCW 46.87.130.

(e) The amount due and payable for the application is the sum of the fees and taxes calculated for each member jurisdiction in which registration of the fleet is desired.

(3) All assessments for proportional registration fees are due and payable in United States funds on the date presented or mailed to the registrant at the address listed in the proportional registration records of the department. The registrant may petition for reassessment of the fees or taxes due under this section within thirty days of the date of original service as provided for in this chapter.

Sec. 1144. RCW 46.87.220 and 1987 c 244 s 35 are each amended to read as follows:

The gross weight in the case of a motor truck, tractor, or truck tractor is the scale weight of the motor truck, tractor, or truck tractor, plus the scale weight of any trailer, semitrailer, converter gear, or pole trailer to be towed by it, to which shall be added the weight of the maximum load to be carried on it or towed by it as set forth by the licensee in the application providing it does not exceed the weight limitations prescribed by chapter 46.44 RCW.

The gross weight in the case of a bus, auto stage, or for hire vehicle, except a taxicab, with a seating capacity over six, is the scale weight of the bus, auto stage, or for hire vehicle plus the seating capacity, including the operator's seat, computed at one hundred and fifty pounds per seat.

If the resultant gross weight, according to this section, is not listed in (~~RCW 46.16.070~~) section 530 of this act, it will be increased to the next higher gross weight so listed pursuant to chapter 46.44 RCW.

A motor vehicle or combination of vehicles found to be loaded beyond the licensed gross weight of the motor vehicle registered under this chapter shall be cited and handled under RCW 46.16.140 and 46.16.145 (as recodified by this act).

NEW SECTION. Sec. 1145. A new section is added to chapter 47.06 RCW to read as follows:

(1) The department of transportation may increase the recreational vehicle sanitary disposal fee charged under section 534 of this act as authorized in RCW 43.135.055 by a percentage that exceeds the fiscal growth factor. After consultation with citizen representatives of the recreational vehicle user community, the department of transportation may implement RV account fee adjustments no more than once every four years. RV account fee adjustments must be preceded by an evaluation of the following factors:

(a) Maintenance of a self-supporting program;

(b) Levels of service at existing recreational vehicle sanitary disposal facilities;

(c) Identified needs for improved recreational vehicle service at safety rest areas statewide;

(d) Sewage treatment costs; and

(e) Inflation.

(2) If the department of transportation chooses to adjust the RV account fee, it shall notify the department of licensing six months before implementation of the fee increase. Adjustments in the RV account fee must be in increments of no more than fifty cents per biennium.

Sec. 1146. RCW 47.10.704 and 1961 c 13 s 47.10.704 are each amended to read as follows:

In order to facilitate vehicular traffic through and between the cities of Tacoma, Seattle, and Everett and to remove the present handicaps and hazards (~~(over and along)~~) on primary state highway No. 1 as presently established, the state highway commission is authorized to realign, redesign, and reconstruct primary state highway No. 1 upon a newly located right-of-way or upon portions of existing right-of-way through and between the cities of Tacoma, Seattle, and Everett and as an additional alternate route bypassing Seattle east of Lake Washington. The route of the proposed project is established as follows: Beginning in the vicinity of Ponders Corner, thence in a general northeasterly and northerly direction through the cities of Tacoma and Seattle to a point in the vicinity of the city of Everett and as an additional alternate route bypassing Seattle east of Lake Washington.

Sec. 1147. RCW 47.68.255 and 2003 c 53 s 266 are each amended to read as follows:

A person who is required to register an aircraft under this chapter and who registers an aircraft in another state or foreign country evading the Washington aircraft excise tax is guilty of a gross misdemeanor. For a second or subsequent offense, the person convicted is also subject to a fine equal to four times the amount of avoided taxes and fees, no part of which may be suspended or deferred. Excise taxes owed and fines assessed will be deposited in the manner provided under RCW 46.16.010(~~((4))~~) (6) (as recodified by this act).

Sec. 1148. RCW 48.22.110 and 2003 c 248 s 10 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this section and RCW 48.22.115 through 48.22.135.

(1) "Borrower" means a person who receives a loan or enters into a retail installment contract under chapter 63.14 RCW to purchase a motor vehicle or vessel in which the secured party holds an interest.

(2) "Motor vehicle" means a motor vehicle in this state subject to registration under chapter 46.16 RCW, except motor vehicles governed by RCW 46.16.020 (as recodified by this act) or registered with the Washington utilities and transportation commission as common or contract carriers.

(3) "Secured party" means a person, corporation, association, partnership, or venture that possesses a bona fide security interest in a motor vehicle or vessel.

(4) "Vendor single-interest" or "collateral protection coverage" means insurance coverage insuring primarily or solely the interest of a secured party

but which may include the interest of the borrower in a motor vehicle or vessel serving as collateral and obtained by the secured party or its agent after the borrower has failed to obtain or maintain insurance coverage required by the financing agreement for the motor vehicle or vessel. Vendor single-interest or collateral protection coverage does not include insurance coverage purchased by a secured party for which the borrower is not charged.

(5) "Vessel" means a vessel as defined in RCW 88.02.010 (as recodified by this act) and includes personal watercraft as defined in RCW 79A.60.010.

Sec. 1149. RCW 59.21.050 and 2002 c 257 s 4 are each amended to read as follows:

(1) The existence of the mobile home park relocation fund in the custody of the state treasurer is affirmed. Expenditures from the fund may be used only for relocation assistance awarded under this chapter. Only the director or the director's designee may authorize expenditures from the fund. All relocation payments to tenants shall be made from the fund. The fund is subject to allotment procedures under chapter 43.88 RCW, but no appropriation is required for expenditures.

(2) A park tenant is eligible for assistance under this chapter only after an application is submitted by that tenant or an organization acting on the tenant's account under RCW 59.21.021(4) on a form approved by the director which shall include:

(a) For those persons who maintained ownership of and relocated their homes or removed their homes from the park: (i) A copy of the notice from the park-owner, or other adequate proof, that the tenancy is terminated due to closure of the park or its conversion to another use; (ii) a copy of the rental agreement then in force, or other proof that the applicant was a tenant at the time of notice of closure; (iii) a copy of the contract for relocating the home which includes the date of relocation, or other proof of actual relocation expenses incurred on a date certain; and (iv) a statement of any other available assistance;

(b) For those persons who sold their homes and incurred no relocation expenses: (i) A copy of the notice from the park-owner, or other adequate proof, that the tenancy is terminated due to closure of the park or its conversion to another use; (ii) a copy of the rental agreement then in force, or other proof that the applicant was a tenant at the time of notice of closure; and (iii) a copy of the record of title transfer issued by the department of licensing when the tenant sold the home rather than relocate it due to park closure or conversion.

(3) The department may deduct a percentage amount of the fee collected under ~~((RCW 59.21.055))~~ section 511 of this act, not to exceed five percent of the fees received, for administration expenses incurred by the department.

Sec. 1150. RCW 59.22.020 and 2009 c 565 s 48 are each reenacted and amended to read as follows:

The following definitions shall apply throughout this chapter unless the context clearly requires otherwise:

(1) "Account" means the manufactured housing account created under RCW 59.22.070.

(2) "Affordable" means that, where feasible, low-income residents should not pay more than thirty percent of their monthly income for housing costs.

(3) "Conversion costs" includes the cost of acquiring the mobile home park, the costs of planning and processing the conversion, the costs of any needed repairs or rehabilitation, and any expenditures required by a government agency or lender for the project.

(4) "Department" means the department of commerce.

(5) "Fee" means the mobile home title transfer fee imposed under ~~((RCW 59.22.080))~~ section 510 of this act.

(6) "Fund" or "park purchase account" means the mobile home park purchase account created pursuant to RCW 59.22.030.

(7) "Housing costs" means the total cost of owning, occupying, and maintaining a mobile home and a lot or space in a mobile home park.

(8) "Individual interest in a mobile home park" means any interest which is fee ownership or a lesser interest which entitles the holder to occupy a lot or space in a mobile home park for a period of not less than either fifteen years or the life of the holder. Individual interests in a mobile home park include, but are not limited to, the following:

(a) Ownership of a lot or space in a mobile home park or subdivision;

(b) A membership or shares in a stock cooperative, or a limited equity housing cooperative; or

(c) Membership in a nonprofit mutual benefit corporation which owns, operates, or owns and operates the mobile home park.

(9) "Landlord" shall have the same meaning as it does in RCW 59.20.030.

(10) "Low-income resident" means an individual or household who resided in the mobile home park prior to application for a loan pursuant to this chapter and with an annual income at or below eighty percent of the median income for the county of standard metropolitan statistical area of residence. Net worth shall be considered in the calculation of income with the exception of the resident's mobile/manufactured home which is used as their primary residence.

(11) "Low-income spaces" means those spaces in a mobile home park operated by a resident organization which are occupied by low-income residents.

(12) "Manufactured housing" means residences constructed on one or more chassis for transportation, and which bear an insignia issued by a state or federal regulatory agency indication compliance with all applicable construction standards of the United States department of housing and urban development.

(13) "Mobile home" shall have the same meaning as it does in RCW 46.04.302.

(14) "Mobile home lot" shall have the same meaning as it does in RCW 59.20.030.

(15) "Mobile home park" means a mobile home park, as defined in RCW 59.20.030(10), or a manufactured home park subdivision as defined by RCW 59.20.030(12) created by the conversion to resident ownership of a mobile home park.

(16) "Resident organization" means a group of mobile home park residents who have formed a nonprofit corporation, cooperative corporation, or other entity or organization for the purpose of acquiring the mobile home park in which they reside and converting the mobile home park to resident ownership. The membership of a resident organization shall include at least two-thirds of the households residing in the mobile home park at the time of application for assistance from the department.

(17) "Resident ownership" means, depending on the context, either the ownership, by a resident organization, as defined in this section, of an interest in a mobile home park which entitles the resident organization to control the operations of the mobile home park for a term of no less than fifteen years, or the ownership of individual interests in a mobile home park, or both.

(18) "Tenant" means a person who rents a mobile home lot for a term of one month or longer and owns the mobile home on the lot.

Sec. 1151. RCW 62A.9A-311 and 2001 c 32 s 25 are each amended to read as follows:

(a) **Security interest subject to other law.** Except as otherwise provided in subsection (d) of this section, the filing of a financing statement is not necessary or effective to perfect a security interest in property subject to:

(1) A statute, regulation, or treaty of the United States whose requirements for a security interest's obtaining priority over the rights of a lien creditor with respect to the property preempt RCW 62A.9A-310(a);

(2) RCW ~~((46.12.095))~~ 46.12.170 or 88.02.070 (as recodified by this act), or chapter 65.12 RCW; or

(3) A certificate-of-title statute of another jurisdiction which provides for a security interest to be indicated on the certificate as a condition or result of the security interest's obtaining priority over the rights of a lien creditor with respect to the property.

(b) **Compliance with other law.** Compliance with the requirements of a statute, regulation, or treaty described in subsection (a) of this section for obtaining priority over the rights of a lien creditor is equivalent to the filing of a financing statement under this Article. Except as otherwise provided in subsection (d) of this section, RCW 62A.9A-313, and 62A.9A-316 (d) and (e) for goods covered by a certificate of title, a security interest in property subject to a statute, regulation, or treaty described in subsection (a) of this section may be perfected only by compliance with those requirements, and a security interest so perfected remains perfected notwithstanding a change in the use or transfer of possession of the collateral.

(c) **Duration and renewal of perfection.** Except as otherwise provided in subsection (d) of this section and RCW 62A.9A-316 (d) and (e), duration and renewal of perfection of a security interest perfected by compliance with the requirements prescribed by a statute, regulation, or treaty described in subsection (a) of this section are governed by the statute, regulation, or treaty. In other respects, the security interest is subject to this Article.

(d) **Inapplicability to certain inventory.** During any period in which collateral subject to RCW 46.12.095 or 88.02.070 (as recodified by this act), or chapter 65.12 RCW is inventory held for sale or lease by a person or leased by that person as lessor and that person is in the business of selling goods of that kind, this section does not apply to a security interest in that collateral created by that person.

Sec. 1152. RCW 63.14.010 and 2009 c 334 s 11 are each reenacted and amended to read as follows:

In this chapter, unless the context otherwise requires:

(1) "Financial institution" means any bank or trust company, mutual savings bank, credit union, or savings and loan association organized pursuant to the

laws of any one of the United States of America or the United States of America, or the laws of a foreign country if also qualified to conduct business in any one of the United States of America or pursuant to the laws of the United States of America;

(2) "Goods" means all chattels personal when purchased primarily for personal, family, or household use and not for commercial or business use, but not including money or, except as provided in the next sentence, things in action. The term includes but is not limited to merchandise certificates or coupons, issued by a retail seller, to be used in their face amount in lieu of cash in exchange for goods or services sold by such a seller and goods which, at the time of sale or subsequently, are to be so affixed to real property as to become a part thereof, whether or not severable therefrom;

(3) "Lender credit card" means a card or device under a lender credit card agreement pursuant to which the issuer gives to a cardholder residing in this state the privilege of obtaining credit from the issuer or other persons in purchasing or leasing property or services, obtaining loans, or otherwise, and the issuer of which is not: (a) Principally engaged in the business of selling goods; or (b) a financial institution;

(4) "Lender credit card agreement" means an agreement entered into or performed in this state prescribing the terms of retail installment transactions pursuant to which the issuer may, with the buyer's consent, purchase or acquire one or more retail sellers' indebtedness of the buyer under a sales slip or memorandum evidencing the purchase, lease, loan, or otherwise to be paid in accordance with the agreement. The issuer of a lender credit card agreement shall not be principally engaged in the business of selling goods or be a financial institution;

(5) "Official fees" means the amount of the fees prescribed by law and payable to the state, county, or other governmental agency for filing, recording, or otherwise perfecting, and releasing or satisfying, a retained title, lien, or other security interest created by a retail installment transaction;

(6) "Person" means an individual, partnership, joint venture, corporation, association, or any other group, however organized;

(7) "Principal balance" means the sale price of the goods or services which are the subject matter of a retail installment contract less the amount of the buyer's down payment in money or goods or both, plus the amounts, if any, included therein, if a separate identified charge is made therefor and stated in the contract, for insurance, any vehicle dealer administrative fee, any vehicle dealer documentary service fee, and official fees; and the amount actually paid or to be paid by the retail seller pursuant to an agreement with the buyer to discharge a security interest or lien on like-kind goods traded in or lease interest in the circumstance of a lease for like goods being terminated in conjunction with the sale pursuant to a retail installment contract;

(8) "Rate" means the percentage which, when multiplied times the outstanding balance for each month or other installment period, yields the amount of the service charge for such month or period;

(9) "Retail buyer" or "buyer" means a person who buys or agrees to buy goods or obtain services or agrees to have services rendered or furnished, from a retail seller;

(10) "Retail charge agreement," "revolving charge agreement," or "charge agreement" means an agreement between a retail buyer and a retail seller that is entered into or performed in this state and that prescribes the terms of retail installment transactions with one or more sellers which may be made thereunder from time to time and under the terms of which a service charge, as defined in this section, is to be computed in relation to the buyer's unpaid balance from time to time;

(11) "Retail installment contract" or "contract" means a contract, other than a retail charge agreement, a lender credit card agreement, or an instrument reflecting a sale made pursuant thereto, entered into or performed in this state for a retail installment transaction. The term "retail installment contract" may include a chattel mortgage, a conditional sale contract, and a contract in the form of a bailment or a lease if the bailee or lessee contracts to pay as compensation for their use a sum substantially equivalent to or in excess of the value of the goods sold and if it is agreed that the bailee or lessee is bound to become, or for no other or a merely nominal consideration, has the option of becoming the owner of the goods upon full compliance with the provisions of the bailment or lease. The term "retail installment contract" does not include: (a) A "consumer lease," heretofore or hereafter entered into, as defined in RCW 63.10.020; (b) a lease which would constitute such "consumer lease" but for the fact that: (i) It was entered into before April 29, 1983; (ii) the lessee was not a natural person; (iii) the lease was not primarily for personal, family, or household purposes; or (iv) the total contractual obligations exceeded twenty-five thousand dollars; or (c) a lease-purchase agreement under chapter 63.19 RCW;

(12) "Retail installment transaction" means any transaction in which a retail buyer purchases goods or services from a retail seller pursuant to a retail installment contract, a retail charge agreement, or a lender credit card agreement, as defined in this section, which provides for a service charge, as defined in this section, and under which the buyer agrees to pay the unpaid principal balance in one or more installments or which provides for no service charge and under which the buyer agrees to pay the unpaid balance in more than four installments;

(13) "Retail seller" or "seller" means a person engaged in the business of selling goods or services to retail buyers;

(14) "Sale price" means the price for which the seller would have sold or furnished to the buyer, and the buyer would have bought or obtained from the seller, the goods or services which are the subject matter of a retail installment transaction. The sale price may include any taxes, registration and vehicle license fees, the cost of a guaranteed asset protection waiver, any vehicle dealer administrative fee, any vehicle dealer documentary service fee, and charges for transferring vehicle titles, delivery, installation, servicing, repairs, alterations, or improvements;

(15) "Service charge" however denominated or expressed, means the amount which is paid or payable for the privilege of purchasing goods or services to be paid for by the buyer in installments over a period of time. It does not include the amount, if any, charged for insurance premiums, delinquency charges, attorneys' fees, court costs, any vehicle dealer administrative fee under ((RCW 46.12.042)) section 820(1) of this act, any vehicle dealer documentary service fee under RCW 46.70.180(2), or official fees;

(16) "Services" means work, labor, or services of any kind when purchased primarily for personal, family, or household use and not for commercial or business use whether or not furnished in connection with the delivery, installation, servicing, repair, or improvement of goods and includes repairs, alterations, or improvements upon or in connection with real property, but does not include services for which the price charged is required by law to be determined or approved by or to be filed, subject to approval or disapproval, with the United States or any state, or any department, division, agency, officer, or official of either as in the case of transportation services;

(17) "Time balance" means the principal balance plus the service charge.

Sec. 1153. RCW 63.14.130 and 2003 c 368 s 3 are each amended to read as follows:

The service charge shall be inclusive of all charges incident to investigating and making the retail installment contract or charge agreement and for the privilege of making the installment payments thereunder and no other fee, expense or charge whatsoever shall be taken, received, reserved, or contracted therefor from the buyer, except for any vehicle dealer administrative fee under ((RCW 46.12.042)) section 820(1) of this act or for any vehicle dealer documentary service fee under RCW 46.70.180(2).

(1) The service charge, in a retail installment contract, shall not exceed the dollar amount or rate agreed to by contract and disclosed under RCW 63.14.040(1)(h).

(2) The service charge in a retail charge agreement, revolving charge agreement, lender credit card agreement, or charge agreement, shall not exceed the schedule or rate agreed to by contract and disclosed under RCW 63.14.120(1). If the service charge so computed is less than one dollar for any month, then one dollar may be charged.

Sec. 1154. RCW 65.20.020 and 1989 c 343 s 2 are each amended to read as follows:

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

(1) "Affixed" means that the manufactured home is installed in accordance with the installation standards in state law.

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

(3) "Eliminating the title" means to cancel an existing certificate of title issued by this state or a foreign jurisdiction or to waive the certificate of ((ownership)) title required ((by)) in chapter 46.12 RCW and recording the appropriate documents in the county real property records pursuant to this chapter.

(4) "Homeowner" means the owner of a manufactured home.

(5) "Land" means real property excluding the manufactured home.

(6) "Manufactured home" or "mobile home" means a structure, designed and constructed to be transportable in one or more sections and is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities that include plumbing, heating, and electrical systems contained therein. The structure must comply with the national mobile home construction and safety standards act of 1974 as adopted by chapter 43.22 RCW if applicable. "Manufactured home"

does not include a modular home. A structure which met the definition of a "manufactured home" at the time of manufacture is still considered to meet this definition notwithstanding that it is no longer transportable.

(7) "Owner" means, when referring to a manufactured home that is titled, the person who is the registered owner. When referring to a mobile home that is untitled pursuant to this chapter, the owner is the person who owns the land. When referring to land, the person may have fee simple title, have a leasehold estate of thirty-five years or more, or be purchasing the property on a real estate contract. Owners include joint tenants, tenants in common, holders of legal life estates, and holders of remainder interests.

(8) "Person" means any individual, trustee, partnership, corporation, or other legal entity. "Person" may refer to more than one individual or entity.

(9) "Secured party" means the legal owner when referring to a titled mobile home, or the lender securing a loan through a mortgage, deed of trust, or real estate contract when referring to land or land containing an untitled manufactured home pursuant to this chapter.

(10) "Security interest" means an interest in property to secure payment of a loan made by a secured party to a borrower.

(11) "Title" or "titled" means a certificate of (~~ownership~~) title issued pursuant to chapter 46.12 RCW.

Sec. 1155. RCW 65.20.040 and 1989 c 343 s 4 are each amended to read as follows:

If a manufactured home is affixed to land that is owned by the homeowner, the homeowner may apply to the department to have the title to the manufactured home eliminated. The application package shall consist of the following:

(1) An affidavit, in the form prescribed by the department, signed by all the owners of the manufactured home and containing:

- (a) The date;
- (b) The names of all of the owners of record of the manufactured home;
- (c) The legal description of the real property;
- (d) A description of the manufactured home including model year, make, width, length, and vehicle identification number;
- (e) The names of all secured parties in the manufactured home; and
- (f) A statement that the owner of the manufactured home owns the real property to which it is affixed;

(2) Certificate of (~~ownership~~) title for the manufactured home, or the manufacturer's statement of origin in the case of a new manufactured home. Where title is held by the secured party as legal owner, the consent of the secured party must be indicated by the legal owner releasing his or her security interest;

(3) A certification by the local government indicating that the manufactured home is affixed to the land;

(4) Payment of all (~~licensing~~) vehicle license fees, excise tax, use tax, real estate tax, recording fees, and proof of payment of all property taxes then due; and

(5) Any other information the department may require.

Sec. 1156. RCW 68.64.010 and 2008 c 139 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) "Adult" means an individual who is at least eighteen years old.
- (2) "Agent" means an individual:
 - (a) Authorized to make health care decisions on the principal's behalf by a power of attorney for health care; or
 - (b) Expressly authorized to make an anatomical gift on the principal's behalf by any other record signed by the principal.
- (3) "Anatomical gift" means a donation of all or part of a human body to take effect after the donor's death for the purpose of transplantation, therapy, research, or education.
- (4) "Decedent" means a deceased individual whose body or part is or may be the source of an anatomical gift.
- (5) "Disinterested witness" means a witness other than the spouse or state registered domestic partner, child, parent, sibling, grandchild, grandparent, or guardian of the individual who makes, amends, revokes, or refuses to make an anatomical gift. The term does not include a person to which an anatomical gift could pass under RCW 68.64.100.
- (6) "Document of gift" means a donor card or other record used to make an anatomical gift. The term includes a statement or symbol on a driver's license, identification card, or donor registry.
- (7) "Donor" means an individual whose body or part is the subject of an anatomical gift.
- (8) "Donor registry" means a database that contains records of anatomical gifts and amendments to or revocations of anatomical gifts.
- (9) "Driver's license" means a license or permit issued by the department of licensing to operate a vehicle, whether or not conditions are attached to the license or permit.
- (10) "Eye bank" means a person that is licensed, accredited, or regulated under federal or state law to engage in the recovery, screening, testing, processing, storage, or distribution of human eyes or portions of human eyes.
- (11) "Guardian" means a person appointed by a court to make decisions regarding the support, care, education, health, or welfare of an individual. The term does not include a guardian ad litem.
- (12) "Hospital" means a facility licensed as a hospital under the law of any state or a facility operated as a hospital by the United States, a state, or a subdivision of a state.
- (13) "Identification card" means an identification card issued by the department of licensing.
- (14) "Know" means to have actual knowledge.
- (15) "Minor" means an individual who is less than eighteen years old.
- (16) "Organ procurement organization" means a person designated by the secretary of the United States department of health and human services as an organ procurement organization.
- (17) "Parent" means a parent whose parental rights have not been terminated.
- (18) "Part" means an organ, an eye, or tissue of a human being. The term does not include the whole body.

(19) "Person" means an individual, corporation, business 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.

(20) "Physician" means an individual licensed or otherwise authorized to practice medicine and surgery or osteopathic medicine and surgery under the law of any state.

(21) "Procurement organization" means an eye bank, organ procurement organization, or tissue bank.

(22) "Prospective donor" means an individual whose death is imminent and has been determined by a procurement organization to have a part that could be medically suitable for transplantation, therapy, research, or education. "Prospective donor" does not include an individual who has made a refusal.

(23) "Reasonable costs" include: (a) Programming and software installation and upgrades; (b) employee training that is specific to the organ and tissue donor registry or the donation program created in RCW ((46.12.510)) 46.16.076(2) (as recodified by this act); (c) literature that is specific to the organ and tissue donor registry or the donation program created in RCW ((46.12.510)) 46.16.076(2) (as recodified by this act); and (d) hardware upgrades or other issues important to the organ and tissue donor registry or the donation program created in RCW ((46.12.510)) 46.16.076(2) (as recodified by this act) that have been mutually agreed upon in advance by the department of licensing and the Washington state organ procurement organizations.

(24) "Reasonably available" means able to be contacted by a procurement organization without undue effort and willing and able to act in a timely manner consistent with existing medical criteria necessary for the making of an anatomical gift.

(25) "Recipient" means an individual into whose body a decedent's part has been or is intended to be transplanted.

(26) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(27) "Refusal" means a record created under RCW 68.64.060 that expressly states an intent to bar other persons from making an anatomical gift of an individual's body or part.

(28) "Sign" means, with the 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.

(29) "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.

(30) "Technician" means an individual determined to be qualified to remove or process parts by an appropriate organization that is licensed, accredited, or regulated under federal or state law. The term includes an enucleator.

(31) "Tissue" means a portion of the human body other than an organ or an eye. The term does not include blood unless the blood is donated for the purpose of research or education.

(32) "Tissue bank" means a person that is licensed to conduct business in this state, accredited, and regulated under federal or state law to engage in the recovery, screening, testing, processing, storage, or distribution of tissue.

(33) "Transplant hospital" means a hospital that furnishes organ transplants and other medical and surgical specialty services required for the care of transplant patients.

(34) "Washington state organ procurement organization" means an organ procurement organization that has been designated by the United States department of health and human services to coordinate organ procurement activities for any portion of Washington state.

Sec. 1157. RCW 68.64.210 and 2003 c 94 s 7 are each amended to read as follows:

(1) The organ and tissue donation awareness account is created in the custody of the state treasurer. All receipts from donations made under RCW ~~((46.12.510))~~ 46.16.076(2)(as recodified by this act), and other contributions and appropriations specifically made for the purposes of organ and tissue donor awareness, shall be deposited into the account. Except as provided in subsection (2) of this section, expenditures from the account may be authorized by the director of the department of licensing or the director's designee and do not require an appropriation.

(2) The department of licensing shall submit a funding request to the legislature covering the reasonable costs associated with the ongoing maintenance associated with the electronic transfer of the donor information to the organ and tissue donor registry and the donation program established in RCW ~~((46.12.510))~~ 46.16.076(2)(as recodified by this act). The legislature shall appropriate to the department of licensing an amount it deems reasonable from the organ and tissue donation awareness account to the department of licensing for these purposes.

(3) At least quarterly, the department of licensing shall transmit any remaining moneys in the organ and tissue donation awareness account to the foundation established in RCW ~~((46.12.510))~~ 46.16.076(2)(as recodified by this act) for the costs associated with educating the public about the organ and tissue donor registry and related organ and tissue donation education programs.

(4) Funding for donation awareness programs must be proportional across the state regardless of which Washington state organ procurement organization may be designated by the United States department of health and human services to serve a particular geographic area. No funds from the account may be used to fund activities outside Washington state.

Sec. 1158. RCW 70.168.040 and 2002 c 371 s 922 are each amended to read as follows:

The emergency medical services and trauma care system trust account is hereby created in the state treasury. Moneys shall be transferred to the emergency medical services and trauma care system trust account from the public safety education account or other sources as appropriated, and as collected under RCW 46.63.110~~((6))~~ (7) and ~~((46.12.042))~~ section 820 of this act. Disbursements shall be made by the department subject to legislative appropriation. Expenditures may be made only for the purposes of the state trauma care system under this chapter, including emergency medical services,

trauma care services, rehabilitative services, and the planning and development of related services under this chapter and for reimbursement by the department of social and health services for trauma care services provided by designated trauma centers. ~~((During the 2001-2003 fiscal biennium, the legislature may transfer from the emergency medical services and trauma care system trust account to the state general fund such amounts as reflect the excess fund balance of the account.))~~

Sec. 1159. RCW 73.04.115 and 2008 c 6 s 511 are each amended to read as follows:

(1) The department shall issue to the surviving spouse or surviving domestic partner of any deceased former prisoner of war described in ~~((RCW 73.04.110(1)(b)))~~ section 619(1)(c) of this act, one set of regular or special license plates for use on a personal passenger vehicle registered to that person.

(2) The plates shall be issued without the payment of any license fees or excise tax on the vehicle. Whenever any person who has been issued license plates under this section applies to the department for transfer of the plates to a subsequently acquired motor vehicle, a transfer fee of five dollars shall be charged in addition to all other appropriate fees. If the surviving spouse remarries or the surviving domestic partner registers in a new domestic partnership, he or she shall return the special plates to the department within fifteen days and apply for regular license plates.

(3) For purposes of this section, the term "special license plates" does not include any plate from the armed forces license plate collection established in ~~((RCW 46.16.30920))~~ section 611(3) of this act.

Sec. 1160. RCW 77.12.471 and 2007 c 246 s 3 are each amended to read as follows:

The wildlife rehabilitation account is created in the state treasury. All receipts from moneys directed to the account from ~~((RCW 46.16.606))~~ section 821 of this act must be deposited into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for the support of the wildlife rehabilitation program created under RCW 77.12.467.

Sec. 1161. RCW 79.100.100 and 2007 c 342 s 4 are each amended to read as follows:

(1) The derelict vessel removal account is created in the state treasury. All receipts from RCW 79.100.050 and 79.100.060 and those moneys specified in ~~((RCW 88.02.030 and 88.02.050))~~ section 1028 of this act must be deposited into the account. The account is authorized to receive fund transfers and appropriations from the general fund, deposits from the derelict vessel removal surcharge under ~~((RCW 88.02.270))~~ section 1028(4) of this act, as well as gifts, grants, and endowments from public or private sources as may be made from time to time, in trust or otherwise, for the use and benefit of the purposes of this chapter and expend the same or any income according to the terms of the gifts, grants, or endowments provided those terms do not conflict with any provisions of this section or any guidelines developed to prioritize reimbursement of removal projects associated with this chapter. Moneys in the account may only be spent after appropriation. Expenditures from the account ~~((shall))~~ must be used by the department to reimburse authorized public entities for up to ninety

percent of the total reasonable and auditable administrative, removal, disposal, and environmental damage costs of abandoned or derelict vessels when the previous owner is either unknown after a reasonable search effort or insolvent. Reimbursement ~~((shall))~~ may not be made unless the department determines that the public entity has made reasonable efforts to identify and locate the party responsible for the vessel, regardless of the title of owner of the vessel. Funds in the account resulting from transfers from the general fund or from the deposit of funds from the watercraft excise tax as provided for under RCW 82.49.030 ~~((shall))~~ must be used to reimburse one hundred percent of these costs and should be prioritized for the removal of large vessels. Costs associated with removal and disposal of an abandoned or derelict vessel under the authority granted in RCW 53.08.320 also qualify for reimbursement from the derelict vessel removal account. In each biennium, up to twenty percent of the expenditures from the account may be used for administrative expenses of the department of licensing and department of natural resources in implementing this chapter.

(2) If the balance of the account reaches one million dollars as of March 1st of any year, exclusive of any transfer or appropriation of funds into the account or funds deposited into the account collected under ~~((RCW 88.02.270))~~ section 1028(5) of this act, the department must notify the department of licensing and the collection of any fees associated with this account must be suspended for the following fiscal year.

(3) Priority for use of this account is for the removal of derelict and abandoned vessels that are in danger of sinking, breaking up, or blocking navigation channels, or that present environmental risks such as leaking fuel or other hazardous substances. The department must develop criteria, in the form of informal guidelines, to prioritize removal projects associated with this chapter, but may not consider whether the applicant is a state or local entity when prioritizing. The guidelines must also include guidance to the authorized public entities as to what removal activities and associated costs are reasonable and eligible for reimbursement.

(4) The department must keep all authorized public entities apprized of the balance of the derelict vessel removal account and the funds available for reimbursement. The guidelines developed by the department must also be made available to the other authorized public entities. This subsection (4) must be satisfied by utilizing the least costly method, including maintaining the information on the department's internet web site, or any other cost-effective method.

(5) An authorized public entity may contribute its ten percent of costs that are not eligible for reimbursement by using in-kind services, including the use of existing staff, equipment, and volunteers.

(6) This chapter does not guarantee reimbursement for an authorized public entity. Authorized public entities seeking certainty in reimbursement prior to taking action under this chapter may first notify the department of their proposed action and the estimated total costs. Upon notification by an authorized public entity, the department must make the authorized public entity aware of the status of the fund and the likelihood of reimbursement being available. The department may offer technical assistance and assure reimbursement for up to

two years following the removal action if an assurance is appropriate given the balance of the fund and the details of the proposed action.

Sec. 1162. RCW 79A.05.059 and 2005 c 44 s 4 are each amended to read as follows:

The state parks education and enhancement account is created in the custody of the state treasurer. All receipts from the sale of Washington state parks and recreation commission special license plates, after the deductions permitted by ~~((RCW 46.16.313(13)))~~ section 810 of this act, must be deposited into the account. Expenditures from the account may only be used to provide public educational opportunities and enhancement of Washington state parks. Only the director or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

Sec. 1163. RCW 79A.05.065 and 2008 c 238 s 1 are each amended to read as follows:

(1)(a) The commission shall grant to any person who meets the eligibility requirements specified in this section a senior citizen's pass which shall: (i) Entitle such a person, and members of his or her camping unit, to a fifty percent reduction in the campsite rental fee prescribed by the commission; and (ii) entitle such a person to free admission to any state park.

(b) The commission shall grant a senior citizen's pass to any person who applies for the senior citizen's pass and who meets the following requirements:

(i) The person is at least sixty-two years of age;

(ii) The person is a domiciliary of the state of Washington and meets reasonable residency requirements prescribed by the commission; and

(iii) The person and his or her spouse have a combined income that would qualify the person for a property tax exemption pursuant to RCW 84.36.381. The financial eligibility requirements of this subsection (1)(b)(iii) apply regardless of whether the applicant for a senior citizen's pass owns taxable property or has obtained or applied for such property tax exemption.

(c) Each senior citizen's pass granted pursuant to this section is valid as long as the senior citizen meets the requirements of (b)(ii) of this subsection. A senior citizen meeting the eligibility requirements of this section may make a voluntary donation for the upkeep and maintenance of state parks.

(d) A holder of a senior citizen's pass shall surrender the pass upon request of a commission employee when the employee has reason to believe the holder fails to meet the criteria in (b) of this subsection. The holder shall have the pass returned upon providing proof to the satisfaction of the director that the holder meets the eligibility criteria for obtaining the senior citizen's pass.

(2)(a) Any resident of Washington who is disabled as defined by the social security administration and who receives social security benefits for that disability, or any other benefits for that disability from any other governmental or nongovernmental source, or who is entitled to benefits for permanent disability under RCW 71A.10.020(3) due to unemployability full time at the minimum wage, or who is legally blind or profoundly deaf, or who has been issued a card, decal, or special license plate for a permanent disability under RCW 46.16.381 shall be entitled to receive, regardless of age and upon making application therefor, a disability pass at no cost to the holder. The pass shall: (i)

Entitle such a person, and members of his or her camping unit, to a fifty percent reduction in the campsite rental fee prescribed by the commission; and (ii) entitle such a person to free admission to any state park.

(b) A card, decal, or special license plate issued for a permanent disability under (~~RCW 46.16.381~~) section 701 of this act may serve as a pass for the holder to entitle that person and members of the person's camping unit to a fifty percent reduction in the campsite rental fee prescribed by the commission, and to allow the holder free admission to state parks.

(3) Any resident of Washington who is a veteran and has a service-connected disability of at least thirty percent shall be entitled to receive a lifetime veteran's disability pass at no cost to the holder. The pass shall: (a) Entitle such a person, and members of his or her camping unit, to free use of any campsite within any state park; (b) entitle such a person to free admission to any state park; and (c) entitle such a person to an exemption from any reservation fees.

(4)(a) Any Washington state resident who provides out-of-home care to a child, as either a licensed foster-family home or a person related to the child, is entitled to a foster home pass.

(b) An applicant for a foster home pass must request a pass in the manner required by the commission. Upon receipt of a properly submitted request, the commission shall verify with the department of social and health services that the applicant qualifies under (a) of this subsection. Once issued, a foster home pass is valid for the period, which may not be less than one year, designated by the commission.

(c) When accompanied by a child receiving out-of-home care from the pass holder, a foster home pass: (i) Entitles such a person, and members of his or her camping unit, to free use of any campsite within any state park; and (ii) entitles such a person to free admission to any state park.

(d) For the purposes of this subsection (4):

(i) "Out-of-home care" means placement in a foster-family home or with a person related to the child under the authority of chapter 13.32A, 13.34, or 74.13 RCW;

(ii) "Foster-family home" has the same meaning as defined in RCW 74.15.020; and

(iii) "Person related to the child" means those persons referred to in RCW 74.15.020(2)(a) (i) through (vi).

(5) All passes issued pursuant to this section are valid at all parks any time during the year. However, the pass is not valid for admission to concessionaire operated facilities.

(6) The commission shall negotiate payment and costs, to allow holders of a foster home pass free access and usage of park campsites, with the following nonoperated, nonstate-owned parks: Central Ferry, Chief Timothy, Crow Butte, and Lyons Ferry. The commission shall seek state general fund reimbursement on a biennial basis.

(7) The commission may deny or revoke any Washington state park pass issued under this section for cause, including but not limited to the following:

(a) Residency outside the state of Washington;

(b) Violation of laws or state park rules resulting in eviction from a state park;

(c) Intimidating, obstructing, or assaulting a park employee or park volunteer who is engaged in the performance of official duties;

(d) Fraudulent use of a pass;

(e) Providing false information or documentation in the application for a state parks pass;

(f) Refusing to display or show the pass to park employees when requested; or

(g) Failing to provide current eligibility information upon request by the agency or when eligibility ceases or changes.

(8) This section shall not affect or otherwise impair the power of the commission to continue or discontinue any other programs it has adopted for senior citizens.

(9) The commission may engage in a mutually agreed upon reciprocal or discounted program for all or specific pass programs with other outdoor recreation agencies.

(10) The commission shall adopt those rules as it finds appropriate for the administration of this section. Among other things, the rules shall prescribe a definition of "camping unit" which will authorize a reasonable number of persons traveling with the person having a pass to stay at the campsite rented by such a person, a minimum Washington residency requirement for applicants for a senior citizen's pass, and an application form to be completed by applicants for a senior citizen's pass.

Sec. 1164. RCW 79A.05.215 and 2007 c 340 s 2 are each amended to read as follows:

The state parks renewal and stewardship account is created in the state treasury. Except as otherwise provided in this chapter, all receipts from user fees, concessions, leases, donations collected under RCW 46.16.076(3) (as recodified by this act), and other state park-based activities shall be deposited into the account. Expenditures from the account may be used for operating state parks, developing and renovating park facilities, undertaking deferred maintenance, enhancing park stewardship, and other state park purposes. Expenditures from the account may be made only after appropriation by the legislature.

Sec. 1165. RCW 82.08.0264 and 2007 c 135 s 1 are each amended to read as follows:

(1) The tax levied by RCW 82.08.020 does not apply to sales of motor vehicles, trailers, or campers to nonresidents of this state for use outside of this state, even when delivery is made within this state, but only if:

(a) The motor vehicles, trailers, or campers will be taken from the point of delivery in this state directly to a point outside this state under the authority of a vehicle trip permit issued by the department of licensing pursuant to ~~((the provisions of))~~ RCW 46.16.160 (as recodified by this act), or any agency of another state that has authority to issue similar permits; or

(b) The motor vehicles, trailers, or campers will be registered and licensed immediately under the laws of the state of the buyer's residence, will not be used in this state more than three months, and will not be required to be registered and licensed under the laws of this state.

(2) For the purposes of this section, the seller of a motor vehicle, trailer, or camper is not required to collect and shall not be found liable for the tax levied by RCW 82.08.020 on the sale if the tax is not collected and the seller retains the following documents, which must be made available upon request of the department:

(a) A copy of the buyer's currently valid out-of-state driver's license or other official picture identification issued by a jurisdiction other than Washington state;

(b) A copy of any one of the following documents, on which there is an out-of-state address for the buyer:

(i) A current residential rental agreement;

(ii) A property tax statement from the current or previous year;

(iii) A utility bill, dated within the previous two months;

(iv) A state income tax return from the previous year;

(v) A voter registration card;

(vi) A current credit report; or

(vii) Any other document determined by the department to be acceptable;

(c) A witnessed declaration in the form designated by the department, signed by the buyer, and stating that the buyer's purchase meets the requirements of this section; and

(d) A seller's certification, in the form designated by the department, that either a vehicle trip permit was issued or the vehicle was immediately registered and licensed in another state as required under subsection (1) of this section.

(3) If the department has information indicating the buyer is a Washington resident, or if the addresses for the buyer shown on the documentation provided under subsection (2) of this section are not the same, the department may contact the buyer to verify the buyer's eligibility for the exemption provided under this section. This subsection does not prevent the department from contacting a buyer as a result of information obtained from a source other than the seller's records.

(4)(a) Any person making fraudulent statements, which includes the offer of fraudulent identification or fraudulently procured identification to a seller, in order to purchase a motor vehicle, trailer, or camper without paying retail sales tax is guilty of perjury under chapter 9A.72 RCW.

(b) Any person making tax exempt purchases under this section by displaying proof of identification not his or her own, or counterfeit identification, with intent to violate the provisions of this section, is guilty of a misdemeanor and, in addition, is liable for the tax and subject to a penalty equal to the greater of one hundred dollars or the tax due on such purchases.

(5)(a) Any seller that makes sales without collecting the tax to a person who does not provide the documents required under subsection (2) of this section, and any seller who fails to retain the documents required under subsection (2) of this section for the period prescribed by RCW 82.32.070, is personally liable for the amount of tax due.

(b) Any seller that makes sales without collecting the retail sales tax under this section and who has actual knowledge that the buyer's documentation required by subsection (2) of this section is fraudulent is guilty of a misdemeanor and, in addition, is liable for the tax and subject to a penalty equal to the greater of one thousand dollars or the tax due on such sales. In addition,

both the buyer and the seller are liable for any penalties and interest assessable under chapter 82.32 RCW.

(6) For purposes of this section, ~~((the term))~~ "buyer" does not include cosigners or financial guarantors, unless those parties are listed as a registered owner on the vehicle title.

Sec. 1166. RCW 82.44.010 and 1990 c 42 s 301 are each amended to read as follows:

For the purposes of this chapter, unless ~~((the))~~ the context otherwise requires:

(1) "Department" means the department of licensing.

(2) "Motor vehicle" means all motor vehicles, trailers and semitrailers used, or of the type designed primarily to be used, upon the public streets and highways, for the convenience or pleasure of the owner, or for the conveyance, for hire or otherwise, of persons or property, including fixed loads and facilities for human habitation; but shall not include (a) vehicles carrying exempt licenses, (b) dock and warehouse tractors and their cars or trailers, lumber carriers of the type known as spiders, and all other automotive equipment not designed primarily for use upon public streets, or highways, (c) motor vehicles or their trailers used entirely upon private property, (d) mobile homes and travel trailers as defined in RCW 82.50.010, or (e) motor vehicles owned by nonresident military personnel of the armed forces of the United States stationed in the state of Washington provided personnel were also nonresident at the time of their entry into military service.

(3) "Truck-type power or trailing unit" means any vehicle that is subject to the fees under ~~((RCW 46.16.070))~~ section 530 of this act, except vehicles with an unladen weight of six thousand pounds or less, ~~((RCW 46.16.079, 46.16.080, 46.16.085))~~ section 528 of this act, section 531(1)(c) of this act, or RCW 46.16.090 (as recodified by this act).

Sec. 1167. RCW 84.37.070 and 2007 sp.s. c 2 s 7 are each amended to read as follows:

Whenever a person's special assessment or real property tax obligation, or both, is deferred under ~~((the provisions of))~~ this chapter, the amount deferred and required to be paid pursuant to RCW 84.38.120 shall become a lien in favor of the state upon his or her property and shall have priority as provided in chapters 35.50 and 84.60 RCW: PROVIDED, That the interest of a mortgage or purchase contract holder who requires an accumulation of reserves out of which real estate taxes are paid shall have priority to said deferred lien. This lien may accumulate up to forty percent of the amount of the claimant's equity value in said property and the rate of interest shall be an average of the federal short-term rate as defined in 26 U.S.C. Sec. 1274(d) plus two percentage points. The rate set for each new year shall be computed by taking an arithmetical average to the nearest percentage point of the federal short-term rate, compounded annually. That average shall be calculated using the rates from four months: January, April, and July of the calendar year immediately preceding the new year, and October of the previous preceding year. The interest shall be calculated from the time it could have been paid before delinquency until said obligation is paid. In the case of a mobile home, the department of licensing shall show the state's lien on the certificate of ~~((ownership))~~ title for the mobile home. In the case of all other

property, the department of revenue shall file a notice of the deferral with the county recorder or auditor.

Sec. 1168. RCW 84.38.100 and 2006 c 275 s 1 are each amended to read as follows:

Whenever a person's special assessment and/or real property tax obligation is deferred under the provisions of this chapter, the amount deferred and required to be paid pursuant to RCW 84.38.120 shall become a lien in favor of the state upon his or her property and shall have priority as provided in chapters 35.50 and 84.60 RCW: PROVIDED, That the interest of a mortgage or purchase contract holder who is required to cosign a declaration of deferral under RCW 84.38.090, shall have priority to said deferred lien. This lien may accumulate up to eighty percent of the amount of the claimant's equity value in said property and shall bear interest at the rate of five percent per year from the time it could have been paid before delinquency until said obligation is paid: PROVIDED, That when taxes are deferred as provided in RCW 84.64.050, the amount shall bear interest at the rate of five percent per year from the date the declaration is filed until the obligation is paid. In the case of a mobile home, the department of licensing shall show the state's lien on the certificate of ~~((ownership))~~ title for the mobile home. In the case of all other property, the department of revenue shall file a notice of the deferral with the county recorder or auditor.

NEW SECTION. **Sec. 1169.** The following acts or parts of acts are each repealed:

(1) RCW 46.04.144 (Cooper Jones Act license plate emblems) and 2002 c 264 s 2;

(2) RCW 46.32.090 (Fees) and 2009 c 46 s 3, 2007 c 419 s 11, 1996 c 86 s 1, & 1995 c 272 s 2;

(3) RCW 46.88.010 (Commercial vehicles registered in another state—Permits for intrastate operations) and 1986 c 18 s 25, 1979 c 158 s 202, & 1969 ex.s. c 281 s 32;

(4) RCW 59.21.055 (Fee imposed on transfer of title—Circumstances—Deposit—Rules) and 2002 c 257 s 3;

(5) RCW 59.22.080 (Transfer of title—Fee—Department of licensing—Rules) and 1991 c 327 s 1;

(6) RCW 59.22.085 (Transfer of title—Fee supersedes other fee) and 1991 c 327 s 7;

(7) RCW 64.44.045 (Vehicle and vessel titles—Notice of contamination or decontamination—Penalty) and 2008 c 201 s 2; and

(8) RCW 73.04.110 (Free license plates for veterans with disabilities, prisoners of war—Penalty) and 2008 c 183 s 4 & 2005 c 216 s 6.

PART XII. MISCELLANEOUS II

NEW SECTION. **Sec. 1201.** The senate and house of representatives transportation committees, in consultation with the office of the code reviser, shall prepare legislation for the 2011 regular legislative session that reconciles and conforms amendments made during the 2010 legislative session in this act.

NEW SECTION. **Sec. 1202.** RCW 46.09.010, 46.09.020, 46.09.080, 46.09.140, 46.09.180, 46.09.200, 46.09.250, and 46.09.280 are each recodified

as sections in chapter 46.09 RCW with the subchapter heading of "general provisions."

NEW SECTION. Sec. 1203. RCW 46.09.030, 46.09.040, 46.09.050, and 46.09.070 are each recodified as sections in chapter 46.09 RCW with the subchapter heading of "registrations."

NEW SECTION. Sec. 1204. RCW 46.09.115, 46.09.117, 46.09.120, 46.09.130 and 46.09.190 are each recodified as sections in chapter 46.09 RCW with the subchapter heading of "violations."

NEW SECTION. Sec. 1205. RCW 46.09.150, 46.09.165, 46.09.170, and 46.09.240 are each recodified as sections in chapter 46.09 RCW with the subchapter heading of "revenue."

NEW SECTION. Sec. 1206. RCW 46.10.010, 46.10.020, 46.10.140, 46.10.180, 46.10.185, 46.10.200, 46.10.210, and 46.10.220 are each recodified as sections in chapter 46.10 RCW with the subchapter heading of "general provisions."

NEW SECTION. Sec. 1207. RCW 46.10.030, 46.10.040, 46.10.043, 46.10.050, 46.10.060, and 46.10.070 are each recodified as sections in chapter 46.10 RCW with the subchapter heading of "registration and permits."

NEW SECTION. Sec. 1208. RCW 46.10.055, 46.10.090, 46.10.100, 46.10.110, 46.10.120, 46.10.130, and 46.10.190 are each recodified as sections in chapter 46.10 RCW with the subchapter heading of "violations and uses."

NEW SECTION. Sec. 1209. RCW 46.10.150, 46.10.160, and 46.10.170 are each recodified as sections in chapter 46.10 RCW with the subchapter heading of "revenue."

NEW SECTION. Sec. 1210. RCW 46.12.010, 46.12.030, 46.12.047, 46.12.050, 46.12.070, 46.12.080, 46.12.160, 46.12.181, 46.12.190, 46.12.370, 46.12.380, and 46.12.390 are each recodified as sections in chapter 46.12 RCW with the subchapter heading of "general provisions."

NEW SECTION. Sec. 1211. RCW 46.12.101, 46.12.102, 46.12.103, 46.12.124, 46.12.130, 46.12.151, and 46.12.170 are each recodified as sections in chapter 46.12 RCW with the subchapter heading of "vehicle sales, transfers, and security interests."

NEW SECTION. Sec. 1212. RCW 46.12.280, 46.12.290, 46.12.420, 46.12.430, and 46.12.440 are each recodified as sections in chapter 46.12 RCW with the subchapter heading of "specific vehicles."

NEW SECTION. Sec. 1213. RCW 46.12.300, 46.12.310, 46.12.320, 46.12.330, 46.12.340, and 46.12.350 are each recodified as sections in chapter 46.12 RCW with the subchapter heading of "serial numbers."

NEW SECTION. Sec. 1214. RCW 46.12.210 and 46.12.250 are each recodified as sections in chapter 46.12 RCW with the subchapter heading of "violations."

NEW SECTION. Sec. 1215. RCW 46.16.004, 46.16.006, 46.16.010, 46.16.015, 46.16.020, 46.16.022, 46.16.028, 46.16.029, 46.16.030, 46.16.040, 46.16.073, 46.16.076, 46.16.210, 46.16.212, 46.16.216, 46.16.225, 46.16.260, 46.16.265, 46.16.276, 46.16.280, 46.16.295, 46.16.327, and 46.16.332 are each

recodified as sections in chapter 46.16 RCW with the subchapter heading of "general provisions."

NEW SECTION. Sec. 1216. RCW 46.16.045, 46.16.047, 46.16.048, 46.16.160, 46.16.162, and 46.16.460 are each recodified as sections in chapter 46.16 RCW with the subchapter heading of "permits and uses."

NEW SECTION. Sec. 1217. RCW 46.16.025, 46.16.068, 46.16.070, 46.16.086, 46.16.090, and 46.16.615 are each recodified as sections in chapter 46.16 RCW with the subchapter heading of "specific vehicles."

NEW SECTION. Sec. 1218. RCW 46.16.011, 46.16.012, 46.16.140, 46.16.145, 46.16.180, and 46.16.500 are each recodified as sections in chapter 46.16 RCW with the subchapter heading of "liability and violations."

NEW SECTION. Sec. 1219. Sections 501 through 507 of this act are each added to chapter 46.17 RCW and codified with the subchapter heading of "filing and service fees."

NEW SECTION. Sec. 1220. Sections 508 through 515 of this act are each added to chapter 46.17 RCW and codified with the subchapter heading of "certificate of title fees."

NEW SECTION. Sec. 1221. Sections 516 through 521 of this act are each added to chapter 46.17 RCW and codified with the subchapter heading of "license plate fees."

NEW SECTION. Sec. 1222. Sections 522 through 534 of this act are each added to chapter 46.17 RCW and codified with the subchapter heading of "vehicle license fees."

NEW SECTION. Sec. 1223. Sections 535 through 537 of this act are each added to chapter 46.17 RCW and codified with the subchapter heading of "permit and transfer fees."

NEW SECTION. Sec. 1224. Sections 611 through 613 and 616 through 630 of this act constitute a new chapter in Title 46 RCW and are codified under the subchapter heading "plate types, decals, and emblems."

NEW SECTION. Sec. 1225. RCW 46.16.309, 46.16.314, 46.16.335, and 46.16.390 are each recodified as sections in the new chapter created under section 1224 of this act with the subchapter heading of "general provisions."

NEW SECTION. Sec. 1226. RCW 46.16.700, 46.16.705, 46.16.715, and 46.16.725 are each recodified as sections in the new chapter created under section 1224 of this act with the subchapter heading of "review board."

NEW SECTION. Sec. 1227. RCW 46.16.690, 46.16.735, 46.16.745, 46.16.755, 46.16.765, and 46.16.775 are each recodified as sections in the new chapter created under section 1224 of this act with the subchapter heading of "requirements and procedures."

NEW SECTION. Sec. 1228. RCW 46.16.301, 46.16.319, and 46.16.324 are each recodified as sections in the new chapter created under section 1224 of this act with the subchapter heading of "plate types, decals, and emblems."

NEW SECTION. Sec. 1229. Sections 701 through 706 of this act constitute a new chapter in Title 46 RCW.

NEW SECTION. Sec. 1230. RCW 46.09.110, 46.10.075, and 46.16.685 are each recodified as sections in chapter 46.68 RCW.

NEW SECTION. Sec. 1231. RCW 88.02.010, 88.02.035, 88.02.055, 88.02.110, 88.02.118, and 88.02.200 are each recodified as sections in chapter 88.02 RCW with the subchapter heading of "general provisions."

NEW SECTION. Sec. 1232. RCW 88.02.070, 88.02.075, 88.02.120, and 88.02.180 are each recodified as sections in chapter 88.02 RCW with the subchapter heading of "certificates of title."

NEW SECTION. Sec. 1233. RCW 88.02.020, 88.02.030, 88.02.050, 88.02.052, 88.02.250, and 88.02.260 are each recodified as sections in chapter 88.02 RCW with the subchapter heading of "registration certificates."

NEW SECTION. Sec. 1234. RCW 88.02.040, 88.02.045, and 88.02.053 are each recodified as sections in chapter 88.02 RCW with the subchapter heading of "title/registration fees and distribution."

NEW SECTION. Sec. 1235. RCW 88.02.023, 88.02.060, 88.02.078, 88.02.112, 88.02.115, 88.02.125, 88.02.184, 88.02.188, 88.02.189, 88.02.210, 88.02.220, and 88.02.230 are each recodified as sections in chapter 88.02 RCW with the subchapter heading of "dealer registration."

NEW SECTION. Sec. 1236. RCW 46.16.125 is recodified as a section in chapter 81.24 RCW.

NEW SECTION. Sec. 1237. RCW 46.16.450 is decodified.

NEW SECTION. Sec. 1238. Except for section 1020 of this act, this act takes effect July 1, 2011.

NEW SECTION. Sec. 1239. Section 1020 of this act takes effect June 30, 2012.

NEW SECTION. Sec. 1240. Section 1019 of this act expires June 30, 2012.

Passed by the Senate March 6, 2010.

Passed by the House March 2, 2010.

Approved by the Governor March 22, 2010.

Filed in Office of Secretary of State March 22, 2010.

CHAPTER 162

[Second Substitute Senate Bill 6578]

OPTIONAL MULTIAGENCY PERMITTING TEAM— OFFICE OF REGULATORY ASSISTANCE

AN ACT Relating to the creation of optional multiagency permitting teams; amending RCW 43.42.005 and 43.42.070; reenacting and amending RCW 43.84.092 and 43.131.402; adding new sections to chapter 43.42 RCW; and declaring an emergency.

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

Sec. 1. RCW 43.42.005 and 2009 c 97 s 1 are each amended to read as follows:

(1) The legislature finds that: The health and safety of its citizens and environment are of vital interest to the state's long-term quality of life; Washington state is a national leader in protecting its environment; and

Washington state has a vibrant and diverse economy that is dependent on the state maintaining high environmental standards. Further, the legislature finds that a complex and confusing network of environmental and land use laws and business regulations can create obstacles to sustainable growth.

It is the intent of the legislature to promote accountability, timeliness, and predictability for citizens, business, and state, federal, and local permitting agencies, and to provide information and assistance on the regulatory process through the creation of the office of regulatory assistance in the governor's office.

(2) The office of regulatory assistance is created to work to continually improve the function of environmental and business regulatory processes by identifying conflicts and overlap in the state's rules, statutes, and operational practices; the office is to provide project proponents and business owners with active assistance for all permitting, licensing, and other regulatory procedures required for completion of specific projects; and the office is to ensure that citizens, businesses, and local governments have access to, and clear information regarding, regulatory processes for permitting and business regulation, including state rules, permit and license requirements, and agency rule-making processes.

(3) The legislature declares that the purpose of this chapter is to provide direction ~~((and))~~, practical resources, and a range of innovative and optional service delivery options for improving the regulatory process and for providing assistance through the regulatory process(es) on individual projects in furtherance of the state's goals of governmental transparency and accountability.

(4) The legislature intends that establishing an office of regulatory assistance will provide these services without abrogating or limiting the authority of any agency to make decisions on permits, licenses, regulatory requirements, or agency rule making. The legislature further intends that the office of regulatory assistance shall have authority to provide services but shall not have any authority to make decisions on permits.

NEW SECTION. Sec. 2. A new section is added to chapter 43.42 RCW to read as follows:

(1) The legislature finds that the state of Washington has implemented a number of successful measures to streamline, coordinate, and consolidate the multiparty, multijurisdictional permitting and regulatory decision-making process. The office of regulatory assistance was developed and implemented at a time when the state faced a crisis in its economic competitiveness. The multiagency permitting team for transportation was developed and implemented at a time when the state's transportation system faced a crisis in public confidence concerning transportation project delivery. The legislature further finds that the state of Washington is now facing an economic and financial crisis that requires immediate action to spur economic development and the creation of jobs without sacrificing the quality of the state's environment.

(2) The legislature intends to:

(a) Draw from and extend the benefits of proven permit streamlining solutions to future project proponents and aid the state's recovery by authorizing optional multiagency permitting teams modeled after the multiagency permitting team developed and implemented for state transportation projects. It is the purpose of this act to provide willing permit applicants and project proponents

with permit coordination and integrated regulatory decision-making services on a cost-reimbursed basis; and

(b) Phase-in a revenue-neutral permit streamlining approach to expedite permit and regulatory decision making while ensuring a high level of environmental protection.

NEW SECTION. Sec. 3. A new section is added to chapter 43.42 RCW to read as follows:

(1)(a) The office of regulatory assistance is authorized to develop and advertise the availability of optional multiagency permitting teams to provide coordinated permitting and integrated regulatory decision making starting in the Puget Sound basin.

(b) New expenses associated with operating the optional multiagency permitting teams must be recovered by the office of regulatory assistance using existing state cost-reimbursement and interagency cost-sharing authorities as applicable. The cost-reimbursement process is subject to the requirements and limitations set forth in RCW 43.42.070. Initial administrative costs and other costs that may not be recoverable through cost-reimbursement or cost-sharing mechanisms may be covered by funds from the multiagency permitting team account created in section 5 of this act.

(c) The director of the office of regulatory assistance must solicit donations and such other funds as the director deems appropriate from public and private sources for the purposes of covering the initial administrative costs and other costs associated with operation of optional multiagency permitting teams which are not recoverable through cost-reimbursement or cost-sharing mechanisms. All such solicited funds must be placed in the multiagency permitting team account created in section 5 of this act.

(2) Optional multiagency permitting teams must be:

(a) Mobile, capable of traveling or working together as teams, initially throughout the Puget Sound basin;

(b) Located initially in central Puget Sound;

(c) Staffed by appropriate senior-level permitting and regulatory decision-making personnel representing the Washington state departments of ecology, fish and wildlife, and natural resources and having expertise in regulatory issues relating to the project; and

(d) Managed by the office of regulatory assistance through a team leader responsible for:

(i) Managing or monitoring team activities to ensure the cost-reimbursement schedule and agreement is followed;

(ii) Developing and maintaining partnerships and working relationships with local, state, tribal, and federal organizations not core to the optional multiagency permitting teams that can be called upon to join the team on a project-by-project basis;

(iii) Developing, defining, and providing a set of coordinated permitting and integrated decision-making services consistent with those set forth in subsection (3) of this section;

(iv) Developing and executing funding agreements with applicants, project proponents, regulatory agencies, and others as necessary to ensure the financial viability of the optional multiagency permitting teams;

(v) Measuring and regularly reporting on team performance, results and outcomes achieved, including improved: Permitting predictability, interagency early project coordination, interagency accessibility, interagency relationships, project delivery, and environmental results, including the avoidance or prevention of environmental harm and the effectiveness of mitigation;

(vi) Conducting outreach, marketing, and advertising of team services and team availability, focusing initially on projects such as large-scale public, private, and port development projects with complex aquatics, wetland, or other environmental impacts; environmental cleanup, restoration, and enhancement projects; aquaculture projects; and energy, power generation, and utility projects;

(vii) Implementing issue and dispute resolution protocols;

(viii) Incorporating and using virtual tools for online collaboration to support permitting and regulatory coordination and expedited decision making; and

(ix) Extending and subsequently implementing the optional multiagency permitting team approach to other significant geographic regions of the state.

(3) The optional multiagency permitting teams must at a minimum work with the office of regulatory assistance to provide the following core services:

(a) Project scoping, as set forth in RCW 43.42.050 (1) through (4), to help applicants identify applicable permits and regulatory approvals;

(b) A preapplication coordination service, which may be combined with project scoping, to help applicants understand applicable requirements and plan out with the assistance of the regulatory agencies an optimally sequenced permitting and regulatory decision-making strategy and approach for the overall project;

(c) Fully coordinated project review as set forth in RCW 43.42.060 to set schedules and agreed-upon time frames for the applicant and regulatory decision makers consistent with statutory requirements and with regard to available agency resources and to track, monitor, and report progress made in meeting those schedules and time frames;

(d) Mitigation coordination to help applicants and regulatory agencies collaborate on and implement mitigation obligations within a watershed context so superior environmental results can be achieved when impacts cannot be avoided or further minimized.

(4) Local and federal permitting and regulatory personnel should be incorporated into the optional multiagency permitting teams whenever possible and at least on a project-by-project basis. Moneys recouped through state cost-reimbursement and interagency cost-sharing authorities, or as otherwise solicited for deposit into the multiagency permitting team account created in section 5 of this act, may also be used to cover local and federal participation.

(5) The optional multiagency permitting teams will provide services for complex projects requiring multiple permits and regulatory approvals and having multiple points of regulatory jurisdiction. The optional multiagency permitting teams are not intended to support state transportation projects capable of being serviced by multiagency permitting teams specifically established for state transportation projects. Use of the optional multiagency permitting teams for a fully coordinated permit process must be allowed unless the office of regulatory assistance notifies a project proponent in writing of other means of effective and efficient project review that are available and are recommended.

Sec. 4. RCW 43.42.070 and 2009 c 97 s 7 are each amended to read as follows:

(1) The office may enter into cost-reimbursement agreements with a project proponent to recover from the project proponent the reasonable costs incurred by the office in carrying out the provisions of RCW 43.42.050, 43.42.060, and sections 2 and 3 of this act. The agreement (~~(shall)~~) must include the permit agencies that are participating in the cost-reimbursement project and carrying out permit processing tasks referenced in the agreement.

(2) The office (~~(shall)~~) must maintain policies or guidelines for coordinating cost-reimbursement agreements with participating agencies, project proponents, and outside independent consultants. Policies or guidelines must ensure that, in developing cost-reimbursement agreements, conflicts of interest are eliminated. Contracts with independent consultants hired by the office under this section must be based on competitive bids that are awarded for each agreement from a prequalified consultant roster.

(3) For fully coordinated permit processes, the office (~~(shall)~~) must coordinate the negotiation of all cost-reimbursement agreements executed under RCW 43.21A.690, 43.30.490, 43.70.630, 43.300.080, and 70.94.085. The office, project proponent, and the permit agencies (~~(shall)~~) must be signatories to the agreement or agreements. Each permit agency (~~(shall)~~) must manage performance of its portion of the agreement. Independent consultants hired under a cost-reimbursement agreement shall report directly to the hiring office or permit agency. Any cost-reimbursement agreement must require that final decisions are made by the permit agency and not by a hired consultant.

(4) For a fully coordinated project using cost reimbursement, the office and participating permit agencies (~~(shall)~~) must include a cost-reimbursement work plan, including deliverables and schedules for invoicing and reimbursement in the fully coordinated project work plan described in RCW 43.42.060. Upon request, the office (~~(shall)~~) must verify that the agencies have met the obligations contained in the cost-reimbursement work plan and agreement. The cost-reimbursement agreement (~~(shall)~~) must identify the tasks of each agency and the maximum costs for work conducted under the agreement. The agreement must include a schedule that states:

(a) The estimated number of weeks for initial review of the permit application for comparable projects;

(b) The anticipated number of revision cycles;

(c) The estimated number of weeks for review of subsequent revision submittals;

(d) The estimated number of billable hours of employee time;

(e) The rate per hour; and

(f) A process for revision of the agreement if necessary.

(5) If a permit agency or the project proponent foresees, at any time, that it will be unable to meet its obligations under the cost-reimbursement agreement and fully coordinated project work plan, it (~~(shall)~~) must notify the office and state the reasons, along with proposals for resolving the problems and potentially amending the timelines. The office (~~(shall)~~) must notify the participating permit agencies and the project proponent and, upon agreement of all parties, adjust the schedule, or, if necessary, coordinate revision of the cost-reimbursement agreement and fully coordinated project work plan.

NEW SECTION. **Sec. 5.** A new section is added to chapter 43.42 RCW to read as follows:

The multiagency permitting team account is created in the state treasury. All receipts from solicitations authorized in section 3 of this act must be deposited into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for covering the initial administrative costs of multiagency permitting teams and such other costs associated with the teams as may arise that are not recoverable through cost-reimbursement or cost-sharing mechanisms.

Sec. 6. RCW 43.84.092 and 2009 c 479 s 31, 2009 c 472 s 5, and 2009 c 451 s 8 are each reenacted and amended to read as follows:

(1) All earnings of investments of surplus balances in the state treasury shall be deposited to the treasury income account, which account is hereby established in the state treasury.

(2) The treasury income account shall be utilized to pay or receive funds associated with federal programs as required by the federal cash management improvement act of 1990. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for refunds or allocations of interest earnings required by the cash management improvement act. Refunds of interest to the federal treasury required under the cash management improvement act fall under RCW 43.88.180 and shall not require appropriation. The office of financial management shall determine the amounts due to or from the federal government pursuant to the cash management improvement act. The office of financial management may direct transfers of funds between accounts as deemed necessary to implement the provisions of the cash management improvement act, and this subsection. Refunds or allocations shall occur prior to the distributions of earnings set forth in subsection (4) of this section.

(3) Except for the provisions of RCW 43.84.160, the treasury income account may be utilized for the payment of purchased banking services on behalf of treasury funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasury and affected state agencies. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4) Monthly, the state treasurer shall distribute the earnings credited to the treasury income account. The state treasurer shall credit the general fund with all the earnings credited to the treasury income account except:

The following accounts and funds shall receive their proportionate share of earnings based upon each account's and fund's average daily balance for the period: The aeronautics account, the aircraft search and rescue account, the budget stabilization account, the capitol building construction account, the Cedar River channel construction and operation account, the Central Washington University capital projects account, the charitable, educational, penal and reformatory institutions account, the cleanup settlement account, the Columbia river basin water supply development account, the common school construction fund, the county arterial preservation account, the county criminal justice assistance account, the county sales and use tax equalization account, the data processing building construction account, the deferred compensation administrative account, the deferred compensation principal account, the

department of licensing services account, the department of retirement systems expense account, the developmental disabilities community trust account, the drinking water assistance account, the drinking water assistance administrative account, the drinking water assistance repayment account, the Eastern Washington University capital projects account, the education construction fund, the education legacy trust account, the election account, the energy freedom account, the energy recovery act account, the essential rail assistance account, The Evergreen State College capital projects account, the federal forest revolving account, the ferry bond retirement fund, the freight congestion relief account, the freight mobility investment account, the freight mobility multimodal account, the grade crossing protective fund, the public health services account, the health system capacity account, the personal health services account, the high capacity transportation account, the state higher education construction account, the higher education construction account, the highway bond retirement fund, the highway infrastructure account, the highway safety account, the high occupancy toll lanes operations account, the industrial insurance premium refund account, the judges' retirement account, the judicial retirement administrative account, the judicial retirement principal account, the local leasehold excise tax account, the local real estate excise tax account, the local sales and use tax account, the medical aid account, the mobile home park relocation fund, the motor vehicle fund, the motorcycle safety education account, the multiagency permitting team account, the multimodal transportation account, the municipal criminal justice assistance account, the municipal sales and use tax equalization account, the natural resources deposit account, the oyster reserve land account, the pension funding stabilization account, the perpetual surveillance and maintenance account, the public employees' retirement system plan 1 account, the public employees' retirement system combined plan 2 and plan 3 account, the public facilities construction loan revolving account beginning July 1, 2004, the public health supplemental account, the public transportation systems account, the public works assistance account, the Puget Sound capital construction account, the Puget Sound ferry operations account, the Puyallup tribal settlement account, the real estate appraiser commission account, the recreational vehicle account, the regional mobility grant program account, the resource management cost account, the rural arterial trust account, the rural Washington loan fund, the site closure account, the small city pavement and sidewalk account, the special category C account, the special wildlife account, the state employees' insurance account, the state employees' insurance reserve account, the state investment board expense account, the state investment board commingled trust fund accounts, the state patrol highway account, the state route number 520 corridor account, the supplemental pension account, the Tacoma Narrows toll bridge account, the teachers' retirement system plan 1 account, the teachers' retirement system combined plan 2 and plan 3 account, the tobacco prevention and control account, the tobacco settlement account, the transportation 2003 account (nickel account), the transportation equipment fund, the transportation fund, the transportation improvement account, the transportation improvement board bond retirement account, the transportation infrastructure account, the transportation partnership account, the traumatic brain injury account, the tuition recovery trust fund, the University of Washington bond retirement fund, the University of Washington

building account, the urban arterial trust account, the volunteer firefighters' and reserve officers' relief and pension principal fund, the volunteer firefighters' and reserve officers' administrative fund, the Washington fruit express account, the Washington judicial retirement system account, the Washington law enforcement officers' and firefighters' system plan 1 retirement account, the Washington law enforcement officers' and firefighters' system plan 2 retirement account, the Washington public safety employees' plan 2 retirement account, the Washington school employees' retirement system combined plan 2 and 3 account, the Washington state health insurance pool account, the Washington state patrol retirement account, the Washington State University building account, the Washington State University bond retirement fund, the water pollution control revolving fund, and the Western Washington University capital projects account. Earnings derived from investing balances of the agricultural permanent fund, the normal school permanent fund, the permanent common school fund, the scientific permanent fund, and the state university permanent fund shall be allocated to their respective beneficiary accounts. All earnings to be distributed under this subsection (4) shall first be reduced by the allocation to the state treasurer's service fund pursuant to RCW 43.08.190.

(5) In conformance with Article II, section 37 of the state Constitution, no treasury accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

Sec. 7. RCW 43.131.402 and 2009 c 421 s 10 are each reenacted and amended to read as follows:

The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective June 30, 2012:

- (1) RCW 43.42.005 and 2009 c 97 s 1, 2007 c 94 s 1, 2003 c 71 s 1, & 2002 c 153 s 1;
- (2) RCW 43.42.010 and 2007 c 231 s 5, 2003 c 71 s 2, & 2002 c 153 § 2;
- (3) RCW 43.42.020 and 2002 c 153 s 3;
- (4) RCW 43.42.030 and 2003 c 71 s 3 & 2002 c 153 s 4;
- (5) RCW 43.42.040 and 2003 c 71 s 4 & 2002 c 153 s 5;
- (6) RCW 43.42.050 and 2002 c 153 s 6;
- (7) RCW 43.42.060 and 2009 c 421 s 8 & 2002 c 153 s 7;
- (8) RCW 43.42.070 and 2009 c 97 s 7, 2007 c 94 s 8, 2003 c 70 s 7, & 2002 c 153 s 8;
- (9) ~~((RCW 43.42.905 and 2002 c 153 s 10;~~
- ~~(40))~~ RCW 43.42.900 and 2002 c 153 s 11; and
- ~~((11))~~ (10) RCW 43.42.901 and 2002 c 153 s 12.

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

Passed by the Senate March 8, 2010.

Passed by the House March 10, 2010.

Approved by the Governor March 22, 2010.

Filed in Office of Secretary of State March 22, 2010.

CHAPTER 163

[Senate Bill 6401]

ELECTRICAL OR MECHANICAL CONTRACTOR SELECTION PROCESS

AN ACT Relating to an alternative process for selecting an electrical contractor or a mechanical contractor, or both, for general contractor/construction manager projects; and adding a new section to chapter 39.10 RCW.

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

NEW SECTION. **Sec. 1.** A new section is added to chapter 39.10 RCW to read as follows:

As an alternative to the subcontractor selection process outlined in RCW 39.10.380, a general contractor/construction manager may, with the approval of the public body, select a mechanical subcontractor, an electrical subcontractor, or both, using the process outlined in this section. This alternative selection process may only be used when the anticipated value of the subcontract will exceed three million dollars. When using the alternative selection process, the general contractor/construction manager should select the subcontractor early in the life of the public works project.

(1) In order to use this alternative selection process, the general contractor/construction manager and the public body must determine that it is in the best interest of the public. In making this determination the general contractor/construction manager and the public body must:

(a) Publish a notice of intent to use this alternative selection process in a legal newspaper published in or as near as possible to that part of the county where the public work will be constructed. Notice must be published at least fourteen calendar days before conducting a public hearing. The notice must include the date, time, and location of the hearing; a statement justifying the basis and need for the alternative selection process; and how interested parties may, prior to the hearing, obtain the evaluation criteria and applicable weight given to each criteria that will be used for evaluation;

(b) Conduct a hearing and provide an opportunity for any interested party to submit written and verbal comments regarding the justification for using this selection process, the evaluation criteria, and weights for each criteria;

(c) After the public hearing, consider the written and verbal comments received and determine if using this alternative selection process is in the best interests of the public; and

(d) Issue a written final determination to all interested parties. All protests of the decision to use the alternative selection process must be in writing and submitted to the public body within seven calendar days of the final determination. Any modifications to the criteria and weights based on comments received during the public hearing process must be included in the final determination.

(2) Contracts for the services of a subcontractor under this section must be awarded through a competitive process requiring a public solicitation of proposals. Notice of the public solicitation of proposals must be provided to the office of minority and women's business enterprises. The public solicitation of proposals must include:

(a) A description of the project, including programmatic, performance, and technical requirements and specifications when available;

(b) The reasons for using the alternative selection process;

- (c) A description of the minimum qualifications required of the firm;
 - (d) A description of the process used to evaluate qualifications and proposals, including evaluation factors and the relative weight of factors;
 - (e) The form of the contract, including any contract for preconstruction services, to be awarded;
 - (f) The estimated maximum allowable subcontract cost; and
 - (g) The bid instructions to be used by the finalists.
- (3) Evaluation factors for selection of the subcontractor must include, but not be limited to:
- (a) Ability of the firm's professional personnel;
 - (b) The firm's past performance on similar projects;
 - (c) The firm's ability to meet time and budget requirements;
 - (d) The scope of work the firm proposes to perform with its own forces and its ability to perform that work;
 - (e) The firm's plan for outreach to minority and women-owned businesses;
 - (f) The firm's proximity to the project location;
 - (g) The firm's capacity to successfully complete the project;
 - (h) The firm's approach to executing the project;
 - (i) The firm's approach to safety on the project;
 - (j) The firm's safety history; and
 - (k) If the firm is selected as one of the most qualified finalists, the firm's fee and cost proposal.
- (4) The general contractor/construction manager shall establish a committee to evaluate the proposals. At least one representative from the public body shall serve on the committee. Final proposals, including sealed bids for the percent fee on the estimated maximum allowable subcontract cost, and the fixed amount for the subcontract general conditions work specified in the request for proposal, will be requested from the most qualified firms. The general contractor/construction manager and the public body shall select the firm submitting the highest scored final proposal using the evaluation factors and the relative weight of factors identified in the solicitation of proposals. The scoring of the nonprice factors must be made available at the opening of the fee and cost proposals. The general contractor/construction manager may not evaluate or disqualify a proposal based on the terms of a collective bargaining agreement.
- (5) If the general contractor/construction manager is unable to negotiate a satisfactory maximum allowable subcontract cost with the firm selected deemed by public body and the general contractor/construction manager to be fair, reasonable, and within the available funds, negotiations with that firm must be formally terminated and the general contractor/construction manager may negotiate with the next highest scored firm until an agreement is reached or the process is terminated.
- (6) If the general contractor/construction manager receives a written protest from a bidder, it may not execute a contract for the subject work with anyone other than the protesting bidder, without first providing at least two full business days' written notice to all bidders of the intent to execute a contract for the subcontract bid package. The protesting bidder must submit written notice to the general contractor/construction manager of its protest no later than two full business days following the bid opening.

(7) With the approval of the public body, the general contractor/construction manager may contract with the selected firm to provide services during the design phase that may include life-cycle cost design considerations, value engineering, scheduling, cost estimating, constructability, alternative construction options for cost savings, and sequencing of work; and to act as the mechanical or electrical subcontractor during the construction phase.

(8) The maximum allowable subcontract cost must be used to establish a total subcontract cost for purposes of a performance and payment bond. Total subcontract cost means the fixed amount for the detailed specified general conditions work, the negotiated maximum allowable subcontract cost, and the percent fee on the negotiated maximum allowable subcontract cost. Maximum allowable subcontract cost means the maximum cost to complete the work specified for the subcontract, including the estimated cost of work to be performed by the subcontractor's own forces, a percentage for risk contingency, negotiated support services, and approved change orders. The maximum allowable subcontract cost must be negotiated between the general contractor/construction manager and the selected firm when the construction documents and specifications are at least ninety percent complete. Final agreement on the maximum allowable subcontract cost is subject to the approval of the public body.

(9) If the work of the mechanical contractor or electrical contractor is completed for less than the maximum allowable subcontract cost, any savings not otherwise negotiated as part of an incentive clause becomes part of the risk contingency included in the general contractor/construction manager's maximum allowable construction cost. If the work of the mechanical contractor or the electrical contractor is completed for more than the maximum allowable subcontract cost, the additional cost is the responsibility of that subcontractor. An independent audit, paid for by the public body, must be conducted upon completion of the contract to confirm the proper accrual of costs as outlined in the contract.

(10) A mechanical or electrical contractor selected under this section may perform work with its own forces. In the event it elects to subcontract some of its work, it must select a subcontractor utilizing the procedure outlined in RCW 39.10.380.

Passed by the Senate March 9, 2010.

Passed by the House March 4, 2010.

Approved by the Governor March 22, 2010.

Filed in Office of Secretary of State March 22, 2010.

CHAPTER 164

[Engrossed Second Substitute Senate Bill 6609]

LOCAL GOVERNMENTS—INFRASTRUCTURE FINANCING

AN ACT Relating to infrastructure financing for local governments; amending RCW 39.104.020, 39.104.040, 39.104.050, 39.104.060, 39.104.080, 39.104.100, 39.104.110, 82.14.505, 82.14.510, 82.32.765, and 82.14.475; reenacting and amending RCW 39.102.020; and providing an expiration date.

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

Sec. 1. RCW 39.104.020 and 2009 c 270 s 102 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Annual state contribution limit" means two million five hundred thousand dollars statewide per fiscal year ~~((and))~~, plus the additional amounts ~~((designated))~~ approved for demonstration projects in RCW 82.14.505.

(2) "Assessed value" means the valuation of taxable real property as placed on the last completed assessment roll.

(3) "Bond" means a bond, a note or other evidence of indebtedness, including but not limited to a lease-purchase agreement or an executory conditional sales contract.

(4) "Department" means the department of revenue.

~~((4))~~ (5) "Fiscal year" means the twelve-month period beginning July 1st and ending the following June 30th.

~~((5))~~ (6) "Local government" means any city, town, county, and port district.

~~((6))~~ (7) "Local property tax allocation revenue" means those tax revenues derived from the receipt of regular property taxes levied on the property tax allocation revenue value and used for local revitalization financing.

~~((7))~~ (8) "Local revitalization financing" means the use of revenues from local public sources, dedicated to pay the principal and interest on bonds authorized under RCW 39.104.110 and public improvement costs within the revitalization area on a pay-as-you-go basis, and revenues received from the local option sales and use tax authorized in RCW 82.14.510, dedicated to pay the principal and interest on bonds authorized under RCW 39.104.110.

~~((8))~~ (9) "Local sales and use tax increment" means the estimated annual increase in local sales and use taxes as determined by the local government in the calendar years following the approval of the revitalization area by the department from taxable activity within the revitalization area.

~~((9))~~ (10) "Local sales and use taxes" means local revenues derived from the imposition of sales and use taxes authorized in RCW 82.14.030.

~~((10))~~ (11) "Ordinance" means any appropriate method of taking legislative action by a local government.

~~((11))~~ (12) "Participating local government" means a local government having a revitalization area within its geographic boundaries that has taken action as provided in RCW 39.104.070(1) to allow the use of all or some of its local sales and use tax increment or other revenues from local public sources dedicated for local revitalization financing.

~~((12))~~ (13) "Participating taxing district" means a ~~((local government having))~~ taxing district that:

(a) Has a revitalization area wholly or partially within its geographic boundaries ~~((that))~~;

(b) Levies or has levied for it regular property taxes as defined in this section; and

(c) Has not taken action as provided in RCW 39.104.060(2).

~~((13))~~ (14) "Property tax allocation revenue base value" means the assessed value of real property located within a revitalization area, less the property tax allocation revenue value.

~~((14))~~ (15)(a)(i) "Property tax allocation revenue value" means seventy-five percent of any increase in the assessed value of real property in a revitalization area resulting from:

(A) The placement of new construction, improvements to property, or both, on the assessment roll, where the new construction and improvements are initiated after the revitalization area is approved by the department;

(B) The cost of new housing construction, conversion, and rehabilitation improvements, when the cost is treated as new construction for purposes of chapter 84.55 RCW as provided in RCW 84.14.020, and the new housing construction, conversion, and rehabilitation improvements are initiated after the revitalization area is approved by the department;

(C) The cost of rehabilitation of historic property, when the cost is treated as new construction for purposes of chapter 84.55 RCW as provided in RCW 84.26.070, and the rehabilitation is initiated after the revitalization area is approved by the department.

(ii) Increases in the assessed value of real property in a revitalization area resulting from (a)(i)(A) through (C) of this subsection are included in the property tax allocation revenue value in the initial year. These same amounts are also included in the property tax allocation revenue value in subsequent years unless the property becomes exempt from property taxation.

(b) "Property tax allocation revenue value" includes seventy-five percent of any increase in the assessed value of new construction consisting of an entire building in the years following the initial year, unless the building becomes exempt from property taxation.

(c) Except as provided in (b) of this subsection, "property tax allocation revenue value" does not include any increase in the assessed value of real property after the initial year.

(d) There is no property tax allocation revenue value if the assessed value of real property in a revitalization area has not increased as a result of any of the reasons specified in (a)(i)(A) through (C) of this subsection.

(e) For purposes of this subsection, "initial year" means:

(i) For new construction and improvements to property added to the assessment roll, the year during which the new construction and improvements are initially placed on the assessment roll;

(ii) For the cost of new housing construction, conversion, and rehabilitation improvements, when the cost is treated as new construction for purposes of chapter 84.55 RCW, the year when the cost is treated as new construction for purposes of levying taxes for collection in the following year; and

(iii) For the cost of rehabilitation of historic property, when the cost is treated as new construction for purposes of chapter 84.55 RCW, the year when such cost is treated as new construction for purposes of levying taxes for collection in the following year.

~~((15))~~ (16) "Public improvement costs" means the costs of:

(a) Design, planning, acquisition, including land acquisition, site preparation including land clearing, construction, reconstruction, rehabilitation, improvement, and installation of public improvements;

(b) Demolishing, relocating, maintaining, and operating property pending construction of public improvements;

(c) Relocating utilities as a result of public improvements;

(d) Financing public improvements, including interest during construction, legal and other professional services, taxes, insurance, principal and interest costs on general indebtedness issued to finance public improvements, and any necessary reserves for general indebtedness; and

(e) Administrative expenses and feasibility studies reasonably necessary and related to these costs, including related costs that may have been incurred before adoption of the ordinance authorizing the public improvements and the use of local revitalization financing to fund the costs of the public improvements.

~~((16))~~ (17) "Public improvements" means:

(a) Infrastructure improvements within the revitalization area that include:

- (i) Street, road, bridge, and rail construction and maintenance;
- (ii) Water and sewer system construction and improvements;
- (iii) Sidewalks, streetlights, landscaping, and streetscaping;
- (iv) Parking, terminal, and dock facilities;
- (v) Park and ride facilities of a transit authority;
- (vi) Park facilities, recreational areas, and environmental remediation;
- (vii) Storm water and drainage management systems;
- (viii) Electric, gas, fiber, and other utility infrastructures; and

(b) Expenditures for any of the following purposes:

(i) Providing environmental analysis, professional management, planning, and promotion within the revitalization area, including the management and promotion of retail trade activities in the revitalization area;

(ii) Providing maintenance and security for common or public areas in the revitalization area; or

(iii) Historic preservation activities authorized under RCW 35.21.395.

~~((17))~~ (18) "Real property" has the same meaning as in RCW 84.04.090 and also includes any privately owned improvements located on publicly owned land that are subject to property taxation.

~~((18))~~ (19)(a) "Regular property taxes" means regular property taxes as defined in RCW 84.04.140, except: ~~((a))~~ (i) Regular property taxes levied by public utility districts specifically for the purpose of making required payments of principal and interest on general indebtedness; ~~((b))~~ (ii) regular property taxes levied by the state for the support of common schools under RCW 84.52.065; and ~~((c))~~ (iii) regular property taxes authorized by RCW 84.55.050 that are limited to a specific purpose.

(b) "Regular property taxes" do not include:

(i) Excess property tax levies that are exempt from the aggregate limits for junior and senior taxing districts as provided in RCW 84.52.043; and

(ii) Property taxes that are specifically excluded through an interlocal agreement between the sponsoring local government and a participating taxing district as set forth in RCW 39.104.060(3).

~~((19))~~ (20)(a) "Revenues from local public sources" means:

(i) The local sales and use tax amounts received as a result of interlocal agreement, local sales and use tax amounts from sponsoring local governments based on its local sales and use tax increment, and local property tax allocation revenues, which are dedicated by a sponsoring local government, participating local governments, and participating taxing districts, for payment of bonds under

RCW 39.104.110 or public improvement costs within the revitalization area on a pay-as-you-go basis; and

(ii) Any other local revenues, except as provided in (b) of this subsection, including revenues derived from federal and private sources and amounts received by taxing districts as set forth by an interlocal agreement as described in RCW 39.104.060(4), which are dedicated for the payment of bonds under RCW 39.104.110 or public improvement costs within the revitalization area on a pay-as-you-go basis.

(b) Revenues from local public sources do not include any local funds derived from state grants, state loans, or any other state moneys including any local sales and use taxes credited against the state sales and use taxes imposed under chapter 82.08 or 82.12 RCW.

~~((20))~~ (21) "Revitalization area" means the geographic area adopted by a sponsoring local government and approved by the department, from which local sales and use tax increments are estimated and property tax allocation revenues are derived for local revitalization financing.

~~((21))~~ (22) "Sponsoring local government" means a city, town, county, or any combination thereof, that adopts a revitalization area.

~~((22))~~ (23) "State contribution" means the lesser of:

(a) Five hundred thousand dollars;

(b) The project award amount approved by the department as provided in RCW 39.104.100 or 82.14.505; or

(c) The total amount of revenues from local public sources dedicated in the preceding calendar year to the payment of principal and interest on bonds issued under RCW 39.104.110 and public improvement costs within the revitalization area on a pay-as-you-go basis. Revenues from local public sources dedicated in the preceding calendar year that are in excess of the project award may be carried forward and used in later years for the purpose of this subsection ~~((22))~~ (23)(c).

~~((23))~~ (24) "State property tax increment" means the estimated amount of annual tax revenues estimated to be received by the state from the imposition of property taxes levied by the state for the support of common schools under RCW 84.52.065 on the property tax allocation revenue value, as determined by the sponsoring local government in an application under RCW 39.104.100 and updated periodically as required in RCW 82.32.765.

~~((24))~~ (25) "State sales and use tax increment" means the estimated amount of annual increase in state sales and use taxes to be received by the state from taxable activity within the revitalization area in the years following the approval of the revitalization area by the department as determined by the sponsoring local government in an application under RCW 39.104.100 and updated periodically as required in RCW 82.32.765.

~~((25))~~ (26) "State sales and use taxes" means state retail sales and use taxes under RCW 82.08.020(1) and 82.12.020 at the rate provided in RCW 82.08.020(1), less the amount of tax distributions from all local retail sales and use taxes, other than the local sales and use taxes authorized by RCW 82.14.510 for the applicable revitalization area, imposed on the same taxable events that are credited against the state retail sales and use taxes under RCW 82.08.020(1) and 82.12.020.

~~((26))~~ (27) "Taxing district" means a government entity that levies or has levied for it regular property taxes upon real property located within a proposed or approved revitalization area.

Sec. 2. RCW 39.104.040 and 2009 c 270 s 104 are each amended to read as follows:

(1) Before adopting an ordinance creating the revitalization area, a sponsoring local government must:

(a) Provide notice to all taxing districts that levy or have levied for it regular property taxes and local governments with geographic boundaries within the proposed revitalization area of the sponsoring local government's intent to create a revitalization area. Notice must be provided in writing to the governing body of the taxing districts and local governments at least ~~((thirty))~~ sixty days in advance of the public hearing as required by (b) of this subsection. The notice must include at least the following information:

- (i) The name of the proposed revitalization area;
- (ii) The date for the public hearing as required by (b) of this subsection;
- (iii) The earliest anticipated date when the sponsoring local government will take action to adopt the proposed revitalization area; and
- (iv) The name of a contact person with phone number of the sponsoring local government and mailing address where a copy of an ordinance adopted under RCW 39.104.050 and 39.104.060 may be sent; and

(b) Hold a public hearing on the proposed financing of the public improvements in whole or in part with local revitalization financing. Notice of the public hearing must be published in a legal newspaper of general circulation within the proposed revitalization area at least ten days before the public hearing and posted in at least six conspicuous public places located in the proposed revitalization area. Notices must describe the contemplated public improvements, estimate the costs of the public improvements, describe the portion of the costs of the public improvements to be borne by local revitalization financing, describe any other sources of revenue to finance the public improvements, describe the boundaries of the proposed revitalization area, and estimate the period during which local revitalization financing is contemplated to be used. The public hearing may be held by either the governing body of the sponsoring local government, or a committee of the governing body that includes at least a majority of the whole governing body.

(2) To create a revitalization area, a sponsoring local government must adopt an ordinance establishing the revitalization area that:

(a) Describes the public improvements proposed to be made in the revitalization area;

(b) Describes the boundaries of the revitalization area, subject to the limitations in RCW 39.104.050;

(c) Estimates the cost of the proposed public improvements and the portion of these costs to be financed by local revitalization financing;

(d) Estimates the time during which local property tax allocation revenues, and other revenues from local public sources, such as amounts of local sales and use taxes from participating local governments, are to be used for local revitalization financing;

(e) Provides the date when the use of local property tax allocation revenues will commence and a list of the participating taxing districts ~~((that have not~~

~~adopted an ordinance as described in RCW 39.104.060 to be removed as a participating taxing district)) and the regular property taxes that must be used to calculate property tax allocation revenues;~~

(f) Finds that all of the requirements in RCW 39.104.030 are met;

(g) Provides the anticipated rate of sales and use tax under RCW 82.14.510 that the local government will impose if awarded a state contribution under RCW 39.104.100;

(h) Provides the anticipated date when the criteria for the sales and use tax in RCW 82.14.510 will be met and the anticipated date when the sales and use tax in RCW 82.14.510 will be imposed.

(3) The sponsoring local government must deliver a certified copy of the adopted ordinance to the county treasurer, county assessor, the governing body of each participating taxing authority and participating taxing district within which the revitalization area is located, and the department.

Sec. 3. RCW 39.104.050 and 2009 c 270 s 105 are each amended to read as follows:

The designation of a revitalization area is subject to the following limitations:

(1)(a) Except as provided in (b) of this subsection, no revitalization area may have within its geographic boundaries any part of a hospital benefit zone under chapter 39.100 RCW, any part of a revenue development area created under chapter 39.102 RCW, any part of an increment area under chapter 39.89 RCW, or any part of another revitalization area under this chapter;

(b) A revitalization area's boundaries may include all or a portion of an existing increment area if:

(i) The state of Washington has loaned money for environmental cleanup on such area in order to stimulate redevelopment of brownfields;

(ii) The environmental cleanup, for which the state's loans were intended, has been completed; and

(iii) The sponsoring local government determines the creation of the revitalization area is necessary for redevelopment and protecting the state's investment by increasing property tax revenue;

(2) A revitalization area is limited to contiguous tracts, lots, pieces, or parcels of land without the creation of islands of property not included in the revitalization area;

(3) The boundaries may not be drawn to purposely exclude parcels where economic growth is unlikely to occur;

(4) The public improvements financed through bonds issued under RCW 39.104.110 must be located in the revitalization area;

(5) A revitalization area cannot comprise an area containing more than twenty-five percent of the total assessed value of the taxable real property within the boundaries of the sponsoring local government at the time the revitalization area is created;

(6) The boundaries of the revitalization area may not be changed for the time period that local property tax allocation revenues, local sales and use taxes of participating local governments, and the local sales and use tax under RCW 82.14.510 are used to pay bonds issued under RCW 39.104.110 and public improvement costs within the revitalization area on a pay-as-you-go basis, as provided under this chapter; and

(7) A revitalization area must be geographically restricted to the location of the public improvement and adjacent locations that the sponsoring local government finds to have a high likelihood of receiving direct positive business and economic impacts due to the public improvement, such as a neighborhood or a block.

Sec. 4. RCW 39.104.060 and 2009 c 270 s 106 are each amended to read as follows:

(1) Participating taxing districts must allow the use of all of their local property tax allocation revenues for local revitalization financing.

(2)(a) If a taxing district does not want to allow the use of its property tax revenues for the local revitalization financing of public improvements in a revitalization area, its governing body must adopt an ordinance to remove itself as a participating taxing district and must notify the sponsoring local government.

(b) The taxing district must provide a copy of the adopted ordinance and notice to the sponsoring local government creating the revitalization area before the anticipated date that the sponsoring local government proposes to adopt the ordinance creating the revitalization area as provided in the notice required by RCW 39.104.040(1)(a).

(3) If a taxing district wants to become a participating taxing district by allowing one or more but not all of its regular property tax levies to be used for the calculation of local property tax allocation revenues, it may do so through an interlocal agreement specifying the regular property taxes that will be used for calculating its local property tax allocation revenues. This subsection does not authorize a taxing district to allow the use of only part of one or more of its regular property tax levies by the sponsoring local government.

(4) If a taxing district wants to participate on a partial basis by providing a specified amount of money to a sponsoring local government to be used for local revitalization financing for a specified amount of time, it may do so through an interlocal agreement. However, the taxing district must adopt an ordinance as described in subsection (2) of this section to remove itself as a participating taxing district for purposes of calculating property tax allocation revenues and instead partially participate through an interlocal agreement outlining the specifics of its participation.

Sec. 5. RCW 39.104.080 and 2009 c 270 s 201 are each amended to read as follows:

(1) Commencing in the second calendar year following the creation of a revitalization area by a sponsoring local government, the county treasurer (~~shall~~) must distribute receipts from regular taxes imposed on real property located in the revitalization area as follows:

(a) Each participating taxing district and the sponsoring local government must receive that portion of its regular property taxes produced by the rate of tax levied by or for the taxing district on the property tax allocation revenue base value for that local revitalization financing project in the taxing district; and

(b) The sponsoring local government must receive an additional portion of the regular property taxes levied by it and by or for each participating taxing district upon the property tax allocation revenue value within the revitalization area. However, if there is no property tax allocation revenue value, the

sponsoring local government may not receive any additional regular property taxes under this subsection (1)(b). The sponsoring local government may agree to receive less than the full amount of the additional portion of regular property taxes under this subsection (1)(b) as long as bond debt service, reserve, and other bond covenant requirements are satisfied, in which case the balance of these tax receipts shall be allocated to the participating taxing districts that levied regular property taxes, or have regular property taxes levied for them, in the revitalization area for collection that year in proportion to their regular tax levy rates for collection that year. The sponsoring local government may request that the treasurer transfer this additional portion of the property taxes to its designated agent. The portion of the tax receipts distributed to the sponsoring local government or its agent under this subsection (1)(b) may only be expended to finance public improvement costs associated with the public improvements financed in whole or in part by local revitalization financing.

(2) The county assessor (~~shall~~) must determine the property tax allocation revenue value and property tax allocation revenue base value. This section does not authorize revaluations of real property by the assessor for property taxation that are not made in accordance with the assessor's revaluation plan under chapter 84.41 RCW or under other authorized revaluation procedures.

(3) The distribution of local property tax allocation revenue to the sponsoring local government must cease when local property tax allocation revenues are no longer obligated to pay the costs of the public improvements. Any excess local property tax allocation revenues, and earnings on the revenues, remaining at the time the distribution of local property tax allocation revenue terminates, must be returned to the county treasurer and distributed to the participating taxing districts that imposed regular property taxes, or had regular property taxes imposed for it, in the revitalization area for collection that year, in proportion to the rates of their regular property tax levies for collection that year.

(4) The allocation to the revitalization area of that portion of the sponsoring local government's and each participating taxing district's regular property taxes levied upon the property tax allocation revenue value within that revitalization area is declared to be a public purpose of and benefit to the sponsoring local government and each participating taxing district.

(5) The distribution of local property tax allocation revenues under this section may not affect or be deemed to affect the rate of taxes levied by or within any sponsoring local government and participating taxing district or the consistency of any such levies with the uniformity requirement of Article VII, section 1 of the state Constitution.

(6) This section does not apply to a revitalization area that has boundaries that include all or a portion of the boundaries of an increment area created under chapter 39.89 RCW.

Sec. 6. RCW 39.104.100 and 2009 c 270 s 401 are each amended to read as follows:

(1) Prior to applying to the department to receive a state contribution, a sponsoring local government shall adopt a revitalization area within the limitations in RCW 39.104.050 and in accordance with RCW 39.104.040.

(2)(a) As a condition to imposing a sales and use tax under RCW 82.14.510, a sponsoring local government must apply to the department and be approved

for a project award amount. The application must be in a form and manner prescribed by the department and include, but not be limited to:

~~((a))~~ (i) Information establishing that over the period of time that the local sales and use tax will be imposed under RCW 82.14.510, increases in state and local property, sales, and use tax revenues as a result of public improvements in the revitalization area will be equal to or greater than the respective state and local contributions made under this chapter;

~~((b))~~ (ii) Information demonstrating that the sponsoring local government will meet the requirements necessary to receive the full amount of state contribution it is requesting on an annual basis;

~~((c))~~ (iii) The amount of state contribution it is requesting;

~~((d))~~ (iv) The anticipated effective date for imposing the tax under RCW 82.14.510;

~~((e))~~ (v) The estimated number of years that the tax will be imposed;

~~((f))~~ (vi) The anticipated rate of tax to be imposed under RCW 82.14.510, subject to the rate-setting conditions in RCW 82.14.510(3), should the sponsoring local government be approved for a project award; and

~~((g))~~ (vii) The anticipated date when bonds under RCW 39.104.110 will be issued.

(b) The department ~~((shall))~~ must make available electronic forms to be used for this purpose. As part of the application, each applicant must provide to the department a copy of the adopted ordinance creating the revitalization area as required in RCW 39.104.040, copies of any adopted interlocal agreements from participating local governments, and any notices from taxing districts that elect not to be a participating taxing district.

(3)(a) Project awards must be determined on:

(i) A first-come basis for applications completed in their entirety and submitted electronically;

(ii) The availability of a state contribution;

(iii) Whether the sponsoring local government would be able to generate enough tax revenue under RCW 82.14.510 to generate the amount of project award requested.

(b) The total of all project awards may not exceed the annual state contribution limit.

(c) If the level of available state contribution is less than the amount requested by the next available applicant, the applicant must be given the first opportunity to accept the lesser amount of state contribution but only if the applicant produces a new application within sixty days of being notified by the department and the application describes the impact on the proposed project as a result of the lesser award in addition to new application information outlined in subsection (2) of this section.

(d) Applications that are not approved for a project award due to lack of available state contribution must be retained on file by the department in order of the date of their receipt.

(e) Once total project awards reach the amount of annual state contribution limit, no more applications will be accepted.

(f) If the annual contribution limit is increased by making additional funds available for applicants that apply on a first-come basis, applications will be accepted again beginning sixty days after the effective date of the increase.

However, in the time period before any new applications are accepted, all sponsoring local governments with a complete application already on file with the department must be provided an opportunity to either withdraw their application or update the information in the application. The updated application must be for a project that is substantially the same as the project in the original application. The department must consider these applications, in the order originally submitted, for project awards prior to considering any new applications.

(4) The department (~~shall~~) must notify the sponsoring local government of approval or denial of a project award within sixty days of the department's receipt of the sponsoring local government's application. Determination of a project award by the department is final. Notification must include the earliest date when the tax authorized under RCW 82.14.510 may be imposed, subject to conditions in chapter 82.14 RCW. The project award notification must specify the rate requested in the application and any adjustments to the rate that would need to be made based on the project award and rate restrictions in RCW 82.14.510.

(5) The department must begin accepting applications on September 1, 2009.

Sec. 7. RCW 39.104.110 and 2009 c 270 s 701 are each amended to read as follows:

(1) A sponsoring local government creating a revitalization area and authorizing the use of local revitalization financing may incur general indebtedness, (~~and issue~~) including issuing general obligation bonds, to finance the public improvements and retire the indebtedness in whole or in part from local revitalization financing it receives, subject to the following requirements:

(a)(i) The ordinance adopted by the sponsoring local government creating the revitalization area and authorizing the use of local revitalization financing indicates an intent to incur this indebtedness and the maximum amount of this indebtedness that is contemplated; and

(~~(b)~~) (ii) The sponsoring local government includes this statement of (~~the~~) intent in all notices required by RCW 39.104.040; or

(b) The sponsoring local government adopts a resolution, after opportunity for public comment, that indicates an intent to incur this indebtedness and the maximum amount of this indebtedness that is contemplated.

(2) The general indebtedness incurred under subsection (1) of this section may be payable from other tax revenues, the full faith and credit of the sponsoring local government, and nontax income, revenues, fees, and rents from the public improvements, as well as contributions, grants, and nontax money available to the local government for payment of costs of the public improvements or associated debt service on the general indebtedness.

(3) In addition to the requirements in subsection (1) of this section, a sponsoring local government creating a revitalization area and authorizing the use of local revitalization financing may require any nonpublic participants to provide adequate security to protect the public investment in the public improvement within the revitalization area.

(4) Bonds issued under this section must be authorized by ordinance of the sponsoring local government and may be issued in one or more series and must bear a date or dates, be payable upon demand or mature at a time or times, bear

interest at a rate or rates, be in a denomination or denominations, be in a form either coupon or registered as provided in RCW 39.46.030, carry conversion or registration privileges, have a rank or priority, be executed in a manner, be payable in a medium of payment, at a place or places, and be subject to terms of redemption with or without premium, be secured in a manner, and have other characteristics, as may be provided by an ordinance or trust indenture or mortgage issued pursuant thereto.

(5) The sponsoring local government may:

(a) Annually pay into a special fund to be established for the benefit of bonds issued under this section a fixed proportion or a fixed amount of any local property tax allocation revenues derived from property within the revitalization area containing the public improvements funded by the bonds, the payment to continue until all bonds payable from the fund are paid in full (~~the local government may also~~);

(b) Annually pay into the special fund established ~~((it))~~ pursuant to this section a fixed proportion or a fixed amount of any revenues derived from taxes imposed under RCW 82.14.510, such payment to continue until all bonds payable from the fund are paid in full. Revenues derived from taxes imposed under RCW 82.14.510 are subject to the use restriction in RCW 82.14.515; and

(c) Issue revenue bonds payable from any or all revenues deposited in the special fund established pursuant to this section.

(6) In case any of the public officials of the sponsoring local government whose signatures appear on any bonds or any coupons issued under this chapter cease to be the officials before the delivery of the bonds, the signatures must, nevertheless, be valid and sufficient for all purposes, the same as if the officials had remained in office until the delivery. Any provision of any law to the contrary notwithstanding, any bonds issued under this chapter are fully negotiable.

(7) Notwithstanding subsections (4) through (6) of this section, bonds issued under this section may be issued and sold in accordance with chapter 39.46 RCW.

Sec. 8. RCW 82.14.505 and 2009 c 270 s 402 are each amended to read as follows:

(1) Demonstration projects are designated to determine the feasibility of local revitalization financing. For the purpose of this section, "annual state contribution limit" means ~~((two million two hundred fifty))~~ four million two hundred thousand dollars statewide per fiscal year.

(a) Notwithstanding RCW 39.104.100, the department ~~((shall))~~ must approve each demonstration project ~~for 2009~~ as follows:

~~((a))~~ (i) The Whitman county Pullman/Moscow corridor improvement project award ~~((shall))~~ may not exceed two hundred thousand dollars;

~~((b))~~ (ii) The University Place improvement project award ~~((shall))~~ may not exceed five hundred thousand dollars;

~~((c))~~ (iii) The Tacoma international financial services area/Tacoma dome project award ~~((shall))~~ may not exceed five hundred thousand dollars;

~~((d))~~ (iv) The Bremerton downtown improvement project award ~~((shall))~~ may not exceed three hundred thirty thousand dollars;

~~((e))~~ (v) The Auburn downtown redevelopment project award ~~((shall))~~ may not exceed two hundred fifty thousand dollars;

~~((#))~~ (vi) The Vancouver Columbia waterfront/downtown project award ~~((shall))~~ may not exceed two hundred twenty thousand dollars; and

~~((g))~~ (vii) The Spokane University District project award ~~((shall))~~ may not exceed two hundred fifty thousand dollars.

(b) Notwithstanding RCW 39.104.100, the department must approve each demonstration project for 2010 meeting the requirements in subsection (2)(c) of this section as follows:

(i) The Richland revitalization area for industry, science and education project award may not exceed three hundred thirty thousand dollars;

(ii) The Lacey gateway town center project award may not exceed five hundred thousand dollars;

(iii) The Mill Creek east gateway planned urban village revitalization area project award may not exceed three hundred thirty thousand dollars;

(iv) The Puyallup river road revitalization area project award may not exceed two hundred fifty thousand dollars;

(v) The Renton south Lake Washington project award may not exceed five hundred thousand dollars; and

(vi) The New Castle downtown project may not exceed forty thousand dollars.

(2)(a) Local government sponsors of demonstration projects under subsection (1)(a) of this section must submit to the department no later than September 1, 2009, documentation that substantiates that the project has met the conditions, limitations, and requirements provided in chapter 270, Laws of 2009.

(b) Sponsoring local government of demonstration projects under subsection (1)(b) of this section must update and resubmit to the department no later than September 1, 2010, the application already on file with the department to substantiate that the project has met the conditions, limitations, and requirements provided in chapter 270, Laws of 2009 and this act and the project is substantially the same as the project in the original application submitted to the department in 2009.

(c) The department must not approve any resubmitted application unless an economic analysis by a qualified researcher at the department of economics at the University of Washington confirms that there is an eighty-five percent probability that the application's assumptions and estimates of jobs created and increased tax receipts will be achieved by the project and determines that net state tax revenue will increase as a result of the project by an amount that equals or exceeds the award authorized in subsection (1)(b) of this section. Prior to submitting the economic analysis to the department, the qualified researcher must consult with the economic development commission established in chapter 43.162 RCW regarding his or her preliminary findings. The final economic analysis must include comments and recommendations of the economic development commission.

(3) Within ~~((sixty))~~ ninety days of such submittal, the economic analysis in subsection (2)(c) of this section must be completed and the department ~~((shall))~~ must either approve demonstration projects that have met these conditions, limitations, and requirements or deny resubmitted applications that have not met these conditions, limitations, and requirements.

(4) Local government sponsors of demonstration projects may elect to decline the project awards as designated in this section, and may elect instead to submit applications according to the process described in RCW 39.104.100.

(5) If a demonstration project listed in subsection (1)(b) of this section does not update and resubmit its application to the department by the deadline specified in subsection (2)(b) of this section or if the demonstration project withdraws its application, the associated dollar amounts may not be approved for another project and may not be considered part of the annual state contribution limit under RCW 39.104.020(1).

Sec. 9. RCW 82.14.510 and 2009 c 270 s 601 are each amended to read as follows:

(1) Any city or county that has been approved for a project award under RCW 39.104.100 may impose a sales and use tax under the authority of this section in accordance with the terms of this chapter. Except as provided in this section, the tax is in addition to other taxes authorized by law and must be collected from those persons who are taxable by the state under chapters 82.08 and 82.12 RCW upon the occurrence of any taxable event within the taxing jurisdiction of the city or county.

(2) The tax authorized under subsection (1) of this section is credited against the state taxes imposed under RCW 82.08.020(1) and 82.12.020 at the rate provided in RCW 82.08.020(1). The department must perform the collection of such taxes on behalf of the city or county at no cost to the city or county. The taxes must be distributed to cities and counties as provided in RCW 82.14.060.

(3) The rate of tax imposed by a city or county may not exceed the lesser of:

(a) The rate provided in RCW 82.08.020(1), less:

(i) The aggregate rates of all other local sales and use taxes imposed by any taxing authority on the same taxable events;

(ii) The aggregate rates of all taxes under RCW 82.14.465 and 82.14.475 and this section that are authorized but have not yet been imposed on the same taxable events by a city or county that has been approved to receive a state contribution by the department or the community economic revitalization board under chapter 39.104, 39.100, or 39.102 RCW; and

(iii) The percentage amount of distributions required under RCW 82.08.020(5) multiplied by the rate of state taxes imposed under RCW 82.08.020(1); and

(b) The rate, as determined by the city or county in consultation with the department, reasonably necessary to receive the project award under RCW 39.104.100 over ten months.

(4) The department, upon request, must assist a city or county in establishing its tax rate in accordance with subsection (3) of this section. Once the rate of tax is selected through the application process and approved under RCW 39.104.100, it may not be increased.

(5)(a) Except as provided in (c) of this subsection, no tax may be imposed under the authority of this section before:

(i) July 1, 2011;

(ii) July 1st of the second calendar year following the year in which the department approved the application made under RCW 39.104.100;

(iii) The state sales and use tax increment and state property tax increment for the preceding calendar year equal or exceed the amount of the project award approved by the department under RCW 39.104.100; and

(iv) Bonds have been issued according to RCW 39.104.110.

(b) The tax imposed under this section expires the earlier of the date that the bonds issued under the authority of RCW 39.104.110 are retired or twenty-five years after the tax is first imposed.

(c) For a demonstration project described in RCW 82.14.505(1)(a), no tax may be imposed under the authority of this section before:

(i) July 1, 2010; and

(ii) Bonds have been issued according to RCW 39.104.110.

(6) An ordinance or resolution adopted by the legislative authority of the city or county imposing a tax under this section must provide that:

(a) The tax will first be imposed on the first day of a fiscal year;

(b) The cumulative amount of tax received by the city or county, in any fiscal year, may not exceed the amount approved by the department under subsection (10) of this section;

(c) The department must cease distributing the tax for the remainder of any fiscal year in which either:

(i) The amount of tax received by the city or county equals the amount of distributions approved by the department for the fiscal year under subsection (10) of this section; or

(ii) The amount of revenue distributed to all sponsoring and cosponsoring local governments from taxes imposed under this section (~~((by all cities and counties))~~) equals the annual state contribution limit;

(d) The tax will be distributed again, should it cease to be distributed for any of the reasons provided in (c) of this subsection, at the beginning of the next fiscal year, subject to the restrictions in this section; and

(e) The state is entitled to any revenue generated by the tax in excess of the amounts specified in (c) of this subsection.

(7) If a city or county receives approval for more than one revitalization area within its jurisdiction, the city or county may impose a sales and use tax under this section for each revitalization area.

(8) The department must determine the amount of tax receipts distributed to each city and county imposing a sales and use tax under the authority of this section and must advise a city or county when tax distributions for the fiscal year equal the amount determined by the department in subsection (10) of this section. Determinations by the department of the amount of tax distributions attributable to a city or county are not appealable. The department must remit any tax receipts in excess of the amounts specified in subsection (6)(c) of this section to the state treasurer who must deposit the money in the general fund.

(9) If a city or county fails to comply with RCW 82.32.765, no tax may be distributed in the subsequent fiscal year until such time as the city or county complies and the department calculates the state contribution amount according to subsection (10) of this section for the fiscal year.

(10)(a) For each fiscal year that a city or county imposes the tax under the authority of this section, the department must approve the amount of taxes that may be distributed to the city or county. The amount approved by the department under this subsection is the lesser of:

(i) The state contribution;

(ii) The amount of project award granted by the department as provided in RCW 39.104.100; or

(iii) The total amount of revenues from local public sources dedicated or, in the case of carry forward revenues, deemed dedicated in the preceding calendar year, as reported in the required annual report under RCW 82.32.765.

(b) A city or county may not receive, in any fiscal year, more revenues from taxes imposed under the authority of this section than the amount approved annually by the department.

(11) The amount of tax distributions received from taxes imposed under the authority of this section by all cities and counties is limited annually to not more than the amount of annual state contribution limit.

(12) The definitions in RCW 39.104.020 apply to this section subject to subsection (13) of this section and unless the context clearly requires otherwise.

(13) For purposes of this section, the following definitions apply:

(a) "Local sales and use taxes" means sales and use taxes imposed by cities, counties, public facilities districts, and other local governments under the authority of this chapter, chapter 67.28 or 67.40 RCW, or any other chapter, and that are credited against the state sales and use taxes.

(b) "State sales and use taxes" means the taxes imposed in RCW 82.08.020(1) and 82.12.020.

Sec. 10. RCW 82.32.765 and 2009 c 270 s 501 are each amended to read as follows:

(1) A sponsoring local government receiving a project award under RCW 39.104.100 must provide a report to the department by March 1st of each year beginning March 1st after the project award has been approved. The report must contain the following information:

(a) The amounts of local property tax allocation revenues received in the preceding calendar year broken down by sponsoring local government and participating taxing district;

(b) The amount of state property tax allocation revenues estimated to have been received by the state in the preceding calendar year;

(c) The amount of local sales and use tax and other revenue from local public sources dedicated by any participating local government used for the payment of bonds under RCW 39.104.110 and public improvement costs within the revitalization area on a pay-as-you-go basis in the preceding calendar year;

(d) The amount of local sales and use tax dedicated by the sponsoring local government, as it relates to the sponsoring local government's local sales and use tax increment, used for the payment of bonds under RCW 39.104.110 and public improvement costs within the revitalization area on a pay-as-you-go basis;

(e) The amounts, other than those listed in (a) through (d) of this subsection, from local public sources, broken down by type or source, used for payment of bonds under RCW 39.104.110 or public improvement costs within the revitalization area on a pay-as-you-go basis in the preceding calendar year;

(f) The anticipated date when bonds under RCW 39.104.110 are expected to be retired;

(g) The names of any businesses locating within the revitalization area as a result of the public improvements undertaken by the sponsoring local government and financed in whole or in part with local revitalization financing;

(h) An estimate of the cumulative number of permanent jobs created in the revitalization area as a result of the public improvements undertaken by the sponsoring local government and financed in whole or in part with local revitalization financing;

(i) An estimate of the average wages and benefits received by all employees of businesses locating within the revitalization area as a result of the public improvements undertaken by the sponsoring local government and financed in whole or in part with local revitalization financing;

(j) A list of public improvements financed by bonds issued under RCW 39.104.110 and the date on which the bonds are anticipated to be retired;

(k) That the sponsoring local government is in compliance with RCW 39.104.030;

(l) At least once every three years, updated estimates of the amounts of state and local sales and use tax increments estimated to have been received since the approval by the department of the project award under RCW 39.104.100; ~~(and)~~

(m) The amount of revenues from local public sources that (i) were expended in prior years for the payment of bonds under RCW 39.104.110 and public improvement costs within the revitalization area on a pay-as-you-go basis in prior calendar years that were in excess of the project award amount for that year and are carried forward for dedication in future years, (ii) are deemed dedicated to payment of bonds or public improvement costs in the calendar year for which the report is prepared, and (iii) remain available for dedication in future years; and

(n) Any other information required by the department to enable the department to fulfill its duties under this chapter and RCW 82.14.510.

(2) The department ~~((shall))~~ must make a report available to the public and the legislature by June 1st of each year. The report ~~((shall))~~ must include a summary of the information provided to the department by sponsoring local governments under subsection (1) of this section.

Sec. 11. RCW 39.102.020 and 2009 c 267 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) "Annual state contribution limit" means seven million five hundred thousand dollars statewide per fiscal year.

(2) "Assessed value" means the valuation of taxable real property as placed on the last completed assessment roll.

(3) "Board" means the community economic revitalization board under chapter 43.160 RCW.

(4) "Demonstration project" means one of the following projects:

(a) Bellingham waterfront redevelopment project;

(b) Spokane river district project at Liberty Lake; and

(c) Vancouver riverwest project.

(5) "Department" means the department of revenue.

(6) "Fiscal year" means the twelve-month period beginning July 1st and ending the following June 30th.

(7) "Local excise tax allocation revenue" means an amount of local excise taxes equal to some or all of the sponsoring local government's local excise tax increment, amounts of local excise taxes equal to some or all of any participating

local government's excise tax increment as agreed upon in the written agreement under RCW 39.102.080(1), or both, and dedicated to local infrastructure financing.

(8) "Local excise tax increment" means an amount equal to the estimated annual increase in local excise taxes in each calendar year following the approval of the revenue development area by the board from taxable activity within the revenue development area, as set forth in the application provided to the board under RCW 39.102.040, and updated in accordance with RCW 39.102.140(1)(f).

(9) "Local excise taxes" means local revenues derived from the imposition of sales and use taxes authorized in RCW 82.14.030.

(10) "Local government" means any city, town, county, port district, and any federally recognized Indian tribe.

(11) "Local infrastructure financing" means the use of revenues received from local excise tax allocation revenues, local property tax allocation revenues, other revenues from local public sources, and revenues received from the local option sales and use tax authorized in RCW 82.14.475, dedicated to pay either the principal and interest on bonds authorized under RCW 39.102.150 or to pay public improvement costs on a pay-as-you-go basis subject to RCW 39.102.195, or both.

(12) "Local property tax allocation revenue" means those tax revenues derived from the receipt of regular property taxes levied on the property tax allocation revenue value and used for local infrastructure financing.

(13) "Low-income housing" means residential housing for low-income persons or families who lack the means which is necessary to enable them, without financial assistance, to live in decent, safe, and sanitary dwellings, without overcrowding. For the purposes of this subsection, "low income" means income that does not exceed eighty percent of the median family income for the standard metropolitan statistical area in which the revenue development area is located.

(14) "Ordinance" means any appropriate method of taking legislative action by a local government.

(15) "Participating local government" means a local government having a revenue development area within its geographic boundaries that has entered into a written agreement with a sponsoring local government as provided in RCW 39.102.080 to allow the use of all or some of its local excise tax allocation revenues or other revenues from local public sources dedicated for local infrastructure financing.

(16) "Participating taxing district" means a local government having a revenue development area within its geographic boundaries that has entered into a written agreement with a sponsoring local government as provided in RCW 39.102.080 to allow the use of some or all of its local property tax allocation revenues or other revenues from local public sources dedicated for local infrastructure financing.

(17) "Property tax allocation revenue base value" means the assessed value of real property located within a revenue development area less the property tax allocation revenue value.

(18)(a)(i) "Property tax allocation revenue value" means seventy-five percent of any increase in the assessed value of real property in a revenue development area resulting from:

(A) The placement of new construction, improvements to property, or both, on the assessment roll, where the new construction and improvements are initiated after the revenue development area is approved by the board;

(B) The cost of new housing construction, conversion, and rehabilitation improvements, when such cost is treated as new construction for purposes of chapter 84.55 RCW as provided in RCW 84.14.020, and the new housing construction, conversion, and rehabilitation improvements are initiated after the revenue development area is approved by the board;

(C) The cost of rehabilitation of historic property, when such cost is treated as new construction for purposes of chapter 84.55 RCW as provided in RCW 84.26.070, and the rehabilitation is initiated after the revenue development area is approved by the board.

(ii) Increases in the assessed value of real property in a revenue development area resulting from (a)(i)(A) through (C) of this subsection are included in the property tax allocation revenue value in the initial year. These same amounts are also included in the property tax allocation revenue value in subsequent years unless the property becomes exempt from property taxation.

(b) "Property tax allocation revenue value" includes seventy-five percent of any increase in the assessed value of new construction consisting of an entire building in the years following the initial year, unless the building becomes exempt from property taxation.

(c) Except as provided in (b) of this subsection, "property tax allocation revenue value" does not include any increase in the assessed value of real property after the initial year.

(d) There is no property tax allocation revenue value if the assessed value of real property in a revenue development area has not increased as a result of any of the reasons specified in (a)(i)(A) through (C) of this subsection.

(e) For purposes of this subsection, "initial year" means:

(i) For new construction and improvements to property added to the assessment roll, the year during which the new construction and improvements are initially placed on the assessment roll;

(ii) For the cost of new housing construction, conversion, and rehabilitation improvements, when such cost is treated as new construction for purposes of chapter 84.55 RCW, the year when such cost is treated as new construction for purposes of levying taxes for collection in the following year; and

(iii) For the cost of rehabilitation of historic property, when such cost is treated as new construction for purposes of chapter 84.55 RCW, the year when such cost is treated as new construction for purposes of levying taxes for collection in the following year.

(19) "Public improvement costs" means the cost of: (a) Design, planning, acquisition including land acquisition, site preparation including land clearing, construction, reconstruction, rehabilitation, improvement, and installation of public improvements; (b) demolishing, relocating, maintaining, and operating property pending construction of public improvements; (c) the local government's portion of relocating utilities as a result of public improvements; (d) financing public improvements, including interest during construction, legal

and other professional services, taxes, insurance, principal and interest costs on general indebtedness issued to finance public improvements, and any necessary reserves for general indebtedness; (e) assessments incurred in revaluing real property for the purpose of determining the property tax allocation revenue base value that are in excess of costs incurred by the assessor in accordance with the revaluation plan under chapter 84.41 RCW, and the costs of apportioning the taxes and complying with this chapter and other applicable law; (f) administrative expenses and feasibility studies reasonably necessary and related to these costs; and (g) any of the above-described costs that may have been incurred before adoption of the ordinance authorizing the public improvements and the use of local infrastructure financing to fund the costs of the public improvements.

(20) "Public improvements" means:

(a) Infrastructure improvements within the revenue development area that include:

(i) Street, bridge, and road construction and maintenance, including highway interchange construction;

(ii) Water and sewer system construction and improvements, including wastewater reuse facilities;

(iii) Sidewalks, traffic controls, and streetlights;

(iv) Parking, terminal, and dock facilities;

(v) Park and ride facilities of a transit authority;

(vi) Park facilities and recreational areas, including trails; and

(vii) Storm water and drainage management systems;

(b) Expenditures for facilities and improvements that support affordable housing as defined in RCW 43.63A.510.

(21) "Real property" has the same meaning as in RCW 84.04.090 and also includes any privately owned improvements located on publicly owned land that are subject to property taxation.

(22) "Regular property taxes" means regular property taxes as defined in RCW 84.04.140, except: (a) Regular property taxes levied by public utility districts specifically for the purpose of making required payments of principal and interest on general indebtedness; (b) regular property taxes levied by the state for the support of the common schools under RCW 84.52.065; and (c) regular property taxes authorized by RCW 84.55.050 that are limited to a specific purpose. "Regular property taxes" do not include excess property tax levies that are exempt from the aggregate limits for junior and senior taxing districts as provided in RCW 84.52.043.

(23) "Relocating a business" means the closing of a business and the reopening of that business, or the opening of a new business that engages in the same activities as the previous business, in a different location within a one-year period, when an individual or entity has an ownership interest in the business at the time of closure and at the time of opening or reopening. "Relocating a business" does not include the closing and reopening of a business in a new location where the business has been acquired and is under entirely new ownership at the new location, or the closing and reopening of a business in a new location as a result of the exercise of the power of eminent domain.

(24) "Revenue development area" means the geographic area adopted by a sponsoring local government and approved by the board, from which local

excise and property tax allocation revenues are derived for local infrastructure financing.

(25)(a) "Revenues from local public sources" means:

(i) Amounts of local excise tax allocation revenues and local property tax allocation revenues, dedicated by sponsoring local governments, participating local governments, and participating taxing districts, for local infrastructure financing; and

(ii) Any other local revenues, except as provided in (b) of this subsection, including revenues derived from federal and private sources.

(b) Revenues from local public sources do not include any local funds derived from state grants, state loans, or any other state moneys including any local sales and use taxes credited against the state sales and use taxes imposed under chapter 82.08 or 82.12 RCW.

(26) "Small business" has the same meaning as provided in RCW 19.85.020.

(27) "Sponsoring local government" means a city, town, or county, and for the purpose of this chapter a federally recognized Indian tribe or any combination thereof, that adopts a revenue development area and applies to the board to use local infrastructure financing.

(28) "State contribution" means the lesser of:

(a) One million dollars;

(b) The total amount of local excise tax allocation revenues, local property tax allocation revenues, and other revenues from local public sources, that are dedicated by a sponsoring local government, any participating local governments, and participating taxing districts, in the preceding calendar year to the payment of principal and interest on bonds issued under RCW 39.102.150 or to pay public improvement costs on a pay-as-you-go basis subject to RCW 39.102.195, or both; ~~((or))~~

(c) The amount of project award granted by the board in the notice of approval to use local infrastructure financing under RCW 39.102.040; or

(d) The highest amount of state excise tax allocation revenues and state property tax allocation revenues for any one calendar year as determined by the sponsoring local government and reported to the board and the department as required by RCW 39.102.140.

(29) "State excise tax allocation revenue" means an amount equal to the annual increase in state excise taxes estimated to be received by the state in each calendar year following the approval of the revenue development area by the board, from taxable activity within the revenue development area as set forth in the application provided to the board under RCW 39.102.040 and periodically updated and reported as required in RCW 39.102.140(1)(f).

(30) "State excise taxes" means revenues derived from state retail sales and use taxes under RCW 82.08.020(1) and 82.12.020 at the rate provided in RCW 82.08.020(1), less the amount of tax distributions from all local retail sales and use taxes, other than the local sales and use taxes authorized by RCW 82.14.475 for the applicable revenue development area, imposed on the same taxable events that are credited against the state retail sales and use taxes under chapters 82.08 and 82.12 RCW.

(31) "State property tax allocation revenue" means an amount equal to the estimated tax revenues derived from the imposition of property taxes levied by

the state for the support of common schools under RCW 84.52.065 on the property tax allocation revenue value, as set forth in the application submitted to the board under RCW 39.102.040 and updated annually in the report required under RCW 39.102.140(1)(f).

(32) "Taxing district" means a government entity that levies or has levied for it regular property taxes upon real property located within a proposed or approved revenue development area.

Sec. 12. RCW 82.14.475 and 2009 c 267 s 8 are each amended to read as follows:

(1) A sponsoring local government, and any cosponsoring local government, that has been approved by the board to use local infrastructure financing may impose a sales and use tax in accordance with the terms of this chapter and subject to the criteria set forth in this section. Except as provided in this section, the tax is in addition to other taxes authorized by law and ~~((shall be))~~ is collected from those persons who are taxable by the state under chapters 82.08 and 82.12 RCW upon the occurrence of any taxable event within the taxing jurisdiction of the sponsoring local government or cosponsoring local government.

(2) The tax authorized under subsection (1) of this section ~~((shall be))~~ is credited against the state taxes imposed under RCW 82.08.020(1) and 82.12.020 at the rate provided in RCW 82.08.020(1). The department ~~((shall))~~ must perform the collection of such taxes on behalf of the sponsoring local government or cosponsoring local government at no cost to the sponsoring local government or cosponsoring local government and ~~((shall))~~ must remit the taxes as provided in RCW 82.14.060.

(3) The aggregate rate of tax imposed by the sponsoring local government, and any cosponsoring local government, must not exceed the lesser of:

(a) The rate provided in RCW 82.08.020(1) less:

(i) The aggregate rates of all other local sales and use taxes imposed by any taxing authority on the same taxable events;

(ii) The aggregate rates of all taxes under RCW 82.14.465 and this section that are authorized to be imposed on the same taxable events but have not yet been imposed by a sponsoring local government or cosponsoring local government that has been approved by the department or the community economic revitalization board to receive a state contribution under chapter ~~((s chapter))~~ 39.100 or 39.102 RCW; and

(iii) The percentage amount of distributions required under RCW 82.08.020(5) multiplied by the rate of state taxes imposed under RCW 82.08.020(1); and

(b) The rate, as determined by the sponsoring local government, and any cosponsoring local government, in consultation with the department, reasonably necessary to receive the state contribution over ten months.

(4) Sponsoring local governments that have been approved before October 1, 2008, by the community economic revitalization board for a state contribution must select the rate of tax under this section no later than September 1, 2009.

(5) The department, upon request, must assist a sponsoring local government and cosponsoring local government in establishing their tax rate in accordance with subsection (3) of this section. Once the rate of tax is selected, it may not be increased.

(6)(a) No tax may be imposed under the authority of this section:

(i) ~~((Before July 1, 2008;~~

~~(ii)) Before July 1st of the second calendar year following the year approval by the board under RCW 39.102.040 was made; and~~

~~((iii) Before the state excise tax allocation revenues and state property tax allocation revenues for the preceding calendar year equal or exceed the amount of project award approved by the board under RCW 39.102.040))~~

(ii) Until a sponsoring local government reports to the board and the department as required by RCW 39.102.140 that the state has benefited through the receipt of state excise tax allocation revenues or state property tax allocation revenues, or both.

(b) The tax imposed under this section ~~((shall))~~ expires when all indebtedness issued under the authority of RCW 39.102.150 is retired and all other contractual obligations relating to the financing of public improvements under chapter 39.102 RCW are satisfied, but not more than twenty-five years after the tax is first imposed.

(7) An ordinance adopted by the legislative authority of a sponsoring local government or cosponsoring local government imposing a tax under this section ~~((shall))~~ must provide that:

(a) The tax ~~((shall))~~ is first ~~((be))~~ imposed on the first day of a fiscal year;

(b) The cumulative amount of tax received by the sponsoring local government, and any cosponsoring local government, in any fiscal year ~~((shall))~~ may not exceed the amount of the state contribution;

(c) The tax ~~((shall))~~ will cease to be distributed for the remainder of any fiscal year in which either:

(i) The amount of tax received by the sponsoring local government, and any cosponsoring local government, equals the amount of the state contribution;

(ii) The amount of revenue from taxes imposed under this section by all sponsoring and cosponsoring local governments equals the annual state contribution limit; or

(iii) The amount of tax received by the sponsoring local government equals the amount of project award granted in the approval notice described in RCW 39.102.040;

(d) Neither the local excise tax allocation revenues nor the local property tax allocation revenues may constitute more than eighty percent of the total local funds as described in RCW 39.102.020(28)(b). This requirement applies beginning January 1st of the fifth calendar year after the calendar year in which the sponsoring local government begins allocating local excise tax allocation revenues under RCW 39.102.110;

(e) The tax ~~((shall))~~ must be distributed again, should it cease to be distributed for any of the reasons provided in (c) of this subsection, at the beginning of the next fiscal year, subject to the restrictions in this section; and

(f) Any revenue generated by the tax in excess of the amounts specified in (c) of this subsection ~~((shall))~~ belongs to the state of Washington.

(8) If a county and city cosponsor a revenue development area, the combined amount of distributions received by both the city and county may not exceed the state contribution.

(9) The department ~~((shall))~~ must determine the amount of tax receipts distributed to each sponsoring local government, and any cosponsoring local

government, imposing sales and use tax under this section and shall advise a sponsoring or cosponsoring local government when tax distributions for the fiscal year equal the amount of state contribution for that fiscal year as provided in subsection (11) of this section. Determinations by the department of the amount of tax distributions attributable to each sponsoring or cosponsoring local government are final and ~~((shall))~~ may not be used to challenge the validity of any tax imposed under this section. The department ~~((shall))~~ must remit any tax receipts in excess of the amounts specified in subsection (7)(c) of this section to the state treasurer who ~~((shall))~~ must deposit the money in the general fund.

(10) If a sponsoring or cosponsoring local government fails to comply with RCW 39.102.140, no tax may be distributed in the subsequent fiscal year until such time as the sponsoring or cosponsoring local government complies and the department calculates the state contribution amount for such fiscal year.

(11) Each year, the amount of taxes approved by the department for distribution to a sponsoring or cosponsoring local government in the next fiscal year ~~((shall))~~ must be equal to the state contribution and ~~((shall))~~ may be no more than the total local funds as described in RCW 39.102.020(28)(b). The department ~~((shall))~~ must consider information from reports described in RCW 39.102.140 when determining the amount of state contributions for each fiscal year. A sponsoring or cosponsoring local government ~~((shall))~~ may not receive, in any fiscal year, more revenues from taxes imposed under the authority of this section than the amount approved annually by the department. The department ~~((shall))~~ may not approve the receipt of more distributions of sales and use tax under this section to a sponsoring or cosponsoring local government than is authorized under subsection (7) of this section.

(12) The amount of tax distributions received from taxes imposed under the authority of this section by all sponsoring and cosponsoring local governments is limited annually to not more than seven million five hundred thousand dollars.

(13) The definitions in RCW 39.102.020 apply to this section unless the context clearly requires otherwise.

(14) If a sponsoring local government is a federally recognized Indian tribe, the distribution of the sales and use tax authorized under this section ~~((shall))~~ must be authorized through an interlocal agreement pursuant to chapter 39.34 RCW.

(15) Subject to RCW 39.102.195, the tax imposed under the authority of this section may be applied either to provide for the payment of debt service on bonds issued under RCW 39.102.150 by the sponsoring local government or to pay public improvement costs on a pay-as-you-go basis, or both.

(16) The tax imposed under the authority of this section ~~((shall))~~ must cease to be imposed if the sponsoring local government or cosponsoring local government fails to issue indebtedness under the authority of RCW 39.102.150, and fails to commence construction on public improvements, by June 30th of the fifth fiscal year in which the local tax authorized under this section is imposed.

(17) For purposes of this section, the following definitions apply:

(a) "Local sales and use taxes" means sales and use taxes imposed by cities, counties, public facilities districts, and other local governments under the authority of this chapter, chapter 67.28 or 67.40 RCW, or any other chapter, and that are credited against the state sales and use taxes.

(b) "State sales and use taxes" means the tax imposed in RCW 82.08.020(1) and the tax imposed in RCW 82.12.020 at the rate provided in RCW 82.08.020(1).

NEW SECTION. Sec. 13. Sections 11 and 12 of this act expire June 30, 2039.

Passed by the Senate March 8, 2010.

Passed by the House March 9, 2010.

Approved by the Governor March 22, 2010.

Filed in Office of Secretary of State March 22, 2010.

CHAPTER 165

[Second Substitute Senate Bill 6667]

SMALL BUSINESS ASSISTANCE—INCREASED ACCESS PLAN

AN ACT Relating to business assistance programs; amending RCW 43.330.060 and 28B.30.530; and creating a new section.

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

NEW SECTION. Sec. 1. The legislature finds that small businesses and entrepreneurs are a fundamental source of economic and community vitality for our state. They employ state residents, pay state taxes, purchase goods and services from local and regional companies, and contribute to our communities in many other ways. The legislature finds that small businesses and entrepreneurs need increased access to capital and technical assistance in order to maximize their potential. The legislature intends that the department of commerce and the small business development center each build upon their existing relevant statutory missions and authorities by collaborating on a specific plan to expand services to small businesses and entrepreneurs beginning in the 2011-2013 biennium.

Sec. 2. RCW 43.330.060 and 2005 c 136 s 13 are each amended to read as follows:

(1) The department shall (a) assist in expanding the state's role as an international center of trade, culture, and finance; (b) promote and market the state's products and services both nationally and internationally; (c) work in close cooperation with other private and public international trade efforts; (d) act as a centralized location for the assimilation and distribution of trade information; and (e) establish and operate foreign offices promoting overseas trade and commerce.

(2) The department shall identify and work with Washington businesses that can use local, state, and federal assistance to increase domestic and foreign exports of goods and services.

(3) The department shall work generally with small businesses and other employers to facilitate resolution of siting, regulatory, expansion, and retention problems. This assistance shall include but not be limited to assisting in workforce training and infrastructure needs, identifying and locating suitable business sites, and resolving problems with government licensing and regulatory requirements. The department shall identify gaps in needed services and develop steps to address them including private sector support and purchase of these services.

(4) The department shall work to increase the availability of capital to small businesses by developing new and flexible investment tools; by assisting in targeting and improving the efficiency of existing investment mechanisms; and by assisting in the procurement of managerial and technical assistance necessary to attract potential investors.

(5) The department shall assist women and minority-owned businesses in overcoming barriers to entrepreneurial success. The department shall contract with public and private agencies, institutions, and organizations to conduct entrepreneurial training courses for minority and women-owned businesses. The instruction shall be intensive, practical training courses in financing, marketing, managing, accounting, and recordkeeping for a small business, with an emphasis on federal, state, local, or private programs available to assist small businesses. Instruction shall be offered in major population centers throughout the state at times and locations that are convenient for minority and women small business owners.

(6)(a) Subject to the availability of amounts appropriated for this specific purpose, by December 1, 2010, the department, in conjunction with the small business development center, must prepare and present to the governor and appropriate legislative committees a specific, actionable plan to increase access to capital and technical assistance to small businesses and entrepreneurs beginning with the 2011-2013 biennium. In developing the plan, the department and the center may consult with the Washington state microenterprise association, and with other government, nonprofit, and private organizations as necessary. The plan must identify:

(i) Existing sources of capital and technical assistance for small businesses and entrepreneurs;

(ii) Critical gaps and barriers to availability of capital and delivery of technical assistance to small businesses and entrepreneurs;

(iii) Workable solutions to filling the gaps and removing barriers identified in (a)(ii) of this subsection; and

(iv) The financial resources and statutory changes necessary to put the plan into effect beginning with the 2011-2013 biennium.

(b) With respect to increasing access to capital, the plan must identify specific, feasible sources of capital and practical mechanisms for expanding access to it.

(c) The department and the center must include, within the analysis and recommendations in (a) of this subsection, any specific gaps, barriers, and solutions related to rural and low-income communities and small manufacturers interested in exporting.

Sec. 3. RCW 28B.30.530 and 2009 c 486 s 1 are each amended to read as follows:

(1) The board of regents of Washington State University shall establish the Washington State University small business development center.

(2) The center shall provide management and technical assistance including but not limited to training, counseling, and research services to small businesses throughout the state. The center shall work with the department of ~~((community, trade, and economic development))~~ commerce, the state board for community and technical colleges, the higher education coordinating board, the workforce training and education coordinating board, the employment security department,

the Washington state economic development commission, associate development organizations, and workforce development councils to:

(a) Integrate small business development centers with other state and local economic development and workforce development programs;

(b) Target the centers' services to small businesses;

(c) Tailor outreach and services at each center to the needs and demographics of entrepreneurs and small businesses located within the service area;

(d) Establish and expand small business development center satellite offices when financially feasible; and

(e) Coordinate delivery of services to avoid duplication.

(3) The administrator of the center may contract with other public or private entities for the provision of specialized services.

(4) The small business development center may accept and disburse federal grants or federal matching funds or other funds or donations from any source when made, granted, or donated to carry out the center's purposes. When drawing on funds from the business assistance account created in RCW ((30.60.010)) 28B.30.531, the center must first use the funds to make increased management and technical assistance available to existing small businesses and start-up businesses at satellite offices. The funds may also be used to develop and expand assistance programs such as small business planning workshops and small business counseling.

(5) ~~((The legislature directs the small business development center to request United States small business administration approval of a special emphasis initiative, as permitted under 13 C.F.R. 130.340(e) as of April 1, 2009, to target assistance to Washington state's smaller businesses. This initiative would be negotiated and included in the first cooperative agreement application process that occurs after July 26, 2009.~~

~~(6))~~ By ~~((December 1, 2009, and))~~ December 1, 2010, ~~((respectively,))~~ the center shall provide a written progress report and a final report to the appropriate committees of the legislature with respect to the requirements in subsection ~~((§))~~ (2) ~~((and (5)))~~ of this section and the amount and use of funding received through the business assistance account. The reports must also include data on the number, location, staffing, and budget levels of satellite offices; affiliations with community colleges, associate development organizations or other local organizations; the number, size, and type of small businesses assisted; and the types of services provided. The reports must also include information on the outcomes achieved, such as jobs created or retained, private capital invested, and return on the investment of state and federal dollars.

(6)(a) Subject to the availability of amounts appropriated for this specific purpose, by December 1, 2010, the center, in conjunction with the department of commerce, must prepare and present to the governor and appropriate legislative committees a specific, actionable plan to increase access to capital and technical assistance to small businesses and entrepreneurs beginning with the 2011-2013 biennium. In developing the plan, the center and the department may consult with the Washington state microenterprise association, and with other government, nonprofit, and private organizations as necessary. The plan must identify:

(i) Existing sources of capital and technical assistance for small businesses and entrepreneurs;

(ii) Critical gaps and barriers to availability of capital and delivery of technical assistance to small businesses and entrepreneurs;

(iii) Workable solutions to filling the gaps and removing barriers identified in (a)(ii) of this subsection; and

(iv) The financial resources and statutory changes necessary to put the plan into effect beginning with the 2011-2013 biennium.

(b) With respect to increasing access to capital, the plan must identify specific, feasible sources of capital and practical mechanisms for expanding access to it.

(c) The center and the department must include, within the analysis and recommendations in (a) of this subsection, any specific gaps, barriers, and solutions related to rural and low-income communities and small manufacturers interested in exporting.

Passed by the Senate March 9, 2010.

Passed by the House March 5, 2010.

Approved by the Governor March 22, 2010.

Filed in Office of Secretary of State March 22, 2010.

CHAPTER 166

[Second Substitute Senate Bill 6679]

SMALL BUSINESS EXPORT FINANCE ASSISTANCE CENTER—POWERS

AN ACT Relating to the small business export finance assistance center; amending RCW 43.210.040 and 43.210.050; and adding a new section to chapter 43.210 RCW.

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

Sec. 1. RCW 43.210.040 and 1998 c 109 s 3 are each amended to read as follows:

(1) The small business export finance assistance center formed under RCW 43.210.020 and 43.210.030 (~~shall have~~) has the powers granted under chapter 24.03 RCW. In exercising such powers, the center may:

(a) Solicit and accept grants, contributions, and any other financial assistance from the federal government, federal agencies, and any other sources to carry out its purposes;

(b) Make loans or provide loan guarantees on loans made by financial institutions to Washington businesses with annual sales of two hundred million dollars or less for the purpose of financing exports of goods or services by those businesses to buyers in foreign countries and for the purpose of financing business growth to accommodate increased export sales. Loans or loan guarantees made under the authority of this section may only be considered upon a financial institution's assurance that such loan or loan guarantee is otherwise not available;

(c) Provide assistance to businesses with annual sales of two hundred million dollars or less in obtaining loans and guarantees of loans made by financial institutions for the purpose of financing export of goods or services from the state of Washington;

~~((e))~~ (d) Provide export finance and risk mitigation counseling to Washington exporters with annual sales of two hundred million dollars or less, provided that such counseling is not practicably available from a Washington for-profit business. For such counseling, the center may charge reasonable fees as it determines are necessary;

~~((f))~~ (e) Provide assistance in obtaining export credit insurance or alternate forms of foreign risk mitigation to facilitate the export of goods and services from the state of Washington;

~~((g))~~ (f) Be available as a teaching resource to both public and private sponsors of workshops and programs relating to the financing and risk mitigation aspects of exporting products and services from the state of Washington;

~~((h))~~ (g) Develop a comprehensive inventory of export-financing resources, both public and private, including information on resource applicability to specific countries and payment terms;

~~((i))~~ (h) Contract with the federal government and its agencies to become a program administrator for federally provided loan guarantee and export credit insurance programs; and

~~((j))~~ (i) Take whatever action may be necessary to accomplish the purposes set forth in this chapter.

(2) The center may not use any Washington state funds or funds which come from the public treasury of the state of Washington to make loans or to make any payment under a loan guarantee agreement. Under no circumstances may the center use any funds received under RCW 43.210.050 to make or assist in making any loan or to pay or assist in paying any amount under a loan guarantee agreement. Debts of the center shall be center debts only and may be satisfied only from the resources of the center. The state of Washington shall not in any way be liable for such debts.

(3) The small business export finance assistance center shall make every effort to seek nonstate funds for its continued operation.

(4) The small business export finance assistance center may receive such gifts, grants, and endowments from public or private sources as may be made from time to time, in trust or otherwise, for the use and benefit of the purposes of the small business export finance assistance center and expend the same or any income therefrom according to the terms of the gifts, grants, or endowments.

Sec. 2. RCW 43.210.050 and 1998 c 245 s 84 are each amended to read as follows:

(1) The small business export finance assistance center formed under RCW 43.210.020 and 43.210.030 ~~((shall))~~ must enter into a contract under this chapter with the department of ~~((community, trade, and economic development))~~ commerce or its statutory successor.

(2) The contract ~~((shall))~~ under subsection (1) of this section must:

(a) Require the center to provide export assistance services~~((consistent with RCW 43.210.070 and 43.210.100 through 43.210.120, shall));~~

(b) Have a duration of two years~~((and shall));~~

(c) Require the center to aggressively seek to fund its continued operation from nonstate funds~~((The contract shall also));~~ and

(d) Require the center to report annually to the department on its success in obtaining nonstate funding. ~~((Upon expiration of the contract, any provisions~~

~~within the contract applicable to the Pacific Northwest export assistance project shall be automatically renewed without change provided the legislature appropriates funds for administration of the small business export assistance center and the Pacific Northwest export assistance project. The provisions of the contract related to the Pacific Northwest export assistance project may be changed at any time if the director of the department of community, trade, and economic development or the president of the small business export finance assistance center present compelling reasons supporting the need for a contract change to the board of directors and a majority of the board of directors agrees to the changes. The department of agriculture shall be included in the contracting negotiations with the department of community, trade, and economic development and the small business export finance assistance center when the Pacific Northwest export assistance project provides export services to industrial sectors within the administrative domain of the Washington state department of agriculture.))~~

NEW SECTION. Sec. 3. A new section is added to chapter 43.210 RCW to read as follows:

Subject to the availability of amounts appropriated for this specific purpose, the small business export finance assistance center must:

(1) Develop a rural manufacturer export outreach program in conjunction with impact Washington. The program must provide outreach services to rural manufacturers in Washington to inform them of the importance of and opportunities in international trade, and to inform them of the export assistance programs available to assist these businesses to become exporters; and

(2) Develop export loan or loan guarantee programs in conjunction with the Washington economic development finance authority and the appropriate federal and private entities.

Passed by the Senate March 9, 2010.

Passed by the House March 3, 2010.

Approved by the Governor March 22, 2010.

Filed in Office of Secretary of State March 22, 2010.

CHAPTER 167

[Substitute Senate Bill 6692]

BIOMASS ENERGY FACILITIES—CONDITIONS OF OWNERSHIP AND OPERATION

AN ACT Relating to allowing certain counties to participate and enter into ownership agreements for electric generating facilities powered by biomass; and amending RCW 36.140.010 and 54.44.020.

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

Sec. 1. RCW 36.140.010 and 2009 c 281 s 1 are each amended to read as follows:

(1) Any county legislative authority of a county where a public utility district owns and operates a plant or system for the generation, transmission, and distribution of electric energy for sale within the county may construct, purchase, acquire, operate, and maintain ((a)) one facility within the county to generate electricity from biomass energy that is a renewable resource under RCW 19.285.030 or from biomass energy that is produced from lignin in spent

pulping liquors or liquors derived from algae and other sources. The county legislative authority has the authority to regulate and control the use, distribution, sale, and price of the electricity produced from the biomass facility authorized under this section.

(2) For the purposes of this section:

(a) "County legislative authority" means the board of county commissioners or the county council; ~~(and)~~

(b) "Plant" means a natural gas-fueled, combined-cycle combustion turbine capable of generating at least two hundred forty megawatts of electricity; and

(c) "Public utility district" means a municipal corporation formed under chapter 54.08 RCW.

Sec. 2. RCW 54.44.020 and 2008 c 198 s 3 are each amended to read as follows:

(1) Except as provided in subsections (2) and (3) of this section, cities of the first class, public utility districts organized under chapter 54.08 RCW, and joint operating agencies organized under chapter 43.52 RCW, any such cities and public utility districts which operate electric generating facilities or distribution systems and any joint operating agency shall have power and authority to participate and enter into agreements with each other and with electrical companies which are subject to the jurisdiction of the Washington utilities and transportation commission or the public utility commissioner of Oregon, hereinafter called "regulated utilities", and with rural electric cooperatives, including generation and transmission cooperatives for the undivided ownership of any type of electric generating plants and facilities, including, but not limited to, nuclear and other thermal power generating plants and facilities and transmission facilities including, but not limited to, related transmission facilities, hereinafter called "common facilities", and for the planning, financing, acquisition, construction, operation and maintenance thereof. It shall be provided in such agreements that each city, public utility district, or joint operating agency shall own a percentage of any common facility equal to the percentage of the money furnished or the value of property supplied by it for the acquisition and construction thereof and shall own and control a like percentage of the electrical output thereof.

(2) Cities of the first class, public utility districts organized under chapter 54.08 RCW, and joint operating agencies organized under chapter 43.52 RCW, shall have the power and authority to participate and enter into agreements for the undivided ownership of a coal-fired thermal electric generating plant and facility placed in operation before July 1, 1975, including related common facilities, and for the planning, financing, acquisition, construction, operation, and maintenance of the plant and facility. It shall be provided in such agreements that each city, public utility district, or joint operating agency shall own a percentage of any common facility equal to the percentage of the money furnished or the value of property supplied by the city, district, or agency, for the acquisition and construction of the facility, and shall own and control a like percentage of the electrical output thereof. Cities of the first class, public utility districts, and joint operating agencies may enter into agreements under this subsection with each other, with regulated utilities, with rural electric cooperatives, with electric companies subject to the jurisdiction of the regulatory

commission of any other state, and with any power marketer subject to the jurisdiction of the federal energy regulatory commission.

(3)(a) Except as provided in subsections (1) and (2) of this section, cities of the first class, counties with a biomass facility authorized under RCW 36.140.010, public utility districts organized under chapter 54.08 RCW, any cities that operate electric generating facilities or distribution systems, any joint operating agency organized under chapter 43.52 RCW, or any separate legal entity comprising two or more thereof organized under chapter 39.34 RCW shall, either directly or as co-owners of a separate legal entity, have power and authority to participate and enter into agreements described in (b) and (c) of this subsection with each other, and with any of the following, either directly or as co-owners of a separate legal entity:

(i) Any public agency, as that term is defined in RCW 39.34.020;

(ii) Electrical companies that are subject to the jurisdiction of the Washington utilities and transportation commission or the regulatory commission of any state; and

(iii) Rural electric cooperatives and generation and transmission cooperatives or any wholly owned subsidiaries of either rural electric cooperatives or generation and transmission cooperatives.

(b) Except as provided in (b)(i)(B) of this subsection (3), agreements may provide for:

(i)(A) The undivided ownership, or indirect ownership in the case of a separate legal entity, of common facilities that include any type of electric generating plant (~~(powered by)~~) generating an eligible renewable resource, as defined in RCW 19.285.030, and transmission facilities including, but not limited to, related transmission facilities, and for the planning, financing, acquisition, construction, operation, and maintenance thereof;

(B) For counties with a biomass facility authorized under RCW 36.140.010, the provisions in (b)(i)(A) of this subsection (3) are limited to the purposes of RCW 36.140.010; and

(ii) The formation, operation, and ownership of a separate legal entity that may own the common facilities.

(c) Agreements must provide that each city, county, public utility district, or joint operating agency:

(i) Owns a percentage of any common facility or a percentage of any separate legal entity equal to the percentage of the money furnished or the value of property supplied by it for the acquisition and construction thereof; and

(ii) Owns and controls, or has a right to own and control in the case of a separate legal entity, a like percentage of the electrical output thereof.

(d) Any entity in which a public utility district participates, either directly or as co-owner of a separate legal entity, in constructing or developing a common facility pursuant to this subsection shall comply with the provisions of chapter 39.12 RCW.

(4) Each participant shall defray its own interest and other payments required to be made or deposited in connection with any financing undertaken by it to pay its percentage of the money furnished or value of property supplied by it for the planning, acquisition and construction of any common facility, or any additions or betterments thereto. The agreement shall provide a uniform

method of determining and allocating operation and maintenance expenses of the common facility.

(5) Each city, county acting under RCW 36.140.010, public utility district, joint operating agency, regulated utility, and cooperatives participating in the direct or indirect ownership or operation of a common facility described in subsections (1) through (3) of this section shall pay all taxes chargeable to its share of the common facility and the electric energy generated thereby under applicable statutes as now or hereafter in effect, and may make payments during preliminary work and construction for any increased financial burden suffered by any county or other existing taxing district in the county in which the common facility is located, pursuant to agreement with such county or taxing district.

Passed by the Senate March 9, 2010.

Passed by the House February 28, 2010.

Approved by the Governor March 22, 2010.

Filed in Office of Secretary of State March 22, 2010.

CHAPTER 168

[Engrossed Substitute Senate Bill 6724]

SHARED LEAVE—INCREASE—EDUCATIONAL EMPLOYEES

AN ACT Relating to the leave sharing program; amending RCW 41.04.665; and declaring an emergency.

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

Sec. 1. RCW 41.04.665 and 2008 c 36 s 3 are each amended to read as follows:

(1) An agency head may permit an employee to receive leave under this section if:

(a)(i) The employee suffers from, or has a relative or household member suffering from, an illness, injury, impairment, or physical or mental condition which is of an extraordinary or severe nature;

(ii) The employee has been called to service in the uniformed services;

(iii) A state of emergency has been declared anywhere within the United States by the federal or any state government and the employee has needed skills to assist in responding to the emergency or its aftermath and volunteers his or her services to either a governmental agency or to a nonprofit organization engaged in humanitarian relief in the devastated area, and the governmental agency or nonprofit organization accepts the employee's offer of volunteer services; or

(iv) The employee is a victim of domestic violence, sexual assault, or stalking;

(b) The illness, injury, impairment, condition, call to service, emergency volunteer service, or consequence of domestic violence, sexual assault, or stalking has caused, or is likely to cause, the employee to:

(i) Go on leave without pay status; or

(ii) Terminate state employment;

(c) The employee's absence and the use of shared leave are justified;

(d) The employee has depleted or will shortly deplete his or her:

(i) Annual leave and sick leave reserves if he or she qualifies under (a)(i) of this subsection;

(ii) Annual leave and paid military leave allowed under RCW 38.40.060 if he or she qualifies under (a)(ii) of this subsection; or

(iii) Annual leave if he or she qualifies under (a)(iii) or (iv) of this subsection;

(e) The employee has abided by agency rules regarding:

(i) Sick leave use if he or she qualifies under (a)(i) or (iv) of this subsection; or

(ii) Military leave if he or she qualifies under (a)(ii) of this subsection; and

(f) The employee has diligently pursued and been found to be ineligible for benefits under chapter 51.32 RCW if he or she qualifies under (a)(i) of this subsection.

(2) The agency head shall determine the amount of leave, if any, which an employee may receive under this section. However, an employee shall not receive a total of more than ~~((two hundred sixty-one))~~ five hundred twenty-two days of leave, except that, a supervisor may authorize leave in excess of five hundred twenty-two days in extraordinary circumstances for an employee qualifying for the shared leave program because he or she is suffering from an illness, injury, impairment, or physical or mental condition which is of an extraordinary or severe nature. Shared leave received under the uniformed service shared leave pool in RCW 41.04.685 is not included in this total.

(3) An employee may transfer annual leave, sick leave, and his or her personal holiday, as follows:

(a) An employee who has an accrued annual leave balance of more than ten days may request that the head of the agency for which the employee works transfer a specified amount of annual leave to another employee authorized to receive leave under subsection (1) of this section. In no event may the employee request a transfer of an amount of leave that would result in his or her annual leave account going below ten days. For purposes of this subsection (3)(a), annual leave does not accrue if the employee receives compensation in lieu of accumulating a balance of annual leave.

(b) An employee may transfer a specified amount of sick leave to an employee requesting shared leave only when the donating employee retains a minimum of one hundred seventy-six hours of sick leave after the transfer.

(c) An employee may transfer, under the provisions of this section relating to the transfer of leave, all or part of his or her personal holiday, as that term is defined under RCW 1.16.050, or as such holidays are provided to employees by agreement with a school district's board of directors if the leave transferred under this subsection does not exceed the amount of time provided for personal holidays under RCW 1.16.050.

(4) An employee of an institution of higher education under RCW 28B.10.016, school district, or educational service district who does not accrue annual leave but does accrue sick leave and who has an accrued sick leave balance of more than twenty-two days may request that the head of the agency for which the employee works transfer a specified amount of sick leave to another employee authorized to receive leave under subsection (1) of this section. In no event may such an employee request a transfer that would result in his or her sick leave account going below twenty-two days. Transfers of sick

leave under this subsection are limited to transfers from employees who do not accrue annual leave. Under this subsection, "sick leave" also includes leave accrued pursuant to RCW 28A.400.300(2) or 28A.310.240(1) with compensation for illness, injury, and emergencies.

(5) Transfers of leave made by an agency head under subsections (3) and (4) of this section shall not exceed the requested amount.

(6) Leave transferred under this section may be transferred from employees of one agency to an employee of the same agency or, with the approval of the heads of both agencies, to an employee of another state agency. ~~((However, leave transferred to or from employees of school districts or educational service districts is limited to transfers to or from employees within the same employing district.))~~

(7) While an employee is on leave transferred under this section, he or she shall continue to be classified as a state employee and shall receive the same treatment in respect to salary, wages, and employee benefits as the employee would normally receive if using accrued annual leave or sick leave.

(a) All salary and wage payments made to employees while on leave transferred under this section shall be made by the agency employing the person receiving the leave. The value of leave transferred shall be based upon the leave value of the person receiving the leave.

(b) In the case of leave transferred by an employee of one agency to an employee of another agency, the agencies involved shall arrange for the transfer of funds and credit for the appropriate value of leave.

(i) Pursuant to rules adopted by the office of financial management, funds shall not be transferred under this section if the transfer would violate any constitutional or statutory restrictions on the funds being transferred.

(ii) The office of financial management may adjust the appropriation authority of an agency receiving funds under this section only if and to the extent that the agency's existing appropriation authority would prevent it from expending the funds received.

(iii) Where any questions arise in the transfer of funds or the adjustment of appropriation authority, the director of financial management shall determine the appropriate transfer or adjustment.

(8) Leave transferred under this section shall not be used in any calculation to determine an agency's allocation of full time equivalent staff positions.

(9) The value of any leave transferred under this section which remains unused shall be returned at its original value to the employee or employees who transferred the leave when the agency head finds that the leave is no longer needed or will not be needed at a future time in connection with the illness or injury for which the leave was transferred or for any other qualifying condition. Before the agency head makes a determination to return unused leave in connection with an illness or injury, or any other qualifying condition, he or she must receive from the affected employee a statement from the employee's doctor verifying that the illness or injury is resolved. To the extent administratively feasible, the value of unused leave which was transferred by more than one employee shall be returned on a pro rata basis.

(10) An employee who uses leave that is transferred to him or her under this section may not be required to repay the value of the leave that he or she used.

(1) The director of personnel may adopt rules as necessary to implement subsection (2)(a) through (c) of this section.

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

Passed by the Senate March 8, 2010.

Passed by the House March 4, 2010.

Approved by the Governor March 23, 2010.

Filed in Office of Secretary of State March 23, 2010.

CHAPTER 169

[Engrossed Substitute Senate Bill 6582]

NURSING ASSISTANT CERTIFICATION—ALTERNATIVE TRAINING

AN ACT Relating to credentialing as a nursing assistant; amending RCW 18.88A.010, 18.88A.020, 18.88A.030, 18.88A.050, 18.88A.060, 18.88A.085, 18.88A.090, 18.88A.110, 18.88A.140, and 18.88B.040; adding a new section to chapter 18.88A RCW; creating a new section; and repealing RCW 18.88A.115.

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

Sec. 1. RCW 18.88A.010 and 1991 c 16 s 1 are each amended to read as follows:

(1) The legislature takes special note of the contributions made by nursing assistants in health care facilities whose tasks are arduous and whose working conditions may be contributing to the high and often critical turnover among the principal cadre of health care workers who provide for the basic needs of patients. The legislature also recognizes the growing shortage of nurses as the proportion of the elderly population grows and as the acuity of patients in hospitals and nursing homes becomes generally more severe.

(2) The legislature finds and declares that:

(a) Occupational nursing assistants should have a formal system of educational and experiential qualifications leading to career mobility and advancement. The establishment of such a system should bring about a more stabilized workforce in health care facilities, as well as provide a valuable resource for recruitment into licensed nursing practice.

~~((The legislature finds that))~~ (b) The quality of patient care in health care facilities is dependent upon the competence of the personnel who staff their facilities. To assure the availability of trained personnel in health care facilities the legislature recognizes the need for training programs for nursing assistants.

~~((The legislature declares that))~~ (c) Certified home care aides and medical assistants are a valuable potential source of nursing assistants who will be needed to meet the care needs of the state's growing aging population. To assure continued opportunity for recruitment into licensed nursing practice and career advancement for certified home care aides and medical assistants, nursing assistant training programs should recognize the relevant training and experience obtained by these credentialed professionals. By taking advantage of the authority granted under the federal social security act to certify nursing assistants through a state-approved competency evaluation program as a federally recognized alternative to the state-approved training and competency evaluation

program, the legislature intends to increase the potential for recruitment into licensed nursing practice while maintaining a single standard for competency evaluation of certified nursing assistants.

(d) The registration of nursing assistants and providing for voluntary certification of those who wish to seek higher levels of qualification is in the interest of the public health, safety, and welfare.

Sec. 2. RCW 18.88A.020 and 1994 sp.s. c 9 s 708 are each amended to read as follows:

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

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

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

(3) "Commission" means the Washington nursing care quality assurance commission.

(4) "Nursing assistant" means an individual, regardless of title, who, under the direction and supervision of a registered nurse or licensed practical nurse, assists in the delivery of nursing and nursing-related activities to patients in a health care facility. The two levels of nursing assistants are:

(a) "Nnursing assistant-certified," an individual certified under this chapter(=); and

(b) "Nnursing assistant-registered," an individual registered under this chapter.

(5) "Approved training program" means a nursing assistant-certified training program approved by the commission to meet the requirements of a state-approved nurse aide training and competency evaluation program consistent with 42 U.S.C. Sec. 1395i-3(e) and (f) of the federal social security act. For community college, vocational-technical institutes, skill centers, and secondary school as defined in chapter 28B.50 RCW, nursing assistant-certified training programs shall be approved by the commission in cooperation with the board for community and technical colleges or the superintendent of public instruction.

(6) "Health care facility" means a nursing home, hospital, hospice care facility, home health care agency, hospice agency, or other entity for delivery of health care services as defined by the commission.

(7) "Competency evaluation" means the measurement of an individual's knowledge and skills as related to safe, competent performance as a nursing assistant.

(8) "Alternative training" means a nursing assistant-certified program meeting criteria adopted by the commission under section 3 of this act to meet the requirements of a state-approved nurse aide competency evaluation program consistent with 42 U.S.C. Sec. 1395i-3(e) and (f) of the federal social security act.

NEW SECTION. Sec. 3. A new section is added to chapter 18.88A RCW to read as follows:

(1) The commission shall adopt criteria for evaluating an applicant's alternative training to determine the applicant's eligibility to take the competency evaluation for nursing assistant certification. At least one option

adopted by the commission must allow an applicant to take the competency evaluation if he or she:

(a)(i) Is a certified home care aide pursuant to chapter 18.88B RCW; or
 (ii) Is a certified medical assistant pursuant to a certification program accredited by a national medical assistant accreditation organization and approved by the commission; and

(b) Has successfully completed twenty-four hours of training that the commission determines is necessary to provide training equivalent to approved training on topics not addressed in the training specified for certification as a home care aide or medical assistant, as applicable. In the commission's discretion, a portion of these hours may include clinical training.

(2)(a) By July 1, 2011, the commission, in consultation with the secretary, the department of social and health services, and consumer, employer, and worker representatives, shall adopt rules to implement this section and to provide, beginning January 1, 2012, for a program of credentialing reciprocity to the extent required by this section between home care aide and medical assistant certification and nursing assistant certification. By July 1, 2011, the secretary shall also adopt such rules as may be necessary to implement this section and the credentialing reciprocity program.

(b) Rules adopted under this section must be consistent with requirements under 42 U.S.C. Sec. 1395i-3(e) and (f) of the federal social security act relating to state-approved competency evaluation programs for certified nurse aides.

(3) Beginning December 1, 2012, the secretary, in consultation with the commission, shall report annually by December 1st to the governor and the appropriate committees of the legislature on the progress made in achieving career advancement for certified home care aides and medical assistants into nursing practice.

Sec. 4. RCW 18.88A.030 and 1995 1st sp.s. c 18 s 52 are each amended to read as follows:

(1)(a) A nursing assistant may assist in the care of individuals as delegated by and under the direction and supervision of a licensed (registered) nurse or licensed practical nurse.

~~((2))~~ (b) A health care facility shall not assign a nursing assistant-registered to provide care until the nursing assistant-registered has demonstrated skills necessary to perform competently all assigned duties and responsibilities.

~~((3))~~ (c) Nothing in this chapter shall be construed to confer on a nursing assistant the authority to administer medication unless delegated as a specific nursing task pursuant to this chapter or to practice as a licensed (registered) nurse or licensed practical nurse as defined in chapter 18.79 RCW.

~~((4))~~ (2)(a) A nursing assistant employed in a nursing home must have successfully obtained certification through: (i) An approved training program and the competency evaluation within four months after the date of employment; or (ii) alternative training and the competency evaluation prior to employment.

(b) Certification is voluntary for nursing assistants working in health care facilities other than nursing homes unless otherwise required by state or federal law or regulation.

~~((5))~~ (3) The commission may adopt rules to implement the provisions of this chapter.

Sec. 5. RCW 18.88A.050 and 1991 c 16 s 6 are each amended to read as follows:

In addition to any other authority provided by law, the secretary has the authority to:

(1) Set all nursing assistant certification, registration, and renewal fees in accordance with RCW 43.70.250 and to collect and deposit all such fees in the health professions account established under RCW 43.70.320;

(2) Establish forms, procedures, and ~~((examinations))~~ the competency evaluation necessary to administer this chapter;

(3) Hire clerical, administrative, and investigative staff as needed to implement this chapter;

(4) Issue a nursing assistant registration to any applicant who has met the requirements for registration;

(5) After January 1, 1990, issue a nursing assistant certificate to any applicant who has met the ~~((education;))~~ training, competency evaluation, and conduct requirements for certification under this chapter;

(6) Maintain the official record for the department of all applicants and persons with registrations and certificates under this chapter;

(7) Exercise disciplinary authority as authorized in chapter 18.130 RCW;

(8) Deny registration to any applicant who fails to meet requirement for registration as a nursing assistant;

(9) Deny certification to applicants who do not meet the ~~((education;))~~ training, competency evaluation, and conduct requirements for certification as a nursing assistant.

Sec. 6. RCW 18.88A.060 and 1994 sp.s. c 9 s 710 are each amended to read as follows:

In addition to any other authority provided by law, the commission may:

(1) Determine minimum nursing assistant education requirements and approve training programs;

(2) Prepare, grade, and administer, or determine the nature of, and supervise the grading and administration of, ~~((examinations of training and))~~ the competency evaluation for applicants for nursing assistant certification, using the same competency evaluation for all applicants, whether qualifying to take the competency evaluation under an approved training program or alternative training;

(3) ~~((Determine whether alternative methods of training are equivalent to approved training programs, and))~~ Establish forms~~((;))~~ and procedures~~((, and criteria))~~ for evaluation of an applicant's alternative training ~~((to determine the applicant's eligibility to take any qualifying examination for certification))~~ under criteria adopted pursuant to section 3 of this act;

(4) Define and approve any experience requirement for nursing assistant certification;

(5) Adopt rules implementing a continuing competency evaluation program for nursing assistants; and

(6) Adopt rules to enable it to carry into effect the provisions of this chapter.

Sec. 7. RCW 18.88A.085 and 2007 c 361 s 9 are each amended to read as follows:

(1) After January 1, 1990, the secretary shall issue a nursing assistant certificate to any applicant who demonstrates to the secretary's satisfaction that the following requirements have been met:

(a) Successful completion of an approved training program or successful completion of ~~((alternate))~~ alternative training meeting established criteria ~~((approved))~~ adopted by the commission under section 3 of this act; and

(b) Successful completion of ~~((a))~~ the competency evaluation.

(2) ~~((The secretary may permit all or a portion of the training hours earned under chapter 74.39A RCW to be applied toward certification under this section.~~

~~((3))~~ In addition, applicants shall be subject to the grounds for denial of certification under chapter 18.130 RCW.

Sec. 8. RCW 18.88A.090 and 1994 sp.s. c 9 s 713 are each amended to read as follows:

(1) ~~((The date and location of examinations shall be established by the secretary. Applicants who have been found by the secretary to meet the requirements for certification shall be scheduled for the next examination following the filing of the application. The secretary shall establish by rule the examination application deadline.~~

(2)) The commission shall examine each applicant, by a written or oral and a manual component of competency evaluation. ~~((Examinations))~~ The competency evaluation shall be limited to the purpose of determining whether the applicant possesses the minimum skill and knowledge necessary to practice competently.

~~((3)) The examination papers, all grading of the papers, and the grading of skills demonstration shall be preserved for a period of not less than one year after the commission has made and published the decisions. All examinations shall be conducted under fair and wholly impartial methods.~~

(4)) (2) Any applicant failing to make the required grade in the first ~~((examination))~~ competency evaluation may take up to three subsequent ~~((examinations))~~ competency evaluations as the applicant desires upon prepaying a fee determined by the secretary under RCW 43.70.250 for each subsequent ~~((examination))~~ competency evaluation. Upon failing four ~~((examinations))~~ competency evaluations, the secretary may invalidate the original application and require such remedial education before the person may take future ~~((examinations))~~ competency evaluations.

~~((5))~~ The commission may approve ~~((an examination))~~ a competency evaluation prepared or administered by a private testing agency or association of licensing agencies for use by an applicant in meeting the credentialing requirements.

Sec. 9. RCW 18.88A.110 and 1991 c 16 s 13 are each amended to read as follows:

An applicant holding a credential in another state may be certified by endorsement to practice in this state without ~~((examination))~~ the competency evaluation if the secretary determines that the other state's credentialing standards are substantially equivalent to the standards in this state.

Sec. 10. RCW 18.88A.140 and 2003 c 140 s 3 are each amended to read as follows:

Nothing in this chapter may be construed to prohibit or restrict:

(1) The practice by an individual licensed, certified, or registered under the laws of this state and performing services within their authorized scope of practice;

(2) The practice by an individual employed by the government of the United States while engaged in the performance of duties prescribed by the laws of the United States;

(3) The practice by a person who is a regular student in an educational program approved by the secretary, and whose performance of services is pursuant to a regular course of instruction or assignments from an instructor and under the general supervision of the instructor;

(4) A nursing assistant, while employed as a personal aide as defined in RCW 74.39.007 or a long-term care worker as defined in chapter 74.39A RCW, from accepting direction from an individual who is self-directing (~~their~~) his or her care.

Sec. 11. RCW 18.88B.040 and 2009 c 580 s 15 are each amended to read as follows:

The following long-term care workers are not required to become a certified home care aide pursuant to this chapter.

(1) 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 of health, 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 of health determines that the circumstances do not require certification. Individuals exempted by this subsection may obtain certification as a home care aide from the department of health without fulfilling the training requirements in RCW 74.39A.073 but must successfully complete a certification examination pursuant to RCW 18.88B.030.

(2) A person already employed as a long-term care worker prior to January 1, 2011, who completes all of his or her training requirements in effect as of the date he or she was hired, is not required to obtain certification. Individuals exempted by this subsection may obtain certification as a home care aide from the department of health without fulfilling the training requirements in RCW 74.39A.073 but must successfully complete a certification examination pursuant to RCW 18.88B.030.

(3) All long-term care workers employed by supported living providers are not required to obtain certification under this chapter.

(4) An individual provider caring only for his or her biological, step, or adoptive child or parent is not required to obtain certification under this chapter.

(5) Prior to June 30, 2014, a person hired as an individual provider who provides twenty hours or less of care for one person in any calendar month is not required to obtain certification under this chapter.

(6) A long-term care worker exempted by this section from the training requirements contained in RCW 74.39A.073 may not be prohibited from enrolling in training pursuant to that section.

(7) The department of health shall adopt rules by August 1, 2010, to implement this section.

NEW SECTION. **Sec. 12.** RCW 18.88A.115 (Home care aide certification reciprocity) and 2009 c 580 s 16 & 2009 c 2 s 11 (Initiative Measure No. 1029) are each repealed.

NEW SECTION. **Sec. 13.** If any part of this act is found by a federal agency to be in conflict with federal requirements, including requirements related to the medicare and medicaid programs under the federal social security act, that are a prescribed condition to the allocation of federal funds to the state, the conflicting part of this act is inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and this finding does not affect the operation of the remainder of this act in its application to the agencies concerned. Rules adopted under this act must meet federal requirements, including requirements related to the medicare and medicaid programs under the federal social security act, that are a necessary condition to the receipt of federal funds by the state.

Passed by the Senate March 9, 2010.

Passed by the House February 28, 2010.

Approved by the Governor March 23, 2010.

Filed in Office of Secretary of State March 23, 2010.

CHAPTER 170

[Substitute Senate Bill 6647]

CIVIL AIR PATROL MEMBERS—JOB PROTECTION

AN ACT Relating to protecting jobs of members of the civil air patrol while acting in an emergency service operation; and amending RCW 49.12.460.

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

Sec. 1. RCW 49.12.460 and 2004 c 44 s 1 are each amended to read as follows:

(1) An employer may not discharge from employment or discipline:

(a) A volunteer firefighter or reserve officer because of leave taken related to an alarm of fire or an emergency call; or

(b) A civil air patrol member because of leave taken related to an emergency service operation.

(2)(a) A volunteer firefighter or reserve officer or civil air patrol member who believes he or she was discharged or disciplined in violation of this section may file a complaint alleging the violation with the director. The volunteer firefighter or reserve officer or civil air patrol member may allege a violation only by filing such a complaint within ninety days of the alleged violation.

(b) Upon receipt of the complaint, the director must cause an investigation to be made as the director deems appropriate and must determine whether this section has been violated. Notice of the director's determination must be sent to the complainant and the employer within ninety days of receipt of the complaint.

(c) If the director determines that this section was violated and the employer fails to reinstate the employee or withdraw the disciplinary action taken against the employee, whichever is applicable, within thirty days of receipt of notice of the director's determination, the volunteer firefighter or reserve officer or civil air patrol member may bring an action against the employer alleging a violation

of this section and seeking reinstatement or withdrawal of the disciplinary action.

(d) In any action brought under this section, the superior court shall have jurisdiction, for cause shown, to restrain violations under this section and to order reinstatement of the employee or withdrawal of the disciplinary action.

(3) For the purposes of this section:

(a) "Alarm of fire or emergency call" means responding to, working at, or returning from a fire alarm or an emergency call, but not participating in training or other nonemergency activities.

(b) "Civil air patrol member" means a person who is a member of the Washington wing of the civil air patrol.

(c) "Emergency service operation" means the following operations of the civil air patrol:

(i) Search and rescue missions designated by the air force rescue coordination center;

(ii) Disaster relief, when requested by the federal emergency management agency or the department of homeland security;

(iii) Humanitarian services, when requested by the federal emergency management agency or the department of homeland security;

(iv) United States air force support designated by the first air force; and

(v) Counterdrug missions.

(d) "Employer" means an employer who had twenty or more full-time equivalent employees in the previous year.

((e)) (e) "Reinstatement" means reinstatement with back pay, without loss of seniority or benefits, and with removal of any related adverse material from the employee's personnel file, if a file is maintained by the employer.

((f)) (f) "Withdrawal of disciplinary action" means withdrawal of disciplinary action with back pay, without loss of seniority or benefits, and with removal of any related adverse material from the employee's personnel file, if a file is maintained by the employer.

((g)) (g) "Volunteer firefighter" means a firefighter who:

(i) Is not paid;

(ii) Is not already at his or her place of employment when called to serve as a volunteer, unless the employer agrees to provide such an accommodation; and

(iii) Has been ordered to remain at his or her position by the commanding authority at the scene of the fire.

((h)) (h) "Reserve officer" has the meaning provided in RCW 41.24.010.

(4) The legislature declares that the public policies articulated in this section depend on the procedures established in this section and no civil or criminal action may be maintained relying on the public policies articulated in this section without complying with the procedures set forth in this section, and to that end all civil actions and civil causes of action for such injuries and all jurisdiction of the courts of this state over such causes are hereby abolished, except as provided in this section.

Passed by the Senate March 9, 2010.

Passed by the House February 28, 2010.

Approved by the Governor March 23, 2010.

Filed in Office of Secretary of State March 23, 2010.

CHAPTER 171

[Senate Bill 6804]

PATHOLOGICAL GAMBLING TREATMENT FACILITIES—CERTIFICATION

AN ACT Relating to allowing the department of social and health services to adopt rules establishing standards for the review and certification of treatment facilities under the problem and pathological gambling treatment program; and amending RCW 43.20A.890.

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

Sec. 1. RCW 43.20A.890 and 2005 c 369 s 2 are each amended to read as follows:

(1) A program for (a) the prevention and treatment of problem and pathological gambling; and (b) the training of professionals in the identification and treatment of problem and pathological gambling is established within the department of social and health services, to be administered by a qualified person who has training and experience in problem gambling or the organization and administration of treatment services for persons suffering from problem gambling. The department may certify and contract with treatment facilities for any services provided under the program. The department shall track program participation and client outcomes.

(2) To receive treatment under subsection (1) of this section, a person must:

(a) Need treatment for problem or pathological gambling, or because of the problem or pathological gambling of a family member, but be unable to afford treatment; and

(b) Be targeted by the department of social and health services as being most amenable to treatment.

(3) Treatment under this section is available only to the extent of the funds appropriated or otherwise made available to the department of social and health services for this purpose. The department may solicit and accept for use any gift of money or property made by will or otherwise, and any grant of money, services, or property from the federal government, any tribal government, the state, or any political subdivision thereof or any private source, and do all things necessary to cooperate with the federal government or any of its agencies or any tribal government in making an application for any grant.

(4) The department may adopt rules establishing standards for the review and certification of treatment facilities under this program.

(5) The department of social and health services shall establish an advisory committee to assist it in designing, managing, and evaluating the effectiveness of the program established in this section. The advisory committee shall give due consideration in the design and management of the program that persons who hold licenses or contracts issued by the gambling commission, horse racing commission, and lottery commission are not excluded from, or discouraged from, applying to participate in the program. The committee shall include, at a minimum, persons knowledgeable in the field of problem and pathological gambling and persons representing tribal gambling, privately owned nontribal gambling, and the state lottery.

~~((5))~~ (6) For purposes of this section, "pathological gambling" is a mental disorder characterized by loss of control over gambling, progression in preoccupation with gambling and in obtaining money to gamble, and continuation of gambling despite adverse consequences. "Problem gambling" is

an earlier stage of pathological gambling which compromises, disrupts, or damages family or personal relationships or vocational pursuits.

Passed by the Senate February 13, 2010.

Passed by the House March 10, 2010.

Approved by the Governor March 23, 2010.

Filed in Office of Secretary of State March 23, 2010.

CHAPTER 172

[Engrossed Substitute House Bill 1714]

SMALL GROUP AND ASSOCIATION HEALTH PLANS—COLLECTION OF DATA

AN ACT Relating to association health plans; amending RCW 42.56.400; creating a new section; and providing an expiration date.

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

NEW SECTION. Sec. 1. (1) The insurance commissioner shall prepare and submit a report to the legislature related to the performance of the small group health plan market and the association health plan market. To the extent that the data needed to complete the report are not readily available, the commissioner may require carriers to submit aggregated data for the small group health plans and association health plans underwritten or administered by the carrier, for each calendar year 2005 through 2008. Data submitted shall not identify specific small group plans or association health plans, and the report shall not identify specific small group or association health plans or present data in a manner that allows identification of specific plans. Carriers who underwrite or administer an association health plan that covers fewer than ten thousand lives in any year reported may, at their own expense, contract with a third party to aggregate and report the information required under this section with that of other carriers who qualify for this option. The data must be reported separately for the carrier's small group health plan block of business and association health plan block of business, and must include the following information:

(a) The number of persons residing in Washington state who receive health benefit coverage through each block of business, including the number of persons enrolled in the plans on the first day and last day of each year, the number of persons enrolled in the plans during each year, and the number of persons who terminated enrollment in the plans during each year;

(b) The calendar year-end enrollment of each block of business, by age group using five-year increments beginning with age twenty and ending with age sixty-five, and the average age of persons covered in each block of business;

(c) The calendar year-end enrollment of each block of business by employer size for each year, reporting by groups of two to five, six to ten, eleven to twenty-five, twenty-six to fifty, fifty-one to one hundred, and more than one hundred;

(d) The annual calendar year earned premium and incurred claims for each block of business;

(e) For the association health plan block of business, the number of association health plans that limit eligibility for health plan coverage to employer groups of a minimum size, or that limit eligibility for health plan coverage to a subset of the industries that the association sponsoring the health

plan was established to serve, and the percentage of health plan enrollees for whom each of the following elements is used in setting health plan rates:

- (i) Claims experience;
- (ii) Employer group size; or
- (iii) Health status factors.

(2) In fulfilling the requirements of subsection (1) of this section the commissioner may adopt rules necessary to implement the data submission administrative process under this section, including the format, timing of data reporting, data standards, instructions, definitions, and data sources. The commissioner is prohibited from collecting data from carriers if any rules necessary to implement the data submission administrative process have not been adopted.

(3) The commissioner must allow carriers a minimum of ninety days to submit data once carriers have received instructions.

(4) For the purposes of this subsection, the terms "association health plan" and "association plan" shall include all member-governed group health plans and multiple employer welfare arrangements and any other arrangement to which two or more public or private employers, of which at least two are small employers, contribute to provide health care for their employees.

(5) Data, information, and documents provided by a carrier pursuant to this section are exempt from public inspection and copying under RCW 48.02.120 and chapters 42.17 and 42.56 RCW.

(6) The commissioner may enter into a personal services contract with a third-party contractor to assist with the analysis of the data described in subsection (1) of this section without having to comply with the restrictions set forth in sections 602 and 605, chapter 3, Laws of 2010. The third-party experts that prepare the analysis and report for the insurance commissioner shall submit the report directly to the appropriate committees of the legislature and the insurance commissioner. The report shall be submitted to the legislature no later than October 1, 2011.

(7) This section expires September 30, 2011.

Sec. 2. RCW 42.56.400 and 2009 c 104 s 23 are each amended to read as follows:

The following information relating to insurance and financial institutions is exempt from disclosure under this chapter:

(1) Records maintained by the board of industrial insurance appeals that are related to appeals of crime victims' compensation claims filed with the board under RCW 7.68.110;

(2) Information obtained and exempted or withheld from public inspection by the health care authority under RCW 41.05.026, whether retained by the authority, transferred to another state purchased health care program by the authority, or transferred by the authority to a technical review committee created to facilitate the development, acquisition, or implementation of state purchased health care under chapter 41.05 RCW;

(3) The names and individual identification data of either all owners or all insureds, or both, received by the insurance commissioner under chapter 48.102 RCW;

(4) Information provided under RCW 48.30A.045 through 48.30A.060;

(5) Information provided under RCW 48.05.510 through 48.05.535, 48.43.200 through 48.43.225, 48.44.530 through 48.44.555, and 48.46.600 through 48.46.625;

(6) Examination reports and information obtained by the department of financial institutions from banks under RCW 30.04.075, from savings banks under RCW 32.04.220, from savings and loan associations under RCW 33.04.110, from credit unions under RCW 31.12.565, from check cashers and sellers under RCW 31.45.030(3), and from securities brokers and investment advisers under RCW 21.20.100, all of which is confidential and privileged information;

(7) Information provided to the insurance commissioner under RCW 48.110.040(3);

(8) Documents, materials, or information obtained by the insurance commissioner under RCW 48.02.065, all of which are confidential and privileged;

(9) Confidential proprietary and trade secret information provided to the commissioner under RCW 48.31C.020 through 48.31C.050 and 48.31C.070;

(10) Data filed under RCW 48.140.020, 48.140.030, 48.140.050, and 7.70.140 that, alone or in combination with any other data, may reveal the identity of a claimant, health care provider, health care facility, insuring entity, or self-insurer involved in a particular claim or a collection of claims. For the purposes of this subsection:

(a) "Claimant" has the same meaning as in RCW 48.140.010(2).

(b) "Health care facility" has the same meaning as in RCW 48.140.010(6).

(c) "Health care provider" has the same meaning as in RCW 48.140.010(7).

(d) "Insuring entity" has the same meaning as in RCW 48.140.010(8).

(e) "Self-insurer" has the same meaning as in RCW 48.140.010(11);

(11) Documents, materials, or information obtained by the insurance commissioner under RCW 48.135.060;

(12) Documents, materials, or information obtained by the insurance commissioner under RCW 48.37.060;

(13) Confidential and privileged documents obtained or produced by the insurance commissioner and identified in RCW 48.37.080;

(14) Documents, materials, or information obtained by the insurance commissioner under RCW 48.37.140;

(15) Documents, materials, or information obtained by the insurance commissioner under RCW 48.17.595; ~~((and))~~

(16) Documents, materials, or information obtained by the insurance commissioner under RCW 48.102.051(1) and 48.102.140 (3) and (7)(a)(ii); and

(17) Data, information, and documents provided by a carrier pursuant to section 1 of this act.

Passed by the House March 6, 2010.

Passed by the Senate March 4, 2010.

Approved by the Governor March 23, 2010.

Filed in Office of Secretary of State March 23, 2010.

CHAPTER 173

[House Bill 2540]

OUT-OF-STATE DENTIST LICENSES

AN ACT Relating to repealing the expiration date for provisions relating to the licensure of dentists from other states; and repealing 2008 c 147 s 3 (uncodified).

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

NEW SECTION. Sec. 1. 2008 c 147 s 3 (uncodified) is repealed.

Passed by the House January 28, 2010.

Passed by the Senate March 5, 2010.

Approved by the Governor March 23, 2010.

Filed in Office of Secretary of State March 23, 2010.

CHAPTER 174

[Second Substitute House Bill 2551]

WASHINGTON VACCINE ASSOCIATION—CREATION

AN ACT Relating to the establishment of the Washington vaccine association; amending RCW 43.70.720; adding a new section to chapter 43.24 RCW; adding a new section to chapter 48.43 RCW; adding a new section to chapter 82.04 RCW; adding a new chapter to Title 70 RCW; prescribing penalties; and declaring an emergency.

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

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

(1) "Association" means the Washington vaccine association.

(2) "Covered lives" means all persons under the age of nineteen in Washington state who are:

(a) Covered under an individual or group health benefit plan issued or delivered in Washington state or an individual or group health benefit plan that otherwise provides benefits to Washington residents; or

(b) Enrolled in a group health benefit plan administered by a third-party administrator. Persons under the age of nineteen for whom federal funding is used to purchase vaccines or who are enrolled in state purchased health care programs covering low-income children including, but not limited to, apple health for kids under RCW 74.09.470 and the basic health plan under chapter 70.47 RCW are not considered "covered lives" under this chapter.

(3) "Estimated vaccine cost" means the estimated cost to the state over the course of a state fiscal year for the purchase and distribution of vaccines purchased at the federal discount rate by the department of health.

(4) "Health benefit plan" has the same meaning as defined in RCW 48.43.005 and also includes health benefit plans administered by a third-party administrator.

(5) "Health carrier" has the same meaning as defined in RCW 48.43.005.

(6) "Secretary" means the secretary of the department of health.

(7) "State supplied vaccine" means vaccine purchased by the state department of health for covered lives for whom the state is purchasing vaccine using state funds raised via assessments on health carriers and third-party administrators as provided in this chapter.

(8) "Third-party administrator" means any person or entity who, on behalf of a health insurer or health care purchaser, receives or collects charges, contributions, or premiums for, or adjusts or settles claims on or for, residents of Washington state or Washington health care providers and facilities.

(9) "Total nonfederal program cost" means the estimated vaccine cost less the amount of federal revenue available to the state for the purchase and distribution of vaccines.

(10) "Vaccine" means a preparation of killed or attenuated living microorganisms, or fraction thereof, that upon administration stimulates immunity that protects against disease and is approved by the federal food and drug administration as safe and effective and recommended by the advisory committee on immunization practices of the centers for disease control and prevention for administration to children under the age of nineteen years.

NEW SECTION. Sec. 2. There is created a nonprofit corporation to be known as the Washington vaccine association. The association is formed for the purpose of collecting and remitting adequate funds from health carriers and third-party administrators for the cost of vaccines provided to certain children in Washington state.

NEW SECTION. Sec. 3. (1) The association is comprised of all health carriers issuing or renewing health benefit plans in Washington state and all third-party administrators conducting business on behalf of residents of Washington state or Washington health care providers and facilities. Third-party administrators are subject to registration under section 9 of this act.

(2) The association is a nonprofit corporation under chapter 24.03 RCW and has the powers granted under that chapter.

(3) The board of directors includes the following voting members:

(a) Four members, selected from health carriers or third-party administrators, excluding health maintenance organizations, that have the most fully insured and self-funded covered lives in Washington state. The count of total covered lives includes enrollment in all companies included in their holding company system. Each health carrier or third-party administrator is entitled to no more than a single position on the board to represent all entities under common ownership or control.

(b) One member selected from the health maintenance organization having the most fully insured and self-insured covered lives in Washington state. The count of total lives includes enrollment in all companies included in its holding company system. Each health maintenance organization is entitled to no more than a single position on the board to represent all entities under common ownership or control.

(c) One member, representing health carriers not otherwise represented on the board under (a) or (b) of this subsection, who is elected from among the health carrier members not designated under (a) or (b) of this subsection.

(d) One member, representing Taft Hartley plans, appointed by the secretary from a list of nominees submitted by the Northwest administrators association.

(e) One member representing Washington state employers offering self-funded health coverage, appointed by the secretary from a list of nominees submitted by the Puget Sound health alliance.

(f) Two physician members appointed by the secretary, including at least one board certified pediatrician.

(g) The secretary, or a designee of the secretary with expertise in childhood immunization purchasing and distribution.

(4) The directors' terms and appointments must be specified in the plan of operation adopted by the association.

(5) The board of directors of the association shall:

(a) Prepare and adopt articles of association and bylaws;

(b) Prepare and adopt a plan of operation. The plan of operation shall include a dispute mechanism through which a carrier or third-party administrator can challenge an assessment determination by the board under section 4 of this act. The board shall include a means to bring unresolved disputes to an impartial decision maker as a component of the dispute mechanism;

(c) Submit the plan of operation to the secretary for approval;

(d) Conduct all activities in accordance with the approved plan of operation;

(e) Enter into contracts as necessary or proper to collect and disburse the assessment;

(f) Enter into contracts as necessary or proper to administer the plan of operation;

(g) Sue or be sued, including taking any legal action necessary or proper for the recovery of any assessment for, on behalf of, or against members of the association or other participating person;

(h) Appoint, from among its directors, committees as necessary to provide technical assistance in the operation of the association, including the hiring of independent consultants as necessary;

(i) Obtain such liability and other insurance coverage for the benefit of the association, its directors, officers, employees, and agents as may in the judgment of the board of directors be helpful or necessary for the operation of the association;

(j) By May 1, 2010, establish the estimated amount of the assessment needed for the period of May 1, 2010, through December 31, 2010, based upon the estimate provided to the association under section 4(1) of this act; and notify, in writing, each health carrier and third-party administrator of the health carrier's or third-party administrator's total assessment for this period by May 15, 2010;

(k) On an annual basis, beginning no later than November 1, 2010, and by November 1st of each year thereafter, establish the estimated amount of the assessment;

(l) Notify, in writing, each health carrier and third-party administrator of the health carrier's or third-party administrator's estimated total assessment by November 15th of each year;

(m) Submit a periodic report to the secretary listing those health carriers or third-party administrators that failed to remit their assessments and audit health carrier and third-party administrator books and records for accuracy of assessment payment submission;

(n) Allow each health carrier or third-party administrator no more than ninety days after the notification required by (l) of this subsection to remit any amounts in arrears or submit a payment plan, subject to approval by the association and initial payment under an approved payment plan;

(o) Deposit annual assessments collected by the association, less the association's administrative costs, with the state treasurer to the credit of the universal vaccine purchase account established in RCW 43.70.720;

(p) Borrow and repay such working capital, reserve, or other funds as, in the judgment of the board of directors, may be helpful or necessary for the operation of the association; and

(q) Perform any other functions as may be necessary or proper to carry out the plan of operation and to affect any or all of the purposes for which the association is organized.

(6) The secretary shall convene the initial meeting of the association board of directors.

NEW SECTION. Sec. 4. (1) The secretary shall estimate the total nonfederal program cost for the upcoming calendar year by October 1, 2010, and October 1st of each year thereafter. Additionally, the secretary shall subtract any amounts needed to serve children enrolled in state purchased health care programs covering low-income children for whom federal vaccine funding is not available, and report the final amount to the association. In addition, the secretary shall perform such calculation for the period of May 1st through December 31st, 2010, as soon as feasible but in no event later than April 1, 2010. The estimates shall be timely communicated to the association.

(2) The board of directors of the association shall determine the method and timing of assessment collection in consultation with the department of health. The board shall use a formula designed by the board to ensure the total anticipated nonfederal program cost, minus costs for other children served through state-purchased health care programs covering low-income children, calculated under subsection (1) of this section, is collected and transmitted to the universal vaccine purchase account created in RCW 43.70.720 in order to ensure adequacy of state funds to order state-supplied vaccine from federal centers for disease control and prevention.

(3) Each licensed health carrier and each third-party administrator on behalf of its clients' health benefit plans must be assessed and is required to timely remit payment for its share of the total amount needed to fund nonfederal program costs calculated by the department of health. Such an assessment includes additional funds as determined necessary by the board to cover the reasonable costs for the association's administration. The board shall determine the assessment methodology, with the intent of ensuring that the nonfederal costs are based on actual usage of vaccine for a health carrier or third-party administrator's covered lives. State and local governments and school districts must pay their portion of vaccine expense for covered lives under this chapter.

(4) The board of the association shall develop a mechanism through which the number and cost of doses of vaccine purchased under this chapter that have been administered to children covered by each health carrier, and each third-party administrator's clients health benefit plans, are attributed to each such health carrier and third-party administrator. Except as otherwise permitted by the board, this mechanism must include at least the following: Date of service; patient name; vaccine received; and health benefit plan eligibility. The data must be collected and maintained in a manner consistent with applicable state and federal health information privacy laws. Beginning November 1, 2011, and each November 1st thereafter, the board shall factor the results of this

mechanism for the previous year into the determination of the appropriate assessment amount for each health carrier and third-party administrator for the upcoming year.

(5) For any year in which the total calculated cost to be received from association members through assessments is less than the total nonfederal program cost, the association must pay the difference to the state for deposit into the universal vaccine purchase account established in RCW 43.70.720. The board may assess, and the health carrier and third-party administrators are obligated to pay, their proportionate share of such costs and appropriate reserves as determined by the board.

(6) The aggregate amount to be raised by the association in any year may be reduced by any surpluses remaining from prior years.

(7) In order to generate sufficient start-up funding, the association may accept prepayment from member health carriers and third-party administrators, subject to offset of future amounts otherwise owing or other repayment method as determined by the board. The initial deposit of start-up funding must be deposited into the universal vaccine purchase account on or before April 30, 2010.

NEW SECTION. Sec. 5. (1) The board of the association shall establish a committee for the purposes of developing recommendations to the board regarding selection of vaccines to be purchased in each upcoming year by the department. The committee must be composed of at least five voting board members, including at least three health carrier or third-party administrator members, one physician, and the secretary or the secretary's designee. The committee must also include a representative of vaccine manufacturers, who is a nonvoting member of the committee. The representative of vaccine manufacturers must be chosen by the secretary from a list of three nominees submitted collectively by vaccine manufacturers on an annual basis.

(2) In selecting vaccines to purchase, the following factors should be strongly considered by the committee: Patient safety and clinical efficacy, public health and purchaser value, compliance with RCW 70.95M.115, patient and provider choice, and stability of vaccine supply.

NEW SECTION. Sec. 6. In addition to the duties and powers enumerated elsewhere in this chapter:

(1) The association may, pursuant to either vote of its board of directors or request of the secretary, audit compliance with reporting obligations established under the association's plan of operation. Upon failure of any entity that has been audited to reimburse the costs of such audit as certified by vote of the association's board of directors within forty-five days of notice of such vote, the secretary shall assess a civil penalty of one hundred fifty percent of the amount of such costs.

(2) The association may establish an interest charge for late payment of any assessment under this chapter. The secretary shall assess a civil penalty against any health carrier or third-party administrator that fails to pay an assessment within three months of notification under section 3 of this act. The civil penalty under this subsection is one hundred fifty percent of such assessment.

(3) The secretary and the association are authorized to file liens and seek judgment to recover amounts in arrears and civil penalties, and recover

reasonable collection costs, including reasonable attorneys' fees and costs. Civil penalties so levied must be deposited in the universal vaccine purchase account created in RCW 43.70.720.

(4) The secretary may adopt rules under chapter 34.05 RCW as necessary to carry out the purposes of this section.

NEW SECTION. Sec. 7. The board of directors of the association shall submit to the secretary, no later than one hundred twenty days after the close of the association's fiscal year, a financial report in a form approved by the secretary.

NEW SECTION. Sec. 8. No liability on the part of, and no cause of action of any nature, shall arise against any member of the board of the association, against an employee or agent of the association, or against any health care provider for any lawful action taken by them in the performance of their duties or required activities under this chapter.

NEW SECTION. Sec. 9. A new section is added to chapter 43.24 RCW to read as follows:

(1)(a) Beginning September 1, 2010, a third-party administrator must register with the department of licensing and renew its registration on an annual basis thereafter prior to December 31st of each year, or within ten days after the registrant changes its name, business name, business address, or business telephone number, whichever occurs sooner.

(b) The registrant shall pay the registration or renewal fee established by the department of licensing as provided in RCW 43.24.086.

(c) Any person or entity that is acting as or holding itself out to be a third-party administrator while failing to have registered under this section is subject to a civil penalty of not less than one thousand dollars nor more than ten thousand dollars for each violation. The civil penalty is in addition to any other penalties that may be imposed for violations of other laws of this state.

(2) For the purposes of this section, "third-party administrator" has the same meaning as defined in section 1 of this act.

(3) The department of licensing may adopt rules under chapter 34.05 RCW as necessary to implement this section.

Sec. 10. RCW 43.70.720 and 2009 c 564 s 934 are each amended to read as follows:

The universal vaccine purchase account is created in the custody of the state treasurer. Receipts from public and private sources for the purpose of increasing access to vaccines for children may be deposited into the account. Expenditures from the account must be used exclusively for the purchase of vaccines, at no cost to health care providers in Washington, to administer to children under nineteen years old who are not eligible to receive vaccines at no cost through federal programs. Only the secretary or the secretary's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

NEW SECTION. Sec. 11. Sections 1 through 8 and 12 through 14 of this act constitute a new chapter in Title 70 RCW.

NEW SECTION. Sec. 12. (1) The association board may, on or after June 30, 2015, vote to recommend termination of the association if it finds that the

original intent of its formation and operation, which is to ensure more cost-effective purchase and distribution of vaccine than if provided through uncoordinated purchase by health care providers, has not been achieved. The association board shall provide notice of the recommendation to the relevant policy and fiscal committees of the legislature within thirty days of the vote being taken by the association board. If the legislature has not acted by the last day of the next regular legislative session to reject the board's recommendation, the board may vote to permanently dissolve the association.

(2) In the event of a voluntary or involuntary dissolution of the association, funds remaining in the universal purchase vaccine account created in RCW 43.70.720 that were collected under this chapter must be returned to the member health carrier and third-party administrators in proportion to their previous year's contribution, from any balance remaining following the repayment of any prepayments for start-up funding not previously recouped by such member.

NEW SECTION. Sec. 13. Physicians and clinics ordering state supplied vaccine must ensure they have billing mechanisms and practices in place that enable the association to accurately track vaccine delivered to association members' covered lives and must submit documentation in such a form as may be prescribed by the board in consultation with state physician organizations. Physicians and other persons providing childhood immunization are strongly encouraged to use state supplied vaccine whenever possible. Nothing in this chapter prohibits health carriers and third-party administrators from denying claims for vaccine serum costs when the serum or serums providing similar protection are provided or available via state supplied vaccine.

NEW SECTION. Sec. 14. If the requirement that any segment of health carriers, third-party administrators, or state or local governmental entities provide funding for the program established in this chapter is invalidated by a court of competent jurisdiction, the board of the association may terminate the program one hundred twenty days following a final judicial determination on the matter.

NEW SECTION. Sec. 15. A new section is added to chapter 48.43 RCW to read as follows:

Assessments paid by carriers under section 4 of this act may be considered medical expenses for purposes of rate setting and regulatory filings.

NEW SECTION. Sec. 16. A new section is added to chapter 82.04 RCW to read as follows:

This chapter does not apply to assessments described in sections 3 and 4 of this act received by a nonprofit corporation established under section 2 of this act.

NEW SECTION. Sec. 17. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed by the House March 6, 2010.

Passed by the Senate March 2, 2010.

Approved by the Governor March 23, 2010.

Filed in Office of Secretary of State March 23, 2010.

CHAPTER 175

[Engrossed Substitute House Bill 1956]

HOMELESS PERSONS—SHELTERS—RELIGIOUS ORGANIZATIONS

AN ACT Relating to the housing of homeless persons on property owned or controlled by a church; adding a new section to chapter 36.01 RCW; adding a new section to chapter 35.21 RCW; adding a new section to chapter 35A.21 RCW; and creating new sections.

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

NEW SECTION. Sec. 1. The legislature finds that there are many homeless persons in our state that are in need of shelter and other services that are not being provided by the state and local governments. The legislature also finds that in many communities, religious organizations play an important role in providing needed services to the homeless, including the provision of shelter upon property owned by the religious organization. By providing such shelter, the religious institutions in our communities perform a valuable public service that, for many, offers a temporary, stop-gap solution to the larger social problem of increasing numbers of homeless persons.

This act provides guidance to cities and counties in regulating homeless encampments within the community, but still leaves those entities with broad discretion to protect the health and safety of its citizens. It is the hope of this legislature that local governments and religious organizations can work together and utilize dispute resolution processes without the need for litigation.

NEW SECTION. Sec. 2. A new section is added to chapter 36.01 RCW to read as follows:

(1) A religious organization may host temporary encampments for the homeless on property owned or controlled by the religious organization whether within buildings located on the property or elsewhere on the property outside of buildings.

(2) A county may not enact an ordinance or regulation or take any other action that:

(a) Imposes conditions other than those necessary to protect public health and safety and that do not substantially burden the decisions or actions of a religious organization regarding the location of housing or shelter for homeless persons on property owned by the religious organization;

(b) Requires a religious organization to obtain insurance pertaining to the liability of a municipality with respect to homeless persons housed on property owned by a religious organization or otherwise requires the religious organization to indemnify the municipality against such liability; or

(c) Imposes permit fees in excess of the actual costs associated with the review and approval of the required permit applications.

(3) For the purposes of this section, "religious organization" means the federally protected practice of a recognized religious assembly, school, or institution that owns or controls real property.

(4) An appointed or elected public official, public employee, or public agency as defined in RCW 4.24.470 is immune from civil liability for (a) damages arising from the permitting decisions for a temporary encampment for the homeless as provided in this section and (b) any conduct or unlawful activity that may occur as a result of the temporary encampment for the homeless as provided in this section.

NEW SECTION. Sec. 3. A new section is added to chapter 35.21 RCW to read as follows:

(1) A religious organization may host temporary encampments for the homeless on property owned or controlled by the religious organization whether within buildings located on the property or elsewhere on the property outside of buildings.

(2) A city or town may not enact an ordinance or regulation or take any other action that:

(a) Imposes conditions other than those necessary to protect public health and safety and that do not substantially burden the decisions or actions of a religious organization regarding the location of housing or shelter for homeless persons on property owned by the religious organization;

(b) Requires a religious organization to obtain insurance pertaining to the liability of a municipality with respect to homeless persons housed on property owned by a religious organization or otherwise requires the religious organization to indemnify the municipality against such liability; or

(c) Imposes permit fees in excess of the actual costs associated with the review and approval of the required permit applications.

(3) For the purposes of this section, "religious organization" means the federally protected practice of a recognized religious assembly, school, or institution that owns or controls real property.

(4) An appointed or elected public official, public employee, or public agency as defined in RCW 4.24.470 is immune from civil liability for (a) damages arising from the permitting decisions for a temporary encampment for the homeless as provided in this section and (b) any conduct or unlawful activity that may occur as a result of the temporary encampment for the homeless as provided in this section.

NEW SECTION. Sec. 4. A new section is added to chapter 35A.21 RCW to read as follows:

(1) A religious organization may host temporary encampments for the homeless on property owned or controlled by the religious organization whether within buildings located on the property or elsewhere on the property outside of buildings.

(2) A code city may not enact an ordinance or regulation or take any other action that:

(a) Imposes conditions other than those necessary to protect public health and safety and that do not substantially burden the decisions or actions of a religious organization regarding the location of housing or shelter for homeless persons on property owned by the religious organization;

(b) Requires a religious organization to obtain insurance pertaining to the liability of a municipality with respect to homeless persons housed on property owned by a religious organization or otherwise requires the religious organization to indemnify the municipality against such liability; or

(c) Imposes permit fees in excess of the actual costs associated with the review and approval of the required permit applications.

(3) For the purposes of this section, "religious organization" means the federally protected practice of a recognized religious assembly, school, or institution that owns or controls real property.

(4) An appointed or elected public official, public employee, or public agency as defined in RCW 4.24.470 is immune from civil liability for (a) damages arising from the permitting decisions for a temporary encampment for the homeless as provided in this section and (b) any conduct or unlawful activity that may occur as a result of the temporary encampment for the homeless as provided in this section.

NEW SECTION. **Sec. 5.** Nothing in this act is intended to change applicable law or be interpreted to prohibit a county, city, town, or code city from applying zoning and land use regulations allowable under established law to real property owned by a religious organization, regardless of whether the property owned by the religious organization is used to provide shelter or housing to homeless persons.

NEW SECTION. **Sec. 6.** Nothing in this act supersedes a court ordered consent decree or other negotiated settlement between a public agency and religious organization entered into prior to July 1, 2010, for the purposes of establishing a temporary encampment for the homeless as provided in this act.

Passed by the House March 6, 2010.

Passed by the Senate March 2, 2010.

Approved by the Governor March 23, 2010.

Filed in Office of Secretary of State March 23, 2010.

CHAPTER 176

[Substitute House Bill 2596]

CHILDREN'S ADVOCACY CENTERS—CHILD ABUSE INVESTIGATION PROTOCOLS

AN ACT Relating to defining child advocacy centers for the multidisciplinary investigation of child abuse and implementation of county protocols; and amending RCW 26.44.020, 26.44.180, and 26.44.185.

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

Sec. 1. RCW 26.44.020 and 2009 c 520 s 17 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Abuse or neglect" means sexual abuse, sexual exploitation, or injury of a child by any person under circumstances which cause harm to the child's health, welfare, or safety, excluding conduct permitted under RCW 9A.16.100; or the negligent treatment or maltreatment of a child by a person responsible for or providing care to the child. An abused child is a child who has been subjected to child abuse or neglect as defined in this section.

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

(3) "Child protective services" means those services provided by the department designed to protect children from child abuse and neglect and safeguard such children from future abuse and neglect, and conduct investigations of child abuse and neglect reports. Investigations may be conducted regardless of the location of the alleged abuse or neglect. Child protective services includes referral to services to ameliorate conditions that endanger the welfare of children, the coordination of necessary programs and

services relevant to the prevention, intervention, and treatment of child abuse and neglect, and services to children to ensure that each child has a permanent home. In determining whether protective services should be provided, the department shall not decline to provide such services solely because of the child's unwillingness or developmental inability to describe the nature and severity of the abuse or neglect.

(4) "Child protective services section" means the child protective services section of the department.

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

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

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

(8) "Founded" means the determination following an investigation by the department that, based on available information, it is more likely than not that child abuse or neglect did occur.

(9) "Inconclusive" means the determination following an investigation by the department, prior to October 1, 2008, that based on available information a decision cannot be made that more likely than not, child abuse or neglect did or did not occur.

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

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

(12) "Malice" or "maliciously" means an intent, wish, or design to intimidate, annoy, or injure another person. Such malice may be inferred from an act done in willful disregard of the rights of another, or an act wrongfully done without just cause or excuse, or an act or omission of duty betraying a willful disregard of social duty.

(13) "Negligent treatment or maltreatment" means an act or a failure to act, or the cumulative effects of a pattern of conduct, behavior, or inaction, that evidences a serious disregard of consequences of such magnitude as to constitute a clear and present danger to a child's health, welfare, or safety, including but not limited to conduct prohibited under RCW 9A.42.100. When considering whether a clear and present danger exists, evidence of a parent's substance abuse as a contributing factor to negligent treatment or maltreatment shall be given great weight. The fact that siblings share a bedroom is not, in and of itself, negligent treatment or maltreatment. Poverty, homelessness, or exposure to domestic violence as defined in RCW 26.50.010 that is perpetrated against someone other than the child does not constitute negligent treatment or maltreatment in and of itself.

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

(15) "Practitioner of the healing arts" or "practitioner" means a person licensed by this state to practice podiatric medicine and surgery, optometry,

chiropractic, nursing, dentistry, osteopathic medicine and surgery, or medicine and surgery or to provide other health services. The term "practitioner" includes a duly accredited Christian Science practitioner. A person who is being furnished Christian Science treatment by a duly accredited Christian Science practitioner will not be considered, for that reason alone, a neglected person for the purposes of this chapter.

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

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

(18) "Screened-out report" means a report of alleged child abuse or neglect that the department has determined does not rise to the level of a credible report of abuse or neglect and is not referred for investigation.

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

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

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

(22) "Supervising agency" means an agency licensed by the state under RCW 74.15.090 or an Indian tribe under RCW 74.15.190 that has entered into a performance-based contract with the department to provide child welfare services.

(23) "Unfounded" means the determination following an investigation by the department that available information indicates that, more likely than not, child abuse or neglect did not occur, or that there is insufficient evidence for the department to determine whether the alleged child abuse did or did not occur.

(24) "Children's advocacy center" means a child-focused facility in good standing with the state chapter for children's advocacy centers and that coordinates a multidisciplinary process for the investigation, prosecution, and treatment of sexual and other types of child abuse. Children's advocacy centers provide a location for forensic interviews and coordinate access to services such as, but not limited to, medical evaluations, advocacy, therapy, and case review by multidisciplinary teams within the context of county protocols as defined in RCW 26.44.180 and 26.44.185.

Sec. 2. RCW 26.44.180 and 1999 c 389 s 4 are each amended to read as follows:

(1) Each agency involved in investigating child sexual abuse shall document its role in handling cases and how it will coordinate with other local agencies or systems and shall adopt a local protocol based on the state guidelines. The department and local law enforcement agencies may include other agencies and

systems that are involved with child sexual abuse victims in the multidisciplinary coordination.

(2) Each county shall develop a written protocol for handling criminal child sexual abuse investigations. The protocol shall address the coordination of child sexual abuse investigations between the prosecutor's office, law enforcement, ~~((the department))~~ children's protective services, children's advocacy centers, where available, local advocacy groups, community sexual assault programs, as defined in RCW 70.125.030, and any other local agency involved in the criminal investigation of child sexual abuse, including those investigations involving multiple victims and multiple offenders. The protocol shall be developed by the prosecuting attorney with the assistance of the agencies referenced in this subsection.

(3) Local protocols under this section shall be adopted and in place by July 1, 2000, and shall be submitted to the legislature prior to that date.

Sec. 3. RCW 26.44.185 and 2007 c 410 s 3 are each amended to read as follows:

(1) Each county shall revise and expand its existing child sexual abuse investigation protocol to address investigations of child fatality, child physical abuse, and criminal child neglect cases and to incorporate the statewide guidelines for first responders to child fatalities developed by the criminal justice training commission. The protocols shall address the coordination of child fatality, child physical abuse, and criminal child neglect investigations between the county and city prosecutor's offices, law enforcement, children's protective services, children's advocacy centers, where available, local advocacy groups, emergency medical services, and any other local agency involved in the investigation of such cases. The protocol revision and expansion shall be developed by the prosecuting attorney in collaboration with the agencies referenced in this section.

(2) Revised and expanded protocols under this section shall be adopted and in place by July 1, 2008. Thereafter, the protocols shall be reviewed every two years to determine whether modifications are needed.

Passed by the House February 11, 2010.

Passed by the Senate March 10, 2010.

Approved by the Governor March 23, 2010.

Filed in Office of Secretary of State March 23, 2010.

CHAPTER 177

[Substitute House Bill 2443]

CONTROLLED SUBSTANCES ACT—UPDATE

AN ACT Relating to conforming the uniform controlled substances act to existing state and federal law; and amending RCW 69.50.101, 69.50.204, 69.50.206, 69.50.208, 69.50.210, 69.50.212, and 69.50.402.

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

Sec. 1. RCW 69.50.101 and 2003 c 142 s 4 are each amended to read as follows:

Unless the context clearly requires otherwise, definitions of terms shall be as indicated where used in this chapter:

(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) "Board" means the state board of pharmacy.

(d) "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 board rules.

(e)(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.

(f) "Deliver" or "delivery," means the actual or constructive transfer from one person to another of a substance, whether or not there is an agency relationship.

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

(h) "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.

(i) "Dispenser" means a practitioner who dispenses.

(j) "Distribute" means to deliver other than by administering or dispensing a controlled substance.

(k) "Distributor" means a person who distributes.

(l) "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.

(m) "Drug enforcement administration" means the drug enforcement administration in the United States Department of Justice, or its successor agency.

(n) "Immediate precursor" means a substance:

(1) that the state board of pharmacy 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.

(o) "Isomer" means an optical isomer, but in RCW 69.50.101(r)(5), 69.50.204(a) (12) and (34), and 69.50.206(~~(a)~~) (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.

(p) "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.

(q) "Marijuana" or "marihuana" means all parts of the plant Cannabis, whether growing or not; 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.

(r) "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).

(s) "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.

(t) "Opium poppy" means the plant of the species *Papaver somniferum* L., except its seeds.

(u) "Person" means individual, corporation, business trust, estate, trust, partnership, association, joint venture, government, governmental subdivision or agency, or any other legal or commercial entity.

(v) "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

(w) "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 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, or a veterinarian licensed to practice veterinary medicine in any state of the United States.

(x) "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.

(y) "Production" includes the manufacturing, planting, cultivating, growing, or harvesting of a controlled substance.

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

(aa) "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.

(bb) "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.

(cc) "Electronic communication of prescription information" means the communication of prescription information by computer, or the transmission of an exact visual image of a prescription by facsimile, or other electronic means for original prescription information or prescription refill information for a Schedule III-V controlled substance between an authorized practitioner and a pharmacy or the transfer of prescription information for a controlled substance from one pharmacy to another pharmacy.

Sec. 2. RCW 69.50.204 and 1993 c 187 s 4 are each amended to read as follows:

Unless specifically excepted by state or federal law or regulation or more specifically included in another schedule, the following controlled substances are listed in Schedule I:

(a) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers whenever the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation:

(1) Acetyl-alpha-methylfentanyl (N-[1-(1-methyl-2-phenethyl)-4-piperidinyl]-N-phenylacetamide);

(2) Acetylmethadol;

(3) Allyprodine;

- (4) Alphacetylmethadol, except levo-alphacetylmethadol, also known as levo-alpha-acetylmethadol, levomethadyl acetate, or LAAM;
- (5) Alphameprodine;
- (6) Alphamethadol;
- (7) Alpha-methylfentanyl (N-[1-(alpha-methyl-beta-phenyl) ethyl-4-piperidyl] propionanilide); (1-(1-methyl-2-phenylethyl)-4-(N-propanilido) piperidine);
- (8) Alpha-methylthiofentanyl (N-[1-methyl-2-(2-thienyl)ethyl-4-piperidiny]-N-phenylpropanamide);
- (9) Benzethidine;
- (10) Betacetylmethadol;
- (11) Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-phenethyl)-4-piperidiny]-N-phenylpropanamide);
- (12) Beta-hydroxy-3-methylfentanyl, some trade or other names: N-[1-(2-hydrox-2-phenethyl)-3-methyl-4-piperidiny]-N-phenylpropanamide;
- (13) Betameprodine;
- (14) Betamethadol;
- (15) Betaprodine;
- (16) Clonitazene;
- (17) Dextromoramide;
- (18) Diampromide;
- (19) Diethylthiambutene;
- (20) Difenoxin;
- (21) Dimenoxadol;
- (22) Dimepheptanol;
- (23) Dimethylthiambutene;
- (24) Dioxaphetyl butyrate;
- (25) Dipipanone;
- (26) Ethylmethylthiambutene;
- (27) Etonitazene;
- (28) Etoxidine;
- (29) Furethidine;
- (30) Hydroxypethidine;
- (31) Ketobemidone;
- (32) Levomoramide;
- (33) Levophenacylmorphane;
- (34) 3-Methylfentanyl (N-[3-methyl-1-(2-phenylethyl)-4-piperidyl]-N-phenylprop anamide);
- (35) 3-Methylthiofentanyl (N-[(3-methyl-1-(2-thienyl)ethyl-4-piperidiny]-N-phenylpropanamide);
- (36) Morpheridine;
- (37) MPPP (1-methyl-4-phenyl-4-propionoxypiperidine);
- (38) Noracymethadol;
- (39) Norlevorphanol;
- (40) Normethadone;
- (41) Norpipanone;
- (42) Para-fluorofentanyl (N-(4-fluorophenyl)-N-[1-(2-phenethyl)-4-piperidiny] propanamide);
- (43) PEPAP(1-(2-phenethyl)-4-phenyl-4-acetoxypiperidine);

- (44) Phenadoxone;
- (45) Phenampromide;
- (46) Phenomorphan;
- (47) Phenoperidine;
- (48) Piritramide;
- (49) Proheptazine;
- (50) Properidine;
- (51) Propiram;
- (52) Racemoramide;
- (53) Thiofentanyl (N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidinyl]-propanamide);
- (54) Tilidine;
- (55) Trimeperidine.

(b) Opium derivatives. Unless specifically excepted or unless listed in another schedule, any of the following opium derivatives, including their salts, isomers, and salts of isomers whenever the existence of those salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (1) Acetorphine;
- (2) Acetyldihydrocodeine;
- (3) Benzylmorphine;
- (4) Codeine methylbromide;
- (5) Codeine-N-Oxide;
- (6) Cyprenorphine;
- (7) Desomorphine;
- (8) ~~((3,4-methylenedioxy-N-ethylamphetamine some trade or other names: N-ethyl-alpha-methyl-3,4(methylenedioxy)phenethylamine, N-ethyl-MDA, MDE, MDEA;~~
- (9) ~~N-hydroxy-3,4-methylenedioxyamphetamine some trade or other names: N-hydroxy-alpha-methyl-3,4(methylenedioxy)phenethylamine, and N-hydroxy-MDA;~~
- ~~((10))~~ (10) Dihydromorphine;
- ~~((11))~~ (9) Droterbanol;
- ~~((12))~~ (10) Etorphine, except hydrochloride salt;
- ~~((13))~~ (11) Heroin;
- ~~((14))~~ (12) Hydromorphanol;
- ~~((15))~~ (13) Methyldesorphine;
- ~~((16))~~ (14) Methyldihydromorphine;
- ~~((17))~~ (15) Morphine methylbromide;
- ~~((18))~~ (16) Morphine methylsulfonate;
- ~~((19))~~ (17) Morphine-N-Oxide;
- ~~((20))~~ (18) Myrophine;
- ~~((21))~~ (19) Nicocodeine;
- ~~((22))~~ (20) Nicomorphine;
- ~~((23))~~ (21) Normorphine;
- ~~((24))~~ (22) Pholcodine;
- ~~((25))~~ (23) Thebacon.

(c) Hallucinogenic substances. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following hallucinogenic substances, including their

salts, isomers, and salts of isomers whenever the existence of those salts, isomers, and salts of isomers is possible within the specific chemical designation. For the purposes of this subsection only, the term "isomer" includes the optical, position, and geometric isomers:

(1) Alpha-ethyltryptamine: Some trade or other names: Etryptamine; monase; a-ethyl-1H-indole-3-ethanamine; 3-(2-aminobutyl) indole; a-ET; and AET;

(2) 4-bromo-2,5-dimethoxy-amphetamine: Some trade or other names: 4-bromo-2,5-dimethoxy-a-methylphenethylamine; 4-bromo-2,5-DMA;

~~((2))~~ (3) 4-Bromo-2,5-dimethoxyphenethylamine: Some trade or other names: 2-(4-bromo-2,5-dimethoxyphenyl)-1-aminoethane; alpha-desmethyl DOB; 2C-B, nexus;

(4) 2,5-dimethoxyamphetamine: Some trade or other names: 2,5-dimethoxy-a-methylphenethylamine; 2,5-DMA;

~~((3))~~ (5) 2,5-dimethoxy-4-ethylamphetamine (DOET);

(6) 2,5-dimethoxy-4-(n)-propylthiophenethylamine: Other name: 2C-T-7;

(7) 4-methoxyamphetamine: Some trade or other names: 4-methoxy-a-methylphenethylamine; paramethoxyamphetamine, PMA;

~~((4))~~ (8) 5-methoxy-3,4-methylenedioxy-amphetamine;

~~((5))~~ (9) 4-methyl-2,5-dimethoxy-amphetamine: Some trade and other names: 4-methyl-2,5-dimethoxy-a-methylphenethylamine; "DOM"; and "STP";

~~((6))~~ (10) 3,4-methylenedioxy amphetamine;

~~((7))~~ (11) 3,4-methylenedioxymethamphetamine (MDMA);

~~((8))~~ (12) 3,4-methylenedioxy-N-ethylamphetamine, also known as N-ethyl-alpha-methyl-3,4(methylenedioxy)phenethylamine, N-ethyl MDA, MDE, MDEA;

(13) N-hydroxy-3,4-methylenedioxyamphetamine also known as N-hydroxy-alpha-methyl-3,4(methylenedioxy)phenethylamine, N-hydroxy MDA;

(14) 3,4,5-trimethoxy amphetamine;

~~((9))~~ (15) Alpha-methyltryptamine: Other name: AMT;

(16) Bufotenine: Some trade or other names: 3-(beta-Dimethylaminoethyl)-5-hydroxyindole; 3-(2-dimethylaminoethyl)-5-indolol; N, N-dimethylserotonin; 5-hydroxy-N,N-dimethyltryptamine; mappine;

~~((10))~~ (17) Diethyltryptamine: Some trade or other names: N,N-Diethyltryptamine; DET;

~~((11))~~ (18) Dimethyltryptamine: Some trade or other names: DMT;

~~((12))~~ (19) 5-methoxy-N,N-diisopropyltryptamine: Other name: 5-MeO-DIPT;

(20) Ibogaine: Some trade or other names: 7-Ethyl-6,6 beta,7,8,9,10,12,13,-octahydro-2-methoxy-6,9-methano-5H-pyndo (1',2' 1,2) azepino (5,4-b) indole; Tabernanthe iboga;

~~((13))~~ (21) Lysergic acid diethylamide;

~~((14))~~ (22) Marihuana or marijuana;

~~((15))~~ (23) Mescaline;

~~((16))~~ (24) Parahexyl-7374: Some trade or other names: 3-Hexyl-1-hydroxy-7, 8, 9, 10-tetrahydro-6, 6, 9-trimethyl-6H-dibenzo[b,d]pyran; synhexyl;

~~((17))~~ (25) Peyote, meaning all parts of the plant presently classified botanically as Lophophora Williamsii Lemaire, whether growing or not, the

seeds thereof, any extract from any part of such plant, and every compound, manufacture, salts, derivative, mixture, or preparation of such plant, its seeds, or extracts; (interprets 21 U.S.C. Sec. 812 (c), Schedule I (c)(12));

~~((18))~~ (26) N-ethyl-3-piperidyl benzilate;

~~((19))~~ (27) N-methyl-3-piperidyl benzilate;

~~((20))~~ (28) Psilocybin;

~~((21))~~ (29) Psilocyn;

~~((22))~~ (30) Tetrahydrocannabinols, meaning tetrahydrocannabinols naturally contained in a plant of the genus Cannabis (cannabis plant), as well as synthetic equivalents of the substances contained in the plant, or in the resinous extractives of Cannabis, species, and/or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity such as the following:

(i) ~~((Delta))~~ 1 - cis - or trans tetrahydrocannabinol, and their optical isomers, excluding tetrahydrocannabinol in sesame oil and encapsulated in a soft gelatin capsule in a drug product approved by the United States Food and Drug Administration;

(ii) ~~((Delta))~~ 6 - cis - or trans tetrahydrocannabinol, and their optical isomers;

(iii) ~~((Delta))~~ 3,4 - cis - or trans tetrahydrocannabinol, and its optical isomers;

(Since nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions covered.)

~~((23))~~ (31) Ethylamine analog of phencyclidine: Some trade or other names: N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl) ethylamine; N-(1-phenylcyclohexyl)ethylamine; cyclohexamine; PCE;

~~((24))~~ (32) Pyrrolidine analog of phencyclidine: Some trade or other names: 1-(1-phenylcyclohexyl)pyrrolidine; PCPy; PHP;

~~((25))~~ (33) Thiophene analog of phencyclidine: Some trade or other names: 1-(1-[2-thienyl]-cyclohexyl)-piperidine; 2-thienylanalog of phencyclidine; TPCP; TCP;

~~((26))~~ (34) 1-[1-(2-thienyl)cyclohexyl]pyrrolidine: A trade or other name is TCPy.

(d) Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation.

(1) Gamma-hydroxybutyric acid: Some other names include GHB; gamma-hydroxybutyrate; 4-hydroxybutyrate; 4-hydroxybutanoic acid; sodium oxybate; sodium oxybutyrate.

(2) Mecloqualone;

~~((2))~~ (3) Methaqualone.

(e) Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers:

(1) Aminorex: Some other names: aminoxaphen; 2-amino-5-phenyl-2-oxazoline; or 4, 5-dihydro-5-phenyl-2-oxazolamine;

(2) N-Benzylpiperazine: Some other names: BZP; 1-benzylpiperazine;

(3) Cathinone, also known as 2-amino-1-phenyl-1-propanone, alpha-aminopropiophenone, 2-aminopropiophenone and norephedrone;

(4) Fenethylamine;

~~((2))~~ (5) Methcathinone: Some other names: 2-(methylamino)-propiophenone; alpha-(methylamino)propiophenone; 2-(methylamino)-1-phenylpropan-1-one; alpha-N-methylaminopropiophenone; monomethylpropion; ephedrone; N-methylcathinone; methylcathinone; AL-464; AL-422; AL-463 and UR1432, its salts, optical isomers, and salts of optical isomers;

(6) (+-)cis-4-methylaminorex ~~((+))~~ cis-4,5-dihydro-4-methyl-5-phenyl-2-oxazolamine;

~~((3))~~ (7) N-ethylamphetamine;

~~((4))~~ (8) N,N-dimethylamphetamine: Some trade or other names: N,N-alpha-trimethyl-benzeneethanamine; N,N-alpha-trimethylphenoethylene.

The controlled substances in this section may be added, rescheduled, or deleted as provided for in RCW 69.50.201.

Sec. 3. RCW 69.50.206 and 1993 c 187 s 6 are each amended to read as follows:

(a) The drugs and other substances listed in this section, by whatever official name, common or usual name, chemical name, or brand name designated, are included in Schedule II.

(b) Substances. (Vegetable origin or chemical synthesis.) Unless specifically excepted, any of the following substances, except those listed in other schedules, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by combination of extraction and chemical synthesis:

(1) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate, excluding apomorphine, thebaine-derived butorphanol, dextrorphan, nalbuphine, nalmefene, naloxone, and naltrexone, and their respective salts, but including the following:

(i) Raw opium;

(ii) Opium extracts;

(iii) Opium fluid;

(iv) Powdered opium;

(v) Granulated opium;

(vi) Tincture of opium;

(vii) Codeine;

(viii) Dihydroetorphine;

~~(ix)~~ Ethylmorphine;

~~((ix))~~ (x) Etorphine hydrochloride;

~~((x))~~ (xi) Hydrocodone;

~~((xi))~~ (xii) Hydromorphone;

~~((xii))~~ (xiii) Metopon;

~~((xiii))~~ (xiv) Morphine;

~~((xiv))~~ (xv) Oripavine;

(xvi) Oxycodone;

~~((xv))~~ (xvii) Oxymorphone; and

~~((xvi))~~ (xviii) Thebaine.

(2) Any salt, compound, isomer, derivative, or preparation thereof that is chemically equivalent or identical with any of the substances referred to in subsection (b)(1) of this section, but not including the isoquinoline alkaloids of opium.

(3) Opium poppy and poppy straw.

(4) Coca leaves and any salt, compound, derivative, or preparation of coca leaves including cocaine and ecgonine, and their salts, isomers, derivatives, and salts of isomers and derivatives, and any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, ~~((but not including))~~ except that the substances shall not include decocainized coca leaves or extractions of coca leaves which do not contain cocaine or ecgonine.

(5) ~~((Methylbenzoyllecgonine (cocaine — its salts, optical isomers, and salts of optical isomers):~~

~~(6))~~ Concentrate of poppy straw (The crude extract of poppy straw in either liquid, solid, or powder form which contains the phenanthrene alkaloids of the opium poppy.)

(c) Opiates. Unless specifically excepted or unless in another schedule, any of the following synthetic opiates, including its isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, whenever the existence of such isomers, esters, ethers, and salts is possible within the specific chemical designation, dextrorphan and levopropoxyphene excepted:

(1) Alfentanil;

(2) Alphaprodine;

(3) Anileridine;

(4) Bezitramide;

(5) Bulk dextropropoxyphene (nondosage forms);

(6) Carfentanil;

(7) Dihydrocodeine;

(8) Diphenoxylate;

(9) Fentanyl;

(10) Isomethadone;

(11) Levo-alpha-acetylmethadol, also known as levo-alpha-acetylmethadol, levomethadyl acetate, or LAAM;

(12) Levomethorphan;

~~((12))~~ (13) Levorphanol;

~~((13))~~ (14) Metazocine;

~~((14))~~ (15) Methadone;

~~((15))~~ (16) Methadone—Intermediate, 4-cyano-2-dimethylamino-4, 4-diphenyl butane;

~~((16))~~ (17) Moramide—Intermediate, 2-methyl-3-morpholino-1, 1-diphenylpropane-carboxylic acid;

~~((17))~~ (18) Pethidine (meperidine);

~~((18))~~ (19) Pethidine—Intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine;

~~((19))~~ (20) Pethidine—Intermediate-B, ethyl-4-phenylpiperidine-4-carboxylate;

~~((20))~~ (21) Pethidine-Intermediate-C, 1-methyl-4-phenylpiperidine-4-carboxylic acid;

~~((21))~~ (22) Phenazocine;

~~((22))~~ (23) Piminodine;

~~((23))~~ (24) Racemethorphan;

~~((24))~~ (25) Racemorphan;

~~((25))~~ (26) Remifentanyl;

(27) Sufentanyl;

(28) Tapentadol.

(d) Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system:

(1) Amphetamine, its salts, optical isomers, and salts of its optical isomers;

(2) Methamphetamine, its salts, isomers, and salts of its isomers;

(3) Phenmetrazine and its salts;

(4) Methylphenidate;

(5) Lisdexamfetamine, its salts, isomers, and salts of its isomers.

(e) Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) Amobarbital;

(2) Glutethimide;

(3) Pentobarbital;

(4) Phencyclidine;

(5) Secobarbital.

(f) Hallucinogenic substances.

~~((1) Dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a United States Food and Drug Administration approved drug product. (Some other names for dronabinol [6aR-trans]-6a,7,8,10a-tetrahydro-6,6,9-trimethyl-3-pentyl-6H-dibenzo[b,d]pyran-1-ol, or (-)-delta-9-(trans)-tetrahydrocannabinol.)~~

~~((2))~~ Nabilone: Some trade or other names are (±)-trans-3-(1,1-dimethylheptyl)-6,6a,7,8,10,10a-hexahydro-1-hydroxy-6,6-dimethyl-9H-dibenzol[b,d]pyran-9-one.

(g) Immediate precursors. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances:

(1) Immediate precursor to amphetamine and methamphetamine:

(i) Phenylacetone: Some trade or other names phenyl-2-propanone, P2P, benzyl methyl ketone, methyl benzyl ketone.

(2) Immediate precursors to phencyclidine (PCP):

(i) 1-phenylcyclohexylamine;

(ii) 1-piperidinocyclohexanecarbonitrile (PCC).

The controlled substances in this section may be added, rescheduled, or deleted as provided for in RCW 69.50.201.

Sec. 4. RCW 69.50.208 and 1993 c 187 s 8 are each amended to read as follows:

Unless specifically excepted by state or federal law or regulation or more specifically included in another schedule, the following controlled substances are listed in Schedule III:

(a) Stimulants. Any material, compound, mixture, or preparation containing any quantity of the following substances having a stimulant effect on the central nervous system, including their salts, isomers, whether optical, position, or geometric, and salts of isomers whenever the existence of those salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) Any compound, mixture, or preparation in dosage unit form containing any stimulant substance included in Schedule II and which was listed as an excepted compound on August 25, 1971, pursuant to the federal Controlled Substances Act, and any other drug of the quantitative composition shown in that list for those drugs or which is the same except for containing a lesser quantity of controlled substances;

- (2) Benzphetamine;
- (3) Chlorphentermine;
- (4) Clortermine;
- (5) Phendimetrazine.

(b) Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system:

- (1) Any compound, mixture, or preparation containing:
 - (i) Amobarbital;
 - (ii) Secobarbital;
 - (iii) Pentobarbital;

or any salt thereof and one or more other active medicinal ingredients which are not listed in any schedule;

- (2) Any suppository dosage form containing:
 - (i) Amobarbital;
 - (ii) Secobarbital;
 - (iii) Pentobarbital;

or any salt of any of these drugs and approved by the Food and Drug Administration for marketing only as a suppository;

(3) Any substance which contains any quantity of a derivative of barbituric acid, or any salt of a derivative of barbituric acid;

- (4) Chlorhexadol;
- (5) Embutramide;

(6) Any drug product containing gamma hydroxybutyric acid, including its salts, isomers, and salts of isomers, for which an application is approved under section 505 of the federal food, drug, and cosmetic act;

(7) Ketamine, its salts, isomers, and salts of isomers, some other names for ketamine: (<plus-minus>)-2-(2-chlorophenyl)-2-(methylamino)-cyclohexanone;

- (8) Lysergic acid;
- ~~((6))~~ (9) Lysergic acid amide;
- ~~((7))~~ (10) Methyprylon;

~~((8))~~ (11) Sulfondiethylmethane;

~~((9))~~ (12) Sulfonethylmethane;

~~((10))~~ (13) Sulfonmethane;

~~((11))~~ (14) Tiletamine and zolazepam or any of their salts—some trade or other names for a tiletamine-zolazepam combination product: Telazol, some trade or other names for tiletamine: 2-(ethylamino)-2-(2-thienyl)cyclohexanone, some trade or other names for zolazepam: 4-(2-fluorophenyl)-6,8-dihydro-1,3,8-trimethylpyrazolo-[3,4-e][1,4]-diazepin-7(1H)-one flupyrazapon.

(c) Nalorphine.

(d) ~~(Anabolic steroids.—The term "anabolic steroid" means any drug or hormonal substance, chemically and pharmacologically related to testosterone (other than estrogens, progestins, and corticosteroids) that promotes muscle growth, and includes:~~

~~(1) Boldenone;~~

~~(2) Chlorotestosterone;~~

~~(3) Clostebol;~~

~~(4) Dehydrochlormethyltestosterone;~~

~~(5) Dihydrotestosterone;~~

~~(6) Drostanolone;~~

~~(7) Ethylestrenol;~~

~~(8) Fluoxymesterone;~~

~~(9) Formebolone;~~

~~(10) Mesterolone;~~

~~(11) Methandienone;~~

~~(12) Methandranone;~~

~~(13) Methandriol;~~

~~(14) Methandrostenolone;~~

~~(15) Methenolone;~~

~~(16) Methyltestosterone;~~

~~(17) Mibolerone;~~

~~(18) Nanrolone [nandrolone];~~

~~(19) Norethandrolone;~~

~~(20) Oxandrolone;~~

~~(21) Oxymesterone;~~

~~(22) Oxymetholone;~~

~~(23) Stanolone;~~

~~(24) Stanozolol;~~

~~(25) Testolactone;~~

~~(26) Testosterone;~~

~~(27) Trenbolone; and~~

~~(28) Any salt, ester, or isomer of a drug or substance described or listed in this subsection, if that salt, ester, or isomer promotes muscle growth. Except such term does not include an anabolic steroid which is expressly intended for administration through implants to cattle or other nonhuman species and which has been approved by the secretary of health and human services for such administration. If any person prescribes, dispenses, or distributes such steroid for human use such person shall be considered to have prescribed, dispensed, or distributed an anabolic steroid within the meaning of this subsection.~~

~~(e) Narcotic drugs. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, or any salts thereof calculated as the free anhydrous base or alkaloid, in limited quantities as set forth in this subsection:~~

~~(1) Not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium;~~

~~(2) Not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;~~

~~(3) Not more than 300 milligrams of dihydrocodeinone per 100 milliliters or not more than 15 milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium;~~

~~(4) Not more than 300 milligrams of dihydrocodeinone per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;~~

~~(5) Not more than 1.8 grams of dihydrocodeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;~~

~~(6) Not more than 300 milligrams of ethylmorphine per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;~~

~~(7) Not more than 500 milligrams of opium per 100 milliliters or per 100 grams, or not more than 25 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;~~

~~(8) Not more than 50 milligrams of morphine per 100 milliliters or per 100 grams with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.)~~ Narcotic drugs. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, or any salts thereof calculated as the free anhydrous base or alkaloid, in limited quantities as set forth in this subsection:

(1) Not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium;

(2) Not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(3) Not more than 300 milligrams of dihydrocodeinone (hydrocodone) per 100 milliliters or not more than 15 milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium;

(4) Not more than 300 milligrams of dihydrocodeinone (hydrocodone) per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(5) Not more than 1.8 grams of dihydrocodeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(6) Not more than 300 milligrams of ethylmorphine per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(7) Not more than 500 milligrams of opium per 100 milliliters or per 100 grams, or not more than 25 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts; and

(8) Not more than 50 milligrams of morphine per 100 milliliters or per 100 grams with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(e) Any material, compound, mixture, or preparation containing any of the following narcotic drugs or their salts: Buprenorphine.

(f) Hallucinogenic substances. Dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a United States food and drug administration approved product. Some other names for dronabinol: [6a R-trans]-6a,7,8, 10a-tetrahydro-6,6,9-trimethyl-3-pentyl-6H-dibenzo[b,d] pyran-1-ol, or (-)-delta-9-(trans)-tetrahydrocannabinol.

(g) Anabolic steroids. The term "anabolic steroids" means any drug or hormonal substance, chemically and pharmacologically related to testosterone, other than estrogens, progestins, corticosteroids, and dehydroepiandrosterone, that promotes muscle growth and includes:

- (1) 3 β ,17-dihydroxy-5 α -androstane;
- (2) 3 α ,17 β -dihydroxy-5 α -androstane;
- (3) 5 α -androstan-3,17-dione;
- (4) 1-androstenediol (3 β ,17 β -dihydroxy-5 α -androst-1-ene);
- (5) 1-androstenediol (3 α ,17 β -dihydroxy-5 α -androst-1-ene);
- (6) 4-androstenediol (3 β ,17 β -dihydroxy-androst-4-ene);
- (7) 5-androstenediol (3 β ,17 β -dihydroxy-androst-5-ene);
- (8) 1-androstenedione ([5 α]-androst-1-en-3,17-dione);
- (9) 4-androstenedione (androst-4-en-3,17-dione);
- (10) 5-androstenedione (androst-5-en-3,17-dione);
- (11) Bolasterone (7 α ,17 α -dimethyl-17 β -hydroxyandrost-4-en-3-one);
- (12) Boldenone (17 β -hydroxyandrost-1,4,-diene-3-one);
- (13) Calusterone (7 β ,17 α -dimethyl-17 β -hydroxyandrost-4-en-3-one);
- (14) Clostebol (4-chloro-17 β -hydroxyandrost-4-en-3-one);
- (15) Dehydrochloromethyltestosterone (4-chloro-17 β -hydroxy-17 α -methyl-androst-1,4-dien-3-one);
- (16) Δ 1-dihydrotestosterone (a.k.a. '1-testosterone') (17 β -hydroxy-5 α -androst-1-en-3-one);
- (17) 4-dihydrotestosterone (17 β -hydroxy-androstan-3-one);
- (18) Drostanolone (17 β -hydroxy-2 α -methyl-5 α -androstan-3-one);
- (19) Ethylestrenol (17 α -ethyl-17 β -hydroxyestr-4-ene);
- (20) Fluoxymesterone (9-fluoro-17 α -methyl-11 β ,17 β -dihydroxyandrost-4-en-3-one);
- (21) Formebolone (2-formyl-17 α -methyl-11 α ,17 β -dihydroxyandrost-1,4-dien-3-one);
- (22) Furazabol (17 α -methyl-17 β -hydroxyandrostano[2,3-c]-furan);
- (23) 13 β -ethyl-17 β -hydroxygon-4-en-3-one;
- (24) 4-hydroxytestosterone (4,17 β -dihydroxy-androst-4-en-3-one);
- (25) 4-hydroxy-19-nortestosterone (4,17 β -dihydroxy-estr-4-en-3-one);

- (26) Mestanolone (17 α -methyl-17 β -hydroxy-5-androstan-3-one);
(27) Mesterolone (1 α methyl-17 β -hydroxy-[5 α]-androstan-3-one);
(28) Methandienone (17 α -methyl-17 β -hydroxyandrost-1,4-dien-3-one);
(29) Methandriol (17 α -methyl-3 β ,17 β -dihydroxyandrost-5-ene);
(30) Methenolone (1-methyl-17 β -hydroxy-5 α -androst-1-en-3-one);
(31) 17 α -methyl-3 β ,17 β -dihydroxy-5 α -androstane;
(32) 17 α -methyl-3 α ,17 β -dihydroxy-5 α -androstane;
(33) 17 α -methyl-3 β ,17 β -dihydroxyandrost-4-ene;
(34) 17 α -methyl-4-hydroxynandrolone (17 α -methyl-4-hydroxy-17 β -hydroxyestr-4-en-3-one);
(35) Methyldienolone (17 α -methyl-17 β -hydroxyestra-4,9(10)-dien-3-one);
(36) Methyltrienolone (17 α -methyl-17 β -hydroxyestra-4,9-11-trien-3-one);
(37) Methyltestosterone (17 α -methyl-17 β -hydroxyandrost-4-en-3-one);
(38) Mibolerone (7 α ,17 α -dimethyl-17 β -hydroxyestr-4-en-3-one);
(39) 17 α -methyl- Δ 1-dihydrotestosterone (17 β -hydroxy-17 α -methyl-5 α -androst-1-en-3-one) (also known as '17- α -methyl-1-testosterone');
(40) Nandrolone (17 β -hydroxyestr-4-en-3-one);
(41) 19-nor-4-androstenediol (3 β , 17 β -dihydroxyestr-4-ene);
(42) 19-nor-4-androstenediol (3 α , 17 β -dihydroxyestr-4-ene);
(43) 19-nor-5-androstenediol (3 β , 17 β -dihydroxyestr-5-ene);
(44) 19-nor-5-androstenediol (3 α , 17 β -dihydroxyestr-5-ene);
(45) 19-nor-4-androstenedione (estr-4-en-3,17-dione);
(46) 19-nor-5-androstenedione (estr-5-en-3,17-dione);
(47) Norbolethone (13 β , 17 α -diethyl-17 β -hydroxygon-4-en-3-one);
(48) Norclostebol (4-chloro-17 β -hydroxyestr-4-en-3-one);
(49) Norethandrolone (17 α -ethyl-17 β -hydroxyestr-4-en-3-one);
(50) Normethandrolone (17 α -methyl-17 β -hydroxyestr-4-en-3-one);
(51) Oxandrolone (17 α -methyl-17 β -hydroxy-2-oxa-[5 α]-androstan-3-one);
(52) Oxymesterone (17 α -methyl-4,17 β -dihydroxyandrost-4-en-3-one);
(53) Oxymetholone (17 α -methyl-2-hydroxymethylene-17 β -hydroxy-[5 α]-androstan-3-one);
(54) Stanozolol (17 α -methyl-17 β -hydroxy-[5 α]-androst-2-eno[3,2-c]-pyrazole);
(55) Stenbolone (17 β -hydroxy-2-methyl-[5 α]-androst-1-en-3-one);
(56) Testolactone (13-hydroxy-3-oxo-13,17-secoandrosta-1,4-dien-17-oic acid lactone);
(57) Testosterone (17 β -hydroxyandrost-4-en-3-one);
(58) Tetrahydrogestrinone (13 β , 17 α -diethyl-17 β -hydroxygon-4,9,11-trien-3-one);
(59) Trenbolone (17 β -hydroxyestr-4,9,11-trien-3-one); and
(60) Any salt, ester, or ether of a drug or substance described in this section.

Such term does not include an anabolic steroid that is expressly intended for administration through implants to cattle or other nonhuman species and that has been approved by the secretary of the department of health and human services for such administration. If any person prescribes, dispenses, or distributes such steroid for human use, the person shall be considered to have prescribed, dispensed, or distributed an anabolic steroid within the meaning of this section.

The state board of pharmacy may except by rule any compound, mixture, or preparation containing any stimulant or depressant substance listed in subsection

(a)(1) and (2) of this section from the application of all or any part of this chapter if the compound, mixture, or preparation contains one or more active medicinal ingredients not having a stimulant or depressant effect on the central nervous system, and if the admixtures are in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances having a stimulant or depressant effect on the central nervous system.

The controlled substances listed in this section may be added, rescheduled, or deleted as provided for in RCW 69.50.201.

Sec. 5. RCW 69.50.210 and 1993 c 187 s 10 are each amended to read as follows:

Unless specifically excepted by state or federal law or regulation or more specifically included in another schedule, the following controlled substances are listed in Schedule IV:

(a) Any material, compound, mixture, or preparation containing any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below:

(1) Not more than 1 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit.

(2) Dextropropoxyphene (alpha-(+)-4-dimethylamino-1,2-diphenyl-3-methyl-2-propionoxybutane).

(b) Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing any quantity of the following substances having a depressant effect on the central nervous system, including their salts, isomers, and salts of isomers whenever the existence of those salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (1) Alprazolam;
- (2) Barbitol;
- (3) Bromazepam;
- (4) Camazepam;
- (5) Carisoprodol;
- (6) Chloral betaine;
- ~~((6))~~ (7) Chloral hydrate;
- ~~((7))~~ (8) Chlordiazepoxide;
- ~~((8))~~ (9) Clobazam;
- ~~((9))~~ (10) Clonazepam;
- ~~((10))~~ (11) Clorazepate;
- ~~((11))~~ (12) Clotiazepam;
- ~~((12))~~ (13) Cloxazolam;
- ~~((13))~~ (14) Delorazepam;
- ~~((14))~~ (15) Diazepam;
- ~~((15))~~ (16) Dichloralphenazone;
- (17) Estazolam;
- ~~((16))~~ (18) Ethchlorvynol;
- ~~((17))~~ (19) Ethinamate;
- ~~((18))~~ (20) Ethyl loflazepate;
- ~~((19))~~ (21) Fludiazepam;
- ~~((20))~~ (22) Flunitrazepam;
- ~~((21))~~ (23) Flurazepam;

~~((22))~~ (24) Halazepam;
~~((23))~~ (25) Haloxazolam;
~~((24))~~ (26) Ketazolam;
~~((25))~~ (27) Loprazolam;
~~((26))~~ (28) Lorazepam;
~~((27))~~ (29) Lormetazepam;
~~((28))~~ (30) Mebutamate;
~~((29))~~ (31) Medazepam;
~~((30))~~ (32) Meprobamate;
~~((31))~~ (33) Methohexital;
~~((32))~~ (34) Methylphenobarbital (mephobarbital);
~~((33))~~ (35) Midazolam;
~~((34))~~ (36) Nimetazepam;
~~((35))~~ (37) Nitrazepam;
~~((36))~~ (38) Nordiazepam;
~~((37))~~ (39) Oxazepam;
~~((38))~~ (40) Oxazolam;
~~((39))~~ (41) Paraldehyde;
~~((40))~~ (42) Petrichloral;
~~((41))~~ (43) Phenobarbital;
~~((42))~~ (44) Pinazepam;
~~((43))~~ (45) Prazepam;
~~((44))~~ (46) Quazepam;
~~((45))~~ (47) Temazepam;
~~((46))~~ (48) Tetrazepam;
~~((47))~~ (49) Triazolam;
(50) Zaleplon;
(51) Zolpidem; and
(52) Zopiclone.

(c) Fenfluramine. Any material, compound, mixture, or preparation containing any quantity of the following substance, including its salts, isomers, and salts of such isomers, whenever the existence of such salts, isomers, and salts of isomers is possible: Fenfluramine.

(d) Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing any quantity of the following substances having a stimulant effect on the central nervous system, including their salts, isomers, and salts of isomers:

- (1) Cathine(~~(+)~~norpseudoephedrine);
- (2) Diethylpropion;
- (3) Fencamfamin;
- (4) Fenproporex;
- (5) Mazindol;
- (6) Mefenorex;
- (7) Modafinil;
- (8) Pemoline (including organometallic complexes and chelates thereof);
- ~~((8))~~ (9) Phentermine;
- ~~((9))~~ (10) Pipradrol;
- ~~((10))~~ (11) Sibutramine;
- (12) SPA ((-)-1-dimethylamino-1, 2-dephenylethane).

(e) Other substances. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing any quantity of the following substance, including its salts:

(1) Pentazocine;

(2) Butorphanol, including its optical isomers.

The state board of pharmacy may except by rule any compound, mixture, or preparation containing any depressant substance listed in subsection (b) of this section from the application of all or any part of this chapter if the compound, mixture, or preparation contains one or more active medicinal ingredients not having a depressant effect on the central nervous system, and if the admixtures are in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances having a depressant effect on the central nervous system.

The controlled substances listed in this section may be added, rescheduled, or deleted as provided for in RCW 69.50.201.

Sec. 6. RCW 69.50.212 and 1993 c 187 s 12 are each amended to read as follows:

Unless specifically excepted by state or federal law or regulation or more specifically included in another schedule, the following controlled substances are listed in Schedule V:

(a) ~~((Any material, compound, mixture, or preparation containing any of the following narcotic drug and its salts: Buprenorphine.~~

~~(b))~~ Any compound, mixture, or preparation containing any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth in this subsection, which also contains one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation, valuable medicinal qualities other than those possessed by the narcotic drug alone:

(1) Not more than 200 milligrams of codeine per 100 milliliters or per 100 grams;

(2) Not more than 100 milligrams of dihydrocodeine per 100 milliliters or per 100 grams;

(3) Not more than 100 milligrams of ethylmorphine per 100 milliliters or per 100 grams;

(4) Not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit;

(5) Not more than 100 milligrams of opium per 100 milliliters or per 100 grams;

(6) Not more than 0.5 milligrams of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit.

~~((e) Any material, compound, mixture, or preparation containing any quantity of the following substances having a stimulant effect on the central nervous system, including their salts, isomers, and salts of isomers: Pyrovalerone.))~~ (b) Stimulants. Unless specifically exempted or excluded or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers: Pyrovalerone.

(c) Depressants. Unless specifically exempted or excluded or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts:

(1) Lacosamid, [(R)-2-acetoamido-N-benzyl-3-methoxy-propionamide];

(2) Pregabalin{(S)-3-(aminomethyl)-5-methylhexanoic acid}.

The controlled substances listed in this section may be added, rescheduled, or deleted as provided for in RCW 69.50.201.

Sec. 7. RCW 69.50.402 and 2003 c 53 s 338 are each amended to read as follows:

(1) It is unlawful for any person:

(a) Who is subject to Article III to distribute or dispense a controlled substance in violation of RCW 69.50.308;

(b) Who is a registrant, to manufacture a controlled substance not authorized by his or her registration, or to distribute or dispense a controlled substance not authorized by his or her registration to another registrant or other authorized person;

(c) Who is a practitioner, to prescribe, order, dispense, administer, supply, or give to any person:

(i) Any amphetamine, including its salts, optical isomers, and salts of optical isomers classified as a schedule II controlled substance by the board of pharmacy pursuant to chapter 34.05 RCW; or

(ii) Any nonnarcotic stimulant classified as a schedule II controlled substance and designated as a nonnarcotic stimulant by the board of pharmacy pursuant to chapter 34.05 RCW;

except for the treatment of narcolepsy or for the treatment of hyperkinesia, or for the treatment of drug-induced brain dysfunction, or for the treatment of epilepsy, or for the differential diagnostic psychiatric evaluation of depression, or for the treatment of depression shown to be refractory to other therapeutic modalities, or for the treatment of multiple sclerosis, or for the clinical investigation of the effects of such drugs or compounds, in which case an investigative protocol therefor shall have been submitted to and reviewed and approved by the state board of pharmacy before the investigation has been begun: PROVIDED, That the board of pharmacy, in consultation with the medical quality assurance commission and the osteopathic disciplinary board, may establish by rule, pursuant to chapter 34.05 RCW, disease states or conditions in addition to those listed in this subsection for the treatment of which Schedule II nonnarcotic stimulants may be prescribed, ordered, dispensed, administered, supplied, or given to patients by practitioners: AND PROVIDED, FURTHER, That investigations by the board of pharmacy of abuse of prescriptive authority by physicians, licensed pursuant to chapter 18.71 RCW, pursuant to subsection (1)(c) of this section shall be done in consultation with the medical quality assurance commission;

(d) To refuse or fail to make, keep or furnish any record, notification, order form, statement, invoice, or information required under this chapter;

(e) To refuse an entry into any premises for any inspection authorized by this chapter; or

(f) Knowingly to keep or maintain any store, shop, warehouse, dwelling, building, vehicle, boat, aircraft, or other structure or place, which is resorted to

by persons using controlled substances in violation of this chapter for the purpose of using these substances, or which is used for keeping or selling them in violation of this chapter.

(2) Any person who violates this section is guilty of a class C felony and upon conviction may be imprisoned for not more than two years, fined not more than two thousand dollars, or both.

Passed by the House January 28, 2010.

Passed by the Senate March 5, 2010.

Approved by the Governor March 23, 2010.

Filed in Office of Secretary of State March 23, 2010.

CHAPTER 178

[Engrossed Substitute House Bill 2547]

NEW MOTOR VEHICLE DEALERS AND MANUFACTURERS—FRANCHISE AGREEMENTS

AN ACT Relating to franchise agreements between new motor vehicle dealers and manufacturers; amending RCW 46.96.030, 46.96.070, 46.96.090, 46.96.105, 46.96.110, 46.96.185, and 46.96.200; and adding new sections to chapter 46.96 RCW.

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

Sec. 1. RCW 46.96.030 and 1989 c 415 s 3 are each amended to read as follows:

Notwithstanding the terms of a franchise and notwithstanding the terms of a waiver, no manufacturer may terminate, cancel, or fail to renew a franchise with a new motor vehicle dealer, unless the manufacturer has complied with the notice requirements of RCW 46.96.070 and an administrative law judge has determined, if requested in writing by the new motor vehicle dealer within the applicable time period specified in RCW 46.96.070 (1), (2), or (3), after hearing, that there is good cause for the termination, cancellation, or nonrenewal of the franchise and that the manufacturer has acted in good faith, as defined in this chapter, regarding the termination, cancellation, or nonrenewal. Between the time of issuance of the notice required under RCW 46.96.070 and the effective termination, cancellation, or nonrenewal of the franchise under this chapter, the rights, duties, and obligations of the new motor vehicle dealer and the manufacturer under the franchise and this chapter are unaffected, including those under RCW 46.96.200.

Sec. 2. RCW 46.96.070 and 1989 c 415 s 7 are each amended to read as follows:

Before the termination, cancellation, or nonrenewal of a franchise, the manufacturer shall give written notification to both the department and the new motor vehicle dealer. For the purposes of this chapter, the discontinuance of the sale and distribution of a new motor vehicle line, or the constructive discontinuance by material reduction in selection offered, such that continuing to retail the line is no longer economically viable for a dealer is, at the option of the dealer, considered a termination, cancellation, or nonrenewal of a franchise. The notice shall be by certified mail or personally delivered to the new motor vehicle dealer and shall state the intention to terminate, cancel, or not renew the franchise, the reasons for the termination, cancellation, or nonrenewal, and the

effective date of the termination, cancellation, or nonrenewal. The notice shall be given:

(1) Not less than ninety days before the effective date of the termination, cancellation, or nonrenewal;

(2) Not less than fifteen days before the effective date of the termination, cancellation, or nonrenewal with respect to any of the following that constitute good cause for termination, cancellation, or nonrenewal:

(a) Insolvency of the new motor vehicle dealer or the filing of any petition by or against the new motor vehicle dealer under bankruptcy or receivership law;

(b) Failure of the new motor vehicle dealer to conduct sales and service operations during customary business hours for seven consecutive business days, except for acts of God or circumstances beyond the direct control of the new motor vehicle dealer;

(c) Conviction of the new motor vehicle dealer, or principal operator of the dealership, of a felony punishable by imprisonment; or

(d) Suspension or revocation of a license that the new motor vehicle dealer is required to have to operate the new motor vehicle dealership where the suspension or revocation is for a period in excess of thirty days;

(3) Not less than one hundred eighty days before the effective date of termination, cancellation, or nonrenewal, where the manufacturer intends to discontinue sale and distribution of the new motor vehicle line.

Sec. 3. RCW 46.96.090 and 1989 c 415 s 9 are each amended to read as follows:

(1) In the event of a termination, cancellation, or nonrenewal under this chapter, except for termination, cancellation, or nonrenewal under RCW 46.96.070(2) or a voluntary termination, cancellation, or nonrenewal initiated by the dealer, the manufacturer shall, at the request and option of the new motor vehicle dealer, also pay to the new motor vehicle dealer the dealer costs for any relocation, substantial alteration, or remodeling of a dealer's facilities required by a manufacturer for the continuance or renewal of a franchise agreement completed within three years of the termination, cancellation, or nonrenewal and:

(a) A sum equivalent to rent for the unexpired term of the lease or one year, whichever is less, or such longer term as provided in the franchise, if the new motor vehicle dealer is leasing the new motor vehicle dealership facilities from a lessor other than the manufacturer; or

(b) A sum equivalent to the reasonable rental value of the new motor vehicle dealership facilities for one year or until the facilities are leased or sold, whichever is less, if the new motor vehicle dealer owns the new motor vehicle dealership facilities.

(2) The rental payment required under subsection (1) of this section is only required to the extent that the facilities were used for activities under the franchise and only to the extent the facilities were not leased for unrelated purposes. If the rental payment under subsection (1) of this section is made, the manufacturer is entitled to possession and use of the new motor vehicle dealership facilities for the period rent is paid.

Sec. 4. RCW 46.96.105 and 2003 c 21 s 2 are each amended to read as follows:

(1) Each manufacturer shall specify in its franchise agreement, or in a separate written agreement, with each of its dealers licensed in this state, the dealer's obligation to perform warranty work or service on the manufacturer's products. Each manufacturer shall provide each of its dealers with a schedule of compensation to be paid to the dealer for any warranty work or service, including parts, labor, and diagnostic work, required of the dealer by the manufacturer in connection with the manufacturer's products. The schedule of compensation must not be less than the rates charged by the dealer for similar service to retail customers for nonwarranty service and repairs, and must not be less than the schedule of compensation for an existing dealer as of the effective date of this section.

(a) The rates charged by the dealer for nonwarranty service or work for parts means the price paid by the dealer for those parts, including all shipping and other charges, increased by the franchisee's average percentage markup. A dealer must establish and declare the dealer's average percentage markup by submitting to the manufacturer one hundred sequential customer-paid service repair orders or ninety days of customer-paid service repair orders, whichever is less, covering repairs made no more than one hundred eighty days before the submission. A change in a dealer's established average percentage markup takes effect thirty days following the submission. A manufacturer may not require a dealer to establish average percentage markup by another methodology. A manufacturer may not require information that the dealer believes is unduly burdensome or time consuming to provide, including, but not limited to, part-by-part or transaction-by-transaction calculations.

(b) A manufacturer shall compensate a dealer for labor and diagnostic work at the rates charged by the dealer to its retail customers for such work. If a manufacturer can demonstrate that the rates unreasonably exceed those of all other franchised motor vehicle dealers in the same relevant market area offering the same or a competitive motor vehicle line, the manufacturer is not required to honor the rate increase proposed by the dealer. If the manufacturer is not required to honor the rate increase proposed by the dealer, the dealer is entitled to resubmit a new proposed rate for labor and diagnostic work.

(c) A dealer may not be granted an increase in the average percentage markup or labor and diagnostic work rate more than twice in one calendar year.

(2) All claims for warranty work for parts and labor made by dealers under this section shall be submitted to the manufacturer within one year of the date the work was performed. All claims submitted must be paid by the manufacturer within thirty days following receipt, provided the claim has been approved by the manufacturer. The manufacturer has the right to audit claims for warranty work and to charge the dealer for any unsubstantiated, incorrect, or false claims for a period of one year following payment. However, the manufacturer may audit and charge the dealer for any fraudulent claims during any period for which an action for fraud may be commenced under applicable state law.

(3) All claims submitted by dealers on the forms and in the manner specified by the manufacturer shall be either approved or disapproved within thirty days following their receipt. The manufacturer shall notify the dealer in writing of any disapproved claim, and shall set forth the reasons why the claim was not approved. Any claim not specifically disapproved in writing within thirty days

following receipt is approved, and the manufacturer is required to pay that claim within thirty days of receipt of the claim.

(4) A manufacturer may not otherwise recover all or any portion of its costs for compensating its dealers licensed in this state for warranty parts and service either by reduction in the amount due to the dealer or by separate charge, surcharge, or other imposition.

Sec. 5. RCW 46.96.110 and 1989 c 415 s 11 are each amended to read as follows:

(1) Notwithstanding the terms of a franchise, (a) an owner may appoint a designated successor to succeed to the ownership of the new motor vehicle dealer franchise upon the owner's death or incapacity, or (b) if an owner who has owned the franchise for not less than five consecutive years, the owner may appoint a designated successor to be effective on a date of the owner's choosing that is prior to the owner's death or disability.

(2) Notwithstanding the terms of a franchise, a designated successor ~~((of a deceased or incapacitated owner of a new motor vehicle dealer franchise))~~ described under subsection (1) of this section may succeed to the ownership interest of the owner under the existing franchise, if:

(a) In the case of a designated successor who meets the definition of a designated successor under RCW 46.96.020(5)(a), but who is not experienced in the business of a new motor vehicle dealer, the person will employ an individual who is qualified and experienced in the business of a new motor vehicle dealer to help manage the day-to-day operations of the motor vehicle dealership; or in the case of a designated successor who meets the definition of a designated successor under RCW 46.96.020(5) (b) or (c), the person is qualified and experienced in the business of a new motor vehicle dealer and meets the normal, reasonable, and uniformly applied standards for grant of an application as a new motor vehicle dealer by the manufacturer; and

(b) The designated successor furnishes written notice to the manufacturer of his or her intention to succeed to the ownership of the new motor vehicle dealership within sixty days after the owner's death or incapacity, or if the appointment is under subsection (1)(b) of this section, at least thirty days before the designated successor's proposed succession; and

(c) The designated successor agrees to be bound by all terms and conditions of the franchise.

(3) The manufacturer may request, and the designated successor shall promptly provide, such personal and financial information as is reasonably necessary to determine whether the succession should be honored.

(4) A manufacturer may refuse to honor the succession to the ownership of a new motor vehicle dealer franchise by a designated successor if the manufacturer establishes that good cause exists for its refusal to honor the succession. If the designated successor ~~((of a deceased or incapacitated owner))~~ of a new motor vehicle dealer franchise fails to meet the requirements set forth in subsections (2)(a), (b), and (c) of this section, good cause for refusing to honor the succession is presumed to exist. If a manufacturer believes that good cause exists for refusing to honor the succession to the ownership of a new motor vehicle dealer franchise by a designated successor, the manufacturer shall serve written notice on the designated successor and on the department of its refusal to honor the succession no earlier than sixty days from the date the notice is served.

The notice must be served not later than sixty days after the manufacturer's receipt of:

(a) Notice of the designated successor's intent to succeed to the ownership interest of the new motor vehicle dealer's franchise; or

(b) Any personal or financial information requested by the manufacturer.

(5) The notice in subsection (4) of this section shall state the specific grounds for the refusal to honor the succession. If the notice of refusal is not timely and properly served, the designated successor may continue the franchise in full force and effect, subject to termination only as otherwise provided under this chapter.

(6) Within twenty days after receipt of the notice or within twenty days after the end of any appeal procedure provided by the manufacturer, whichever is greater, the designated successor may file a petition with the department protesting the refusal to honor the succession. The petition shall contain a short statement setting forth the reasons for the designated successor's protest. Upon the filing of a protest and the receipt of the filing fee, the department shall promptly notify the manufacturer that a timely protest has been filed and shall request the appointment of an administrative law judge under chapter 34.12 RCW to conduct a hearing. The manufacturer shall not terminate or otherwise discontinue the existing franchise until the administrative law judge has held a hearing and has determined that there is good cause for refusing to honor the succession. If an appeal is taken, the manufacturer shall not terminate or discontinue the franchise until the appeal to superior court is finally determined or until the expiration of one hundred eighty days from the date of issuance of the administrative law judge's written decision, whichever is less. Nothing in this section precludes a manufacturer or dealer from petitioning the superior court for a stay or other relief pending judicial review.

(7) The manufacturer has the burden of proof to show that good cause exists for the refusal to honor the succession.

(8) The administrative law judge shall conduct the hearing and render a final decision as expeditiously as possible, but in any event not later than one hundred eighty days after a protest is filed.

(9) The administrative law judge shall conduct any hearing concerning the refusal to the succession as provided in RCW 46.96.050(2) and all hearing costs shall be borne as provided in that subsection. A party to such a hearing aggrieved by the final order of the administrative law judge may appeal as provided and allowed in RCW 46.96.050(3).

(10) This section does not preclude the owner of a new motor vehicle dealer franchise from designating any person as his or her successor by a written, notarized, and witnessed instrument filed with the manufacturer. In the event of a conflict between such a written instrument that has not been revoked by written notice from the owner to the manufacturer and this section, the written instrument governs.

Sec. 6. RCW 46.96.185 and 2003 c 21 s 3 are each amended to read as follows:

(1) Notwithstanding the terms of a franchise agreement, a manufacturer, distributor, factory branch, or factory representative, or an agent, officer, parent company, wholly or partially owned subsidiary, affiliated entity, or other person

controlled by or under common control with a manufacturer, distributor, factory branch, or factory representative, shall not:

(a) Discriminate between new motor vehicle dealers by selling or offering to sell a like vehicle to one dealer at a lower actual price than the actual price offered to another dealer for the same model similarly equipped;

(b) Discriminate between new motor vehicle dealers by selling or offering to sell parts or accessories to one dealer at a lower actual price than the actual price offered to another dealer;

(c) Discriminate between new motor vehicle dealers by using a promotion plan, marketing plan, or other similar device that results in a lower actual price on vehicles, parts, or accessories being charged to one dealer over another dealer;

(d) Discriminate between new motor vehicle dealers by adopting a method, or changing an existing method, for the allocation, scheduling, or delivery of new motor vehicles, parts, or accessories to its dealers that is not fair, reasonable, and equitable. Upon the request of a dealer, a manufacturer, distributor, factory branch, or factory representative shall disclose in writing to the dealer the method by which new motor vehicles, parts, and accessories are allocated, scheduled, or delivered to its dealers handling the same line or make of vehicles;

(e) Discriminate against a new motor vehicle dealer by preventing, offsetting, or otherwise impairing the dealer's right to request a documentary service fee on affinity or similar program purchases. This prohibition applies to, but is not limited to, any promotion plan, marketing plan, manufacturer or dealer employee or employee friends or family purchase programs, or similar plans or programs;

(f) Give preferential treatment to some new motor vehicle dealers over others by refusing or failing to deliver, in reasonable quantities and within a reasonable time after receipt of an order, to a dealer holding a franchise for a line or make of motor vehicles sold or distributed by the manufacturer, distributor, factory branch, or factory representative, a new vehicle, parts, or accessories, if the vehicle, parts, or accessories are being delivered to other dealers, or require a dealer to purchase unreasonable advertising displays or other materials, or unreasonably require a dealer to remodel or renovate existing facilities as a prerequisite to receiving a model or series of vehicles;

~~((f))~~ (g) Compete with a new motor vehicle dealer of any make or line by acting in the capacity of a new motor vehicle dealer, or by owning, operating, or controlling, whether directly or indirectly, a motor vehicle dealership in this state. It is not, however, a violation of this subsection for:

(i) A manufacturer, distributor, factory branch, or factory representative to own or operate a dealership for a temporary period, not to exceed two years, during the transition from one owner of the dealership to another where the dealership was previously owned by a franchised dealer and is currently for sale to any qualified independent person at a fair and reasonable price. The temporary operation may be extended for one twelve-month period on petition of the temporary operator to the department. The matter will be handled as an adjudicative proceeding under chapter 34.05 RCW. A dealer who is a franchisee of the petitioning manufacturer or distributor may intervene and participate in a proceeding under this subsection (1)~~((f))~~ (g)(i). The temporary operator has

the burden of proof to show justification for the extension and a good faith effort to sell the dealership to an independent person at a fair and reasonable price;

(ii) A manufacturer, distributor, factory branch, or factory representative to own or operate a dealership in conjunction with an independent person in a bona fide business relationship for the purpose of broadening the diversity of its dealer body and enhancing opportunities for qualified persons who are part of a group who have historically been underrepresented in its dealer body, or other qualified persons who lack the resources to purchase a dealership outright, and where the independent person: (A) Has made, or within a period of two years from the date of commencement of operation will have made, a significant, bona fide capital investment in the dealership that is subject to loss; (B) has an ownership interest in the dealership; and (C) operates the dealership under a bona fide written agreement with the manufacturer, distributor, factory branch, or factory representative under which he or she will acquire all of the ownership interest in the dealership within a reasonable period of time and under reasonable terms and conditions. The manufacturer, distributor, factory branch, or factory representative has the burden of proof of establishing that the acquisition of the dealership by the independent person was made within a reasonable period of time and under reasonable terms and conditions. Nothing in this subsection (1)((~~f~~)) (g)(ii) relieves a manufacturer, distributor, factory branch, or factory representative from complying with ((~~RCW 46.96.185(1)~~)) (a) through ((~~e~~)) (f) of this subsection;

(iii) A manufacturer, distributor, factory branch, or factory representative to own or operate a dealership in conjunction with an independent person in a bona fide business relationship where the independent person: (A) Has made, or within a period of two years from the date of commencement of operation will have made, a significant, bona fide capital investment in the dealership that is subject to loss; (B) has an ownership interest in the dealership; and (C) operates the dealership under a bona fide written agreement with the manufacturer, distributor, factory branch, or factory representative under which he or she will acquire all of the ownership interest in the dealership within a reasonable period of time and under reasonable terms and conditions. The manufacturer, distributor, factory branch, or factory representative has the burden of proof of establishing that the acquisition of the dealership by the independent person was made within a reasonable period of time and under reasonable terms and conditions. The number of dealerships operated under this subsection (1)((~~f~~)) (g)(iii) may not exceed four percent rounded up to the nearest whole number of a manufacturer's total of new motor vehicle dealer franchises in this state. Nothing in this subsection (1)((~~f~~)) (g)(iii) relieves a manufacturer, distributor, factory branch, or factory representative from complying with ((~~RCW 46.96.185(1)~~)) (a) through ((~~e~~)) (f) of this subsection;

(iv) A truck manufacturer to own, operate, or control a new motor vehicle dealership that sells only trucks of that manufacturer's line make with a gross vehicle weight rating of 12,500 pounds or more, and the truck manufacturer has been continuously engaged in the retail sale of the trucks at least since January 1, 1993; or

(v) A manufacturer to own, operate, or control a new motor vehicle dealership trading exclusively in a single line make of the manufacturer if (A) the manufacturer does not own, directly or indirectly, in the aggregate, in excess

of forty-five percent of the total ownership interest in the dealership, (B) at the time the manufacturer first acquires ownership or assumes operation or control of any such dealership, the distance between any dealership thus owned, operated, or controlled and the nearest new motor vehicle dealership trading in the same line make of vehicle and in which the manufacturer has no ownership or control is not less than fifteen miles and complies with the applicable provisions in the relevant market area sections of this chapter, (C) all of the manufacturer's franchise agreements confer rights on the dealer of that line make to develop and operate within a defined geographic territory or area, as many dealership facilities as the dealer and the manufacturer agree are appropriate, and (D) as of January 1, 2000, the manufacturer had no more than four new motor vehicle dealers of that manufacturer's line make in this state, and at least half of those dealers owned and operated two or more dealership facilities in the geographic territory or area covered by their franchise agreements with the manufacturer;

~~((g))~~ (h) Compete with a new motor vehicle dealer by owning, operating, or controlling, whether directly or indirectly, a service facility in this state for the repair or maintenance of motor vehicles under the manufacturer's new car warranty and extended warranty. Nothing in this subsection (1)~~((g))~~ (h), however, prohibits a manufacturer, distributor, factory branch, or factory representative from owning or operating a service facility for the purpose of providing or performing maintenance, repair, or service work on motor vehicles that are owned by the manufacturer, distributor, factory branch, or factory representative;

~~((h))~~ (i) Use confidential or proprietary information obtained from a new motor vehicle dealer to unfairly compete with the dealer. For purposes of this subsection (1)~~((h))~~ (i), "confidential or proprietary information" means trade secrets as defined in RCW 19.108.010, business plans, marketing plans or strategies, customer lists, contracts, sales data, revenues, or other financial information;

~~((i))~~ (j)(i) Terminate, cancel, or fail to renew a franchise with a new motor vehicle dealer based upon any of the following events, which do not constitute good cause for termination, cancellation, or nonrenewal under RCW 46.96.060: (A) The fact that the new motor vehicle dealer owns, has an investment in, participates in the management of, or holds a franchise agreement for the sale or service of another make or line of new motor vehicles~~((j))~~; (B) the fact that the new motor vehicle dealer has established another make or line of new motor vehicles or service in the same dealership facilities as those of the manufacturer or distributor ~~((with the prior written approval of the manufacturer or distributor, if the approval was required under the terms of the new motor vehicle dealer's franchise agreement))~~; (C) that the new motor vehicle dealer has or intends to relocate the manufacturer or distributor's make or line of new motor vehicles or service to an existing dealership facility that is within the relevant market area, as defined in RCW 46.96.140, of the make or line to be relocated, except that, in any nonemergency circumstance, the dealer must give the manufacturer or distributor at least sixty days' notice of his or her intent to relocate; or (D) the failure of a franchisee to change the location of the dealership or to make substantial alterations to the use or number of franchises on the dealership premises or facilities.

(ii) Notwithstanding the limitations of this section, a manufacturer may, for separate consideration, enter into a written contract with a dealer to exclusively sell and service a single make or line of new motor vehicles at a specific facility for a defined period of time. The penalty for breach of the contract must not exceed the amount of consideration paid by the manufacturer plus a reasonable rate of interest; ((~~o~~

(j)) (k) Coerce or attempt to coerce a motor vehicle dealer to refrain from, or prohibit or attempt to prohibit a new motor vehicle dealer from acquiring, owning, having an investment in, participating in the management of, or holding a franchise agreement for the sale or service of another make or line of new motor vehicles or related products, or establishing another make or line of new motor vehicles or service in the same dealership facilities, if the prohibition against acquiring, owning, investing, managing, or holding a franchise for such additional make or line of vehicles or products, or establishing another make or line of new motor vehicles or service in the same dealership facilities, is not supported by reasonable business considerations. The burden of proving that reasonable business considerations support or justify the prohibition against the additional make or line of new motor vehicles or products or nonexclusive facilities is on the manufacturer;

(l) Require, by contract or otherwise, a new motor vehicle dealer to make a material alteration, expansion, or addition to any dealership facility, unless the required alteration, expansion, or addition is uniformly required of other similarly situated new motor vehicle dealers of the same make or line of vehicles and is reasonable in light of all existing circumstances, including economic conditions. In any proceeding in which a required facility alteration, expansion, or addition is an issue, the manufacturer or distributor has the burden of proof;

(m) Prevent or attempt to prevent by contract or otherwise any new motor vehicle dealer from changing the executive management of a new motor vehicle dealer unless the manufacturer or distributor, having the burden of proof, can show that a proposed change of executive management will result in executive management by a person or persons who are not of good moral character or who do not meet reasonable, preexisting, and equitably applied standards of the manufacturer or distributor. If a manufacturer or distributor rejects a proposed change in the executive management, the manufacturer or distributor shall give written notice of its reasons to the dealer within sixty days after receiving written notice from the dealer of the proposed change and all related information reasonably requested by the manufacturer or distributor, or the change in executive management must be considered approved; or

(n) Condition the sale, transfer, relocation, or renewal of a franchise agreement or condition manufacturer, distributor, factory branch, or factory representative sales, services, or parts incentives upon the manufacturer obtaining site control, including rights to purchase or lease the dealer's facility, or an agreement to make improvements or substantial renovations to a facility. For purposes of this section, a substantial renovation has a gross cost to the dealer in excess of five thousand dollars.

(2) Subsection (1)(a), (b), and (c) of this section do not apply to sales to a motor vehicle dealer: (a) For resale to a federal, state, or local government agency; (b) where the vehicles will be sold or donated for use in a program of driver's education; (c) where the sale is made under a manufacturer's bona fide

promotional program offering sales incentives or rebates; (d) where the sale of parts or accessories is under a manufacturer's bona fide quantity discount program; or (e) where the sale is made under a manufacturer's bona fide fleet vehicle discount program. For purposes of this subsection, "fleet" means a group of fifteen or more new motor vehicles purchased or leased by a dealer at one time under a single purchase or lease agreement for use as part of a fleet, and where the dealer has been assigned a fleet identifier code by the department of licensing.

(3) The following definitions apply to this section:

(a) "Actual price" means the price to be paid by the dealer less any incentive paid by the manufacturer, distributor, factory branch, or factory representative, whether paid to the dealer or the ultimate purchaser of the vehicle.

(b) "Control" or "controlling" means (i) the possession of, title to, or control of ten percent or more of the voting equity interest in a person, whether directly or indirectly through a fiduciary, agent, or other intermediary, or (ii) the possession, direct or indirect, of the power to direct or cause the direction of the management or policies of a person, whether through the ownership of voting securities, through director control, by contract, or otherwise, except as expressly provided under the franchise agreement.

(c) "Motor vehicles" does not include trucks that are 14,001 pounds gross vehicle weight and above or recreational vehicles as defined in RCW 43.22.335.

(d) "Operate" means to manage a dealership, whether directly or indirectly.

(e) "Own" or "ownership" means to hold the beneficial ownership of one percent or more of any class of equity interest in a dealership, whether the interest is that of a shareholder, partner, limited liability company member, or otherwise. To hold an ownership interest means to have possession of, title to, or control of the ownership interest, whether directly or indirectly through a fiduciary, agent, or other intermediary.

(4) A violation of this section is deemed to affect the public interest and constitutes an unlawful and unfair practice under chapter 19.86 RCW. A person aggrieved by an alleged violation of this section may petition the department to have the matter handled as an adjudicative proceeding under chapter 34.05 RCW.

Sec. 7. RCW 46.96.200 and 1994 c 274 s 7 are each amended to read as follows:

(1) Notwithstanding the terms of a franchise, a manufacturer shall not ~~((unreasonably))~~ withhold consent to the sale, transfer, or exchange of a franchise to a qualified buyer who meets the normal, reasonable, and uniformly applied standards established by the manufacturer for the appointment of a new dealer who does not already hold a franchise with the manufacturer or is capable of being licensed as a new motor vehicle dealer in the state of Washington. A decision or determination made by the administrative law judge as to whether a qualified buyer is capable of being licensed as a new motor vehicle dealer in the state of Washington is not conclusive or determinative of any ultimate determination made by the department of licensing as to the buyer's qualification for a motor vehicle dealer license. A manufacturer's failure to respond in writing to a request for consent under this subsection within sixty days after receipt of a written request on the forms, if any, generally used by the manufacturer containing the information and reasonable promises required by a manufacturer

is deemed to be consent to the request. A manufacturer may request, and, if so requested, the applicant for a franchise (a) shall promptly provide such personal and financial information as is reasonably necessary to determine whether the sale, transfer, or exchange should be approved, and (b) shall agree to be bound by all reasonable terms and conditions of the franchise.

(2) If a manufacturer refuses to approve the sale, transfer, or exchange of a franchise, the manufacturer shall serve written notice on the applicant, the transferring, selling, or exchanging new motor vehicle dealer, and the department of its refusal to approve the transfer of the franchise no later than sixty days after the date the manufacturer receives the written request from the new motor vehicle dealer. If the manufacturer has requested personal or financial information from the applicant under subsection (1) of this section, the notice shall be served not later than sixty days after the receipt of all of such documents. Service of all notices under this section shall be made by personal service or by certified mail, return receipt requested.

(3) The notice in subsection (2) of this section shall state the specific grounds for the refusal to approve the sale, transfer, or exchange of the franchise.

(4) Within twenty days after receipt of the notice of refusal to approve the sale, transfer, or exchange of the franchise by the transferring new motor vehicle dealer, the new motor vehicle dealer may file a petition with the department to protest the refusal to approve the sale, transfer, or exchange. The petition shall contain a short statement setting forth the reasons for the dealer's protest. Upon the filing of a protest and the receipt of the filing fee, the department shall promptly notify the manufacturer that a timely protest has been filed, and the department shall arrange for a hearing with an administrative law judge as the presiding officer to determine if the manufacturer unreasonably withheld consent to the sale, transfer, or exchange of the franchise.

(5) ~~(In determining whether the manufacturer unreasonably withheld its approval to the sale, transfer, or exchange, the manufacturer has the burden of proof that it acted reasonably. A manufacturer's refusal to accept or approve a proposed buyer who otherwise meets the normal, reasonable, and uniformly applied standards established by the manufacturer for the appointment of a new dealer, or who otherwise is capable of being licensed as a new motor vehicle dealer in the state of Washington, is presumed to be unreasonable.~~

~~(6))~~ The administrative law judge shall conduct a hearing and render a final decision as expeditiously as possible, but in any event not later than one hundred twenty days after a protest is filed. Only the selling, transferring, or exchanging new motor vehicle dealer and the manufacturer may be parties to the hearing.

~~((7))~~ (6) The administrative law judge shall conduct any hearing as provided in RCW 46.96.050(2), and all hearing costs shall be borne as provided in that subsection. Only the manufacturer and the selling, transferring, or exchanging new motor vehicle dealer may appeal the final order of the administrative law judge as provided in RCW 46.96.050(3).

~~((8))~~ (7) This section and RCW 46.96.030 through 46.96.110 apply to all franchises and contracts existing on July 23, 1989, between manufacturers and new motor vehicle dealers as well as to all future franchises and contracts between manufacturers and new motor vehicle dealers.

~~((9))~~ (8) RCW 46.96.140 through 46.96.190 apply to all franchises and contracts existing on October 1, 1994, between manufacturers and new motor

vehicle dealers as well as to all future franchises and contracts between manufacturers and new motor vehicle dealers.

NEW SECTION. Sec. 8. A new section is added to chapter 46.96 RCW to read as follows:

(1) In the event of a termination, cancellation, or nonrenewal under this chapter, except for a termination, cancellation, or nonrenewal under RCW 46.96.070(2), or a voluntary termination, cancellation, or nonrenewal initiated by the dealer, the manufacturer shall, at the request and option of the new motor vehicle dealer, also pay to the new motor vehicle dealer the fair market value of the motor vehicle dealer's goodwill for the make or line as of the date immediately preceding any communication to the public or dealer regarding termination. To the extent the franchise agreement provides for the payment or reimbursement to the new motor vehicle dealer in excess of the value specified in this section, the provisions of the franchise agreement control.

(2) The manufacturer shall pay the new motor vehicle dealer the value specified in subsection (1) of this section within ninety days after the date of termination.

NEW SECTION. Sec. 9. A new section is added to chapter 46.96 RCW to read as follows:

A manufacturer shall, upon demand, indemnify and hold harmless any existing or former franchisee and the franchisee's successors and assigns from any and all damages sustained and attorneys' fees and other expenses reasonably incurred by the franchisee that result from or relate to any claim made or asserted by a third party against the franchisee to the extent the claim results from any of the following:

(1) The condition, characteristics, manufacture, assembly, or design of any vehicle, parts, accessories, tools, or equipment, or the selection or combination of parts or components manufactured or distributed by the manufacturer or distributor;

(2) Service systems, procedures, or methods that the franchisor required or recommended the franchisee to use;

(3) Improper use by the manufacturer, its assignees, contractors, representatives, or licensees of nonpublic personal information obtained from a franchisee concerning any consumer, customer, or employee of the franchisee; or

(4) Any act or omission of the manufacturer or distributor for which the franchisee would have a claim for contribution or indemnity under applicable law or under the franchise, irrespective of any prior termination or expiration of the franchise.

NEW SECTION. Sec. 10. A new section is added to chapter 46.96 RCW to read as follows:

A manufacturer may not take or threaten to take any adverse action against a new motor vehicle dealer, including charge backs, reducing vehicle allocations, or terminating or threatening to terminate a franchise, because the dealer sold or leased a vehicle to a customer who exported the vehicle to a foreign country or who resold the vehicle, unless the manufacturer or distributor definitively proves that the dealer knew or reasonably should have known that the customer intended to export or resell the vehicle. A manufacturer or distributor shall,

upon demand, indemnify, hold harmless, and defend any existing or former franchisee or franchisee's successors or assigns from any and all claims asserted, or damages sustained and attorneys' fees and other expenses reasonably incurred by the franchisee that result from or relate to any claim made or asserted, by a third party against the franchisee for any policy, program, or other behavior suggested by the manufacturer for sales of vehicles to parties that intend to export a vehicle purchased from the franchisee.

NEW SECTION. Sec. 11. A new section is added to chapter 46.96 RCW to read as follows:

A new motor vehicle dealer who is injured in his or her business or property by a violation of this chapter may bring a civil action in the superior court to recover the actual damages sustained by the dealer, together with the costs of the suit, including reasonable attorneys' fees if the new motor vehicle dealer prevails. The new motor vehicle dealer may bring a civil action in district court to recover his or her actual damages, except for damages that exceed the amount specified in RCW 3.66.020, and the costs of the suit, including reasonable attorneys' fees.

NEW SECTION. Sec. 12. A new section is added to chapter 46.96 RCW to read as follows:

A manufacturer or distributor shall not enter into an agreement or understanding with a new motor vehicle dealer that requires the dealer to waive any provisions of this chapter. However, a dealer may, by written contract and for valuable and reasonable separate consideration, waive, limit, or disclaim a manufacturer's obligations or a dealer's rights under RCW 46.96.080, 46.96.090, 46.96.105, 46.96.140, and 46.96.150, if the contract sets forth the specific provisions of this chapter that are waived, limited, or disclaimed. A manufacturer shall not coerce, threaten, intimidate, or require a new motor vehicle dealer, as a condition to granting or renewing a franchise, to enter into such an agreement or understanding.

NEW SECTION. Sec. 13. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed by the House March 10, 2010.

Passed by the Senate March 2, 2010.

Approved by the Governor March 23, 2010.

Filed in Office of Secretary of State March 23, 2010.

CHAPTER 179

[Engrossed Substitute House Bill 3040]

APPRAISAL MANAGEMENT COMPANIES

AN ACT Relating to the licensing of appraisal management companies; reenacting and amending RCW 18.235.020; adding a new chapter to Title 18 RCW; and providing an effective date.

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

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

(1) "Appraisal" means the act or process of estimating value; an estimate of value; or of pertaining to appraising and related functions.

(2) "Appraisal management company" means an entity that performs appraisal management services, regardless of the use of the term appraisal management company, mortgage technology provider, lender processing services, lender services, loan processor, mortgage services, real estate closing services provider, settlement services provider, or vendor management company, or any other term.

(3) "Appraisal management services" means to perform any or all of the following functions on behalf of a lender, financial institution, mortgage broker, loan originator, or any other person:

(a) Administer an appraiser panel;

(b) Recruit, qualify, verify licensing or certification, and negotiate fees and service level expectations with persons who are part of an appraiser panel;

(c) Receive an order for an appraisal from one person, or entity, and deliver the order for the appraisal to an appraiser that is part of an appraiser panel for completion;

(d) Track and determine the status of appraisal orders;

(e) Conduct quality control of a completed appraisal prior to the delivery of the appraisal to the person that ordered the appraisal; and

(f) Provide a completed appraisal performed by an appraiser to one or more persons that have ordered an appraisal.

(4) "Appraisal review" or "appraisal review services" means developing and communicating an opinion about the quality of another appraiser's work that was performed, or assignment results that were developed, as part of an appraisal assignment.

(5) "Appraiser" means a person who is licensed or certified under chapter 18.140 RCW or under similar laws of another state.

(6) "Appraiser panel" means a network of appraisers who are independent contractors of an appraisal management company that have:

(a) Independently applied to or responded to an invitation, request, or solicitation from an appraisal management company to perform appraisals for persons, or entities, that have ordered appraisals through the appraisal management company, or to perform appraisals for the appraisal management company directly, on a periodic basis, as assigned by the appraisal management company; and

(b) Been selected, and approved, by an appraisal management company to perform appraisals for a person, or entity, that has ordered an appraisal through the appraisal management company, or to perform appraisals for the appraisal management company directly, on a periodic basis, as assigned by the appraisal management company.

(7) "Controlling person" means:

(a) An owner, officer, or director of a corporation, partnership, or other business entity seeking to offer appraisal management services in this state;

(b) An individual employed, appointed, or authorized by an appraisal management company that has the authority to enter into a contractual relationship with other persons for the performance of appraisal management services and has the authority to enter into agreements with appraisers for the performance of appraisals;

(c) An individual who possesses the power to direct or cause the direction of the management or policies of an appraisal management company;

(d) Any person who controls a partnership, company, association, or corporation through one or more intermediaries, alone or in concert with others, or a ten percent or greater interest in a partnership, company, association, or corporation; or

(e) Any person who controls a limited liability company or is the owner of a sole proprietorship.

(8) "Department" means the department of licensing.

(9) "Director" means the director of the department of licensing.

NEW SECTION. Sec. 2. POWERS AND DUTIES OF DIRECTOR. The director shall:

(1) Adopt rules to implement this chapter;

(2) Establish appropriate administrative procedures for the processing of the applications;

(3) Issue licenses to qualified companies under the provisions of this chapter; and

(4) Maintain a roster of the names and addresses of companies licensed under this chapter;

(5) Employ professional, clerical, and technical assistance as may be necessary to properly administer the work of the director;

(6) Establish forms necessary to administer this chapter;

(7) Oversee the performance of any background investigations;

(8) Initiate and oversee investigations and any audits;

(9) Establish grounds for disciplinary actions;

(10) Adopt fees under RCW 43.24.086; and

(11) Do all other things necessary to carry out the provisions of this chapter and comply with the requirements of any pertinent federal laws pertaining to appraisal management companies.

NEW SECTION. Sec. 3. IMMUNITY. The director or individuals acting on behalf of the director are immune from suit in any action, civil or criminal, based on any acts performed in the course of their duties except for their intentional or willful misconduct.

NEW SECTION. Sec. 4. APPLICATIONS—ORIGINAL AND RENEWALS. (1) Applications for licensure must be made to the department on forms approved by the director. A license is valid for two years and must be renewed on or before the expiration date. Applications for original and renewal licenses must include a statement confirming that the company must comply with applicable rules and that the company understands the penalties for misconduct.

(2) The appropriate fees must accompany all applications for original licensure and renewal.

(3) Each applicant shall file and maintain a surety bond, approved by the director, executed by the applicant as obligor and by a surety company authorized to do a surety business in this state as surety, whose liability as the surety may not exceed in the aggregate the penal sum of the bond. The penal sum of the bond must be a minimum of twenty-five thousand dollars. The bond must run to the state of Washington as obligee for the use and benefit of the state

and of any person or persons who may have a cause of action against the obligor under this chapter. The bond must be conditioned that the obligor as licensee will faithfully conform to and abide by this chapter and all the rules adopted under this chapter. The bond will pay to the state and any person or persons having a cause of action against the obligor all moneys that may become due and owing to the state and those persons under and by virtue of this chapter.

NEW SECTION. Sec. 5. OUT OF STATE COMPANIES—CONSENT FOR SERVICE OF PROCESS. Every company seeking licensure whose headquarters is not based in the state of Washington shall submit, with the application for licensure, an irrevocable consent that service of process upon the controlling person or persons may be made by service on the director if, in an action against the entity in a Washington state court arising out of the entity's activities as an appraisal management company, the plaintiff cannot, in the exercise of due diligence, obtain personal service upon the company.

NEW SECTION. Sec. 6. LICENSURE—REQUIRED USE OF NAME AND LICENSE NUMBER. (1) A license issued under this chapter must bear the signature or facsimile signature of the director and a license number assigned by the director.

(2) Each licensed appraisal management company shall place the name under which it does business and its license number on any appraisal engagement document issued.

NEW SECTION. Sec. 7. LICENSURE REQUIRED. (1) It is unlawful for an entity to engage or attempt to engage in business as an appraisal management company, to engage or attempt to perform appraisal management services, or to advertise or hold itself out as engaging in or conducting business as an appraisal management company without first obtaining a license issued by the department under this chapter.

(2) An application for the issuance or renewal of a license required by subsection (1) of this section must, at a minimum, include the following information:

- (a) Name of the entity seeking licensure;
- (b) Names under which the entity will do business;
- (c) Business address of the entity seeking licensure;
- (d) Phone contact information of the entity seeking licensure;
- (e) If the entity is not a corporation that is domiciled in this state, the name and contact information for the company's agent for service of process in this state;
- (f) The name, address, and contact information for any individual or any corporation, partnership, or other business entity that owns ten percent or more of the appraisal management company;
- (g) The name, address, and contact information for a controlling person;
- (h) A certification that the entity has a system and process in place to verify that a person being added to the appraiser panel of the appraisal management company for work being done in this state holds a license or certificate in good standing under chapter 18.140 RCW;
- (i) A certification that the entity has a system in place to review the work of appraisers that are performing real estate appraisal services on a periodic basis and have a policy in place to require that the real estate appraisal services

provided by the appraiser are being conducted in accordance with chapter 18.140 RCW and other applicable state and federal laws;

(j) A certification that the entity maintains a detailed record of each service request that it receives and the appraiser that performs the real estate appraisal services under section 13 of this act;

(k) A certification that the entity maintains a complete copy of the completed appraisal report performed as a part of any request, for a minimum period of five years, or at least two years after final disposition of any judicial proceeding related to the assignment, under uniform standards of professional appraisal practice provisions, and that the appraisals must be provided to the department upon demand;

(l) An irrevocable uniform consent to service of process, under section 6 of this act; and

(m) Any other relevant information reasonably required by the department to obtain a license under the requirements of this chapter.

NEW SECTION. Sec. 8. OWNER REQUIREMENTS. (1) Each entity owning more than ten percent of an appraisal management company may not be:

(a) Directly controlled by a person who has had a license or certificate to act as an appraiser refused, denied, canceled, or revoked; or

(b) More than ten percent owned by any person who has had a license or certificate to act as an appraiser refused, denied, canceled, or revoked in any state.

(2) Each person that owns more than ten percent of an appraisal management company must:

(a) Not have had a license or certificate to act as an appraiser refused, denied, canceled, or revoked in any state;

(b) Be of good moral character, as determined by the department; and

(c) Submit to a background investigation under section 15 of this act.

(3) Each appraisal management company must certify to the department that it has reviewed each and every individual or entity that owns more than ten percent of the appraisal management company and that no person or entity that owns more than ten percent of the appraisal management company is prohibited from owning an appraisal management company under this section.

(4) A person under this section may appeal an adjudicative proceeding involving a final decision of the director to deny, suspend, or revoke a license under chapter 18.235 RCW.

NEW SECTION. Sec. 9. CONTROLLING PERSON REQUIREMENTS. (1)(a) An appraisal management company shall designate one controlling person that will be the main contact for all communication between the department and the appraisal management company.

(b) Should the controlling person change, the appraisal management company must notify the director within fourteen business days and provide the name and contact information of the new controlling person.

(2) The controlling person designated under subsection (1) of this section must:

(a) Have never had a license or certificate to act as an appraiser surrendered in lieu of disciplinary action, refused, denied, canceled, or revoked in any state;

(b) Be of good moral character, as determined by the department; and

(c) Submit to a background investigation under section 15 of this act.

NEW SECTION. Sec. 10. APPRAISER REQUIREMENTS. (1) An appraisal management company may not knowingly contract with or employ as an appraiser:

(a) Any person who has ever had a license or certificate to act as an appraiser in this state, or in any other state, surrendered in lieu of disciplinary action, refused, denied, canceled, or revoked;

(b) Any person who has been convicted of an offense that reflects adversely upon the person's integrity, competence, or fitness to meet the responsibilities of an appraiser or appraisal management company;

(c) Any person who has been convicted of, or who has pled guilty or nolo contendere to, a felony related to participation in the real estate or mortgage loan industry:

(i) During the seven-year period preceding the date of the application for licensing and registration; or

(ii) At any time preceding the date of application, if the felony involved an act of fraud, dishonesty, or a breach of trust, or money laundering;

(d) Any person who is in violation of chapter 19.146 or 31.04 RCW; or

(e) Any person who is in violation of this chapter.

(2) An appraisal management company may not:

(a) Knowingly enter into any independent contractor arrangement for appraisal or appraisal review services with any person who has ever had a license or certificate to act as an appraiser in this state, or in any other state, surrendered in lieu of disciplinary action, refused, denied, canceled, or revoked; and

(b) Knowingly enter into any contract, agreement, or other business relationship for appraisal or appraisal review services with any entity that employs, has entered into an independent contractor arrangement, or has entered into any contract, agreement, or other business relationship with any person who has ever had a license or certificate to act as an appraiser in this state or in any other state surrendered in lieu of disciplinary action, refused, denied, canceled, or revoked.

(3) Any employee of the appraisal management company, or any contractor working in any capacity on behalf of the appraisal management company, that has any involvement in the actual performance of appraisal or appraisal review services, or review and analysis of completed appraisals must be a state licensed or state certified appraiser in the state in which the property is located, and must have geographic and product competence. This requirement does not apply to any review or examination of the appraisal for grammatical, typographical, or similar errors or general reviews of the appraisal for completeness.

NEW SECTION. Sec. 11. EXEMPTIONS. The provisions of this chapter do not apply to the following:

(1) A department or unit within a financial institution that is subject to direct regulation by an agency of the United States government, or to regulation by an agency of this state, that receives a request for the performance of an appraisal from one employee of the financial institution, and another employee of the same financial institution assigns the request for the appraisal to an appraiser that is part of an appraiser panel; or

(2) An appraiser that enters into an agreement, whether written or otherwise, with another appraiser for the performance of an appraisal, and upon completion of the appraisal, the report of the appraiser performing the appraisal is signed by both the appraiser who completed the appraisal and the appraiser who requested the completion of the appraisal.

NEW SECTION. Sec. 12. RECORDKEEPING. An appraisal management company must certify to the department on initial application and upon renewal, that it maintains a detailed record of each service request that it receives and the appraiser that performs the appraisal for the appraisal management company. This statement must also certify that the appraisal management company maintains a complete copy of the completed appraisal report, for a minimum period of five years after the appraisal is completed, or two years after final disposition of a judicial proceeding related to the assignment, whichever period expires later.

NEW SECTION. Sec. 13. ADJUDICATION OF DISPUTES BETWEEN AN APPRAISAL MANAGEMENT COMPANY AND AN APPRAISER. (1) Except within the first thirty days after an appraiser is first added to the appraiser panel of an appraisal management company, an appraisal management company may not remove an appraiser from its appraiser panel, or otherwise refuse to assign requests for real estate appraisal services to an appraiser without:

(a) Notifying the appraiser in writing of the reasons why the appraiser is being removed from the appraiser panel of the appraisal management company, including if the appraiser is being removed from the panel for illegal conduct, a violation of state licensing standards, substandard performance, or administrative purposes. In addition, if the removal is not for administrative purposes, the nature of the alleged conduct, substandard performance, or violation must be provided; and

(b) Providing an opportunity for the appraiser to respond to the notification of the appraisal management company.

(2) An appraiser that is removed from the appraiser panel of an appraisal management company for alleged illegal conduct or a violation of state licensing standards, may file a complaint with the department for a review of the decision of the appraisal management company, except that in no case will the department make any determination regarding the nature of the business relationship between the appraiser and the appraisal management company which is unrelated to the actions specified in subsection (1) of this section.

(3) If an appraiser files a complaint against an appraisal management company pursuant to subsection (2) of this section, the department may investigate the complaint within one hundred eighty days during which time the appraiser must remain removed from the panel.

(4) If after opportunity for hearing and review, the department determines that an appraiser did not commit a violation of law or a violation of state licensing standards, the department shall order that an appraiser be restored to the appraiser panel of the appraisal management company that was the subject of the complaint without prejudice.

(5) Following the adjudication of a complaint to the department by an appraiser against an appraisal management company, an appraisal management company may not refuse to make assignments for real estate appraisal services

to an appraiser, or reduce the number of assignments, or otherwise penalize the appraiser because of the adjudicated complaint, if the department has found that the appraisal management company acted without reasonable cause in removing the appraiser from the appraiser panel.

NEW SECTION. Sec. 14. DISCIPLINARY ACTIONS—GROUNDS. (1) In addition to the unprofessional conduct described in RCW 18.235.130, the director may take disciplinary action for the following:

(a) Failing to meet the minimum qualifications for licensure established under this chapter;

(b) Failing to pay appraisers no later than forty-five days after completion of the appraisal service unless otherwise agreed or unless the appraiser has been notified in writing that a bona fide dispute exists regarding the performance or quality of the appraisal service;

(c) Failing to pay appraisers even if the appraisal management company is not paid by its client;

(d) Coercing, extorting, colluding, compensating, inducing, intimidating, bribing an appraiser, or in any other manner including:

(i) Withholding or threatening to withhold timely payment for an appraisal;

(ii) Requiring the appraiser to remit a portion of the appraisal fee back to the appraisal management company;

(iii) Withholding or threatening to withhold future business for, or demoting or terminating or threatening to demote or terminate, an appraiser;

(iv) Expressly or impliedly promising future business, promotions, or increased compensation for an appraiser;

(v) Conditioning the request for an appraisal or the payment of an appraisal fee or salary or bonus on the opinion, conclusion, or valuation to be reached, or on a preliminary estimate or opinion requested from an appraiser;

(vi) Requesting that an appraiser provide an estimated, predetermined, or desired valuation in an appraisal report, or provide estimated values or comparable sales at any time prior to the appraiser's completion of an appraisal;

(vii) Providing to an appraiser an anticipated, estimated, encouraged, or desired value for a subject property or a proposed or target amount to be loaned to the borrower, except that a copy of the sales contract for purchase transactions must be provided to the appraiser;

(viii) Providing to an appraiser, or any entity or person related to the appraiser, stock or other financial or nonfinancial benefits;

(ix) Obtaining, using, or paying for a second or subsequent appraisal or ordering an automated valuation model in connection with a mortgage financing transaction unless there is a reasonable basis to believe that the initial appraisal was flawed or tainted and such basis is clearly and appropriately noted in the loan file, or unless such appraisal or automated valuation model is done pursuant to a bona fide prefunding or postfunding appraisal review or quality control process; or

(x) Any other act or practice that impairs or attempts to impair an appraiser's independence, objectivity, or impartiality, or that violates law;

(e) Altering, modifying, or otherwise changing a completed appraisal report submitted by an appraiser;

(f) Copying and using the appraiser's signature for any purpose or in any other report;

(g) Extracting, copying, or using only a portion of the appraisal report without reference to the entire report;

(h) Prohibiting or attempting to prohibit the appraiser from including or referencing the appraisal fee, the appraisal management company name or identity, or the client's or lender's name or identity in the appraisal report;

(i) Knowingly requiring an appraiser to prepare an appraisal report, engaging an appraiser to perform an appraisal, or accepting an appraisal from an appraiser who has informed the appraisal management company that he or she does not have either the geographic competence or necessary expertise to complete the appraisal;

(j) Knowingly requiring an appraiser to prepare an appraisal report under such a limited time frame when the appraiser, in the appraiser's own professional judgment, has informed the appraisal management company that it does not afford the appraiser the ability to meet all relevant legal and professional obligations or provide a credible opinion of value for the property being appraised. This subsection (1)(j) allows an appraiser to decline an assignment, but is not a basis for complaints against the appraisal management company;

(k) Requiring, or attempting to require, an appraiser to modify an appraisal report except as permitted under subsection (2)(a) or (b) of this section;

(l) Prohibiting, or attempting to prohibit, or inhibiting legal or other allowable communication between the appraiser and:

(i) The lender;

(ii) A real estate licensee;

(iii) A property owner; or

(iv) Any other party or person from whom the appraiser, in the appraiser's own professional judgment, believes information would be relevant or pertinent in completing the appraisal;

(m) Knowingly requiring or attempting to require the appraiser to do anything that violates chapter 18.140 RCW or other applicable state and federal laws or with any allowable assignment conditions or certifications required by the client;

(n) Prohibiting or refusing to allow, or attempting to prohibit or refuse to allow, the transfer of an appraisal from one lender to another lender if the lenders are allowed to transfer an appraisal under applicable federal law; or

(o) Requiring an appraiser to sign any indemnification agreement that would require the appraiser to defend and hold harmless the appraisal management company or any of its agents, employees, or independent contractors for any liability, damage, losses, or claims arising out of the services performed by the appraisal management company or its agents, employees, or independent contractors and not the services performed by the appraiser.

(2) Nothing in subsection (1) of this section may be construed as prohibiting the appraisal management company from requesting that an appraiser:

(a) Provide additional information about the basis for a valuation, including whether or not the appraiser considered other sales and reasons the other sales were either not considered relevant or included in the appraisal; or

(b) Correct objective factual errors in an appraisal report.

NEW SECTION. Sec. 15. BACKGROUND INVESTIGATIONS. Background investigations under this chapter consist of fingerprint-based background checks through the Washington state patrol criminal identification

system and through the federal bureau of investigation. The applicant is required to pay the current federal and state fees for fingerprint-based criminal history background checks. The applicant shall submit the fingerprints and required fees for the background checks to the department for submission to the Washington state patrol.

NEW SECTION. **Sec. 16.** APPRAISAL MANAGEMENT COMPANY ACCOUNT. The appraisal management company account is created in the state treasury. All fees and penalties under this chapter must be paid to the account. Expenditures from the account may be used only for expenses incurred in carrying out the provisions of this chapter. Any residue in the account shall be accumulated and shall not revert to the general fund at the end of the biennium. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

NEW SECTION. **Sec. 17.** 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.

Sec. 18. RCW 18.235.020 and 2009 c 412 s 22, 2009 c 370 s 20, and 2009 c 102 s 5 are each reenacted and 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;
- (xi) Notaries public under chapter 42.44 RCW;
- (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) Security guards under chapter 18.170 RCW;
- (xvii) Sellers of travel under chapter 19.138 RCW;
- (xviii) Timeshares and timeshare salespersons under chapter 64.36 RCW;

(xix) Whitewater river outfitters under chapter 79A.60 RCW; ~~((and))~~
 (xx) Home inspectors under chapter 18.280 RCW; ~~((and))~~
 (xxi) Body artists, body piercers, and tattoo artists, and body art, body piercing, and tattooing shops and businesses, under chapter 18.300 RCW; and
 (xxii) Appraisal management companies under chapter 18.— RCW (the new chapter created in section 20 of this act).

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

(i) The state board of registration 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.

NEW SECTION. Sec. 19. 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. 20. Sections 1 through 17 and 19 of this act constitute a new chapter in Title 18 RCW.

NEW SECTION. Sec. 21. This act takes effect July 1, 2011.

Passed by the House March 6, 2010.

Passed by the Senate March 3, 2010.

Approved by the Governor March 23, 2010.

Filed in Office of Secretary of State March 23, 2010.

CHAPTER 180

[House Bill 2735]

DEPENDENCY PROCEEDINGS—CHILDREN'S REPRESENTATION

AN ACT Relating to the representation of children in dependency matters; amending RCW 13.34.100, 13.34.105, and 13.34.215; and creating new sections.

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

NEW SECTION. **Sec. 1.** (1) The legislature recognizes that inconsistent practices in and among counties in Washington have resulted in few children being notified of their right to request legal counsel in their dependency and termination proceedings under RCW 13.34.100.

(2) The legislature recognizes that when children are provided attorneys in their dependency and termination proceedings, it is imperative to provide them with well-trained advocates so that their legal rights around health, safety, and well-being are protected. Attorneys, who have different skills and obligations than guardians ad litem and court-appointed special advocates, especially in forming a confidential and privileged relationship with a child, should be trained in meaningful and effective child advocacy, the child welfare system and services available to a child client, child and adolescent brain development, child and adolescent mental health, and the distinct legal rights of dependent youth, among other things. Well-trained attorneys can provide legal counsel to a child on issues such as placement options, visitation rights, educational rights, access to services while in care and services available to a child upon aging out of care. Well-trained attorneys for a child can:

- (a) Ensure the child's voice is considered in judicial proceedings;
- (b) Engage the child in his or her legal proceedings;
- (c) Explain to the child his or her legal rights;
- (d) Assist the child, through the attorney's counseling role, to consider the consequences of different decisions; and
- (e) Encourage accountability, when appropriate, among the different systems that provide services to children.

Sec. 2. RCW 13.34.100 and 2009 c 480 s 2 are each amended to read as follows:

(1) The court shall appoint a guardian ad litem for a child who is the subject of an action under this chapter, unless a court for good cause finds the appointment unnecessary. The requirement of a guardian ad litem may be deemed satisfied if the child is represented by independent counsel in the proceedings. The court shall attempt to match a child with special needs with a guardian ad litem who has specific training or education related to the child's individual needs.

(2) If the court does not have available to it a guardian ad litem program with a sufficient number of volunteers, the court may appoint a suitable person to act as guardian ad litem for the child under this chapter. Another party to the proceeding or the party's employee or representative shall not be so appointed.

(3) Each guardian ad litem program shall maintain a background information record for each guardian ad litem in the program. The background information record shall include, but is not limited to, the following information:

- (a) Level of formal education;
- (b) General training related to the guardian ad litem's duties;
- (c) Specific training related to issues potentially faced by children in the dependency system;
- (d) Specific training or education related to child disability or developmental issues;
- (e) Number of years' experience as a guardian ad litem;
- (f) Number of appointments as a guardian ad litem and the county or counties of appointment;

(g) The names of any counties in which the person was removed from a guardian ad litem registry pursuant to a grievance action, and the name of the court and the cause number of any case in which the court has removed the person for cause;

(h) Founded allegations of abuse or neglect as defined in RCW 26.44.020;

(i) The results of an examination of state and national criminal identification data. The examination 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. The background check shall be done through the Washington state patrol criminal identification section and must include a national check from the federal bureau of investigation based on the submission of fingerprints; and

(j) Criminal history, as defined in RCW 9.94A.030, for the period covering ten years prior to the appointment.

The background information record shall be updated annually. As a condition of appointment, the guardian ad litem's background information record shall be made available to the court. If the appointed guardian ad litem is not a member of a guardian ad litem program a suitable person appointed by the court to act as guardian ad litem shall provide the background information record to the court.

Upon appointment, the guardian ad litem, or guardian ad litem program, shall provide the parties or their attorneys with a copy of the background information record. The portion of the background information record containing the results of the criminal background check and the criminal history shall not be disclosed to the parties or their attorneys. The background information record shall not include identifying information that may be used to harm a guardian ad litem, such as home addresses and home telephone numbers, and for volunteer guardians ad litem the court may allow the use of maiden names or pseudonyms as necessary for their safety.

(4) The appointment of the guardian ad litem shall remain in effect until the court discharges the appointment or no longer has jurisdiction, whichever comes first. The guardian ad litem may also be discharged upon entry of an order of guardianship.

(5) A guardian ad litem through counsel, or as otherwise authorized by the court, shall have the right to present evidence, examine and cross-examine witnesses, and to be present at all hearings. A guardian ad litem shall receive copies of all pleadings and other documents filed or submitted to the court, and notice of all hearings according to court rules. The guardian ad litem shall receive all notice contemplated for a parent or other party in all proceedings under this chapter.

(6)(a) Pursuant to this subsection, the department or supervising agency and the child's guardian ad litem shall each notify a child of his or her right to request counsel and shall ask the child whether he or she wishes to have counsel. The department or supervising agency and the child's guardian ad litem shall notify the child and make this inquiry immediately after:

(i) The date of the child's twelfth birthday;

(ii) Assignment of a case involving a child age twelve or older; or

(iii) July 1, 2010, for a child who turned twelve years old before July 1, 2010.

(b) The department or supervising agency and the child's guardian ad litem shall repeat the notification and inquiry at least annually and upon the filing of any motion or petition affecting the child's placement, services, or familial relationships.

(c) The notification and inquiry is not required if the child has already been appointed counsel.

(d) The department or supervising agency shall note in the child's individual service and safety plan, and the guardian ad litem shall note in his or her report to the court, that the child was notified of the right to request counsel and indicate the child's position regarding appointment of counsel.

(e) At the first regularly scheduled hearing after:

(i) The date of the child's twelfth birthday;

(ii) The date that a dependency petition is filed pursuant to this chapter on a child age twelve or older; or

(iii) July 1, 2010, for a child who turned twelve years old before July 1, 2010;

the court shall inquire whether the child has received notice of his or her right to request legal counsel from the department or supervising agency and the child's guardian ad litem. The court shall make an additional inquiry at the first regularly scheduled hearing after the child's fifteenth birthday. No inquiry is necessary if the child has already been appointed counsel.

(f) If the child requests legal counsel and is age twelve or older, or if the guardian ad litem or the court determines that the child needs to be independently represented by counsel, the court may appoint an attorney to represent the child's position.

(7) For the purposes of child abuse prevention and treatment act (42 U.S.C. Secs. 5101 et seq.) grants to this state under P.L. 93-247, or any related state or federal legislation, a person appointed pursuant to ~~((RCW 13.34.100))~~ this section shall be deemed a guardian ad litem to represent the best interests of the minor in proceedings before the court.

(8) When a court-appointed special advocate or volunteer guardian ad litem is requested on a case, the program shall give the court the name of the person it recommends. The program shall attempt to match a child with special needs with a guardian ad litem who has specific training or education related to the child's individual needs. The court shall immediately appoint the person recommended by the program.

(9) If a party in a case reasonably believes the court-appointed special advocate or volunteer guardian ad litem is inappropriate or unqualified, the party may request a review of the appointment by the program. The program must complete the review within five judicial days and remove any appointee for good cause. If the party seeking the review is not satisfied with the outcome of the review, the party may file a motion with the court for the removal of the court-appointed special advocate or volunteer guardian ad litem on the grounds the advocate or volunteer is inappropriate or unqualified.

Sec. 3. RCW 13.34.105 and 2008 c 267 s 13 are each amended to read as follows:

(1) Unless otherwise directed by the court, the duties of the guardian ad litem for a child subject to a proceeding under this chapter, including an attorney specifically appointed by the court to serve as a guardian ad litem, include but are not limited to the following:

(a) To investigate, collect relevant information about the child's situation, and report to the court factual information regarding the best interests of the child;

(b) To meet with, interview, or observe the child, depending on the child's age and developmental status, and report to the court any views or positions expressed by the child on issues pending before the court;

(c) To monitor all court orders for compliance and to bring to the court's attention any change in circumstances that may require a modification of the court's order;

(d) To report to the court information on the legal status of a child's membership in any Indian tribe or band;

(e) Court-appointed special advocates and guardians ad litem may make recommendations based upon an independent investigation regarding the best interests of the child, which the court may consider and weigh in conjunction with the recommendations of all of the parties; ~~((and))~~

(f) To represent and be an advocate for the best interests of the child; and

(g) To inform the child, if the child is twelve years old or older, of his or her right to request counsel and to ask the child whether he or she wishes to have counsel, pursuant to RCW 13.34.100(6). The guardian ad litem shall report to the court that the child was notified of this right and indicate the child's position regarding appointment of counsel. The guardian ad litem shall report to the court his or her independent recommendation as to whether appointment of counsel is in the best interest of the child.

(2) A guardian ad litem shall be deemed an officer of the court for the purpose of immunity from civil liability.

(3) Except for information or records specified in RCW 13.50.100(7), the guardian ad litem shall have access to all information available to the state or agency on the case. Upon presentation of the order of appointment by the guardian ad litem, any agency, hospital, school organization, division or department of the state, doctor, nurse, or other health care provider, psychologist, psychiatrist, police department, or mental health clinic shall permit the guardian ad litem to inspect and copy any records relating to the child or children involved in the case, without the consent of the parent or guardian of the child, or of the child if the child is under the age of thirteen years, unless such access is otherwise specifically prohibited by law.

(4) A guardian ad litem may release confidential information, records, and reports to the office of the family and children's ombudsman for the purposes of carrying out its duties under chapter 43.06A RCW.

(5) The guardian ad litem shall release case information in accordance with the provisions of RCW 13.50.100.

Sec. 4. RCW 13.34.215 and 2009 c 520 s 36 are each amended to read as follows:

(1) A child may petition the juvenile court to reinstate the previously terminated parental rights of his or her parent under the following circumstances:

(a) The child was previously found to be a dependent child under this chapter;

(b) The child's parent's rights were terminated in a proceeding under this chapter;

(c) The child has not achieved his or her permanency plan within three years of a final order of termination; and

(d) The child must be at least twelve years old at the time the petition is filed. Upon the child's motion for good cause shown, or on its own motion, the court may hear a petition filed by a child younger than twelve years old.

(2) If the child is eligible to petition the juvenile court under subsection (1) of this section and a parent whose rights have been previously terminated contacts the department or supervising agency or the child's guardian ad litem regarding reinstatement, the department or supervising agency or the guardian ad litem must notify the eligible child about his or her right to petition for reinstatement of parental rights.

(3) A child seeking to petition under this section shall be provided counsel at no cost to the child.

~~((3))~~ (4) The petition must be signed by the child in the absence of a showing of good cause as to why the child could not do so.

~~((4))~~ (5) If, after a threshold hearing to consider the parent's apparent fitness and interest in reinstatement of parental rights, the court finds by a preponderance of the evidence that the best interests of the child may be served by reinstatement of parental rights, the juvenile court shall order that a hearing on the merits of the petition be held.

~~((5))~~ (6) The court shall give prior notice for any proceeding under this section, or cause prior notice to be given, to the department or the supervising agency, the child's attorney, and the child. The court shall also order the department or supervising agency to give prior notice of any hearing to the child's former parent whose parental rights are the subject of the petition, any parent whose rights have not been terminated, the child's current foster parent, relative caregiver, guardian or custodian, and the child's tribe, if applicable.

~~((6))~~ (7) The juvenile court shall conditionally grant the petition if it finds by clear and convincing evidence that the child has not achieved his or her permanency plan and is not likely to imminently achieve his or her permanency plan and that reinstatement of parental rights is in the child's best interest. In determining whether reinstatement is in the child's best interest the court shall consider, but is not limited to, the following:

(a) Whether the parent whose rights are to be reinstated is a fit parent and has remedied his or her deficits as provided in the record of the prior termination proceedings and prior termination order;

(b) The age and maturity of the child, and the ability of the child to express his or her preference;

(c) Whether the reinstatement of parental rights will present a risk to the child's health, welfare, or safety; and

(d) Other material changes in circumstances, if any, that may have occurred which warrant the granting of the petition.

~~((7))~~ (8) In determining whether the child has or has not achieved his or her permanency plan or whether the child is likely to achieve his or her permanency plan, the department or supervising agency shall provide the court,

and the court shall review, information related to any efforts to achieve the permanency plan including efforts to achieve adoption or a permanent guardianship.

~~((8))~~ (9) (a) If the court conditionally grants the petition under subsection ~~((6))~~ (7) of this section, the case will be continued for six months and a temporary order of reinstatement entered. During this period, the child shall be placed in the custody of the parent. The department or supervising agency shall develop a permanency plan for the child reflecting the plan to be reunification and shall provide transition services to the family as appropriate.

(b) If the child must be removed from the parent due to abuse or neglect allegations prior to the expiration of the conditional six-month period, the court shall dismiss the petition for reinstatement of parental rights if the court finds the allegations have been proven by a preponderance of the evidence.

(c) If the child has been successfully placed with the parent for six months, the court order reinstating parental rights remains in effect and the court shall dismiss the dependency.

~~((9))~~ (10) After the child has been placed with the parent for six months, the court shall hold a hearing. If the placement with the parent has been successful, the court shall enter a final order of reinstatement of parental rights, which shall restore all rights, powers, privileges, immunities, duties, and obligations of the parent as to the child, including those relating to custody, control, and support of the child. The court shall dismiss the dependency and direct the clerk's office to provide a certified copy of the final order of reinstatement of parental rights to the parent at no cost.

~~((10))~~ (11) The granting of the petition under this section does not vacate or otherwise affect the validity of the original termination order.

~~((11))~~ (12) Any parent whose rights are reinstated under this section shall not be liable for any child support owed to the department pursuant to RCW 13.34.160 or Title 26 RCW or costs of other services provided to a child for the time period from the date of termination of parental rights to the date parental rights are reinstated.

~~((12))~~ (13) A proceeding to reinstate parental rights is a separate action from the termination of parental rights proceeding and does not vacate the original termination of parental rights. An order granted under this section reinstates the parental rights to the child. This reinstatement is a recognition that the situation of the parent and child have changed since the time of the termination of parental rights and reunification is now appropriate.

~~((13))~~ (14) This section is retroactive and applies to any child who is under the jurisdiction of the juvenile court at the time of the hearing regardless of the date parental rights were terminated.

~~((14))~~ (15) The state, the department, the supervising agency, and its employees are not liable for civil damages resulting from any act or omission in the provision of services under this section, unless the act or omission constitutes gross negligence. This section does not create any duty and shall not be construed to create a duty where none exists. This section does not create a cause of action against the state, the department, the supervising agency, or its employees concerning the original termination.

NEW SECTION. Sec. 5. By December 31, 2010, and within available resources, the administrative office of the courts, working in coordination with

the state supreme court commission on children in foster care, shall develop recommendations for voluntary training and caseload standards for attorneys who represent youth in dependency proceedings under chapter 13.34 RCW. The administrative office of the courts shall report its recommendations to the appropriate committees of the legislature by December 31, 2010.

Passed by the House February 13, 2010.

Passed by the Senate March 5, 2010.

Approved by the Governor March 23, 2010.

Filed in Office of Secretary of State March 23, 2010.

CHAPTER 181

[Engrossed Substitute House Bill 2747]

CORRECTIONS AND DETENTION FACILITIES—PREGNANT WOMEN—RESTRAINTS

AN ACT Relating to the use of restraints on pregnant women or youth; amending RCW 72.09.015, 72.05.020, and 13.40.020; reenacting and amending RCW 70.48.020; adding new sections to chapter 72.09 RCW; adding new sections to chapter 70.48 RCW; adding new sections to chapter 72.05 RCW; adding new sections to chapter 13.40 RCW; and creating a new section.

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

Sec. 1. RCW 72.09.015 and 2009 c 521 s 165 are each amended to read as follows:

The definitions in this section apply throughout this chapter.

(1) "Adult basic education" means education or instruction designed to achieve general competence of skills in reading, writing, and oral communication, including English as a second language and preparation and testing services for obtaining a high school diploma or a general equivalency diploma.

(2) "Base level of correctional services" means the minimum level of field services the department of corrections is required by statute to provide for the supervision and monitoring of offenders.

(3) "Community custody" has the same meaning as that provided in RCW 9.94A.030 and also includes community placement and community supervision as defined in RCW 9.94B.020.

(4) "Contraband" means any object or communication the secretary determines shall not be allowed to be: (a) Brought into; (b) possessed while on the grounds of; or (c) sent from any institution under the control of the secretary.

(5) "Correctional facility" means a facility or institution operated directly or by contract by the secretary for the purposes of incarcerating adults in total or partial confinement, as defined in RCW 9.94A.030.

~~(6)~~ (6) "County" means a county or combination of counties.

~~((6))~~ (7) "Department" means the department of corrections.

~~((7))~~ (8) "Earned early release" means earned release as authorized by RCW 9.94A.728.

~~((8))~~ (9) "Evidence-based" means a program or practice that has had multiple-site random controlled trials across heterogeneous populations demonstrating that the program or practice is effective in reducing recidivism for the population.

~~((9))~~ (10) "Extended family visit" means an authorized visit between an inmate and a member of his or her immediate family that occurs in a private visiting unit located at the correctional facility where the inmate is confined.

~~((10))~~ (11) "Good conduct" means compliance with department rules and policies.

~~((11))~~ (12) "Good performance" means successful completion of a program required by the department, including an education, work, or other program.

~~((12))~~ (13) "Immediate family" means the inmate's children, stepchildren, grandchildren, great grandchildren, parents, stepparents, grandparents, great grandparents, siblings, and a person legally married to or in a state registered domestic partnership with an inmate. "Immediate family" does not include an inmate adopted by another inmate or the immediate family of the adopted or adopting inmate.

~~((13))~~ (14) "Indigent inmate," "indigent," and "indigency" mean an inmate who has less than a ten-dollar balance of disposable income in his or her institutional account on the day a request is made to utilize funds and during the thirty days previous to the request.

~~((14))~~ (15) "Individual reentry plan" means the plan to prepare an offender for release into the community. It should be developed collaboratively between the department and the offender and based on an assessment of the offender using a standardized and comprehensive tool to identify the offender's risks and needs. The individual reentry plan describes actions that should occur to prepare individual offenders for release from prison or jail, specifies the supervision and services they will experience in the community, and describes an offender's eventual discharge to aftercare upon successful completion of supervision. An individual reentry plan is updated throughout the period of an offender's incarceration and supervision to be relevant to the offender's current needs and risks.

~~((15))~~ (16) "Inmate" means a person committed to the custody of the department, including but not limited to persons residing in a correctional institution or facility and persons released from such facility on furlough, work release, or community custody, and persons received from another state, state agency, county, or federal jurisdiction.

~~((16))~~ (17) "Labor" means the period of time before a birth during which contractions are of sufficient frequency, intensity, and duration to bring about effacement and progressive dilation of the cervix.

(18) "Physical restraint" means the use of any bodily force or physical intervention to control an offender or limit an offender's freedom of movement in a way that does not involve a mechanical restraint. Physical restraint does not include momentary periods of minimal physical restriction by direct person-to-person contact, without the aid of mechanical restraint, accomplished with limited force and designed to:

(a) Prevent an offender from completing an act that would result in potential bodily harm to self or others or damage property;

(b) Remove a disruptive offender who is unwilling to leave the area voluntarily; or

(c) Guide an offender from one location to another.

(19) "Postpartum recovery" means (a) the entire period a woman or youth is in the hospital, birthing center, or clinic after giving birth and (b) an additional time period, if any, a treating physician determines is necessary for healing after the woman or youth leaves the hospital, birthing center, or clinic.

(20) "Privilege" means any goods or services, education or work programs, or earned early release days, the receipt of which are directly linked to an inmate's (a) good conduct; and (b) good performance. Privileges do not include any goods or services the department is required to provide under the state or federal Constitution or under state or federal law.

~~((17))~~ (21) "Promising practice" means a practice that presents, based on preliminary information, potential for becoming a research-based or consensus-based practice.

~~((18))~~ (22) "Research-based" means a program or practice that has some research demonstrating effectiveness, but that does not yet meet the standard of evidence-based practices.

~~((19))~~ (23) "Restraints" means anything used to control the movement of a person's body or limbs and includes:

(a) Physical restraint; or

(b) Mechanical device including but not limited to: Metal handcuffs, plastic ties, ankle restraints, leather cuffs, other hospital-type restraints, tasers, or batons.

(24) "Secretary" means the secretary of corrections or his or her designee.

~~((20))~~ (25) "Significant expansion" includes any expansion into a new product line or service to the class I business that results from an increase in benefits provided by the department, including a decrease in labor costs, rent, or utility rates (for water, sewer, electricity, and disposal), an increase in work program space, tax advantages, or other overhead costs.

~~((21))~~ (26) "Superintendent" means the superintendent of a correctional facility under the jurisdiction of the Washington state department of corrections, or his or her designee.

~~((22))~~ (27) "Transportation" means the conveying, by any means, of an incarcerated pregnant woman or youth from the correctional facility to another location from the moment she leaves the correctional facility to the time of arrival at the other location, and includes the escorting of the pregnant incarcerated woman or youth from the correctional facility to a transport vehicle and from the vehicle to the other location.

(28) "Unfair competition" means any net competitive advantage that a business may acquire as a result of a correctional industries contract, including labor costs, rent, tax advantages, utility rates (water, sewer, electricity, and disposal), and other overhead costs. To determine net competitive advantage, the correctional industries board shall review and quantify any expenses unique to operating a for-profit business inside a prison.

~~((23))~~ (29) "Vocational training" or "vocational education" means "vocational education" as defined in RCW 72.62.020.

~~((24))~~ (30) "Washington business" means an in-state manufacturer or service provider subject to chapter 82.04 RCW existing on June 10, 2004.

~~((25))~~ (31) "Work programs" means all classes of correctional industries jobs authorized under RCW 72.09.100.

NEW SECTION. Sec. 2. (1) Except in extraordinary circumstances, no restraints of any kind may be used on any pregnant woman or youth incarcerated in a correctional facility during transportation to and from visits to medical providers and court proceedings during the third trimester of her pregnancy, or during postpartum recovery. For purposes of this section, "extraordinary circumstances" exist where a corrections officer makes an individualized determination that restraints are necessary to prevent an incarcerated pregnant woman or youth from escaping, or from injuring herself, medical or correctional personnel, or others. In the event the corrections officer determines that extraordinary circumstances exist and restraints are used, the corrections officer must fully document in writing the reasons that he or she determined such extraordinary circumstances existed such that restraints were used. As part of this documentation, the corrections officer must also include the kind of restraints used and the reasons those restraints were considered the least restrictive available and the most reasonable under the circumstances.

(2) While the pregnant woman or youth is in labor or in childbirth no restraints of any kind may be used. Nothing in this section affects the use of hospital restraints requested for the medical safety of a patient by treating physicians licensed under Title 18 RCW.

(3) Anytime restraints are permitted to be used on a pregnant woman or youth, the restraints must be the least restrictive available and the most reasonable under the circumstances, but in no case shall leg irons or waist chains be used on any woman or youth known to be pregnant.

(4) No correctional personnel shall be present in the room during the pregnant woman's or youth's labor or childbirth, unless specifically requested by medical personnel. If the employee's presence is requested by medical personnel, the employee should be female, if practicable.

(5) If the doctor, nurse, or other health professional treating the pregnant woman or youth requests that restraints not be used, the corrections officer accompanying the pregnant woman or youth shall immediately remove all restraints.

NEW SECTION. Sec. 3. (1) The secretary shall provide an informational packet about the requirements of this act to all medical staff and nonmedical staff who are involved in the transportation of women and youth who are pregnant, as well as such other staff as the secretary deems appropriate. The informational packet provided to staff under this section shall be developed as provided in section 13 of this act.

(2) The secretary shall cause the requirements of this act to be provided to all women or youth who are pregnant, at the time the department assumes custody of the person. In addition, the secretary shall cause a notice containing the requirements of this act to be posted in conspicuous locations in the correctional facilities, including but not limited to the locations in which medical care is provided within the facilities.

Sec. 4. RCW 70.48.020 and 2009 c 411 s 3 are each reenacted and amended to read as follows:

As used in this chapter the words and phrases in this section shall have the meanings indicated unless the context clearly requires otherwise.

(1) "Administration" means the direct application of a drug whether by ingestion or inhalation, to the body of an inmate by a practitioner or nonpractitioner jail personnel.

(2) "Correctional facility" means a facility operated by a governing unit primarily designed, staffed, and used for the housing of adult persons serving terms not exceeding one year for the purposes of punishment, correction, and rehabilitation following conviction of a criminal offense.

(3) "Deliver" or "delivery" means the actual, constructive, or attempted transfer from one person to another of medication whether or not there is an agency relationship.

(4) "Detention facility" means a facility operated by a governing unit primarily designed, staffed, and used for the temporary housing of adult persons charged with a criminal offense prior to trial or sentencing and for the housing of adult persons for purposes of punishment and correction after sentencing or persons serving terms not to exceed ninety days.

(5) "Drug" and "legend drug" have the same meanings as provided in RCW 69.41.010.

(6) "Governing unit" means the city and/or county or any combinations of cities and/or counties responsible for the operation, supervision, and maintenance of a jail.

(7) "Health care" means preventive, diagnostic, and rehabilitative services provided by licensed health care professionals and/or facilities; such care to include providing prescription drugs where indicated.

(8) "Holding facility" means a facility operated by a governing unit primarily designed, staffed, and used for the temporary housing of adult persons charged with a criminal offense prior to trial or sentencing and for the temporary housing of such persons during or after trial and/or sentencing, but in no instance shall the housing exceed thirty days.

(9) "Jail" means any holding, detention, special detention, or correctional facility as defined in this section.

(10) "Labor" means the period of time before a birth during which contractions are of sufficient frequency, intensity, and duration to bring about effacement and progressive dilation of the cervix.

(11) "Major urban" means a county or combination of counties which has a city having a population greater than twenty-six thousand based on the 1978 projections of the office of financial management.

~~((11))~~ (12) "Medication" means a drug, legend drug, or controlled substance requiring a prescription or an over-the-counter or nonprescription drug.

~~((12))~~ (13) "Medication assistance" means assistance rendered by nonpractitioner jail personnel to an inmate residing in a jail to facilitate the individual's self-administration of a legend drug or controlled substance or nonprescription medication. "Medication assistance" includes reminding or coaching the individual, handing the medication container to the individual, opening the individual's medication container, using an enabler, or placing the medication in the individual's hand.

~~((13))~~ (14) "Medium urban" means a county or combination of counties which has a city having a population equal to or greater than ten thousand but

less than twenty-six thousand based on the 1978 projections of the office of financial management.

~~((14))~~ (15) "Nonpractitioner jail personnel" means appropriately trained staff who are authorized to manage, deliver, or administer prescription and nonprescription medication under RCW 70.48.490.

~~((15))~~ (16) "Office" means the office of financial management.

~~((16))~~ (17) "Physical restraint" means the use of any bodily force or physical intervention to control an offender or limit an offender's freedom of movement in a way that does not involve a mechanical restraint. Physical restraint does not include momentary periods of minimal physical restriction by direct person-to-person contact, without the aid of mechanical restraint, accomplished with limited force and designed to:

(a) Prevent an offender from completing an act that would result in potential bodily harm to self or others or damage property;

(b) Remove a disruptive offender who is unwilling to leave the area voluntarily; or

(c) Guide an offender from one location to another.

(18) "Postpartum recovery" means (a) the entire period a woman or youth is in the hospital, birthing center, or clinic after giving birth and (b) an additional time period, if any, a treating physician determines is necessary for healing after the woman or youth leaves the hospital, birthing center, or clinic.

(19) "Practitioner" has the same meaning as provided in RCW 69.41.010.

~~((17))~~ (20) "Restraints" means anything used to control the movement of a person's body or limbs and includes:

(a) Physical restraint; or

(b) Mechanical device including but not limited to: Metal handcuffs, plastic ties, ankle restraints, leather cuffs, other hospital-type restraints, tasers, or batons.

(21) "Rural" means a county or combination of counties which has a city having a population less than ten thousand based on the 1978 projections of the office of financial management.

~~((18))~~ (22) "Special detention facility" means a minimum security facility operated by a governing unit primarily designed, staffed, and used for the housing of special populations of sentenced persons who do not require the level of security normally provided in detention and correctional facilities including, but not necessarily limited to, persons convicted of offenses under RCW 46.61.502 or 46.61.504.

(23) "Transportation" means the conveying, by any means, of an incarcerated pregnant woman or youth from the correctional facility or any facility covered by this chapter to another location from the moment she leaves the correctional facility or any facility covered by this chapter to the time of arrival at the other location, and includes the escorting of the pregnant incarcerated woman or youth from the correctional facility or facility covered by this chapter to a transport vehicle and from the vehicle to the other location.

NEW SECTION. Sec. 5. (1) Except in extraordinary circumstances no restraints of any kind may be used on any pregnant woman or youth incarcerated in a correctional facility or any facility covered by this chapter during transportation to and from visits to medical providers and court proceedings during the third trimester of her pregnancy, or during postpartum recovery. For

purposes of this section, "extraordinary circumstances" exist where a corrections officer or employee of the correctional facility or any facility covered by this chapter makes an individualized determination that restraints are necessary to prevent an incarcerated pregnant woman or youth from escaping, or from injuring herself, medical or correctional personnel, or others. In the event the corrections officer or employee of the correctional facility or any facility covered by this chapter determines that extraordinary circumstances exist and restraints are used, the corrections officer or employee must fully document in writing the reasons that he or she determined such extraordinary circumstances existed such that restraints were used. As part of this documentation, the corrections officer or employee must also include the kind of restraints used and the reasons those restraints were considered the least restrictive available and the most reasonable under the circumstances.

(2) While the pregnant woman or youth is in labor or in childbirth no restraints of any kind may be used. Nothing in this section affects the use of hospital restraints requested for the medical safety of a patient by treating physicians licensed under Title 18 RCW.

(3) Anytime restraints are permitted to be used on a pregnant woman or youth, the restraints must be the least restrictive available and the most reasonable under the circumstances, but in no case shall leg irons or waist chains be used on any woman or youth known to be pregnant.

(4) No correctional personnel or employee of the correctional facility or any facility covered by this chapter shall be present in the room during the pregnant woman's or youth's labor or childbirth, unless specifically requested by medical personnel. If the employee's presence is requested by medical personnel, the employee should be female, if practicable.

(5) If the doctor, nurse, or other health professional treating the pregnant woman or youth requests that restraints not be used, the corrections officer or employee accompanying the pregnant woman or youth shall immediately remove all restraints.

NEW SECTION. Sec. 6. (1) The jail administrator or his or her designee or chief law enforcement executive or his or her designee shall provide notice of the requirements of this act to the appropriate staff at a correctional facility or a facility covered by this chapter. Appropriate staff shall include all medical staff and staff who are involved in the transportation of pregnant women and youth as well as such other staff deemed appropriate.

(2) The jail administrator or his or her designee or chief law enforcement executive or his or her designee shall cause the requirements of this act to be provided to all women and youth of child bearing age at intake. In addition, the jail administrator or his or her designee or chief law enforcement executive or his or her designee shall cause a notice containing the requirements of this act to be posted in locations in which medical care is provided within the facilities.

Sec. 7. RCW 72.05.020 and 1998 c 269 s 2 are each amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Community facility" means a group care facility operated for the care of juveniles committed to the department under RCW 13.40.185. A county

detention facility that houses juveniles committed to the department under RCW 13.40.185 pursuant to a contract with the department is not a community facility.

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

(3) "Juvenile" means a person under the age of twenty-one who has been sentenced to a term of confinement under the supervision of the department under RCW 13.40.185.

(4) "Labor" means the period of time before a birth during which contractions are of sufficient frequency, intensity, and duration to bring about effacement and progressive dilation of the cervix.

(5) "Physical restraint" means the use of any bodily force or physical intervention to control an offender or limit a juvenile offender's freedom of movement in a way that does not involve a mechanical restraint. Physical restraint does not include momentary periods of minimal physical restriction by direct person-to-person contact, without the aid of mechanical restraint, accomplished with limited force and designed to:

(a) Prevent a juvenile offender from completing an act that would result in potential bodily harm to self or others or damage property;

(b) Remove a disruptive juvenile offender who is unwilling to leave the area voluntarily; or

(c) Guide a juvenile offender from one location to another.

(6) "Postpartum recovery" means (a) the entire period a youth is in the hospital, birthing center, or clinic after giving birth and (b) an additional time period, if any, a treating physician determines is necessary for healing after the youth leaves the hospital, birthing center, or clinic.

(7) "Restraints" means anything used to control the movement of a person's body or limbs and includes:

(a) Physical restraint; or

(b) Mechanical device including but not limited to: Metal handcuffs, plastic ties, ankle restraints, leather cuffs, other hospital-type restraints, tasers, or batons.

(8) "Service provider" means the entity that operates a community facility.

(9) "Transportation" means the conveying, by any means, of an incarcerated pregnant woman or youth from the institution or community facility to another location from the moment she leaves the institution or community facility to the time of arrival at the other location, and includes the escorting of the pregnant incarcerated woman or youth from the institution or community facility to a transport vehicle and from the vehicle to the other location.

NEW SECTION. Sec. 8. (1) Except in extraordinary circumstances no restraints of any kind may be used on any pregnant youth in an institution or a community facility covered by this chapter during transportation to and from visits to medical providers and court proceedings during the third trimester of her pregnancy, or during postpartum recovery. For purposes of this section, "extraordinary circumstances" exist where an employee of an institution or community facility covered by this chapter makes an individualized determination that restraints are necessary to prevent an incarcerated pregnant youth from escaping, or from injuring herself, medical or correctional personnel, or others. In the event an employee of an institution or community facility covered by this chapter determines that extraordinary circumstances exist and restraints are used, the corrections officer or employee must fully document in

writing the reasons that he or she determined such extraordinary circumstances existed such that restraints were used. As part of this documentation, the employee of an institution or community facility covered by this chapter must also include the kind of restraints used and the reasons those restraints were considered the least restrictive available and the most reasonable under the circumstances.

(2) While the pregnant youth is in labor or in childbirth no restraints of any kind may be used. Nothing in this section affects the use of hospital restraints requested for the medical safety of a patient by treating physicians licensed under Title 18 RCW.

(3) Anytime restraints are permitted to be used on a pregnant youth, the restraints must be the least restrictive available and the most reasonable under the circumstances, but in no case shall leg irons or waist chains be used on any youth known to be pregnant.

(4) No employee of the institution or community facility shall be present in the room during the pregnant youth's labor or childbirth, unless specifically requested by medical personnel. If the employee's presence is requested by medical personnel, the employee should be female, if practicable.

(5) If the doctor, nurse, or other health professional treating the pregnant youth requests that restraints not be used, the employee accompanying the pregnant youth shall immediately remove all restraints.

NEW SECTION. Sec. 9. (1) The secretary shall provide an informational packet about the requirements of this act to all medical staff and nonmedical staff of the institution or community facility who are involved in the transportation of youth who are pregnant, as well as such other staff as the secretary deems appropriate. The informational packet provided to staff under this section shall be developed as provided in section 13 of this act.

(2) The secretary shall cause the requirements of this act to be provided to all youth who are pregnant, at the time the secretary assumes custody of the person. In addition, the secretary shall cause a notice containing the requirements of this act to be posted in conspicuous locations in the institutions or community facilities, including but not limited to the locations in which medical care is provided within the facilities.

Sec. 10. RCW 13.40.020 and 2009 c 454 s 2 are each amended to read as follows:

For the purposes of this chapter:

(1) "Community-based rehabilitation" means one or more of the following: Employment; attendance of information classes; literacy classes; counseling, outpatient substance abuse treatment programs, outpatient mental health programs, anger management classes, education or outpatient treatment programs to prevent animal cruelty, or other services; or attendance at school or other educational programs appropriate for the juvenile as determined by the school district. Placement in community-based rehabilitation programs is subject to available funds;

(2) "Community-based sanctions" may include one or more of the following:

(a) A fine, not to exceed five hundred dollars;

(b) Community restitution not to exceed one hundred fifty hours of community restitution;

(3) "Community restitution" means compulsory service, without compensation, performed for the benefit of the community by the offender as punishment for committing an offense. Community restitution may be performed through public or private organizations or through work crews;

(4) "Community supervision" means an order of disposition by the court of an adjudicated youth not committed to the department or an order granting a deferred disposition. A community supervision order for a single offense may be for a period of up to two years for a sex offense as defined by RCW 9.94A.030 and up to one year for other offenses. As a mandatory condition of any term of community supervision, the court shall order the juvenile to refrain from committing new offenses. As a mandatory condition of community supervision, the court shall order the juvenile to comply with the mandatory school attendance provisions of chapter 28A.225 RCW and to inform the school of the existence of this requirement. Community supervision is an individualized program comprised of one or more of the following:

- (a) Community-based sanctions;
- (b) Community-based rehabilitation;
- (c) Monitoring and reporting requirements;
- (d) Posting of a probation bond;

(5) "Confinement" means physical custody by the department of social and health services in a facility operated by or pursuant to a contract with the state, or physical custody in a detention facility operated by or pursuant to a contract with any county. The county may operate or contract with vendors to operate county detention facilities. The department may operate or contract to operate detention facilities for juveniles committed to the department. Pretrial confinement or confinement of less than thirty-one days imposed as part of a disposition or modification order may be served consecutively or intermittently, in the discretion of the court;

(6) "Court," when used without further qualification, means the juvenile court judge(s) or commissioner(s);

(7) "Criminal history" includes all criminal complaints against the respondent for which, prior to the commission of a current offense:

(a) The allegations were found correct by a court. If a respondent is convicted of two or more charges arising out of the same course of conduct, only the highest charge from among these shall count as an offense for the purposes of this chapter; or

(b) The criminal complaint was diverted by a prosecutor pursuant to the provisions of this chapter on agreement of the respondent and after an advisement to the respondent that the criminal complaint would be considered as part of the respondent's criminal history. A successfully completed deferred adjudication that was entered before July 1, 1998, or a deferred disposition shall not be considered part of the respondent's criminal history;

(8) "Department" means the department of social and health services;

(9) "Detention facility" means a county facility, paid for by the county, for the physical confinement of a juvenile alleged to have committed an offense or an adjudicated offender subject to a disposition or modification order.

"Detention facility" includes county group homes, inpatient substance abuse programs, juvenile basic training camps, and electronic monitoring;

(10) "Diversion unit" means any probation counselor who enters into a diversion agreement with an alleged youthful offender, or any other person, community accountability board, youth court under the supervision of the juvenile court, or other entity except a law enforcement official or entity, with whom the juvenile court administrator has contracted to arrange and supervise such agreements pursuant to RCW 13.40.080, or any person, community accountability board, or other entity specially funded by the legislature to arrange and supervise diversion agreements in accordance with the requirements of this chapter. For purposes of this subsection, "community accountability board" means a board comprised of members of the local community in which the juvenile offender resides. The superior court shall appoint the members. The boards shall consist of at least three and not more than seven members. If possible, the board should include a variety of representatives from the community, such as a law enforcement officer, teacher or school administrator, high school student, parent, and business owner, and should represent the cultural diversity of the local community;

(11) "Foster care" means temporary physical care in a foster family home or group care facility as defined in RCW 74.15.020 and licensed by the department, or other legally authorized care;

(12) "Institution" means a juvenile facility established pursuant to chapters 72.05 and 72.16 through 72.20 RCW;

(13) "Intensive supervision program" means a parole program that requires intensive supervision and monitoring, offers an array of individualized treatment and transitional services, and emphasizes community involvement and support in order to reduce the likelihood a juvenile offender will commit further offenses;

(14) "Juvenile," "youth," and "child" mean any individual who is under the chronological age of eighteen years and who has not been previously transferred to adult court pursuant to RCW 13.40.110, unless the individual was convicted of a lesser charge or acquitted of the charge for which he or she was previously transferred pursuant to RCW 13.40.110 or who is not otherwise under adult court jurisdiction;

(15) "Juvenile offender" means any juvenile who has been found by the juvenile court to have committed an offense, including a person eighteen years of age or older over whom jurisdiction has been extended under RCW 13.40.300;

(16) "Labor" means the period of time before a birth during which contractions are of sufficient frequency, intensity, and duration to bring about effacement and progressive dilation of the cervix;

(17) "Local sanctions" means one or more of the following: (a) 0-30 days of confinement; (b) 0-12 months of community supervision; (c) 0-150 hours of community restitution; or (d) \$0-\$500 fine;

~~((17))~~ (18) "Manifest injustice" means a disposition that would either impose an excessive penalty on the juvenile or would impose a serious, and clear danger to society in light of the purposes of this chapter;

~~((18))~~ (19) "Monitoring and reporting requirements" means one or more of the following: Curfews; requirements to remain at home, school, work, or court-

ordered treatment programs during specified hours; restrictions from leaving or entering specified geographical areas; requirements to report to the probation officer as directed and to remain under the probation officer's supervision; and other conditions or limitations as the court may require which may not include confinement;

~~((19))~~ (20) "Offense" means an act designated a violation or a crime if committed by an adult under the law of this state, under any ordinance of any city or county of this state, under any federal law, or under the law of another state if the act occurred in that state;

~~((20))~~ (21) "Physical restraint" means the use of any bodily force or physical intervention to control a juvenile offender or limit a juvenile offender's freedom of movement in a way that does not involve a mechanical restraint. Physical restraint does not include momentary periods of minimal physical restriction by direct person-to-person contact, without the aid of mechanical restraint, accomplished with limited force and designed to:

(a) Prevent a juvenile offender from completing an act that would result in potential bodily harm to self or others or damage property;

(b) Remove a disruptive juvenile offender who is unwilling to leave the area voluntarily; or

(c) Guide a juvenile offender from one location to another;

(22) "Postpartum recovery" means (a) the entire period a woman or youth is in the hospital, birthing center, or clinic after giving birth and (b) an additional time period, if any, a treating physician determines is necessary for healing after the youth leaves the hospital, birthing center, or clinic;

(23) "Probation bond" means a bond, posted with sufficient security by a surety justified and approved by the court, to secure the offender's appearance at required court proceedings and compliance with court-ordered community supervision or conditions of release ordered pursuant to RCW 13.40.040 or 13.40.050. It also means a deposit of cash or posting of other collateral in lieu of a bond if approved by the court;

~~((21))~~ (24) "Respondent" means a juvenile who is alleged or proven to have committed an offense;

~~((22))~~ (25) "Restitution" means financial reimbursement by the offender to the victim, and shall be limited to easily ascertainable damages for injury to or loss of property, actual expenses incurred for medical treatment for physical injury to persons, lost wages resulting from physical injury, and costs of the victim's counseling reasonably related to the offense. Restitution shall not include reimbursement for damages for mental anguish, pain and suffering, or other intangible losses. Nothing in this chapter shall limit or replace civil remedies or defenses available to the victim or offender;

~~((23))~~ (26) "Restraints" means anything used to control the movement of a person's body or limbs and includes:

(a) Physical restraint; or

(b) Mechanical device including but not limited to: Metal handcuffs, plastic ties, ankle restraints, leather cuffs, other hospital-type restraints, tasers, or batons;

(27) "Secretary" means the secretary of the department of social and health services. "Assistant secretary" means the assistant secretary for juvenile rehabilitation for the department;

~~((24))~~ (28) "Services" means services which provide alternatives to incarceration for those juveniles who have pleaded or been adjudicated guilty of an offense or have signed a diversion agreement pursuant to this chapter;

~~((25))~~ (29) "Sex offense" means an offense defined as a sex offense in RCW 9.94A.030;

~~((26))~~ (30) "Sexual motivation" means that one of the purposes for which the respondent committed the offense was for the purpose of his or her sexual gratification;

~~((27))~~ (31) "Surety" means an entity licensed under state insurance laws or by the state department of licensing, to write corporate, property, or probation bonds within the state, and justified and approved by the superior court of the county having jurisdiction of the case;

~~((28))~~ (32) "Transportation" means the conveying, by any means, of an incarcerated pregnant youth from the institution or detention facility to another location from the moment she leaves the institution or detention facility to the time of arrival at the other location, and includes the escorting of the pregnant incarcerated youth from the institution or detention facility to a transport vehicle and from the vehicle to the other location;

(33) "Violation" means an act or omission, which if committed by an adult, must be proven beyond a reasonable doubt, and is punishable by sanctions which do not include incarceration;

~~((29))~~ (34) "Violent offense" means a violent offense as defined in RCW 9.94A.030;

~~((30))~~ (35) "Youth court" means a diversion unit under the supervision of the juvenile court.

NEW SECTION. Sec. 11. (1) Except in extraordinary circumstances, no restraints of any kind may be used on any pregnant youth in an institution or detention facility covered by this chapter during transportation to and from visits to medical providers and court proceedings during the third trimester of her pregnancy, or during postpartum recovery. For purposes of this section, "extraordinary circumstances" exist where an employee at an institution or detention facility makes an individualized determination that restraints are necessary to prevent an incarcerated pregnant youth from escaping, or from injuring herself, medical or correctional personnel, or others. In the event the employee of the institution or detention facility determines that extraordinary circumstances exist and restraints are used, the employee of the institution or detention facility must fully document in writing the reasons that he or she determined such extraordinary circumstances existed such that restraints were used. As part of this documentation, the employee of the institution or detention facility must also include the kind of restraints used and the reasons those restraints were considered the least restrictive available and the most reasonable under the circumstances.

(2) While the pregnant youth is in labor or in childbirth no restraints of any kind may be used. Nothing in this section affects the use of hospital restraints requested for the medical safety of a patient by treating physicians licensed under Title 18 RCW.

(3) Anytime restraints are permitted to be used on a pregnant youth, the restraints must be the least restrictive available and the most reasonable under

the circumstances, but in no case shall leg irons or waist chains be used on any youth known to be pregnant.

(4) No employee of the institution or detention facility shall be present in the room during the pregnant youth's labor or childbirth, unless specifically requested by medical personnel. If the employee's presence is requested by medical personnel, the employee should be female, if practicable.

(5) If the doctor, nurse, or other health professional treating the pregnant youth requests that restraints not be used, the employee of the institution or detention facility accompanying the pregnant youth shall immediately remove all restraints.

NEW SECTION. Sec. 12. (1) The director of the juvenile detention facility shall provide an informational packet about the requirements of this act to all medical staff and nonmedical staff who are involved in the transportation of youth who are pregnant, as well as such other staff as appropriate. The informational packet provided to staff under this section shall be developed as provided in section 13 of this act.

(2) The director shall cause the requirements of this act to be provided to all youth who are pregnant, at the time the facility assumes custody of the person. In addition, the facility shall cause a notice containing the requirements of this act to be posted in conspicuous locations in the detention facilities, including but not limited to the locations in which medical care is provided within the facilities.

NEW SECTION. Sec. 13. The Washington association of sheriffs and police chiefs, the department of corrections, the department of social and health services, juvenile rehabilitation administration, and the criminal justice training commission shall jointly develop an informational packet on the requirements of this act. The packet shall be ready for distribution no later than September 1, 2010.

NEW SECTION. Sec. 14. No civil liability may be imposed by any court on the county or its jail officers or employees under sections 5 and 6 of this act except upon proof of gross negligence.

NEW SECTION. Sec. 15. Sections 2 and 3 of this act are each added to chapter 72.09 RCW.

NEW SECTION. Sec. 16. Sections 5, 6, and 13 of this act are each added to chapter 70.48 RCW.

NEW SECTION. Sec. 17. Sections 8 and 9 of this act are each added to chapter 72.05 RCW.

NEW SECTION. Sec. 18. Sections 11 and 12 of this act are each added to chapter 13.40 RCW.

Passed by the House March 6, 2010.

Passed by the Senate March 2, 2010.

Approved by the Governor March 23, 2010.

Filed in Office of Secretary of State March 23, 2010.

CHAPTER 182

[Engrossed Second Substitute House Bill 2961]

ELECTRONIC TRACKING SYSTEM—SALES—METHAMPHETAMINE PRECURSORS

AN ACT Relating to establishing a statewide electronic tracking system for the nonprescription sales of ephedrine, pseudoephedrine, and phenylpropanolamine; amending RCW 69.43.105, 69.43.110, and 42.56.240; adding new sections to chapter 69.43 RCW; and repealing RCW 69.43.170.

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

Sec. 1. RCW 69.43.105 and 2005 c 388 s 2 are each amended to read as follows:

(1) For purposes of this section, "traditional Chinese herbal practitioner" means a person who is certified as a diplomate in Chinese herbology from the national certification commission for acupuncture and oriental medicine or who has received a certificate in Chinese herbology from a school accredited by the accreditation council on acupuncture and oriental medicine.

(2) A pharmacy licensed by, or shopkeeper or itinerant vendor registered with, the department of health under chapter 18.64 RCW, or an employee thereof, a practitioner as defined in RCW 18.64.011, or a traditional Chinese herbal practitioner may not knowingly sell, transfer, or otherwise furnish to any person a product at retail that he or she knows to contain any detectable quantity of ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers, without first obtaining photo identification of the person that shows the date of birth of the person.

(3) A person buying or receiving a product at retail containing any detectable quantity of ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers, from a pharmacy licensed by, or shopkeeper or itinerant vendor registered with, the department of health under chapter 18.64 RCW, or an employee thereof, a practitioner as defined in RCW 18.64.011, or a traditional Chinese herbal practitioner must first produce photo identification of the person that shows the date of birth of the person.

(4) Any product containing any detectable quantity of ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers, shall be kept (a) behind a counter where the public is not permitted, or (b) in a ((central location)) locked display case so that ((is not accessible by)) a customer((s without assistance of)) wanting access must ask an employee of the merchant for assistance.

(5) No pharmacy licensed by, or shopkeeper or itinerant vendor registered with, the department of health under chapter 18.64 RCW, or an employee thereof, a practitioner as defined in RCW 18.64.011, or a traditional Chinese herbal practitioner may sell any product containing any detectable quantity of ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers, to a person that is not at least eighteen years old.

(6) A pharmacy licensed by, or shopkeeper or itinerant vendor registered with, the department of health under chapter 18.64 RCW selling a nonprescription drug containing ephedrine, pseudoephedrine, phenylpropanolamine, or their salts, isomers, or salts of isomers shall require the purchaser to electronically or manually sign a record of the transaction. The record must include the name and address of the purchaser, the date and time of the sale, the name and initials of the shopkeeper, itinerant vendor, pharmacist,

pharmacy technician, or employee conducting the transaction, the name of the product being sold, as well as the total quantity in grams, of ephedrine, pseudoephedrine, phenylpropanolamine, or their salts, isomers, or salts of isomers, being sold.

(7) The board of pharmacy, by rule, may exempt products containing ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers, in combination with another active ingredient from the requirements of this section if they are found not to be used in the illegal manufacture of methamphetamine or other controlled dangerous substances. A manufacturer of a drug product may apply for removal of the product from the requirements of this section if the product is determined by the board to have been formulated in such a way as to effectively prevent the conversion of the active ingredient into methamphetamine. The burden of proof for exemption is upon the person requesting the exemption. The petitioner shall provide the board with evidence that the product has been formulated in such a way as to serve as an effective general deterrent to the conversion of pseudoephedrine into methamphetamine. The evidence must include the furnishing of a valid scientific study, conducted by an independent, professional laboratory and evincing professional quality chemical analysis. Factors to be considered in whether a product should be excluded from this section include but are not limited to:

- (a) Ease with which the product can be converted to methamphetamine;
- (b) Ease with which ephedrine, pseudoephedrine, or phenylpropanolamine is extracted from the substance and whether it forms an emulsion, salt, or other form;
- (c) Whether the product contains a "molecular lock" that renders it incapable of being converted into methamphetamine;
- (d) Presence of other ingredients that render the product less likely to be used in the manufacture of methamphetamine; and
- (e) Any pertinent data that can be used to determine the risk of the substance being used in the illegal manufacture of methamphetamine or any other controlled substance.

~~((7))~~ (8) Nothing in this section applies:

- (a) To any product containing ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers that is not the only active ingredient and that is in liquid, liquid capsule, or gel capsule form;
- (b) To the sale of a product that may only be sold upon the presentation of a prescription;
- (c) To the sale of a product by a traditional Chinese herbal practitioner to a patient; or
- (d) When the details of the transaction are recorded in a pharmacy profile individually identified with the recipient and maintained by a licensed pharmacy.

~~((8))~~ (9)(a) No pharmacy licensed by, or shopkeeper or itinerant vendor registered with, the department of health under chapter 18.64 RCW, a practitioner as defined in RCW 18.64.011, or a traditional Chinese herbal practitioner may retaliate against any employee that has made a good faith attempt to comply with the requirements of this section by requesting that a customer present photo identification, making a reasonable effort to determine the customer's age.

(b) No pharmacy licensed by, or shopkeeper or itinerant vendor registered with, the department of health under chapter 18.64 RCW, a practitioner as defined in RCW 18.64.011, or a traditional Chinese herbal practitioner is subject to prosecution under subsection ~~((9))~~ (10) of this section if they made a good faith attempt to comply with the requirements of this section by requesting that a customer present photo identification, making a reasonable effort to determine the customer's age.

~~((9))~~ (10) A violation of this section is a gross misdemeanor.

Sec. 2. RCW 69.43.110 and 2005 c 388 s 4 are each amended to read as follows:

(1) It is unlawful for a pharmacy licensed by, or shopkeeper or itinerant vendor registered with, the department of health under chapter 18.64 RCW, or an employee thereof, or a practitioner as defined in RCW 18.64.011, knowingly to sell, transfer, or to otherwise furnish, in a single transaction~~(:~~

~~(a) More than two packages of one or more products that he or she knows to contain ephedrine, pseudoephedrine, or phenylpropanolamine, their salts, isomers, or salts of isomers; or~~

~~(b)) a ((single package of any product that he or she knows to contain)) total of more than ~~((three))~~ 3.6 grams of ephedrine, pseudoephedrine, or phenylpropanolamine, their salts, isomers, or salts of isomers, ~~((or a combination of any of these substances))~~ in any twenty-four hour period or more than a total of nine grams per purchaser in any thirty-day period.~~

(2) It is unlawful for a person who is not a manufacturer, wholesaler, pharmacy, practitioner, shopkeeper, or itinerant vendor licensed by or registered with the department of health under chapter 18.64 RCW to purchase or acquire~~(, in any twenty-four hour period,))~~ more than ~~((the quantities))~~ 3.6 grams in any twenty-four hour period, or more than a total of nine grams in any thirty-day period, of the substances specified in subsection (1) of this section.

(3) It is unlawful for any person to sell or distribute any of the substances specified in subsection (1) of this section unless the person is licensed by or registered with the department of health under chapter 18.64 RCW, or is a practitioner as defined in RCW 18.64.011.

(4)(a) Beginning July 1, 2011, or the date upon which the electronic sales tracking system established under section 3 of this act is available, whichever is later, a pharmacy licensed by, or shopkeeper or itinerant vendor registered with, the department of health under chapter 18.64 RCW shall, before completing a sale under this section, submit the required information to the electronic sales tracking system established under section 3 of this act, as long as such a system is available without cost to the pharmacy, shopkeeper, or itinerant vendor for accessing the system. The pharmacy, shopkeeper, or itinerant vendor may not complete the sale if the system generates a stop sale alert, except as permitted in section 3 of this act.

(b) If a pharmacy, shopkeeper, or itinerant vendor selling a nonprescription drug containing ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers experiences mechanical or electronic failure of the electronic sales tracking system and is unable to comply with the electronic sales tracking requirement, he or she shall maintain a written log or an alternative electronic recordkeeping mechanism until such time as he or she is able to comply with the electronic sales tracking requirement.

(c) A pharmacy, shopkeeper, or itinerant vendor selling a nonprescription drug containing ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers may seek an exemption from submitting transactions to the electronic sales tracking system in writing to the board of pharmacy stating the reasons for the exemption. The board may grant an exemption for good cause shown, but in no event shall a granted exemption exceed one hundred eighty days. The board may grant multiple exemptions for any pharmacy, shopkeeper, or itinerant vendor if the good cause shown indicates significant hardship for compliance with this section. A pharmacy, shopkeeper, or itinerant vendor that receives an exemption shall maintain a logbook in hardcopy form and must require the purchaser to provide the information required under this section before the completion of any sale. The logbook shall be maintained as a record of each sale for inspection by any law enforcement officer or board inspector during normal business hours in accordance with any rules adopted pursuant to section 3 of this act. For purposes of this subsection (4)(c), "good cause" includes, but is not limited to, situations where the installation of the necessary equipment to access the system is unavailable or cost prohibitive to the pharmacy, shopkeeper, or itinerant vendor.

(d) A pharmacy, shopkeeper, or itinerant vendor may withdraw from participating in the electronic sales tracking system if the system is no longer being furnished without cost for accessing the system. A pharmacy, shopkeeper, or itinerant vendor who withdraws from the electronic sales tracking system is subject to the same requirements as a pharmacy, shopkeeper, or itinerant vendor who has been granted an exemption under (c) of this subsection.

(e) For the purposes of this subsection (4) and section 3 of this act:

(i) "Cost for accessing the system" means costs relating to:

(A) Access to the web-based electronic sales tracking software, including inputting and retrieving data;

(B) The web-based software known as software as a service;

(C) Training; and

(D) Technical support to integrate to point of sale vendors, if necessary.

(ii) "Cost for accessing the system" does not include:

(A) Costs relating to required internet access;

(B) Optional hardware that a pharmacy may choose to purchase for work flow purposes; or

(C) Other equipment.

(5) A violation of this section is a gross misdemeanor.

NEW SECTION. Sec. 3. A new section is added to chapter 69.43 RCW to read as follows:

(1) The board of pharmacy shall implement a real-time electronic sales tracking system to monitor the nonprescription sale of products in this state containing any detectable quantity of ephedrine, pseudoephedrine, phenylpropanolamine, or their salts, isomers, or salts of isomers, provided that the system is available to the state without cost for accessing the system to the state or retailers. The board is authorized to enter into a public-private partnership, through a memorandum of understanding or similar arrangement, to make the system available.

(2) The records submitted to the tracking system are for the confidential use of the pharmacy, shopkeeper, or itinerant vendor who submitted them, except that:

- (a) The records must be produced in court when lawfully required;
- (b) The records must be open for inspection by the board of pharmacy; and
- (c) The records must be available to any general or limited authority Washington peace officer to enforce the provisions of this chapter or to federal law enforcement officers in accordance with rules adopted by the board of pharmacy regarding the privacy of the purchaser of products covered by this act and law enforcement access to the records submitted to the tracking system as provided in this section consistent with the federal combat meth act.

(3) The electronic sales tracking system shall be capable of generating a stop sale alert, which shall be a notification that completion of the sale would result in the seller or purchaser violating the quantity limits in RCW 69.43.110 (1) and (2). The system shall contain an override function for use by a dispenser of ephedrine, pseudoephedrine, phenylpropanolamine, or their salts, isomers, or salts of isomers, who has a reasonable fear of imminent bodily harm. Each instance in which the override function is utilized shall be logged by the system.

(4) The board of pharmacy shall have the authority to adopt rules necessary to implement and enforce the provisions of this section. The board of pharmacy shall adopt rules regarding the privacy of the purchaser of products covered by this act, and any public or law enforcement access to the records submitted to the tracking system as provided in subsection (2)(c) of this section consistent with the federal combat meth act.

(5) The board of pharmacy may not raise licensing or registration fees to fund the rule making or implementation of this section.

NEW SECTION. **Sec. 4.** A new section is added to chapter 69.43 RCW to read as follows:

A pharmacy, shopkeeper, or itinerant vendor participating in the electronic sales tracking system under RCW 69.43.110(4):

(1) Is not liable for civil damages resulting from any act or omission in carrying out the requirements of RCW 69.43.110(4), other than an act or omission constituting gross negligence or willful or wanton misconduct; and

(2) Is not liable for civil damages resulting from a data breach that was proximately caused by a failure on the part of the electronic sales tracking system to take reasonable care through the use of industry standard levels of encryption to guard against unauthorized access to account information that is in the possession or control of the system.

Sec. 5. RCW 42.56.240 and 2008 c 276 s 202 are each amended to read as follows:

The following investigative, law enforcement, and crime victim information is exempt from public inspection and copying under this chapter:

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

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

(3) Any records of investigative reports prepared by any state, county, municipal, or other law enforcement agency pertaining to sex offenses contained in chapter 9A.44 RCW or sexually violent offenses as defined in RCW 71.09.020, which have been transferred to the Washington association of sheriffs and police chiefs for permanent electronic retention and retrieval pursuant to RCW 40.14.070(2)(b);

(4) License applications under RCW 9.41.070; copies of license applications or information on the applications may be released to law enforcement or corrections agencies;

(5) Information revealing the identity of child victims of sexual assault who are under age eighteen. Identifying information means the child victim's name, address, location, photograph, and in cases in which the child victim is a relative or stepchild of the alleged perpetrator, identification of the relationship between the child and the alleged perpetrator; ~~((and))~~

(6) The statewide gang database referenced in RCW 43.43.762; and

(7) Data from the electronic sales tracking system established in section 3 of this act.

NEW SECTION. Sec. 6. RCW 69.43.170 (Ephedrine, pseudoephedrine, phenylpropanolamine—Pilot project to record retail transactions—Penalty) and 2005 c 388 s 8 are each repealed.

Passed by the House March 8, 2010.

Passed by the Senate March 5, 2010.

Approved by the Governor March 23, 2010.

Filed in Office of Secretary of State March 23, 2010.

CHAPTER 183

[House Bill 2973]

MILITARY PERSONNEL—RESIDENT STUDENT CLASSIFICATION

AN ACT Relating to resident student classification for certain members of the military and their spouses and dependents; and amending RCW 28B.15.012.

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

Sec. 1. RCW 28B.15.012 and 2009 c 220 s 1 are each amended to read as follows:

Whenever used in this chapter (~~((28B.15 RCW))~~):

(1) The term "institution" shall mean a public university, college, or community college within the state of Washington.

(2) The term "resident student" shall mean:

(a) A financially independent student who has had a domicile in the state of Washington for the period of one year immediately prior to the time of

commencement of the first day of the semester or quarter for which the student has registered at any institution and has in fact established a bona fide domicile in this state primarily for purposes other than educational;

(b) A dependent student, if one or both of the student's parents or legal guardians have maintained a bona fide domicile in the state of Washington for at least one year immediately prior to commencement of the semester or quarter for which the student has registered at any institution;

(c) A student classified as a resident based upon domicile by an institution on or before May 31, 1982, who was enrolled at a state institution during any term of the 1982-1983 academic year, so long as such student's enrollment (excepting summer sessions) at an institution in this state is continuous;

(d) Any student who has spent at least seventy-five percent of both his or her junior and senior years in high schools in this state, whose parents or legal guardians have been domiciled in the state for a period of at least one year within the five-year period before the student graduates from high school, and who enrolls in a public institution of higher education within six months of leaving high school, for as long as the student remains continuously enrolled for three quarters or two semesters in any calendar year;

(e) Any person who has completed the full senior year of high school and obtained a high school diploma, both at a Washington public high school or private high school approved under chapter 28A.195 RCW, or a person who has received the equivalent of a diploma; who has lived in Washington for at least three years immediately prior to receiving the diploma or its equivalent; who has continuously lived in the state of Washington after receiving the diploma or its equivalent and until such time as the individual is admitted to an institution of higher education under subsection (1) of this section; and who provides to the institution an affidavit indicating that the individual will file an application to become a permanent resident at the earliest opportunity the individual is eligible to do so and a willingness to engage in any other activities necessary to acquire citizenship, including but not limited to citizenship or civics review courses;

(f) Any person who has lived in Washington, primarily for purposes other than educational, for at least one year immediately before the date on which the person has enrolled in an institution, and who holds lawful nonimmigrant status pursuant to 8 U.S.C. Sec. (a)(15) (E)(iii), (H)(i), or (L), or who holds lawful nonimmigrant status as the spouse or child of a person having nonimmigrant status under one of those subsections, or who, holding or having previously held such lawful nonimmigrant status as a principal or derivative, has filed an application for adjustment of status pursuant to 8 U.S.C. Sec. 1255(a);

(g) A student who is on active military duty stationed in the state or who is a member of the Washington national guard;

(h) A student who is the spouse or a dependent of a person who is on active military duty stationed in the state. If the person on active military duty is reassigned out-of-state, the student maintains the status as a resident student so long as the student is continuously enrolled in a degree program;

(i) A student who resides in the state of Washington and is the spouse or a dependent of a person who is a member of the Washington national guard;

(j) A student of an out-of-state institution of higher education who is attending a Washington state institution of higher education pursuant to a home tuition agreement as described in RCW 28B.15.725; (~~(k)~~)

(k) A student who meets the requirements of RCW 28B.15.0131: PROVIDED, That a nonresident student enrolled for more than six hours per semester or quarter shall be considered as attending for primarily educational purposes, and for tuition and fee paying purposes only such period of enrollment shall not be counted toward the establishment of a bona fide domicile of one year in this state unless such student proves that the student has in fact established a bona fide domicile in this state primarily for purposes other than educational;

(l) A student who resides in Washington and is on active military duty stationed in the Oregon counties of Columbia, Gilliam, Hood River, Multnomah, Clatsop, Clackamas, Morrow, Sherman, Umatilla, Union, Wallowa, Wasco, or Washington; or

(m) A student who resides in Washington and is the spouse or a dependent of a person who resides in Washington and is on active military duty stationed in the Oregon counties of Columbia, Gilliam, Hood River, Multnomah, Clatsop, Clackamas, Morrow, Sherman, Umatilla, Union, Wallowa, Wasco, or Washington. If the person on active military duty moves from Washington or is reassigned out of the Oregon counties of Columbia, Gilliam, Hood River, Multnomah, Clatsop, Clackamas, Morrow, Sherman, Umatilla, Union, Wallowa, Wasco, or Washington, the student maintains the status as a resident student so long as the student resides in Washington and is continuously enrolled in a degree program.

(3) The term "nonresident student" shall mean any student who does not qualify as a "resident student" under the provisions of this section and RCW 28B.15.013. Except for students qualifying under subsection (2)(e) or (j) of this section, a nonresident student shall include:

(a) A student attending an institution with the aid of financial assistance provided by another state or governmental unit or agency thereof, such nonresidency continuing for one year after the completion of such semester or quarter.

(b) A person who is not a citizen of the United States of America who does not have permanent or temporary resident status or does not hold "Refugee-Parolee" or "Conditional Entrant" status with the United States citizen and immigration ((and naturalization)) services or is not otherwise permanently residing in the United States under color of law and who does not also meet and comply with all the applicable requirements in this section and RCW 28B.15.013.

(4) The term "domicile" shall denote a person's true, fixed and permanent home and place of habitation. It is the place where the student intends to remain, and to which the student expects to return when the student leaves without intending to establish a new domicile elsewhere. The burden of proof that a student, parent or guardian has established a domicile in the state of Washington primarily for purposes other than educational lies with the student.

(5) The term "dependent" shall mean a person who is not financially independent. Factors to be considered in determining whether a person is financially independent shall be set forth in rules and regulations adopted by the higher education coordinating board and shall include, but not be limited to, the state and federal income tax returns of the person and/or the student's parents or

legal guardian filed for the calendar year prior to the year in which application is made and such other evidence as the board may require.

(6) The term "active military duty" means the person is serving on active duty in:

- (a) The armed forces of the United States government; or
- (b) The Washington national guard; or
- (c) The coast guard, merchant mariners, or other nonmilitary organization when such service is recognized by the United States government as equivalent to service in the armed forces.

Passed by the House February 11, 2010.

Passed by the Senate March 5, 2010.

Approved by the Governor March 23, 2010.

Filed in Office of Secretary of State March 23, 2010.

CHAPTER 184

[House Bill 1966]

DRIVERS—PRECAUTIONARY ACTIONS—WHEELCHAIR USERS

AN ACT Relating to adding wheelchair users to the types of individuals for whom drivers must take additional precautions; amending RCW 70.84.040; and providing an effective date.

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

Sec. 1. RCW 70.84.040 and 1997 c 271 s 20 are each amended to read as follows:

The driver of a vehicle approaching a totally or partially blind pedestrian who is carrying a cane predominantly white in color (with or without a red tip), a totally or partially blind or hearing impaired pedestrian using a dog guide, ~~((or an otherwise physically disabled))~~ a person with physical disabilities using a service animal, or a person with a disability using a wheelchair or a power wheelchair as defined in RCW 46.04.415 shall take all necessary precautions to avoid injury to such pedestrian or wheelchair user. Any driver who fails to take such precaution shall be liable in damages for any injury caused such pedestrian or wheelchair user. It shall be unlawful for the operator of any vehicle to drive into or upon any crosswalk while there is on such crosswalk ~~((;))~~ such pedestrian ~~((;))~~ or wheelchair user crossing or attempting to cross the roadway, if such pedestrian or wheelchair user is using a white cane, using a dog guide, ~~((or))~~ using a service animal, or using a wheelchair or a power wheelchair as defined in RCW 46.04.415. The failure of any such pedestrian or wheelchair user so to signal shall not deprive him or her of the right-of-way accorded him or her by other laws.

NEW SECTION. **Sec. 2.** This act takes effect August 1, 2010.

Passed by the House March 6, 2010.

Passed by the Senate March 2, 2010.

Approved by the Governor March 24, 2010.

Filed in Office of Secretary of State March 24, 2010.

CHAPTER 185

[Second Substitute House Bill 1761]

LEGISLATIVE WEB SITES—ETHICAL USE

AN ACT Relating to the ethical use of legislative web sites; and amending RCW 42.52.180.

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

Sec. 1. RCW 42.52.180 and 1995 c 397 s 30 are each amended to read as follows:

(1) No state officer or state employee may use or authorize the use of facilities of an agency, directly or indirectly, for the purpose of assisting a campaign for election of a person to an office or for the promotion of or opposition to a ballot proposition. Knowing acquiescence by a person with authority to direct, control, or influence the actions of the state officer or state employee using public resources in violation of this section constitutes a violation of this section. Facilities of an agency include, but are not limited to, use of stationery, postage, machines, and equipment, use of state employees of the agency during working hours, vehicles, office space, publications of the agency, and clientele lists of persons served by the agency.

(2) This section shall not apply to the following activities:

(a) Action taken at an open public meeting by members of an elected legislative body to express a collective decision, or to actually vote upon a motion, proposal, resolution, order, or ordinance, or to support or oppose a ballot proposition as long as (i) required notice of the meeting includes the title and number of the ballot proposition, and (ii) members of the legislative body or members of the public are afforded an approximately equal opportunity for the expression of an opposing view;

(b) A statement by an elected official in support of or in opposition to any ballot proposition at an open press conference or in response to a specific inquiry. For the purposes of this subsection, it is not a violation of this section for an elected official to respond to an inquiry regarding a ballot proposition, to make incidental remarks concerning a ballot proposition in an official communication, or otherwise comment on a ballot proposition without an actual, measurable expenditure of public funds. The ethics boards shall adopt by rule a definition of measurable expenditure;

(c) The maintenance of official legislative web sites throughout the year, regardless of pending elections. The web sites may contain any discretionary material which was also specifically prepared for the legislator in the course of his or her duties as a legislator, including newsletters and press releases. The official legislative web sites of legislators seeking reelection shall not be altered between June 30th and November 15th of the election year. The web site shall not be used for campaign purposes;

(d) Activities that are part of the normal and regular conduct of the office or agency; and

~~((+))~~ (e) De minimis use of public facilities by statewide elected officials and legislators incidental to the preparation or delivery of permissible communications, including written and verbal communications initiated by them of their views on ballot propositions that foreseeably may affect a matter that falls within their constitutional or statutory responsibilities.

(3) As to state officers and employees, this section operates to the exclusion of RCW 42.17.130.

Passed by the House March 8, 2010.

Passed by the Senate March 5, 2010.

Approved by the Governor March 24, 2010.

Filed in Office of Secretary of State March 24, 2010.

CHAPTER 186

[Substitute House Bill 2402]

FARMERS MARKETS—PROPERTY TAX EXEMPTION

AN ACT Relating to a property tax exemption for property owned by a nonprofit organization and used for the purpose of a farmers market; amending RCW 84.36.037 and 84.36.020; creating a new section; and providing an expiration date.

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

Sec. 1. RCW 84.36.037 and 2006 c 305 s 3 are each amended to read as follows:

(1) Real or personal property owned by a nonprofit organization, association, or corporation in connection with the operation of a public assembly hall or meeting place is exempt from taxation. The area exempt under this section includes the building or buildings, the land under the buildings, and an additional area necessary for parking, not exceeding a total of one acre. When property for which exemption is sought is essentially unimproved except for restroom facilities and structures and this property has been used primarily for annual community celebration events for at least ten years, the exempt property shall not exceed twenty-nine acres.

(2) To qualify for this exemption the property must be used exclusively for public gatherings and must be available to all organizations or persons desiring to use the property, but the owner may impose conditions and restrictions which are necessary for the safekeeping of the property and promote the purposes of this exemption. Membership shall not be a prerequisite for the use of the property.

(3) The use of the property for pecuniary gain or for business activities, except as provided in this section, nullifies the exemption otherwise available for the property for the assessment year. The exemption is not nullified by:

(a) The collection of rent or donations if all funds collected are used for capital improvements to the exempt property, maintenance and operation of the exempt property, or for exempt purposes.

(b) Fund-raising activities conducted by a nonprofit organization.

(c)(i) Except as provided in (c)(ii) of this subsection, the use of the property for pecuniary gain, for business activities for periods of not more than fifteen days each assessment year so long as all income received from rental or use of the exempt property is used for capital improvements to the exempt property, maintenance and operation of the exempt property, or for exempt purposes.

(ii) The use of the property for pecuniary gain or for business activities if the property is used for activities related to a qualifying farmers market, as defined in RCW 66.24.170, for not more than fifty-three days each assessment year, and all income received from rental or use of the exempt property is used for capital

improvements to the exempt property, maintenance and operation of the exempt property, or exempt purposes.

(d) In a county with a population of less than twenty thousand, the use of the property to promote the following business activities: Dance lessons, art classes, or music lessons.

(e) An inadvertent use of the property in a manner inconsistent with the purpose for which exemption is granted, if the inadvertent use is not part of a pattern of use. A pattern of use is presumed when an inadvertent use is repeated in the same assessment year or in two or more successive assessment years.

(4) The department of revenue (~~shall~~) must narrowly construe this exemption.

Sec. 2. RCW 84.36.020 and 1994 c 124 s 16 are each amended to read as follows:

The following real and personal property (~~shall be~~) is exempt from taxation:

(1) All lands, buildings, and personal property required for necessary administration and maintenance, used, or to the extent used, exclusively for public burying grounds or cemeteries without discrimination as to race, color, national origin or ancestry;

(2) All churches, personal property, and the ground, not exceeding five acres in area, upon which a church of any nonprofit recognized religious denomination is or (~~shall~~) will be built, together with a parsonage, convent, and buildings and improvements required for the maintenance and safeguarding of such property. The area exempted (~~shall~~) in any case includes all ground covered by the church, parsonage, convent, and buildings and improvements required for the maintenance and safeguarding of such property and the structures and ground necessary for street access, parking, light, and ventilation, but the area of unoccupied ground exempted in such cases, in connection with church, parsonage, convent, and buildings and improvements required for the maintenance and safeguarding of such property, (~~shall~~) does not exceed the equivalent of one hundred twenty by one hundred twenty feet except where additional unoccupied land may be required to conform with state or local codes, zoning, or licensing requirements. The parsonage and convent need not be on land contiguous to the church property. Except as otherwise provided in this subsection, to be exempt the property must be wholly used for church purposes(~~:- PROVIDED, That~~). The loan or rental of property otherwise exempt under this (~~paragraph~~) subsection to a nonprofit organization, association, or corporation, or school for use for an eleemosynary activity (~~shall~~) or for use for activities related to a farmers market, does not nullify the exemption provided in this (~~paragraph~~) subsection if the rental income, if any, is reasonable and is devoted solely to the operation and maintenance of the property. However, activities related to a farmers market may not occur on the property more than fifty-three days each assessment year. For the purposes of this section, "farmers market" has the same meaning as "qualifying farmers market" as defined in RCW 66.24.170.

NEW SECTION. **Sec. 3.** This act applies to taxes levied for collection in 2011 through 2020.

NEW SECTION. **Sec. 4.** This act expires December 31, 2020.

Passed by the House March 6, 2010.

Passed by the Senate March 3, 2010.

Approved by the Governor March 24, 2010.

Filed in Office of Secretary of State March 24, 2010.

CHAPTER 187

[Substitute House Bill 2420]

FOREST PRODUCTS INDUSTRY—GREEN INDUSTRY GROWTH

AN ACT Relating to the promotion of the industries that rely on the state's working land base; amending RCW 43.330.310 and 43.330.375; and creating a new section.

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

NEW SECTION. Sec. 1. (1) The legislature finds that:

(a) Washington's forest products industry plays a critical economic and environmental role in the state. The industry provides a wide range of services and goods both to Washingtonians and people around the world and is vital to the well-being and lifestyle of the people of the state of Washington; and

(b) It is in the best interest of the state to support and enhance the forest products industry.

(2) The legislature further finds that the state's forest practices are sustainably managed according to some of the most stringent riparian growing and harvest rules of any state in the nation or in the world, and that the state of Washington has received fifty-year assurances from the federal government that the state's forest practices satisfy the requirements of the federal endangered species act for aquatic species. As part of their environmental stewardship, forest landowners in Washington have repaired or removed nearly three thousand fish passage barriers, returned nearly twenty-five hundred miles of forest roads to their natural condition, and opened up nearly fifteen hundred miles of riparian salmonid habitat.

(3) The legislature further finds that Washington's forests naturally create habitat for fish and wildlife, clean water, and carbon storage; all environmental benefits that are lost when land is converted out of working forestry into another use. In recognition of forestry's benefits, the international panel on climate change has reported that a sustainable forest management strategy aimed at maintaining or increasing forest carbon stocks, while producing an annual sustained yield of timber, fiber, wood products, or energy from the forest, will generate the largest sustained carbon mitigation benefit.

(4) The legislature further finds that the forest products industry is a seventeen billion dollar industry, making it Washington's second largest manufacturing industry. The forest products industry alone provides nearly forty-five thousand direct jobs and one hundred sixty-two thousand indirect jobs, many located in rural areas.

(5) The legislature further finds that working forests help generate wealth through recreation and tourism, the retention and creation of green jobs, and through the production of wood products and energy, a finding supported by the United States secretary of agriculture.

Sec. 2. RCW 43.330.310 and 2008 c 14 s 9 are each amended to read as follows:

(1) The legislature establishes a comprehensive green economy jobs growth initiative based on the goal of, by 2020, increasing the number of green economy jobs to twenty-five thousand from the eight thousand four hundred green economy jobs the state had in 2004.

(2) The department, in consultation with the employment security department, the state workforce training and education coordinating board, the state board ~~((of -for))~~ for community and technical colleges, and the higher education coordinating board, shall develop a defined list of terms, consistent with current workforce and economic development terms, associated with green economy industries and jobs.

(3)(a) The employment security department, in consultation with the department, the state workforce training and education coordinating board, the state board for community and technical colleges, the higher education coordinating board, Washington State University small business development center, and the Washington State University extension energy program, shall conduct labor market research to analyze the current labor market and projected job growth in the green economy, the current and projected recruitment and skill requirement of green economy industry employers, the wage and benefits ranges of jobs within green economy industries, and the education and training requirements of entry-level and incumbent workers in those industries.

(i) The employment security department shall conduct an analysis of occupations in the forest products industry to: (A) Determine key growth factors and employment projections in the industry; and (B) define the education and skill standards required for current and emerging green occupations in the industry.

(ii) The term "forest products industry" must be given a broad interpretation when implementing (a)(i) of this subsection and includes, but is not limited to, businesses that grow, manage, harvest, transport, and process forest, wood, and paper products.

(b) The University of Washington business and economic development center shall: Analyze the current opportunities for and participation in the green economy by minority and women-owned business enterprises in Washington; identify existing barriers to their successful participation in the green economy; and develop strategies with specific policy recommendations to improve their successful participation in the green economy. The research may be informed by the research of the Puget Sound regional council prosperity partnership, as well as other entities. The University of Washington business and economic development center shall report to the appropriate committees of the house of representatives and the senate on their research, analysis, and recommendations by December 1, 2008.

(4) Based on the findings from subsection (3) of this section, the employment security department, in consultation with the department and taking into account the requirements and goals of chapter 14, Laws of 2008 and other state clean energy and energy efficiency policies, shall propose which industries will be considered high-demand green industries, based on current and projected job creation and their strategic importance to the development of the state's green economy. The employment security department and the department shall take into account which jobs within green economy industries will be considered high-wage occupations and occupations that are part of career pathways to the

same, based on family-sustaining wage and benefits ranges. These designations, and the results of the employment security department's broader labor market research, shall inform the planning and strategic direction of the department, the state workforce training and education coordinating board, the state board for community and technical colleges, and the higher education coordinating board.

(5) The department shall identify emerging technologies and innovations that are likely to contribute to advancements in the green economy, including the activities in designated innovation partnership zones established in RCW 43.330.270.

(6) The department, consistent with the priorities established by the state economic development commission, shall:

(a) Develop targeting criteria for existing investments, and make recommendations for new or expanded financial incentives and comprehensive strategies, to recruit, retain, and expand green economy industries and small businesses; and

(b) Make recommendations for new or expanded financial incentives and comprehensive strategies to stimulate research and development of green technology and innovation, including designating innovation partnership zones linked to the green economy.

(7) For the purposes of this section, "target populations" means (a) entry-level or incumbent workers in high-demand green industries who are in, or are preparing for, high-wage occupations; (b) dislocated workers in declining industries who may be retrained for high-wage occupations in high-demand green industries; (c) dislocated agriculture, timber, or energy sector workers who may be retrained for high-wage occupations in high-demand green industries; (d) eligible veterans or national guard members; (e) disadvantaged populations; or (f) anyone eligible to participate in the state opportunity grant program under RCW 28B.50.271.

(8) The legislature directs the state workforce training and education coordinating board to create and pilot green industry skill panels. These panels shall consist of business representatives from: Green industry sectors (~~related to clean energy~~), including but not limited to forest product companies, companies engaged in energy efficiency and renewable energy production, companies engaged in pollution prevention, reduction, and mitigation, and companies engaged in green building work and green transportation; labor unions representing workers in those industries or labor affiliates administering state-approved, joint apprenticeship programs or labor-management partnership programs that train workers for these industries~~((;))~~; state and local veterans agencies~~((;))~~; employer associations~~((;))~~; educational institutions~~((;))~~; and local workforce development councils within the region that the panels propose to operate~~((;))~~; and other key stakeholders as determined by the applicant. Any of these stakeholder organizations are eligible to receive grants under this section and serve as the intermediary that convenes and leads the panel. Panel applicants must provide labor market and industry analysis that demonstrates high demand, or demand of strategic importance to the development of the state's clean energy economy as identified in this section, for high-wage occupations, or occupations that are part of career pathways to the same, within the relevant industry sector. The panel shall:

(a) Conduct labor market and industry analyses, in consultation with the employment security department, and drawing on the findings of its research when available;

(b) Plan strategies to meet the recruitment and training needs of the industry and small businesses; and

(c) Leverage and align other public and private funding sources.

(9) The green industries jobs training account is created in the state treasury. Moneys from the account must be utilized to supplement the state opportunity grant program established under RCW 28B.50.271. All receipts from appropriations directed to the account must be deposited into the account. Expenditures from the account may be used only for the activities identified in this subsection. The state board for community and technical colleges, in consultation with the state workforce training and education coordinating board, informed by the research of the employment security department and the strategies developed in this section, may authorize expenditures from the account. The state board for community and technical colleges must distribute grants from the account on a competitive basis.

(a)(i) Allowable uses of these grant funds, which should be used when other public or private funds are insufficient or unavailable, may include:

(A) Curriculum development;

(B) Transitional jobs strategies for dislocated workers in declining industries who may be retrained for high-wage occupations in green industries;

(C) Workforce education to target populations; and

(D) Adult basic and remedial education as necessary linked to occupation skills training.

(ii) Allowable uses of these grant funds do not include student assistance and support services available through the state opportunity grant program under RCW 28B.50.271.

(b) Applicants eligible to receive these grants may be any organization or a partnership of organizations that has demonstrated expertise in:

(i) Implementing effective education and training programs that meet industry demand; and

(ii) Recruiting and supporting, to successful completion of those training programs carried out under these grants, the target populations of workers.

(c) In awarding grants from the green industries jobs training account, the state board for community and technical colleges shall give priority to applicants that demonstrate the ability to:

(i) Use labor market and industry analysis developed by the employment security department and green industry skill panels in the design and delivery of the relevant education and training program, and otherwise utilize strategies developed by green industry ((~~skills [skill]~~) skill panels;

(ii) Leverage and align existing public programs and resources and private resources toward the goal of recruiting, supporting, educating, and training target populations of workers;

(iii) Work collaboratively with other relevant stakeholders in the regional economy;

(iv) Link adult basic and remedial education, where necessary, with occupation skills training;

(v) Involve employers and, where applicable, labor unions in the determination of relevant skills and competencies and, where relevant, the validation of career pathways; and

(vi) Ensure that supportive services, where necessary, are integrated with education and training and are delivered by organizations with direct access to and experience with the targeted population of workers.

Sec. 3. RCW 43.330.375 and 2009 c 536 s 4 are each amended to read as follows:

(1) The department and the workforce board(~~(, in consultation with the leadership team,)~~) must:

(a) Coordinate efforts across the state to ensure that federal training and education funds are captured and deployed in a focused and effective manner in order to support green economy projects and accomplish the goals of the evergreen jobs initiative;

(b) Accelerate and coordinate efforts by state and local organizations to identify, apply for, and secure all sources of funds, particularly those created by the 2009 American recovery and reinvestment act, and to ensure that distributions of funding to local organizations are allocated in a manner that is time-efficient and user-friendly for the local organizations. Local organizations eligible to receive support include but are not limited to:

(i) Associate development organizations;

(ii) Workforce development councils;

(iii) Public utility districts; and

(iv) Community action agencies;

(c) Support green economy projects at both the state and local level by developing a process and a framework to provide, at a minimum:

(i) Administrative and technical assistance;

(ii) Assistance with and expediting of permit processes; and

(iii) Priority consideration of opportunities leading to exportable green economy goods and services, including renewable energy technology;

(d) Coordinate local and state implementation of projects using federal funds to ensure implementation is time-efficient and user-friendly for local organizations;

(e) Emphasize through both support and outreach efforts, projects that:

(i) Have a strong and lasting economic or environmental impact;

(ii) Lead to a domestically or internationally exportable good or service, including renewable energy technology;

(iii) Create training programs leading to a credential, certificate, or degree in a green economy field;

(iv) Strengthen the state's competitiveness in a particular sector or cluster of the green economy;

(v) Create employment opportunities for veterans, members of the national guard, and low-income and disadvantaged populations;

(vi) Comply with prevailing wage provisions of chapter 39.12 RCW;

(vii) Ensure at least fifteen percent of labor hours are performed by apprentices;

(f) Identify emerging technologies and innovations that are likely to contribute to advancements in the green economy, including the activities in designated innovation partnership zones established in RCW 43.330.270;

(g) Identify barriers to the growth of green jobs in traditional industries such as the forest products industry;

(h) Identify statewide performance metrics for projects receiving agency assistance. Such metrics may include:

(i) The number of new green jobs created each year, their wage levels, and, to the extent determinable, the percentage of new green jobs filled by veterans, members of the national guard, and low-income and disadvantaged populations;

(ii) The total amount of new federal funding secured, the respective amounts allocated to the state and local levels, and the timeliness of deployment of new funding by state agencies to the local level;

(iii) The timeliness of state deployment of funds and support to local organizations; and

(iv) If available, the completion rates, time to completion, and training-related placement rates for green economy postsecondary training programs;

~~((h))~~ (i) Identify strategies to allocate existing and new funding streams for green economy workforce training programs and education to emphasize those leading to a credential, certificate, or degree in a green economy field;

~~((h))~~ (j) Identify and implement strategies to allocate existing and new funding streams for workforce development councils and associate development organizations to increase their effectiveness and efficiency and increase local capacity to respond rapidly and comprehensively to opportunities to attract green jobs to local communities;

~~((j))~~ (k) Develop targeting criteria for existing investments that are consistent with the economic development commission's economic development strategy and the goals of this section and RCW 28C.18.170, 28B.50.281, and 49.04.200; and

~~((k))~~ (l) Make and support outreach efforts so that residents of Washington, particularly members of target populations, become aware of educational and employment opportunities identified and funded through the evergreen jobs act.

(2) The department and the workforce board (~~(, in consultation with the leadership team,)~~) must provide semiannual performance reports to the governor and appropriate committees of the legislature on:

(a) Actual statewide performance based on the performance measures identified in subsection (1)~~((g))~~ (h) of this section;

(b) How the state is emphasizing and supporting projects that lead to a domestically or internationally exportable good or service, including renewable energy technology;

(c) A list of projects supported, created, or funded in furtherance of the goals of the evergreen jobs initiative and the actions taken by state and local organizations, including the effectiveness of state agency support provided to local organizations as directed in subsection (1)(b) and (c) of this section;

(d) Recommendations for new or expanded financial incentives and comprehensive strategies to:

(i) Recruit, retain, and expand green economy industries and small businesses; and

(ii) Stimulate research and development of green technology and innovation, which may include designating innovation partnership zones linked to the green economy;

(e) Any information that associate development organizations and workforce development councils choose to provide to appropriate legislative committees regarding the effectiveness, timeliness, and coordination of support provided by state agencies under this section and RCW 28C.18.170, 28B.50.281, and 49.04.200; and

(f) Any recommended statutory changes necessary to increase the effectiveness of the evergreen jobs initiative and state responsiveness to local agencies and organizations.

(3) The definitions, designations, and results of the employment security department's broader labor market research under RCW 43.330.010 shall inform the planning and strategic direction of the department, the state workforce training and education coordinating board, the state board for community and technical colleges, and the higher education coordinating board.

Passed by the House March 6, 2010.

Passed by the Senate February 27, 2010.

Approved by the Governor March 24, 2010.

Filed in Office of Secretary of State March 24, 2010.

CHAPTER 188

[Engrossed Substitute House Bill 2541]

FOREST PRODUCTS INDUSTRY—LANDOWNER CONSERVATION PROPOSALS

AN ACT Relating to maximizing the ecosystem services provided by forestry through the promotion of the economic success of the forest products industry; amending RCW 76.09.010 and 76.09.040; reenacting and amending RCW 76.09.020; adding a new section to chapter 76.44 RCW; creating new sections; and providing an expiration date.

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

NEW SECTION. Sec. 1. (1) The legislature finds that sustainably managed commercial forestry produces jobs and revenue while also providing clean water, clean air, renewable energy, wildlife habitat, open space, and carbon storage, among other ecological values. For these reasons, maintaining a base of forest lands that may be utilized for sustainably managed commercial forestry is of utmost importance to the state.

(2) The legislature finds that the promotion and fostering of the economic success of the forest products industry with the goal of keeping sustainably managed forestry as a priority land use, and helping to secure the timber managing, growing, harvesting, transporting, and manufacturing jobs is made possible by a vibrant working forest land base.

(3) The legislature further finds that maintaining sustainable working forests is important for the quality of life of all Washingtonians, and that sustainable forest practices can help to maintain and restore the vitality of Washington's communities while also helping to preserve Washington's natural landscapes and ecosystems.

(4) The legislature further finds that it is necessary to assist landowners in gaining access to additional sources of revenue, such as emerging ecosystem services markets, and to help landowners diversify their incomes, improve the ecological functions of their lands, and pass their lands and the lands' associated benefits to future generations.

(5) The legislature further finds that the conservation and restoration of forest ecosystems provide services to the residents of the state that help improve water and habitat quality, help avoid carbon emissions, help address impacts associated with climate change, and help natural resources adapt to these impacts.

(6) The legislature further finds that ecosystem services markets can lead to efficient, innovative, and effective conservation and restoration actions and facilitate improved integration of public and private investment.

(7) Therefore, it is the intent of the legislature to develop tools to facilitate small and industrial forest landowners' access to market capital from existing and emerging ecosystem services markets.

(8) The legislature further intends to enable forest landowners who provide ecosystem services access to financing to protect, restore, and maintain the ecological values provided by protection of public resources.

NEW SECTION. Sec. 2. A new section is added to chapter 76.44 RCW to read as follows:

The legislature finds that there are many issues facing the forest sector, such as climate change, forest health and fire, carbon accounting, habitat and diversity, timber and water supplies, economic competitiveness, and the economic health of forest dependent communities. Enhancing the capability to effectively address these forest issues is critical to the state of Washington. To meet this need, the University of Washington school of forest resources will continue to work with the various interests concerned with the state's forest resources, including the legislature, state and federal governments, environmental organizations, local communities, the timber industry, and tribes, to improve these entities' ability to competitively recruit, educate, and train a high quality workforce.

Sec. 3. RCW 76.09.010 and 1999 sp.s. c 4 s 901 are each amended to read as follows:

(1) The legislature hereby finds and declares that the forest land resources are among the most valuable of all resources in the state; that a viable forest products industry is of prime importance to the state's economy; that it is in the public interest for public and private commercial forest lands to be managed consistent with sound policies of natural resource protection; that coincident with maintenance of a viable forest products industry, it is important to afford protection to forest soils, fisheries, wildlife, water quantity and quality, air quality, recreation, and scenic beauty.

(2) The legislature further finds and declares it to be in the public interest of this state to create and maintain through the adoption of this chapter a comprehensive statewide system of laws and forest practices rules which will achieve the following purposes and policies:

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

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

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

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

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

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

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

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

(i) Foster cooperation among managers of public resources, forest landowners, Indian tribes and the citizens of the state; ~~((and))~~

(j) Develop a watershed analysis system that addresses the cumulative effect of forest practices on, at a minimum, the public resources of fish, water, and public capital improvements of the state and its political subdivisions; and

(k) Assist forest landowners in accessing market capital and financing for the ecosystem services provided to the public as a result of the protection of public resources.

(3) The legislature further finds and declares that it is also in the public interest of the state to encourage forest landowners to undertake corrective and remedial action to reduce the impact of mass earth movements and fluvial processes.

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

Sec. 4. RCW 76.09.040 and 2009 c 246 s 1 are each amended to read as follows:

(1)~~(a)~~ Where necessary to accomplish the purposes and policies stated in RCW 76.09.010, and to implement the provisions of this chapter, the board shall adopt forest practices rules pursuant to chapter 34.05 RCW and in accordance with the procedures enumerated in this section that:

~~((a))~~ (i) Establish minimum standards for forest practices;

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

~~((c))~~ (iii) Set forth necessary administrative provisions;

~~((d))~~ (iv) Establish procedures for the collection and administration of forest practice fees as set forth by this chapter; and

~~((e))~~ (v) Allow for the development of watershed analyses.

(b) Forest practices rules pertaining to water quality protection shall be adopted by the board after reaching agreement with the director of the department of ecology or the director's designee on the board with respect thereto. All other forest practices rules shall be adopted by the board.

(c) Forest practices rules shall be administered and enforced by either the department or the local governmental entity as provided in this chapter. Such rules shall be adopted and administered so as to give consideration to all purposes and policies set forth in RCW 76.09.010.

(2)(a) The board shall prepare proposed forest practices rules consistent with this section and chapter 34.05 RCW. In addition to any forest practices rules relating to water quality protection proposed by the board, the department of ecology may submit to the board proposed forest practices rules relating to water quality protection.

(b)(i) Prior to initiating the rule-making process, the proposed rules shall be submitted for review and comments to the department of fish and wildlife and to the counties of the state. After receipt of the proposed forest practices rules, the department of fish and wildlife and the counties of the state shall have thirty days in which to review and submit comments to the board, and to the department of ecology with respect to its proposed rules relating to water quality protection.

(ii) After the expiration of ~~((such))~~ the thirty day period, the board and the department of ecology shall jointly hold one or more hearings on the proposed rules pursuant to chapter 34.05 RCW. ~~((At such hearing(s)))~~ Any county representative may propose specific forest practices rules relating to problems existing within ~~((such))~~ the county at the hearings.

(iii) The board may adopt and the department of ecology may approve such proposals if they find the proposals are consistent with the purposes and policies of this chapter.

(3)(a) The board shall establish by rule a program for the acquisition of riparian open space and critical habitat for threatened or endangered species as designated by the board. Acquisition must be a conservation easement. Lands eligible for acquisition are forest lands within unconfined channel migration zones or forest lands containing critical habitat for threatened or endangered species as designated by the board. Once acquired, these lands may be held and managed by the department, transferred to another state agency, transferred to an appropriate local government agency, or transferred to a private nonprofit nature conservancy corporation, as defined in RCW 64.04.130, in fee or transfer of management obligation. The board shall adopt rules governing the acquisition by the state or donation to the state of such interest in lands including the right of refusal if the lands are subject to unacceptable liabilities. The rules shall include definitions of qualifying lands, priorities for acquisition, and provide for the opportunity to transfer such lands with limited warranties and with a description of boundaries that does not require full surveys where the cost of securing the surveys would be unreasonable in relation to the value of the lands conveyed. The rules shall provide for the management of the lands for ecological protection or fisheries enhancement. For the purposes of conservation easements entered into under this section, the following apply:

~~((a))~~ (i) For conveyances of a conservation easement in which the landowner conveys an interest in the trees only, the compensation must include the timber value component, as determined by the cruised volume of any timber located within the channel migration zone or critical habitat for threatened or endangered species as designated by the board, multiplied by the appropriate quality code stumpage value for timber of the same species shown on the

appropriate table used for timber harvest excise tax purposes under RCW 84.33.091;

~~((b))~~ (ii) For conveyances of a conservation easement in which the landowner conveys interests in both land and trees, the compensation must include the timber value component in (a)(i) of this subsection plus such portion of the land value component as determined just and equitable by the department. The land value component must be the acreage of qualifying channel migration zone or critical habitat for threatened or endangered species as determined by the board, to be conveyed, multiplied by the average per acre value of all commercial forest land in western Washington or the average for eastern Washington, whichever average is applicable to the qualifying lands. The department must determine the western and eastern Washington averages based on the land value tables established by RCW 84.33.140 and revised annually by the department of revenue.

~~((4))~~ (b) Subject to appropriations sufficient to cover the cost of such an acquisition program and the related costs of administering the program, the department must establish a conservation easement in land that an owner tenders for purchase; provided that such lands have been taxed as forest lands and are located within an unconfined channel migration zone or contain critical habitat for threatened or endangered species as designated by the board. Lands acquired under this section shall become riparian or habitat open space. These acquisitions shall not be deemed to trigger the compensating tax of chapters 84.33 and 84.34 RCW.

~~((5))~~ (c) Instead of offering to sell interests in qualifying lands, owners may elect to donate the interests to the state.

~~((6))~~ (d) Any acquired interest in qualifying lands by the state under this section shall be managed as riparian open space or critical habitat.

NEW SECTION. Sec. 5. (1) The department of natural resources shall, to the degree that resources are available, develop, consistent with this section, proposals for the development of appropriate landowner conservation incentives that support forest landowners maintaining their land in forestry. These incentives may include, but are not limited to, incentives that are related to ecosystem service markets, tax incentives, easements, technical assistance, and recognition or certification.

(2) The department of natural resources shall consult with the forest practices board, representatives of federal, state, and local government, Indian tribes, small forest landowners, conservation groups, industrial foresters, and other individuals deemed beneficial by the department in implementing this section.

(3) By December 31, 2011, the department of natural resources must present their research and any proposed incentives to the governor, the appropriate committees of the legislature, the commissioner of public lands, and the forest practices board. The department of natural resources shall also offer to present their findings and recommendations to the Washington congressional delegation, local governments, and any state or federal agency that has as a portion of their mission the support of Washington's working land base and the jobs, products, and ecological values that working lands provide.

(4) Neither the activities nor outcome of the department of natural resources' actions or decisions under this section shall cause, promote, or delay rule making by the forest practices board in the execution of its applicable duties.

(5) The department of natural resources is authorized to seek federal and private funds, and in-kind contributions to complete the work in this act. At the discretion of the department of natural resources, the department must comply with this act only to the degree that existing or acquired nonstate resources permit.

(6) This section expires July 1, 2012.

Sec. 6. RCW 76.09.020 and 2009 c 354 s 5 and 2009 c 246 s 4 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) "Adaptive management" means reliance on scientific methods to test the results of actions taken so that the management and related policy can be changed promptly and appropriately.

(2) "Appeals board" means the forest practices appeals board created by RCW 76.09.210.

(3) "Application" means the application required pursuant to RCW 76.09.050.

(4) "Aquatic resources" includes water quality, salmon, other species of the vertebrate classes Cephalaspidomorphi and Osteichthyes identified in the forests and fish report, the Columbia torrent salamander (*Rhyacotriton kezeri*), the Cascade torrent salamander (*Rhyacotriton cascadae*), the Olympic torrent salamander (*Rhyacotriton olympian*), the Dunn's salamander (*Plethodon dunnii*), the Van Dyke's salamander (*Plethodon vandyke*), the tailed frog (*Ascaphus truei*), and their respective habitats.

(5) "Board" means the forest practices board created in RCW 76.09.030.

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

(7) "Contiguous" means land adjoining or touching by common corner or otherwise. Land having common ownership divided by a road or other right-of-way shall be considered contiguous.

(8) "Conversion to a use other than commercial timber operation" means a bona fide conversion to an active use which is incompatible with timber growing and as may be defined by forest practices rules.

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

(10) "Fish passage barrier" means any artificial instream structure that impedes the free passage of fish.

(11) "Forest land" means all land which is capable of supporting a merchantable stand of timber and is not being actively used for a use which is incompatible with timber growing. Forest land does not include agricultural land that is or was enrolled in the conservation reserve enhancement program by contract if such agricultural land was historically used for agricultural purposes and the landowner intends to continue to use the land for agricultural purposes in the future. As it applies to the operation of the road maintenance and abandonment plan element of the forest practices rules on small forest landowners, the term "forest land" excludes:

(a) Residential home sites, which may include up to five acres; and

(b) Cropfields, orchards, vineyards, pastures, feedlots, fish pens, and the land on which appurtenances necessary to the production, preparation, or sale of crops, fruit, dairy products, fish, and livestock exist.

(12) "Forest landowner" means any person in actual control of forest land, whether such control is based either on legal or equitable title, or on any other interest entitling the holder to sell or otherwise dispose of any or all of the timber on such land in any manner. However, any lessee or other person in possession of forest land without legal or equitable title to such land shall be excluded from the definition of "forest landowner" unless such lessee or other person has the right to sell or otherwise dispose of any or all of the timber located on such forest land.

(13) "Forest practice" means any activity conducted on or directly pertaining to forest land and relating to growing, harvesting, or processing timber, including but not limited to:

- (a) Road and trail construction;
- (b) Harvesting, final and intermediate;
- (c) Precommercial thinning;
- (d) Reforestation;
- (e) Fertilization;
- (f) Prevention and suppression of diseases and insects;
- (g) Salvage of trees; and
- (h) Brush control.

"Forest practice" shall not include preparatory work such as tree marking, surveying and road flagging, and removal or harvesting of incidental vegetation from forest lands such as berries, ferns, greenery, mistletoe, herbs, mushrooms, and other products which cannot normally be expected to result in damage to forest soils, timber, or public resources.

(14) "Forest practices rules" means any rules adopted pursuant to RCW 76.09.040.

(15) "Forest road," as it applies to the operation of the road maintenance and abandonment plan element of the forest practices rules on small forest landowners, means a road or road segment that crosses land that meets the definition of forest land, but excludes residential access roads.

(16) "Forest trees" does not include hardwood trees cultivated by agricultural methods in growing cycles shorter than fifteen years if the trees were planted on land that was not in forest use immediately before the trees were planted and before the land was prepared for planting the trees. "Forest trees" includes Christmas trees, but does not include Christmas trees that are cultivated by agricultural methods, as that term is defined in RCW 84.33.035.

(17) "Forests and fish report" means the forests and fish report to the board dated April 29, 1999.

(18) "Operator" means any person engaging in forest practices except an employee with wages as his or her sole compensation.

(19) "Person" means any individual, partnership, private, public, or municipal corporation, county, the department or other state or local governmental entity, or association of individuals of whatever nature.

(20) "Public resources" means water, fish and wildlife, and in addition shall mean capital improvements of the state or its political subdivisions.

(21) "Small forest landowner" has the same meaning as defined in RCW 76.09.450.

(22) "Timber" means forest trees, standing or down, of a commercial species, including Christmas trees. However, "timber" does not include Christmas trees that are cultivated by agricultural methods, as that term is defined in RCW 84.33.035.

(23) "Timber owner" means any person having all or any part of the legal interest in timber. Where such timber is subject to a contract of sale, "timber owner" shall mean the contract purchaser.

(24) "Unconfined channel migration zone" means the area within which the active channel of an unconfined stream is prone to move and where the movement would result in a potential near-term loss of riparian forest adjacent to the stream. Sizeable islands with productive timber may exist within the zone.

(25) "Unconfined stream" means generally fifth order or larger waters that experience abrupt shifts in channel location, creating a complex floodplain characterized by extensive gravel bars, disturbance species of vegetation of variable age, numerous side channels, wall-based channels, oxbow lakes, and wetland complexes. Many of these streams have dikes and levees that may temporarily or permanently restrict channel movement.

(26) "Ecosystem services" means the benefits that the public enjoys as a result of natural processes and biological diversity.

(27) "Ecosystem services market" means a system in which providers of ecosystem services can access financing or market capital to protect, restore, and maintain ecological values, including the full spectrum of regulatory, quasiregulatory, and voluntary markets.

Passed by the House March 6, 2010.

Passed by the Senate March 3, 2010.

Approved by the Governor March 24, 2010.

Filed in Office of Secretary of State March 24, 2010.

CHAPTER 189

[Substitute House Bill 2503]

BOARD OF NATURAL RESOURCES—MEMBERSHIP

AN ACT Relating to modernizing the criteria for membership on the board of natural resources without altering the number of members; and amending RCW 43.30.205.

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

Sec. 1. RCW 43.30.205 and 2003 c 334 s 104 are each amended to read as follows:

(1) The board shall consist of six members:

(a) The governor or the governor's designee((~~;~~);

(b) The superintendent of public instruction((~~;~~);

(c) The commissioner ((~~of public lands, the dean of the college of forest resources of the University of Washington, the dean of the college of agriculture of Washington State University;~~);

(d) The director of the University of Washington school of forest resources;

(e) The dean of the Washington State University college of agricultural, human, and natural resource sciences; and

(f) A representative of those counties that contain state forest lands acquired or transferred under RCW 79.22.010, 79.22.040, and 79.22.020.

(2)(a) The county representative on the board shall be selected by the legislative authorities of those counties that contain state forest lands acquired or transferred under RCW 79.22.010, 79.22.040, and 79.22.020. In the selection of the county representative, each participating county shall have one vote. The Washington state association of counties shall ~~((conduct))~~ convene a meeting for the purpose of making the selection and shall notify the board of the selection.

(b) The county representative ~~((shall))~~ must be a duly elected member of a county legislative authority who shall serve a term of four years unless the representative should leave office for any reason. The initial term shall begin on July 1, 1986.

Passed by the House March 6, 2010.

Passed by the Senate March 4, 2010.

Approved by the Governor March 24, 2010.

Filed in Office of Secretary of State March 24, 2010.

CHAPTER 190

[Engrossed Substitute House Bill 2518]

INTERPRETERS—OATH REQUIREMENTS

AN ACT Relating to oath requirements for interpreters; and amending RCW 2.43.050 and 2.43.020.

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

Sec. 1. RCW 2.43.050 and 1989 c 358 s 5 are each amended to read as follows:

(1) Upon certification or registration and every two years thereafter, certified or registered interpreters shall take an oath, affirming that the interpreter will make a true interpretation to the person being examined of all the proceedings in a language which the person understands, and that the interpreter will repeat the statements of the person being examined to the court or agency conducting the proceedings, in the English language, to the best of the interpreter's skill and judgment. The administrative office of the courts shall maintain a record of the oath in the same manner that the list of certified and registered interpreters is maintained.

(2) Before any person serving as an interpreter for the court or agency begins to interpret, the appointing authority shall require the interpreter to state the person's name on the record and whether the person is a certified or registered interpreter. If the interpreter is not a certified or registered interpreter, the interpreter must submit the interpreter's qualifications on the record.

(3) Before beginning to interpret, every interpreter appointed under this chapter shall take an oath ~~((affirming))~~ unless the interpreter is a certified or registered interpreter who has taken the oath within the last two years as required in subsection (1) of this section. The oath must affirm that the interpreter will make a true interpretation to the person being examined of all the proceedings in a language which the person understands, and that the interpreter will repeat the statements of the person being examined to the court or agency conducting the

proceedings, in the English language, to the best of the interpreter's skill and judgment.

Sec. 2. RCW 2.43.020 and 2005 c 282 s 2 are each amended to read as follows:

As used in this chapter:

(1) "Non-English-speaking person" means any person involved in a legal proceeding who cannot readily speak or understand the English language, but does not include hearing-impaired persons who are covered under chapter 2.42 RCW.

(2) "Qualified interpreter" means a person who is able readily to interpret or translate spoken and written English for non-English-speaking persons and to interpret or translate oral or written statements of non-English-speaking persons into spoken English.

(3) "Legal proceeding" means a proceeding in any court in this state, grand jury hearing, or hearing before an inquiry judge, or before an administrative board, commission, agency, or licensing body of the state or any political subdivision thereof.

(4) "Certified interpreter" means an interpreter who is certified by the administrative office of the courts.

(5) "Appointing authority" means the presiding officer or similar official of any court, department, board, commission, agency, licensing authority, or legislative body of the state or of any political subdivision thereof.

(6) "Registered interpreter" means an interpreter who is registered by the administrative office of the courts.

Passed by the House February 10, 2010.

Passed by the Senate March 5, 2010.

Approved by the Governor March 24, 2010.

Filed in Office of Secretary of State March 24, 2010.

CHAPTER 191

[House Bill 2681]

DISTRICT COURTS—PART-TIME JUDGES—COMPENSATION

AN ACT Relating to allowing compensation for part-time judges' judicial services; and amending RCW 3.34.140.

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

Sec. 1. RCW 3.34.140 and 1984 c 258 s 20 are each amended to read as follows:

Any district judge may hold a session in any district in the state, at the request of the judge or majority of judges in the district if the visiting judge determines that the state of business in his or her district allows the judge to be absent. The county legislative authority in which the district court is located shall first approve the temporary absence and the judge pro tempore shall not be required to serve during the judge's absence. A visiting judge shall be entitled to reimbursement for subsistence, lodging, and travel expenses in accordance with the rates applicable to state officers under RCW 43.03.050 and 43.03.060 as now or hereafter amended while so acting, to be paid by the visited district. These expenses shall not be paid to the visiting judge unless the legislative authority of

the county in which the visited district is located has approved the payment before the visit. In addition a visiting part-time district court judge, when not serving in a judicial capacity in his or her district, shall be entitled to compensation for judicial services so long as the legislative authority of the county in which the visited district is located has approved the payment before the visit.

Passed by the House March 8, 2010.

Passed by the Senate February 27, 2010.

Approved by the Governor March 24, 2010.

Filed in Office of Secretary of State March 24, 2010.

CHAPTER 192

[Substitute House Bill 2525]

PUBLIC FACILITIES DISTRICTS—FORMATION— MULTIPLE LEGISLATIVE AUTHORITIES

AN ACT Relating to public facilities districts created by at least two city or county legislative authorities; and amending RCW 35.57.010 and 35.57.020.

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

Sec. 1. RCW 35.57.010 and 2009 c 533 s 1 are each amended to read as follows:

(1)(a) The legislative authority of any town or city located in a county with a population of less than one million may create a public facilities district.

(b) The legislative authorities of any contiguous group of towns or cities located in a county or counties each with a population of less than one million may enter an agreement under chapter 39.34 RCW for the creation and joint operation of a public facilities district.

(c) The legislative authority of any town or city, or any contiguous group of towns or cities, located in a county with a population of less than one million and the legislative authority of a contiguous county, or the legislative authority of the county or counties in which the towns or cities are located, may enter into an agreement under chapter 39.34 RCW for the creation and joint operation of a public facilities district.

(d) The legislative authority of a city located in a county with a population greater than one million may create a public facilities district, when the city has a total population of less than one hundred fifteen thousand but greater than eighty thousand and commences construction of a regional center prior to July 1, 2008.

(e) At least ~~((two legislative authorities, one or more))~~ three contiguous towns or cities with a combined population of at least one hundred sixty thousand, each of which previously created a public facilities district ~~((or districts))~~ under ~~((b) or (c))~~ (a) of this subsection, may create an additional public facilities district ~~((notwithstanding the fact that one or more of those towns or cities, with or without a county or counties, previously have created one or more public facilities districts within the geographic boundaries of the additional public facilities district. Those existing)).~~ The previously created districts may continue their full corporate existence and activities notwithstanding the creation and existence of the additional district within ((all or part of)) the same geographic area. ((Additional public facilities districts

~~formed under this subsection may be comprised of a maximum of three contiguous towns or cities separately or in combination with a maximum of two contiguous counties:)~~

(2)(a) A public facilities district ~~((shall be))~~ is coextensive with the boundaries of the city or town or contiguous group of cities or towns that created the district.

(b) A public facilities district created by an agreement between a town or city, or a contiguous group of towns or cities, and a contiguous county or the county in which they are located, ~~((shall be))~~ is coextensive with the boundaries of the towns or cities, and the boundaries of the county or counties as to the unincorporated areas of the county or counties. The boundaries ~~((shall))~~ do not include incorporated towns or cities that are not parties to the agreement for the creation and joint operation of the district.

(3)(a) A public facilities district created by a single city or town shall be governed by a board of directors consisting of five members selected as follows: (i) Two members appointed by the legislative authority of the city or town; and (ii) three members appointed by legislative authority based on recommendations from local organizations. The members appointed under (a)(i) of this subsection, shall not be members of the legislative authority of the city or town. The members appointed under (a)(ii) of this subsection, ~~((shall))~~ must be based on recommendations received from local organizations that may include, but are not limited to the local chamber of commerce, local economic development council, and local labor council. The members shall serve four-year terms. Of the initial members, one must be appointed for a one-year term, one must be appointed for a two-year term, one must be appointed for a three-year term, and the remainder must be appointed for four-year terms.

(b) A public facilities district created by a contiguous group of cities and towns ~~((shall))~~ must be governed by a board of directors consisting of seven members selected as follows: (i) Three members appointed by the legislative authorities of the cities and towns; and (ii) four members appointed by the legislative authorities of the cities and towns based on recommendations from local organizations. The members appointed under (b)(i) of this subsection shall not be members of the legislative authorities of the cities and towns. The members appointed under (b)(ii) of this subsection, ~~((shall))~~ must be based on recommendations received from local organizations that include, but are not limited to the local chamber of commerce, local economic development council, local labor council, and a neighborhood organization that is directly affected by the location of the regional center in their area. The members of the board of directors ~~((shall))~~ must be appointed in accordance with the terms of the agreement under chapter 39.34 RCW for the joint operation of the district and shall serve four-year terms. Of the initial members, one must be appointed for a one-year term, one must be appointed for a two-year term, one must be appointed for a three-year term, and the remainder must be appointed for four-year terms.

(c) A public facilities district created by a town or city, or a contiguous group of towns or cities, and a contiguous county or the county or counties in which they are located, ~~((shall))~~ must be governed by a board of directors consisting of seven members selected as follows: (i) Three members appointed by the legislative authorities of the cities, towns, and county; and (ii) four

members appointed by the legislative authorities of the cities, towns, and county based on recommendations from local organizations. The members appointed under (c)(i) of this subsection shall not be members of the legislative authorities of the cities, towns, or county. The members appointed under (c)(ii) of this subsection ~~((shall))~~ must be based on recommendations received from local organizations that include, but are not limited to, the local chamber of commerce, the local economic development council, the local labor council, and a neighborhood organization that is directly affected by the location of the regional center in their area. The members of the board of directors ~~((shall))~~ must be appointed in accordance with the terms of the agreement under chapter 39.34 RCW for the joint operation of the district and shall serve four-year terms. Of the initial members, one must be appointed for a one-year term, one must be appointed for a two-year term, one must be appointed for a three-year term, and the remainder must be appointed for four-year terms.

(d)(i) A public facilities district created under subsection (1)(e) of this section ~~((may))~~ must provide, in the agreement providing for its creation and operation, that the district must be governed by ~~((a board of directors appointed under (b) or (c) of this subsection, or by a))~~ an odd-numbered board of directors of not more than nine members who are also members of the legislative authorities that created the public facilities district or of the governing boards of the public facilities districts ~~((or districts, or both,))~~ previously created by those legislative authorities, or both.

(ii) A board of directors formed under this subsection must have an equal number of members representing each city~~((;))~~ or town~~((, or county))~~ participating in the public facilities district. ~~If ((a public facilities district is created by an even number of legislative authorities, the members representing or appointed by those legislative authorities shall appoint an additional board member))~~ there are unfilled board member positions after each city or town has appointed an equal number of board members, the members so appointed must appoint a number of additional board members necessary to fill any remaining positions. For a board formed under this subsection to ~~((approve))~~ submit a proposition to the voters under RCW 82.14.048, ~~((the proposition must be approved by))~~ a majority of the members representing or appointed by each legislative authority participating in the public facilities district must agree to submit the proposition to the voters; however, the board may not submit a proposition to the voters prior to January 1, 2011.

(4) A public facilities district is a municipal corporation, an independent taxing "authority" within the meaning of Article VII, section 1 of the state Constitution, and a "taxing district" within the meaning of Article VII, section 2 of the state Constitution.

(5) A public facilities district ~~((shall))~~ constitutes a body corporate and ~~((shall))~~ possesses all the usual powers of a corporation for public purposes as well as all other powers that may now or hereafter be specifically conferred by statute, including, but not limited to, the authority to hire employees, staff, and services, to enter into contracts, and to sue and be sued.

(6) A public facilities district may acquire and transfer real and personal property by lease, sublease, purchase, or sale. No direct or collateral attack on any public facilities district purported to be authorized or created in conformance

with this chapter may be commenced more than thirty days after creation by the city and/or county legislative authority.

Sec. 2. RCW 35.57.020 and 2009 c 533 s 2 are each amended to read as follows:

(1)(a) ~~((Except for a public facilities district created under RCW 35.57.010(1)(e),))~~ A public facilities district is authorized to acquire, construct, own, remodel, maintain, equip, reequip, repair, finance, and operate one or more regional centers. For purposes of this chapter, "regional center" means a convention, conference, or special events center, or any combination of facilities, and related parking facilities, serving a regional population constructed, improved, or rehabilitated after July 25, 1999, at a cost of at least ten million dollars, including debt service. "Regional center" also includes an existing convention, conference, or special events center, and related parking facilities, serving a regional population, that is improved or rehabilitated after July 25, 1999, where the costs of improvement or rehabilitation are at least ten million dollars, including debt service. A "special events center" is a facility, available to the public, used for community events, sporting events, trade shows, and artistic, musical, theatrical, or other cultural exhibitions, presentations, or performances. A regional center is conclusively presumed to serve a regional population if state and local government investment in the construction, improvement, or rehabilitation of the regional center is equal to or greater than ten million dollars.

(b) A public facilities district created under RCW 35.57.010(1)(e):

(i) Is authorized, in addition to the authority granted under (a) of this subsection, to acquire, construct, own, remodel, maintain, equip, reequip, repair, finance, and operate one or more recreational facilities other than a ski area;

(ii) If exercising its authority under (a) or (b)(i) of this subsection, must obtain voter approval to fund each recreational facility or regional center pursuant to RCW 82.14.048(3); and

(iii) Possesses all of the powers with respect to recreational facilities other than a ski area that all public facilities districts possess with respect to regional centers under subsections (3), (4), and (7) of this section.

(2) A public facilities district may enter into contracts with any city or town for the purpose of exercising any powers of a community renewal agency under chapter 35.81 RCW.

(3) A public facilities district may impose charges and fees for the use of its facilities, and may accept and expend or use gifts, grants, and donations for the purpose of a regional center.

(4) A public facilities district may impose charges, fees, and taxes authorized in RCW 35.57.040, and use revenues derived therefrom for the purpose of paying principal and interest payments on bonds issued by the public facilities district to construct a regional center.

(5) Notwithstanding the establishment of a career, civil, or merit service system, a public facilities district may contract with a public or private entity for the operation or management of its public facilities.

(6) A public facilities district is authorized to use the supplemental alternative public works contracting procedures set forth in chapter 39.10 RCW in connection with the design, construction, reconstruction, remodel, or alteration of any regional center.

(7) A city or town in conjunction with any special agency, authority, or other district established by a county or any other governmental agency is authorized to use the supplemental alternative public works contracting procedures set forth in chapter 39.10 RCW in connection with the design, construction, reconstruction, remodel, or alteration of any regional center funded in whole or in part by a public facilities district.

(8) Any provision required to be submitted for voter approval under this section, may not be submitted for voter approval prior to January 1, 2011.

Passed by the House March 9, 2010.

Passed by the Senate March 5, 2010.

Approved by the Governor March 24, 2010.

Filed in Office of Secretary of State March 24, 2010.

CHAPTER 193

[Substitute House Bill 2593]

SHELLFISH RESOURCE MANAGEMENT

AN ACT Relating to creating tools to enhance the department of fish and wildlife's ability to manage shellfish resources; amending RCW 77.70.500, 77.15.520, 77.15.380, 63.21.080, 77.12.865, 77.12.870, 77.15.750, 77.55.041, 77.32.430, 77.70.350, 77.70.150, 77.70.190, 82.27.020, and 82.27.070; adding new sections to chapter 77.15 RCW; prescribing penalties; and providing an expiration date.

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

NEW SECTION. Sec. 1. A new section is added to chapter 77.15 RCW to read as follows:

(1) A person is guilty of the unlawful use of shellfish gear for commercial purposes if the person:

(a) Takes, fishes for, or possesses crab, shrimp, or crawfish for commercial purposes with shellfish gear that is constructed or altered in a manner that violates any rule of the commission relating to required gear design specifications; or

(b) Is found in possession of, upon any vessel located on the waters of the state, shellfish gear that is constructed or altered in a manner that violates any rule of the commission relating to required gear design specifications, unless a person holds a valid crab pot removal permit under RCW 77.70.500 and is in the process of transporting removed crab pots as part of the Dungeness crab pot removal program.

(2) The unlawful use of shellfish gear for commercial purposes is a gross misdemeanor.

NEW SECTION. Sec. 2. A new section is added to chapter 77.15 RCW to read as follows:

(1) A person is guilty of the unlawful use of shellfish gear for personal use purposes if the person:

(a) Takes, fishes for, or possesses crab, shrimp, or crawfish for personal use purposes with shellfish gear that is constructed or altered in a manner that violates any rule of the commission relating to required gear design specifications; or

(b) Is found in possession of, upon any vessel located on the waters of the state, shellfish gear that is constructed or altered in a manner that violates any

rule of the commission relating to required gear design specifications, unless a person holds a valid crab pot removal permit under RCW 77.70.500 and is in the process of transporting removed crab pots as part of the Dungeness crab pot removal program.

(2) The unlawful use of shellfish gear for personal use purposes is a misdemeanor.

Sec. 3. RCW 77.70.500 and 2009 c 355 s 1 are each amended to read as follows:

(1)(a) As part of a coastal commercial Dungeness crab pot removal program, the department shall issue a crab pot removal permit that allows the participants in the Dungeness crab-coastal fishery created in RCW 77.70.280 to remove crab pots belonging to state commercial licensed crab fisheries from coastal marine waters after the close of the primary commercial Dungeness crab-coastal harvest season, regardless of whether the crab pot was originally set by the participant or not.

(b) Beginning fifteen days after the close of the primary commercial Dungeness crab-coastal harvest season, any individual with a current commercial Dungeness crab-coastal license and a valid crab pot removal permit issued by the department may remove a crab pot or crab pots used to harvest Dungeness crabs remaining in coastal marine waters after the close of the primary commercial Dungeness crab-coastal harvest season.

(c) In cooperation with individuals with a current commercial Dungeness crab-coastal license, the department may expand the coastal commercial Dungeness crab pot removal program to those areas closed to commercial Dungeness crab harvest prior to the end of the primary season.

(d) Nothing in this section prohibits the department from exempting certain crab pots from the coastal commercial Dungeness crab pot removal program or from restricting crab pot removal activities to specific geographic areas.

~~((e) The department may adopt rules to implement this subsection (1).)~~

(2)(a) The department may expand the crab pot removal program to allow for the removal of shellfish pots belonging to state commercial or recreational licensed shellfish fisheries from Puget Sound waters during shellfish harvest closures, regardless of whether the shellfish pot was originally set by the permittee or not.

(b) If the department expands the program to Puget Sound waters, the department shall limit the program as necessary to streamline implementation, minimize the oversight burden on fish and wildlife enforcement officers, minimize interference with lawful fisheries and other user groups, minimize administrative overhead cost, and avoid the collection of shellfish pots that are not abandoned. The program may be limited as deemed appropriate by the department, including limitations on:

(i) The number of participants;

(ii) The eligible geographic areas in Puget Sound where shellfish pots may be recovered;

(iii) The types of shellfish pots that may be recovered;

(iv) The maximum or minimum depth where a shellfish pot must be located to be eligible for recovery; and

(v) The ports through which the vessels collecting the abandoned shellfish pots may operate.

(3) The department may adopt rules to implement subsections (1) and (2) of this section.

(4)(a) The following are exempt from complying with the lost and found property provisions in chapter 63.21 RCW:

(i) An individual participating in permitted crab pot removal activities in coastal marine waters who has a valid crab pot removal permit, and who adheres to the provisions of the permit as they relate to crab pot removal(~~(- is exempt from complying with the lost and found property provisions in chapter 63.21 RCW.); and~~

(ii) An individual participating in permitted shellfish pot removal activities in Puget Sound waters who has a valid shellfish pot removal permit and who adheres to the provisions of the permit as they relate to shellfish pot removal.

(b) The individual who removes ~~((the crab))~~ a shellfish pot under a valid crab pot removal permit or a valid shellfish pot removal permit takes the property free and clear of all claims of the owner or previous holder and free and clear of all individuals claiming ownership under the previous owner.

~~((3)(a) A person is guilty of unlawful use of a crab pot removal permit if the person:~~

~~(i) Violates any terms or conditions of the permit issued under this section; or~~

~~(ii) Violates any rule of the department applicable to the requirement for, issuance of, or use of the permit.~~

~~(b) Unlawful use of a crab pot removal permit is a misdemeanor.)~~

(5) A violation of this section, or any rules or permit conditions provided under this section, is punishable as provided in RCW 77.15.750.

(6) Individuals who remove shellfish pots under a valid crab pot removal permit or a valid shellfish pot removal permit in accordance with this section are not subject to permitting under RCW 77.55.021.

Sec. 4. RCW 77.15.520 and 1998 c 190 s 37 are each amended to read as follows:

(1) Except for actions involving shellfish gear punishable under section 1 of this act, a person is guilty of commercial fishing using unlawful gear or methods if the person acts for commercial purposes and takes or fishes for any fish or shellfish using any gear or method in violation of a rule of the ~~((department))~~ commission specifying, regulating, or limiting the gear or method for taking, fishing, or harvesting of such fish or shellfish.

(2) Commercial fishing using unlawful gear or methods is a gross misdemeanor.

Sec. 5. RCW 77.15.380 and 2001 c 253 s 39 are each amended to read as follows:

(1) A person is guilty of unlawful recreational fishing in the second degree if the person fishes for, takes, possesses, or harvests fish or shellfish and:

(a) The person does not have and possess the license or the catch record card required by chapter 77.32 RCW for such activity; or

(b) The action violates any rule of the commission or the director regarding seasons, bag or possession limits but less than two times the bag or possession limit, closed areas, closed times, or any other rule addressing the manner or method of fishing or possession of fish, except for use of a net to take fish as

provided for in RCW 77.15.580 and the unlawful use of shellfish gear for personal use as provided in section 2 of this act.

(2) Unlawful recreational fishing in the second degree is a misdemeanor.

Sec. 6. RCW 63.21.080 and 2009 c 355 s 2 are each amended to read as follows:

This chapter shall not apply to:

- (1) Motor vehicles under chapter 46.52 RCW;
- (2) Unclaimed property in the hands of a bailee under chapter 63.24 RCW;
- (3) Uniform disposition of unclaimed property under chapter 63.29 RCW;
- (4) Secured vessels under chapter 79A.65 RCW; and
- (5) Crab or other shellfish pots in coastal marine or Puget Sound waters under RCW 77.70.500.

Sec. 7. RCW 77.12.865 and 2005 c 146 s 1004 are each amended to read as follows:

(1) As used in this section and RCW 77.12.870, "derelict fishing gear" includes lost or abandoned fishing nets, fishing lines, ~~((crab pots, shrimp pots,))~~ and other commercial and recreational fishing equipment. The term does not include lost or abandoned vessels or shellfish pots.

(2) The department, in partnership with the Northwest straits commission, the department of natural resources, and other interested parties, must publish guidelines for the safe removal and disposal of derelict fishing gear. The guidelines ~~((must be completed by August 31, 2002, and))~~ may be updated as deemed necessary by the department. The guidelines must be made available to any person interested in derelict fishing gear removal.

(3) Derelict fishing gear removal conducted in accordance with the guidelines prepared in subsection (2) of this section is not subject to permitting under RCW 77.55.021.

Sec. 8. RCW 77.12.870 and 2009 c 333 s 21 are each amended to read as follows:

(1) The department, in ~~((consultation with the Northwest straits commission, the department of natural resources, and other interested parties, must create and maintain a database of known derelict fishing gear))~~ partnership with the Northwest straits commission, the department of natural resources, and other interested parties, must create and ensure the maintenance of a database of known derelict fishing gear and shellfish pots, including the type of gear and its location.

(2) A person who loses or abandons commercial fishing gear or shellfish pots within the waters of the state is encouraged to report the location of the loss and the type of gear lost to the department within forty-eight hours of the loss.

Sec. 9. RCW 77.15.750 and 2009 c 333 s 14 are each amended to read as follows:

(1) A person is guilty of unlawful use of a department permit if the person:

(a) Violates any terms or conditions of the permit issued by the department or the director; or

(b) Violates any rule of the commission or the director applicable to the requirement for, issuance of, or use of the permit.

(2)(a) Permits covered under subsection (1) of this section include, but are not limited to, master hunter permits, crab pot removal permits and shellfish pot

removal permits under RCW 77.70.500, depredation permits, landowner hunting permits, commercial carp license permits, permits to possess or dispense beer or malt liquor pursuant to RCW 66.28.210, and permits to hold, sponsor, or attend an event requiring a banquet permit from the liquor control board.

(b) Permits excluded from subsection (1) of this section include fish and wildlife lands vehicle use permits, commercial use or activity permits, noncommercial use or activity permits, parking permits, experimental fishery permits, trial commercial fishery permits, and scientific collection permits.

(3) Unlawful use of a department permit is a misdemeanor.

(4) A person is guilty of unlawful use of an experimental fishery permit or a trial commercial fishery permit if the person:

(a) Violates any terms or conditions of the permit issued by the department or the director; or

(b) Violates any rule of the commission or the director applicable to the issuance or use of the permit.

(5) Unlawful use of an experimental fishery permit or a trial commercial fishery permit is a gross misdemeanor.

(6) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Experimental fishery permit" means a permit issued by the director for either:

(i) An "emerging commercial fishery," defined as a fishery for a newly classified species for which the department has determined that there is a need to limit participation; or

(ii) An "expanding commercial fishery," defined as a fishery for a previously classified species in a new area, by a new method, or at a new effort level, for which the department has determined that there is a need to limit participation.

(b) "Trial commercial fishery permit" means a permit issued by the department for trial harvest of a newly classified species or harvest of a previously classified species in a new area or by a new means.

Sec. 10. RCW 77.55.041 and 2005 c 146 s 302 are each amended to read as follows:

(1) The removal of derelict fishing gear does not require a permit under this chapter if the gear is removed according to the guidelines described in RCW 77.12.865.

(2) The removal of crab and other shellfish gear does not require a permit under this chapter if the gear is removed under a permit issued pursuant to RCW 77.70.500.

Sec. 11. RCW 77.32.430 and 2009 c 333 s 40 are each amended to read as follows:

(1) Catch record card information is necessary for proper management of the state's food fish and game fish species and shellfish resources. Catch record card administration shall be under rules adopted by the commission. There is no charge for an initial catch record card. Each subsequent or duplicate catch record card costs ten dollars.

(2) A license to take and possess Dungeness crab is only valid in Puget Sound waters east of the Bonilla-Tatoosh line if the fisher has in possession a

valid catch record card officially endorsed for Dungeness crab. The endorsement shall cost no more than three dollars, including any or all fees authorized under RCW 77.32.050, when purchased for a personal use saltwater, combination, or shellfish and seaweed license. The endorsement shall cost no more than one dollar, including any or all fees authorized under RCW 77.32.050, when purchased for a temporary combination fishing license authorized under RCW 77.32.470(3)(a).

(3) Catch record cards issued with affixed temporary short-term charter stamp licenses are not subject to the ten-dollar charge nor to the Dungeness crab endorsement fee provided for in this section. Charter boat or guide operators issuing temporary short-term charter stamp licenses shall affix the stamp to each catch record card issued before fishing commences. Catch record cards issued with a temporary short-term charter stamp are valid for one day.

(4) The department shall include provisions for recording marked and unmarked salmon in catch record cards issued after March 31, 2004.

(5)(a) The funds received from the sale of catch record cards and the Dungeness crab endorsement must be deposited into the state wildlife account created in RCW 77.12.170. The funds received from the Dungeness crab endorsement may be used only for the sampling, monitoring, and management of catch associated with the Dungeness crab recreational fisheries. Until June 30, 2011, funds received from the Dungeness crab endorsement may be used for the removal and disposal of derelict shellfish gear either directly by the department or under contract with a third party.

(b) Moneys allocated under this section shall supplement and not supplant other federal, state, and local funds used for Dungeness crab recreational fisheries management.

NEW SECTION. Sec. 12. (1) The department of fish and wildlife shall, in cooperation with stakeholders in the recreational and commercial crab fisheries and other knowledgeable individuals, as deemed appropriate by the director of the department, deliver to the appropriate committees of the legislature findings and recommendations relating to the following topics:

(a) The scope of the derelict shellfish gear problem in Washington waters, including estimates of the existing quantity of derelict gear and estimates of annual shellfish gear loss;

(b) The cost of recovering and disposing of derelict shellfish gear;

(c) Technical and legal barriers to recovering and disposing of derelict shellfish gear;

(d) Possible public education efforts to prevent future shellfish gear loss and to promote compliance with required gear specifications;

(e) Possible changes to the current funding structure for derelict shellfish gear removal and Dungeness crab sampling, monitoring, and management, which may include the termination or alteration of the existing Dungeness crab endorsement required under RCW 77.32.430 and the identification of possible new funding sources.

(2) If deemed practicable by the director of the department of fish and wildlife, the findings and recommendations included in the report required in this section should be informed by the actual collection of derelict shellfish pots.

(3) Findings and recommendations required under this section must be submitted consistent with RCW 43.01.036 by December 31, 2010.

(4) This section expires July 31, 2011.

Sec. 13. RCW 77.70.350 and 2006 c 159 s 1 are each amended to read as follows:

(1) The following restrictions apply to vessel designations and substitutions on Dungeness crab-coastal fishery licenses:

(a) The holder of the license may not:

(i) Designate on the license a vessel the hull length of which exceeds ninety-nine feet; or

(ii) Change vessel designation if the hull length of the vessel proposed to be designated exceeds the hull length designated on the license on June 7, 2006, by more than ten feet. However, if such vessel designation is the result of an emergency transfer, the applicable vessel length would be the most recent permanent vessel designation on the license prior to June 7, 2006;

(b) If the hull length of the vessel proposed to be designated is comparable to or exceeds by up to one foot the hull length of the currently designated vessel, the department may change the vessel designation no more than once in any ~~((two consecutive Washington state coastal crab seasons))~~ one-year period measured from September 15th to September 15th of the following year, unless the currently designated vessel is lost or in disrepair such that it does not safely operate, in which case the department may allow a change in vessel designation;

(c) If the hull length of the vessel proposed to be designated exceeds by between one and ten feet the hull length of the designated vessel on June 7, 2006, the department may change the vessel designation no more than once on or after June 7, 2006, unless a request is made by the license holder during a Washington state coastal crab season for an emergency change in vessel designation. If such an emergency request is made, the director may allow a temporary change in designation to another vessel, if the hull length of the other vessel does not exceed by more than ten feet the hull length of the currently designated vessel.

(2) For the purposes of this section, "hull length" means the length overall of a vessel's hull as shown by marine survey or by manufacturer's specifications.

(3) By December 31, 2010, the department must, in cooperation with the coastal crab fishing industry, evaluate the effectiveness of this section and, if necessary, recommend any statutory changes to the appropriate committees of the senate and house of representatives.

Sec. 14. RCW 77.70.150 and 2005 c 110 s 1 are each amended to read as follows:

(1) A sea urchin dive fishery license is required to take sea urchins for commercial purposes. A sea urchin dive fishery license authorizes the use of only one diver in the water at any time during sea urchin harvest operations. If the same vessel has been designated on two sea urchin dive fishery licenses, two divers may be in the water. A natural person may not hold more than two sea urchin dive fishery licenses.

(2) Except as provided in subsection (6) of this section, the director shall issue no new sea urchin dive fishery licenses. For licenses issued for the year 2000 and thereafter, the director shall renew existing licenses only to a natural person who held the license at the end of the previous year. If a sea urchin dive fishery license is not held by a natural person as of December 31, 1999, it is not

renewable. However, if the license is not held because of revocation or suspension of licensing privileges, the director shall renew the license in the name of a natural person at the end of the revocation or suspension if the license holder applies for renewal of the license before the end of the year in which the revocation or suspension ends.

(3) Where a licensee failed to obtain the license during the previous year because of a license suspension or revocation by the director or the court, the licensee may qualify for a license by establishing that the person held such a license during the last year in which the person was eligible.

(4) Surcharges as provided for in this section shall be collected and deposited into the sea urchin dive fishery account hereby created in the custody of the state treasurer. The collections and deposits must continue, as set forth in (a) and (b) of this subsection, through license year 2013, or until the number of licenses is reduced to twenty, whichever occurs first. Only the director or the director's designee may authorize expenditures from the account. The sea urchin dive fishery account is subject to allotment procedures under chapter 43.88 RCW, but no appropriation is required for expenditures. Expenditures from the account shall only be used to retire sea urchin licenses until the number of licenses is reduced to ~~((twenty-five))~~ twenty, and thereafter shall only be used for sea urchin management and enforcement. The director or the director's designee shall notify the department of revenue within thirty days when the number of licenses is reduced to twenty.

(a) A surcharge of one hundred dollars shall be charged with each sea urchin dive fishery license renewal for licenses issued ~~((#))~~ for license years 2000 through ((2010)) 2013, or until the number of licenses is reduced to twenty, whichever occurs first.

(b) For licenses issued for ~~((the year))~~ license years 2000 ((and thereafter,)) through 2013, or until the number of licenses is reduced to twenty, whichever occurs first, a surcharge shall be charged on the sea urchin dive fishery license for designating an alternate operator. The surcharge shall be as follows: Five hundred dollars for the first year or each of the first two consecutive years after 1999 that any alternate operator is designated and two thousand five hundred dollars each year thereafter that any alternate operator is designated.

(5) Sea urchin dive fishery licenses are transferable. ~~((After December 31, 1999,))~~ For licenses issued for license years 2000 through 2013, or whenever the number of licenses is reduced to twenty, whichever occurs first, there is a surcharge to transfer a sea urchin dive fishery license. The surcharge is five hundred dollars for the first transfer of a license valid for ~~((calendar))~~ license year 2000, and two thousand five hundred dollars for any subsequent transfer, ((whether)) occurring in the ((year)) license years 2000 ((or thereafter)) through 2013, or whenever the number of licenses is reduced to twenty, whichever occurs first. Notwithstanding this subsection, a one-time transfer exempt from surcharge applies for a transfer from the natural person licensed on January 1, 2000, to that person's spouse or child.

(6) If fewer than ~~((twenty-five))~~ twenty natural persons are eligible for sea urchin dive fishery licenses, the director may accept applications for new licenses. The additional licenses may not cause more than ~~((twenty-five))~~ twenty natural persons to be eligible for a sea urchin dive fishery license. New

licenses issued under this section shall be distributed according to rules of the department that recover the value of such licensed privilege.

Sec. 15. RCW 77.70.190 and 2005 c 110 s 2 are each amended to read as follows:

(1) A sea cucumber dive fishery license is required to take sea cucumbers for commercial purposes. A sea cucumber dive fishery license authorizes the use of only one diver in the water at any time during sea cucumber harvest operations. If the same vessel has been designated on two sea cucumber dive fishery licenses, two divers may be in the water. A natural person may not hold more than two sea cucumber dive fishery licenses.

(2) Except as provided in subsection (6) of this section, the director shall issue no new sea cucumber dive fishery licenses. For licenses issued for the year 2000 and thereafter, the director shall renew existing licenses only to a natural person who held the license at the end of the previous year. If a sea cucumber dive fishery license is not held by a natural person as of December 31, 1999, it is not renewable. However, if the license is not held because of revocation or suspension of licensing privileges, the director shall renew the license in the name of a natural person at the end of the revocation or suspension if the license holder applies for renewal of the license before the end of the year in which the revocation or suspension ends.

(3) Where a licensee failed to obtain the license during either of the previous two years because of a license suspension by the director or the court, the licensee may qualify for a license by establishing that the person held such a license during the last year in which the person was eligible.

(4) Surcharges as provided for in this section shall be collected and deposited into the sea cucumber dive fishery account hereby created in the custody of the state treasurer. The collections and deposits must continue, as set forth in (a) and (b) of this subsection, through license year 2013, or until the number of licenses is reduced to twenty, whichever occurs first. Only the director or the director's designee may authorize expenditures from the account. The sea cucumber dive fishery account is subject to allotment procedures under chapter 43.88 RCW, but no appropriation is required for expenditures. Expenditures from the account shall only be used to retire sea cucumber licenses until the number of licenses is reduced to ~~((twenty-five))~~ twenty, and thereafter shall only be used for sea cucumber management and enforcement. The director or the director's designee shall notify the department of revenue within thirty days when the number of licenses is reduced to twenty.

(a) A surcharge of one hundred dollars shall be charged with each sea cucumber dive fishery license renewal for licenses issued in 2000 through ~~((2010))~~ 2013, or until the number of licenses is reduced to twenty, whichever occurs first.

(b) For licenses issued for ~~((the year))~~ license years 2000 ((and thereafter,)) through 2013, or until the number of licenses is reduced to twenty, whichever occurs first, a surcharge shall be charged on the sea cucumber dive fishery license for designating an alternate operator. The surcharge shall be as follows: Five hundred dollars for the first year or each of the first two consecutive years after 1999 that any alternate operator is designated and two thousand five hundred dollars each year thereafter that any alternate operator is designated.

(5) Sea cucumber dive fishery licenses are transferable. ~~((After December 31, 1999,))~~ For licenses issued for license years 2000 through 2013, or whenever the number of licenses is reduced to twenty, whichever occurs first, there is a surcharge to transfer a sea cucumber dive fishery license. The surcharge is five hundred dollars for the first transfer of a license valid for ~~((calendar))~~ license year 2000 and two thousand five hundred dollars for any subsequent transfer ~~((whether)),~~ occurring in the ~~((year))~~ license years 2000 ~~((or thereafter))~~ through 2013, or whenever the number of licenses is reduced to twenty, whichever occurs first. Notwithstanding this subsection, a one-time transfer exempt from surcharge applies for a transfer from the natural person licensed on January 1, 2000, to that person's spouse or child.

(6) If fewer than ~~((twenty-five))~~ twenty persons are eligible for sea cucumber dive fishery licenses, the director may accept applications for new licenses. The additional licenses may not cause more than ~~((twenty-five))~~ twenty natural persons to be eligible for a sea cucumber dive fishery license. New licenses issued under this section shall be distributed according to rules of the department that recover the value of such licensed privilege.

Sec. 16. RCW 82.27.020 and 2005 c 110 s 3 are each amended to read as follows:

(1) In addition to all other taxes, licenses, or fees provided by law there is established an excise tax on the commercial possession of enhanced food fish as provided in this chapter. The tax is levied upon and shall be collected from the owner of the enhanced food fish whose possession constitutes the taxable event. The taxable event is the first possession in Washington by an owner after the enhanced food fish has been landed. Processing and handling of enhanced food fish by a person who is not the owner is not a taxable event to the processor or handler.

(2) A person in possession of enhanced food fish and liable to this tax may deduct from the price paid to the person from which the enhanced food fish (except oysters) are purchased an amount equal to a tax at one-half the rate levied in this section upon these products.

(3) The measure of the tax is the value of the enhanced food fish at the point of landing.

(4) The tax shall be equal to the measure of the tax multiplied by the rates for enhanced food fish as follows:

(a) Chinook, coho, and chum salmon and anadromous game fish: Five and twenty-five one-hundredths percent;

(b) Pink and sockeye salmon: Three and fifteen one-hundredths percent;

(c) Other food fish and shellfish, except oysters, sea urchins, and sea cucumbers: Two and one-tenth percent;

(d) Oysters: Eight one-hundredths of one percent;

(e) Sea urchins: Four and six-tenths percent through December 31, ~~((2010))~~ 2013, or until the department of fish and wildlife notifies the department that the number of sea urchin licenses has been reduced to twenty licenses, whichever occurs first, and two and one-tenth percent thereafter; and

(f) Sea cucumbers: Four and six-tenths percent through December 31, ~~((2010))~~ 2013, or until the department of fish and wildlife notifies the department that the number of sea cucumber licenses has been reduced to twenty licenses, whichever occurs first, and two and one-tenth percent thereafter.

(5) An additional tax is imposed equal to the rate specified in RCW 82.02.030 multiplied by the tax payable under subsection (4) of this section.

Sec. 17. RCW 82.27.070 and 2005 c 110 s 4 are each amended to read as follows:

All taxes collected by the department of revenue under this chapter shall be deposited in the state general fund except for the excise tax on anadromous game fish, which shall be deposited in the state wildlife ((fund, and, during the period)) account. From January 1, 2000, to December 31, ((2010)) 2013, or until the department of fish and wildlife notifies the department that the license reduction goals of the sea urchin or sea cucumber fishery have been met, whichever occurs first, twenty-five forty-sixths of the revenues derived from the excise tax on sea urchins collected under RCW 82.27.020 shall be deposited into the sea urchin dive fishery account created in RCW 77.70.150, and twenty-five forty-sixths of the revenues derived from the excise tax on sea cucumbers collected under RCW 82.27.020 shall be deposited into the sea cucumber dive fishery account created in RCW 77.70.190.

Passed by the House March 6, 2010.

Passed by the Senate March 2, 2010.

Approved by the Governor March 24, 2010.

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CHAPTER 194

[Second Substitute House Bill 2603]

SMALL BUSINESSES—NOTICE OF VIOLATIONS

AN ACT Relating to violations of state law or agency rule by small businesses; and amending RCW 34.05.110.

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

Sec. 1. RCW 34.05.110 and 2009 c 358 s 1 are each amended to read as follows:

(1) Agencies must provide to a small business a copy of the state law or agency rule that a small business is violating and a period of at least two business days to correct the violation before the agency may impose any fines, civil penalties, or administrative sanctions for a violation of a state law or agency rule by a small business. If no correction is possible or if an agency is acting in response to a complaint made by a third party and the third party would be disadvantaged by the application of this subsection, the requirements in this subsection do not apply.

(2) Except as provided in subsection ((3)) (4) of this section, agencies shall waive any fines, civil penalties, or administrative sanctions for first-time paperwork violations by a small business.

((2)) (3) When an agency waives a fine, penalty, or sanction under this section, when possible it shall require the small business to correct the violation within a reasonable period of time, in a manner specified by the agency. If correction is impossible, no correction may be required and failure to correct is not grounds for reinstatement of fines, penalties, or sanctions under subsection ((4)) (5)(b) of this section.

~~((3))~~ (4) Exceptions to requirements of subsection (1) of this section and the waiver requirement in subsection (2) of this section may be made for any of the following reasons:

(a) The agency head determines that the effect of the violation or waiver presents a direct danger to the public health, results in a loss of income or benefits to an employee, poses a potentially significant threat to human health or the environment, or causes serious harm to the public interest;

(b) The violation involves a ~~((small business knowingly or willfully engaging in conduct that may result in a felony conviction))~~ knowing or willful violation;

(c) The violation is of a requirement concerning the assessment, collection, or administration of any tax, tax program, debt, revenue, receipt, a regulated entity's financial filings, or insurance rate or form filing;

(d) The ~~((waiver is))~~ requirements of this section are in conflict with federal law or program requirements, federal requirements that are a prescribed condition to the allocation of federal funds to the state, or the requirements for eligibility of employers in this state for federal unemployment tax credits, as determined by the agency head;

(e) The small business committing the violation previously violated a substantially similar ~~((paperwork))~~ requirement; or

(f) The owner or operator of the small business committing the violation owns or operates, or owned or operated a different small business which previously violated a substantially similar ~~((paperwork))~~ requirement.

~~((4))~~ (5)(a) Nothing in this section prohibits an agency from waiving fines, civil penalties, or administrative sanctions incurred by a small business for a paperwork violation that is not a first-time offense.

(b) Any fine, civil penalty, or administrative sanction that is waived under this section may be reinstated and imposed in addition to any additional fines, penalties, or administrative sanctions associated with a subsequent violation for noncompliance with a substantially similar paperwork requirement, or failure to correct the previous violation as required by the agency under subsection ~~((2))~~ (3) of this section.

~~((5))~~ (6) Nothing in this section may be construed to diminish the responsibility for any citizen or business to apply for and obtain a permit, license, or authorizing document that is required to engage in a regulated activity, or otherwise comply with state or federal law.

~~((6))~~ (7) Nothing in this section shall be construed to apply to small businesses required to provide accurate and complete information and documentation in relation to any claim for payment of state or federal funds or who are licensed or certified to provide care and services to vulnerable adults or children.

~~((7))~~ (8) Nothing in this section affects the attorney general's authority to impose fines, civil penalties, or administrative sanctions as otherwise authorized by law; nor shall this section affect the attorney general's authority to enforce the consumer protection act, chapter 19.86 RCW.

(9) As used in this section:

(a) "Small business" means a business with two hundred fifty or fewer employees or a gross revenue of less than seven million dollars annually as

reported on its most recent federal income tax return or its most recent return filed with the department of revenue.

(b) "Paperwork violation" means the violation of any statutory or regulatory requirement that mandates the collection of information by an agency, or the collection, posting, or retention of information by a small business. This includes but is not limited to requirements in the Revised Code of Washington, the Washington Administrative Code, the Washington State Register, or any other agency directive.

(c) "First-time paperwork violation" means the first instance of a particular or substantially similar paperwork violation.

Passed by the House March 6, 2010.

Passed by the Senate March 4, 2010.

Approved by the Governor March 24, 2010.

Filed in Office of Secretary of State March 24, 2010.

CHAPTER 195

[Substitute House Bill 2651]

PORT DISTRICT AUTHORITY—JOB TRAINING AND PLACEMENT

AN ACT Relating to the authority of port districts to participate in activities related to job training and placement; and amending RCW 53.08.245.

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

Sec. 1. RCW 53.08.245 and 1985 c 125 s 1 are each amended to read as follows:

(1) It shall be in the public purpose for all port districts to engage in economic development programs. In addition, port districts may contract with nonprofit corporations in furtherance of this and other acts relating to economic development.

(2)(a) Economic development programs may include those programs for job training and placement, preapprenticeship training or educational programs associated with port tenants, customers, and local economic development related to port activities that are sponsored by a port, operated by a nonprofit entity and are in existence on the effective date of this section.

(b) As a contract condition, a sponsoring port must require any nonprofit entity that operates programs such as those described in (a) of this subsection to submit annually quantitative information on program outcomes including: The number of workers trained, recruited, and placed in jobs; the types of jobs and range of compensation; the number and types of businesses that are served; and any other tangible benefits realized by the port, the workers, businesses, and the public.

Passed by the House February 10, 2010.

Passed by the Senate March 2, 2010.

Approved by the Governor March 24, 2010.

Filed in Office of Secretary of State March 24, 2010.

CHAPTER 196

[Substitute House Bill 2657]

LIMITED LIABILITY COMPANIES—DISSOLUTION

AN ACT Relating to the dissolution of limited liability companies; amending RCW 25.15.005, 25.15.070, 25.15.085, 25.15.095, 25.15.270, 25.15.290, 25.15.293, 25.15.295, 25.15.303, 25.15.340, and 25.15.805; adding new sections to chapter 25.15 RCW; and repealing RCW 25.15.080.

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

Sec. 1. RCW 25.15.005 and 2008 c 198 s 4 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Certificate of formation" means the certificate referred to in RCW 25.15.070, and the certificate as amended.

(2) "Event of dissociation" means an event that causes a person to cease to be a member as provided in RCW 25.15.130.

(3) "Foreign limited liability company" means an entity that is formed under:

(a) The limited liability company laws of any state other than this state; or

(b) The laws of any foreign country that is: (i) An unincorporated association, (ii) formed under a statute pursuant to which an association may be formed that affords to each of its members limited liability with respect to the liabilities of the entity, and (iii) not required, in order to transact business or conduct affairs in this state, to be registered or qualified under Title 23B or 24 RCW, or any other chapter of the Revised Code of Washington authorizing the formation of a domestic entity and the registration or qualification in this state of similar entities formed under the laws of a jurisdiction other than this state.

(4) "Limited liability company" and "domestic limited liability company" means a limited liability company having one or more members that is organized and existing under this chapter.

(5) "Limited liability company agreement" means any written agreement of the members, or any written statement of the sole member, as to the affairs of a limited liability company and the conduct of its business which is binding upon the member or members.

(6) "Limited liability company interest" means a member's share of the profits and losses of a limited liability company and a member's right to receive distributions of the limited liability company's assets.

(7) "Manager" or "managers" means, with respect to a limited liability company that has set forth in its certificate of formation that it is to be managed by managers, the person, or persons designated in accordance with RCW 25.15.150(2).

(8) "Member" means a person who has been admitted to a limited liability company as a member as provided in RCW 25.15.115 and who has not been dissociated from the limited liability company.

(9) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government, governmental subdivision, agency, or instrumentality, or a separate legal entity comprised of two or more of these entities, or any other legal or commercial entity.

(10) "Professional limited liability company" means a limited liability company which is organized for the purpose of rendering professional service and whose certificate of formation sets forth that it is a professional limited liability company subject to RCW 25.15.045.

(11) "Professional service" means the same as defined under RCW 18.100.030.

(12) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(13) "State" means the District of Columbia or the Commonwealth of Puerto Rico or any state, territory, possession, or other jurisdiction of the United States other than the state of Washington.

Sec. 2. RCW 25.15.070 and 1994 c 211 s 201 are each amended to read as follows:

(1) In order to form a limited liability company, one or more persons must execute a certificate of formation. The certificate of formation shall be filed in the office of the secretary of state and set forth:

- (a) The name of the limited liability company;
- (b) The address of the registered office and the name and address of the registered agent for service of process required to be maintained by RCW 25.15.020;
- (c) The address of the principal place of business of the limited liability company;
- (d) If the limited liability company is to have a specific date of dissolution, the latest date on which the limited liability company is to dissolve;
- (e) If management of the limited liability company is vested in a manager or managers, a statement to that effect;
- (f) Any other matters the members decide to include therein; and
- (g) The name and address of each person executing the certificate of formation.

(2) Effect of filing:

(a) Unless a delayed effective date is specified, a limited liability company is formed when its certificate of formation is filed by the secretary of state. A delayed effective date for a certificate of formation may be no later than the ninetieth day after the date it is filed.

(b) The secretary of state's filing of the certificate of formation is conclusive proof that the persons executing the certificate satisfied all conditions precedent to the formation (~~except in a proceeding by the state to cancel the certificate~~).

(c) A limited liability company formed under this chapter shall be a separate legal entity (~~(, the existence of which as a separate legal entity shall continue until cancellation of the limited liability company's certificate of formation)~~).

Sec. 3. RCW 25.15.085 and 2002 c 74 s 17 are each amended to read as follows:

(1) Each document required by this chapter to be filed in the office of the secretary of state shall be executed in the following manner, or in compliance with the rules established to facilitate electronic filing under RCW 25.15.007, except as set forth in RCW 25.15.105(4)(b):

- (a) Each original certificate of formation must be signed by the person or persons forming the limited liability company;
 - (b) A reservation of name may be signed by any person;
 - (c) A transfer of reservation of name must be signed by, or on behalf of, the applicant for the reserved name;
 - (d) A registration of name must be signed by any member or manager of the foreign limited liability company;
 - (e) A certificate of amendment or restatement must be signed by at least one manager, or by a member if management of the limited liability company is reserved to the members;
 - (f) A certificate of ~~((cancellation))~~ dissolution must be signed by the person or persons authorized to wind up the limited liability company's affairs pursuant to RCW 25.15.295~~((4))~~ (3);
 - (g) If a surviving domestic limited liability company is filing articles of merger, the articles of merger must be signed by at least one manager, or by a member if management of the limited liability company is reserved to the members, or if the articles of merger are being filed by a surviving foreign limited liability company, limited partnership, or corporation, the articles of merger must be signed by a person authorized by such foreign limited liability company, limited partnership, or corporation; and
 - (h) A foreign limited liability company's application for registration as a foreign limited liability company doing business within the state must be signed by any member or manager of the foreign limited liability company.
- (2) Any person may sign a certificate, articles of merger, limited liability company agreement, or other document by an attorney-in-fact or other person acting in a valid representative capacity, so long as each document signed in such manner identifies the capacity in which the signator signed.
- (3) The person executing the document shall sign it and state beneath or opposite the signature the name of the person and capacity in which the person signs. The document must be typewritten or printed, and must meet such legibility or other standards as may be prescribed by the secretary of state.
- (4) The execution of a certificate or articles of merger by any person constitutes an affirmation under the penalties of perjury that the facts stated therein are true.

Sec. 4. RCW 25.15.095 and 2002 c 74 s 18 are each amended to read as follows:

- (1) The original signed copy, together with a duplicate copy that may be either a signed, photocopied, or conformed copy, of the certificate of formation or any other document required to be filed pursuant to this chapter, except as set forth under RCW 25.15.105 or unless a duplicate is not required under rules adopted under RCW 25.15.007, shall be delivered to the secretary of state. If the secretary of state determines that the documents conform to the filing provisions of this chapter, he or she shall, when all required filing fees have been paid:
- (a) Endorse on each signed original and duplicate copy the word "filed" and the date of its acceptance for filing;
 - (b) Retain the signed original in the secretary of state's files; and
 - (c) Return the duplicate copy to the person who filed it or the person's representative.

(2) If the secretary of state is unable to make the determination required for filing by subsection (1) of this section at the time any documents are delivered for filing, the documents are deemed to have been filed at the time of delivery if the secretary of state subsequently determines that:

(a) The documents as delivered conform to the filing provisions of this chapter; or

(b) Within twenty days after notification of nonconformance is given by the secretary of state to the person who delivered the documents for filing or the person's representative, the documents are brought into conformance.

(3) If the filing and determination requirements of this chapter are not satisfied completely within the time prescribed in subsection (2)(b) of this section, the documents shall not be filed.

(4) Upon the filing of a certificate of amendment (or judicial decree of amendment) or restated certificate in the office of the secretary of state, or upon the future effective date or time of a certificate of amendment (or judicial decree thereof) or restated certificate, as provided for therein, the certificate of formation shall be amended or restated as set forth therein. ~~((Upon the filing of a certificate of cancellation (or a judicial decree thereof), or articles of merger which act as a certificate of cancellation, or upon the future effective date or time of a certificate of cancellation (or a judicial decree thereof) or of articles of merger which act as a certificate of cancellation, as provided for therein, or as specified in RCW 25.15.290, the certificate of formation is canceled.))~~

Sec. 5. RCW 25.15.270 and 2009 c 437 s 1 are each amended to read as follows:

A limited liability company is dissolved and its affairs shall be wound up upon the first to occur of the following:

(1)(a) The dissolution date, if any, specified in the certificate of formation. If a dissolution date is not specified in the certificate of formation, the limited liability company's existence will continue until the first to occur of the events described in subsections (2) through (6) of this section. If a dissolution date is specified in the certificate of formation, the certificate of formation may be amended and the existence of the limited liability company may be extended by vote of all the members.

(b) This subsection does not apply to a limited liability company formed under RCW 30.08.025 or 32.08.025;

(2) The happening of events specified in a limited liability company agreement;

(3) The written consent of all members;

(4) Unless the limited liability company agreement provides otherwise, ninety days following an event of dissociation of the last remaining member, unless those having the rights of assignees in the limited liability company under RCW 25.15.130(1) have, by the ninetieth day, voted to admit one or more members, voting as though they were members, and in the manner set forth in RCW 25.15.120(1);

(5) The entry of a decree of judicial dissolution under RCW 25.15.275; or

(6) The ~~((expiration of five years after the effective date of dissolution under RCW 25.15.285 without the reinstatement))~~ administrative dissolution of the limited liability company by the secretary of state under RCW 25.15.285(2).

unless the limited liability company is reinstated by the secretary of state under RCW 25.15.290.

NEW SECTION. Sec. 6. A new section is added to chapter 25.15 RCW to read as follows:

(1) After dissolution occurs under RCW 25.15.270, the limited liability company may deliver to the secretary of state for filing a certificate of dissolution signed in accordance with RCW 25.15.085.

(2) A certificate of dissolution filed under subsection (1) of this section must set forth:

(a) The name of the limited liability company; and

(b) A statement that the limited liability company is dissolved under RCW 25.15.270.

Sec. 7. RCW 25.15.290 and 2009 c 437 s 2 are each amended to read as follows:

(1) A limited liability company that has been administratively dissolved under RCW 25.15.285 may apply to the secretary of state for reinstatement within five years after the effective date of dissolution. The application must be delivered to the secretary of state for filing and state:

(a) ~~((Recite))~~ The name of the limited liability company and the effective date of its administrative dissolution;

(b) ~~((State))~~ That the ground or grounds for dissolution either did not exist or have been eliminated; and

(c) ~~((State))~~ That the limited liability company's name satisfies the requirements of RCW 25.15.010.

(2) If the secretary of state determines that ~~((the))~~ an application contains the information required by subsection (1) of this section and that the name is available, the secretary of state shall reinstate the limited liability company and give the limited liability company written notice, as provided in RCW 25.15.285(1), of the reinstatement that recites the effective date of reinstatement. If the name is not available, the limited liability company must file with its application for reinstatement an amendment to its certificate of formation reflecting a change of name.

(3) When ~~((the))~~ reinstatement ~~((is))~~ becomes effective, it relates back to and takes effect as of the effective date of the administrative dissolution and the limited liability company may resume carrying on its ~~((business))~~ activities as if the administrative dissolution had never occurred.

~~((4) If an application for reinstatement is not made within the five-year period set forth in subsection (1) of this section, or if the application made within this period is not granted, the limited liability company's certificate of formation is deemed canceled.))~~

Sec. 8. RCW 25.15.293 and 2009 c 437 s 3 are each amended to read as follows:

(1) A limited liability company ~~((voluntarily))~~ dissolved under RCW 25.15.270 (2) or (3) that has filed a certificate of dissolution under section 6 of this act may ((apply to the secretary of state for reinstatement)) revoke its dissolution within one hundred twenty days ((after the effective date)) of filing its certificate of dissolution. ((The application must:

~~(a) Recite the name of the limited liability company and the effective date of its voluntary dissolution;~~

~~(b) State that the ground or grounds for voluntary dissolution have been eliminated; and~~

~~(c) State that the limited liability company's name satisfies the requirements of RCW 25.15.010.~~

~~(2) If the secretary of state determines that the application contains the information required by subsection (1) of this section and that the name is available, the secretary of state shall reinstate the limited liability company and give the limited liability company written notice of the reinstatement that recites the effective date of reinstatement. If the name is not available, the limited liability company must file with its application for reinstatement an amendment to its certificate of formation reflecting a change of name.~~

~~(3) When the reinstatement is effective, it relates back to and takes effect as of the effective date of the voluntary dissolution and the limited liability company may resume carrying on its business as if the voluntary dissolution had never occurred.~~

~~(4) If an application for reinstatement is not made within the one hundred twenty-day period set forth in subsection (1) of this section, or if the application made within this period is not granted, the secretary of state shall cancel the limited liability company's certificate of formation.)~~

(2)(a) Except as provided in (b) of this subsection, revocation of dissolution must be approved in the same manner as the dissolution was approved unless that approval permitted revocation in some other manner, in which event the dissolution may be revoked in the manner permitted.

(b) If dissolution occurred upon the happening of events specified in the limited liability company agreement, revocation of dissolution must be approved in the manner necessary to amend the provisions of the limited liability company agreement specifying the events of dissolution.

(3) After the revocation of dissolution is approved, the limited liability company may revoke the dissolution and the certificate of dissolution by delivering to the secretary of state for filing a certificate of revocation of dissolution that sets forth:

(a) The name of the limited liability company and a statement that the name satisfies the requirements of RCW 25.15.010; if the name is not available, the limited liability company must file a certificate of amendment changing its name with the certificate of revocation of dissolution;

(b) The effective date of the dissolution that was revoked;

(c) The date that the revocation of dissolution was approved;

(d) If the limited liability company's managers revoked the dissolution, a statement to that effect;

(e) If the limited liability company's managers revoked a dissolution approved by the company's members, a statement that revocation was permitted by action by the managers alone pursuant to that approval; and

(f) If member approval was required to revoke the dissolution, a statement that revocation of the dissolution was duly approved by the members in accordance with subsection (2) of this section.

(4) Revocation of dissolution and revocation of the certificate of dissolution are effective upon the filing of the certificate of revocation of dissolution.

(5) When the revocation of dissolution and revocation of the certificate of dissolution are effective, they relate back to and take effect as of the effective date of the dissolution and the limited liability company resumes carrying on its activities as if the dissolution had never occurred.

Sec. 9. RCW 25.15.295 and 1994 c 211 s 806 are each amended to read as follows:

~~((1) Unless otherwise provided in a limited liability company agreement, a manager who has not wrongfully dissolved a limited liability company or, if none, the members or a person approved by the members or, if there is more than one class or group of members, then by each class or group of members, in either case, by members contributing, or required to contribute, more than fifty percent of the agreed value (as stated in the records of the limited liability company required to be kept pursuant to RCW 25.15.135) of the contributions made, or required to be made, by all members, or by the members in each class or group, as appropriate, may wind up the limited liability company's affairs. The superior courts, upon cause shown, may wind up the limited liability company's affairs upon application of any member or manager, his or her legal representative or assignee, and in connection therewith, may appoint a receiver.~~

~~(2) Upon dissolution of a limited liability company and until the filing of a certificate of cancellation as provided in RCW 25.15.080, the persons winding up the limited liability company's affairs may, in the name of, and for and on behalf of, the limited liability company, prosecute and defend suits, whether civil, criminal, or administrative, gradually settle and close the limited liability company's business, dispose of and convey the limited liability company's property, discharge or make reasonable provision for the limited liability company's liabilities, and distribute to the members any remaining assets of the limited liability company.)~~

(1) A limited liability company continues after dissolution only for the purpose of winding up its activities.

(2) In winding up its activities, the limited liability company:

(a) May file a certificate of dissolution with the secretary of state to provide notice that the limited liability company is dissolved, preserve the limited liability company's business or property as a going concern for a reasonable time, prosecute and defend actions and proceedings, whether civil, criminal, or administrative, transfer the limited liability company's property, settle disputes, and perform other necessary acts; and

(b) Shall discharge the limited liability company's liabilities, settle and close the limited liability company's activities, and marshal and distribute the assets of the company.

(3) Unless otherwise provided in a limited liability company agreement, the persons responsible for managing the business and affairs of a limited liability company under RCW 25.15.150 are responsible for winding up the activities of a dissolved limited liability company. If a dissolved limited liability company does not have any managers or members, the legal representative of the last person to have been a member may wind up the activities of the dissolved limited liability company, in which event the legal representative is a manager for the purposes of RCW 25.15.155.

(4) If the persons responsible for winding up the activities of a dissolved limited liability company under subsection (3) of this section decline or fail to

wind up the limited liability company's activities, a person to wind up the dissolved limited liability company's activities may be appointed by the consent of the transferees owning a majority of the rights to receive distributions as transferees at the time consent is to be effective. A person appointed under this subsection:

(a) Is a manager for the purposes of RCW 25.15.155; and

(b) Shall promptly amend the certificate of formation to state:

(i) The name of the person who has been appointed to wind up the limited liability company; and

(ii) The street and mailing address of the person.

(5) The superior court may order judicial supervision of the winding up, including the appointment of a person to wind up the dissolved limited liability company's activities, if:

(a) On application of a member, the applicant establishes good cause; or

(b) On application of a transferee, a limited liability company does not have any managers or members and within a reasonable time following the dissolution no person has been appointed pursuant to subsection (3) or (4) of this section.

NEW SECTION. Sec. 10. A new section is added to chapter 25.15 RCW to read as follows:

(1) A dissolved limited liability company that has filed a certificate of dissolution with the secretary of state may dispose of the known claims against it by following the procedure described in subsection (2) of this section.

(2) A dissolved limited liability company may notify its known claimants of the dissolution in a record. The notice must:

(a) Specify the information required to be included in a known claim;

(b) Provide a mailing address to which the known claim must be sent;

(c) State the deadline for receipt of the known claim, which may not be fewer than one hundred twenty days after the date the notice is received by the claimant; and

(d) State that the known claim will be barred if not received by the deadline.

(3) A known claim against a dissolved limited liability company is barred if the requirements of subsection (2) of this section are met and:

(a) The known claim is not received by the specified deadline; or

(b) In the case of a known claim that is timely received but rejected by the dissolved limited liability company, the claimant does not commence an action to enforce the known claim against the limited liability company within ninety days after the receipt of the notice of rejection.

(4) For purposes of this section, "known claim" means any claim or liability that either:

(a)(i) Has matured sufficiently, before or after the effective date of the dissolution, to be legally capable of assertion against the dissolved limited liability company, whether or not the amount of the claim or liability is known or determinable; or (ii) is unmatured, conditional, or otherwise contingent but may subsequently arise under any executory contract to which the dissolved limited liability company is a party, other than under an implied or statutory warranty as to any product manufactured, sold, distributed, or handled by the dissolved limited liability company; and

(b) As to which the dissolved limited liability company has knowledge of the identity and the mailing address of the holder of the claim or liability and, in the case of a matured and legally assertable claim or liability, actual knowledge of existing facts that either (i) could be asserted to give rise to, or (ii) indicate an intention by the holder to assert, such a matured claim or liability.

Sec. 11. RCW 25.15.303 and 2006 c 325 s 1 are each amended to read as follows:

Except as provided in section 10 of this act, the dissolution of a limited liability company does not take away or impair any remedy available to or against that limited liability company, its managers, or its members for any right or claim existing, or any liability incurred at any time, whether prior to or after dissolution, unless the limited liability company has filed a certificate of dissolution under section 6 of this act, that has not been revoked under RCW 25.15.293, and an action or other proceeding thereon is not commenced within three years after the ((effective date)) filing of the certificate of dissolution. Such an action or proceeding by or against the limited liability company may be prosecuted or defended by the limited liability company in its own name.

Sec. 12. RCW 25.15.340 and 1994 c 211 s 907 are each amended to read as follows:

(1) A foreign limited liability company doing business in this state may not maintain any action, suit, or proceeding in this state until it has registered in this state, and has paid to this state all fees and penalties for the years or parts thereof, during which it did business in this state without having registered.

(2) Neither the failure of a foreign limited liability company to register in this state ((does not impair)) nor the issuance of a certificate of cancellation with respect to a foreign limited liability company's registration in this state impairs:

(a) The validity of any contract or act of the foreign limited liability company;

(b) The right of any other party to the contract to maintain any action, suit, or proceeding on the contract; or

(c) ~~((Prevent))~~ The foreign limited liability company from defending any action, suit, or proceeding in any court of this state.

(3) A member or a manager of a foreign limited liability company is not liable for the obligations of the foreign limited liability company solely by reason of the limited liability company's having done business in this state without registration.

Sec. 13. RCW 25.15.805 and 1994 c 211 s 1302 are each amended to read as follows:

(1) The secretary of state shall adopt rules establishing fees which shall be charged and collected for:

(a) Filing of a certificate of formation for a domestic limited liability company or an application for registration of a foreign limited liability company;

(b) Filing of a certificate of ~~((cancellation))~~ dissolution for a domestic ~~((or foreign))~~ limited liability company;

(c) Filing a certificate of cancellation for a foreign limited liability company;

~~((d))~~ Filing of a certificate of amendment or restatement for a domestic or foreign limited liability company;

~~((d))~~ (e) Filing an application to reserve, register, or transfer a limited liability company name;

~~((e))~~ (f) Filing any other certificate, statement, or report authorized or permitted to be filed;

~~((f))~~ (g) Copies, certified copies, certificates, service of process filings, and expedited filings or other special services.

(2) In the establishment of a fee schedule, the secretary of state shall, insofar as is possible and reasonable, be guided by the fee schedule provided for corporations governed by Title 23B RCW. Fees for copies, certified copies, certificates of record, and service of process filings shall be as provided for in RCW 23B.01.220.

(3) All fees collected by the secretary of state shall be deposited with the state treasurer pursuant to law.

NEW SECTION. Sec. 14. RCW 25.15.080 (Cancellation of certificate) and 1994 c 211 s 203 are each repealed.

Passed by the House March 6, 2010.

Passed by the Senate March 2, 2010.

Approved by the Governor March 24, 2010.

Filed in Office of Secretary of State March 24, 2010.

CHAPTER 197

[House Bill 2659]

TIMBER PURCHASES—REPORTING REQUIREMENTS

AN ACT Relating to modifying reporting requirements for timber purchases; amending RCW 84.33.088; and providing an expiration date.

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

Sec. 1. RCW 84.33.088 and 2007 c 47 s 1 are each amended to read as follows:

(1) A purchaser of privately owned timber in an amount in excess of two hundred thousand board feet in a voluntary sale made in the ordinary course of business shall, on or before the last day of the month following the purchase of the timber, report the particulars of the purchase to the department as required in subsection (2) of this section.

(2) The report required in subsection (1) of this section must contain all information relevant to the value of the timber purchased including, but not limited to, the following, as applicable: Purchaser's name ~~((and))~~, address, and contact information; seller's name, address, and contact information; sale date~~((;))~~; termination date in sale agreement~~((;))~~; total sale price~~((;))~~; legal description of sale area, sale name if applicable; forest practice application/ harvest permit number if available; total acreage involved in the sale~~((;))~~; estimated net volume of timber purchased~~((; legal description of the area involved in the sale;))~~ by tree species and log grade; and description and value of property improvements. For the purposes of this subsection property improvements may include, but are not limited to: Road construction or road improvements ~~((required or completed, timber cruise data, and timber thinning data)), reforestation, land clearing, stock piling of rock, or any other agreed upon property improvement.~~ A report may be submitted in any reasonable form or, at

the purchaser's option, by submitting relevant excerpts of the timber sales contract. A purchaser may comply by submitting the information in the following form:

Purchaser's name, address, and contact information:

~~((Purchaser's))~~ Seller's name, address, and contact information:

Sale date:

Termination date:

Total sale price:

Legal description of sale area:

Sale name (if applicable):

Forest practice application/Harvest permit
number (if available):

Total acreage involved:

Estimated net volume of timber purchased by tree species
and log grade:

~~((Legal description of sale area:~~))

Description and value of property improvements, such as road construction or
road improvements, reforestation, land clearing, stock piling of rock, or any
other agreed upon property improvement:

~~((Timber cruise data:~~))

~~((Timber thinning data:~~))

(3) A purchaser of privately owned timber involved in a purchase described in subsection (1) of this section, who fails to report a purchase as required, may be liable for a penalty of two hundred fifty dollars for each failure to report, as determined by the department.

(4) Privately purchased timber reports are confidential taxpayer information under RCW 82.32.330.

~~(5)~~ This section expires July 1, ~~((2010))~~ 2014.

Passed by the House February 13, 2010.

Passed by the Senate March 5, 2010.

Approved by the Governor March 24, 2010.

Filed in Office of Secretary of State March 24, 2010.

CHAPTER 198

[House Bill 2748]

PUBLIC PORTS ASSOCIATION—MEMBERSHIP DUES

AN ACT Relating to dues for an association established under RCW 53.06.030; and amending RCW 53.06.040.

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

Sec. 1. RCW 53.06.040 and 1973 1st ex.s. c 195 s 55 are each amended to read as follows:

Each port district which designates the Washington public ports association as the agency through which the duties imposed by RCW 53.06.020 may be executed is authorized to pay dues and/or assessments to said association from port district funds in any calendar year ~~((in an amount not exceeding a sum equal~~

~~to the amount which would be raised by a levy of one cent per thousand dollars of assessed value against the taxable property within the port district)).~~

Passed by the House February 11, 2010.

Passed by the Senate March 5, 2010.

Approved by the Governor March 24, 2010.

Filed in Office of Secretary of State March 24, 2010.

CHAPTER 199

[Engrossed Substitute House Bill 2925]

MUNICIPALLY OWNED HYDROELECTRIC FACILITIES—IMPACT PAYMENTS

AN ACT Relating to impact payments of a municipally owned hydroelectric facility; amending RCW 35.21.420 and 35.21.425; and declaring an emergency.

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

Sec. 1. RCW 35.21.420 and 1965 c 7 s 35.21.420 are each amended to read as follows:

(1) Any city owning and operating a public utility and having facilities for the generation of electricity located in a county other than that in which the city is located, may provide for the public peace, health, safety and welfare of such county as concerns the facilities and the personnel employed in connection therewith, by contributing to the support of the county government of any such county and enter into contracts with any such county therefor.

(2)(a) Any city with a population greater than five hundred thousand people owning and operating a public utility and having facilities for the generation of electricity located in a county other than that in which the city is located, must provide for the impacts of lost revenue and the public peace, health, safety, and welfare of such county as concerns the facilities and the personnel employed in connection therewith, by contributing to the support of the county, city, or town government and school district of any such county and enter into contracts with any such county therefor as specified in RCW 35.21.425.

(b)(i) In the event a contract entered into under this section between a county and the governing body of a city with a population greater than five hundred thousand people authorized or required under this section expires prior to the adoption of a new contract between the parties, the city must continue to make compensatory payments calculated based on the payment terms set forth in the most recent expired compensation contract between the city and the county until such time as a new contract is entered into by the parties.

(ii) In the event a contract entered into under this section between a county and the governing body of a city with a population greater than five hundred thousand people expired prior to the effective date of this act, the city shall be indebted to the county for any resulting arrearage accruing from the time of the expiration of the contract until such time as a new contract is entered into by the parties. The dollar amount of such arrearage shall be calculated retroactively by reference to the payment terms set forth in the most recent expired compensation contract between the city and the county.

(c) In the event a contract entered into under this section between a county and the governing body of a city with a population greater than five hundred thousand people expires, or has expired prior to the effective date of this section

and the county and the city are unable to reach agreement on a new contract within six months of such expiration, then either the county or the city may initiate the arbitration procedures set forth in RCW 35.21.426 by serving a written notice of intent to arbitrate on the other. Arbitration must commence within sixty days of service of such notice, and must follow the arbitration procedures as provided in RCW 35.21.426. The city is responsible for the costs of arbitration, including compensation for the arbitrators' services, except that the city and the county shall bear their own costs for attorneys' fees and their own costs of litigation.

Sec. 2. RCW 35.21.425 and 1965 c 7 s 35.21.425 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, whenever after March 17, 1955, any city shall construct hydroelectric generating facilities or acquire land for the purpose of constructing the same in a county other than the county in which such city is located, and by reason of such construction or acquisition shall (1) cause loss of revenue and/or place a financial burden in providing for the public peace, health, safety, welfare, and added road maintenance in such county, in addition to road construction or relocation as set forth in RCW 90.28.010 and/or (2) shall cause any loss of revenues and/or increase the financial burden of any school district affected by the construction because of an increase in the number of pupils by reason of the construction or the operation of said generating facilities, the city shall enter into an agreement with said county and/or the particular school district or districts affected for the payment of moneys to recompense such losses or to provide for such increased financial burden, upon such terms and conditions as may be mutually agreeable to the city and the county and/or school district or districts.

(2)(a) Whenever after March 17, 1955, a municipal owned utility located in a city with a population greater than five hundred thousand people constructs or operates hydroelectric generating facilities or acquires land for the purpose of constructing or operating the same in a county other than the county in which the city is located must enter into an agreement with the county affected for the annual payment of moneys to recompense such losses, as provided under subsection (1) of this section.

(b)(i) In the event an agreement entered into under this section between a county and the governing body of either a city with a population greater than five hundred thousand people or a municipal utility owned by a city with a population greater than five hundred thousand people expires prior to the adoption of a new agreement between the parties, the city or utility must continue to make compensatory payments calculated based on the payment terms set forth in the most recent expired compensation contract between the city and the county until such time as a new agreement is entered into by the parties.

(ii) In the event an agreement entered into under this section between a county and the governing body of either a city with a population greater than five hundred thousand people or a municipal utility owned by a city with a population greater than five hundred thousand people expired prior to the effective date of this act, the city shall be indebted to the county for any resulting arrearage accruing from the time of the expiration of the agreement until such time as a new agreement is entered into by the parties. The dollar amount of

such arrearage shall be calculated retroactively by reference to the payment terms set forth in the most recent expired compensation agreement between the city and the county.

(c) In the event an agreement entered into under this section between a county and the governing body of either a city with a population greater than five hundred thousand people or a municipal utility owned by a city with a population greater than five hundred thousand people expires, or has expired prior to the effective date of this section, and the county and the city are unable to reach agreement on a new agreement within six months of such expiration, then either the county or the city may initiate the arbitration procedures set forth in RCW 35.21.426 by serving a written notice of intent to arbitrate on the other. Arbitration must commence within sixty days of service of such notice, and must follow the arbitration procedures as provided in RCW 35.21.426. The city is responsible for the costs of arbitration, including compensation for the arbitrators' services, and the city and the county shall bear their own costs for attorneys' fees and their own costs of litigation.

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

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

Passed by the House March 9, 2010.

Passed by the Senate March 5, 2010.

Approved by the Governor March 24, 2010, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State March 24, 2010.

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

"I am returning herewith, without my approval as to Section 3, Engrossed Substitute House Bill 2925 entitled:

"AN ACT Relating to impact payments of a municipally owned hydroelectric facility."

The bill requires large cities that own a hydroelectric facility in another county to continue to make financial compensation payments to the county in the event an existing compensation agreement between the city and county expires. There is no emergent need for the bill to become effective immediately, and therefore the emergency clause in Section 3 of this bill is unnecessary.

For this reason I have vetoed Section 3 of Engrossed Substitute House Bill 2925.

With the exception of Section 3 of Engrossed Substitute House Bill 2925 is approved."

CHAPTER 200

[Substitute House Bill 2962]

COUNTY TREASURERS—ELECTRONIC BILL PRESENTMENT

AN ACT Relating to allowing county treasurers to use electronic bill presentment and payment that includes an automatic electronic payment option for property taxes; and amending RCW 84.56.020.

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

Sec. 1. RCW 84.56.020 and 2008 c 181 s 510 are each amended to read as follows:

(1) The county treasurer (~~shall~~) must be the receiver and collector of all taxes extended upon the tax rolls of the county, whether levied for state, county, school, bridge, road, municipal or other purposes, and also of all fines, forfeitures or penalties received by any person or officer for the use of his or her county. No treasurer (~~shall~~) may accept tax payments or issue receipts for the same until the treasurer has completed the tax roll for the current year's collection and provided notification of the completion of the roll. Notification may be accomplished electronically, by posting a notice in the office, or through other written communication as determined by the treasurer. All taxes upon real and personal property made payable by the provisions of this title (~~shall be~~) are due and payable to the treasurer on or before the thirtieth day of April and, except as provided in this section, shall be delinquent after that date.

(2) Each tax statement (~~shall~~) must include a notice that checks for payment of taxes may be made payable to "Treasurer of County" or other appropriate office, but tax statements (~~shall~~) may not include any suggestion that checks may be made payable to the name of the individual holding the office of treasurer nor any other individual.

(3) When the total amount of tax or special assessments on personal property or on any lot, block or tract of real property payable by one person is fifty dollars or more, and if one-half of such tax be paid on or before the thirtieth day of April, the remainder of such tax (~~shall be~~) is due and payable on or before the thirty-first day of October following and shall be delinquent after that date.

(4) When the total amount of tax or special assessments on any lot, block or tract of real property or on any mobile home payable by one person is fifty dollars or more, and if one-half of such tax be paid after the thirtieth day of April but before the thirty-first day of October, together with the applicable interest and penalty on the full amount of tax payable for that year, the remainder of such tax (~~shall be~~) is due and payable on or before the thirty-first day of October following and (~~shall be~~) is delinquent after that date.

(5) Delinquent taxes under this section are subject to interest at the rate of twelve percent per annum computed on a monthly basis on the full year amount of tax unpaid from the date of delinquency until paid. Interest (~~shall~~) must be calculated at the rate in effect at the time of payment of the tax, regardless of when the taxes were first delinquent. In addition, delinquent taxes under this section are subject to penalties as follows:

(a) A penalty of three percent of the full year amount of tax unpaid (~~shall be~~) is assessed on the tax delinquent on June 1st of the year in which the tax is due.

(b) An additional penalty of eight percent (~~shall be~~) is assessed on the amount of tax delinquent on December 1st of the year in which the tax is due.

(6) Subsection (5) of this section notwithstanding, no interest or penalties may be assessed during any period of armed conflict on delinquent taxes imposed on the personal residences owned by active duty military personnel who are participating as part of one of the branches of the military involved in the conflict and assigned to a duty station outside the territorial boundaries of the United States.

(7) During a state of emergency declared under RCW 43.06.010(12), the county treasurer, on his or her own motion or at the request of any taxpayer

affected by the emergency, may grant extensions of the due date of any taxes payable under this section as the treasurer deems proper.

(8) For purposes of this chapter, "interest" means both interest and penalties.

(9) All collections of interest on delinquent taxes (~~shall~~) must be credited to the county current expense fund; but the cost of foreclosure and sale of real property, and the fees and costs of distraint and sale of personal property, for delinquent taxes, (~~shall~~) must, when collected, be credited to the operation and maintenance fund of the county treasurer prosecuting the foreclosure or distraint or sale; and (~~shall~~) must be used by the county treasurer as a revolving fund to defray the cost of further foreclosure, distraint and sale for delinquent taxes without regard to budget limitations.

(10)(a) For purposes of this chapter, and in accordance with this section and RCW 36.29.190, the treasurer may collect taxes, assessments, fees, rates, and charges by electronic bill presentment and payment. Electronic bill presentment and payment may be utilized as an option by the taxpayer, but the treasurer may not require the use of electronic bill presentment and payment. Electronic bill presentment and payment may be on a monthly or other periodic basis as the treasurer deems proper for prepayments. All prepayments must be paid in full by the due date specified in (c) of this subsection.

(b) The treasurer must provide, by electronic means, a payment agreement that may include prepayment collection charges. The payment agreement must be signed by the taxpayer and treasurer prior to the sending of an electronic bill.

(c) All taxes upon real and personal property made payable by the provisions of this title are due and payable to the treasurer on or before the thirtieth day of April and are delinquent after that date. The remainder of the tax is due and payable on or before the thirty-first day of October following and is delinquent after that date. All other assessments, fees, rates, and charges are delinquent after the due date.

(d) The treasurer must pay any collection costs, investment earnings, or both on prepayments to the credit of a county treasurer service fund account to be created and used only for the payment of expenses incurred by the treasurer, without limitation, in administering the system for collecting prepayments.

(11) For purposes of this section, the following definitions apply:

(a) "Electronic bill presentment and payment" means statements, invoices, or bills that are created, delivered, and paid using the internet. The term includes an automatic electronic payment from a person's checking account, debit account, or credit card.

(b) "Internet" has the same meaning as provided in RCW 19.270.010.

Passed by the House February 15, 2010.

Passed by the Senate March 3, 2010.

Approved by the Governor March 24, 2010.

Filed in Office of Secretary of State March 24, 2010.

CHAPTER 201

[House Bill 3030]

IRRIGATION DISTRICTS—ADMINISTRATION

AN ACT Relating to the administration of irrigation districts; and amending RCW 87.03.001, 87.03.436, and 87.03.443.

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

Sec. 1. RCW 87.03.001 and 1989 c 84 s 66 are each amended to read as follows:

The formation of an irrigation district may be subject to potential review by a boundary review board under chapter 36.93 RCW. The alteration of the boundaries of an irrigation district, including but not limited to a consolidation, addition of lands, exclusion of lands, or merger, may be subject to potential review by a boundary review board under chapter 36.93 RCW, except that additions or exclusions of land to an irrigation district, when those lands are within the boundary of a federal reclamation project, are not subject to review by a boundary review board under chapter 36.93 RCW.

Sec. 2. RCW 87.03.436 and 1990 c 39 s 2 are each amended to read as follows:

All contract projects, the estimated cost of which is less than ~~((one))~~ three hundred thousand dollars, may be awarded ~~((to a contractor on))~~ using the small works roster ~~((The small works roster shall be comprised of all responsible contractors who have requested to be on the list. The board of directors shall authorize by resolution a procedure for securing telephone and/or written quotations from the contractors on the small works roster to assure establishment of a competitive price and for awarding contracts to the lowest responsible bidder. Such procedure shall require that a good faith effort be made to request quotations from all responsible contractors on the small works roster. Immediately after an award is made, the bid quotations obtained shall be recorded, open to public inspection, and available by telephone inquiry. The small works roster shall be revised once a year))~~ process under RCW 39.04.155.

Sec. 3. RCW 87.03.443 and 2004 c 215 s 3 are each amended to read as follows:

There may be created ~~((for))~~ by each irrigation district or separate legal authority created pursuant to RCW 87.03.018 a fund to be known as the upgrading and improvement fund. The board of directors shall determine what portion of the annual revenue of the irrigation district or separate legal authority will be placed into its upgrading and improvement fund, including all or any part of the funds received by a district or separate legal authority from the sale, delivery, and distribution of electrical energy. Moneys from the upgrading and improvement fund may ~~((only))~~ be used to modernize, improve, or upgrade ~~((the))~~ irrigation and hydroelectric power facilities ((of the irrigation district)) or to respond to an emergency affecting such facilities. The funds may also be used for licensing hydroelectric power facilities and for payment of capital improvements.

Passed by the House March 9, 2010.

Passed by the Senate March 5, 2010.

Approved by the Governor March 24, 2010.

Filed in Office of Secretary of State March 24, 2010.

CHAPTER 202

[Engrossed Substitute Senate Bill 6658]

COMMUNITY SOLAR PROJECTS—COST RECOVERY INCENTIVES

AN ACT Relating to modifying community solar project provisions for investment cost recovery incentives; amending RCW 82.16.110, 82.16.120, 82.16.130, and 82.16.140; and adding a new section to chapter 82.16 RCW.

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

Sec. 1. RCW 82.16.110 and 2009 c 469 s 504 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Administrator" means an owner and assignee of a community solar project as defined in subsection (2)(a)(i) of this section that is responsible for applying for the investment cost recovery incentive on behalf of the other owners and performing such administrative tasks on behalf of the other owners as may be necessary, such as receiving investment cost recovery incentive payments, and allocating and paying appropriate amounts of such payments to the other owners.

(2)(a) "Community solar project" means:

(i) A solar energy system that is capable of generating up to seventy-five kilowatts of electricity and is owned by local individuals, households, nonprofit organizations, or nonutility businesses that is placed on the property owned by a cooperating local governmental entity that is not in the light and power business or in the gas distribution business; ((or))

(ii) A utility-owned solar energy system that is capable of generating up to seventy-five kilowatts of electricity and that is voluntarily funded by the utility's ratepayers where, in exchange for their financial support, the utility gives contributors a payment or credit on their utility bill for the value of the electricity produced; or

(iii) A solar energy system, placed on the property owned by a cooperating local governmental entity that is not in the light and power business or in the gas distribution business, that is capable of generating up to seventy-five kilowatts of electricity, and that is owned by a company whose members are each eligible for an investment cost recovery incentive for the same customer-generated electricity as provided in RCW 82.16.120.

(b) For the purposes of "community solar project" as defined in (a) of this subsection:

(i) "Company" means an entity that is:

(A)(I) A limited liability company;

(II) A cooperative formed under chapter 23.86 RCW; or

(III) A mutual corporation or association formed under chapter 24.06 RCW;

and

(B) Not a "utility" as defined in this subsection (2)(b); and

(ii) "Nonprofit organization" means an organization exempt from taxation under ~~(Title)~~ 26 U.S.C. Sec. 501(c)(3) of the federal internal revenue code of 1986, as amended, as of January 1, 2009; and

~~((iii))~~ (iii) "Utility" means a light and power business, an electric cooperative, or a mutual corporation that provides electricity service.

~~((2))~~ (3) "Customer-generated electricity" means a community solar project or the alternating current electricity that is generated from a renewable energy system located in Washington and installed on an individual's, businesses', or local government's real property that is also provided electricity generated by a light and power business. Except for community solar projects, a system located on a leasehold interest does not qualify under this definition. Except for utility-owned community solar projects, "customer-generated electricity" does not include electricity generated by a light and power business with greater than one thousand megawatt hours of annual sales or a gas distribution business.

~~((3))~~ (4) "Economic development kilowatt-hour" means the actual kilowatt-hour measurement of customer-generated electricity multiplied by the appropriate economic development factor.

~~((4))~~ (5) "Local governmental entity" means any unit of local government of this state including, but not limited to, counties, cities, towns, municipal corporations, quasi-municipal corporations, special purpose districts, and school districts.

~~((5))~~ (6) "Photovoltaic cell" means a device that converts light directly into electricity without moving parts.

~~((6))~~ (7) "Renewable energy system" means a solar energy system, an anaerobic digester as defined in RCW 82.08.900, or a wind generator used for producing electricity.

~~((7))~~ (8) "Solar energy system" means any device or combination of devices or elements that rely upon direct sunlight as an energy source for use in the generation of electricity.

~~((8))~~ (9) "Solar inverter" means the device used to convert direct current to alternating current in a photovoltaic cell system.

~~((9))~~ (10) "Solar module" means the smallest nondivisible self-contained physical structure housing interconnected photovoltaic cells and providing a single direct current electrical output.

Sec. 2. RCW 82.16.120 and 2009 c 469 s 505 are each amended to read as follows:

(1)~~(a)~~ Any individual, business, local governmental entity, not in the light and power business or in the gas distribution business, or a participant in a community solar project may apply to the light and power business serving the situs of the system, each fiscal year beginning on July 1, 2005, for an investment cost recovery incentive for each kilowatt-hour from a customer-generated electricity renewable energy system.

~~((No incentive may be paid for kilowatt hours generated before July 1, 2005, or after June 30, 2020.))~~

(b) In the case of a community solar project as defined in RCW 82.16.110(2)(a)(i), the administrator must apply for the investment cost recovery incentive on behalf of each of the other owners.

(c) In the case of a community solar project as defined in RCW 82.16.110(2)(a)(iii), the company owning the community solar project must apply for the investment cost recovery incentive on behalf of each member of the company.

(2)(a) Before submitting for the first time the application for the incentive allowed under subsection (4) of this section, the applicant must submit to the

department of revenue and to the climate and rural energy development center at the Washington State University, established under RCW 28B.30.642, a certification in a form and manner prescribed by the department that includes, but is not limited to, the following information:

(i) The name and address of the applicant and location of the renewable energy system.

(A) If the applicant is an administrator of a community solar project as defined in RCW 82.16.110(2)(a)(i), the certification must also include the name and address of each of the owners of the community solar project.

(B) If the applicant is a company that owns a community solar project as defined in RCW 82.16.110(2)(a)(iii), the certification must also include the name and address of each member of the company;

(ii) The applicant's tax registration number;

(iii) That the electricity produced by the applicant meets the definition of "customer-generated electricity" and that the renewable energy system produces electricity with:

(A) Any solar inverters and solar modules manufactured in Washington state;

(B) A wind generator powered by blades manufactured in Washington state;

(C) A solar inverter manufactured in Washington state;

(D) A solar module manufactured in Washington state; or

(E) Solar or wind equipment manufactured outside of Washington state;

(iv) That the electricity can be transformed or transmitted for entry into or operation in parallel with electricity transmission and distribution systems; and

(v) The date that the renewable energy system received its final electrical permit from the applicable local jurisdiction.

(b) Within thirty days of receipt of the certification the department of revenue must notify the applicant by mail, or electronically as provided in RCW 82.32.135, whether the renewable energy system qualifies for an incentive under this section. The department may consult with the climate and rural energy development center to determine eligibility for the incentive. System certifications and the information contained therein are subject to disclosure under RCW 82.32.330(3)(m).

(3)(a) By August 1st of each year application for the incentive (~~shall~~) must be made to the light and power business serving the situs of the system by certification in a form and manner prescribed by the department that includes, but is not limited to, the following information:

(i) The name and address of the applicant and location of the renewable energy system.

(A) If the applicant is an administrator of a community solar project as defined in RCW 82.16.110(2)(a)(i), the application must also include the name and address of each of the owners of the community solar project.

(B) If the applicant is a company that owns a community solar project as defined in RCW 82.16.110(2)(a)(iii), the application must also include the name and address of each member of the company;

(ii) The applicant's tax registration number;

(iii) The date of the notification from the department of revenue stating that the renewable energy system is eligible for the incentives under this section; and

(iv) A statement of the amount of kilowatt-hours generated by the renewable energy system in the prior fiscal year.

(b) Within sixty days of receipt of the incentive certification the light and power business serving the situs of the system ~~((shall))~~ must notify the applicant in writing whether the incentive payment will be authorized or denied. The business may consult with the climate and rural energy development center to determine eligibility for the incentive payment. Incentive certifications and the information contained therein are subject to disclosure under RCW 82.32.330(3)(m).

(c)(i) Persons, administrators of community solar projects, and companies receiving incentive payments ~~((shall))~~ must keep and preserve, for a period of five years, suitable records as may be necessary to determine the amount of incentive applied for and received. Such records ~~((shall))~~ must be open for examination at any time upon notice by the light and power business that made the payment or by the department. If upon examination of any records or from other information obtained by the business or department it appears that an incentive has been paid in an amount that exceeds the correct amount of incentive payable, the business may assess against the person for the amount found to have been paid in excess of the correct amount of incentive payable and ~~((shall))~~ must add thereto interest on the amount. Interest ~~((shall be))~~ is assessed in the manner that the department assesses interest upon delinquent tax under RCW 82.32.050.

(ii) If it appears that the amount of incentive paid is less than the correct amount of incentive payable the business may authorize additional payment.

(4) Except for community solar projects, the investment cost recovery incentive may be paid fifteen cents per economic development kilowatt-hour unless requests exceed the amount authorized for credit to the participating light and power business. For community solar projects, the investment cost recovery incentive may be paid thirty cents per economic development kilowatt-hour unless requests exceed the amount authorized for credit to the participating light and power business. For the purposes of this section, the rate paid for the investment cost recovery incentive may be multiplied by the following factors:

(a) For customer-generated electricity produced using solar modules manufactured in Washington state, two and four-tenths;

(b) For customer-generated electricity produced using a solar or a wind generator equipped with an inverter manufactured in Washington state, one and two-tenths;

(c) For customer-generated electricity produced using an anaerobic digester, or by other solar equipment or using a wind generator equipped with blades manufactured in Washington state, one; and

(d) For all other customer-generated electricity produced by wind, eight-tenths.

(5)(a) No individual, household, business, or local governmental entity is eligible for incentives provided under subsection (4) of this section for more than five thousand dollars per year.

(b) Except as provided in (c) through (e) of this subsection (5), each applicant in a community solar project is eligible for up to five thousand dollars per year.

(c) Where the applicant is an administrator of a community solar project as defined in RCW 82.16.110(2)(a)(i), each owner is eligible for an incentive but only in proportion to the ownership share of the project, up to five thousand dollars per year.

(d) Where the applicant is a company owning a community solar project that has applied for an investment cost recovery incentive on behalf of its members, each member of the company is eligible for an incentive that would otherwise belong to the company but only in proportion to each ownership share of the company, up to five thousand dollars per year. The company itself is not eligible for incentives under this section.

(e) In the case of a utility-owned community solar project, each ratepayer that contributes to the project is eligible for an incentive in proportion to the contribution, up to five thousand dollars per year.

(6) If requests for the investment cost recovery incentive exceed the amount of funds available for credit to the participating light and power business, the incentive payments (~~shall~~) must be reduced proportionately.

(7) The climate and rural energy development center at Washington State University energy program may establish guidelines and standards for technologies that are identified as Washington manufactured and therefore most beneficial to the state's environment.

(8) The environmental attributes of the renewable energy system belong to the applicant, and do not transfer to the state or the light and power business upon receipt of the investment cost recovery incentive.

(9) No incentive may be paid under this section for kilowatt-hours generated before July 1, 2005, or after June 30, 2020.

Sec. 3. RCW 82.16.130 and 2009 c 469 s 506 are each amended to read as follows:

(1) A light and power business shall be allowed a credit against taxes due under this chapter in an amount equal to investment cost recovery incentive payments made in any fiscal year under RCW 82.16.120. The credit shall be taken in a form and manner as required by the department. The credit under this section for the fiscal year may not exceed (~~one~~) one-half percent of the businesses' taxable power sales due under RCW 82.16.020(1)(b) or one hundred thousand dollars, whichever is greater. Incentive payments to participants in a utility-owned community solar project as defined in RCW 82.16.110(~~(a)(ii)~~) (2)(a)(ii) may only account for up to twenty-five percent of the total allowable credit. Incentive payments to participants in a company-owned community solar project as defined in RCW 82.16.110(2)(a)(iii) may only account for up to five percent of the total allowable credit. The credit may not exceed the tax that would otherwise be due under this chapter. Refunds shall not be granted in the place of credits. Expenditures not used to earn a credit in one fiscal year may not be used to earn a credit in subsequent years.

(2) For any business that has claimed credit for amounts that exceed the correct amount of the incentive payable under RCW 82.16.120, the amount of tax against which credit was claimed for the excess payments shall be immediately due and payable. The department shall assess interest but not penalties on the taxes against which the credit was claimed. Interest shall be assessed at the rate provided for delinquent excise taxes under chapter 82.32

RCW, retroactively to the date the credit was claimed, and shall accrue until the taxes against which the credit was claimed are repaid.

(3) The right to earn tax credits under this section expires June 30, 2020. Credits may not be claimed after June 30, 2021.

Sec. 4. RCW 82.16.140 and 2005 c 300 s 5 are each amended to read as follows:

(1) Using existing sources of information, the department (~~shall~~) must report to the house appropriations committee, the house committee dealing with energy issues, the senate committee on ways and means, and the senate committee dealing with energy issues by December 1, (~~2009~~) 2014. The report (~~shall~~) must measure the impacts of (~~chapter 300, Laws of 2005~~) RCW 82.16.110 through 82.16.130, including the total number of solar energy system manufacturing companies in the state, any change in the number of solar energy system manufacturing companies in the state since July 1, 2005, and, where relevant, the effect on job creation, the number of jobs created for Washington residents, and such other factors as the department selects.

(2) The department (~~shall~~) may not conduct any new surveys to provide the report in subsection (1) of this section.

(3) For the purposes of this section, "company" has the same meaning as provided in RCW 82.04.030.

NEW SECTION. Sec. 5. A new section is added to chapter 82.16 RCW to read as follows:

Owners of a community solar project as defined in RCW 82.16.110(2)(a) (i) and (iii) must agree to hold harmless the light and power business serving the situs of the system, including any employee, for the good faith reliance on the information contained in an application or certification submitted by an administrator or company. In addition, the light and power business and any employee is immune from civil liability for the good faith reliance on any misstatement that may be made in such application or certification. Should a light and power business or employee prevail upon the defense provided in this section, it is entitled to recover expenses and reasonable attorneys' fees incurred in establishing the defense.

Passed by the Senate March 11, 2010.

Passed by the House March 11, 2010.

Approved by the Governor March 25, 2010.

Filed in Office of Secretary of State March 26, 2010.

CHAPTER 203

[Substitute Senate Bill 6520]

CRITICAL AREAS ORDINANCES—AGRICULTURAL ACTIVITIES— FINDINGS AND RECOMMENDATIONS

AN ACT Relating to providing a one-year extension for completion of recommendations under RCW 36.70A.5601 conducted by the William D. Ruckelshaus Center; amending RCW 36.70A.560 and 36.70A.5601; and amending 2007 c 353 s 6 (uncodified).

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

Sec. 1. RCW 36.70A.560 and 2007 c 353 s 2 are each amended to read as follows:

(1) For the period beginning May 1, 2007, and concluding July 1, ~~((2010))~~ 2011, counties and cities may not amend or adopt critical area ordinances under RCW 36.70A.060(2) as they specifically apply to agricultural activities. Nothing in this section:

(a) Nullifies critical area ordinances adopted by a county or city prior to May 1, 2007, to comply with RCW 36.70A.060(2);

(b) Limits or otherwise modifies the obligations of a county or city to comply with the requirements of this chapter pertaining to critical areas not associated with agricultural activities; or

(c) Limits the ability of a county or city to adopt or employ voluntary measures or programs to protect or enhance critical areas associated with agricultural activities.

(2) Counties and cities subject to deferral requirements under subsection (1) of this section:

(a) Should implement voluntary programs to enhance public resources and the viability of agriculture. Voluntary programs implemented under this subsection (2)(a) must include measures to evaluate the successes of these programs; and

(b) Must review and, if necessary, revise critical area ordinances as they specifically apply to agricultural activities to comply with the requirements of this chapter by December 1, ~~((2011))~~ 2012.

(3) For purposes of this section and RCW 36.70A.5601, "agricultural activities" means agricultural uses and practices currently existing or legally allowed on rural land or agricultural land designated under RCW 36.70A.170 including, but not limited to: Producing, breeding, or increasing agricultural products; rotating and changing agricultural crops; allowing land used for agricultural activities to lie fallow in which it is plowed and tilled but left unseeded; allowing land used for agricultural activities to lie dormant as a result of adverse agricultural market conditions; allowing land used for agricultural activities to lie dormant because the land is enrolled in a local, state, or federal conservation program, or the land is subject to a conservation easement; conducting agricultural operations; maintaining, repairing, and replacing agricultural equipment; maintaining, repairing, and replacing agricultural facilities, when the replacement facility is no closer to a critical area than the original facility; and maintaining agricultural lands under production or cultivation.

Sec. 2. RCW 36.70A.5601 and 2007 c 353 s 3 are each amended to read as follows:

(1) ~~((Subject to the availability of amounts appropriated for this specific purpose.))~~ The William D. Ruckelshaus Center must conduct an examination of the conflicts between agricultural activities and critical area ordinances adopted under chapter 36.70A RCW. The examination required by this section must commence by July 1, 2007.

(2) In fulfilling the requirements of this section, the center must: (a) Work and consult with willing participants including, but not limited to, agricultural, environmental, tribal, and local government interests; and (b) involve and apprise legislators and legislative staff of its efforts.

(3) The examination conducted by the center must be completed in two distinct phases in accordance with the following:

(a) In the first phase, the center must conduct fact-finding and stakeholder discussions with stakeholders identified in subsection (2) of this section. These discussions must identify stakeholder concerns, desired outcomes, opportunities, and barriers. The fact-finding must identify existing regulatory, management, and scientific information related to agricultural activities and critical areas including, but not limited to: (i) Critical area ordinances adopted under chapter 36.70A RCW; (ii) acreage enrolled in the conservation reserve enhancement program; (iii) acreage protected by conservation easements; (iv) buffer widths; (v) requirements of federally approved salmon recovery plans; (vi) the impacts of agricultural activities on Puget Sound recovery efforts; and (vii) compliance with water quality requirements. The center must issue two reports of its fact-finding efforts and stakeholder discussions to the governor and the appropriate committees of the house of representatives and the senate by December 1, 2007, and December 1, 2008; and

(b)(i) In the second phase, the center must facilitate discussions between the stakeholders identified in subsection (2) of this section to identify policy and financial options or opportunities to address the issues and desired outcomes identified by stakeholders in the first phase of the center's examination efforts.

(ii) In particular, the stakeholders must examine innovative solutions including, but not limited to, outcome-based approaches that incorporate, to the maximum extent practicable, voluntary programs or approaches. Additionally, stakeholders must examine ways to modify statutory provisions to ensure that regulatory constraints on agricultural activities are used as a last resort if desired outcomes are not achieved through voluntary programs or approaches.

(iii) The center must work to achieve agreement among participating stakeholders and to develop a coalition that can be used to support agreed upon changes or new approaches to protecting critical areas during the ~~((2010))~~ 2011 legislative session.

(4) The center must issue a final report of findings and legislative recommendations to the governor and the appropriate committees of the house of representatives and the senate by September 1, ~~((2009))~~ 2010.

Sec. 3. 2007 c 353 s 6 (uncodified) is amended to read as follows:
This act expires December 1, ~~((2011))~~ 2012.

Passed by the Senate March 10, 2010.

Passed by the House March 9, 2010.

Approved by the Governor March 25, 2010.

Filed in Office of Secretary of State March 26, 2010.

CHAPTER 204

[Second Substitute House Bill 2016]

CAMPAIGN DISCLOSURE AND CONTRIBUTION LAWS

AN ACT Relating to campaign contribution and disclosure laws; amending RCW 42.17.020, 42.17.367, 42.17.369, 42.17.461, 42.17.463, 42.17.350, 42.17.360, 42.17.370, 42.17.690, 42.17.380, 42.17.405, 42.17.420, 42.17.450, 42.17.030, 42.17.040, 42.17.050, 42.17.060, 42.17.065, 42.17.067, 42.17.080, 42.17.090, 42.17.3691, 42.17.093, 42.17.100, 42.17.103, 42.17.105, 42.17.550, 42.17.135, 42.17.561, 42.17.565, 42.17.570, 42.17.575, 42.17.510, 42.17.520, 42.17.540, 42.17.110, 42.17.610, 42.17.640, 42.17.645, 42.17.070, 42.17.095, 42.17.125, 42.17.660, 42.17.720, 42.17.740, 42.17.790, 42.17.680, 42.17.130, 42.17.245, 42.17.150, 42.17.155, 42.17.160, 42.17.170, 42.17.172, 42.17.175, 42.17.180, 42.17.190, 42.17.200, 42.17.210, 42.17.220, 42.17.230, 42.17.240, 42.17.241,

42.17.242, 42.17.390, 42.17.395, 42.17.397, 42.17.400, and 42.56.010; reenacting and amending RCW 42.17.2401; adding a new chapter to Title 42 RCW; creating new sections; recodifying RCW 42.17.010, 42.17.020, 42.17.035, 42.17.440, 42.17.367, 42.17.369, 42.17.460, 42.17.461, 42.17.463, 42.17.350, 42.17.360, 42.17.370, 42.17.690, 42.17.380, 42.17.405, 42.17.420, 42.17.430, 42.17.450, 42.17.030, 42.17.040, 42.17.050, 42.17.060, 42.17.065, 42.17.067, 42.17.080, 42.17.090, 42.17.3691, 42.17.093, 42.17.100, 42.17.103, 42.17.105, 42.17.550, 42.17.135, 42.17.561, 42.17.565, 42.17.570, 42.17.575, 42.17.510, 42.17.520, 42.17.530, 42.17.540, 42.17.110, 42.17.610, 42.17.640, 42.17.645, 42.17.700, 42.17.070, 42.17.095, 42.17.120, 42.17.125, 42.17.650, 42.17.660, 42.17.670, 42.17.720, 42.17.730, 42.17.740, 42.17.770, 42.17.780, 42.17.790, 42.17.680, 42.17.760, 42.17.128, 42.17.130, 42.17.710, 42.17.750, 42.17.245, 42.17.150, 42.17.155, 42.17.160, 42.17.170, 42.17.172, 42.17.175, 42.17.180, 42.17.190, 42.17.200, 42.17.210, 42.17.220, 42.17.230, 42.17.240, 42.17.2401, 42.17.241, 42.17.242, 42.17.390, 42.17.395, 42.17.397, 42.17.400, 42.17.410, 42.17.900, 42.17.910, 42.17.911, 42.17.912, 42.17.920, 42.17.930, 42.17.940, 42.17.945, 42.17.950, 42.17.955, 42.17.960, 42.17.961, 42.17.962, 42.17.963, 42.17.964, 42.17.965, and 42.17.966; repealing RCW 42.17.131, 42.17.362, 42.17.365, 42.17.375, 42.17.465, 42.17.467, 42.17.469, 42.17.471, 42.17.562, 42.17.620, and 42.17.647; providing an effective date; and declaring an emergency.

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

PART 1 GENERAL PROVISIONS

Sec. 101. RCW 42.17.020 and 2008 c 6 s 201 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Actual malice" means to act with knowledge of falsity or with reckless disregard as to truth or falsity.

(2) "Agency" includes all state agencies and all local agencies. "State agency" includes every state office, department, division, bureau, board, commission, or other state agency. "Local agency" includes every county, city, town, municipal corporation, quasi-municipal corporation, or special purpose district, or any office, department, division, bureau, board, commission, or agency thereof, or other local public agency.

(3) "Authorized committee" means the political committee authorized by a candidate, or by the public official against whom recall charges have been filed, to accept contributions or make expenditures on behalf of the candidate or public official.

(4) "Ballot proposition" means any "measure" as defined by RCW 29A.04.091, or any initiative, recall, or referendum proposition proposed to be submitted to the voters of the state or any municipal corporation, political subdivision, or other voting constituency from and after the time when the proposition has been initially filed with the appropriate election officer of that constituency (~~(prior to)~~ before its circulation for signatures.

(5) "Benefit" means a commercial, proprietary, financial, economic, or monetary advantage, or the avoidance of a commercial, proprietary, financial, economic, or monetary disadvantage.

(6) "Bona fide political party" means:

(a) An organization that has (~~(filed a valid certificate of nomination with))~~ been recognized as a minor political party by the secretary of state ((under chapter 29A.20 RCW)));

(b) The governing body of the state organization of a major political party, as defined in RCW 29A.04.086, that is the body authorized by the charter or bylaws of the party to exercise authority on behalf of the state party; or

(c) The county central committee or legislative district committee of a major political party. There may be only one legislative district committee for each party in each legislative district.

(7) "Depository" means a bank (~~((designated by a candidate or political committee pursuant to RCW 42.17.050)), mutual savings bank, savings and loan association, or credit union doing business in this state.~~

(8) "Treasurer" and "deputy treasurer" mean the individuals appointed by a candidate or political committee, pursuant to RCW 42.17.050 (as recodified by this act), to perform the duties specified in that section.

(9) "Candidate" means any individual who seeks nomination for election or election to public office. An individual seeks nomination or election when he or she first:

(a) Receives contributions or makes expenditures or reserves space or facilities with intent to promote his or her candidacy for office;

(b) Announces publicly or files for office;

(c) Purchases commercial advertising space or broadcast time to promote his or her candidacy; or

(d) Gives his or her consent to another person to take on behalf of the individual any of the actions in (a) or (c) of this subsection.

(10) "Caucus political committee" means a political committee organized and maintained by the members of a major political party in the state senate or state house of representatives.

(11) "Commercial advertiser" means any person who sells the service of communicating messages or producing printed material for broadcast or distribution to the general public or segments of the general public whether through the use of newspapers, magazines, television and radio stations, billboard companies, direct mail advertising companies, printing companies, or otherwise.

(12) "Commission" means the agency established under RCW 42.17.350 (as recodified by this act).

(13) "Compensation" unless the context requires a narrower meaning, includes payment in any form for real or personal property or services of any kind(~~(= PROVIDED, That)~~). For the purpose of compliance with RCW 42.17.241 (as recodified by this act), ~~((the term))~~ "compensation" ~~((shall))~~ **does** not include per diem allowances or other payments made by a governmental entity to reimburse a public official for expenses incurred while the official is engaged in the official business of the governmental entity.

(14) "Continuing political committee" means a political committee that is an organization of continuing existence not established in anticipation of any particular election campaign.

(15)(a) "Contribution" includes:

(i) A loan, gift, deposit, subscription, forgiveness of indebtedness, donation, advance, pledge, payment, transfer of funds between political committees, or anything of value, including personal and professional services for less than full consideration;

(ii) An expenditure made by a person in cooperation, consultation, or concert with, or at the request or suggestion of, a candidate, a political committee, the person or persons named on the candidate's or committee's registration form who direct expenditures on behalf of the candidate or committee, or their agents;

(iii) The financing by a person of the dissemination, distribution, or republication, in whole or in part, of broadcast, written, graphic, or other form of political advertising or electioneering communication prepared by a candidate, a political committee, or its authorized agent;

(iv) Sums paid for tickets to fund-raising events such as dinners and parties, except for the actual cost of the consumables furnished at the event.

(b) "Contribution" does not include:

(i) Standard interest on money deposited in a political committee's account;

(ii) Ordinary home hospitality;

(iii) A contribution received by a candidate or political committee that is returned to the contributor within five business days of the date on which it is received by the candidate or political committee;

(iv) A news item, feature, commentary, or editorial in a regularly scheduled news medium that is of primary interest to the general public, that is in a news medium controlled by a person whose business is that news medium, and that is not controlled by a candidate or a political committee;

(v) An internal political communication primarily limited to the members of or contributors to a political party organization or political committee, or to the officers, management staff, or stockholders of a corporation or similar enterprise, or to the members of a labor organization or other membership organization;

(vi) The rendering of personal services of the sort commonly performed by volunteer campaign workers, or incidental expenses personally incurred by volunteer campaign workers not in excess of fifty dollars personally paid for by the worker. "Volunteer services," for the purposes of this ~~((section))~~ subsection, means services or labor for which the individual is not compensated by any person;

(vii) Messages in the form of reader boards, banners, or yard or window signs displayed on a person's own property or property occupied by a person. However, a facility used for such political advertising for which a rental charge is normally made must be reported as an in-kind contribution and counts towards any applicable contribution limit of the person providing the facility;

(viii) Legal or accounting services rendered to or on behalf of:

(A) A political party or caucus political committee if the person paying for the services is the regular employer of the person rendering such services; or

(B) A candidate or an authorized committee if the person paying for the services is the regular employer of the individual rendering the services and if the services are solely for the purpose of ensuring compliance with state election or public disclosure laws; or

(ix) The performance of ministerial functions by a person on behalf of two or more candidates or political committees either as volunteer services defined in (b)(vi) of this subsection or for payment by the candidate or political committee for whom the services are performed as long as:

(A) The person performs solely ministerial functions;

(B) A person who is paid by two or more candidates or political committees is identified by the candidates and political committees on whose behalf services are performed as part of their respective statements of organization under RCW 42.17.040 (as recodified by this act); and

(C) The person does not disclose, except as required by law, any information regarding a candidate's or committee's plans, projects, activities, or needs, or regarding a candidate's or committee's contributions or expenditures that is not already publicly available from campaign reports filed with the commission, or otherwise engage in activity that constitutes a contribution under (a)(ii) of this subsection.

A person who performs ministerial functions under this subsection (15)(b)(ix) is not considered an agent of the candidate or committee as long as he or she has no authority to authorize expenditures or make decisions on behalf of the candidate or committee.

(c) Contributions other than money or its equivalent are deemed to have a monetary value equivalent to the fair market value of the contribution. Services or property or rights furnished at less than their fair market value for the purpose of assisting any candidate or political committee are deemed a contribution. Such a contribution must be reported as an in-kind contribution at its fair market value and counts towards any applicable contribution limit of the provider.

(16) "Elected official" means any person elected at a general or special election to any public office, and any person appointed to fill a vacancy in any such office.

(17) "Election" includes any primary, general, or special election for public office and any election in which a ballot proposition is submitted to the voters(= PROVIDED, That). An election in which the qualifications for voting include other than those requirements set forth in Article VI, section 1 (Amendment 63) of the Constitution of the state of Washington shall not be considered an election for purposes of this chapter.

(18) "Election campaign" means any campaign in support of or in opposition to a candidate for election to public office and any campaign in support of, or in opposition to, a ballot proposition.

(19) "Election cycle" means the period beginning on the first day of January after the date of the last previous general election for the office that the candidate seeks and ending on December 31st after the next election for the office. In the case of a special election to fill a vacancy in an office, "election cycle" means the period beginning on the day the vacancy occurs and ending on December 31st after the special election.

(20) "Electioneering communication" means any broadcast, cable, or satellite television or radio transmission, United States postal service mailing, billboard, newspaper, or periodical that:

(a) Clearly identifies a candidate for a state, local, or judicial office either by specifically naming the candidate, or identifying the candidate without using the candidate's name;

(b) Is broadcast, transmitted, mailed, erected, distributed, or otherwise published within sixty days before any election for that office in the jurisdiction in which the candidate is seeking election; and

(c) Either alone, or in combination with one or more communications identifying the candidate by the same sponsor during the sixty days before an election, has a fair market value of five thousand dollars or more.

(21) "Electioneering communication" does not include:

(a) Usual and customary advertising of a business owned by a candidate, even if the candidate is mentioned in the advertising when the candidate has been regularly mentioned in that advertising appearing at least twelve months preceding his or her becoming a candidate;

(b) Advertising for candidate debates or forums when the advertising is paid for by or on behalf of the debate or forum sponsor, so long as two or more candidates for the same position have been invited to participate in the debate or forum;

(c) A news item, feature, commentary, or editorial in a regularly scheduled news medium that is:

(i) Of primary interest to the general public;

(ii) In a news medium controlled by a person whose business is that news medium; and

(iii) Not a medium controlled by a candidate or a political committee;

(d) Slate cards and sample ballots;

(e) Advertising for books, films, dissertations, or similar works (i) written by a candidate when the candidate entered into a contract for such publications or media at least twelve months before becoming a candidate, or (ii) written about a candidate;

(f) Public service announcements;

(g) A mailed internal political communication primarily limited to the members of or contributors to a political party organization or political committee, or to the officers, management staff, or stockholders of a corporation or similar enterprise, or to the members of a labor organization or other membership organization;

(h) An expenditure by or contribution to the authorized committee of a candidate for state, local, or judicial office; or

(i) Any other communication exempted by the commission through rule consistent with the intent of this chapter.

(22) "Expenditure" includes a payment, contribution, subscription, distribution, loan, advance, deposit, or gift of money or anything of value, and includes a contract, promise, or agreement, whether or not legally enforceable, to make an expenditure. ~~((The term))~~ "Expenditure" also includes a promise to pay, a payment, or a transfer of anything of value in exchange for goods, services, property, facilities, or anything of value for the purpose of assisting, benefiting, or honoring any public official or candidate, or assisting in furthering or opposing any election campaign. For the purposes of this chapter, agreements to make expenditures, contracts, and promises to pay may be reported as estimated obligations until actual payment is made. ~~((The term))~~ "Expenditure" shall not include the partial or complete repayment by a candidate or political committee of the principal of a loan, the receipt of which loan has been properly reported.

(23) "Final report" means the report described as a final report in RCW 42.17.080(2) (as recodified by this act).

(24) "General election" for the purposes of RCW 42.17.640 (as recodified by this act) means the election that results in the election of a person to a state or local office. It does not include a primary.

(25) "Gift(~~, "is as defined")~~)" has the definition in RCW 42.52.010.

(26) "Immediate family" includes the spouse or domestic partner, dependent children, and other dependent relatives, if living in the household. For the purposes of (~~RCW 42.17.640 through 42.17.790~~) the definition of "intermediary" in this section, "immediate family" means an individual's spouse or domestic partner, and child, stepchild, grandchild, parent, stepparent, grandparent, brother, half brother, sister, or half sister of the individual and the spouse or the domestic partner of any such person and a child, stepchild, grandchild, parent, stepparent, grandparent, brother, half brother, sister, or half sister of the individual's spouse or domestic partner and the spouse or the domestic partner of any such person.

(27) "Incumbent" means a person who is in present possession of an elected office.

(28) "Independent expenditure" means an expenditure that has each of the following elements:

(a) It is made in support of or in opposition to a candidate for office by a person who is not (i) a candidate for that office, (ii) an authorized committee of that candidate for that office, (iii) a person who has received the candidate's encouragement or approval to make the expenditure, if the expenditure pays in whole or in part for political advertising supporting that candidate or promoting the defeat of any other candidate or candidates for that office, or (iv) a person with whom the candidate has collaborated for the purpose of making the expenditure, if the expenditure pays in whole or in part for political advertising supporting that candidate or promoting the defeat of any other candidate or candidates for that office;

(b) The expenditure pays in whole or in part for political advertising that either specifically names the candidate supported or opposed, or clearly and beyond any doubt identifies the candidate without using the candidate's name; and

(c) The expenditure, alone or in conjunction with another expenditure or other expenditures of the same person in support of or opposition to that candidate, has a value of (~~five~~) eight hundred dollars or more. A series of expenditures, each of which is under (~~five~~) eight hundred dollars, constitutes one independent expenditure if their cumulative value is (~~five~~) eight hundred dollars or more.

(29)(a) "Intermediary" means an individual who transmits a contribution to a candidate or committee from another person unless the contribution is from the individual's employer, immediate family (~~as defined for purposes of RCW 42.17.640 through 42.17.790~~), or an association to which the individual belongs.

(b) A treasurer or a candidate is not an intermediary for purposes of the committee that the treasurer or candidate serves.

(c) A professional fund-raiser is not an intermediary if the fund-raiser is compensated for fund-raising services at the usual and customary rate.

(d) A volunteer hosting a fund-raising event at the individual's home is not an intermediary for purposes of that event.

(30) "Legislation" means bills, resolutions, motions, amendments, nominations, and other matters pending or proposed in either house of the state legislature, and includes any other matter that may be the subject of action by either house or any committee of the legislature and all bills and resolutions that, having passed both houses, are pending approval by the governor.

(31) "Lobby" and "lobbying" each mean attempting to influence the passage or defeat of any legislation by the legislature of the state of Washington, or the adoption or rejection of any rule, standard, rate, or other legislative enactment of any state agency under the state administrative procedure act, chapter 34.05 RCW. Neither "lobby" nor "lobbying" includes an association's or other organization's act of communicating with the members of that association or organization.

(32) "Lobbyist" includes any person who lobbies either in his or her own or another's behalf.

(33) "Lobbyist's employer" means the person or persons by whom a lobbyist is employed and all persons by whom he or she is compensated for acting as a lobbyist.

(34) "Ministerial functions" means an act or duty carried out as part of the duties of an administrative office without exercise of personal judgment or discretion.

(35) "Participate" means that, with respect to a particular election, an entity:

(a) Makes either a monetary or in-kind contribution to a candidate;

(b) Makes an independent expenditure or electioneering communication in support of or opposition to a candidate;

(c) Endorses a candidate ~~((prior to))~~ before contributions ~~((being))~~ are made by a subsidiary corporation or local unit with respect to that candidate or that candidate's opponent;

(d) Makes a recommendation regarding whether a candidate should be supported or opposed ~~((prior to))~~ before a contribution ~~((being))~~ is made by a subsidiary corporation or local unit with respect to that candidate or that candidate's opponent; or

(e) Directly or indirectly collaborates or consults with a subsidiary corporation or local unit on matters relating to the support of or opposition to a candidate, including, but not limited to, the amount of a contribution, when a contribution should be given, and what assistance, services or independent expenditures, or electioneering communications, if any, will be made or should be made in support of or opposition to a candidate.

(36) "Person" includes an individual, partnership, joint venture, public or private corporation, association, federal, state, or local governmental entity or agency however constituted, candidate, committee, political committee, political party, executive committee thereof, or any other organization or group of persons, however organized.

~~(37) ("Person in interest" means the person who is the subject of a record or any representative designated by that person, except that if that person is under a legal disability, the term "person in interest" means and includes the parent or duly appointed legal representative.~~

~~(38))~~ "Political advertising" includes any advertising displays, newspaper ads, billboards, signs, brochures, articles, tabloids, flyers, letters, radio or television presentations, or other means of mass communication, used for the

purpose of appealing, directly or indirectly, for votes or for financial or other support or opposition in any election campaign.

~~((39))~~ (38) "Political committee" means any person (except a candidate or an individual dealing with his or her own funds or property) having the expectation of receiving contributions or making expenditures in support of, or opposition to, any candidate or any ballot proposition.

~~((40))~~ (39) "Primary" for the purposes of RCW 42.17.640 (as recodified by this act) means the procedure for nominating a candidate to state or local office under chapter 29A.52 RCW or any other primary for an election that uses, in large measure, the procedures established in chapter 29A.52 RCW.

~~((41))~~ (40) "Public office" means any federal, state, judicial, county, city, town, school district, port district, special district, or other state political subdivision elective office.

~~((42))~~ (41) "Public record" ~~((includes any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics. For the office of the secretary of the senate and the office of the chief clerk of the house of representatives, public records means legislative records as defined in RCW 40.14.100 and also means the following: All budget and financial records; personnel leave, travel, and payroll records; records of legislative sessions; reports submitted to the legislature; and any other record designated a public record by any official action of the senate or the house of representatives))~~ has the definition in RCW 42.56.010.

~~((43))~~ (42) "Recall campaign" means the period of time beginning on the date of the filing of recall charges under RCW 29A.56.120 and ending thirty days after the recall election.

~~((44))~~ (43) "Sponsor of an electioneering communications, independent expenditures, or political advertising" means the person paying for the electioneering communication, independent expenditure, or political advertising. If a person acts as an agent for another or is reimbursed by another for the payment, the original source of the payment is the sponsor.

~~((45)-State)~~ (44) "Legislative office" means the office of a member of the state house of representatives or the office of a member of the state senate.

~~((46))~~ (45) "State office" means state legislative office or the office of governor, lieutenant governor, secretary of state, attorney general, commissioner of public lands, insurance commissioner, superintendent of public instruction, state auditor, or state treasurer.

~~((47))~~ (46) "State official" means a person who holds a state office.

~~((48))~~ (47) "Surplus funds" mean, in the case of a political committee or candidate, the balance of contributions that remain in the possession or control of that committee or candidate subsequent to the election for which the contributions were received, and that are in excess of the amount necessary to pay remaining debts incurred by the committee or candidate ~~((prior))~~ with respect to that election. In the case of a continuing political committee, "surplus funds" mean those contributions remaining in the possession or control of the committee that are in excess of the amount necessary to pay all remaining debts when it makes its final report under RCW 42.17.065 (as recodified by this act).

~~((49)) "Writing" means handwriting, typewriting, printing, photostating, photographing, and every other means of recording any form of communication or representation, including, but not limited to, letters, words, pictures, sounds, or symbols, or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, motion picture, film and video recordings, magnetic or punched cards, discs, drums, diskettes, sound recordings, and other documents including existing data compilations from which information may be obtained or translated.~~

~~As used in this chapter, the singular shall take the plural and any gender, the other, as the context requires.))~~

PART 2 ELECTRONIC ACCESS

Sec. 201. RCW 42.17.367 and 1999 c 401 s 9 are each amended to read as follows:

~~((By February 1, 2000,))~~ The commission shall operate a web site or contract for the operation of a web site that allows access to reports, copies of reports, or copies of data and information submitted in reports, filed with the commission under RCW 42.17.040, 42.17.065, 42.17.080, 42.17.100, ~~((and))~~ 42.17.105, 42.17.150, 42.17.170, 42.17.175, and 42.17.180 ~~(as recodified by this act)~~. ~~((By January 1, 2001, the web site shall allow access to reports, copies of reports, or copies of data and information submitted in reports, filed with the commission under RCW 42.17.150, 42.17.170, 42.17.175, and 42.17.180.))~~ In addition, the commission shall attempt to make available via the web site other public records submitted to or generated by the commission that are required by this chapter to be available for public use or inspection.

Sec. 202. RCW 42.17.369 and 2000 c 237 s 3 are each amended to read as follows:

(1) ~~((By July 1, 1999,))~~ The commission shall make available to candidates, public officials, and political committees that are required to file reports under this chapter an electronic filing alternative for submitting financial affairs reports, contribution reports, and expenditure reports ~~((, including but not limited to filing by diskette, modem, satellite, or the Internet)).~~

(2) ~~((By January 1, 2002,))~~ The commission shall make available to lobbyists and lobbyists' employers required to file reports under RCW 42.17.150, 42.17.170, 42.17.175, or 42.17.180 ~~(as recodified by this act)~~ an electronic filing alternative for submitting these reports ~~((including but not limited to filing by diskette, modem, satellite, or the Internet)).~~

(3) The commission shall make available to candidates, public officials, political committees, lobbyists, and lobbyists' employers an electronic copy of the appropriate reporting forms at no charge.

Sec. 203. RCW 42.17.461 and 2000 c 237 s 5 are each amended to read as follows:

~~((+))~~ The commission shall establish goals that all reports, copies of reports, or copies of the data or information included in reports, filed under RCW 42.17.040, 42.17.065, 42.17.080, 42.17.100, 42.17.105, 42.17.150, 42.17.170, 42.17.175, and 42.17.180 ~~(as recodified by this act)~~, that are:

~~((a) Submitted using the commission's electronic filing system shall be accessible in the commission's office within two business days of the commission's receipt of the report and shall be accessible on the commission's web site within seven business days of the commission's receipt of the report; and~~

~~(b) Submitted in any format or using any method other than as described in (a) of this subsection, shall be accessible in the commission's office within four business days of the actual physical receipt of the report, and not the technical date of filing as provided under RCW 42.17.420, and shall be accessible on the commission's web site within fourteen business days of the actual physical receipt of the report, and not the technical date of filing as provided under RCW 42.17.420, as specified in rule adopted by the commission.~~

~~(2) On January 1, 2001, or shortly thereafter, the commission shall revise these goals to reflect that all reports, copies of reports, or copies of the data or information included in reports, filed under RCW 42.17.040, 42.17.065, 42.17.080, 42.17.100, 42.17.105, 42.17.150, 42.17.170, 42.17.175, and 42.17.180, that are:~~

~~(a) Submitted using the commission's electronic filing system shall be accessible in the commission's office within two business days of the commission's receipt of the report and on the commission's web site within four business days of the commission's receipt of the report; and~~

~~(b) Submitted in any format or using any method other than as described in (a) of this subsection, shall be accessible in the commission's office within four business days of the actual physical receipt of the report, and not the technical date of filing as provided under RCW 42.17.420, and on the commission's web site within seven business days of the actual physical receipt of the report, and not the technical date of filing as provided under RCW 42.17.420, as specified in rule adopted by the commission.~~

~~(3) On January 1, 2002, or shortly thereafter, the commission shall revise these goals to reflect that all reports, copies of reports, or copies of the data or information included in reports, filed under RCW 42.17.040, 42.17.065, 42.17.080, 42.17.100, 42.17.105, 42.17.150, 42.17.170, 42.17.175, and 42.17.180, that are:~~

~~(a)) (1) Submitted using the commission's electronic filing system must be accessible in the commission's office and on the commission's web site within two business days of the commission's receipt of the report; and~~

~~((b)) (2) Submitted ((in any format or using any method other than as described in (a) of this subsection;)) on paper must be accessible in the commission's office and on the commission's web site within four business days of the actual physical receipt of the report, and not the technical date of filing as provided under RCW 42.17.420 (as recodified by this act), as specified in rule adopted by the commission.~~

Sec. 204. RCW 42.17.463 and 1999 c 401 s 3 are each amended to read as follows:

By July 1st of each year (~~beginning in 2000~~), the commission shall calculate the following performance measures, provide a copy of the performance measures to the governor and appropriate legislative committees, and make the performance measures available to the public:

(1) The average number of days that elapse between the commission's receipt of reports filed under RCW 42.17.040, 42.17.065, 42.17.080, and 42.17.100 (as recodified by this act) and the time that the report, a copy of the report, or a copy of the data or information included in the report, is first accessible to the general public (a) in the commission's office, and (b) via the commission's web site;

(2) The average number of days that elapse between the commission's receipt of reports filed under RCW 42.17.105 (as recodified by this act) and the time that the report, a copy of the report, or a copy of the data or information included in the report, is first accessible to the general public (a) in the commission's office, and (b) via the commission's web site;

(3) The average number of days that elapse between the commission's receipt of reports filed under RCW 42.17.150, 42.17.170, 42.17.175, and 42.17.180 (as recodified by this act) and the time that the report, a copy of the report, or a copy of the data or information included in the report, is first accessible to the general public (a) in the commission's office, and (b) via the commission's web site;

(4) The percentage of candidates, categorized as statewide, ~~((state))~~ legislative, or local, that have used each of the following methods to file reports under RCW 42.17.080 or 42.17.105 (as recodified by this act): (a) Hard copy paper format; ~~((b) electronic format via diskette; (c) electronic format via modem or satellite; (d))~~ or (b) electronic format via the Internet; ((and (e) any other format or method;))

(5) The percentage of continuing political committees that have used each of the following methods to file reports under RCW 42.17.065 or 42.17.105 (as recodified by this act): (a) Hard copy paper format; ~~((b) electronic format via diskette; (c) electronic format via modem or satellite; (d))~~ or (b) electronic format via the Internet; ((and (e) any other format or method;)) and

(6) The percentage of lobbyists and lobbyists' employers that have used each of the following methods to file reports under RCW 42.17.150, 42.17.170, 42.17.175, or 42.17.180 (as recodified by this act): (a) Hard copy paper format; ~~((b) electronic format via diskette; (c) electronic format via modem or satellite; (d))~~ or (b) electronic format via the Internet((; and (e) any other format or method)).

PART 3 ADMINISTRATION

Sec. 301. RCW 42.17.350 and 1998 c 30 s 1 are each amended to read as follows:

(1) ~~((There is hereby established a "))~~ The public disclosure commission((" which)) is established. The commission shall be composed of five members ~~((who shall be))~~ appointed by the governor, with the consent of the senate. All appointees shall be persons of the highest integrity and qualifications. No more than three members shall have an identification with the same political party.

(2) The term of each member shall be five years. No member is eligible for appointment to more than one full term. Any member may be removed by the governor, but only upon grounds of neglect of duty or misconduct in office.

(3) During his or her tenure, a member of the commission is prohibited from engaging in any of the following activities, either within or outside the state of Washington:

- (a) Holding or campaigning for elective office;
- (b) Serving as an officer of any political party or political committee;
- (c) Permitting his or her name to be used in support of or in opposition to a candidate or proposition;
- (d) Soliciting or making contributions to a candidate or in support of or in opposition to any candidate or proposition;
- (e) Participating in any way in any election campaign; or
- (f) Lobbying, employing, or assisting a lobbyist, except that a member or the staff of the commission may lobby to the limited extent permitted by RCW 42.17.190 (as recodified by this act) on matters directly affecting this chapter.

(4) A vacancy on the commission shall be filled within thirty days of the vacancy by the governor, with the consent of the senate, and the appointee shall serve for the remaining term of his or her predecessor. A vacancy shall not impair the powers of the remaining members to exercise all of the powers of the commission.

(5) Three members of the commission shall constitute a quorum. The commission shall elect its own chair and adopt its own rules of procedure in the manner provided in chapter 34.05 RCW.

(6) Members shall be compensated in accordance with RCW 43.03.250 and ~~((in addition))~~ shall be reimbursed for travel expenses incurred while engaged in the business of the commission as provided in RCW 43.03.050 and 43.03.060. The compensation provided pursuant to this section shall not be considered salary for purposes of the provisions of any retirement system created ~~((pursuant to))~~ under the ((general)) laws of this state.

Sec. 302. RCW 42.17.360 and 1973 c 1 s 36 are each amended to read as follows:

The commission shall:

- (1) Develop and provide forms for the reports and statements required to be made under this chapter;
- (2) Prepare and publish a manual setting forth recommended uniform methods of bookkeeping and reporting for use by persons required to make reports and statements under this chapter;
- (3) Compile and maintain a current list of all filed reports and statements;
- (4) Investigate whether properly completed statements and reports have been filed within the times required by this chapter;
- (5) Upon complaint or upon its own motion, investigate and report apparent violations of this chapter to the appropriate law enforcement authorities;
- (6) Conduct a sufficient number of audits and field investigations to provide a statistically valid finding regarding the degree of compliance with the provisions of this chapter by all required filers. Any documents, records, reports, computer files, papers, or materials provided to the commission for use in conducting audits and investigations must be returned to the candidate, campaign, or political committee from which they were received within one week of the commission's completion of an audit or field investigation;

(7) Prepare and publish an annual report to the governor as to the effectiveness of this chapter and its enforcement by appropriate law enforcement authorities; ~~(and~~

~~(7))~~ (8) Enforce this chapter according to the powers granted it by law;

(9) Adopt rules governing the arrangement, handling, indexing, and disclosing of those reports required by this chapter to be filed with a county auditor or county elections official. The rules shall:

(a) Ensure ease of access by the public to the reports; and

(b) Include, but not be limited to, requirements for indexing the reports by the names of candidates or political committees and by the ballot proposition for or against which a political committee is receiving contributions or making expenditures;

(10) Adopt rules to carry out the policies of chapter 348, Laws of 2006. The adoption of these rules is not subject to the time restrictions of RCW 42.17.370(1) (as recodified by this act);

(11) Adopt administrative rules establishing requirements for filer participation in any system designed and implemented by the commission for the electronic filing of reports; and

(12) Maintain and make available to the public and political committees of this state a toll-free telephone number.

Sec. 303. RCW 42.17.370 and 1995 c 397 s 17 are each amended to read as follows:

The commission ~~((is empowered to))~~ may:

(1) Adopt, ~~((promulgate,))~~ amend, and rescind suitable administrative rules to carry out the policies and purposes of this chapter, which rules shall be adopted under chapter 34.05 RCW. Any rule relating to campaign finance, political advertising, or related forms that would otherwise take effect after June 30th of a general election year shall take effect no earlier than the day following the general election in that year;

(2) Appoint an executive director and set, within the limits established by the state committee on agency officials' salaries under RCW 43.03.028, the executive director's compensation ~~((of an executive director who))~~. The executive director shall perform such duties and have such powers as the commission may prescribe and delegate to implement and enforce this chapter efficiently and effectively. The commission shall not delegate its authority to adopt, amend, or rescind rules nor ~~((shall))~~ may it delegate authority to determine whether an actual violation of this chapter has occurred or to assess penalties for such violations;

(3) Prepare and publish ~~((such))~~ reports and technical studies as in its judgment will tend to promote the purposes of this chapter, including reports and statistics concerning campaign financing, lobbying, financial interests of elected officials, and enforcement of this chapter;

(4) ~~((Make from time to time, on its own motion))~~ Conduct, as it deems appropriate, audits and field investigations;

(5) Make public the time and date of any formal hearing set to determine whether a violation has occurred, the question or questions to be considered, and the results thereof;

(6) Administer oaths and affirmations, issue subpoenas, and compel attendance, take evidence, and require the production of any ~~((books, papers,~~

~~correspondence, memorandums, or other~~) records relevant ~~((or material for the purpose of))~~ to any investigation authorized under this chapter, or any other proceeding under this chapter;

(7) Adopt ~~((and promulgate))~~ a code of fair campaign practices;

(8) ~~((Relieve, by rule,))~~ Adopt rules relieving candidates or political committees of obligations to comply with the election campaign provisions of this chapter ~~((relating to election campaigns))~~, if they have not received contributions nor made expenditures in connection with any election campaign of more than ~~((one))~~ five thousand dollars;

(9) Adopt rules prescribing reasonable requirements for keeping accounts of, and reporting on a quarterly basis, costs incurred by state agencies, counties, cities, and other municipalities and political subdivisions in preparing, publishing, and distributing legislative information. ~~((The term))~~ For the purposes of this subsection, "legislative information~~((;))~~" ~~((for the purposes of this subsection,))~~ means books, pamphlets, reports, and other materials prepared, published, or distributed at substantial cost, a substantial purpose of which is to influence the passage or defeat of any legislation. The state auditor in his or her regular examination of each agency under chapter 43.09 RCW shall review the rules, accounts, and reports and make appropriate findings, comments, and recommendations ~~((in his or her examination reports))~~ concerning those agencies; and

(10) ~~((After hearing, by order approved and ratified by a majority of the membership of the commission, suspend or modify any of the reporting requirements of this chapter in a particular case if it finds that literal application of this chapter works a manifestly unreasonable hardship and if it also finds that the suspension or modification will not frustrate the purposes of the chapter. The commission shall find that a manifestly unreasonable hardship exists if reporting the name of an entity required to be reported under RCW 42.17.241(1)(g)(ii) would be likely to adversely affect the competitive position of any entity in which the person filing the report or any member of his or her immediate family holds any office, directorship, general partnership interest, or an ownership interest of ten percent or more. Any suspension or modification shall be only to the extent necessary to substantially relieve the hardship. The commission shall act to suspend or modify any reporting requirements only if it determines that facts exist that are clear and convincing proof of the findings required under this section. Requests for renewals of reporting modifications may be heard in a brief adjudicative proceeding as set forth in RCW 34.05.482 through 34.05.494 and in accordance with the standards established in this section. No initial request may be heard in a brief adjudicative proceeding and no request for renewal may be heard in a brief adjudicative proceeding if the initial request was granted more than three years previously or if the applicant is holding an office or position of employment different from the office or position held when the initial request was granted. The commission shall adopt administrative rules governing the proceedings. Any citizen has standing to bring an action in Thurston county superior court to contest the propriety of any order entered under this section within one year from the date of the entry of the order; and~~

~~((11) Revise, at least once every five years but no more often than every two years, the monetary reporting thresholds and reporting code values of this~~

~~chapter. The revisions shall be only for the purpose of recognizing economic changes as reflected by an inflationary index recommended by the office of financial management. The revisions shall be guided by the change in the index for the period commencing with the month of December preceding the last revision and concluding with the month of December preceding the month the revision is adopted. As to each of the three general categories of this chapter (reports of campaign finance, reports of lobbyist activity, and reports of the financial affairs of elected and appointed officials), the revisions shall equally affect all thresholds within each category. Revisions shall be adopted as rules under chapter 34.05 RCW. The first revision authorized by this subsection shall reflect economic changes from the time of the last legislative enactment affecting the respective code or threshold through December 1985;~~

(12)) Develop and provide to filers a system for certification of reports required under this chapter which are transmitted by facsimile or electronically to the commission. Implementation of the program is contingent on the availability of funds.

NEW SECTION. Sec. 304. SUSPENSION OR MODIFICATION OF REPORTING REQUIREMENTS. (1) The commission may suspend or modify any of the reporting requirements of this chapter if it finds that literal application of this chapter works a manifestly unreasonable hardship in a particular case and the suspension or modification will not frustrate the purposes of this chapter. The commission may suspend or modify reporting requirements only after a hearing is held and the suspension or modification receives approval from a majority of the commission. The commission shall act to suspend or modify any reporting requirements:

(a) Only if it determines that facts exist that are clear and convincing proof of the findings required under this section; and

(b) Only to the extent necessary to substantially relieve the hardship.

(2) A manifestly unreasonable hardship exists if reporting the name of an entity required to be reported under RCW 42.17.241(1)(g)(ii) (as recodified by this act) would be likely to adversely affect the competitive position of any entity in which the person filing the report, or any member of his or her immediate family, holds any office, directorship, general partnership interest, or an ownership interest of ten percent or more.

(3) Requests for renewals of reporting modifications may be heard in a brief adjudicative proceeding as set forth in RCW 34.05.482 through 34.05.494 and in accordance with the standards established in this section. No initial request may be heard in a brief adjudicative proceeding. No request for renewal may be heard in a brief adjudicative proceeding if the initial request was granted more than three years previously or if the applicant is holding an office or position of employment different from the office or position held when the initial request was granted.

(4) Any citizen has standing to bring an action in Thurston county superior court to contest the propriety of any order entered under this section within one year from the date of the entry of the order.

(5) The commission shall adopt rules governing the proceedings.

Sec. 305. RCW 42.17.690 and 1993 c 2 s 9 are each amended to read as follows:

(1) At the beginning of each even-numbered calendar year, the commission shall increase or decrease ~~((all))~~ the dollar amounts in ~~((this chapter))~~ RCW 42.17.020(28), 42.17.125(3), 42.17.180(1), 42.17.640, 42.17.645, and 42.17.740 (as recodified by this act) based on changes in economic conditions as reflected in the inflationary index ~~((used by the commission under RCW 42.17.370))~~ recommended by the office of financial management. The new dollar amounts established by the commission under this section shall be rounded off ~~((by the commission))~~ to amounts as judged most convenient for public understanding and so as to be within ten percent of the target amount equal to the base amount provided in this chapter multiplied by the increase in the inflationary index since ~~((December 3, 1992))~~ July 2008.

(2) The commission may revise, at least once every five years but no more often than every two years, the monetary reporting thresholds and reporting code values of this chapter. The revisions shall be only for the purpose of recognizing economic changes as reflected by an inflationary index recommended by the office of financial management. The revisions shall be guided by the change in the index for the period commencing with the month of December preceding the last revision and concluding with the month of December preceding the month the revision is adopted. As to each of the three general categories of this chapter, reports of campaign finance, reports of lobbyist activity, and reports of the financial affairs of elected and appointed officials, the revisions shall equally affect all thresholds within each category. The revisions authorized by this subsection shall reflect economic changes from the time of the last legislative enactment affecting the respective code or threshold.

(3) Revisions made in accordance with subsections (1) and (2) of this section shall be adopted as rules under chapter 34.05 RCW.

Sec. 306. RCW 42.17.380 and 1982 c 35 s 196 are each amended to read as follows:

~~((1)) The office of the secretary of state shall be designated as a place where the public may file papers or correspond with the commission and receive any form or instruction from the commission.~~

~~((2))~~ The attorney general, through his or her office, shall ~~((supply such))~~ provide assistance as ((the commission may require in order)) required by the commission to carry out its responsibilities under this chapter. The commission may employ attorneys who are neither the attorney general nor an assistant attorney general to carry out any function of the attorney general prescribed in this chapter.

Sec. 307. RCW 42.17.405 and 2006 c 240 s 2 are each amended to read as follows:

(1) Except as provided in subsections (2), (3), and (7) of this section, the reporting provisions of this chapter do not apply to:

(a) Candidates, elected officials, and agencies in political subdivisions with less than one thousand registered voters as of the date of the most recent general election in the jurisdiction~~((-to))~~;

(b) Political committees formed to support or oppose candidates or ballot propositions in such political subdivisions~~((-))~~; or ~~((to))~~

(c) Persons making independent expenditures in support of or opposition to such ballot propositions.

(2) The reporting provisions of this chapter apply in any exempt political subdivision from which a "petition for disclosure" containing the valid signatures of fifteen percent of the number of registered voters, as of the date of the most recent general election in the political subdivision, is filed with the commission. The commission shall by rule prescribe the form of the petition. After the signatures are gathered, the petition shall be presented to the auditor or elections officer of the county, or counties, in which the political subdivision is located. The auditor or elections officer shall verify the signatures and certify to the commission that the petition contains no less than the required number of valid signatures. The commission, upon receipt of a valid petition, shall order every known affected person in the political subdivision to file the initially required statement and reports within fourteen days of the date of the order.

(3) The reporting provisions of this chapter apply in any exempt political subdivision that by ordinance, resolution, or other official action has petitioned the commission to make the provisions applicable to elected officials and candidates of the exempt political subdivision. A copy of the action shall be sent to the commission. If the commission finds the petition to be a valid action of the appropriate governing body or authority, the commission shall order every known affected person in the political subdivision to file the initially required statement and reports within fourteen days of the date of the order.

(4) The commission shall void any order issued by it pursuant to subsection (2) or (3) of this section when, at least four years after issuing the order, the commission is presented a petition or official action so requesting from the affected political subdivision. Such petition or official action shall meet the respective requirements of subsection (2) or (3) of this section.

(5) Any petition for disclosure, ordinance, resolution, or official action of an agency petitioning the commission to void the exemption in RCW 42.17.030(3) (as recodified by this act) shall not be considered unless it has been filed with the commission:

(a) In the case of a ballot measure, at least sixty days before the date of any election in which campaign finance reporting is to be required;

(b) In the case of a candidate, at least sixty days before the first day on which a person may file a declaration of candidacy for any election in which campaign finance reporting is to be required.

(6) Any person exempted from reporting under this chapter may at his or her option file the statement and reports.

(7) The reporting provisions of this chapter apply to a candidate in any political subdivision if the candidate receives or expects to receive five thousand dollars or more in contributions.

Sec. 308. RCW 42.17.420 and 1999 c 401 s 10 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, ~~((when))~~ the date of receipt of any properly addressed application, report, statement, notice, or payment required to be made under the provisions of this chapter ~~((has been deposited postpaid in the United States mail properly addressed, it shall be deemed to have been received on the date of mailing. It shall be presumed that))~~ is the date shown by the post office cancellation mark on the envelope ~~((is the date of mailing))~~ of the submitted material. The provisions of this section do not

apply to reports required to be delivered under RCW 42.17.105 and 42.17.175 (as recodified by this act).

(2) When a report is filed electronically with the commission, it is deemed to have been received on the file transfer date. The commission shall notify the filer of receipt of the electronically filed report. Such notification may be sent by mail, facsimile, or electronic mail. If the notification of receipt of the electronically filed report is not received by the filer, the filer may offer his or her own proof of sending the report, and such proof shall be treated as if it were a receipt sent by the commission. Electronic filing may be used for purposes of filing the special reports required to be delivered under RCW 42.17.105 and 42.17.175 (as recodified by this act).

**Sec. 309. RCW 42.17.450 and 1973 c 1 s 45 are each amended to read as follows:*

~~((Persons with whom statements or reports or copies of statements or reports are required to be filed under this chapter))~~ (1) County auditors and county elections officials shall preserve ~~((them))~~ filed statements or reports for not less than six years.

~~((however,))~~ (2) The commission ~~((such))~~ shall preserve ~~((such))~~ filed statements or reports for not less than ten years.

**Sec. 309 was vetoed. See message at end of chapter.*

PART 4 CAMPAIGN FINANCE REPORTING

Sec. 401. RCW 42.17.030 and 2006 c 240 s 1 are each amended to read as follows:

The provisions of this chapter relating to the financing of election campaigns shall apply in all election campaigns other than (1) for precinct committee officer; (2) for a federal elective office; and (3) for an office of a political subdivision of the state that does not encompass a whole county and that contains fewer than five thousand registered voters as of the date of the most recent general election in the subdivision, unless required by RCW 42.17.405 (2) through (5) and (7) (as recodified by this act).

Sec. 402. RCW 42.17.040 and 2007 c 358 s 2 are each amended to read as follows:

(1) Every political committee(~~(-within two weeks after its organization or, within two weeks after the date when it first has the expectation of receiving contributions or making expenditures in any election campaign, whichever is earlier,))~~ shall file a statement of organization with the commission and with the county auditor or elections officer of the county in which the candidate resides, or in the case of any other political committee, the county in which the treasurer resides. The statement must be filed within two weeks after organization or within two weeks after the date the committee first has the expectation of receiving contributions or making expenditures in any election campaign, whichever is earlier. A political committee organized within the last three weeks before an election and having the expectation of receiving contributions or making expenditures during and for that election campaign shall file a statement of organization within three business days after its organization or when it first

has the expectation of receiving contributions or making expenditures in the election campaign.

(2) The statement of organization shall include but not be limited to:

- (a) The name and address of the committee;
- (b) The names and addresses of all related or affiliated committees or other persons, and the nature of the relationship or affiliation;
- (c) The names, addresses, and titles of its officers; or if it has no officers, the names, addresses, and titles of its responsible leaders;
- (d) The name and address of its treasurer and depository;
- (e) A statement whether the committee is a continuing one;
- (f) The name, office sought, and party affiliation of each candidate whom the committee is supporting or opposing, and, if the committee is supporting the entire ticket of any party, the name of the party;
- (g) The ballot proposition concerned, if any, and whether the committee is in favor of or opposed to such proposition;
- (h) What distribution of surplus funds will be made, in accordance with RCW 42.17.095 (as recodified by this act), in the event of dissolution;
- (i) The street address of the place and the hours during which the committee will make available for public inspection its books of account and all reports filed in accordance with RCW 42.17.080 (as recodified by this act);
- (j) Such other information as the commission may by regulation prescribe, in keeping with the policies and purposes of this chapter;
- (k) The name, address, and title of any person who authorizes expenditures or makes decisions on behalf of the candidate or committee; and
- (l) The name, address, and title of any person who is paid by or is a volunteer for a candidate or political committee to perform ministerial functions and who performs ministerial functions on behalf of two or more candidates or committees.

(3) Any material change in information previously submitted in a statement of organization shall be reported to the commission and to the appropriate county elections officer within the ten days following the change.

Sec. 403. RCW 42.17.050 and 1989 c 280 s 3 are each amended to read as follows:

(1) Each candidate, within two weeks after becoming a candidate, and each political committee, at the time it is required to file a statement of organization, shall designate and file with the commission and the appropriate county elections officer the name~~(s)~~ and address~~(es)~~ of~~(:~~

~~(a)) one~~ legally competent individual, who may be the candidate, to serve as a treasurer~~(; and~~

~~(b) A bank, mutual savings bank, savings and loan association, or credit union doing business in this state to serve as depository and the name of the account or accounts maintained in it).~~

(2) A candidate, a political committee, or a treasurer may appoint as many deputy treasurers as is considered necessary and ~~((may designate not more than one additional depository in each other county in which the campaign is conducted. The candidate or political committee))~~ shall file the names and addresses of the deputy treasurers ~~((and additional depositories))~~ with the commission and the appropriate county elections officer.

(3) ~~((A candidate may not knowingly establish, use, direct, or control more than one political committee for the purpose of supporting that candidate during a particular election campaign. This does not prohibit: (a) In addition to a candidate's having his or her own political committee, the candidate's participation in a political committee established to support a slate of candidates which includes the candidate; or (b) joint fund raising efforts by candidates when a separate political committee is established for that purpose and all contributions are disbursed to and accounted for on a pro rata basis by the benefiting candidates.~~

~~((4))~~(a) A candidate or political committee may at any time remove a treasurer or deputy treasurer ~~((or change a designated depository)).~~

(b) In the event of the death, resignation, removal, or change of a treasurer~~(;)~~ or deputy treasurer, ~~((or depository;))~~ the candidate or political committee shall designate and file with the commission and the appropriate county elections officer the name and address of any successor.

~~((5))~~ (4) No treasurer~~(;)~~ or deputy treasurer~~((; or depository))~~ may be deemed to be in compliance with the provisions of this chapter until his or her name and address is filed with the commission and the appropriate county elections officer.

NEW SECTION. Sec. 404. DEPOSITORIES. Each candidate and each political committee shall designate and file with the commission and the appropriate county elections officer the name and address of not more than one depository for each county in which the campaign is conducted in which the candidate's or political committee's accounts are maintained and the name of the account or accounts maintained in that depository on behalf of the candidate or political committee. The candidate or political committee may at any time change the designated depository and shall file with the commission and the appropriate county elections officer the same information for the successor depository as for the original depository. The candidate or political committee may not be deemed in compliance with the provisions of this chapter until the information required for the depository is filed with the commission and the appropriate county elections officer.

Sec. 405. RCW 42.17.060 and 1989 c 280 s 4 are each amended to read as follows:

(1) All monetary contributions received by a candidate or political committee shall be deposited by the treasurer or deputy treasurer in a depository in an account established and designated for that purpose. Such deposits shall be made within five business days of receipt of the contribution.

(2) Political committees ~~((which))~~ that support or oppose more than one candidate or ballot proposition, or exist for more than one purpose, may maintain multiple separate bank accounts within the same designated depository for such purpose~~((; PROVIDED, That))~~ only if:

(a) Each such account ~~((shall))~~ bears the same name;

(b) Each such account is followed by an appropriate designation ~~((which))~~ that accurately identifies its separate purpose~~((; AND PROVIDED FURTHER, That)); and~~

~~(c) Transfers of funds ((which)) that~~ must be reported under RCW 42.17.090(1)~~((d) may)) (e) (as recodified by this act) are not ((be))~~ made from more than one such account.

(3) Nothing in this section prohibits a candidate or political committee from investing funds on hand in a depository in bonds, certificates, or tax-exempt securities, or in savings accounts or other similar instruments in financial institutions, or in mutual funds other than the depository~~((: PROVIDED, That))~~ but only if:

~~(a) The commission and the appropriate county elections officer ((is)) are notified in writing of the initiation and the termination of the investment((: PROVIDED FURTHER, That)); and~~

~~(b) The principal of such investment, when terminated together with all interest, dividends, and income derived from the investment ((are)), is deposited in the depository in the account from which the investment was made and properly reported to the commission and the appropriate county elections officer ((prior to)) before any further disposition or expenditure ((thereof)).~~

(4) Accumulated unidentified contributions, other than those made by persons whose names must be maintained on a separate and private list by a political committee's treasurer pursuant to RCW 42.17.090(1)(b) (as recodified by this act), ~~((which total))~~ in excess of one percent of the total accumulated contributions received in the current calendar year, or three hundred dollars ~~((€)),~~ whichever is more~~((+))~~, may not be deposited, used, or expended, but shall be returned to the donor~~((:))~~ if his or her identity can be ascertained. If the donor cannot be ascertained, the contribution shall escheat to the state~~((:))~~ and shall be paid to the state treasurer for deposit in the state general fund.

~~((5) A contribution of more than fifty dollars in currency may not be accepted unless a receipt, signed by the contributor and by the candidate, treasurer, or deputy treasurer, is prepared and made a part of the campaign's or political committee's financial records.)~~

Sec. 406. RCW 42.17.065 and 2000 c 237 s 1 are each amended to read as follows:

(1) In addition to the provisions of this section, a continuing political committee shall file and report on the same conditions and at the same times as any other committee in accordance with the provisions of RCW 42.17.040, 42.17.050, and 42.17.060 (as recodified by this act).

(2) A continuing political committee shall file ~~((with the commission and the auditor or elections officer of the county in which the committee maintains its office or headquarters and if there is no such office or headquarters then in the county in which the committee treasurer resides))~~ a report on the tenth day of ~~((the))~~ each month detailing ~~((its activities))~~ expenditures made and contributions received for the preceding calendar month ~~((in which the committee has received a contribution or made an expenditure: PROVIDED, That such)).~~ This report ((shall)) need only be filed if either the total contributions received or total expenditures made since the last such report exceed two hundred dollars((: PROVIDED FURTHER, That after January 1, 2002, if the committee files with the commission electronically, it need not also file with the county auditor or elections officer)). The report must be filed with the commission and the auditor or elections officer of the county in which the committee maintains its office or headquarters. If the committee does not have

an office or headquarters, the report must be filed in the county where the committee treasurer resides. However, if the committee files with the commission electronically, it need not also file with the county auditor or elections officer. The report shall be on a form supplied by the commission and shall include the following information:

- (a) The information required by RCW 42.17.090 (as recodified by this act);
- (b) Each expenditure made to retire previously accumulated debts of the committee~~(s)~~ identified by recipient, amount, and date of payments;
- (c) ~~((Such))~~ Other information ~~((as))~~ the commission shall prescribe by rule ~~((prescribe))~~.

(3) If a continuing political committee ~~((shall))~~ makes a contribution in support of or in opposition to a candidate or ballot proposition within sixty days ~~((prior to))~~ before the date ~~((on which such))~~ that the candidate or ballot proposition will be voted upon, ~~((such continuing political))~~ the committee shall report pursuant to RCW 42.17.080 (as recodified by this act).

(4) A continuing political committee shall file reports as required by this chapter until it is dissolved, at which time a final report shall be filed. Upon submitting a final report, the duties of the ~~((campaign))~~ treasurer shall cease and there shall be no obligation to make any further reports.

(5) The ~~((campaign))~~ treasurer shall maintain books of account, current within five business days, that accurately ((reflecting)) reflect all contributions and expenditures ~~((on a current basis within five business days of receipt or expenditure))~~. During the eight days immediately preceding the date of any election~~((, for which))~~ that the committee has received any contributions or made any expenditures, the books of account shall be kept current within one business day and shall be open for public inspection in the same manner as provided for candidates and other political committees in RCW 42.17.080(5) (as recodified by this act).

(6) All reports filed pursuant to this section shall be certified as correct by the ~~((campaign))~~ treasurer.

(7) The ~~((campaign))~~ treasurer shall preserve books of account, bills, receipts, and all other financial records of the campaign or political committee for not less than five calendar years following the year during which the transaction occurred.

Sec. 407. RCW 42.17.067 and 1989 c 280 s 6 are each amended to read as follows:

(1) Fund-raising activities ~~((which meet))~~ meeting the standards of subsection (2) of this section may be reported in accordance with the provisions of this section in lieu of reporting in accordance with RCW 42.17.080 (as recodified by this act).

(2) Standards:

(a) The activity consists of one or more of the following:

(i) ~~((The retail))~~ A sale of goods or services sold at a reasonable approximation of the fair market value of each item or service ~~((sold at the activity))~~; or

(ii) A gambling operation ~~((which))~~ that is licensed, conducted, or operated in accordance with the provisions of chapter 9.46 RCW; or

(iii) A gathering where food and beverages are purchased ~~((, where))~~ and the price of admission or the per person charge for the food and beverages is no more than twenty-five dollars; or

(iv) A concert, dance, theater performance, or similar entertainment event ~~((where))~~ and the price of admission is no more than twenty-five dollars; or

(v) An auction or similar sale ~~((where))~~ for which the total fair market value of items donated by any person ~~((for sale))~~ is no more than fifty dollars; and

(b) No person responsible for receiving money at ~~((such))~~ the fund-raising activity knowingly accepts payments from a single person at or from such an activity to the candidate or committee aggregating more than fifty dollars unless the name and address of the person making ~~((such))~~ the payment, together with the amount paid to the candidate or committee, are disclosed in the report filed pursuant to subsection (6) of this section; and

(c) ~~((Such))~~ Any other standards ~~((as shall be))~~ established by rule of the commission to prevent frustration of the purposes of this chapter.

(3) All funds received from a fund-raising activity ~~((which))~~ that conforms with subsection (2) of this section ~~((shall))~~ must be deposited in the depository within five business days of receipt by the treasurer or deputy treasurer ~~((in the depository)).~~

(4) At the time reports are required under RCW 42.17.080 ~~((as recodified by this act))~~, the treasurer or deputy treasurer making the deposit shall file with the commission and the appropriate county elections officer a report of the fund-raising activity which ~~((shall))~~ must contain the following information:

(a) The date of the activity;

(b) A precise description of the fund-raising methods used in the activity; and

(c) The total amount of cash receipts from persons, each of whom paid no more than fifty dollars.

(5) The treasurer or deputy treasurer shall certify the report is correct.

(6) The treasurer shall report pursuant to RCW 42.17.080 and 42.17.090 ~~((as recodified by this act))~~:

(a) The name and address and the amount contributed ~~((of))~~ by each person ~~((who contributes))~~ contributing goods or services with a fair market value of more than fifty dollars to a fund-raising activity reported under subsection (4) of this section~~((;))~~; and

(b) The name and address ~~((of))~~ and the amount paid by each person whose identity can be ascertained, ~~((and the amount paid, from whom were knowingly received payments))~~ who made a contribution to the candidate or committee aggregating more than fifty dollars at or from such a fund-raising activity.

Sec. 408. RCW 42.17.080 and 2008 c 73 s 1 are each amended to read as follows:

(1) In addition to the information required under RCW 42.17.040 and 42.17.050 (as recodified by this act), on the day the treasurer is designated, each candidate or political committee ~~((shall))~~ must file with the commission and the county auditor or elections officer of the county in which the candidate resides, or in the case of a political committee, the county in which the treasurer resides, ~~((in addition to any statement of organization required under RCW 42.17.040 or 42.17.050,))~~ a report of all contributions received and expenditures made prior to that date, if any.

(2) ~~((At the following intervals))~~ Each treasurer shall file with the commission and the county auditor or elections officer of the county in which the candidate resides, or in the case of a political committee, the county in which the committee maintains its office or headquarters, ~~((and if there is no office or headquarters then))~~ or in the county in which the treasurer resides if there is no office or headquarters, a report containing the information required by RCW 42.17.090 (as recodified by this act) at the following intervals:

(a) On the twenty-first day and the seventh day immediately preceding the date on which the election is held; ~~((and))~~

(b) On the tenth day of the first month after the election; and

(c) On the tenth day of each month in which no other reports are required to be filed under this section ~~((: PROVIDED, That such report shall only be filed))~~ only if the committee has received a contribution or made an expenditure in the preceding calendar month and either the total contributions received or total expenditures made since the last such report exceed two hundred dollars.

~~((When there is no outstanding debt or obligation, and the campaign fund is closed, and the campaign is concluded in all respects, and in the case of a political committee, the committee has ceased to function and has dissolved, the treasurer shall file a final report. Upon submitting a final report, the duties of the treasurer shall cease and there shall be no obligation to make any further reports.))~~

The report filed twenty-one days before the election shall report all contributions received and expenditures made as of the end of the one business day before the date of the report. The report filed seven days before the election shall report all contributions received and expenditures made as of the end of the one business day before the date of the report. Reports filed on the tenth day of the month shall report all contributions received and expenditures made from the closing date of the last report filed through the last day of the month preceding the date of the current report.

(3) For the period beginning the first day of the fourth month preceding the date ~~((on which))~~ of the special election ~~((is held))~~, or for the period beginning the first day of the fifth month before the date ~~((on which))~~ of the general election ~~((is held))~~, and ending on the date of that special or general election, each Monday the treasurer shall file with the commission and the appropriate county elections officer a report of each bank deposit made during the previous seven calendar days. The report shall contain the name of each person contributing the funds ~~((so deposited))~~ and the amount contributed by each person. However, ~~((contributions of))~~ persons who contribute no more than twenty-five dollars in the aggregate ~~((from any one person may be deposited without identifying the contributor))~~ are not required to be identified in the report. A copy of the report shall be retained by the treasurer for his or her records. In the event of deposits made by a deputy treasurer, the copy shall be forwarded to the treasurer for his or her records. Each report shall be certified as correct by the treasurer or deputy treasurer making the deposit.

(4) If a city requires that candidates or committees for city offices file reports with a city agency, the candidate or treasurer ~~((so filing need not also))~~ complying with the requirement does not need to file the report with the county auditor or elections officer.

(5) The treasurer or candidate shall maintain books of account accurately reflecting all contributions and expenditures on a current basis within five business days of receipt or expenditure. During the eight days immediately preceding the date of the election the books of account shall be kept current within one business day. As specified in the committee's statement of organization filed under RCW 42.17.040 (as recodified by this act), the books of account must be open for public inspection by appointment at the designated place for inspections between 8:00 a.m. and 8:00 p.m. on any day from the eighth day immediately before the election through the day immediately before the election, other than Saturday, Sunday, or a legal holiday. It is a violation of this chapter for a candidate or political committee to refuse to allow and keep an appointment for an inspection to be conducted during these authorized times and days. The appointment must be allowed at an authorized time and day for such inspections that is within twenty-four hours of the time and day that is requested for the inspection.

~~(6) (The treasurer or candidate shall preserve books of account, bills, receipts, and all other financial records of the campaign or political committee for not less than five calendar years following the year during which the transaction occurred.~~

~~(7) All reports filed pursuant to subsection (1) or (2) of this section shall be certified as correct by the candidate and the treasurer.~~

~~(8)) Copies of all reports filed pursuant to this section shall be readily available for public inspection ((for at least two consecutive hours Monday through Friday, excluding legal holidays, between 8:00 a.m. and 8:00 p.m., as specified in the committee's statement of organization filed pursuant to RCW 42.17.040)) by appointment, pursuant to subsection (5) of this section, at the principal headquarters or, if there is no headquarters, at the address of the treasurer or such other place as may be authorized by the commission.~~

~~((9) After January 1, 2002,)) (7) A report that is filed with the commission electronically need not also be filed with the county auditor or elections officer.~~

~~((10) The commission shall adopt administrative rules establishing requirements for filer participation in any system designed and implemented by the commission for the electronic filing of reports.))~~

(8) The treasurer or candidate shall preserve books of account, bills, receipts, and all other financial records of the campaign or political committee for not less than five calendar years following the year during which the transaction occurred.

(9) All reports filed pursuant to subsection (1) or (2) of this section shall be certified as correct by the candidate and the treasurer.

(10) When there is no outstanding debt or obligation, the campaign fund is closed, and the campaign is concluded in all respects or in the case of a political committee, the committee has ceased to function and has dissolved, the treasurer shall file a final report. Upon submitting a final report, the duties of the treasurer shall cease and there is no obligation to make any further reports.

Sec. 409. RCW 42.17.090 and 2003 c 123 s 1 are each amended to read as follows:

((1)) Each report required under RCW 42.17.080 (1) and (2) (as recodified by this act) must be certified as correct by the treasurer and the candidate and shall disclose the following:

~~((a))~~ (1) The funds on hand at the beginning of the period;

~~((b))~~ (2) The name and address of each person who has made one or more contributions during the period, together with the money value and date of ~~((such))~~ each contribution~~((s))~~ and the aggregate value of all contributions received from each ~~((such))~~ person during the campaign, or in the case of a continuing political committee, the current calendar year~~((:—PROVIDED, That))~~, with the following exceptions:

(a) Pledges in the aggregate of less than one hundred dollars from any one person need not be reported~~((:—PROVIDED FURTHER, That the))~~;

(b) Income ~~((which))~~ that results from a fund-raising activity conducted in accordance with RCW 42.17.067 ~~((as recodified by this act))~~ may be reported as one lump sum, with the exception of that portion ~~((of such income which was))~~ received from persons whose names and addresses are required to be included in the report required by RCW 42.17.067~~((:—PROVIDED FURTHER, That))~~ ~~((as recodified by this act))~~;

(c) Contributions of no more than twenty-five dollars in the aggregate from any one person during the election campaign may be reported as one lump sum ~~((so long as))~~ if the ~~((campaign))~~ treasurer maintains a separate and private list of the name, address, and amount of each such contributor~~((:—PROVIDED FURTHER, That))~~; and

(d) The money value of contributions of postage shall be the face value of ~~((such))~~ the postage;

~~((e))~~ (3) Each loan, promissory note, or security instrument to be used by or for the benefit of the candidate or political committee made by any person, ~~((together with))~~ including the names and addresses of the lender and each person liable directly, indirectly or contingently and the date and amount of each such loan, promissory note, or security instrument;

~~((f))~~ (4) All other contributions not otherwise listed or exempted;

~~((e))~~ (5) The name and address of each candidate or political committee to which any transfer of funds was made, ~~((together with))~~ including the amounts and dates of ~~((such))~~ the transfers;

~~((f))~~ (6) The name and address of each person to whom an expenditure was made in the aggregate amount of more than fifty dollars during the period covered by this report, ~~((and))~~ the amount, date, and purpose of each ~~((such))~~ expenditure~~((:—A candidate for state executive or state legislative office or the political committee of such a candidate shall report this information for an expenditure under one of the following categories, whichever is appropriate: (i) Expenditures for the election of the candidate; (ii) expenditures for nonreimbursed public office related expenses; (iii) expenditures required to be reported under (e) of this subsection; or (iv) expenditures of surplus funds and other expenditures. The report of such a candidate or committee shall contain a separate total of expenditures for each category and a total sum of all expenditures. Other candidates and political committees need not report information regarding expenditures under the categories listed in (i) through (iv) of this subsection or under similar such categories unless required to do so by the commission by rule. The report of such an other candidate or committee shall also contain))~~, and the total sum of all expenditures;

~~((g))~~ (7) The name and address of each person ~~((to whom any expenditure was made directly or indirectly to compensate the person))~~ directly compensated

for soliciting or procuring signatures on an initiative or referendum petition, the amount of ~~((such))~~ the compensation to each ~~((such))~~ person, and the total ~~((of the))~~ expenditures made for this purpose. Such expenditures shall be reported under this subsection ~~((1)(g) whether the expenditures are or are not also))~~ in addition to what is required to be reported under ~~((f) of this))~~ subsection (6) of this section;

~~((h))~~ (8) The name and address of any person and the amount owed for any debt, obligation, note, unpaid loan, or other liability in the amount of more than two hundred fifty dollars or in the amount of more than fifty dollars that has been outstanding for over thirty days;

~~((i))~~ (9) The surplus or deficit of contributions over expenditures;

~~((j))~~ (10) The disposition made in accordance with RCW 42.17.095 (as recodified by this act) of any surplus funds; and

~~((k) Such))~~ (11) Any other information ~~((as shall be))~~ required by the commission by rule in conformance with the policies and purposes of this chapter.

~~((2) The treasurer and the candidate shall certify the correctness of each report.))~~

Sec. 410. RCW 42.17.3691 and 2000 c 237 s 4 are each amended to read as follows:

(1) ~~((Beginning January 1, 2002, each candidate or political committee that expended twenty-five thousand dollars or more in the preceding year or expects to expend twenty-five thousand dollars or more in the current year shall file all contribution reports and expenditure reports required by this chapter by the electronic alternative provided by the commission under RCW 42.17.369. The commission may make exceptions on a case-by-case basis for candidates whose authorized committees lack the technological ability to file reports using the electronic alternative provided by the commission.~~

~~((2) Beginning January 1, 2004.))~~ Each candidate or political committee that expended ten thousand dollars or more in the preceding year or expects to expend ten thousand dollars or more in the current year shall file all contribution reports and expenditure reports required by this chapter by the electronic alternative provided by the commission under RCW 42.17.369 (as recodified by this act). The commission may make exceptions on a case-by-case basis for candidates whose authorized committees lack the technological ability to file reports using the electronic alternative provided by the commission.

~~((3))~~ (2) Failure by a candidate or political committee to comply with this section is a violation of this chapter.

Sec. 411. RCW 42.17.093 and 2006 c 348 s 6 are each amended to read as follows:

(1) An out-of-state political committee organized for the purpose of supporting or opposing candidates or ballot propositions in another state that is not otherwise required to report under RCW 42.17.040 through 42.17.090 (as recodified by this act) shall report as required in this section when it makes an expenditure supporting or opposing a Washington state candidate or political committee. The committee shall file with the commission a statement disclosing:

(a) Its name and address;

- (b) The purposes of the out-of-state committee;
- (c) The names, addresses, and titles of its officers or, if it has no officers, the names, addresses, and the titles of its responsible leaders;
- (d) The name, office sought, and party affiliation of each candidate in the state of Washington whom the out-of-state committee is supporting or opposing and, if ~~((such))~~ the committee is supporting or opposing the entire ticket of any party, the name of the party;
- (e) The ballot proposition supported or opposed in the state of Washington, if any, and whether ~~((such))~~ the committee is in favor of or opposed to ~~((such))~~ that proposition;
- (f) The name and address of each person residing in the state of Washington or corporation ~~((which))~~ that has a place of business in the state of Washington who has made one or more contributions in the aggregate of more than twenty-five dollars to the out-of-state committee during the current calendar year, together with the money value and date of ~~((such))~~ the contributions;
- (g) The name, address, and employer of each person or corporation residing outside the state of Washington who has made one or more contributions in the aggregate of more than two thousand five hundred fifty dollars to the out-of-state committee during the current calendar year, together with the money value and date of ~~((such))~~ the contributions. Annually, the commission must modify the two thousand five hundred fifty dollar limit in this subsection based on percentage change in the implicit price deflator for personal consumption expenditures for the United States as published for the most recent twelve-month period by the bureau of economic analysis of the federal department of commerce;
- (h) The name and address of each person in the state of Washington to whom an expenditure was made by the out-of-state committee with respect to a candidate or political committee in the aggregate amount of more than fifty dollars, the amount, date, and purpose of ~~((such))~~ the expenditure, and the total sum of ~~((such))~~ the expenditures; and
- (i) ~~((Such))~~ Any other information as the commission may prescribe by rule in keeping with the policies and purposes of this chapter.

(2) Each statement shall be filed no later than the tenth day of the month following any month in which a contribution or other expenditure reportable under subsection (1) of this section is made. An out-of-state committee incurring an obligation to file additional statements in a calendar year may satisfy the obligation by timely filing reports that supplement previously filed information.

**Sec. 412. RCW 42.17.100 and 1995 c 397 s 28 are each amended to read as follows:*

(1) For the purposes of this section and RCW 42.17.550 ~~((the term))~~ (as recodified by this act), "independent expenditure" means any expenditure that is made in support of or in opposition to any candidate or ballot proposition and is not otherwise required to be reported pursuant to RCW 42.17.060, 42.17.080, or 42.17.090 (as recodified by this act). "Independent expenditure" does not include: An internal political communication primarily limited to the contributors to a political party organization or political action committee, or the officers, management staff, and stockholders of a corporation or similar enterprise, or the members of a labor organization or other membership

organization; or the rendering of personal services of the sort commonly performed by volunteer campaign workers, or incidental expenses personally incurred by volunteer campaign workers not in excess of fifty dollars personally paid for by the worker. "Volunteer services," for the purposes of this section, means services or labor for which the individual is not compensated by any person.

(2) Within five days after the date of making an independent expenditure that by itself or when added to all other (~~such~~) independent expenditures made during the same election campaign by the same person equals one hundred dollars or more, or within five days after the date of making an independent expenditure for which no reasonable estimate of monetary value is practicable, whichever occurs first, the person who made the independent expenditure shall file with the commission and the county elections officer of the county of residence for the candidate supported or opposed by the independent expenditure (or in the case of an expenditure made in support of or in opposition to a local ballot proposition, the county of residence for the person making the expenditure) an initial report of all independent expenditures made during the campaign (~~prior to~~) before and including such date.

(3) At the following intervals each person who is required to file an initial report pursuant to subsection (2) of this section shall file with the commission and the county elections officer of the county of residence for the candidate supported or opposed by the independent expenditure (or in the case of an expenditure made in support of or in opposition to a ballot proposition, the county of residence for the person making the expenditure) a further report of the independent expenditures made since the date of the last report:

(a) On the twenty-first day and the seventh day preceding the date on which the election is held; and

(b) On the tenth day of the first month after the election; and

(c) On the tenth day of each month in which no other reports are required to be filed pursuant to this section. However, the further reports required by this subsection (3) shall only be filed if the reporting person has made an independent expenditure since the date of the last previous report filed.

(4) The report filed pursuant to (~~paragraph (a) of this~~) subsection (3)(a) of this section shall be the final report, and upon submitting such final report the duties of the reporting person shall cease, and there shall be no obligation to make any further reports.

~~((4))~~ (5) All reports filed pursuant to this section shall be certified as correct by the reporting person.

~~((5))~~ (6) Each report required by subsections (2) and (3) of this section shall disclose for the period beginning at the end of the period for the last previous report filed or, in the case of an initial report, beginning at the time of the first independent expenditure, and ending not more than one business day before the date the report is due:

(a) The name and address of the person filing the report;

(b) The name and address of each person to whom an independent expenditure was made in the aggregate amount of more than fifty dollars, and the amount, date, and purpose of each (~~such~~) expenditure. If no reasonable estimate of the monetary value of a particular independent expenditure is

practicable, it is sufficient to report instead a precise description of services, property, or rights furnished through the expenditure, and where appropriate, to attach a copy of the item produced or distributed by the expenditure;

(c) The total sum of all independent expenditures made during the campaign to date; and

(d) ~~((Such))~~ Any other information ~~((as shall be required by))~~ the commission may require by rule ~~((in conformance with the policies and purposes of this chapter)).~~

*Sec. 412 was vetoed. See message at end of chapter.

Sec. 413. RCW 42.17.103 and 2005 c 445 s 7 are each amended to read as follows:

(1) The sponsor of political advertising who, within twenty-one days of an election, publishes, mails, or otherwise presents to the public political advertising supporting or opposing a candidate or ballot proposition that qualifies as an independent expenditure with a fair market value of one thousand dollars or more shall deliver, either electronically or in written form, a special report to the commission within twenty-four hours of, or on the first working day after, the date the political advertising is first published, mailed, or otherwise presented to the public.

(2) If a sponsor is required to file a special report under this section, the sponsor shall also deliver to the commission within the delivery period established in subsection (1) of this section a special report for each subsequent independent expenditure of any size supporting or opposing the same candidate who was the subject of the previous independent expenditure, supporting or opposing that candidate's opponent, or supporting or opposing the same ballot proposition that was the subject of the previous independent expenditure.

(3) The special report must include ~~((at least))~~:

(a) The name and address of the person making the expenditure;

(b) The name and address of the person to whom the expenditure was made;

(c) A detailed description of the expenditure;

(d) The date the expenditure was made and the date the political advertising was first published or otherwise presented to the public;

(e) The amount of the expenditure;

(f) The name of the candidate supported or opposed by the expenditure, the office being sought by the candidate, and whether the expenditure supports or opposes the candidate; or the name of the ballot proposition supported or opposed by the expenditure and whether the expenditure supports or opposes the ballot proposition; and

(g) Any other information the commission may require by rule.

(4) All persons required to report under RCW 42.17.065, 42.17.080, 42.17.090, 42.17.100, and 42.17.565 (as recodified by this act) are subject to the requirements of this section. The commission may determine that reports filed pursuant to this section also satisfy the requirements of RCW 42.17.100 (as recodified by this act).

(5) The sponsor of independent expenditures supporting a candidate or opposing that candidate's opponent required to report under this section shall file with each required report an affidavit or declaration of the person responsible for making the independent expenditure that the expenditure was not made in cooperation, consultation, or concert with, or at the request or suggestion of, the

candidate, the candidate's authorized committee, or the candidate's agent, or with the encouragement or approval of the candidate, the candidate's authorized committee, or the candidate's agent.

Sec. 414. RCW 42.17.105 and 2001 c 54 s 2 are each amended to read as follows:

(1) ~~((Campaign))~~ Treasurers shall prepare and deliver to the commission a special report ~~((regarding any))~~ when a contribution or aggregate of contributions ~~((which is))~~ totals one thousand dollars or more~~((;))~~, is from a single person or entity~~((;))~~, and is received during a special reporting period.

~~((Any))~~ (2) A political committee ~~((making))~~ shall prepare and deliver to the commission a special report when it makes a contribution or an aggregate of contributions to a single entity ~~((which is))~~ that totals one thousand dollars or more ~~((shall also prepare and deliver to the commission the special report if the contribution or aggregate of contributions is made))~~ during a special reporting period.

~~((For the purposes of subsections (1) through (7) of this section:~~

~~((a) Each of the following intervals is a))~~ (3) An aggregate of contributions includes only those contributions made to or received from a single entity during any one special reporting period. Any subsequent contribution of any size made to or received from the same person or entity during the special reporting period must also be reported.

(4) Special reporting periods, for purposes of this section, include: ~~((+))~~

~~((a) The ~~((interval beginning after the))~~ period ~~((covered by))~~ beginning on the day after the last report required by RCW 42.17.080 and 42.17.090 ~~((as recodified by this act))~~ to be filed before a primary and concluding on the end of the day before that primary; ~~((and (ii))~~~~

~~((b) The ~~((interval composed of the))~~ period twenty-one days preceding a general election; and~~

~~((+))~~ (c) An aggregate of contributions includes only those contributions received from a single entity during any one special reporting period or made by the contributing political committee to a single entity during any one special reporting period.

~~((2))~~ (5) If a campaign treasurer files a special report under this section for one or more contributions received from a single entity during a special reporting period, the treasurer shall also file a special report under this section for each subsequent contribution of any size which is received from that entity during the special reporting period. If a political committee files a special report under this section for a contribution or contributions made to a single entity during a special reporting period, the political committee shall also file a special report for each subsequent contribution of any size which is made to that entity during the special reporting period.

~~((3) Except as provided in subsection (4) of this section, the))~~ (6) Special reports required by this section shall be delivered electronically or in written form, including but not limited to mailgram, telegram, or nightletter. The special report may be transmitted orally by telephone to the commission if the written form of the report is postmarked and mailed to the commission or the electronic filing is transferred to the commission within the delivery periods established in (a) and (b) of this subsection.

(a) The special report required of a contribution recipient ~~((by))~~ under subsection (1) of this section shall be delivered to the commission within forty-eight hours of the time, or on the first working day after: The contribution of one thousand dollars or more is received by the candidate or treasurer; the aggregate received by the candidate or treasurer first equals one thousand dollars or more; or ~~((the))~~ any subsequent contribution ~~((that must be reported under subsection (2) of this section))~~ from the same source is received by the candidate or treasurer.

(b) The special report required of a contributor ~~((by))~~ under subsection ~~((+))~~ (2) of this section or RCW 42.17.175 (as recodified by this act) shall be delivered to the commission, and the candidate or political committee to whom the contribution or contributions are made, within twenty-four hours of the time, or on the first working day after: The contribution is made; the aggregate of contributions made first equals one thousand dollars or more; or ~~((the))~~ any subsequent contribution ~~((that must be reported under subsection (2) of this section))~~ to the same person or entity is made.

~~((4))~~ The special report may be transmitted orally by telephone to the commission to satisfy the delivery period required by subsection (3) of this section if the written form of the report is also mailed to the commission and postmarked within the delivery period established in subsection (3) of this section or the file transfer date of the electronic filing is within the delivery period established in subsection (3) of this section.

~~((5))~~ (7) The special report shall include ~~((at least))~~:

- (a) The amount of the contribution or contributions;
- (b) The date or dates of receipt;
- (c) The name and address of the donor;
- (d) The name and address of the recipient; and
- (e) Any other information the commission may by rule require.

~~((6))~~ (8) Contributions reported under this section shall also be reported as required by other provisions of this chapter.

~~((7))~~ (9) The commission shall prepare daily a summary of the special reports made under this section and RCW 42.17.175 (as recodified by this act).

~~((8))~~ It is a violation of this chapter for any person to make, or for any candidate or political committee to accept from any one person, contributions reportable under RCW 42.17.090 in the aggregate exceeding fifty thousand dollars for any campaign for statewide office or exceeding five thousand dollars for any other campaign subject to the provisions of this chapter within twenty-one days of a general election. This subsection does not apply to contributions made by, or accepted from, a bona fide political party as defined in this chapter, excluding the county central committee or legislative district committee.

~~((9))~~ (10) Contributions governed by this section include, but are not limited to, contributions made or received indirectly through a third party or entity whether the contributions are or are not reported to the commission as earmarked contributions under RCW 42.17.135 (as recodified by this act).

**Sec. 415. RCW 42.17.550 and 1993 c 2 s 23 are each amended to read as follows:*

A person or entity, other than a party organization making an independent expenditure ~~((by))~~ that consists of mailing one thousand or more identical or nearly identical cumulative pieces of political advertising in a

single calendar year shall ~~(s)~~ report that activity. The report must be made within two working days after the date of the mailing, ~~(file a statement)~~ disclosing the number of pieces in the mailing and an example of the mailed political advertising ~~((with))~~. The report must be sent to the election officer of the county ~~((or))~~ of residence ~~((for))~~ of the candidate supported or opposed by the independent campaign expenditure ~~((or))~~. In the case of an expenditure made in support of or in opposition to a ballot proposition, the report must be sent to the county of residence ~~((for))~~ of the person making the expenditure.

*Sec. 415 was vetoed. See message at end of chapter.

Sec. 416. RCW 42.17.135 and 1989 c 280 s 13 are each amended to read as follows:

A ~~((candidate or))~~ political committee receiving a contribution earmarked for the benefit of ~~((another))~~ a candidate or another political committee shall:

(1) Report the contribution as required in RCW 42.17.080 and 42.17.090 (as recodified by this act);

(2) Complete a report, entitled "Earmarked contributions," on a form prescribed by the commission ~~((by rule, which))~~ that identifies the name and address of the person who made the contribution, the candidate or political committee for whose benefit the contribution is earmarked, the amount of the contribution, and the date ~~((on which))~~ that the contribution was received; and

(3) ~~((Notify))~~ Mail or deliver to the commission and the candidate or political committee ~~((for whose benefit))~~ benefiting from the contribution ~~((is earmarked regarding the receipt of the contribution by mailing or delivering to the commission and to the candidate or committee))~~ a copy of the "Earmarked contributions" report within two working days of receipt of the contribution. ~~((Such notice shall be given within two working days of receipt of the contribution.))~~

(4) A candidate or political committee receiving notification of an earmarked contribution under subsection (3) of this section shall report the contribution, once notification of the contribution is received by the candidate or committee, in the same manner as ~~((the receipt of))~~ any other contribution ~~((is disclosed in reports))~~, as required by RCW 42.17.080 and 42.17.090 (as recodified by this act).

PART 5 POLITICAL ADVERTISING AND ELECTIONEERING COMMUNICATIONS

Sec. 501. RCW 42.17.561 and 2005 c 445 s 1 are each amended to read as follows:

(1) The legislature finds that:

~~((1))~~ (a) Timely disclosure to voters of the identity and sources of funding for electioneering communications is vitally important to the integrity of state, local, and judicial elections.

~~((2))~~ (b) Electioneering communications that identify political candidates for state, local, or judicial office and that are distributed sixty days before an election for those offices are intended to influence voters and the outcome of those elections.

~~((3))~~ (c) The state has a compelling interest in providing voters information about electioneering communications in political campaigns concerning candidates for state, local, or judicial office so that voters can be fully informed as to the: ~~((a))~~ (i) Source of support or opposition to those candidates; and ~~((b))~~ (ii) identity of persons attempting to influence the outcome of state, local, and judicial candidate elections.

~~((4))~~ (d) Nondisclosure of financial information about advertising that masquerades as relating only to issues and not to candidate campaigns fosters corruption or the appearance of corruption. These consequences can be substantially avoided by full disclosure of the identity and funding of those persons paying for such advertising.

~~((5))~~ (e) The United States supreme court held in *McConnell et al. v. Federal Elections Commission*, 540 U.S. 93, 124 S.Ct. 619, 157 L.Ed.2d 491 (2003) that speakers seeking to influence elections do not possess an inviolable free speech right to engage in electioneering communications regarding elections, including when issue advocacy is the functional equivalent of express advocacy. Therefore, such election campaign communications can be regulated and the source of funding disclosed.

~~((6))~~ (f) The state (~~also~~) has a sufficiently compelling interest in preventing corruption in political campaigns to justify and restore contribution limits and restrictions on the use of soft money in RCW 42.17.640 (as recodified by this act). Those interests include restoring restrictions on the use of such funds for electioneering communications, as well as the laws preventing circumvention of those limits and restrictions.

(2) Based upon the findings in this section, chapter 445, Laws of 2005 is narrowly tailored to accomplish the following and is intended to:

(a) Improve the disclosure to voters of information concerning persons and entities seeking to influence state, local, and judicial campaigns through reasonable and effective mechanisms, including improving disclosure of the source, identity, and funding of electioneering communications concerning state, local, and judicial candidate campaigns;

(b) Regulate electioneering communications that mention state, local, and judicial candidates and that are broadcast, mailed, erected, distributed, or otherwise published right before the election so that the public knows who is paying for such communications;

(c) Reenact and amend the contribution limits in RCW 42.17.640 (7) and (15) (as recodified by this act) and the restrictions on the use of soft money, including as applied to electioneering communications, as those limits and restrictions were in effect following the passage of chapter 2, Laws of 1993 (Initiative Measure No. 134) and before the state supreme court decision in *Washington State Republican Party v. Washington State Public Disclosure Commission*, 141 Wn.2d 245, 4 P.3d 808 (2000). The commission is authorized to fully restore the implementation of the limits and restrictions of RCW 42.17.640 (7) and (15) (as recodified by this act) in light of *McConnell et al. v. Federal Elections Commission*, 540 U.S. 93, 124 S.Ct. 619, 157 L.Ed.2d 491 (2003). The United States supreme court upheld the disclosure and regulation of electioneering communications in political campaigns, including but not limited to issue advocacy that is the functional equivalent of express advocacy; and

(d) Authorize the commission to adopt rules to implement chapter 445, Laws of 2005.

Sec. 502. RCW 42.17.565 and 2005 c 445 s 3 are each amended to read as follows:

(1) A payment for or promise to pay for any electioneering communication shall be reported to the commission by the sponsor on forms the commission shall develop by rule to include, at a minimum, the following information:

(a) Name and address of the sponsor;

(b) Source of funds for the communication, including:

(i) General treasury funds. The name and address of businesses, unions, groups, associations, or other organizations using general treasury funds for the communication, however, if a business, union, group, association, or other organization undertakes a special solicitation of its members or other persons for an electioneering communication, or it otherwise receives funds for an electioneering communication, that entity shall report pursuant to (b)(ii) of this subsection;

(ii) Special solicitations and other funds. The name, address, and, for individuals, occupation and employer, of a person whose funds were used to pay for the electioneering communication, along with the amount, if such funds from the person have exceeded two hundred fifty dollars in the aggregate for the electioneering communication; and

(iii) Any other source information required or exempted by the commission by rule;

(c) Name and address of the person to whom an electioneering communication related expenditure was made;

(d) A detailed description of each expenditure of more than one hundred dollars;

(e) The date the expenditure was made and the date the electioneering communication was first broadcast, transmitted, mailed, erected, distributed, or otherwise published;

(f) The amount of the expenditure;

(g) The name of each candidate clearly identified in the electioneering communication, the office being sought by each candidate, and the amount of the expenditure attributable to each candidate; and

(h) Any other information the commission may require or exempt by rule.

(2) Electioneering communications shall be reported as follows: The sponsor of an electioneering communication shall report to the commission within twenty-four hours of, or on the first working day after, the date the electioneering communication is broadcast, transmitted, mailed, erected, distributed, or otherwise published.

(3) Electioneering communications shall be reported electronically by the sponsor using software provided or approved by the commission. The commission may make exceptions on a case-by-case basis for a sponsor who lacks the technological ability to file reports using the electronic means provided or approved by the commission.

(4) All persons required to report under RCW 42.17.065, 42.17.080, 42.17.090, and 42.17.100 (as recodified by this act) are subject to the requirements of this section, although the commission may determine by rule that persons filing according to those sections may be exempt from reporting

some of the information otherwise required by this section. The commission may determine that reports filed pursuant to this section also satisfy the requirements of RCW 42.17.100 and 42.17.103 (as recodified by this act).

(5) Failure of any sponsor to report electronically under this section shall be a violation of this chapter.

Sec. 503. RCW 42.17.570 and 2005 c 445 s 4 are each amended to read as follows:

(1) An electioneering communication made by a person in cooperation, consultation, or concert with, or at the request or suggestion of, a candidate, a candidate's authorized committee, or their agents is a contribution to the candidate.

(2) An electioneering communication made by a person in cooperation, consultation, or concert with, or at the request or suggestion of, a political committee or its agents is a contribution to the political committee.

(3) If an electioneering communication is not a contribution pursuant to subsection (1) or (2) of this section, the sponsor shall file an affidavit or declaration so stating at the time the sponsor is required to report the electioneering communication expense under RCW 42.17.565 (as recodified by this act).

Sec. 504. RCW 42.17.575 and 2005 c 445 s 5 are each amended to read as follows:

(1) The sponsor of an electioneering communication shall preserve all financial records relating to the communication, including books of account, bills, receipts, contributor information, and ledgers, for not less than five calendar years following the year in which the communication was broadcast, transmitted, mailed, erected, or otherwise published.

(2) All reports filed under RCW 42.17.565 (as recodified by this act) shall be certified as correct by the sponsor. If the sponsor is an individual using his or her own funds to pay for the communication, the certification shall be signed by the individual. If the sponsor is a political committee, the certification shall be signed by the committee treasurer. If the sponsor is another entity, the certification shall be signed by the individual responsible for authorizing the expenditure on the entity's behalf.

Sec. 505. RCW 42.17.510 and 2005 c 445 s 9 are each amended to read as follows:

(1) All written political advertising, whether relating to candidates or ballot propositions, shall include the sponsor's name and address. All radio and television political advertising, whether relating to candidates or ballot propositions, shall include the sponsor's name. The use of an assumed name for the sponsor of electioneering communications, independent expenditures, or political advertising shall be unlawful. For partisan office, if a candidate has expressed a party or independent preference on the declaration of candidacy, that party or independent designation shall be clearly identified in electioneering communications, independent expenditures, or political advertising.

(2) In addition to the ~~((materials))~~ information required by subsection (1) of this section, except as specifically addressed in subsections (4) and (5) of this section, all political advertising undertaken as an independent expenditure or an electioneering communication by a person or entity other than a bona fide

political party ((organization, and all electioneering communications;)) must include as part of the communication:

~~(a) The ((following)) statement ((as part of the communication "NOTICE TO VOTERS (Required by law): This advertisement is not authorized or approved by any candidate); "No candidate authorized this ad. It is paid for by (name, address, city, state)((-))";~~

~~(b) If the ((advertisement undertaken as an independent expenditure or electioneering communication is undertaken by a nonindividual other than a party organization, then the following notation must also be included)) sponsor is a political committee, the statement: "Top Five Contributors," followed by a listing of the names of the five persons or entities making the largest contributions in excess of seven hundred dollars reportable under this chapter during the twelve-month period before the date of the advertisement or communication; and~~

~~(c) If the sponsor is a political committee established, maintained, or controlled directly, or indirectly through the formation of one or more political committees, by an individual, corporation, union, association, or other entity, the full name of that individual or entity.~~

~~(3) The ((statements and listings of contributors)) information required by subsections (1) and (2) of this section shall:~~

~~(a) Appear on the first page or fold of the written advertisement or communication in at least ten-point type, or in type at least ten percent of the largest size type used in a written advertisement or communication directed at more than one voter, such as a billboard or poster, whichever is larger;~~

~~(b) Not be subject to the half-tone or screening process; and~~

~~(c) Be set apart from any other printed matter.~~

~~(4) In an independent expenditure or electioneering communication transmitted via television or other medium that includes a visual image, the following statement must either be clearly spoken, or appear in print and be visible for at least four seconds, appear in letters greater than four percent of the visual screen height, and have a reasonable color contrast with the background: "No candidate authorized this ad. Paid for by (name, city, state)." If the advertisement or communication is undertaken by a nonindividual other than a party organization, then the following notation must also be included: "Top Five Contributors" followed by a listing of the names of the five persons or entities making the largest contributions in excess of seven hundred dollars reportable under this chapter during the twelve-month period before the date of the advertisement. Abbreviations may be used to describe contributing entities if the full name of the entity has been clearly spoken previously during the broadcast advertisement.~~

~~(5) The following statement shall be clearly spoken in an independent expenditure or electioneering communication transmitted by a method that does not include a visual image: "No candidate authorized this ad. Paid for by (name, city, state)." If the independent expenditure or electioneering communication is undertaken by a nonindividual other than a party organization, then the following statement must also be included: "Top Five Contributors" followed by a listing of the names of the five persons or entities making the largest contributions in excess of seven hundred dollars reportable under this chapter during the twelve-month period before the date of the advertisement.~~

Abbreviations may be used to describe contributing entities if the full name of the entity has been clearly spoken previously during the broadcast advertisement.

(6) Political yard signs are exempt from the requirement of subsections (1) and (2) of this section that the name and address of the sponsor of political advertising be listed on the advertising. In addition, the public disclosure commission shall, by rule, exempt from the identification requirements of subsections (1) and (2) of this section forms of political advertising such as campaign buttons, balloons, pens, pencils, sky-writing, inscriptions, and other forms of advertising where identification is impractical.

(7) For the purposes of this section, "yard sign" means any outdoor sign with dimensions no greater than eight feet by four feet.

Sec. 506. RCW 42.17.520 and 1984 c 216 s 2 are each amended to read as follows:

At least one picture of the candidate used in any political advertising shall have been taken within the last five years and shall be no smaller than ~~((the largest))~~ any other picture of the same candidate used in the same advertisement.

Sec. 507. RCW 42.17.540 and 1984 c 216 s 4 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, the responsibility for compliance with RCW 42.17.510 through 42.17.530 (as recodified by this act) shall ~~((rest))~~ be with the sponsor of the political advertising and not with the broadcasting station or other medium.

(2) If a broadcasting station or other medium changes the content of a political advertisement, the station or medium shall be responsible for any failure of the advertisement to comply with RCW 42.17.510 through 42.17.530 (as recodified by this act) that results from that change.

Sec. 508. RCW 42.17.110 and 2005 c 445 s 8 are each amended to read as follows:

(1) Each commercial advertiser who has accepted or provided political advertising or electioneering communications during the election campaign shall maintain documents and books of account that shall be open for public inspection during normal business hours during the campaign and for a period of no less than three years after the date of the applicable election ~~((, during normal business hours,)).~~ The documents and books of account ((which)) shall specify:

(a) The names and addresses of persons from whom it accepted political advertising or electioneering communications;

(b) The exact nature and extent of the services rendered; and

(c) The ~~((consideration))~~ total cost and the manner of ~~((paying that consideration for such))~~ payment for the services.

(2) At the request of the commission, each commercial advertiser ((which must)) required to comply with subsection (1) of this section shall deliver to the commission((, upon its request,)) copies of ((such)) the information ((as)) that must be maintained and be open for public inspection pursuant to subsection (1) of this section.

PART 6

CAMPAIGN CONTRIBUTION LIMITS AND OTHER RESTRICTIONS

Sec. 601. RCW 42.17.610 and 1993 c 2 s 1 are each amended to read as follows:

(1) The people of the state of Washington find and declare that:

~~((1))~~ (a) The financial strength of certain individuals or organizations should not permit them to exercise a disproportionate or controlling influence on the election of candidates.

~~((2))~~ (b) Rapidly increasing political campaign costs have led many candidates to raise larger percentages of money from special interests with a specific financial stake in matters before state government. This has caused the public perception that decisions of elected officials are being improperly influenced by monetary contributions.

~~((3))~~ (c) Candidates are raising less money in small contributions from individuals and more money from special interests. This has created the public perception that individuals have an insignificant role to play in the political process.

(2) By limiting campaign contributions, the people intend to:

(a) Ensure that individuals and interest groups have fair and equal opportunity to influence elective and governmental processes;

(b) Reduce the influence of large organizational contributors; and

(c) Restore public trust in governmental institutions and the electoral process.

Sec. 602. RCW 42.17.640 and 2006 c 348 s 1 are each amended to read as follows:

(1) The contribution limits in this section apply to:

(a) Candidates for ~~((state))~~ legislative office;

(b) Candidates for state office other than ~~((state))~~ legislative office;

(c) Candidates for county office in a county that has over two hundred thousand registered voters;

(d) Candidates for special purpose district office if that district is authorized to provide freight and passenger transfer and terminal facilities and that district has over two hundred thousand registered voters;

(e) Persons holding an office in (a) through (d) of this subsection against whom recall charges have been filed or to a political committee having the expectation of making expenditures in support of the recall of a person holding the office;

(f) Caucus political committees;

(g) Bona fide political parties.

(2) No person, other than a bona fide political party or a caucus political committee, may make contributions to a candidate for a ~~((state))~~ legislative office or county office that in the aggregate exceed ~~((seven))~~ eight hundred dollars or to a candidate for a public office in a special purpose district or a state office other than a ~~((state))~~ legislative office that in the aggregate exceed one thousand ~~((four))~~ six hundred dollars for each election in which the candidate is on the ballot or appears as a write-in candidate. Contributions to candidates subject to the limits in this section made with respect to a primary may not be made after the date of the primary. However, contributions to a candidate or a

candidate's authorized committee may be made with respect to a primary until thirty days after the primary, subject to the following limitations: (a) The candidate lost the primary; (b) the candidate's authorized committee has insufficient funds to pay debts outstanding as of the date of the primary; and (c) the contributions may only be raised and spent to satisfy the outstanding debt. Contributions to candidates subject to the limits in this section made with respect to a general election may not be made after the final day of the applicable election cycle.

(3) No person, other than a bona fide political party or a caucus political committee, may make contributions to a state official, a county official, or a public official in a special purpose district against whom recall charges have been filed, or to a political committee having the expectation of making expenditures in support of the recall of the state official, county official, or public official in a special purpose district during a recall campaign that in the aggregate exceed ~~((seven))~~ eight hundred dollars if for a ~~((state))~~ legislative office or county office or one thousand ~~((four))~~ six hundred dollars if for a special purpose district office or a state office other than a ~~((state))~~ legislative office.

(4)(a) Notwithstanding subsection (2) of this section, no bona fide political party or caucus political committee may make contributions to a candidate during an election cycle that in the aggregate exceed (i) ~~((seventy))~~ eighty cents multiplied by the number of eligible registered voters in the jurisdiction from which the candidate is elected if the contributor is a caucus political committee or the governing body of a state organization, or (ii) ~~((thirty-five))~~ forty cents multiplied by the number of registered voters in the jurisdiction from which the candidate is elected if the contributor is a county central committee or a legislative district committee.

(b) No candidate may accept contributions from a county central committee or a legislative district committee during an election cycle that when combined with contributions from other county central committees or legislative district committees would in the aggregate exceed ~~((thirty-five))~~ forty cents times the number of registered voters in the jurisdiction from which the candidate is elected.

(5)(a) Notwithstanding subsection (3) of this section, no bona fide political party or caucus political committee may make contributions to a state official, county official, or a public official in a special purpose district against whom recall charges have been filed, or to a political committee having the expectation of making expenditures in support of the state official, county official, or a public official in a special purpose district during a recall campaign that in the aggregate exceed (i) ~~((seventy))~~ eighty cents multiplied by the number of eligible registered voters in the jurisdiction entitled to recall the state official if the contributor is a caucus political committee or the governing body of a state organization, or (ii) ~~((thirty-five))~~ forty cents multiplied by the number of registered voters in the jurisdiction from which the candidate is elected if the contributor is a county central committee or a legislative district committee.

(b) No official holding an office specified in subsection (1) of this section against whom recall charges have been filed, no authorized committee of the official, and no political committee having the expectation of making expenditures in support of the recall of the official may accept contributions

from a county central committee or a legislative district committee during an election cycle that when combined with contributions from other county central committees or legislative district committees would in the aggregate exceed ~~((thirty-five))~~ forty cents multiplied by the number of registered voters in the jurisdiction from which the candidate is elected.

(6) For purposes of determining contribution limits under subsections (4) and (5) of this section, the number of eligible registered voters in a jurisdiction is the number at the time of the most recent general election in the jurisdiction.

(7) Notwithstanding subsections (2) through (5) of this section, no person other than an individual, bona fide political party, or caucus political committee may make contributions reportable under this chapter to a caucus political committee that in the aggregate exceed ~~((seven))~~ eight hundred dollars in a calendar year or to a bona fide political party that in the aggregate exceed ~~((three))~~ four thousand ~~((five-hundred))~~ dollars in a calendar year. This subsection does not apply to loans made in the ordinary course of business.

(8) For the purposes of RCW 42.17.640 through 42.17.790 (as recodified by this act), a contribution to the authorized political committee of a candidate or of an official specified in subsection (1) of this section against whom recall charges have been filed is considered to be a contribution to the candidate or official.

(9) A contribution received within the twelve-month period after a recall election concerning an office specified in subsection (1) of this section is considered to be a contribution during that recall campaign if the contribution is used to pay a debt or obligation incurred to influence the outcome of that recall campaign.

(10) The contributions allowed by subsection (3) of this section are in addition to those allowed by subsection (2) of this section, and the contributions allowed by subsection (5) of this section are in addition to those allowed by subsection (4) of this section.

(11) RCW 42.17.640 through 42.17.790 (as recodified by this act) apply to a special election conducted to fill a vacancy in an office specified in subsection (1) of this section. However, the contributions made to a candidate or received by a candidate for a primary or special election conducted to fill such a vacancy shall not be counted toward any of the limitations that apply to the candidate or to contributions made to the candidate for any other primary or election.

(12) Notwithstanding the other subsections of this section, no corporation or business entity not doing business in Washington state, no labor union with fewer than ten members who reside in Washington state, and no political committee that has not received contributions of ten dollars or more from at least ten persons registered to vote in Washington state during the preceding one hundred eighty days may make contributions reportable under this chapter to a state office candidate, to a state official against whom recall charges have been filed, or to a political committee having the expectation of making expenditures in support of the recall of the official. This subsection does not apply to loans made in the ordinary course of business.

(13) Notwithstanding the other subsections of this section, no county central committee or legislative district committee may make contributions reportable under this chapter to a candidate specified in subsection (1) of this section, or an official specified in subsection (1) of this section against whom recall charges have been filed, or political committee having the expectation of making

expenditures in support of the recall of an official specified in subsection (1) of this section if the county central committee or legislative district committee is outside of the jurisdiction entitled to elect the candidate or recall the official.

(14) No person may accept contributions that exceed the contribution limitations provided in this section.

(15) The following contributions are exempt from the contribution limits of this section:

(a) An expenditure or contribution earmarked for voter registration, for absentee ballot information, for precinct caucuses, for get-out-the-vote campaigns, for precinct judges or inspectors, for sample ballots, or for ballot counting, all without promotion of or political advertising for individual candidates; ~~((or))~~

(b) An expenditure by a political committee for its own internal organization or fund-raising without direct association with individual candidates; or

(c) An expenditure or contribution for independent expenditures as defined in RCW 42.17.020 or electioneering communications as defined in RCW 42.17.020.

Sec. 603. RCW 42.17.645 and 2006 c 348 s 2 are each amended to read as follows:

(1) No person may make contributions to a candidate for judicial office that in the aggregate exceed one thousand ~~((four))~~ six hundred dollars for each election in which the candidate is on the ballot or appears as a write-in candidate. Contributions made with respect to a primary may not be made after the date of the primary. However, contributions to a candidate or a candidate's authorized committee may be made with respect to a primary until thirty days after the primary, subject to the following limitations: (a) The candidate lost the primary; (b) the candidate's authorized committee has insufficient funds to pay debts outstanding as of the date of the primary; and (c) the contributions may only be raised and spent to satisfy the outstanding debt. Contributions made with respect to a general election may not be made after the final day of the applicable election cycle.

(2) This section through RCW 42.17.790 (as recodified by this act) apply to a special election conducted to fill a vacancy in an office. However, the contributions made to a candidate or received by a candidate for a primary or special election conducted to fill such a vacancy will not be counted toward any of the limitations that apply to the candidate or to contributions made to the candidate for any other primary or election.

(3) No person may accept contributions that exceed the contribution limitations provided in this section.

(4) The dollar limits in this section must be adjusted according to RCW 42.17.690 (as recodified by this act).

NEW SECTION. Sec. 604. REPORTABLE CONTRIBUTIONS—PREELECTION LIMITATIONS. (1) It is a violation of this chapter for any person to make, or for any candidate or political committee to accept from any one person, contributions reportable under RCW 42.17.090 (as recodified by this act) in the aggregate exceeding fifty thousand dollars for any campaign for statewide office or exceeding five thousand dollars for any other campaign

subject to the provisions of this chapter within twenty-one days of a general election. This subsection does not apply to contributions made by, or accepted from, a bona fide political party as defined in this chapter, excluding the county central committee or legislative district committee.

(2) Contributions governed by this section include, but are not limited to, contributions made or received indirectly through a third party or entity whether the contributions are or are not reported to the commission as earmarked contributions under RCW 42.17.135 (as recodified by this act).

Sec. 605. RCW 42.17.070 and 2007 c 358 s 3 are each amended to read as follows:

No expenditures may be made or incurred by any candidate or political committee (~~((except on the authority of))~~ unless authorized by the candidate or the person or persons named on the candidate's or committee's registration form(~~(, and)~~). A record of all such expenditures shall be maintained by the treasurer.

No expenditure of more than fifty dollars may be made in currency unless a receipt, signed by the recipient and by the candidate or treasurer, is prepared and made a part of the campaign's or political committee's financial records.

Sec. 606. RCW 42.17.095 and 2005 c 467 s 1 are each amended to read as follows:

The surplus funds of a candidate(~~(-)~~) or (~~(of a political committee supporting or opposing a candidate,)~~) a candidate's authorized committee may only be disposed of in any one or more of the following ways:

(1) Return the surplus to a contributor in an amount not to exceed that contributor's original contribution;

(2) (~~(Transfer the surplus to the candidate's personal account as reimbursement)~~) Using surplus, reimburse the candidate for lost earnings incurred as a result of that candidate's election campaign. (~~(Such)~~) Lost earnings shall be verifiable as unpaid salary or, when the candidate is not salaried, as an amount not to exceed income received by the candidate for services rendered during an appropriate, corresponding time period. All lost earnings incurred shall be documented and a record thereof shall be maintained by the candidate or the candidate's (~~(political)~~) authorized committee. The committee shall (~~(include)~~) maintain a copy of (~~(such)~~) this record (~~((when its expenditure for such reimbursement is reported pursuant to RCW 42.17.090))~~) in accordance with RCW 42.17.080(6) (as recodified by this act);

(3) Transfer the surplus without limit to a political party or to a caucus political committee;

(4) Donate the surplus to a charitable organization registered in accordance with chapter 19.09 RCW;

(5) Transmit the surplus to the state treasurer for deposit in the general fund, the (~~(oral history)~~) Washington state legacy project, state library, and archives account under RCW 43.07.380, or the legislative international trade account under RCW (~~(44.04.270)~~) 43.15.050, as specified by the candidate or political committee; or

(6) Hold the surplus in the (~~(campaign)~~) depository or depositories designated in accordance with (~~(RCW 42.17.050)~~) section 404 of this act for possible use in a future election campaign for the same office last sought by the

candidate and report any such disposition in accordance with RCW 42.17.090(~~(= PROVIDED, That)~~) (as recodified by this act). If the candidate subsequently announces or publicly files for office, the appropriate information (~~(as appropriate is)~~) must be reported to the commission in accordance with RCW 42.17.040 through 42.17.090 (as recodified by this act). If a subsequent office is not sought the surplus held shall be disposed of in accordance with the requirements of this section.

(7) Hold the surplus campaign funds in a separate account for nonreimbursed public office-related expenses or as provided in this section, and report any such disposition in accordance with RCW 42.17.090 (as recodified by this act). The separate account required under this subsection shall not be used for deposits of campaign funds that are not surplus.

(8) No candidate or authorized committee may transfer funds to any other candidate or other political committee.

The disposal of surplus funds under this section shall not be considered a contribution for purposes of this chapter.

NEW SECTION. **Sec. 607.** CANDIDATES' POLITICAL COMMITTEES—LIMITATIONS. A candidate may not knowingly establish, use, direct, or control more than one political committee for the purpose of supporting that candidate during a particular election campaign. This does not prohibit: (1) In addition to a candidate's having his or her own political committee, the candidate's participation in a political committee established to support a slate of candidates that includes the candidate; or (2) joint fund-raising efforts by candidates when a separate political committee is established for that purpose and all contributions are disbursed to and accounted for on a pro rata basis by the benefiting candidates.

Sec. 608. RCW 42.17.125 and 1995 c 397 s 29 are each amended to read as follows:

Contributions received and reported in accordance with RCW 42.17.060 through 42.17.090 (as recodified by this act) may only be (~~(transferred)~~) paid to (~~(the personal account of)~~) a candidate, or (~~(of)~~) a treasurer or other individual or expended for such individual's personal use under the following circumstances:

(1) Reimbursement for or (~~(loans)~~) payments to cover lost earnings incurred as a result of campaigning or services performed for the political committee. (~~(Such)~~) Lost earnings shall be verifiable as unpaid salary, or when the individual is not salaried, as an amount not to exceed income received by the individual for services rendered during an appropriate, corresponding time period. All lost earnings incurred shall be documented and a record (~~(thereof)~~) shall be maintained by the (~~(individual)~~) candidate or the (~~(individual's political)~~) candidate's authorized committee in accordance with RCW 42.17.080 (as recodified by this act). (~~(The political committee shall include a copy of such record when its expenditure for such reimbursement is reported pursuant to RCW 42.17.090.)~~)

(2) Reimbursement for direct out-of-pocket election campaign and postelection campaign related expenses made by the individual. To receive reimbursement from the political committee, the individual shall provide the political committee with written documentation as to the amount, date, and description of each expense, and the political committee shall include a copy of

such information when its expenditure for such reimbursement is reported pursuant to RCW 42.17.090 (as recodified by this act).

(3) Repayment of loans made by the individual to political committees(~~(; which repayment)~~) shall be reported pursuant to RCW 42.17.090 (as recodified by this act). However, contributions may not be used to reimburse a candidate for loans totaling more than ~~((three))~~ four thousand seven hundred dollars made by the candidate to the candidate's own ~~((political))~~ authorized committee ~~((or campaign))~~.

Sec. 609. RCW 42.17.660 and 2005 c 445 s 12 are each amended to read as follows:

For purposes of this chapter:

(1) A contribution by a political committee with funds that have all been contributed by one person who exercises exclusive control over the distribution of the funds of the political committee is a contribution by the controlling person.

(2) Two or more entities are treated as a single entity if one of the two or more entities is a subsidiary, branch, or department of a corporation that is participating in an election campaign or making contributions, or a local unit or branch of a trade association, labor union, or collective bargaining association that is participating in an election campaign or making contributions. All contributions made by a person or political committee whose contribution or expenditure activity is financed, maintained, or controlled by a trade association, labor union, collective bargaining organization, or the local unit of a trade association, labor union, or collective bargaining organization are considered made by the trade association, labor union, collective bargaining organization, or local unit of a trade association, labor union, or collective bargaining organization.

(3) The commission shall adopt rules to carry out this section and is not subject to the time restrictions of RCW 42.17.370(1) (as recodified by this act).

Sec. 610. RCW 42.17.720 and 1995 c 397 s 22 are each amended to read as follows:

(1) A loan is considered to be a contribution from the lender and any guarantor of the loan and is subject to the contribution limitations of this chapter. The full amount of the loan shall be attributed to the lender and to each guarantor.

(2) A loan to a candidate for public office or the candidate's ~~((political))~~ authorized committee must be by written agreement.

(3) The proceeds of a loan made to a candidate for public office:

(a) By a commercial lending institution;

(b) Made in the regular course of business; and

(c) On the same terms ordinarily available to members of the public, are not subject to the contribution limits of this chapter.

Sec. 611. RCW 42.17.740 and 1995 c 397 s 23 are each amended to read as follows:

(1) A person may not make a contribution of more than ~~((fifty))~~ eighty dollars, other than an in-kind contribution, except by a written instrument containing the name of the donor and the name of the payee.

(2) A political committee may not make a contribution, other than in-kind, except by a written instrument containing the name of the donor and the name of the payee.

Sec. 612. RCW 42.17.790 and 1995 c 397 s 27 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, a candidate for public office or the candidate's ~~((political))~~ authorized committee may not use or permit the use of contributions, whether or not surplus, solicited for or received by the candidate ~~((for public office))~~ or the candidate's ~~((political))~~ authorized committee to further the candidacy of the individual for an office other than the office designated on the statement of organization. A contribution solicited for or received on behalf of the candidate ~~((for public office))~~ is considered solicited or received for the candidacy for which the individual is then a candidate if the contribution is solicited or received before the general election~~(s)~~ for which the candidate ~~((for public office))~~ is a nominee or is unopposed.

(2) With the written approval of the contributor, a candidate ~~((for public office))~~ or the candidate's ~~((political))~~ authorized committee may use or permit the use of contributions, whether or not surplus, solicited for or received by the candidate ~~((for public office))~~ or the candidate's ~~((political))~~ authorized committee from that contributor to further the candidacy of the individual for an office other than the office designated on the statement of organization. If the contributor does not approve the use of his or her contribution to further the candidacy of the individual for an office other than the office designated on the statement of organization at the time of the contribution, the contribution must be considered surplus funds and disposed of in accordance with RCW 42.17.095 (as recodified by this act).

Sec. 613. RCW 42.17.680 and 2002 c 156 s 1 are each amended to read as follows:

(1) No employer or labor organization may increase the salary of an officer or employee, or ~~((give an emolument to))~~ compensate an officer, employee, or other person or entity, with the intention that the increase in salary, or the ~~((emolument))~~ compensation, or a part of it, be contributed or spent to support or oppose a candidate, state official against whom recall charges have been filed, political party, or political committee.

(2) No employer or labor organization may discriminate against an officer or employee in the terms or conditions of employment for (a) the failure to contribute to, (b) the failure in any way to support or oppose, or (c) in any way supporting or opposing a candidate, ballot proposition, political party, or political committee. At least annually, an employee from whom wages or salary are withheld under subsection (3) of this section shall be notified of the provisions of this subsection.

(3) No employer or other person or entity responsible for the disbursement of funds in payment of wages or salaries may withhold or divert a portion of an employee's wages or salaries for contributions to political committees or for use as political contributions except upon the written request of the employee. The request must be made on a form prescribed by the commission informing the employee of the prohibition against employer and labor organization discrimination described in subsection (2) of this section. The employee may

revoke the request at any time. At least annually, the employee shall be notified about the right to revoke the request.

(4) Each person or entity who withholds contributions under subsection (3) of this section shall maintain open for public inspection for a period of no less than three years, during normal business hours, documents and books of accounts that shall include a copy of each employee's request, the amounts and dates funds were actually withheld, and the amounts and dates funds were transferred to a political committee. Copies of such information shall be delivered to the commission upon request.

PART 7

PUBLIC OFFICIALS', EMPLOYEES', AND AGENCIES' CAMPAIGN RESTRICTIONS, PROHIBITIONS, AND REPORTING

Sec. 701. RCW 42.17.130 and 2006 c 215 s 2 are each amended to read as follows:

No elective official nor any employee of his (~~or her~~) or her office nor any person appointed to or employed by any public office or agency may use or authorize the use of any of the facilities of a public office or agency, directly or indirectly, for the purpose of assisting a campaign for election of any person to any office or for the promotion of or opposition to any ballot proposition. Facilities of a public office or agency include, but are not limited to, use of stationery, postage, machines, and equipment, use of employees of the office or agency during working hours, vehicles, office space, publications of the office or agency, and clientele lists of persons served by the office or agency. However, this does not apply to the following activities:

(1) Action taken at an open public meeting by members of an elected legislative body or by an elected board, council, or commission of a special purpose district including, but not limited to, fire districts, public hospital districts, library districts, park districts, port districts, public utility districts, school districts, sewer districts, and water districts, to express a collective decision, or to actually vote upon a motion, proposal, resolution, order, or ordinance, or to support or oppose a ballot proposition so long as (a) any required notice of the meeting includes the title and number of the ballot proposition, and (b) members of the legislative body, members of the board, council, or commission of the special purpose district, or members of the public are afforded an approximately equal opportunity for the expression of an opposing view;

(2) A statement by an elected official in support of or in opposition to any ballot proposition at an open press conference or in response to a specific inquiry;

(3) Activities which are part of the normal and regular conduct of the office or agency.

(4) This section does not apply to any person who is a state officer or state employee as defined in RCW 42.52.010.

Sec. 702. RCW 42.17.245 and 2005 c 274 s 282 are each amended to read as follows:

After January 1st and before April 15th of each calendar year, the state treasurer, each county, public utility district, and port district treasurer, and each

treasurer of an incorporated city or town whose population exceeds one thousand shall file with the commission:

(1) A statement under oath that no public funds under that treasurer's control were invested in any institution where the treasurer or, in the case of a county, a member of the county finance committee, held during the reporting period an office, directorship, partnership interest, or ownership interest; or

(2) A report disclosing for the previous calendar year: (a) The name and address of each financial institution in which the treasurer or, in the case of a county, a member of the county finance committee, held during the reporting period an office, directorship, partnership interest, or ownership interest which holds or has held during the reporting period public accounts of the governmental entity for which the treasurer is responsible; (b) the aggregate sum of time and demand deposits held in each such financial institution on December 31; and (c) the highest balance held at any time during such reporting period (~~PROVIDED, That~~). The state treasurer shall disclose the highest balance information only upon a public records request under chapter 42.56 RCW. The statement or report required by this section shall be filed either with the statement required under RCW 42.17.240 (as recodified by this act) or separately.

NEW SECTION. Sec. 703. No state-elected official or municipal officer may speak or appear in a public service announcement that is broadcast, shown, or distributed in any form whatsoever during the period beginning January 1st and continuing through the general election if that official or officer is a candidate. If the official or officer does not control the broadcast, showing, or distribution of a public service announcement in which he or she speaks or appears, then the official or officer shall contractually limit the use of the public service announcement to be consistent with this section prior to participating in the public service announcement. This section does not apply to public service announcements that are part of the regular duties of the office that only mention or visually display the office or office seal or logo and do not mention or visually display the name of the official or officer in the announcement.

PART 8 LOBBYING DISCLOSURE AND RESTRICTIONS

Sec. 801. RCW 42.17.150 and 1987 c 201 s 1 are each amended to read as follows:

(1) Before (~~doing any~~) lobbying, or within thirty days after being employed as a lobbyist, whichever occurs first, a lobbyist shall register by filing with the commission a lobbyist registration statement, in such detail as the commission shall prescribe, (~~showing~~) that includes the following information:

(a) (~~His~~) The lobbyist's name, permanent business address, and any temporary residential and business addresses in Thurston county during the legislative session;

(b) The name, address and occupation or business of the lobbyist's employer;

(c) The duration of (~~his~~) the lobbyist's employment;

(d) (~~His~~) The compensation to be received for lobbying(~~how much he is~~), the amount to be paid for expenses, and what expenses are to be reimbursed;

(e) Whether the ~~((person from whom he receives said compensation employs him))~~ lobbyist is employed solely as a lobbyist or whether ~~((he))~~ the lobbyist is a regular employee performing services for his or her employer which include but are not limited to the influencing of legislation;

(f) The general subject or subjects ~~((of his legislative interest))~~ to be lobbied;

(g) A written authorization from each of the lobbyist's employers confirming such employment;

(h) The name and address of the person who will have custody of the accounts, bills, receipts, books, papers, and documents required to be kept under this chapter;

(i) If the lobbyist's employer is an entity (including, but not limited to, business and trade associations) whose members include, or which as a representative entity undertakes lobbying activities for, businesses, groups, associations, or organizations, the name and address of each member of such entity or person represented by such entity whose fees, dues, payments, or other consideration paid to such entity during either of the prior two years have exceeded five hundred dollars or who is obligated to or has agreed to pay fees, dues, payments, or other consideration exceeding five hundred dollars to such entity during the current year.

(2) Any lobbyist who receives or is to receive compensation from more than one person for ~~((his services as a lobbyist))~~ lobbying shall file a separate notice of representation ~~((with respect to))~~ for each ~~((such))~~ person ~~((; except that where a lobbyist whose fee for acting as such in respect to the same legislation or type of legislation is, or is to be, paid or contributed to by more than one person then such lobbyist may file a single statement, in which he shall detail the name, business address and occupation of each person so paying or contributing, and the amount of the respective payments or contributions made by each such person)).~~ However, if two or more persons are jointly paying or contributing to the payment of the lobbyist, the lobbyist may file a single statement detailing the name, business address, and occupation of each person paying or contributing and the respective amounts to be paid or contributed.

(3) Whenever a change, modification, or termination of the lobbyist's employment occurs, the lobbyist shall ~~((;))~~ file with the commission an amended registration statement within one week of ~~((such))~~ the change, modification, or termination ~~((; furnish full information regarding the same by filing with the commission an amended registration statement)).~~

(4) Each registered lobbyist ~~((who has registered))~~ shall file a new registration statement, revised as appropriate, on the second Monday in January of each odd-numbered year ~~((; and))~~. Failure to do so ~~((shall))~~ terminate ~~((his))~~ the lobbyist's registration.

Sec. 802. RCW 42.17.155 and 1995 c 397 s 6 are each amended to read as follows:

Each lobbyist shall at the time he or she registers submit to the commission a recent photograph of himself or herself of a size and format as determined by rule of the commission, together with the name of the lobbyist's employer, the length of his or her employment as a lobbyist before the legislature, a brief biographical description, and any other information he or she may wish to submit not to exceed fifty words in length. ~~((Such))~~ The photograph and

information shall be published by the commission at least biennially in a booklet form ~~((by the commission))~~ for distribution to legislators and the public.

Sec. 803. RCW 42.17.160 and 1998 c 55 s 3 are each amended to read as follows:

The following persons and activities ~~((shall be))~~ are exempt from registration and reporting under RCW 42.17.150, 42.17.170, and 42.17.200 (as recodified by this act):

(1) Persons who limit their lobbying activities to appearing before public sessions of committees of the legislature, or public hearings of state agencies;

(2) Activities by lobbyists or other persons whose participation has been solicited by an agency under RCW 34.05.310(2);

(3) News or feature reporting activities and editorial comment by working members of the press, radio, or television and the publication or dissemination thereof by a newspaper, book publisher, regularly published periodical, radio station, or television station;

(4) Persons who lobby without compensation or other consideration for acting as a lobbyist~~((: PROVIDED, Such))~~, if the person makes no expenditure for or on behalf of any member of the legislature or elected official or public officer or employee of the state of Washington in connection with such lobbying. The exemption contained in this subsection is intended to permit and encourage citizens of this state to lobby any legislator, public official, or state agency without incurring any registration or reporting obligation provided they do not exceed the limits stated above. Any person exempt under this subsection (4) may at his or her option register and report under this chapter;

(5) Persons who restrict their lobbying activities to no more than four days or parts ~~((thereof))~~ of four days during any three-month period and whose total expenditures during such three-month period for or on behalf of any one or more members of the legislature or state elected officials or public officers or employees of the state of Washington in connection with such lobbying do not exceed twenty-five dollars~~((: PROVIDED, That))~~. The commission shall ((promulgate regulations)) adopt rules to require disclosure by persons exempt under this subsection or their employers or entities which sponsor or coordinate the lobbying activities of such persons if it determines that such regulations are necessary to prevent frustration of the purposes of this chapter. Any person exempt under this subsection (5) may at his or her option register and report under this chapter;

(6) The governor;

(7) The lieutenant governor;

(8) Except as provided by RCW 42.17.190(1) (as recodified by this act), members of the legislature;

(9) Except as provided by RCW 42.17.190(1) (as recodified by this act), persons employed by the legislature for the purpose of aiding in the preparation or enactment of legislation or the performance of legislative duties;

(10) Elected officials, and officers and employees of any agency reporting under RCW 42.17.190(5) (as recodified by this act).

Sec. 804. RCW 42.17.170 and 1995 c 397 s 33 are each amended to read as follows:

(1) Any lobbyist registered under RCW 42.17.150 (as recodified by this act) and any person who lobbies shall file with the commission ~~((periodic))~~ monthly reports of his or her lobbying activities ~~((signed by the lobbyist))~~. The reports shall be made in the form and manner prescribed by the commission and must be signed by the lobbyist. ~~((They shall be due monthly and))~~ The monthly report shall be filed within fifteen days after the last day of the calendar month covered by the report.

(2) ~~((Each such))~~ The monthly ~~((periodic))~~ report shall contain:

(a) The totals of all expenditures for lobbying activities made or incurred by ~~((such))~~ the lobbyist or on behalf of ~~((such))~~ the lobbyist by the lobbyist's employer during the period covered by the report. ~~((Such))~~ Expenditure totals for lobbying activities shall be segregated according to financial category, including compensation; food and refreshments; living accommodations; advertising; travel; contributions; and other expenses or services. Each individual expenditure of more than twenty-five dollars for entertainment shall be identified by date, place, amount, and the names of all persons ~~((in the group partaking in or of such))~~ taking part in the entertainment, along with the dollar amount attributable to each person, including ~~((any portion thereof attributable to))~~ the lobbyist's ~~((participation therein, and shall include amounts actually expended on each person where calculable, or allocating any portion of the expenditure to individual participants.~~

~~Notwithstanding the foregoing, lobbyists are not required to report the following:~~

~~(i) Unreimbursed personal living and travel expenses not incurred directly for lobbying;~~

~~(ii) Any expenses incurred for his or her own living accommodations;~~

~~(iii) Any expenses incurred for his or her own travel to and from hearings of the legislature;~~

~~(iv) Any expenses incurred for telephone, and any office expenses, including rent and salaries and wages paid for staff and secretarial assistance)) portion.~~

(b) In the case of a lobbyist employed by more than one employer, the proportionate amount of ~~((such))~~ expenditures in each category incurred on behalf of each of ~~((his))~~ the lobbyist's employers.

(c) An itemized listing of each ~~((such expenditure))~~ contribution of money or of tangible or intangible personal property, whether contributed by the lobbyist personally or delivered or transmitted by the lobbyist, ~~((in the nature of a contribution of money or of tangible or intangible personal property))~~ to any candidate, elected official, or officer or employee of any agency, or any political committee supporting or opposing any ballot proposition, or for or on behalf of any candidate, elected official, or officer or employee of any agency, or any political committee supporting or opposing any ballot proposition. All contributions made to, or for the benefit of, any candidate, elected official, or officer or employee of any agency, or any political committee supporting or opposing any ballot proposition shall be identified by date, amount, and the name of the candidate, elected official, or officer or employee of any agency, or any political committee supporting or opposing any ballot proposition receiving, or to be benefited by each such contribution.

(d) The subject matter of proposed legislation or other legislative activity or rule~~(-)~~ making under chapter 34.05 RCW, the state administrative procedure act, and the state agency considering the same, which the lobbyist has been engaged in supporting or opposing during the reporting period, unless exempt under RCW 42.17.160(2) (as recodified by this act).

~~(e) ((Such other information relevant to lobbying activities as the commission shall by rule prescribe. Information supporting such activities as are required to be reported is subject to audit by the commission.~~

~~(f))~~ A listing of each payment for an item specified in RCW 42.52.150(5) in excess of fifty dollars and each item specified in RCW 42.52.010~~((9))~~ (10) (d) and (f) made to a state elected official, state officer, or state employee. Each item shall be identified by recipient, date, and approximate value of the item.

~~((g))~~ (f) The total expenditures ~~((made))~~ paid or incurred during the reporting period by the lobbyist for lobbying purposes, whether through or on behalf of a lobbyist or otherwise~~((-- As used in this subsection, "expenditures" includes amounts paid or incurred during the reporting period))~~, for (i) political advertising as defined in RCW 42.17.020 (as recodified by this act); and (ii) public relations, telemarketing, polling, or similar activities if ~~((such))~~ the activities, directly or indirectly, are intended, designed, or calculated to influence legislation or the adoption or rejection of a rule, standard, or rate by an agency under the administrative procedure act. The report shall specify the amount, the person to whom the amount was paid, and a brief description of the activity.

~~(3) ((If a state elected official or a member of such an official's immediate family is identified by a lobbyist in such a report as having received from the lobbyist an item specified in RCW 42.52.150(5) or 42.52.010(9) (d) or (f), the lobbyist shall transmit to the official a copy of the completed form used to identify the item in the report at the same time the report is filed with the commission))~~ Lobbyists are not required to report the following:

(a) Unreimbursed personal living and travel expenses not incurred directly for lobbying;

(b) Any expenses incurred for his or her own living accommodations;

(c) Any expenses incurred for his or her own travel to and from hearings of the legislature;

(d) Any expenses incurred for telephone, and any office expenses, including rent and salaries and wages paid for staff and secretarial assistance.

(4) The commission may adopt rules to vary the content of lobbyist reports to address specific circumstances, consistent with this section. Lobbyist reports are subject to audit by the commission.

Sec. 805. RCW 42.17.172 and 1993 c 2 s 32 are each amended to read as follows:

(1) When a listing or a report of contributions is made to the commission under RCW 42.17.170(2)(c) (as recodified by this act), a copy of the listing or report must be given to the candidate, elected official, professional staff member of the legislature, or officer or employee of an agency, or a political committee supporting or opposing a ballot proposition named in the listing or report.

(2) If a state elected official or a member of the official's immediate family is identified by a lobbyist in a lobbyist report as having received from the lobbyist an item specified in RCW 42.52.150(5) or 42.52.010(10) (d) or (f), the lobbyist shall transmit to the official a copy of the completed form used to

identify the item in the report at the same time the report is filed with the commission.

Sec. 806. RCW 42.17.175 and 2001 c 54 s 3 are each amended to read as follows:

Any lobbyist registered under RCW 42.17.150 (as recodified by this act), any person who lobbies, and any lobbyist's employer making a contribution or an aggregate of contributions to a single entity that is one thousand dollars or more during a special reporting period, as specified in RCW 42.17.105 (as recodified by this act), before a primary or general election ~~(, as such period is specified in RCW 42.17.105(1),)~~ shall file one or more special reports ~~((for the contribution or aggregate of contributions and for subsequent contributions made during that period under the same circumstances))~~ in the same manner and to the same extent that a contributing political committee must file ~~((such a report or reports))~~ under RCW 42.17.105 (as recodified by this act). ~~((Such a special report shall be filed in the same manner provided under RCW 42.17.105 for a special report of a contributing political committee.))~~

Sec. 807. RCW 42.17.180 and 1993 c 2 s 27 are each amended to read as follows:

(1) Every employer of a lobbyist registered under this chapter during the preceding calendar year and every person other than an individual that made contributions aggregating to more than ~~((ten))~~ sixteen thousand dollars or independent expenditures aggregating to more than ~~((five))~~ eight hundred dollars during the preceding calendar year shall file with the commission on or before the last day of February of each year a statement disclosing for the preceding calendar year the following information:

(a) The name of each state elected official and the name of each candidate for state office who was elected to the office and any member of the immediate family of those persons to whom the person reporting has paid any compensation in the amount of ~~((five))~~ eight hundred dollars or more during the preceding calendar year for personal employment or professional services, including professional services rendered by a corporation, partnership, joint venture, association, union, or other entity in which the person holds any office, directorship, or any general partnership interest, or an ownership interest of ten percent or more, the value of the compensation in accordance with the reporting provisions set out in RCW 42.17.241(2) (as recodified by this act), and the consideration given or performed in exchange for the compensation.

(b) The name of each state elected official, successful candidate for state office, or members of his or her immediate family to whom the person reporting made expenditures, directly or indirectly, either through a lobbyist or otherwise, the amount of the expenditures and the purpose for the expenditures. For the purposes of this subsection, ~~((the term))~~ "expenditure" shall not include any expenditure made by the employer in the ordinary course of business if the expenditure is not made for the purpose of influencing, honoring, or benefiting the elected official, successful candidate, or member of his immediate family, as an elected official or candidate.

(c) The total expenditures made by the person reporting for lobbying purposes, whether through or on behalf of a registered lobbyist or otherwise.

(d) All contributions made to a political committee supporting or opposing a candidate for state office, or to a political committee supporting or opposing a statewide ballot proposition. Such contributions shall be identified by the name and the address of the recipient and the aggregate amount contributed to each such recipient.

(e) The name and address of each registered lobbyist employed by the person reporting and the total expenditures made by ~~((such))~~ the person reporting for each ~~((such))~~ lobbyist for lobbying purposes.

(f) The names, offices sought, and party affiliations of candidates for state offices supported or opposed by independent expenditures of the person reporting and the amount of each such expenditure.

(g) The identifying proposition number and a brief description of any statewide ballot proposition supported or opposed by expenditures not reported under (d) of this subsection and the amount of each such expenditure.

(h) ~~((Such))~~ Any other information ~~((as))~~ the commission prescribes by rule.

(2)(a) Except as provided in (b) of this subsection, an employer of a lobbyist registered under this chapter shall file a special report with the commission if the employer makes a contribution or contributions aggregating more than one hundred dollars in a calendar month to any one of the following: A candidate, elected official, officer or employee of an agency, or political committee. The report shall identify the date and amount of each such contribution and the name of the candidate, elected official, agency officer or employee, or political committee receiving the contribution or to be benefited by the contribution. The report shall be filed on a form prescribed by the commission and shall be filed within fifteen days after the last day of the calendar month during which the contribution was made.

(b) The provisions of (a) of this subsection do not apply to a contribution ~~((which))~~ that is made through a registered lobbyist and reportable under RCW 42.17.170 ~~(as recodified by this act)~~.

Sec. 808. RCW 42.17.190 and 1995 c 397 s 7 are each amended to read as follows:

(1) The house of representatives and the senate shall report annually: The total budget; the portion of the total attributed to staff; and the number of full-time and part-time staff positions by assignment, with dollar figures as well as number of positions.

(2) Unless authorized by subsection (3) of this section or otherwise expressly authorized by law, no public funds may be used directly or indirectly for lobbying~~((:—PROVIDED))~~. However, this does not prevent officers or employees of an agency from communicating with a member of the legislature on the request of that member; or communicating to the legislature, through the proper official channels, requests for legislative action or appropriations ~~((which))~~ that are deemed necessary for the efficient conduct of the public business or actually made in the proper performance of their official duties~~((:—PROVIDED FURTHER, That))~~. This subsection does not apply to the legislative branch.

(3) Any agency, not otherwise expressly authorized by law, may expend public funds for lobbying, but such lobbying activity shall be limited to (a) providing information or communicating on matters pertaining to official agency business to any elected official or officer or employee of any agency or (b)

advocating the official position or interests of the agency to any elected official or officer or employee of any agency(~~(= PROVIDED, That)~~). Public funds may not be expended as a direct or indirect gift or campaign contribution to any elected official or officer or employee of any agency. For the purposes of this subsection, (~~the term~~) "gift" means a voluntary transfer of any thing of value without consideration of equal or greater value, but does not include informational material transferred for the sole purpose of informing the recipient about matters pertaining to official agency business. This section does not permit the printing of a state publication (~~which~~) that has been otherwise prohibited by law.

(4) No elective official or any employee of his or her office or any person appointed to or employed by any public office or agency may use or authorize the use of any of the facilities of a public office or agency, directly or indirectly, in any effort to support or oppose an initiative to the legislature. "Facilities of a public office or agency" has the same meaning as in RCW 42.17.130 (as recodified by this act) and 42.52.180. The provisions of this subsection shall not apply to the following activities:

(a) Action taken at an open public meeting by members of an elected legislative body to express a collective decision, or to actually vote upon a motion, proposal, resolution, order, or ordinance, or to support or oppose an initiative to the legislature so long as (i) any required notice of the meeting includes the title and number of the initiative to the legislature, and (ii) members of the legislative body or members of the public are afforded an approximately equal opportunity for the expression of an opposing view;

(b) A statement by an elected official in support of or in opposition to any initiative to the legislature at an open press conference or in response to a specific inquiry;

(c) Activities (~~which~~) that are part of the normal and regular conduct of the office or agency;

(d) Activities conducted regarding an initiative to the legislature that would be permitted under RCW 42.17.130 (as recodified by this act) and 42.52.180 if conducted regarding other ballot measures.

(5) Each state agency, county, city, town, municipal corporation, quasi-municipal corporation, or special purpose district (~~which~~) that expends public funds for lobbying shall file with the commission, except as exempted by (d) of this subsection, quarterly statements providing the following information for the quarter just completed:

(a) The name of the agency filing the statement;

(b) The name, title, and job description and salary of each elected official, officer, or employee who lobbied, a general description of the nature of the lobbying, and the proportionate amount of time spent on the lobbying;

(c) A listing of expenditures incurred by the agency for lobbying including but not limited to travel, consultant or other special contractual services, and brochures and other publications, the principal purpose of which is to influence legislation;

(d) For purposes of this subsection (~~the term~~), "lobbying" does not include:

(i) Requests for appropriations by a state agency to the office of financial management pursuant to chapter 43.88 RCW nor requests by the office of

financial management to the legislature for appropriations other than its own agency budget requests;

(ii) Recommendations or reports to the legislature in response to a legislative request expressly requesting or directing a specific study, recommendation, or report by an agency on a particular subject;

(iii) Official reports including recommendations submitted to the legislature on an annual or biennial basis by a state agency as required by law;

(iv) Requests, recommendations, or other communication between or within state agencies or between or within local agencies;

(v) Any other lobbying to the extent that it includes:

(A) Telephone conversations or preparation of written correspondence;

(B) In-person lobbying on behalf of an agency of no more than four days or parts thereof during any three-month period by officers or employees of that agency and in-person lobbying by any elected official of such agency on behalf of such agency or in connection with the powers, duties, or compensation of such official(~~(: PROVIDED, That)~~). The total expenditures of nonpublic funds made in connection with such lobbying for or on behalf of any one or more members of the legislature or state elected officials or public officers or employees of the state of Washington ((~~do~~) may not exceed fifteen dollars for any three-month period(~~(: PROVIDED FURTHER, That)~~). The exemption under this subsection (5)(d)(v)(B) is in addition to the exemption provided in (d)(v)(A) of this subsection;

(C) Preparation or adoption of policy positions.

The statements shall be in the form and the manner prescribed by the commission and shall be filed within one month after the end of the quarter covered by the report.

(6) In lieu of reporting under subsection (5) of this section, any county, city, town, municipal corporation, quasi municipal corporation, or special purpose district may determine and so notify the public disclosure commission(~~(:)~~) that elected officials, officers, or employees who, on behalf of any such local agency, engage in lobbying reportable under subsection (5) of this section shall register and report such reportable lobbying in the same manner as a lobbyist who is required to register and report under RCW 42.17.150 and 42.17.170 (as recodified by this act). Each such local agency shall report as a lobbyist employer pursuant to RCW 42.17.180 (as recodified by this act).

(7) The provisions of this section do not relieve any elected official or officer or employee of an agency from complying with other provisions of this chapter, if such elected official, officer, or employee is not otherwise exempted.

(8) The purpose of this section is to require each state agency and certain local agencies to report the identities of those persons who lobby on behalf of the agency for compensation, together with certain separately identifiable and measurable expenditures of an agency's funds for that purpose. This section shall be reasonably construed to accomplish that purpose and not to require any agency to report any of its general overhead cost or any other costs (~~(which)~~) that relate only indirectly or incidentally to lobbying or (~~(which)~~) that are equally attributable to or inseparable from nonlobbying activities of the agency.

The public disclosure commission may adopt rules clarifying and implementing this legislative interpretation and policy.

Sec. 809. RCW 42.17.200 and 1990 c 139 s 5 are each amended to read as follows:

(1) Any person who has made expenditures, not reported by a registered lobbyist under RCW 42.17.170 (as recodified by this act) or by a candidate or political committee under RCW 42.17.065 or 42.17.080 (as recodified by this act), exceeding ~~((five hundred))~~ one thousand dollars in the aggregate within any three-month period or exceeding ~~((two))~~ five hundred dollars in the aggregate within any one-month period in presenting a program ~~((addressed))~~ to the public, a substantial portion of which is intended, designed, or calculated primarily to influence legislation shall ~~((be required to))~~ register and report, as provided in subsection (2) of this section, as a sponsor of a grass roots lobbying campaign.

(2) Within thirty days after becoming a sponsor of a grass roots lobbying campaign, the sponsor shall register by filing with the commission a registration statement, in such detail as the commission shall prescribe, showing:

(a) The sponsor's name, address, and business or occupation, and, if the sponsor is not an individual, the names, addresses, and titles of the controlling persons responsible for managing the sponsor's affairs;

(b) The names, addresses, and business or occupation of all persons organizing and managing the campaign, or hired to assist the campaign, including any public relations or advertising firms participating in the campaign, and the terms of compensation for all such persons;

(c) The names and addresses of each person contributing twenty-five dollars or more to the campaign, and the aggregate amount contributed;

(d) The purpose of the campaign, including the specific legislation, rules, rates, standards, or proposals that are the subject matter of the campaign;

(e) The totals of all expenditures made or incurred to date on behalf of the campaign ~~((, which totals shall be))~~ segregated according to financial category, including but not limited to the following: Advertising, segregated by media, and in the case of large expenditures (as provided by rule of the commission), by outlet; contributions; entertainment, including food and refreshments; office expenses including rent and the salaries and wages paid for staff and secretarial assistance, or the proportionate amount ~~((thereof))~~ paid or incurred for lobbying campaign activities; consultants; and printing and mailing expenses.

(3) Every sponsor who has registered under this section shall file monthly reports with the commission ~~((, which reports shall be filed))~~ by the tenth day of the month for the activity during the preceding month. The reports shall update the information contained in the sponsor's registration statement and in prior reports and shall show contributions received and totals of expenditures made during the month, in the same manner as provided for in the registration statement.

(4) When the campaign has been terminated, the sponsor shall file a notice of termination with the final monthly report ~~((, which notice))~~. The final report shall state the totals of all contributions and expenditures made on behalf of the campaign, in the same manner as provided for in the registration statement.

Sec. 810. RCW 42.17.210 and 1973 c 1 s 21 are each amended to read as follows:

If any person registered or required to be registered as a lobbyist ~~((under this chapter employs))~~, or ~~((if))~~ any employer of any person registered or required to be registered as a lobbyist ~~((under this chapter))~~, employs ~~((any))~~ a member or

an employee of the legislature, ~~((or any))~~ a member of ~~((any))~~ a state board or commission, ~~((or any employee of the legislature,))~~ or ~~((any))~~ a full-time state employee, ~~((if such))~~ and that new employee ~~((shall))~~ remains in the partial employ of the state ~~((or any agency thereof, then)),~~ the new employer ~~((shall))~~ must file within fifteen days after employment a statement ~~((under oath))~~ with the commission, signed under oath, setting out the nature of the employment, the name of the person ~~((to be paid thereunder))~~ employed, and the amount of pay or consideration ~~((to be paid thereunder. The statement shall be filed within fifteen days after the commencement of such employment)).~~

Sec. 811. RCW 42.17.220 and 1973 c 1 s 22 are each amended to read as follows:

It ~~((shall be))~~ is a violation of this chapter for any person to employ for pay or any consideration, or pay or agree to pay any consideration to, a person to lobby who is not registered under this chapter except upon the condition that such a person must register as a lobbyist as provided by this chapter~~((; and such person does in fact so register as soon as practicable)).~~

Sec. 812. RCW 42.17.230 and 1987 c 201 s 2 are each amended to read as follows:

~~(1)~~ A person required to register as a lobbyist under ~~((this chapter shall also have the following obligations, the violation of which shall constitute cause for revocation of his registration, and may subject such person, and such person's employer, if such employer aids, abets, ratifies, or confirms any such act, to other civil liabilities, as provided by this chapter:~~

~~(1) Such persons shall obtain and preserve all)~~ RCW 42.17.150 (as recodified by this act) shall substantiate financial reports required to be made under this chapter with accounts, bills, receipts, books, papers, and other necessary documents ((necessary to substantiate the financial reports required to be made under this chapter)). All such documents must be obtained and preserved for a period of at least five years from the date of ((the)) filing ((of)) the statement containing such items((; which accounts, bills, receipts, books, papers, and documents)) and shall be made available for inspection by the commission at any time((; PROVIDED, That if a lobbyist is required under)). If the terms of ((his)) the lobbyist's employment contract ~~((to turn any))~~ require that these records be turned over to his or her employer, responsibility for the preservation and inspection of ((such)) these records under this subsection shall ((rest)) be with such employer.

~~(2) ((In addition,))~~ A person required to register as a lobbyist under RCW 42.17.150 (as recodified by this act) shall not:

(a) Engage in any lobbying activity ~~((as a lobbyist))~~ before registering as ~~((such))~~ a lobbyist;

(b) Knowingly deceive or attempt to deceive ~~((any))~~ a legislator ~~((as to any fact))~~ regarding the facts pertaining to any pending or proposed legislation;

(c) Cause or influence the introduction of ~~((any))~~ a bill or amendment ~~((thereto))~~ to that bill for the purpose of ~~((thereafter))~~ later being employed to secure its defeat;

(d) Knowingly represent an interest adverse to ~~((any of))~~ his or her employer(s) without ~~((first))~~ full disclosure of the adverse interest to the

employer and obtaining ((such)) the employer's written consent ((thereto after full disclosure to such employer of such adverse interest));

(e) Exercise any undue influence, extortion, or unlawful retaliation upon any legislator ~~((by reason of such))~~ due to the legislator's position ~~((with respect to, or his vote upon,))~~ or vote on any pending or proposed legislation;

(f) Enter into any agreement, arrangement, or understanding ~~((according to which his or her))~~ in which any portion of his or her compensation ~~((, or any portion thereof,))~~ is or will be contingent upon ~~((the))~~ his or her success ~~((of any attempt to influence))~~ in influencing legislation.

(3) A violation by a lobbyist of this section shall be cause for revocation of his or her registration, and may subject the lobbyist and the lobbyist's employer, if the employer aids, abets, ratifies, or confirms the violation, to other civil liabilities as provided by this chapter.

PART 9 PERSONAL FINANCIAL AFFAIRS REPORTING BY CANDIDATES AND PUBLIC OFFICIALS

Sec. 901. RCW 42.17.240 and 1995 c 397 s 8 are each amended to read as follows:

(1) After January 1st and before April 15th of each year, every elected official and every executive state officer shall ~~((after January 1st and before April 15th of each year))~~ file with the commission a statement of financial affairs for the preceding calendar year. However, any local elected official whose term of office ~~((expires immediately after))~~ ends on December 31st shall file the statement required to be filed by this section for the final year ~~((that ended on that December 31st))~~ of his or her term.

(2) Within two weeks of becoming a candidate, every candidate shall ~~((within two weeks of becoming a candidate))~~ file with the commission a statement of financial affairs for the preceding twelve months.

(3) Within two weeks of appointment, every person appointed to a vacancy in an elective office or executive state officer position shall ~~((within two weeks of being so appointed))~~ file with the commission a statement of financial affairs for the preceding twelve months.

(4) A statement of a candidate or appointee filed during the period from January 1st to April 15th shall cover the period from January 1st of the preceding calendar year to the time of candidacy or appointment if the filing of the statement would relieve the individual of a prior obligation to file a statement covering the entire preceding calendar year.

(5) No individual may be required to file more than once in any calendar year.

(6) Each statement of financial affairs filed under this section shall be sworn as to its truth and accuracy.

(7) Every elected official and every executive state officer shall file with their statement of financial affairs a statement certifying that they have read and are familiar with RCW 42.17.130 (as recodified by this act) or 42.52.180, whichever is applicable.

(8) For the purposes of this section, the term "executive state officer" includes those listed in RCW 42.17.2401.

(9) This section does not apply to incumbents or candidates for a federal office or the office of precinct committee officer.

Sec. 902. RCW 42.17.2401 and 2009 c 565 s 24 are each amended to read as follows:

For the purposes of RCW 42.17.240 (as recodified by this act), ~~((the term))~~ "executive state officer" includes:

(1) The chief administrative law judge, the director of agriculture, ~~((the administrator of the Washington basic health plan,))~~ the director of the department of services for the blind, the director of the state system of community and technical colleges, the director of commerce, the secretary of corrections, the director of early learning, the director of ecology, the commissioner of employment security, the chair of the energy facility site evaluation council, the secretary of the state finance committee, the director of financial management, the director of fish and wildlife, the executive secretary of the forest practices appeals board, the director of the gambling commission, the director of general administration, the secretary of health, the administrator of the Washington state health care authority, the executive secretary of the health care facilities authority, the executive secretary of the higher education facilities authority, the executive secretary of the horse racing commission, the executive secretary of the human rights commission, the executive secretary of the indeterminate sentence review board, the director of the department of information services, the executive director of the state investment board, the director of labor and industries, the director of licensing, the director of the lottery commission, the director of the office of minority and women's business enterprises, the director of parks and recreation, the director of personnel, the executive director of the public disclosure commission, the executive director of the Puget Sound partnership, the director of the recreation and conservation office, the director of retirement systems, the director of revenue, the secretary of social and health services, the chief of the Washington state patrol, the executive secretary of the board of tax appeals, the secretary of transportation, the secretary of the utilities and transportation commission, the director of veterans affairs, the president of each of the regional and state universities and the president of The Evergreen State College, and each district and each campus president of each state community college;

(2) Each professional staff member of the office of the governor;

(3) Each professional staff member of the legislature; and

(4) Central Washington University board of trustees, the boards of trustees of each community college and each technical college, each member of the state board for community and technical colleges, state convention and trade center board of directors, ~~((committee for deferred compensation,))~~ Eastern Washington University board of trustees, Washington economic development finance authority, The Evergreen State College board of trustees, executive ethics board, forest practices appeals board, forest practices board, gambling commission, life sciences discovery fund authority board of trustees, Washington health care facilities authority, ~~((each member of the Washington health services commission,))~~ higher education coordinating board, higher education facilities authority, horse racing commission, state housing finance commission, human rights commission, indeterminate sentence review board, board of industrial insurance appeals, information services board, ~~((recreation~~

~~and conservation funding board,))~~ state investment board, commission on judicial conduct, legislative ethics board, liquor control board, lottery commission, ~~((marine oversight board,))~~ Pacific Northwest electric power and conservation planning council, parks and recreation commission, board of pilotage commissioners, pollution control hearings board, public disclosure commission, ~~((public pension commission,))~~ shorelines hearings board, public employees' benefits board, recreation and conservation funding board, salmon recovery funding board, board of tax appeals, transportation commission, University of Washington board of regents, utilities and transportation commission, ~~((Washington state maritime commission,))~~ Washington personnel resources board, Washington ~~((public power supply system))~~ energy northwest executive board, Washington State University board of regents, Western Washington University board of trustees, and fish and wildlife commission.

Sec. 903. RCW 42.17.241 and 2008 c 6 s 202 are each amended to read as follows:

(1) The statement of financial affairs required by RCW 42.17.240 ~~(as recodified by this act)~~ shall disclose the following information for the reporting individual and each member of his or her immediate family:

(a) Occupation, name of employer, and business address; ~~((and))~~

(b) Each bank ~~((or))~~ account, savings account ~~((or))~~, and insurance policy in which ~~((any such person or persons owned))~~ a direct financial interest ~~((that exceeded five))~~ was held that exceeds twenty thousand dollars at any time during the reporting period; each other item of intangible personal property in which ~~((any such person or persons owned))~~ a direct financial interest ~~((the value of which exceeded five hundred))~~ was held that exceeds two thousand dollars during the reporting period; the name, address, and nature of the entity; and the nature and highest value of each ~~((such))~~ direct financial interest during the reporting period; ~~((and))~~

(c) The name and address of each creditor to whom the value of ~~((five hundred))~~ two thousand dollars or more was owed; the original amount of each debt to each ~~((such))~~ creditor; the amount of each debt owed to each creditor as of the date of filing; the terms of repayment of each ~~((such))~~ debt; and the security given, if any, for each such debt ~~((: PROVIDED, That))~~. Debts arising ~~((out of))~~ from a "retail installment transaction" as defined in chapter 63.14 RCW ~~(retail installment sales act)~~ need not be reported; ~~((and))~~

(d) Every public or private office, directorship, and position held as trustee; ~~((and))~~

(e) All persons for whom any legislation, rule, rate, or standard has been prepared, promoted, or opposed for current or deferred compensation ~~((: PROVIDED, That))~~. For the purposes of this subsection, "compensation" does not include payments made to the person reporting by the governmental entity for which ~~((such))~~ the person serves as an elected official or state executive officer or professional staff member for his or her service in office; the description of such actual or proposed legislation, rules, rates, or standards; and the amount of current or deferred compensation paid or promised to be paid; ~~((and))~~

(f) The name and address of each governmental entity, corporation, partnership, joint venture, sole proprietorship, association, union, or other business or commercial entity from whom compensation has been received in

any form of a total value of ~~((five hundred))~~ two thousand dollars or more; the value of the compensation; and the consideration given or performed in exchange for the compensation; ~~((and))~~

(g) The name of any corporation, partnership, joint venture, association, union, or other entity in which is held any office, directorship, or any general partnership interest, or an ownership interest of ten percent or more; the name or title of that office, directorship, or partnership; the nature of ownership interest; and ~~((with respect to each such entity))~~: (i) With respect to a governmental unit in which the official seeks or holds any office or position, if the entity has received compensation in any form during the preceding twelve months from the governmental unit, the value of the compensation and the consideration given or performed in exchange for the compensation; and (ii) the name of each governmental unit, corporation, partnership, joint venture, sole proprietorship, association, union, or other business or commercial entity from which the entity has received compensation in any form in the amount of ~~((two thousand five hundred))~~ ten thousand dollars or more during the preceding twelve months and the consideration given or performed in exchange for the compensation ~~((: PROVIDED, That the term))~~. As used in (g)(ii) of this subsection, "compensation" ((for purposes of this subsection (1)(g)(ii)) does not include payment for water and other utility services at rates approved by the Washington state utilities and transportation commission or the legislative authority of the public entity providing the service ~~((: PROVIDED, FURTHER, That))~~. With respect to any bank or commercial lending institution in which is held any office, directorship, partnership interest, or ownership interest, it shall only be necessary to report either the name, address, and occupation of every director and officer of the bank or commercial lending institution and the average monthly balance of each account held during the preceding twelve months by the bank or commercial lending institution from the governmental entity for which the individual is an official or candidate or professional staff member, or all interest paid by a borrower on loans from and all interest paid to a depositor by the bank or commercial lending institution if the interest exceeds ~~((six*))~~ two thousand four hundred dollars; ~~((and))~~

(h) A list, including legal or other sufficient descriptions as prescribed by the commission, of all real property in the state of Washington, the assessed valuation of which exceeds ~~((two thousand five hundred))~~ ten thousand dollars in which any direct financial interest was acquired during the preceding calendar year, and a statement of the amount and nature of the financial interest and of the consideration given in exchange for that interest; ~~((and))~~

(i) A list, including legal or other sufficient descriptions as prescribed by the commission, of all real property in the state of Washington, the assessed valuation of which exceeds ~~((two thousand five hundred))~~ ten thousand dollars in which any direct financial interest was divested during the preceding calendar year, and a statement of the amount and nature of the consideration received in exchange for that interest, and the name and address of the person furnishing the consideration; ~~((and))~~

(j) A list, including legal or other sufficient descriptions as prescribed by the commission, of all real property in the state of Washington, the assessed valuation of which exceeds ~~((two thousand five hundred))~~ ten thousand dollars in which a direct financial interest was held ~~((: PROVIDED, That))~~. If a

description of the property has been included in a report previously filed, the property may be listed, for purposes of this ~~((provision))~~ subsection (1)(j), by reference to the previously filed report; ~~((and))~~

(k) A list, including legal or other sufficient descriptions as prescribed by the commission, of all real property in the state of Washington, the assessed valuation of which exceeds ~~((five))~~ twenty thousand dollars, in which a corporation, partnership, firm, enterprise, or other entity had a direct financial interest, in which corporation, partnership, firm, or enterprise a ten percent or greater ownership interest was held; ~~((and))~~

(l) A list of each occasion, specifying date, donor, and amount, at which food and beverage in excess of fifty dollars was accepted under RCW 42.52.150(5); ~~((and))~~

(m) A list of each occasion, specifying date, donor, and amount, at which items specified in RCW 42.52.010(10) (d) and (f) were accepted; and

(n) Such other information as the commission may deem necessary in order to properly carry out the purposes and policies of this chapter, as the commission shall prescribe by rule.

(2) Where an amount is required to be reported under subsection (1)(a) through (m) of this section, it shall be sufficient to comply with the requirement to report whether the amount is less than ~~((one))~~ four thousand dollars, at least ~~((one))~~ four thousand dollars but less than ~~((five))~~ twenty thousand dollars, at least ~~((five))~~ twenty thousand dollars but less than ~~((ten))~~ forty thousand dollars, at least ~~((ten))~~ forty thousand dollars but less than ~~((twenty-five))~~ one hundred thousand dollars, or ~~((twenty-five))~~ one hundred thousand dollars or more. An amount of stock may be reported by number of shares instead of by market value. No provision of this subsection may be interpreted to prevent any person from filing more information or more detailed information than required.

(3) Items of value given to an official's or employee's spouse, domestic partner, or family member are attributable to the official or employee, except the item is not attributable if an independent business, family, or social relationship exists between the donor and the spouse, domestic partner, or family member.

Sec. 904. RCW 42.17.242 and 1977 ex.s. c 336 s 4 are each amended to read as follows:

No payment shall be made to any person required to report under RCW 42.17.240 (as recodified by this act) and no payment shall be accepted by any such person, directly or indirectly, in a fictitious name, anonymously, or by one person through an agent, relative, or other person in such a manner as to conceal the identity of the source of the payment or in any other manner so as to effect concealment ~~((except that))~~. The commission may issue categorical and specific exemptions to the reporting of the actual source when there is an undisclosed principal for recognized legitimate business purposes.

PART 10 ENFORCEMENT

Sec. 1001. RCW 42.17.390 and 2006 c 315 s 2 are each amended to read as follows:

One or more of the following civil remedies and sanctions may be imposed by court order in addition to any other remedies provided by law:

(1) If the court finds that the violation of any provision of this chapter by any candidate or political committee probably affected the outcome of any election, the result of ~~((said))~~ that election may be held void and a special election held within sixty days of ~~((such))~~ the finding. Any action to void an election shall be commenced within one year of the date of the election in question. It is intended that this remedy be imposed freely in all appropriate cases to protect the right of the electorate to an informed and knowledgeable vote.

(2) If any lobbyist or sponsor of any grass roots lobbying campaign violates any of the provisions of this chapter, his or her registration may be revoked or suspended and he or she may be enjoined from receiving compensation or making expenditures for lobbying ~~((: PROVIDED, HOWEVER, That))~~. The imposition of ~~((such))~~ a sanction shall not excuse ~~((said))~~ the lobbyist from filing statements and reports required by this chapter.

(3) ~~((Any))~~ A person who violates any of the provisions of this chapter may be subject to a civil penalty of not more than ten thousand dollars for each ~~((such))~~ violation. However, a person or entity who violates RCW 42.17.640 (as recodified by this act) may be subject to a civil penalty of ten thousand dollars or three times the amount of the contribution illegally made or accepted, whichever is greater.

(4) ~~((Any))~~ A person who fails to file a properly completed statement or report within the time required by this chapter may be subject to a civil penalty of ten dollars per day for each day each ~~((such))~~ delinquency continues.

(5) ~~((Any))~~ A person who fails to report a contribution or expenditure as required by this chapter may be subject to a civil penalty equivalent to the amount not reported as required.

(6) The court may enjoin any person to prevent the doing of any act herein prohibited, or to compel the performance of any act required herein.

Sec. 1002. RCW 42.17.395 and 2006 c 315 s 3 are each amended to read as follows:

(1) The commission may (a) determine whether an actual violation of this chapter has occurred; and (b) issue and enforce an appropriate order following such a determination.

(2) The commission, in cases where it chooses to determine whether an actual violation has occurred, shall hold a hearing pursuant to the administrative procedure act, chapter 34.05 RCW, to make ~~((such))~~ a determination. Any order that the commission issues under this section shall be pursuant to such a hearing.

(3) In lieu of holding a hearing or issuing an order under this section, the commission may refer the matter to the attorney general or other enforcement agency as provided in RCW 42.17.360 (as recodified by this act).

(4) The person against whom an order is directed under this section shall be designated as the respondent. The order may require the respondent to cease and desist from the activity that constitutes a violation and in addition, or alternatively, may impose one or more of the remedies provided in RCW 42.17.390 (2) through (5) (as recodified by this act). No individual penalty assessed by the commission may exceed one thousand seven hundred dollars, and in any case where multiple violations are involved in a single complaint or hearing, the maximum aggregate penalty may not exceed four thousand two hundred dollars.

(5) An order issued by the commission under this section shall be subject to judicial review under the administrative procedure act, chapter 34.05 RCW. If the commission's order is not satisfied and no petition for review is filed within thirty days (~~as provided in RCW 34.05.542~~), the commission may petition a court of competent jurisdiction of any county in which a petition for review could be filed under that section, for an order of enforcement. Proceedings in connection with the commission's petition shall be in accordance with RCW 42.17.397 (as recodified by this act).

Sec. 1003. RCW 42.17.397 and 1989 c 175 s 92 are each amended to read as follows:

The following procedure shall apply in all cases where the commission has petitioned a court of competent jurisdiction for enforcement of any order it has issued pursuant to this chapter:

(1) A copy of the petition shall be served by certified mail directed to the respondent at his or her last known address. The court shall issue an order directing the respondent to appear at a time designated in the order, not less than five days from the date thereof, and show cause why the commission's order should not be enforced according to its terms.

(2) The commission's order shall be enforced by the court if the respondent does not appear, or if the respondent appears and the court finds, pursuant to a hearing held for that purpose:

(a) That the commission's order is unsatisfied; (~~and~~)

(b) That the order is regular on its face; and

(c) That the respondent's answer discloses no valid reason why the commission's order should not be enforced or that the respondent had an appropriate remedy by review under RCW 34.05.570(3) and failed to avail himself or herself of that remedy without valid excuse.

(3) Upon appropriate application by the respondent, the court may, after hearing and for good cause, alter, amend, revise, suspend, or postpone all or part of the commission's order. In any case where the order is not enforced by the court according to its terms, the reasons for the court's actions shall be clearly stated in writing, and (~~such~~) the action shall be subject to review by the appellate courts by certiorari or other appropriate proceeding.

(4) The court's order of enforcement, when entered, shall have the same force and effect as a civil judgment.

(5) Notwithstanding RCW 34.05.578 through 34.05.590, this section is the exclusive method for enforcing an order of the commission.

Sec. 1004. RCW 42.17.400 and 2007 c 455 s 1 are each amended to read as follows:

(1) The attorney general and the prosecuting authorities of political subdivisions of this state may bring civil actions in the name of the state for any appropriate civil remedy, including but not limited to the special remedies provided in RCW 42.17.390 (as recodified by this act).

(2) The attorney general and the prosecuting authorities of political subdivisions of this state may investigate or cause to be investigated the activities of any person who there is reason to believe is or has been acting in violation of this chapter, and may require any such person or any other person reasonably believed to have information concerning the activities of such person

to appear at a time and place designated in the county in which such person resides or is found, to give such information under oath and to produce all accounts, bills, receipts, books, paper and documents which may be relevant or material to any investigation authorized under this chapter.

(3) When the attorney general or the prosecuting authority of any political subdivision of this state requires the attendance of any person to obtain such information or ~~((the production of))~~ produce the accounts, bills, receipts, books, papers, and documents ~~((which))~~ that may be relevant or material to any investigation authorized under this chapter, he or she shall issue an order setting forth the time when and the place where attendance is required and shall cause the same to be delivered to or sent by registered mail to the person at least fourteen days before the date fixed for attendance. ~~((Such))~~ The order shall have the same force and effect as a subpoena, shall be effective statewide, and, upon application of the attorney general or ~~((said))~~ the prosecuting authority, obedience to the order may be enforced by any superior court judge in the county where the person receiving it resides or is found, in the same manner as though the order were a subpoena. The court, after hearing, for good cause, and upon application of any person aggrieved by the order, shall have the right to alter, amend, revise, suspend, or postpone all or any part of its provisions. In any case where the order is not enforced by the court according to its terms, the reasons for the court's actions shall be clearly stated in writing, and ~~((such))~~ the action shall be subject to review by the appellate courts by certiorari or other appropriate proceeding.

(4) ~~((Any))~~ A person who has notified the attorney general and the prosecuting attorney in the county in which the violation occurred in writing that there is reason to believe that some provision of this chapter is being or has been violated may himself or herself bring in the name of the state any of the actions (hereinafter referred to as a citizen's action) authorized under this chapter.

(a) This citizen action may be brought only if:

(i) The attorney general and the prosecuting attorney have failed to commence an action hereunder within forty-five days after ~~((such))~~ the notice;

(ii) ~~((Such))~~ The person has thereafter further notified the attorney general and prosecuting attorney that ~~((said))~~ the person will commence a citizen's action within ten days upon their failure ~~((to))~~ to do so;

(iii) The attorney general and the prosecuting attorney have in fact failed to bring such action within ten days of receipt of said second notice; and

(iv) The citizen's action is filed within two years after the date when the alleged violation occurred.

(b) If the person who brings the citizen's action prevails, the judgment awarded shall escheat to the state, but he or she shall be entitled to be reimbursed by the state of Washington for costs and ~~((attorney's))~~ attorneys' fees he or she has incurred ~~((- PROVIDED, That))~~ In the case of a citizen's action ~~((which))~~ that is dismissed and ~~((which))~~ that the court also finds was brought without reasonable cause, the court may order the person commencing the action to pay all costs of trial and reasonable ~~((attorney's))~~ attorneys' fees incurred by the defendant.

(5) In any action brought under this section, the court may award to the state all costs of investigation and trial, including ~~((a))~~ reasonable ~~((attorney's))~~ attorneys' fees to be fixed by the court. If the violation is found to have been

intentional, the amount of the judgment, which shall for this purpose include the costs, may be trebled as punitive damages. If damages or trebled damages are awarded in such an action brought against a lobbyist, the judgment may be awarded against the lobbyist, and the lobbyist's employer or employers joined as defendants, jointly, severally, or both. If the defendant prevails, he or she shall be awarded all costs of trial, and may be awarded ~~((a))~~ reasonable ~~((attorney's))~~ attorneys' fees to be fixed by the court to be paid by the state of Washington.

Sec. 1005. RCW 42.56.010 and 2007 c 197 s 1 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Agency" includes all state agencies and all local agencies. "State agency" includes every state office, department, division, bureau, board, commission, or other state agency. "Local agency" includes every county, city, town, municipal corporation, quasi-municipal corporation, or special purpose district, or any office, department, division, bureau, board, commission, or agency thereof, or other local public agency.

(2) "Person in interest" means the person who is the subject of a record or any representative designated by that person, except that if that person is under a legal disability, "person in interest" means and includes the parent or duly appointed legal representative.

(3) "Public record" includes any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics. For the office of the secretary of the senate and the office of the chief clerk of the house of representatives, public records means legislative records as defined in RCW 40.14.100 and also means the following: All budget and financial records; personnel leave, travel, and payroll records; records of legislative sessions; reports submitted to the legislature; and any other record designated a public record by any official action of the senate or the house of representatives.

~~((3))~~ (4) "Writing" means handwriting, typewriting, printing, photostating, photographing, and every other means of recording any form of communication or representation including, but not limited to, letters, words, pictures, sounds, or symbols, or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, motion picture, film and video recordings, magnetic or punched cards, discs, drums, diskettes, sound recordings, and other documents including existing data compilations from which information may be obtained or translated.

PART 11 MISCELLANEOUS PROVISIONS

NEW SECTION. **Sec. 1101.** When RCW 42.17.2401 (as recodified by this act) is codified, the code reviser shall arrange the names of the agencies in each subsection in alphabetical order, arranged according to the first distinctive word of each agency's name.

NEW SECTION. Sec. 1102. The following sections are recodified as a new chapter in Title 42 RCW, to be codified as chapter 42.17A RCW, in the following order with the following subchapter headings:

GENERAL PROVISIONS

RCW 42.17.010

RCW 42.17.020

RCW 42.17.035

RCW 42.17.440

ELECTRONIC ACCESS

RCW 42.17.367

RCW 42.17.369

RCW 42.17.460

RCW 42.17.461

RCW 42.17.463

ADMINISTRATION

RCW 42.17.350

RCW 42.17.360

RCW 42.17.370

Section 304 of this act

RCW 42.17.690

RCW 42.17.380

RCW 42.17.405

RCW 42.17.420

RCW 42.17.430

RCW 42.17.450

CAMPAIGN FINANCE REPORTING

RCW 42.17.030

RCW 42.17.040

RCW 42.17.050

Section 404 of this act

RCW 42.17.060

RCW 42.17.065

RCW 42.17.067

RCW 42.17.080

RCW 42.17.090

RCW 42.17.3691

RCW 42.17.093

RCW 42.17.100

RCW 42.17.103

RCW 42.17.105

RCW 42.17.550

RCW 42.17.135

POLITICAL ADVERTISING AND ELECTIONEERING COMMUNICATIONS

RCW 42.17.561

RCW 42.17.565

RCW 42.17.570

RCW 42.17.575

RCW 42.17.510

RCW 42.17.520

RCW 42.17.530

RCW 42.17.540

RCW 42.17.110

CAMPAIGN CONTRIBUTION LIMITS AND OTHER RESTRICTIONS

RCW 42.17.610

RCW 42.17.640

RCW 42.17.645

RCW 42.17.700

Section 604 of this act

RCW 42.17.070

RCW 42.17.095

RCW 42.17.120

Section 607 of this act

RCW 42.17.125

RCW 42.17.650

RCW 42.17.660

RCW 42.17.670

RCW 42.17.720

RCW 42.17.730

RCW 42.17.740

RCW 42.17.770

RCW 42.17.780

RCW 42.17.790

RCW 42.17.680

RCW 42.17.760

**PUBLIC OFFICIALS, EMPLOYEES, AND AGENCIES CAMPAIGN
RESTRICTIONS AND PROHIBITIONS—REPORTING**

RCW 42.17.128

RCW 42.17.130

RCW 42.17.710

RCW 42.17.750

RCW 42.17.245

Section 703 of this act

LOBBYING DISCLOSURE AND RESTRICTIONS

RCW 42.17.150

RCW 42.17.155

RCW 42.17.160

RCW 42.17.170

RCW 42.17.172

RCW 42.17.175

RCW 42.17.180

RCW 42.17.190

RCW 42.17.200

RCW 42.17.210

RCW 42.17.220

RCW 42.17.230

**PERSONAL FINANCIAL AFFAIRS REPORTING BY CANDIDATES AND
PUBLIC OFFICIALS**

RCW 42.17.240
RCW 42.17.2401
RCW 42.17.241
RCW 42.17.242
ENFORCEMENT
RCW 42.17.390
RCW 42.17.395
RCW 42.17.397
RCW 42.17.400
RCW 42.17.410

TECHNICAL PROVISIONS

RCW 42.17.900
RCW 42.17.910
RCW 42.17.911
RCW 42.17.912
RCW 42.17.920
RCW 42.17.930
RCW 42.17.940
RCW 42.17.945
RCW 42.17.950
RCW 42.17.955
RCW 42.17.960
RCW 42.17.961
RCW 42.17.962
RCW 42.17.963
RCW 42.17.964
RCW 42.17.965
RCW 42.17.966

NEW SECTION. Sec. 1103. The following acts or parts of acts, as now existing or hereafter amended, are each repealed:

- (1) RCW 42.17.131 (Exemption from RCW 42.17.130) and 1994 c 154 s 317;
- (2) RCW 42.17.362 (Toll-free telephone number) and 2000 c 237 s 6;
- (3) RCW 42.17.365 (Audits and investigations) and 1999 c 401 s 8 & 1993 c 2 s 29;
- (4) RCW 42.17.375 (Reports filed with county elections official—Rules governing) and 1983 c 294 s 1;
- (5) RCW 42.17.465 (Information technology plan—Contents) and 1999 c 401 s 4;
- (6) RCW 42.17.467 (Information technology plan—Consultation) and 1999 c 401 s 5;
- (7) RCW 42.17.469 (Information technology plan—Submission) and 1999 c 401 s 6;
- (8) RCW 42.17.471 (Access performance reports) and 1999 c 401 s 7;
- (9) RCW 42.17.562 (Intent) and 2005 c 445 s 2;
- (10) RCW 42.17.620 (Intent) and 1993 c 2 s 2; and
- (11) RCW 42.17.647 (Rules) and 2006 c 348 s 3.

NEW SECTION. **Sec. 1104.** Sections 505, 602, and 703 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect immediately.

NEW SECTION. **Sec. 1105.** Sections 101 through 504, 506 through 601, and 603 through 1103 of this act take effect January 1, 2012.

Passed by the House March 6, 2010.

Passed by the Senate March 3, 2010.

Approved by the Governor March 25, 2010, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State March 26, 2010.

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

"I am returning herewith, without my approval as to Sections 309, 412 and 415 Second Substitute House Bill 2016 entitled:

"AN ACT Relating to campaign contribution and disclosure laws."

This bill reorganizes and recodifies chapter 42.17 RCW, provides for the listing of the controlling entity on independent expenditures if the sponsor is a political committee, and allows bona fide political parties to use exempt funds for independent expenditures and electioneering communications.

Two bills delivered to me by the Legislature amend the same sections of existing laws in inconsistent ways. Section 309 (amending RCW 42.17.450), Section 412 (amending RCW 42.17.100), and Section 415 (amending RCW 42.17.550) amend the same sections of existing law that are amended or repealed in Senate Bill 6243 which will be signed today. These sections are technical changes with clarifying language which can be vetoed without affecting the policy changes in Second Substitute House Bill 2016.

For these reasons, I have vetoed Sections 309, 412 and 415 of Second Substitute House Bill 2016.

With the exception of Sections 309, 412 and 415, Second Substitute House Bill 2016 is approved."

CHAPTER 205

[Senate Bill 6243]

CAMPAIGN-RELATED REPORTS AND STATEMENTS—FILING

AN ACT Relating to eliminating provisions for filings at locations other than the public disclosure commission; amending RCW 42.17.040, 42.17.050, 42.17.060, 42.17.065, 42.17.067, 42.17.080, 42.17.100, 42.17.380, and 42.17.450; and repealing RCW 42.17.375 and 42.17.550.

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

Sec. 1. RCW 42.17.040 and 2007 c 358 s 2 are each amended to read as follows:

(1) Every political committee, within two weeks after its organization or, within two weeks after the date when it first has the expectation of receiving contributions or making expenditures in any election campaign, whichever is earlier, shall file a statement of organization with the commission (~~and with the county auditor or elections officer of the county in which the candidate resides, or in the case of any other political committee, the county in which the treasurer resides~~). A political committee organized within the last three weeks before an election and having the expectation of receiving contributions or making expenditures during and for that election campaign shall file a statement of

organization within three business days after its organization or when it first has the expectation of receiving contributions or making expenditures in the election campaign.

(2) The statement of organization shall include but not be limited to:

- (a) The name and address of the committee;
- (b) The names and addresses of all related or affiliated committees or other persons, and the nature of the relationship or affiliation;
- (c) The names, addresses, and titles of its officers; or if it has no officers, the names, addresses, and titles of its responsible leaders;
- (d) The name and address of its treasurer and depository;
- (e) A statement whether the committee is a continuing one;
- (f) The name, office sought, and party affiliation of each candidate whom the committee is supporting or opposing, and, if the committee is supporting the entire ticket of any party, the name of the party;
- (g) The ballot proposition concerned, if any, and whether the committee is in favor of or opposed to such proposition;
- (h) What distribution of surplus funds will be made, in accordance with RCW 42.17.095, in the event of dissolution;
- (i) The street address of the place and the hours during which the committee will make available for public inspection its books of account and all reports filed in accordance with RCW 42.17.080;
- (j) Such other information as the commission may by regulation prescribe, in keeping with the policies and purposes of this chapter;
- (k) The name, address, and title of any person who authorizes expenditures or makes decisions on behalf of the candidate or committee; and
- (l) The name, address, and title of any person who is paid by or is a volunteer for a candidate or political committee to perform ministerial functions and who performs ministerial functions on behalf of two or more candidates or committees.

(3) Any material change in information previously submitted in a statement of organization shall be reported to the commission (~~and to the appropriate county elections officer~~) within the ten days following the change.

Sec. 2. RCW 42.17.050 and 1989 c 280 s 3 are each amended to read as follows:

(1) Each candidate, within two weeks after becoming a candidate, and each political committee, at the time it is required to file a statement of organization, shall designate and file with the commission (~~and the appropriate county elections officer~~) the names and addresses of:

- (a) One legally competent individual, who may be the candidate, to serve as a treasurer; and
- (b) A bank, mutual savings bank, savings and loan association, or credit union doing business in this state to serve as depository and the name of the account or accounts maintained in it.

(2) A candidate, a political committee, or a treasurer may appoint as many deputy treasurers as is considered necessary and may designate not more than one additional depository in each other county in which the campaign is conducted. The candidate or political committee shall file the names and addresses of the deputy treasurers and additional depositories with the commission (~~and the appropriate county elections officer~~).

(3) A candidate may not knowingly establish, use, direct, or control more than one political committee for the purpose of supporting that candidate during a particular election campaign. This does not prohibit: (a) In addition to a candidate's having his or her own political committee, the candidate's participation in a political committee established to support a slate of candidates which includes the candidate; or (b) joint fund-raising efforts by candidates when a separate political committee is established for that purpose and all contributions are disbursed to and accounted for on a pro rata basis by the benefiting candidates.

(4)(a) A candidate or political committee may at any time remove a treasurer or deputy treasurer or change a designated depository.

(b) In the event of the death, resignation, removal, or change of a treasurer, deputy treasurer, or depository, the candidate or political committee shall designate and file with the commission (~~and the appropriate county elections officer~~) the name and address of any successor.

(5) No treasurer, deputy treasurer, or depository may be deemed to be in compliance with the provisions of this chapter until his name and address is filed with the commission (~~and the appropriate county elections officer~~).

Sec. 3. RCW 42.17.060 and 1989 c 280 s 4 are each amended to read as follows:

(1) All monetary contributions received by a candidate or political committee shall be deposited by the treasurer or deputy treasurer in a depository in an account established and designated for that purpose. Such deposits shall be made within five business days of receipt of the contribution.

(2) Political committees which support or oppose more than one candidate or ballot proposition, or exist for more than one purpose, may maintain multiple separate bank accounts within the same designated depository for such purpose: PROVIDED, That each such account shall bear the same name followed by an appropriate designation which accurately identifies its separate purpose: AND PROVIDED FURTHER, That transfers of funds which must be reported under RCW 42.17.090(1)(~~(d)~~) (e) may not be made from more than one such account.

(3) Nothing in this section prohibits a candidate or political committee from investing funds on hand in a depository in bonds, certificates, tax-exempt securities, or savings accounts or other similar instruments in financial institutions or mutual funds other than the depository: PROVIDED, That the commission (~~and the appropriate county elections officer~~) is notified in writing of the initiation and the termination of the investment: PROVIDED FURTHER, That the principal of such investment when terminated together with all interest, dividends, and income derived from the investment are deposited in the depository in the account from which the investment was made and properly reported to the commission (~~and the appropriate county elections officer~~) prior to any further disposition or expenditure thereof.

(4) Accumulated unidentified contributions, other than those made by persons whose names must be maintained on a separate and private list by a political committee's treasurer pursuant to RCW 42.17.090(1)(b), which total in excess of one percent of the total accumulated contributions received in the current calendar year or three hundred dollars (whichever is more), may not be deposited, used, or expended, but shall be returned to the donor, if his identity

can be ascertained. If the donor cannot be ascertained, the contribution shall escheat to the state, and shall be paid to the state treasurer for deposit in the state general fund.

(5) A contribution of more than fifty dollars in currency may not be accepted unless a receipt, signed by the contributor and by the candidate, treasurer, or deputy treasurer, is prepared and made a part of the campaign's or political committee's financial records.

Sec. 4. RCW 42.17.065 and 2000 c 237 s 1 are each amended to read as follows:

(1) In addition to the provisions of this section, a continuing political committee shall file and report on the same conditions and at the same times as any other committee in accordance with the provisions of RCW 42.17.040, 42.17.050, and 42.17.060.

(2) A continuing political committee shall file with the commission (~~and the auditor or elections officer of the county in which the committee maintains its office or headquarters and if there is no such office or headquarters then in the county in which the committee treasurer resides~~) a report on the tenth day of the month detailing its activities for the preceding calendar month in which the committee has received a contribution or made an expenditure (~~(= PROVIDED, That)~~). However, such report shall only be filed if either the total contributions received or total expenditures made since the last such report exceed two hundred dollars (~~(= PROVIDED FURTHER, That after January 1, 2002, if the committee files with the commission electronically, it need not also file with the county auditor or elections officer)~~). The report shall be on a form supplied by the commission and shall include the following information:

(a) The information required by RCW 42.17.090;

(b) Each expenditure made to retire previously accumulated debts of the committee; identified by recipient, amount, and date of payments;

(c) Such other information as the commission shall by rule prescribe.

(3) If a continuing political committee shall make a contribution in support of or in opposition to a candidate or ballot proposition within sixty days prior to the date on which such candidate or ballot proposition will be voted upon, such continuing political committee shall report pursuant to RCW 42.17.080.

(4) A continuing political committee shall file reports as required by this chapter until it is dissolved, at which time a final report shall be filed. Upon submitting a final report, the duties of the (~~campaign~~) treasurer shall cease and there shall be no obligation to make any further reports.

(5) The (~~campaign~~) treasurer shall maintain books of account accurately reflecting all contributions and expenditures on a current basis within five business days of receipt or expenditure. During the eight days immediately preceding the date of any election, for which the committee has received any contributions or made any expenditures, the books of account shall be kept current within one business day and shall be open for public inspection in the same manner as provided for candidates and other political committees in RCW 42.17.080(5).

(6) All reports filed pursuant to this section shall be certified as correct by the (~~campaign~~) treasurer.

(7) The (~~campaign~~) treasurer shall preserve books of account, bills, receipts, and all other financial records of the campaign or political committee

for not less than five calendar years following the year during which the transaction occurred.

Sec. 5. RCW 42.17.067 and 1989 c 280 s 6 are each amended to read as follows:

(1) Fund-raising activities which meet the standards of subsection (2) of this section may be reported in accordance with the provisions of this section in lieu of reporting in accordance with RCW 42.17.080.

(2) Standards:

(a) The activity consists of one or more of the following:

(i) The retail sale of goods or services at a reasonable approximation of the fair market value of each item or service sold at the activity; or

(ii) A gambling operation which is licensed, conducted, or operated in accordance with the provisions of chapter 9.46 RCW; or

(iii) A gathering where food and beverages are purchased, where the price of admission or the food and beverages is no more than twenty-five dollars; or

(iv) A concert, dance, theater performance, or similar entertainment event where the price of admission is no more than twenty-five dollars; or

(v) An auction or similar sale where the total fair market value of items donated by any person for sale is no more than fifty dollars; and

(b) No person responsible for receiving money at such activity knowingly accepts payments from a single person at or from such an activity to the candidate or committee aggregating more than fifty dollars unless the name and address of the person making such payment together with the amount paid to the candidate or committee are disclosed in the report filed pursuant to subsection (6) of this section; and

(c) Such other standards as shall be established by rule of the commission to prevent frustration of the purposes of this chapter.

(3) All funds received from a fund-raising activity which conforms with subsection (2) of this section shall be deposited within five business days of receipt by the treasurer or deputy treasurer in the depository.

(4) At the time reports are required under RCW 42.17.080, the treasurer or deputy treasurer making the deposit shall file with the commission (~~and the appropriate county elections officer~~) a report of the fund-raising activity which shall contain the following information:

(a) The date of the activity;

(b) A precise description of the fund-raising methods used in the activity; and

(c) The total amount of cash receipts from persons, each of whom paid no more than fifty dollars.

(5) The treasurer or deputy treasurer shall certify the report is correct.

(6) The treasurer shall report pursuant to RCW 42.17.080 and 42.17.090:

(a) The name and address and the amount contributed of each person who contributes goods or services with a fair market value of more than fifty dollars to a fund-raising activity reported under subsection (4) of this section, and (b) the name and address of each person whose identity can be ascertained, and the amount paid, from whom were knowingly received payments to the candidate or committee aggregating more than fifty dollars at or from such a fund-raising activity.

Sec. 6. RCW 42.17.080 and 2008 c 73 s 1 are each amended to read as follows:

(1) On the day the treasurer is designated, each candidate or political committee shall file with the commission ~~((and the county auditor or elections officer of the county in which the candidate resides, or in the case of a political committee, the county in which the treasurer resides))~~, in addition to any statement of organization required under RCW 42.17.040 or 42.17.050, a report of all contributions received and expenditures made prior to that date, if any.

(2) At the following intervals each treasurer shall file with the commission ~~((and the county auditor or elections officer of the county in which the candidate resides, or in the case of a political committee, the county in which the committee maintains its office or headquarters, and if there is no office or headquarters then in the county in which the treasurer resides;))~~ a report containing the information required by RCW 42.17.090:

(a) On the twenty-first day and the seventh day immediately preceding the date on which the election is held; and

(b) On the tenth day of the first month after the election; and

(c) On the tenth day of each month in which no other reports are required to be filed under this section ~~((: PROVIDED, That))~~. However, such report shall only be filed if the committee has received a contribution or made an expenditure in the preceding calendar month and either the total contributions received or total expenditures made since the last such report exceed two hundred dollars.

When there is no outstanding debt or obligation, and the campaign fund is closed, and the campaign is concluded in all respects, and in the case of a political committee, the committee has ceased to function and has dissolved, the treasurer shall file a final report. Upon submitting a final report, the duties of the treasurer shall cease and there shall be no obligation to make any further reports.

The report filed twenty-one days before the election shall report all contributions received and expenditures made as of the end of ~~((the))~~ one business day before the date of the report. The report filed seven days before the election shall report all contributions received and expenditures made as of the end of ~~((the))~~ one business day before the date of the report. Reports filed on the tenth day of the month shall report all contributions received and expenditures made from the closing date of the last report filed through the last day of the month preceding the date of the current report.

(3) For the period beginning the first day of the fourth month preceding the date on which the special election is held, or for the period beginning the first day of the fifth month before the date on which the general election is held, and ending on the date of that special or general election, each Monday the treasurer shall file with the commission ~~((and the appropriate county elections officer))~~ a report of each bank deposit made during the previous seven calendar days. The report shall contain the name of each person contributing the funds so deposited and the amount contributed by each person. However, contributions of no more than twenty-five dollars in the aggregate from any one person may be deposited without identifying the contributor. A copy of the report shall be retained by the treasurer for his or her records. In the event of deposits made by a deputy treasurer, the copy shall be forwarded to the treasurer for his or her records.

Each report shall be certified as correct by the treasurer or deputy treasurer making the deposit.

~~(4) ((If a city requires that candidates or committees for city offices file reports with a city agency, the candidate or treasurer so filing need not also file the report with the county auditor or elections officer.~~

~~(5))~~ (5) The treasurer or candidate shall maintain books of account accurately reflecting all contributions and expenditures on a current basis within five business days of receipt or expenditure. During the eight days immediately preceding the date of the election the books of account shall be kept current within one business day. As specified in the committee's statement of organization filed under RCW 42.17.040, the books of account must be open for public inspection by appointment at the designated place for inspections between 8:00 a.m. and 8:00 p.m. on any day from the eighth day immediately before the election through the day immediately before the election, other than Saturday, Sunday, or a legal holiday. It is a violation of this chapter for a candidate or political committee to refuse to allow and keep an appointment for an inspection to be conducted during these authorized times and days. The appointment must be allowed at an authorized time and day for such inspections that is within twenty-four hours of the time and day that is requested for the inspection.

~~((6))~~ (5) The treasurer or candidate shall preserve books of account, bills, receipts, and all other financial records of the campaign or political committee for not less than five calendar years following the year during which the transaction occurred.

~~((7))~~ (6) All reports filed pursuant to subsection (1) or (2) of this section shall be certified as correct by the candidate and the treasurer.

~~((8))~~ (7) Copies of all reports filed pursuant to this section shall be readily available for public inspection for at least two consecutive hours Monday through Friday, excluding legal holidays, between 8:00 a.m. and 8:00 p.m., as specified in the committee's statement of organization filed pursuant to RCW 42.17.040, at the principal headquarters or, if there is no headquarters, at the address of the treasurer or such other place as may be authorized by the commission.

~~((9) After January 1, 2002, a report that is filed with the commission electronically need not also be filed with the county auditor or elections officer.~~

~~(10))~~ (8) The commission shall adopt administrative rules establishing requirements for filer participation in any system designed and implemented by the commission for the electronic filing of reports.

Sec. 7. RCW 42.17.100 and 1995 c 397 s 28 are each amended to read as follows:

(1) For the purposes of this section ~~((and RCW 42.17.550))~~ the term "independent expenditure" means any expenditure that is made in support of or in opposition to any candidate or ballot proposition and is not otherwise required to be reported pursuant to RCW 42.17.060, 42.17.080, or 42.17.090. "Independent expenditure" does not include: An internal political communication primarily limited to the contributors to a political party organization or political action committee, or the officers, management staff, and stockholders of a corporation or similar enterprise, or the members of a labor organization or other membership organization; or the rendering of personal services of the sort commonly performed by volunteer campaign workers, or

incidental expenses personally incurred by volunteer campaign workers not in excess of fifty dollars personally paid for by the worker. "Volunteer services," for the purposes of this section, means services or labor for which the individual is not compensated by any person.

(2) Within five days after the date of making an independent expenditure that by itself or when added to all other such independent expenditures made during the same election campaign by the same person equals one hundred dollars or more, or within five days after the date of making an independent expenditure for which no reasonable estimate of monetary value is practicable, whichever occurs first, the person who made the independent expenditure shall file with the commission (~~and the county elections officer of the county of residence for the candidate supported or opposed by the independent expenditure (or in the case of an expenditure made in support of or in opposition to a local ballot proposition, the county of residence for the person making the expenditure))~~) an initial report of all independent expenditures made during the campaign prior to and including such date.

(3) At the following intervals each person who is required to file an initial report pursuant to subsection (2) of this section shall file with the commission (~~and the county elections officer of the county of residence for the candidate supported or opposed by the independent expenditure (or in the case of an expenditure made in support of or in opposition to a ballot proposition, the county of residence for the person making the expenditure))~~) a further report of the independent expenditures made since the date of the last report:

(a) On the twenty-first day and the seventh day preceding the date on which the election is held; and

(b) On the tenth day of the first month after the election; and

(c) On the tenth day of each month in which no other reports are required to be filed pursuant to this section. However, the further reports required by this subsection (3) shall only be filed if the reporting person has made an independent expenditure since the date of the last previous report filed.

The report filed pursuant to paragraph (a) of this subsection (3) shall be the final report, and upon submitting such final report the duties of the reporting person shall cease, and there shall be no obligation to make any further reports.

(4) All reports filed pursuant to this section shall be certified as correct by the reporting person.

(5) Each report required by subsections (2) and (3) of this section shall disclose for the period beginning at the end of the period for the last previous report filed or, in the case of an initial report, beginning at the time of the first independent expenditure, and ending not more than one business day before the date the report is due:

(a) The name and address of the person filing the report;

(b) The name and address of each person to whom an independent expenditure was made in the aggregate amount of more than fifty dollars, and the amount, date, and purpose of each such expenditure. If no reasonable estimate of the monetary value of a particular independent expenditure is practicable, it is sufficient to report instead a precise description of services, property, or rights furnished through the expenditure and where appropriate to attach a copy of the item produced or distributed by the expenditure;

(c) The total sum of all independent expenditures made during the campaign to date; and

(d) Such other information as shall be required by the commission by rule in conformance with the policies and purposes of this chapter.

Sec. 8. RCW 42.17.380 and 1982 c 35 s 196 are each amended to read as follows:

~~((1) The office of the secretary of state shall be designated as a place where the public may file papers or correspond with the commission and receive any form or instruction from the commission.~~

(2)) The attorney general, through his office, shall supply such assistance as the commission may require in order to carry out its responsibilities under this chapter. The commission may employ attorneys who are neither the attorney general nor an assistant attorney general to carry out any function of the attorney general prescribed in this chapter.

Sec. 9. RCW 42.17.450 and 1973 c 1 s 45 are each amended to read as follows:

~~((Persons with whom statements or reports or copies of statements or reports are required to be filed under this chapter shall preserve them for not less than six years.))~~ The commission~~(, however, shall)~~ must preserve ~~((such))~~ statements or reports required to be filed under this chapter for not less than ten years.

NEW SECTION. **Sec. 10.** The following acts or parts of acts are each repealed:

(1) RCW 42.17.375 (Reports filed with county elections official—Rules governing) and 1983 c 294 s 1; and

(2) RCW 42.17.550 (Independent expenditure disclosure) and 1993 c 2 s 23.

Passed by the Senate February 5, 2010.

Passed by the House March 9, 2010.

Approved by the Governor March 25, 2010.

Filed in Office of Secretary of State March 26, 2010.

CHAPTER 206

[Substitute Senate Bill 6344]

CAMPAIGN CONTRIBUTION LIMITS—APPLICABILITY

AN ACT Relating to campaign contribution limits; and amending RCW 42.17.640.

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

Sec. 1. RCW 42.17.640 and 2006 c 348 s 1 are each amended to read as follows:

(1) The contribution limits in this section apply to:

(a) Candidates for state legislative office;

(b) Candidates for state office other than state legislative office;

(c) Candidates for county office ~~((in a county that has over two hundred thousand registered voters))~~;

(d) Candidates for special purpose district office if that district is authorized to provide freight and passenger transfer and terminal facilities and that district has over two hundred thousand registered voters;

(e) Candidates for city council office;

(f) Candidates for mayoral office;

(g) Persons holding an office in (a) through ~~((d))~~ (f) of this subsection against whom recall charges have been filed or to a political committee having the expectation of making expenditures in support of the recall of a person holding the office;

~~((h))~~ (h) Caucus political committees;

~~((g))~~ (i) Bona fide political parties.

(2) No person, other than a bona fide political party or a caucus political committee, may make contributions to a candidate for a state legislative office ~~((or))~~, county office, city council office, or mayoral office that in the aggregate exceed ~~((seven))~~ eight hundred dollars or to a candidate for a public office in a special purpose district or a state office other than a state legislative office that in the aggregate exceed one thousand ~~((four))~~ six hundred dollars for each election in which the candidate is on the ballot or appears as a write-in candidate. Contributions to candidates subject to the limits in this section made with respect to a primary may not be made after the date of the primary. However, contributions to a candidate or a candidate's authorized committee may be made with respect to a primary until thirty days after the primary, subject to the following limitations: (a) The candidate lost the primary; (b) the candidate's authorized committee has insufficient funds to pay debts outstanding as of the date of the primary; and (c) the contributions may only be raised and spent to satisfy the outstanding debt. Contributions to candidates subject to the limits in this section made with respect to a general election may not be made after the final day of the applicable election cycle.

(3) No person, other than a bona fide political party or a caucus political committee, may make contributions to a state official, a county official, a city official, or a public official in a special purpose district against whom recall charges have been filed, or to a political committee having the expectation of making expenditures in support of the recall of the state official, county official, city official, or public official in a special purpose district during a recall campaign that in the aggregate exceed ~~((seven))~~ eight hundred dollars if for a state legislative office ~~((or))~~, county office, or city office, or one thousand ~~((four))~~ six hundred dollars if for a special purpose district office or a state office other than a state legislative office.

(4)(a) Notwithstanding subsection (2) of this section, no bona fide political party or caucus political committee may make contributions to a candidate during an election cycle that in the aggregate exceed (i) ~~((seventy))~~ eighty cents multiplied by the number of eligible registered voters in the jurisdiction from which the candidate is elected if the contributor is a caucus political committee or the governing body of a state organization, or (ii) ~~((thirty-five))~~ forty cents multiplied by the number of registered voters in the jurisdiction from which the candidate is elected if the contributor is a county central committee or a legislative district committee.

(b) No candidate may accept contributions from a county central committee or a legislative district committee during an election cycle that when combined with contributions from other county central committees or legislative district committees would in the aggregate exceed ~~((thirty-five))~~ forty cents times the

number of registered voters in the jurisdiction from which the candidate is elected.

(5)(a) Notwithstanding subsection (3) of this section, no bona fide political party or caucus political committee may make contributions to a state official, county official, city official, or a public official in a special purpose district against whom recall charges have been filed, or to a political committee having the expectation of making expenditures in support of the state official, county official, city official, or a public official in a special purpose district during a recall campaign that in the aggregate exceed (i) ~~((seventy))~~ eighty cents multiplied by the number of eligible registered voters in the jurisdiction entitled to recall the state official if the contributor is a caucus political committee or the governing body of a state organization, or (ii) ~~((thirty-five))~~ forty cents multiplied by the number of registered voters in the jurisdiction from which the candidate is elected if the contributor is a county central committee or a legislative district committee.

(b) No official holding an office specified in subsection (1) of this section against whom recall charges have been filed, no authorized committee of the official, and no political committee having the expectation of making expenditures in support of the recall of the official may accept contributions from a county central committee or a legislative district committee during an election cycle that when combined with contributions from other county central committees or legislative district committees would in the aggregate exceed ~~((thirty-five))~~ forty cents multiplied by the number of registered voters in the jurisdiction from which the candidate is elected.

(6) For purposes of determining contribution limits under subsections (4) and (5) of this section, the number of eligible registered voters in a jurisdiction is the number at the time of the most recent general election in the jurisdiction.

(7) Notwithstanding subsections (2) through (5) of this section, no person other than an individual, bona fide political party, or caucus political committee may make contributions reportable under this chapter to a caucus political committee that in the aggregate exceed ~~((seven))~~ eight hundred dollars in a calendar year or to a bona fide political party that in the aggregate exceed ~~((three))~~ four thousand ~~((five-hundred))~~ dollars in a calendar year. This subsection does not apply to loans made in the ordinary course of business.

(8) For the purposes of RCW 42.17.640 through 42.17.790, a contribution to the authorized political committee of a candidate or of an official specified in subsection (1) of this section against whom recall charges have been filed is considered to be a contribution to the candidate or official.

(9) A contribution received within the twelve-month period after a recall election concerning an office specified in subsection (1) of this section is considered to be a contribution during that recall campaign if the contribution is used to pay a debt or obligation incurred to influence the outcome of that recall campaign.

(10) The contributions allowed by subsection (3) of this section are in addition to those allowed by subsection (2) of this section, and the contributions allowed by subsection (5) of this section are in addition to those allowed by subsection (4) of this section.

(11) RCW 42.17.640 through 42.17.790 apply to a special election conducted to fill a vacancy in an office specified in subsection (1) of this section.

However, the contributions made to a candidate or received by a candidate for a primary or special election conducted to fill such a vacancy shall not be counted toward any of the limitations that apply to the candidate or to contributions made to the candidate for any other primary or election.

(12) Notwithstanding the other subsections of this section, no corporation or business entity not doing business in Washington state, no labor union with fewer than ten members who reside in Washington state, and no political committee that has not received contributions of ten dollars or more from at least ten persons registered to vote in Washington state during the preceding one hundred eighty days may make contributions reportable under this chapter to a state office candidate, to a state official against whom recall charges have been filed, or to a political committee having the expectation of making expenditures in support of the recall of the official. This subsection does not apply to loans made in the ordinary course of business.

(13) Notwithstanding the other subsections of this section, no county central committee or legislative district committee may make contributions reportable under this chapter to a candidate specified in subsection (1) of this section, or an official specified in subsection (1) of this section against whom recall charges have been filed, or political committee having the expectation of making expenditures in support of the recall of an official specified in subsection (1) of this section if the county central committee or legislative district committee is outside of the jurisdiction entitled to elect the candidate or recall the official.

(14) No person may accept contributions that exceed the contribution limitations provided in this section.

(15) The following contributions are exempt from the contribution limits of this section:

(a) An expenditure or contribution earmarked for voter registration, for absentee ballot information, for precinct caucuses, for get-out-the-vote campaigns, for precinct judges or inspectors, for sample ballots, or for ballot counting, all without promotion of or political advertising for individual candidates; or

(b) An expenditure by a political committee for its own internal organization or fund raising without direct association with individual candidates.

Passed by the Senate March 9, 2010.

Passed by the House February 28, 2010.

Approved by the Governor March 25, 2010.

Filed in Office of Secretary of State March 26, 2010.

CHAPTER 207

[Substitute Senate Bill 6688]

NONPARTISAN COUNTY ELECTIVE OFFICES—FILLING OF VACANCIES

AN ACT Relating to filling vacancies in nonpartisan local elective office; amending RCW 36.16.110; and creating a new section.

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

NEW SECTION. Sec. 1. The legislature finds that a number of counties have moved to designate certain countywide elective offices as nonpartisan.

Because the creation of these nonpartisan offices is a relatively new occurrence, there is not a mechanism in the state Constitution or statutory laws to fill vacancies in these offices. The legislature also finds that many local governments have not created a mechanism for expediently filling the vacancies. The legislature further finds the following: Political representation is an important and fundamental aspect of elective government; vacancies in elective office effectively disenfranchise portions of the state's citizenry; vacancies in elective office can hamper or completely stall the efficient administration of all aspects of governance, including the appointment of inferior office holders responsible for the administration of health, public safety, and a myriad of social services; and that all of these governing functions represent public policy considerations of broad concern. Therefore, it is the responsibility and intent of the legislature to provide a mechanism for filling vacancies in these offices that is in keeping with the state Constitution and current statute.

Sec. 2. RCW 36.16.110 and 2003 c 238 s 1 are each amended to read as follows:

(1) The county legislative authority in each county shall, at its next regular or special meeting after being appraised of any vacancy in any county, township, precinct, or road district office of the county, fill the vacancy by the appointment of some person qualified to hold such office, and the officers thus appointed shall hold office until the next general election, and until their successors are elected and qualified.

(2) If a vacancy occurs in a partisan county office after the general election in a year that the position appears on the ballot and before the start of the next term, the term of the successor who is of the same party as the incumbent may commence once he or she has qualified as defined in RCW ~~((29.04.135))~~ 29A.04.133 and shall continue through the term for which he or she was elected.

(3) If a vacancy occurs in a nonpartisan county board of commissioners elective office or nonpartisan county council elective office, the person appointed to fill the vacancy must be from the same legislative district, county, or county commissioner or council district as the county elective officer whose office was vacated, and must be one of three persons who must be nominated by the nonpartisan executive or nonpartisan chair of the board of commissioners for the county. In case a majority of the members of the county legislative authority do not agree upon the appointment within sixty days after the vacancy occurs, the governor shall within thirty days thereafter, and from the list of nominees provided for in this section, appoint someone to fill the vacancy.

(4) If a vacancy occurs in a nonpartisan county board of commissioners elective office or nonpartisan county council elective office after the general election in a year that the position appears on the ballot and before the start of the next term, the term of the successor may commence once he or she has qualified as defined in RCW 29A.04.133 and shall continue through the term for which he or she was elected.

Passed by the Senate March 9, 2010.

Passed by the House February 28, 2010.

Approved by the Governor March 25, 2010.

Filed in Office of Secretary of State March 26, 2010.

CHAPTER 208

[Substitute House Bill 2533]

CIVIL COMMITMENT—PERSONS FOUND NOT GUILTY
BY REASON OF INSANITY—EXTRADITION

AN ACT Relating to the detention and interstate transfer of persons found not guilty by reason of insanity; and adding a new section to chapter 71.05 RCW.

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

NEW SECTION. **Sec. 1.** A new section is added to chapter 71.05 RCW to read as follows:

(1) A civil commitment may be initiated under the procedures described in RCW 71.05.150 or 71.05.153 for a person who has been found not guilty by reason of insanity in a state other than Washington and who has fled from detention, commitment, or conditional release in that state, on the basis of a request by the state in which the person was found not guilty by reason of insanity for the person to be detained and transferred back to the custody or care of the requesting state. A finding of likelihood of serious harm or grave disability is not required for a commitment under this section. The detention may occur at either an evaluation and treatment facility or a state hospital. The petition for seventy-two hour detention filed by the designated mental health professional must be accompanied by the following documents:

(a) A copy of an order for detention, commitment, or conditional release of the person in a state other than Washington on the basis of a judgment of not guilty by reason of insanity;

(b) A warrant issued by a magistrate in the state in which the person was found not guilty by reason of insanity indicating that the person has fled from detention, commitment, or conditional release in that state and authorizing the detention of the person within the state in which the person was found not guilty by reason of insanity;

(c) A statement from the executive authority of the state in which the person was found not guilty by reason of insanity requesting that the person be returned to the requesting state and agreeing to facilitate the transfer of the person to the requesting state.

(2) The person shall be entitled to a probable cause hearing within the time limits applicable to other detentions under this chapter and shall be afforded the rights described in this chapter including the right to counsel. At the probable cause hearing, the court shall determine the identity of the person and whether the other requirements of this section are met. If the court so finds, the court may order continued detention in a treatment facility for up to thirty days for the purpose of the transfer of the person to the custody or care of the requesting state. The court may order a less restrictive alternative to detention only under conditions which ensure the person's safe transfer to the custody or care of the requesting state within thirty days without undue risk to the safety of the person or others.

(3) For the purposes of this section, "not guilty by reason of insanity" shall be construed to include any provision of law which is generally equivalent to a finding of criminal insanity within the state of Washington; and "state" shall be construed to mean any state, district, or territory of the United States.

Passed by the House March 6, 2010.
Passed by the Senate March 2, 2010.
Approved by the Governor March 25, 2010.
Filed in Office of Secretary of State March 26, 2010.

CHAPTER 209

[Engrossed Substitute House Bill 2876]

PAIN MANAGEMENT—ADOPTION OF RULES

AN ACT Relating to pain management; 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 18.57A 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; and creating a new section.

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

NEW SECTION. **Sec. 1.** A new section is added to chapter 18.22 RCW to read as follows:

(1) By June 30, 2011, the board shall repeal its rules on pain management, WAC 246-922-510 through 246-922-540.

(2) By June 30, 2011, the board shall adopt new rules on chronic, noncancer pain management that contain the following elements:

(a)(i) Dosing criteria, including:

(A) A dosage amount that must not be exceeded unless a podiatric physician and surgeon first consults with a practitioner specializing in pain management; and

(B) Exigent or special circumstances under which the dosage amount may be exceeded without consultation with a practitioner specializing in pain management.

(ii) The rules regarding consultation with a practitioner specializing in pain management must, to the extent practicable, take into account:

(A) Circumstances under which repeated consultations would not be necessary or appropriate for a patient undergoing a stable, ongoing course of treatment for pain management;

(B) Minimum training and experience that is sufficient to exempt a podiatric physician and surgeon from the specialty consultation requirement;

(C) Methods for enhancing the availability of consultations;

(D) Allowing the efficient use of resources; and

(E) Minimizing the burden on practitioners and patients.

(b) Guidance on when to seek specialty consultation and ways in which electronic specialty consultations may be sought;

(c) Guidance on tracking clinical progress by using assessment tools focusing on pain interference, physical function, and overall risk for poor outcome; and

(d) Guidance on tracking the use of opioids.

(3) The board shall consult with the agency medical directors' group, the department of health, the University of Washington, and the largest professional association of podiatric physicians and surgeons in the state.

(4) The rules adopted under this section do not apply:

(a) To the provision of palliative, hospice, or other end-of-life care; or

(b) To the management of acute pain caused by an injury or a surgical procedure.

NEW SECTION. Sec. 2. A new section is added to chapter 18.32 RCW to read as follows:

(1) By June 30, 2011, the commission shall adopt new rules on chronic, noncancer pain management that contain the following elements:

(a)(i) Dosing criteria, including:

(A) A dosage amount that must not be exceeded unless a dentist first consults with a practitioner specializing in pain management; and

(B) Exigent or special circumstances under which the dosage amount may be exceeded without consultation with a practitioner specializing in pain management.

(ii) The rules regarding consultation with a practitioner specializing in pain management must, to the extent practicable, take into account:

(A) Circumstances under which repeated consultations would not be necessary or appropriate for a patient undergoing a stable, ongoing course of treatment for pain management;

(B) Minimum training and experience that is sufficient to exempt a dentist from the specialty consultation requirement;

(C) Methods for enhancing the availability of consultations;

(D) Allowing the efficient use of resources; and

(E) Minimizing the burden on practitioners and patients.

(b) Guidance on when to seek specialty consultation and ways in which electronic specialty consultations may be sought;

(c) Guidance on tracking clinical progress by using assessment tools focusing on pain interference, physical function, and overall risk for poor outcome; and

(d) Guidance on tracking the use of opioids.

(2) The commission shall consult with the agency medical directors' group, the department of health, the University of Washington, and the largest professional association of dentists in the state.

(3) The rules adopted under this section do not apply:

(a) To the provision of palliative, hospice, or other end-of-life care; or

(b) To the management of acute pain caused by an injury or a surgical procedure.

NEW SECTION. Sec. 3. A new section is added to chapter 18.57 RCW to read as follows:

(1) By June 30, 2011, the board shall repeal its rules on pain management, WAC 246-853-510 through 246-853-540.

(2) By June 30, 2011, the board shall adopt new rules on chronic, noncancer pain management that contain the following elements:

(a)(i) Dosing criteria, including:

(A) A dosage amount that must not be exceeded unless an osteopathic physician and surgeon first consults with a practitioner specializing in pain management; and

(B) Exigent or special circumstances under which the dosage amount may be exceeded without consultation with a practitioner specializing in pain management.

(ii) The rules regarding consultation with a practitioner specializing in pain management must, to the extent practicable, take into account:

(A) Circumstances under which repeated consultations would not be necessary or appropriate for a patient undergoing a stable, ongoing course of treatment for pain management;

(B) Minimum training and experience that is sufficient to exempt an osteopathic physician and surgeon from the specialty consultation requirement;

(C) Methods for enhancing the availability of consultations;

(D) Allowing the efficient use of resources; and

(E) Minimizing the burden on practitioners and patients.

(b) Guidance on when to seek specialty consultation and ways in which electronic specialty consultations may be sought;

(c) Guidance on tracking clinical progress by using assessment tools focusing on pain interference, physical function, and overall risk for poor outcome; and

(d) Guidance on tracking the use of opioids, particularly in the emergency department.

(3) The board shall consult with the agency medical directors' group, the department of health, the University of Washington, and the largest association of osteopathic physicians and surgeons in the state.

(4) The rules adopted under this section do not apply:

(a) To the provision of palliative, hospice, or other end-of-life care; or

(b) To the management of acute pain caused by an injury or a surgical procedure.

NEW SECTION. Sec. 4. A new section is added to chapter 18.57A RCW to read as follows:

(1) By June 30, 2011, the board shall repeal its rules on pain management, WAC 246-854-120 through 246-854-150.

(2) By June 30, 2011, the board shall adopt new rules on chronic, noncancer pain management that contain the following elements:

(a)(i) Dosing criteria, including:

(A) A dosage amount that must not be exceeded unless an osteopathic physician's assistant first consults with a practitioner specializing in pain management; and

(B) Exigent or special circumstances under which the dosage amount may be exceeded without consultation with a practitioner specializing in pain management.

(ii) The rules regarding consultation with a practitioner specializing in pain management must, to the extent practicable, take into account:

(A) Circumstances under which repeated consultations would not be necessary or appropriate for a patient undergoing a stable, ongoing course of treatment for pain management;

(B) Minimum training and experience that is sufficient to exempt an osteopathic physician's assistant from the specialty consultation requirement;

(C) Methods for enhancing the availability of consultations;

(D) Allowing the efficient use of resources; and

(E) Minimizing the burden on practitioners and patients.

(b) Guidance on when to seek specialty consultation and ways in which electronic specialty consultations may be sought;

(c) Guidance on tracking clinical progress by using assessment tools focusing on pain interference, physical function, and overall risk for poor outcome; and

(d) Guidance on tracking the use of opioids, particularly in the emergency department.

(3) The board shall consult with the agency medical directors' group, the department of health, the University of Washington, and the largest association of osteopathic physician's assistants in the state.

(4) The rules adopted under this section do not apply:

(a) To the provision of palliative, hospice, or other end-of-life care; or

(b) To the management of acute pain caused by an injury or a surgical procedure.

NEW SECTION. Sec. 5. A new section is added to chapter 18.71 RCW to read as follows:

(1) By June 30, 2011, the commission shall repeal its rules on pain management, WAC 246-919-800 through 246-919-830.

(2) By June 30, 2011, the commission shall adopt new rules on chronic, noncancer pain management that contain the following elements:

(a)(i) Dosing criteria, including:

(A) A dosage amount that must not be exceeded unless a physician first consults with a practitioner specializing in pain management; and

(B) Exigent or special circumstances under which the dosage amount may be exceeded without consultation with a practitioner specializing in pain management.

(ii) The rules regarding consultation with a practitioner specializing in pain management must, to the extent practicable, take into account:

(A) Circumstances under which repeated consultations would not be necessary or appropriate for a patient undergoing a stable, ongoing course of treatment for pain management;

(B) Minimum training and experience that is sufficient to exempt a physician from the specialty consultation requirement;

(C) Methods for enhancing the availability of consultations;

(D) Allowing the efficient use of resources; and

(E) Minimizing the burden on practitioners and patients.

(b) Guidance on when to seek specialty consultation and ways in which electronic specialty consultations may be sought;

(c) Guidance on tracking clinical progress by using assessment tools focusing on pain interference, physical function, and overall risk for poor outcome; and

(d) Guidance on tracking the use of opioids, particularly in the emergency department.

(3) The commission shall consult with the agency medical directors' group, the department of health, the University of Washington, and the largest professional association of physicians in the state.

(4) The rules adopted under this section do not apply:

(a) To the provision of palliative, hospice, or other end-of-life care; or

(b) To the management of acute pain caused by an injury or a surgical procedure.

NEW SECTION. Sec. 6. A new section is added to chapter 18.71A RCW to read as follows:

(1) By June 30, 2011, the commission shall adopt new rules on chronic, noncancer pain management that contain the following elements:

(a)(i) Dosing criteria, including:

(A) A dosage amount that must not be exceeded unless a physician assistant first consults with a practitioner specializing in pain management; and

(B) Exigent or special circumstances under which the dosage amount may be exceeded without consultation with a practitioner specializing in pain management.

(ii) The rules regarding consultation with a practitioner specializing in pain management must, to the extent practicable, take into account:

(A) Circumstances under which repeated consultations would not be necessary or appropriate for a patient undergoing a stable, ongoing course of treatment for pain management;

(B) Minimum training and experience that is sufficient to exempt a physician assistant from the specialty consultation requirement;

(C) Methods for enhancing the availability of consultations;

(D) Allowing the efficient use of resources; and

(E) Minimizing the burden on practitioners and patients.

(b) Guidance on when to seek specialty consultation and ways in which electronic specialty consultations may be sought;

(c) Guidance on tracking clinical progress by using assessment tools focusing on pain interference, physical function, and overall risk for poor outcome; and

(d) Guidance on tracking the use of opioids, particularly in the emergency department.

(2) The commission shall consult with the agency medical directors' group, the department of health, the University of Washington, and the largest professional association of physician assistants in the state.

(3) The rules adopted under this section do not apply:

(a) To the provision of palliative, hospice, or other end-of-life care; or

(b) To the management of acute pain caused by an injury or a surgical procedure.

NEW SECTION. Sec. 7. A new section is added to chapter 18.79 RCW to read as follows:

(1) By June 30, 2011, the commission shall adopt new rules on chronic, noncancer pain management that contain the following elements:

(a)(i) Dosing criteria, including:

(A) A dosage amount that must not be exceeded unless an advanced registered nurse practitioner or certified registered nurse anesthetist first consults with a practitioner specializing in pain management; and

(B) Exigent or special circumstances under which the dosage amount may be exceeded without consultation with a practitioner specializing in pain management.

(ii) The rules regarding consultation with a practitioner specializing in pain management must, to the extent practicable, take into account:

(A) Circumstances under which repeated consultations would not be necessary or appropriate for a patient undergoing a stable, ongoing course of treatment for pain management;

(B) Minimum training and experience that is sufficient to exempt an advanced registered nurse practitioner or certified registered nurse anesthetist from the specialty consultation requirement;

(C) Methods for enhancing the availability of consultations;

(D) Allowing the efficient use of resources; and

(E) Minimizing the burden on practitioners and patients.

(b) Guidance on when to seek specialty consultation and ways in which electronic specialty consultations may be sought;

(c) Guidance on tracking clinical progress by using assessment tools focusing on pain interference, physical function, and overall risk for poor outcome; and

(d) Guidance on tracking the use of opioids, particularly in the emergency department.

(2) The commission shall consult with the agency medical directors' group, 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.

(3) The rules adopted under this section do not apply:

(a) To the provision of palliative, hospice, or other end-of-life care; or

(b) To the management of acute pain caused by an injury or a surgical procedure.

****NEW SECTION. Sec. 8. (1) The boards and commissions required to adopt rules on pain management under sections 1 through 7 of this act shall work collaboratively to ensure that the rules are as uniform as practicable.***

(2) On January 11, 2011, each of the boards and commissions required to adopt rules on pain management under sections 1 through 7 of this act shall submit the proposed rules required by this act to the appropriate committees of the legislature.

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

Passed by the House March 11, 2010.

Passed by the Senate March 11, 2010.

Approved by the Governor March 25, 2010, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State March 26, 2010.

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

"I am returning herewith, without my approval as to Section 8, Engrossed Substitute House Bill 2876 entitled:

"AN ACT Relating to pain management."

The bill generally requires state health care boards and commissions to adopt rules, including dosage standards, on chronic, noncancer pain management. Section 8, however, requires that before final adoption, these rules be submitted to the Legislature.

Members of the Legislature may review agency rules, proposed or final, and their perspectives are valuable. However, requiring proposed rules to be submitted to the Legislature would infringe upon the role of the executive branch and would blur the distinction between the Legislature and a state agency with regard to the rulemaking process.

For these reasons, I have vetoed Section 8 of Engrossed Substitute House Bill 2876.

With the exception of Section 8, Engrossed Substitute House Bill 2876 is approved."

CHAPTER 210

[Substitute House Bill 2935]

ENVIRONMENTAL AND LAND USE HEARINGS BOARDS—CONSOLIDATION

AN ACT Relating to environmental and land use hearings boards; amending RCW 43.21B.001, 43.21B.010, 43.21B.010, 43.21B.180, 43.21B.230, 43.21B.320, 36.70A.270, 70.95.094, 76.06.180, 76.09.050, 76.09.080, 76.09.090, 76.09.170, 76.09.310, 77.55.011, 77.55.021, 77.55.141, 77.55.181, 77.55.241, 77.55.291, 78.44.270, 78.44.380, 79.100.120, 84.33.0775, 90.58.140, 90.58.180, 90.58.190, 90.58.210, and 90.58.560; reenacting and amending RCW 43.21B.005, 43.21B.005, 43.21B.110, 43.21B.110, 43.21B.300, 43.21B.310, and 76.09.020; adding a new section to chapter 43.21B RCW; adding new sections to chapter 36.70A RCW; adding a new section to chapter 76.09 RCW; creating new sections; repealing RCW 43.21B.190, 76.09.210, 76.09.220, 76.09.230, 77.55.301, 77.55.311, 43.21L.005, 43.21L.010, 43.21L.020, 43.21L.030, 43.21L.040, 43.21L.050, 43.21L.060, 43.21L.070, 43.21L.080, 43.21L.090, 43.21L.100, 43.21L.110, 43.21L.120, 43.21L.130, 43.21L.140, 43.21L.900, and 43.21L.901; providing effective dates; and providing expiration dates.

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

NEW SECTION. Sec. 1. It is the intent of the legislature to reduce and consolidate the number of state boards that conduct administrative review of environmental and land use decisions and to make more uniform the timelines for filing appeals with such boards. The legislature intends to eliminate the hydraulics appeals board and the forest practices appeals board by transferring their duties to the pollution control hearings board. The legislature further intends to eliminate certain preliminary informal appeals heard internally by agencies. The legislature also intends to consolidate administratively and physically collocate the growth management hearings boards into the environmental and land use hearings office by July 1, 2011.

Sec. 2. RCW 43.21B.001 and 2004 c 204 s 1 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

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

(2) "Date of receipt" means:

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

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

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

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

(5) "Environmental boards" means the pollution control hearings board created in RCW 43.21B.010 and the shorelines hearings board created in RCW 90.58.170.

(6) "Land use board" means the growth management hearings board created in RCW 36.70A.250.

Sec. 3. RCW 43.21B.005 and 2003 c 393 s 18 and 2003 c 39 s 22 are each reenacted and amended to read as follows:

(1) There is created an environmental hearings office of the state of Washington. The environmental hearings office (~~(shall)~~) consists of the pollution control hearings board created in RCW 43.21B.010, ~~((the forest practices appeals board created in RCW 76.09.210;))~~ the shorelines hearings board created in RCW 90.58.170, and the environmental and land use hearings board created in chapter 43.21L RCW ~~((and the hydraulic appeals board created in RCW 77.55.170)).~~ The chair of the pollution control hearings board shall be the chief executive officer of the environmental hearings office. Membership, powers, functions, and duties of the pollution control hearings board ~~((the forest practices appeals board;))~~ and the shorelines hearings board ~~((and the hydraulic appeals board))~~ shall be as provided by law.

(2) The chief executive officer of the environmental hearings office may appoint an administrative appeals judge who shall possess the powers and duties conferred by the administrative procedure act, chapter 34.05 RCW, in cases before the boards comprising the office. The administrative appeals judge shall have a demonstrated knowledge of environmental law, and shall be admitted to the practice of law in the state of Washington. Additional administrative appeals judges may also be appointed by the chief executive officer on the same terms. Administrative appeals judges shall not be subject to chapter 41.06 RCW.

(3) The administrative appeals judges appointed under subsection (2) of this section are subject to discipline and termination, for cause, by the chief executive officer. Upon written request by the person so disciplined or terminated, the chief executive officer shall state the reasons for such action in writing. The person affected has a right of review by the superior court of Thurston county on petition for reinstatement or other remedy filed within thirty days of receipt of such written reasons.

(4) The chief executive officer may appoint, discharge, and fix the compensation of such administrative or clerical staff as may be necessary.

(5) The chief executive officer may also contract for required services.

Sec. 4. RCW 43.21B.005 and 2003 c 393 s 18 and 2003 c 39 s 22 are each reenacted and amended to read as follows:

(1) There is created an environmental and land use hearings office of the state of Washington. The environmental and land use hearings office (~~(shall)~~) consists of the pollution control hearings board created in RCW 43.21B.010, ~~((the forest practices appeals board created in RCW 76.09.210;))~~ the shorelines hearings board created in RCW 90.58.170, ~~((the environmental and land use hearings board created in chapter 43.21L RCW, and the hydraulic appeals board created in RCW 77.55.170. The chair of the pollution control hearings board shall be the chief executive officer of the environmental hearings office))~~ and the growth management hearings board created in RCW 36.70A.250. The governor shall designate one of the members of the pollution control hearings board or growth management hearings board to be the director of the environmental and land use hearings office during the term of the governor. Membership, powers, functions, and duties of the pollution control hearings board, ~~((the forest practices appeals board;))~~ the shorelines hearings board, and the ~~((hydraulic appeals))~~ growth management hearings board shall be as provided by law.

(2) The ~~((chief executive officer))~~ director of the environmental and land use hearings office may appoint ~~((an))~~ one or more administrative appeals judges ~~((who shall possess the powers and duties conferred by the administrative procedure act, chapter 34.05 RCW,))~~ in cases before the environmental boards and, with the consent of the chair of the growth management hearings board, one or more hearing examiners in cases before the land use board comprising the office. The administrative appeals judges shall possess the powers and duties conferred by the administrative procedure act, chapter 34.05 RCW, have a demonstrated knowledge of environmental law, and shall be admitted to the practice of law in the state of Washington. ~~((Additional administrative appeals judges may also be appointed by the chief executive officer on the same terms. Administrative appeals judges shall not be subject to chapter 41.06 RCW.))~~ The hearing examiners possess the powers and duties provided for in RCW 36.70A.270.

(3) Administrative appeals judges are not subject to chapter 41.06 RCW. The administrative appeals judges appointed under subsection (2) of this section are subject to discipline and termination, for cause, by the ~~((chief executive officer))~~ director of the environmental and land use hearings office. Upon written request by the person so disciplined or terminated, the ~~((chief executive officer))~~ director of the environmental and land use hearings office shall state the reasons for such action in writing. The person affected has a right of review by the superior court of Thurston county on petition for reinstatement or other remedy filed within thirty days of receipt of such written reasons.

(4) The ~~((chief executive officer))~~ director of the environmental and land use hearings office may appoint, discharge, and fix the compensation of such administrative or clerical staff as may be necessary.

(5) The ~~((chief executive officer))~~ director of the environmental and land use hearings office may also contract for required services.

Sec. 5. RCW 43.21B.010 and 1979 ex.s. c 47 s 3 are each amended to read as follows:

There is hereby created within the environmental hearings office a pollution control hearings board of the state of Washington.

The purpose of the pollution control hearings board is to provide for a more expeditious and efficient disposition of designated environmental appeals ~~((with respect to the decisions and orders of the department and director and with respect to all decisions of air pollution control boards or authorities established pursuant to chapter 70.94 RCW))~~ as provided for in RCW 43.21B.110.

Sec. 6. RCW 43.21B.010 and 1979 ex.s. c 47 s 3 are each amended to read as follows:

There is hereby created within the environmental and land use hearings office a pollution control hearings board of the state of Washington.

The purpose of the pollution control hearings board is to provide for a more expeditious and efficient disposition of designated environmental appeals ~~((with respect to the decisions and orders of the department and director and with respect to all decisions of air pollution control boards or authorities established pursuant to chapter 70.94 RCW))~~ as provided for in RCW 43.21B.110.

Sec. 7. RCW 43.21B.110 and 2009 c 456 s 16, 2009 c 332 s 18, and 2009 c 183 s 17 are each reenacted and amended to read as follows:

(1) The hearings board shall only have jurisdiction to hear and decide appeals from the following decisions of the department, the director, local conservation districts, ~~((and))~~ the air pollution control boards or authorities as established pursuant to chapter 70.94 RCW, ~~((or))~~ local health departments, the department of natural resources, the department of fish and wildlife, and the parks and recreation commission:

(a) Civil penalties imposed pursuant to RCW 18.104.155, 70.94.431, 70.105.080, 70.107.050, ~~76.09.170, 77.55.291, 78.44.250,~~ 88.46.090, 90.03.600, 90.46.270, 90.48.144, 90.56.310, and 90.56.330.

(b) Orders issued pursuant to RCW 18.104.043, 18.104.060, 43.27A.190, 70.94.211, 70.94.332, 70.105.095, 86.16.020, 88.46.070, 90.14.130, 90.46.250, 90.48.120, and 90.56.330.

(c) A final decision by the department or director made under chapter 183, Laws of 2009.

(d) Except as provided in RCW 90.03.210(2), the issuance, modification, or termination of any permit, certificate, or license by the department or any air authority in the exercise of its jurisdiction, including the issuance or termination of a waste disposal permit, the denial of an application for a waste disposal permit, the modification of the conditions or the terms of a waste disposal permit, or a decision to approve or deny an application for a solid waste permit exemption under RCW 70.95.300.

(e) Decisions of local health departments regarding the grant or denial of solid waste permits pursuant to chapter 70.95 RCW.

(f) Decisions of local health departments regarding the issuance and enforcement of permits to use or dispose of biosolids under RCW 70.95J.080.

(g) Decisions of the department regarding waste-derived fertilizer or micronutrient fertilizer under RCW 15.54.820, and decisions of the department regarding waste-derived soil amendments under RCW 70.95.205.

(h) Decisions of local conservation districts related to the denial of approval or denial of certification of a dairy nutrient management plan; conditions contained in a plan; application of any dairy nutrient management practices, standards, methods, and technologies to a particular dairy farm; and failure to adhere to the plan review and approval timelines in RCW 90.64.026.

(i) Any other decision by the department or an air authority which pursuant to law must be decided as an adjudicative proceeding under chapter 34.05 RCW.

(j) Decisions of the department of natural resources, the department of fish and wildlife, and the department that are reviewable under chapter 76.09 RCW, and the department of natural resources' appeals of county, city, or town objections under RCW 76.09.050(7).

(k) Forest health hazard orders issued by the commissioner of public lands under RCW 76.06.180.

(l) Decisions of the department of fish and wildlife to issue, deny, condition, or modify a hydraulic project approval permit under chapter 77.55 RCW.

(m) Decisions of the department of natural resources that are reviewable under RCW 78.44.270.

(n) Decisions of a state agency that is an authorized public entity under RCW 79.100.010 to take temporary possession or custody of a vessel or to contest the amount of reimbursement owed that are reviewable under RCW 79.100.120.

- (2) The following hearings shall not be conducted by the hearings board:
- (a) Hearings required by law to be conducted by the shorelines hearings board pursuant to chapter 90.58 RCW.
 - (b) Hearings conducted by the department pursuant to RCW 70.94.332, 70.94.390, 70.94.395, 70.94.400, 70.94.405, 70.94.410, and 90.44.180.
 - (c) Appeals of decisions by the department under RCW 90.03.110 and 90.44.220.
 - (d) Hearings conducted by the department to adopt, modify, or repeal rules.
 - (e) Appeals of decisions by the department as provided in chapter 43.21L RCW.
- (3) Review of rules and regulations adopted by the hearings board shall be subject to review in accordance with the provisions of the administrative procedure act, chapter 34.05 RCW.

Sec. 8. RCW 43.21B.110 and 2009 c 456 s 16 and 2009 c 332 s 18 are each reenacted and amended to read as follows:

(1) The hearings board shall only have jurisdiction to hear and decide appeals from the following decisions of the department, the director, local conservation districts, ~~((and))~~ the air pollution control boards or authorities as established pursuant to chapter 70.94 RCW, ~~((or))~~ local health departments, the department of natural resources, the department of fish and wildlife, and the parks and recreation commission:

(a) Civil penalties imposed pursuant to RCW 18.104.155, 70.94.431, 70.105.080, 70.107.050, ~~76.09.170, 77.55.291, 78.44.250,~~ 88.46.090, 90.03.600, 90.46.270, 90.48.144, 90.56.310, and 90.56.330.

(b) Orders issued pursuant to RCW 18.104.043, 18.104.060, 43.27A.190, 70.94.211, 70.94.332, 70.105.095, 86.16.020, 88.46.070, 90.14.130, 90.46.250, 90.48.120, and 90.56.330.

(c) Except as provided in RCW 90.03.210(2), the issuance, modification, or termination of any permit, certificate, or license by the department or any air authority in the exercise of its jurisdiction, including the issuance or termination of a waste disposal permit, the denial of an application for a waste disposal permit, the modification of the conditions or the terms of a waste disposal permit, or a decision to approve or deny an application for a solid waste permit exemption under RCW 70.95.300.

(d) Decisions of local health departments regarding the grant or denial of solid waste permits pursuant to chapter 70.95 RCW.

(e) Decisions of local health departments regarding the issuance and enforcement of permits to use or dispose of biosolids under RCW 70.95J.080.

(f) Decisions of the department regarding waste-derived fertilizer or micronutrient fertilizer under RCW 15.54.820, and decisions of the department regarding waste-derived soil amendments under RCW 70.95.205.

(g) Decisions of local conservation districts related to the denial of approval or denial of certification of a dairy nutrient management plan; conditions contained in a plan; application of any dairy nutrient management practices, standards, methods, and technologies to a particular dairy farm; and failure to adhere to the plan review and approval timelines in RCW 90.64.026.

(h) Any other decision by the department or an air authority which pursuant to law must be decided as an adjudicative proceeding under chapter 34.05 RCW.

(i) Decisions of the department of natural resources, the department of fish and wildlife, and the department that are reviewable under chapter 76.09 RCW, and the department of natural resources' appeals of county, city, or town objections under RCW 76.09.050(7).

(j) Forest health hazard orders issued by the commissioner of public lands under RCW 76.06.180.

(k) Decisions of the department of fish and wildlife to issue, deny, condition, or modify a hydraulic project approval permit under chapter 77.55 RCW.

(l) Decisions of the department of natural resources that are reviewable under RCW 78.44.270.

(m) Decisions of a state agency that is an authorized public entity under RCW 79.100.010 to take temporary possession or custody of a vessel or to contest the amount of reimbursement owed that are reviewable under RCW 79.100.120.

(2) The following hearings shall not be conducted by the hearings board:

(a) Hearings required by law to be conducted by the shorelines hearings board pursuant to chapter 90.58 RCW.

(b) Hearings conducted by the department pursuant to RCW 70.94.332, 70.94.390, 70.94.395, 70.94.400, 70.94.405, 70.94.410, and 90.44.180.

(c) Appeals of decisions by the department under RCW 90.03.110 and 90.44.220.

(d) Hearings conducted by the department to adopt, modify, or repeal rules.

(e) Appeals of decisions by the department as provided in chapter 43.21L RCW.

(3) Review of rules and regulations adopted by the hearings board shall be subject to review in accordance with the provisions of the administrative procedure act, chapter 34.05 RCW.

NEW SECTION. Sec. 9. A new section is added to chapter 43.21B RCW to read as follows:

In all appeals, upon request of one or more parties and with the consent of all parties, the environmental hearings boards may schedule a conference for the purpose of attempting to mediate the case. Mediation must be conducted by an administrative appeals judge or other duly authorized agent of the board who has received training in dispute resolution techniques or has a demonstrated history of successfully resolving disputes, as determined by the board. A person who mediates in a particular appeal may not participate in a hearing on that appeal and may not write the decision and order in the appeal. The mediator may not communicate with board members regarding the mediation other than to inform them of the pendency of the mediation and whether the case settled. Mediation provided by the environmental hearings boards must be conducted pursuant to the provisions of the uniform mediation act, chapter 7.07 RCW.

Sec. 10. RCW 43.21B.180 and 1994 c 253 s 6 are each amended to read as follows:

~~(Judicial review of)~~ Any party aggrieved by a final decision and order of the pollution control hearings board may ((be obtained only pursuant to)) obtain judicial review of the final decision and order as provided in RCW 34.05.510 through 34.05.598. The ((director)) state or local agency that issued the decision

appealed to the board shall have the same right of review from a decision made pursuant to RCW 43.21B.110 as does any person.

Sec. 11. RCW 43.21B.230 and 2004 c 204 s 3 are each amended to read as follows:

~~((Consistent with RCW 43.21B.110, any person having received notice of denial of a petition, a notice of determination, or notice of an order made by the department may appeal to the hearings board, within thirty days from the date of receipt of the notice of such denial, order, or determination by the appealing party-))~~ (1) Unless otherwise provided by law, any person with standing may commence an appeal to the pollution control hearings board by filing a notice of appeal with the board within thirty days from the date of receipt of the decision being appealed.

(2) The appeal ((shall be perfected by serving a copy of the notice of appeal upon the department or air pollution authority established pursuant to chapter 70.94 RCW, as the case may be, within the time specified herein and by filing the original thereof with)) is timely if it is filed with the board and served upon the state or local agency whose action is being appealed within the same thirty-day period. Proof of service must be filed with the clerk of the hearings board to perfect the appeal.

(3) The appeal must contain the following in accordance with the rules of the hearings board:

(a) The appellant's name and address;

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

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

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

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

(f) A statement setting forth the relief sought.

Sec. 12. RCW 43.21B.300 and 2009 c 456 s 17 and 2009 c 178 s 2 are each reenacted and amended to read as follows:

(1) Any civil penalty provided in RCW 18.104.155, 70.94.431, 70.95.315, 70.105.080, 70.107.050, 88.46.090, 90.03.600, 90.46.270, 90.48.144, 90.56.310, and 90.56.330 and chapter 90.76 RCW shall be imposed by a notice in writing, either by certified mail with return receipt requested or by personal service, to the person incurring the penalty from the department or the local air authority, describing the violation with reasonable particularity. For penalties issued by local air authorities, within thirty days after the notice is received, the person incurring the penalty may apply in writing to ((the department or)) the authority for the remission or mitigation of the penalty. Upon receipt of the application, the ((department or)) authority may remit or mitigate the penalty upon whatever terms ((the department or)) the authority in its discretion deems proper. The ((department or the)) authority may ascertain the facts regarding all such applications in such reasonable manner and under such rules as it may deem proper and shall remit or mitigate the penalty only upon a demonstration of

extraordinary circumstances such as the presence of information or factors not considered in setting the original penalty.

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

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

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

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

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

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

(5) All penalties recovered shall be paid into the state treasury and credited to the general fund except those penalties imposed pursuant to RCW 18.104.155, which shall be credited to the reclamation account as provided in RCW 18.104.155(7), RCW 70.94.431, the disposition of which shall be governed by that provision, RCW 70.105.080, which shall be credited to the hazardous waste control and elimination account created by RCW 70.105.180, RCW 90.56.330, which shall be credited to the coastal protection fund created by RCW 90.48.390, and RCW 90.76.080, which shall be credited to the underground storage tank account created by RCW 90.76.100.

Sec. 13. RCW 43.21B.310 and 2009 c 456 s 18 and 2009 c 178 s 3 are each reenacted and amended to read as follows:

(1) ~~((Except as provided in RCW 90.03.210(2), any order issued by the department or local air authority pursuant to RCW 43.27A.190, 70.94.211, 70.94.332, 70.95.315, 70.105.095, 86.16.020, 88.46.070, 90.46.250, or 90.48.120(2) or any provision enacted after July 26, 1987, or any permit, certificate, or license issued by the department may be appealed to the pollution control hearings board if the appeal is filed with the board and served on the department or authority within thirty days after the date of receipt of the order. Except as provided under chapter 70.105D RCW and RCW 90.03.210(2), this is the exclusive means of appeal of such an order.~~

(2) ~~The department or the authority)~~ The issuing agency in its discretion may stay the effectiveness of ~~((an))~~ any order that has been appealed to the board during the pendency of such an appeal.

~~((3))~~ (2) At any time during the pendency of an appeal of such an order to the board, the appellant may apply pursuant to RCW 43.21B.320 to the hearings board for a stay of the order or for the removal thereof.

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

- ~~(a)~~ The appellant's name and address;
- ~~(b)~~ The date and docket number of the order, permit, or license appealed;
- ~~(c)~~ A description of the substance of the order, permit, or license that is the subject of the appeal;
- ~~(d)~~ A clear, separate, and concise statement of every error alleged to have been committed;
- ~~(e)~~ A clear and concise statement of facts upon which the requester relies to sustain his or her statements of error; and
- ~~(f)~~ A statement setting forth the relief sought.

~~((5))~~ (3) Upon failure to comply with any final order of the department, the attorney general, on request of the department, may bring an action in the superior court of the county where the violation occurred or the potential violation is about to occur to obtain such relief as necessary, including injunctive relief, to ~~((insure))~~ ensure compliance with the order. The air authorities may bring similar actions to enforce their orders.

~~((6))~~ (4) An appealable decision or order shall be identified as such and shall contain a conspicuous notice to the recipient that it may be appealed only by filing an appeal with the hearings board and serving it on the ~~((department))~~ issuing agency within thirty days of the date of receipt.

Sec. 14. RCW 43.21B.320 and 1987 c 109 s 7 are each amended to read as follows:

(1) A person appealing to the hearings board an order ~~((of the department or an authority))~~, not stayed by the issuing agency, may obtain a stay of the effectiveness of that order only as set forth in this section.

(2) An appealing party may request a stay by including such a request in the appeal document, in a subsequent motion, or by such other means as the rules of the hearings board shall prescribe. The request must be accompanied by a statement of grounds for the stay and evidence setting forth the factual basis upon which request is based. The hearings board shall hear the request for a stay as soon as possible. The hearing on the request for stay may be consolidated with the hearing on the merits.

(3) The applicant may make a prima facie case for stay if the applicant demonstrates either a likelihood of success on the merits of the appeal or irreparable harm. Upon such a showing, the hearings board shall grant the stay unless the ~~((department or authority))~~ issuing agency demonstrates either (a) a substantial probability of success on the merits or (b) likelihood of success on the merits and an overriding public interest which justifies denial of the stay.

(4) Unless otherwise stipulated by the parties, the hearings board, after granting or denying an application for a stay, shall expedite the hearing and decision on the merits.

(5) Any party or other person aggrieved by the grant or denial of a stay by the hearings board may petition the superior court for Thurston county for review of that decision pursuant to chapter 34.05 RCW pending the appeal on

the merits before the board. The superior court shall expedite its review of the decision of the hearings board.

NEW SECTION. Sec. 15. A new section is added to chapter 36.70A RCW to read as follows:

(1) On July 1, 2011, the growth management hearings board is administratively consolidated into the environmental and land use hearings office created in RCW 43.21B.005.

(2) Not later than July 1, 2012, the growth management hearings board consists of seven members qualified by experience or training in matters pertaining to land use law or land use planning, except that the governor may reduce the board to six members if warranted by the board's caseload. All board members must be appointed by the governor, two each residing respectively in the central Puget Sound, eastern Washington, and western Washington regions and shall continue to meet the qualifications set out in RCW 36.70A.260. The reduction from seven board members to six board members must be made through attrition, voluntary resignation, or retirement.

Sec. 16. RCW 36.70A.270 and 1997 c 429 s 11 are each amended to read as follows:

Each growth management hearings board shall be governed by the following rules on conduct and procedure:

(1) Any board member may be removed for inefficiency, malfeasance, and misfeasance in office, under specific written charges filed by the governor. The governor shall transmit such written charges to the member accused and the chief justice of the supreme court. The chief justice shall thereupon designate a tribunal composed of three judges of the superior court to hear and adjudicate the charges. Removal of any member of a board by the tribunal shall disqualify such member for reappointment.

(2) Each board member shall receive reimbursement for travel expenses incurred in the discharge of his or her duties in accordance with RCW 43.03.050 and 43.03.060. If it is determined that the review boards shall operate on a full-time basis, each member shall receive an annual salary to be determined by the governor pursuant to RCW 43.03.040. If it is determined that a review board shall operate on a part-time basis, each member shall receive compensation pursuant to RCW 43.03.250, provided such amount shall not exceed the amount that would be set if they were a full-time board member. The principal office of each board shall be located by the governor within the jurisdictional boundaries of each board. The boards shall operate on either a part-time or full-time basis, as determined by the governor.

(3) Each board member shall not: (a) Be a candidate for or hold any other public office or trust; (b) engage in any occupation or business interfering with or inconsistent with his or her duty as a board member; and (c) for a period of one year after the termination of his or her board membership, act in a representative capacity before the board on any matter.

(4) A majority of each board shall constitute a quorum for making orders or decisions, adopting rules necessary for the conduct of its powers and duties, or transacting other official business, and may act even though one position of the board is vacant. One or more members may hold hearings and take testimony to be reported for action by the board when authorized by rule or order of the

board. The board shall perform all the powers and duties specified in this chapter or as otherwise provided by law.

(5) The board may (~~appoint~~) use one or more hearing examiners to assist the board in its hearing function, to make conclusions of law and findings of fact and, if requested by the board, to make recommendations to the board for decisions in cases before the board. Such hearing examiners must have demonstrated knowledge of land use planning and law. The boards shall specify in their joint rules of practice and procedure, as required by subsection (7) of this section, the procedure and criteria to be employed for designating hearing examiners as a presiding officer. Hearing examiners (~~selected~~) used by a board shall meet the requirements of subsection (3) of this section. The findings and conclusions of the hearing examiner shall not become final until they have been formally approved by the board. This authorization to use hearing examiners does not waive the requirement of RCW 36.70A.300 that final orders be issued within one hundred eighty days of board receipt of a petition.

(6) Each board shall make findings of fact and prepare a written decision in each case decided by it, and such findings and decision shall be effective upon being signed by two or more members of the board and upon being filed at the board's principal office, and shall be open for public inspection at all reasonable times.

(7) All proceedings before the board, any of its members, or a hearing examiner appointed by the board shall be conducted in accordance with such administrative rules of practice and procedure as the boards jointly prescribe. All three boards shall jointly meet to develop and adopt joint rules of practice and procedure, including rules regarding expeditious and summary disposition of appeals. The boards shall publish such rules and decisions they render and arrange for the reasonable distribution of the rules and decisions. Except as it conflicts with specific provisions of this chapter, the administrative procedure act, chapter 34.05 RCW, and specifically including the provisions of RCW 34.05.455 governing ex parte communications, shall govern the practice and procedure of the boards.

(8) A board member or hearing examiner is subject to disqualification under chapter 34.05 RCW. The joint rules of practice of the boards shall establish procedures by which a party to a hearing conducted before the board may file with the board a motion to disqualify, with supporting affidavit, against a board member or hearing examiner assigned to preside at the hearing.

(9) The members of the boards shall meet jointly on at least an annual basis with the objective of sharing information that promotes the goals and purposes of this chapter.

Sec. 17. RCW 70.95.094 and 1989 c 431 s 8 are each amended to read as follows:

(1) The department and local governments preparing plans are encouraged to work cooperatively during plan development. Each county and city preparing a comprehensive solid waste management plan shall submit a preliminary draft plan to the department for technical review. The department shall review and comment on the draft plan within one hundred twenty days of receipt. The department's comments shall state specific actions or revisions that must be completed for plan approval.

(2) Each final draft solid waste management plan shall be submitted to the department for approval. The department will limit its comments on the final draft plans to those issues identified during its review of the draft plan and any other changes made between submittal of the preliminary draft and final draft plans. Disapproval of the local comprehensive solid waste management plan shall be supported by specific findings. A final draft plan shall be deemed approved if the department does not disapprove it within forty-five days of receipt.

(3) If the department disapproves a plan or any plan amendments, the submitting entity may appeal the decision ~~((under the procedures of Part IV of chapter 34.05 RCW. An administrative law judge shall preside over the appeal))~~ to the pollution control hearings board as provided in RCW 43.21B.230. The appeal shall be limited to review of the specific findings which supported the disapproval under subsection (2) of this section.

Sec. 18. RCW 76.06.180 and 2007 c 480 s 7 are each amended to read as follows:

(1) Prior to issuing a forest health hazard warning or forest health hazard order, the commissioner shall consider the findings and recommendations of the forest health technical advisory committee and shall consult with county government officials, forest landowners and forest land managers, consulting foresters, and other interested parties to gather information on the threat, opportunities or constraints on treatment options, and other information they may provide. The commissioner, or a designee, shall conduct a public hearing in a county within the geographical area being considered.

(2) The commissioner of public lands may issue a forest health hazard warning when he or she deems such action is necessary to manage the development of a threat to forest health or address an existing threat to forest health. A decision to issue a forest health hazard warning may be based on existing forest stand conditions and:

(a) The presence of an uncharacteristic insect or disease outbreak that has or is likely to (i) spread to multiple forest ownerships and cause extensive damage to forests; or (ii) significantly increase forest fuel that is likely to further the spread of uncharacteristic fire;

(b) When, due to extensive physical damage from wind or ice storm or other cause, there are (i) insect populations building up to large scale levels; or (ii) significantly increased forest fuels that are likely to further the spread of uncharacteristic fire; or

(c) When otherwise determined by the commissioner to be appropriate.

(3) The commissioner of public lands may issue a forest health hazard order when he or she deems such action is necessary to address a significant threat to forest health. A decision to issue a forest health hazard order may be based on existing forest stand conditions and:

(a) The presence of an uncharacteristic insect or disease outbreak that has (i) spread to multiple forest ownerships and has caused and is likely to continue to cause extensive damage to forests; or (ii) significantly increased forest fuels that are likely to further the spread of uncharacteristic fire;

(b) When, due to extensive physical damage from wind or ice storm or other cause (i) insect populations are causing extensive damage to forests; or (ii)

significantly increased forest fuels are likely to further the spread of uncharacteristic fire;

(c) Insufficient landowner action under a forest health hazard warning; or

(d) When otherwise determined by the commissioner to be appropriate.

(4) A forest health hazard warning or forest health hazard order shall be issued by use of a commissioner's order. General notice of the commissioner's order shall be published in a newspaper of general circulation in each county within the area covered by the order and on the department's web site. The order shall specify the boundaries of the area affected, including federal and tribal lands, the forest stand conditions that would make a parcel subject to the provisions of the order, and the actions landowners or land managers should take to reduce the hazard.

(5) Written notice of a forest health hazard warning or forest health hazard order shall be provided to forest landowners of specifically affected property.

(a) The notice shall set forth:

(i) The reasons for the action;

(ii) The boundaries of the area affected, including federal and tribal lands;

(iii) Suggested actions that should be taken by the forest landowner under a forest health hazard warning or the actions that must be taken by a forest landowner under a forest health hazard order;

(iv) The time within which such actions should or must be taken;

(v) How to obtain information or technical assistance on forest health conditions and treatment options;

(vi) The right to request mitigation under subsection (6) of this section and appeal under subsection (7) of this section;

(vii) These requirements are advisory only for federal and tribal lands.

(b) The notice shall be served by personal service or by mail to the latest recorded real property owner, as shown by the records of the county recording officer as defined in RCW 65.08.060. Service by mail is effective on the date of mailing. Proof of service shall be by affidavit or declaration under penalty of perjury.

(6) Forest landowners who have been issued a forest health hazard order under subsection (5) of this section may apply to the department for the remission or mitigation of such order. The application shall be made to the department within fifteen days after notice of the order has been served. Upon receipt of the application, the department may remit or mitigate the order upon whatever terms the department in its discretion deems proper, provided the department deems the remission or mitigation to be in the best interests of carrying out the purposes of this chapter. The department may ascertain the facts regarding all such applications in such reasonable manner and under such rule as it deems proper.

(7) Forest landowners who have been issued a forest health hazard order under subsection (5) of this section may appeal the order to the ~~((forest practices appeals))~~ pollution control hearings board.

~~((a))~~ The appeal shall be filed within thirty days after notice of the order has been served, unless application for mitigation has been made to the department. When such an application for mitigation is made, such appeal shall be filed within thirty days after notice of the disposition of the application for mitigation has been served as provided in RCW 43.21B.230.

- ~~((b) The appeal must set forth:~~
- ~~(i) The name and mailing address of the appellant;~~
 - ~~(ii) The name and mailing address of the appellant's attorney, if any;~~
 - ~~(iii) A duplicate copy of the forest health hazard order;~~
 - ~~(iv) A separate and concise statement of each error alleged to have been committed;~~
 - ~~(v) A concise statement of facts upon which the appellant relies to sustain the statement of error; and~~
 - ~~(vi) A statement of the relief requested.)~~

(8) A forest health hazard order issued under subsection (5) of this section is effective thirty days after date of service unless application for remission or mitigation is made or an appeal is filed. When an application for remission or mitigation is made, the order is effective thirty days after notice setting forth the disposition of the application is served unless an appeal is filed from such disposition. Whenever an appeal of the order is filed, the order shall become effective only upon completion of all administrative and judicial review proceedings and the issuance of a final decision confirming the order in whole or in part.

(9) Upon written request, the department may certify as adequate a forest health management plan developed by a forest landowner, before or in response to a forest health hazard warning or forest health hazard order, if the plan is likely to achieve the desired result and the terms of the plan are being diligently followed by the forest landowner. The certification of adequacy shall be determined by the department in its sole discretion, and be provided to the requestor in writing.

Sec. 19. RCW 76.09.020 and 2009 c 354 s 5 and 2009 c 246 s 4 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) "Adaptive management" means reliance on scientific methods to test the results of actions taken so that the management and related policy can be changed promptly and appropriately.

(2) "Appeals board" means the ~~((forest practices appeals))~~ pollution control hearings board created by RCW ~~((76.09.210))~~ 43.21B.010.

(3) "Application" means the application required pursuant to RCW 76.09.050.

(4) "Aquatic resources" includes water quality, salmon, other species of the vertebrate classes Cephalaspidomorpha and Osteichthyes identified in the forests and fish report, the Columbia torrent salamander (*Rhyacotriton kezeri*), the Cascade torrent salamander (*Rhyacotriton cascadae*), the Olympic torrent salamander (*Rhyacotriton olympian*), the Dunn's salamander (*Plethodon dunnii*), the Van Dyke's salamander (*Plethodon vandyke*), the tailed frog (*Ascaphus truei*), and their respective habitats.

(5) "Board" means the forest practices board created in RCW 76.09.030.

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

(7) "Contiguous" means land adjoining or touching by common corner or otherwise. Land having common ownership divided by a road or other right-of-way shall be considered contiguous.

(8) "Conversion to a use other than commercial timber operation" means a bona fide conversion to an active use which is incompatible with timber growing and as may be defined by forest practices rules.

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

(10) "Fish passage barrier" means any artificial instream structure that impedes the free passage of fish.

(11) "Forest land" means all land which is capable of supporting a merchantable stand of timber and is not being actively used for a use which is incompatible with timber growing. Forest land does not include agricultural land that is or was enrolled in the conservation reserve enhancement program by contract if such agricultural land was historically used for agricultural purposes and the landowner intends to continue to use the land for agricultural purposes in the future. As it applies to the operation of the road maintenance and abandonment plan element of the forest practices rules on small forest landowners, the term "forest land" excludes:

(a) Residential home sites, which may include up to five acres; and

(b) Cropfields, orchards, vineyards, pastures, feedlots, fish pens, and the land on which appurtenances necessary to the production, preparation, or sale of crops, fruit, dairy products, fish, and livestock exist.

(12) "Forest landowner" means any person in actual control of forest land, whether such control is based either on legal or equitable title, or on any other interest entitling the holder to sell or otherwise dispose of any or all of the timber on such land in any manner. However, any lessee or other person in possession of forest land without legal or equitable title to such land shall be excluded from the definition of "forest landowner" unless such lessee or other person has the right to sell or otherwise dispose of any or all of the timber located on such forest land.

(13) "Forest practice" means any activity conducted on or directly pertaining to forest land and relating to growing, harvesting, or processing timber, including but not limited to:

(a) Road and trail construction;

(b) Harvesting, final and intermediate;

(c) Precommercial thinning;

(d) Reforestation;

(e) Fertilization;

(f) Prevention and suppression of diseases and insects;

(g) Salvage of trees; and

(h) Brush control.

"Forest practice" shall not include preparatory work such as tree marking, surveying and road flagging, and removal or harvesting of incidental vegetation from forest lands such as berries, ferns, greenery, mistletoe, herbs, mushrooms, and other products which cannot normally be expected to result in damage to forest soils, timber, or public resources.

(14) "Forest practices rules" means any rules adopted pursuant to RCW 76.09.040.

(15) "Forest road," as it applies to the operation of the road maintenance and abandonment plan element of the forest practices rules on small forest landowners, means a road or road segment that crosses land that meets the definition of forest land, but excludes residential access roads.

(16) "Forest trees" does not include hardwood trees cultivated by agricultural methods in growing cycles shorter than fifteen years if the trees were planted on land that was not in forest use immediately before the trees were planted and before the land was prepared for planting the trees. "Forest trees" includes Christmas trees, but does not include Christmas trees that are cultivated by agricultural methods, as that term is defined in RCW 84.33.035.

(17) "Forests and fish report" means the forests and fish report to the board dated April 29, 1999.

(18) "Operator" means any person engaging in forest practices except an employee with wages as his or her sole compensation.

(19) "Person" means any individual, partnership, private, public, or municipal corporation, county, the department or other state or local governmental entity, or association of individuals of whatever nature.

(20) "Public resources" means water, fish and wildlife, and in addition shall mean capital improvements of the state or its political subdivisions.

(21) "Small forest landowner" has the same meaning as defined in RCW 76.09.450.

(22) "Timber" means forest trees, standing or down, of a commercial species, including Christmas trees. However, "timber" does not include Christmas trees that are cultivated by agricultural methods, as that term is defined in RCW 84.33.035.

(23) "Timber owner" means any person having all or any part of the legal interest in timber. Where such timber is subject to a contract of sale, "timber owner" shall mean the contract purchaser.

(24) "Unconfined channel migration zone" means the area within which the active channel of an unconfined stream is prone to move and where the movement would result in a potential near-term loss of riparian forest adjacent to the stream. Sizeable islands with productive timber may exist within the zone.

(25) "Unconfined stream" means generally fifth order or larger waters that experience abrupt shifts in channel location, creating a complex floodplain characterized by extensive gravel bars, disturbance species of vegetation of variable age, numerous side channels, wall-based channels, oxbow lakes, and wetland complexes. Many of these streams have dikes and levees that may temporarily or permanently restrict channel movement.

(26) "Date of receipt" has the same meaning as defined in RCW 43.21B.001.

Sec. 20. RCW 76.09.050 and 2005 c 146 s 1003 are each amended to read as follows:

(1) The board shall establish by rule which forest practices shall be included within each of the following classes:

Class I: Minimal or specific forest practices that have no direct potential for damaging a public resource and that may be conducted without submitting an application or a notification except that when the regulating authority is transferred to a local governmental entity, those Class I forest practices that involve timber harvesting or road construction within "urban growth areas," designated pursuant to chapter 36.70A RCW, are processed as Class IV forest practices, but are not subject to environmental review under chapter 43.21C RCW;

Class II: Forest practices which have a less than ordinary potential for damaging a public resource that may be conducted without submitting an application and may begin five calendar days, or such lesser time as the department may determine, after written notification by the operator, in the manner, content, and form as prescribed by the department, is received by the department. However, the work may not begin until all forest practice fees required under RCW 76.09.065 have been received by the department. Class II shall not include forest practices:

(a) On lands platted after January 1, 1960, as provided in chapter 58.17 RCW or on lands that have or are being converted to another use;

(b) Which require approvals under the provisions of the hydraulics act, RCW 77.55.021;

(c) Within "shoreslines of the state" as defined in RCW 90.58.030;

(d) Excluded from Class II by the board; or

(e) Including timber harvesting or road construction within "urban growth areas," designated pursuant to chapter 36.70A RCW, which are Class IV;

Class III: Forest practices other than those contained in Class I, II, or IV. A Class III application must be approved or disapproved by the department within thirty calendar days from the date the department receives the application. However, the applicant may not begin work on that forest practice until all forest practice fees required under RCW 76.09.065 have been received by the department;

Class IV: Forest practices other than those contained in Class I or II: (a) On lands platted after January 1, 1960, as provided in chapter 58.17 RCW, (b) on lands that have or are being converted to another use, (c) on lands which, pursuant to RCW 76.09.070 as now or hereafter amended, are not to be reforested because of the likelihood of future conversion to urban development, (d) involving timber harvesting or road construction on lands that are contained within "urban growth areas," designated pursuant to chapter 36.70A RCW, except where the forest landowner provides: (i) A written statement of intent signed by the forest landowner not to convert to a use other than commercial forest product operations for ten years, accompanied by either a written forest management plan acceptable to the department or documentation that the land is enrolled under the provisions of chapter 84.33 RCW; or (ii) a conversion option harvest plan approved by the local governmental entity and submitted to the department as part of the application, and/or (e) which have a potential for a substantial impact on the environment and therefore require an evaluation by the department as to whether or not a detailed statement must be prepared pursuant to the state environmental policy act, chapter 43.21C RCW. Such evaluation shall be made within ten days from the date the department receives the application: PROVIDED, That nothing herein shall be construed to prevent any local or regional governmental entity from determining that a detailed statement must be prepared for an action pursuant to a Class IV forest practice taken by that governmental entity concerning the land on which forest practices will be conducted. A Class IV application must be approved or disapproved by the department within thirty calendar days from the date the department receives the application, unless the department determines that a detailed statement must be made, in which case the application must be approved or disapproved by the department within sixty calendar days from the date the department receives the

application, unless the commissioner of public lands, through the promulgation of a formal order, determines that the process cannot be completed within such period. However, the applicant may not begin work on that forest practice until all forest practice fees required under RCW 76.09.065 have been received by the department.

Forest practices under Classes I, II, and III are exempt from the requirements for preparation of a detailed statement under the state environmental policy act.

(2) Except for those forest practices being regulated by local governmental entities as provided elsewhere in this chapter, no Class II, Class III, or Class IV forest practice shall be commenced or continued after January 1, 1975, unless the department has received a notification with regard to a Class II forest practice or approved an application with regard to a Class III or Class IV forest practice containing all information required by RCW 76.09.060 as now or hereafter amended. However, in the event forest practices regulations necessary for the scheduled implementation of this chapter and RCW 90.48.420 have not been adopted in time to meet such schedules, the department shall have the authority to regulate forest practices and approve applications on such terms and conditions consistent with this chapter and RCW 90.48.420 and the purposes and policies of RCW 76.09.010 until applicable forest practices regulations are in effect.

(3) Except for those forest practices being regulated by local governmental entities as provided elsewhere in this chapter, if a notification or application is delivered in person to the department by the operator or the operator's agent, the department shall immediately provide a dated receipt thereof. In all other cases, the department shall immediately mail a dated receipt to the operator.

(4) Except for those forest practices being regulated by local governmental entities as provided elsewhere in this chapter, forest practices shall be conducted in accordance with the forest practices regulations, orders and directives as authorized by this chapter or the forest practices regulations, and the terms and conditions of any approved applications.

(5) Except for those forest practices being regulated by local governmental entities as provided elsewhere in this chapter, the department of natural resources shall notify the applicant in writing of either its approval of the application or its disapproval of the application and the specific manner in which the application fails to comply with the provisions of this section or with the forest practices regulations. Except as provided otherwise in this section, if the department fails to either approve or disapprove an application or any portion thereof within the applicable time limit, the application shall be deemed approved and the operation may be commenced: PROVIDED, That this provision shall not apply to applications which are neither approved nor disapproved pursuant to the provisions of subsection (7) of this section: PROVIDED, FURTHER, That if seasonal field conditions prevent the department from being able to properly evaluate the application, the department may issue an approval conditional upon further review within sixty days: PROVIDED, FURTHER, That the department shall have until April 1, 1975, to approve or disapprove an application involving forest practices allowed to continue to April 1, 1975, under the provisions of subsection (2) of this section. Upon receipt of any notification or any satisfactorily completed application the

department shall in any event no later than two business days after such receipt transmit a copy to the departments of ecology and fish and wildlife, and to the county, city, or town in whose jurisdiction the forest practice is to be commenced. Any comments by such agencies shall be directed to the department of natural resources.

(6) For those forest practices regulated by the board and the department, if the county, city, or town believes that an application is inconsistent with this chapter, the forest practices regulations, or any local authority consistent with RCW 76.09.240 as now or hereafter amended, it may so notify the department and the applicant, specifying its objections.

(7) For those forest practices regulated by the board and the department, the department shall not approve portions of applications to which a county, city, or town objects if:

(a) The department receives written notice from the county, city, or town of such objections within fourteen business days from the time of transmittal of the application to the county, city, or town, or one day before the department acts on the application, whichever is later; and

(b) The objections relate to lands either:

(i) Platted after January 1, 1960, as provided in chapter 58.17 RCW; or

(ii) On lands that have or are being converted to another use.

The department shall either disapprove those portions of such application or appeal the county, city, or town objections to the appeals board. If the objections related to subparagraphs (b)(i) and (ii) of this subsection are based on local authority consistent with RCW 76.09.240 as now or hereafter amended, the department shall disapprove the application until such time as the county, city, or town consents to its approval or such disapproval is reversed on appeal. The applicant shall be a party to all department appeals of county, city, or town objections. Unless the county, city, or town either consents or has waived its rights under this subsection, the department shall not approve portions of an application affecting such lands until the minimum time for county, city, or town objections has expired.

(8) For those forest practices regulated by the board and the department, in addition to any rights under the above paragraph, the county, city, or town may appeal any department approval of an application with respect to any lands within its jurisdiction. The appeals board may suspend the department's approval in whole or in part pending such appeal where there exists potential for immediate and material damage to a public resource.

(9) For those forest practices regulated by the board and the department, appeals under this section shall be made to the appeals board in the manner and time provided in ~~((RCW 76.09.220(8)))~~ section 24 of this act. In such appeals there shall be no presumption of correctness of either the county, city, or town or the department position.

(10) For those forest practices regulated by the board and the department, the department shall, within four business days notify the county, city, or town of all notifications, approvals, and disapprovals of an application affecting lands within the county, city, or town, except to the extent the county, city, or town has waived its right to such notice.

(11) For those forest practices regulated by the board and the department, a county, city, or town may waive in whole or in part its rights under this section,

and may withdraw or modify any such waiver, at any time by written notice to the department.

(12) Notwithstanding subsections (2) through (5) of this section, forest practices applications or notifications are not required for exotic insect and disease control operations conducted in accordance with RCW 76.09.060(8) where eradication can reasonably be expected.

Sec. 21. RCW 76.09.080 and 1989 c 175 s 163 are each amended to read as follows:

(1) The department shall have the authority to serve upon an operator a stop work order which shall be a final order of the department if:

(a) There is any violation of the provisions of this chapter or the forest practices regulations; or

(b) There is a deviation from the approved application; or

(c) Immediate action is necessary to prevent continuation of or to avoid material damage to a public resource.

(2) The stop work order shall set forth:

(a) The specific nature, extent, and time of the violation, deviation, damage, or potential damage;

(b) An order to stop all work connected with the violation, deviation, damage, or potential damage;

(c) The specific course of action needed to correct such violation or deviation or to prevent damage and to correct and/or compensate for damage to public resources which has resulted from any violation, unauthorized deviation, or willful or negligent disregard for potential damage to a public resource; and/or those courses of action necessary to prevent continuing damage to public resources where the damage is resulting from the forest practice activities but has not resulted from any violation, unauthorized deviation, or negligence; and

(d) The right of the operator to a hearing before the appeals board.

The department shall immediately file a copy of such order with the appeals board and mail a copy thereof to the timber owner and forest land owner at the addresses shown on the application. The operator, timber owner, or forest land owner may commence an appeal to the appeals board within ~~((fifteen))~~ thirty days ~~((after service upon))~~ from the date of receipt of the order by the operator. If such appeal is commenced, a hearing shall be held not more than twenty days after copies of the notice of appeal were filed with the appeals board. Such proceeding shall be an adjudicative proceeding within the meaning of chapter 34.05 RCW, the administrative procedure act. The operator shall comply with the order of the department immediately upon being served, but the appeals board if requested shall have authority to continue or discontinue in whole or in part the order of the department under such conditions as it may impose pending the outcome of the proceeding.

Sec. 22. RCW 76.09.090 and 1975 1st ex.s. c 200 s 6 are each amended to read as follows:

If a violation, a deviation, material damage or potential for material damage to a public resource has occurred and the department determines that a stop work order is unnecessary, then the department shall issue and serve upon the operator or land owner a notice, which shall clearly set forth:

(1)(a) The specific nature, extent, and time of failure to comply with the approved application; or identifying the damage or potential damage; and/or

(b) The relevant provisions of this chapter or of the forest practice regulations relating thereto;

(2) The right of the operator or land owner to a hearing before the department; and

(3) The specific course of action ordered by the department to be followed by the operator to correct such failure to comply and to prevent, correct and/or compensate for material damage to public resources which resulted from any violation, unauthorized deviation, or wilful or negligent disregard for potential damage to a public resource; and/or those courses of action necessary to prevent continuing damage to public resources where the damage is resulting from the forest practice activities but has not resulted from any violation, unauthorized deviation, or negligence.

The department shall mail a copy thereof to the forest land owner and the timber owner at the addresses shown on the application, showing the date of service upon the operator. Such notice to comply shall become a final order of the department: PROVIDED, That no direct appeal to the appeals board will be allowed from such final order. Such operator shall undertake the course of action so ordered by the department unless, within fifteen days after the date of service of such notice to comply, the operator, forest land owner, or timber owner, shall request the department in writing to schedule a hearing. If so requested, the department shall schedule a hearing on a date not more than twenty days after receiving such request. Within ten days after such hearing, the department shall issue a final order either withdrawing its notice to comply or clearly setting forth the specific course of action to be followed by such operator. Such operator shall undertake the course of action so ordered by the department unless within thirty days after the date of receipt of such final order, the operator, forest land owner, or timber owner appeals such final order to the appeals board.

No person shall be under any obligation under this section to prevent, correct, or compensate for any damage to public resources which occurs more than one year after the date of completion of the forest practices operations involved exclusive of reforestation, unless such forest practices were not conducted in accordance with forest practices rules and regulations: PROVIDED, That this provision shall not relieve the forest land owner from any obligation to comply with forest practices rules and regulations pertaining to providing continuing road maintenance. No action to recover damages shall be taken under this section more than two years after the date the damage involved occurs.

Sec. 23. RCW 76.09.170 and 1999 sp.s. c 4 s 803 are each amended to read as follows:

(1) Every person who violates any provision of RCW 76.09.010 through 76.09.280 or of the forest practices rules, or who converts forest land to a use other than commercial timber operation within three years after completion of the forest practice without the consent of the county, city, or town, shall be subject to a penalty in an amount of not more than ten thousand dollars for every such violation. Each and every such violation shall be a separate and distinct offense. In case of a failure to comply with a stop work order, every day's continuance shall be a separate and distinct violation. Every person who through

an act of commission or omission procures, aids or abets in the violation shall be considered to have violated the provisions of this section and shall be subject to the penalty in this section. No penalty shall be imposed under this section upon any governmental official, an employee of any governmental department, agency, or entity, or a member of any board or advisory committee created by this chapter for any act or omission in his or her duties in the administration of this chapter or of any rule adopted under this chapter.

(2) The department shall develop and recommend to the board a penalty schedule to determine the amount to be imposed under this section. The board shall adopt by rule, pursuant to chapter 34.05 RCW, such penalty schedule to be effective no later than January 1, 1994. The schedule shall be developed in consideration of the following:

- (a) Previous violation history;
- (b) Severity of the impact on public resources;
- (c) Whether the violation of this chapter or its rules was intentional;
- (d) Cooperation with the department;
- (e) Repairability of the adverse effect from the violation; and

(f) The extent to which a penalty to be imposed on a forest landowner for a forest practice violation committed by another should be reduced because the owner was unaware of the violation and has not received substantial economic benefits from the violation.

(3) The penalty in this section shall be imposed by a notice in writing, either by certified mail with return receipt requested or by personal service, to the person incurring the same from the department describing the violation with reasonable particularity. Within fifteen days after the notice is received, the person incurring the penalty may apply in writing to the department for the remission or mitigation of such penalty. Upon receipt of the application, that department may remit or mitigate the penalty upon whatever terms that department in its discretion deems proper, provided the department deems such remission or mitigation to be in the best interests of carrying out the purposes of this chapter. The department shall have authority to ascertain the facts regarding all such applications in such reasonable manner and under such rule as it may deem proper.

(4) Any person incurring a penalty under this section may appeal the penalty to the ~~((forest practices))~~ appeals board. Such appeals shall be filed within thirty days ~~((of))~~ after the date of receipt of ~~((notice imposing any))~~ the penalty unless an application for remission or mitigation is made to the department. When such an application for remission or mitigation is made, such appeals shall be filed within thirty days of receipt of notice from the department setting forth the disposition of the application for remission or mitigation.

(5) The penalty imposed under this section shall become due and payable thirty days after receipt of a notice imposing the same unless application for remission or mitigation is made or an appeal is filed. When such an application for remission or mitigation is made, any penalty incurred under this section shall become due and payable thirty days after receipt of notice setting forth the disposition of such application unless an appeal is filed from such disposition. Whenever an appeal of the penalty incurred is filed, the penalty shall become due and payable only upon completion of all administrative and judicial review

proceedings and the issuance of a final decision confirming the penalty in whole or in part.

(6) If the amount of any penalty is not paid to the department within thirty days after it becomes due and payable, the attorney general, upon the request of the department, shall bring an action in the name of the state of Washington in the superior court of Thurston county or of any county in which such violator may do business, to recover such penalty, interest, costs, and attorneys' fees. In all such actions the procedure and rules of evidence shall be the same as an ordinary civil action except as otherwise provided in this chapter (~~provided~~). In addition to or as an alternative to seeking enforcement of penalties in superior court, the department may bring an action in district court as provided in Title 3 RCW, to collect penalties, interest, costs, and attorneys' fees.

(7) Penalties imposed under this section for violations associated with a conversion to a use other than commercial timber operation shall be a lien upon the real property of the person assessed the penalty and the department may collect such amount in the same manner provided in chapter 60.04 RCW for mechanics' liens.

(8) Any person incurring a penalty imposed under this section is also responsible for the payment of all costs and attorneys' fees incurred in connection with the penalty and interest accruing on the unpaid penalty amount.

NEW SECTION. Sec. 24. A new section is added to chapter 76.09 RCW to read as follows:

A person aggrieved by the approval or disapproval of an application to conduct a forest practice or the approval or disapproval of any landscape plan or permit or watershed analysis may seek review from the appeals board by filing a request for the same within thirty days from the date of receipt of the decision. Concurrently with the filing of any request for review with the appeals board as provided in this section, the requestor must file a copy of his or her request with the department and the attorney general. The attorney general may intervene to protect the public interest and ensure that the provisions of this chapter are complied with.

Sec. 25. RCW 76.09.310 and 1987 c 95 s 4 are each amended to read as follows:

(1) The department shall send a notice to all forest landowners, both public and private, within the geographic area selected for review, stating that the department intends to study the area as part of the hazard-reduction program.

(2) The department shall prepare a proposed plan for each geographic area studied. The department shall provide the proposed plan to affected landowners, Indian tribes, interested parties, and to the advisory committee, if established pursuant to RCW 76.09.305.

(3) Any aggrieved landowners, agencies, tribes, and other persons who object to any or all of the proposed hazard-reduction plan may, within thirty days of issuance of the plan, request the department in writing to schedule a conference. If so requested, the department shall schedule a conference on a date not more than thirty days after receiving such request.

(4) Within ten days after such a conference, the department shall either amend the proposed plan or respond in writing indicating why the objections were not incorporated into the plan.

(5) Within one hundred twenty days following the issuance of the proposed plan as provided in subsection (2) of this section, the department shall distribute a final hazard-reduction plan designating those sites for which hazard-reduction measures are recommended and those sites where no action is recommended. For each hazard-reduction measure recommended, a description of the work and cost estimate shall be provided.

(6) Any aggrieved landowners, agencies, tribes, and other persons are entitled to appeal the final hazard-reduction plan to the ~~((forest practices))~~ appeals board if, within thirty days of the issuance of the final plan, the party transmits a notice of appeal to the ~~((forest practices))~~ appeals board and to the department.

(7) A landowner's failure to object to the recommendations or to appeal the final hazard-reduction plan shall not be deemed an admission that the hazard-reduction recommendations are appropriate.

(8) The department shall provide a copy of the final hazard-reduction plan to the department of ecology and to each affected county.

Sec. 26. RCW 77.55.011 and 2009 c 549 s 1028 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Bed" means the land below the ordinary high water lines of state waters. This definition does not include irrigation ditches, canals, storm water runoff devices, or other artificial watercourses except where they exist in a natural watercourse that has been altered artificially.

(2) "Board" means the ~~((hydraulic appeals))~~ pollution control hearings board created in chapter 43.21B RCW ((77.55.304)).

(3) "Commission" means the state fish and wildlife commission.

(4) "Department" means the department of fish and wildlife.

(5) "Director" means the director of the department of fish and wildlife.

(6) "Emergency" means an immediate threat to life, the public, property, or of environmental degradation.

(7) "Hydraulic project" means the construction or performance of work that will use, divert, obstruct, or change the natural flow or bed of any of the salt or freshwaters of the state.

(8) "Imminent danger" means a threat by weather, water flow, or other natural conditions that is likely to occur within sixty days of a request for a permit application.

(9) "Marina" means a public or private facility providing boat moorage space, fuel, or commercial services. Commercial services include but are not limited to overnight or live-aboard boating accommodations.

(10) "Marine terminal" means a public or private commercial wharf located in the navigable water of the state and used, or intended to be used, as a port or facility for the storing, handling, transferring, or transporting of goods to and from vessels.

(11) "Ordinary high water line" means the mark on the shores of all water that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in ordinary years as to mark upon the soil or vegetation a character distinct from the abutting upland. Provided, that in any area where the ordinary high water

line cannot be found, the ordinary high water line adjoining saltwater is the line of mean higher high water and the ordinary high water line adjoining fresh water is the elevation of the mean annual flood.

(12) "Permit" means a hydraulic project approval permit issued under this chapter.

(13) "Sandbars" includes, but is not limited to, sand, gravel, rock, silt, and sediments.

(14) "Small scale prospecting and mining" means the use of only the following methods: Pans; nonmotorized sluice boxes; concentrators; and minirocker boxes for the discovery and recovery of minerals.

(15) "Spartina," "purple loosestrife," and "aquatic noxious weeds" have the same meanings as defined in RCW 17.26.020.

(16) "Streambank stabilization" means those projects that prevent or limit erosion, slippage, and mass wasting. These projects include, but are not limited to, bank resloping, log and debris relocation or removal, planting of woody vegetation, bank protection using rock or woody material or placement of jetties or groins, gravel removal, or erosion control.

(17) "Tide gate" means a one-way check valve that prevents the backflow of tidal water.

(18) "Waters of the state" and "state waters" means all salt and fresh waters waterward of the ordinary high water line and within the territorial boundary of the state.

(19) "Date of receipt" has the same meaning as defined in RCW 43.21B.001.

Sec. 27. RCW 77.55.021 and 2008 c 272 s 1 are each amended to read as follows:

(1) Except as provided in RCW 77.55.031, 77.55.051, and 77.55.041, in the event that any person or government agency desires to undertake a hydraulic project, the person or government agency shall, before commencing work thereon, secure the approval of the department in the form of a permit as to the adequacy of the means proposed for the protection of fish life.

(2) A complete written application for a permit may be submitted in person or by registered mail and must contain the following:

(a) General plans for the overall project;

(b) Complete plans and specifications of the proposed construction or work within the mean higher high water line in saltwater or within the ordinary high water line in freshwater;

(c) Complete plans and specifications for the proper protection of fish life; and

(d) Notice of compliance with any applicable requirements of the state environmental policy act, unless otherwise provided for in this chapter.

(3)(a) Protection of fish life is the only ground upon which approval of a permit may be denied or conditioned. Approval of a permit may not be unreasonably withheld or unreasonably conditioned. Except as provided in this subsection and subsections (8), (10), and (12) of this section, the department has forty-five calendar days upon receipt of a complete application to grant or deny approval of a permit. The forty-five day requirement is suspended if:

(i) After ten working days of receipt of the application, the applicant remains unavailable or unable to arrange for a timely field evaluation of the proposed project;

(ii) The site is physically inaccessible for inspection;

(iii) The applicant requests a delay; or

(iv) The department is issuing a permit for a storm water discharge and is complying with the requirements of RCW 77.55.161(3)(b).

(b) Immediately upon determination that the forty-five day period is suspended, the department shall notify the applicant in writing of the reasons for the delay.

(c) The period of forty-five calendar days may be extended if the permit is part of a multiagency permit streamlining effort and all participating permitting agencies and the permit applicant agree to an extended timeline longer than forty-five calendar days.

(4) If the department denies approval of a permit, the department shall provide the applicant a written statement of the specific reasons why and how the proposed project would adversely affect fish life.

(a) Except as provided in (b) of this subsection, issuance, denial, conditioning, or modification of a permit shall be appealable to ((the department or) the board ((as specified in RCW 77.55.301)) within thirty days from the date of receipt of the ((notice of)) decision as provided in RCW 43.21B.230.

(b) Issuance, denial, conditioning, or modification of a permit may be informally appealed to the department within thirty days from the date of receipt of the decision. Requests for informal appeals must be filed in the form and manner prescribed by the department by rule. A permit decision that has been informally appealed to the department is appealable to the board within thirty days from the date of receipt of the department's decision on the informal appeal.

(5)(a) The permittee must demonstrate substantial progress on construction of that portion of the project relating to the permit within two years of the date of issuance.

(b) Approval of a permit is valid for a period of up to five years from the date of issuance, except as provided in (c) of this subsection and in RCW 77.55.151.

(c) A permit remains in effect without need for periodic renewal for hydraulic projects that divert water for agricultural irrigation or stock watering purposes and that involve seasonal construction or other work. A permit for streambank stabilization projects to protect farm and agricultural land as defined in RCW 84.34.020 remains in effect without need for periodic renewal if the problem causing the need for the streambank stabilization occurs on an annual or more frequent basis. The permittee must notify the appropriate agency before commencing the construction or other work within the area covered by the permit.

(6) The department may, after consultation with the permittee, modify a permit due to changed conditions. The modification ~~((becomes effective unless appealed to the department or the board as specified in RCW 77.55.301 within thirty days from the notice of the proposed modification))~~ is appealable as provided in subsection (4) of this section. For hydraulic projects that divert water for agricultural irrigation or stock watering purposes, or when the hydraulic project or other work is associated with streambank stabilization to

protect farm and agricultural land as defined in RCW 84.34.020, the burden is on the department to show that changed conditions warrant the modification in order to protect fish life.

(7) A permittee may request modification of a permit due to changed conditions. The request must be processed within forty-five calendar days of receipt of the written request. A decision by the department (~~may be appealed to the board within thirty days of the notice of the decision~~) is appealable as provided in subsection (4) of this section. For hydraulic projects that divert water for agricultural irrigation or stock watering purposes, or when the hydraulic project or other work is associated with streambank stabilization to protect farm and agricultural land as defined in RCW 84.34.020, the burden is on the permittee to show that changed conditions warrant the requested modification and that such a modification will not impair fish life.

(8)(a) The department, the county legislative authority, or the governor may declare and continue an emergency. If the county legislative authority declares an emergency under this subsection, it shall immediately notify the department. A declared state of emergency by the governor under RCW 43.06.010 shall constitute a declaration under this subsection.

(b) The department, through its authorized representatives, shall issue immediately, upon request, oral approval for a stream crossing, or work to remove any obstructions, repair existing structures, restore streambanks, protect fish life, or protect property threatened by the stream or a change in the stream flow without the necessity of obtaining a written permit prior to commencing work. Conditions of the emergency oral permit must be established by the department and reduced to writing within thirty days and complied with as provided for in this chapter.

(c) The department may not require the provisions of the state environmental policy act, chapter 43.21C RCW, to be met as a condition of issuing a permit under this subsection.

(9) All state and local agencies with authority under this chapter to issue permits or other authorizations in connection with emergency water withdrawals and facilities authorized under RCW 43.83B.410 shall expedite the processing of such permits or authorizations in keeping with the emergency nature of such requests and shall provide a decision to the applicant within fifteen calendar days of the date of application.

(10) The department or the county legislative authority may determine an imminent danger exists. The county legislative authority shall notify the department, in writing, if it determines that an imminent danger exists. In cases of imminent danger, the department shall issue an expedited written permit, upon request, for work to remove any obstructions, repair existing structures, restore banks, protect fish resources, or protect property. Expedited permit requests require a complete written application as provided in subsection (2) of this section and must be issued within fifteen calendar days of the receipt of a complete written application. Approval of an expedited permit is valid for up to sixty days from the date of issuance. The department may not require the provisions of the state environmental policy act, chapter 43.21C RCW, to be met as a condition of issuing a permit under this subsection.

(11)(a) For any property, except for property located on a marine shoreline, that has experienced at least two consecutive years of flooding or erosion that

has damaged or has threatened to damage a major structure, water supply system, septic system, or access to any road or highway, the county legislative authority may determine that a chronic danger exists. The county legislative authority shall notify the department, in writing, when it determines that a chronic danger exists. In cases of chronic danger, the department shall issue a permit, upon request, for work necessary to abate the chronic danger by removing any obstructions, repairing existing structures, restoring banks, restoring road or highway access, protecting fish resources, or protecting property. Permit requests must be made and processed in accordance with subsections (2) and (3) of this section.

(b) Any projects proposed to address a chronic danger identified under (a) of this subsection that satisfies the project description identified in RCW 77.55.181(1)(a)(ii) are not subject to the provisions of the state environmental policy act, chapter 43.21C RCW. However, the project is subject to the review process established in RCW 77.55.181(3) as if it were a fish habitat improvement project.

(12) The department may issue an expedited written permit in those instances where normal permit processing would result in significant hardship for the applicant or unacceptable damage to the environment. Expedited permit requests require a complete written application as provided in subsection (2) of this section and must be issued within fifteen calendar days of the receipt of a complete written application. Approval of an expedited permit is valid for up to sixty days from the date of issuance. The department may not require the provisions of the state environmental policy act, chapter 43.21C RCW, to be met as a condition of issuing a permit under this subsection.

Sec. 28. RCW 77.55.141 and 2005 c 146 s 501 are each amended to read as follows:

(1) In order to protect the property of marine waterfront shoreline owners it is necessary to facilitate issuance of permits for bulkheads or rockwalls under certain conditions.

(2) The department shall issue a permit with or without conditions within forty-five days of receipt of a complete and accurate application which authorizes commencement of construction, replacement, or repair of a marine beach front protective bulkhead or rockwall for single-family type residences or property under the following conditions:

(a) The waterward face of a new bulkhead or rockwall shall be located only as far waterward as is necessary to excavate for footings or place base rock for the structure and under no conditions shall be located more than six feet waterward of the ordinary high water line;

(b) Any bulkhead or rockwall to replace or repair an existing bulkhead or rockwall shall be placed along the same alignment as the bulkhead or rockwall it is replacing. However, the replaced or repaired bulkhead or rockwall may be placed waterward of and directly abutting the existing structure only in cases where removal of the existing bulkhead or rockwall would result in environmental degradation or removal problems related to geological, engineering, or safety considerations; and

(c) Construction of a new bulkhead or rockwall, or replacement or repair of an existing bulkhead or rockwall waterward of the existing structure shall not result in the permanent loss of critical food fish or shellfish habitats; and

(d) Timing constraints shall be applied on a case-by-case basis for the protection of critical habitats, including but not limited to migration corridors, rearing and feeding areas, and spawning habitats, for the proper protection of fish life.

(3) Any bulkhead or rockwall construction, replacement, or repair not meeting the conditions in this section shall be processed under this chapter in the same manner as any other application.

(4) Any person aggrieved by the approval, denial, conditioning, or modification of a permit under this section may ~~((formally))~~ appeal the decision ~~((to the board pursuant to this chapter))~~ as provided in RCW 77.55.021(4).

Sec. 29. RCW 77.55.181 and 2005 c 146 s 505 are each amended to read as follows:

(1) In order to receive the permit review and approval process created in this section, a fish habitat enhancement project must meet the criteria under (a) and (b) of this subsection:

(a) A fish habitat enhancement project must be a project to accomplish one or more of the following tasks:

(i) Elimination of human-made fish passage barriers, including culvert repair and replacement;

(ii) Restoration of an eroded or unstable streambank employing the principle of bioengineering, including limited use of rock as a stabilization only at the toe of the bank, and with primary emphasis on using native vegetation to control the erosive forces of flowing water; or

(iii) Placement of woody debris or other instream structures that benefit naturally reproducing fish stocks.

The department shall develop size or scale threshold tests to determine if projects accomplishing any of these tasks should be evaluated under the process created in this section or under other project review and approval processes. A project proposal shall not be reviewed under the process created in this section if the department determines that the scale of the project raises concerns regarding public health and safety; and

(b) A fish habitat enhancement project must be approved in one of the following ways:

(i) By the department pursuant to chapter 77.95 or 77.100 RCW;

(ii) By the sponsor of a watershed restoration plan as provided in chapter 89.08 RCW;

(iii) By the department as a department-sponsored fish habitat enhancement or restoration project;

(iv) Through the review and approval process for the jobs for the environment program;

(v) Through the review and approval process for conservation district-sponsored projects, where the project complies with design standards established by the conservation commission through interagency agreement with the United States fish and wildlife service and the natural resource conservation service;

(vi) Through a formal grant program established by the legislature or the department for fish habitat enhancement or restoration; and

(vii) Through other formal review and approval processes established by the legislature.

(2) Fish habitat enhancement projects meeting the criteria of subsection (1) of this section are expected to result in beneficial impacts to the environment. Decisions pertaining to fish habitat enhancement projects meeting the criteria of subsection (1) of this section and being reviewed and approved according to the provisions of this section are not subject to the requirements of RCW 43.21C.030(2)(c).

(3)(a) A permit is required for projects that meet the criteria of subsection (1) of this section and are being reviewed and approved under this section. An applicant shall use a joint aquatic resource permit application form developed by the office of regulatory assistance to apply for approval under this chapter. On the same day, the applicant shall provide copies of the completed application form to the department and to each appropriate local government. Local governments shall accept the application as notice of the proposed project. The department shall provide a fifteen-day comment period during which it will receive comments regarding environmental impacts. Within forty-five days, the department shall either issue a permit, with or without conditions, deny approval, or make a determination that the review and approval process created by this section is not appropriate for the proposed project. The department shall base this determination on identification during the comment period of adverse impacts that cannot be mitigated by the conditioning of a permit. If the department determines that the review and approval process created by this section is not appropriate for the proposed project, the department shall notify the applicant and the appropriate local governments of its determination. The applicant may reapply for approval of the project under other review and approval processes.

(b) Any person aggrieved by the approval, denial, conditioning, or modification of a permit under this section may ~~((formally))~~ appeal the decision ~~((to the board pursuant to the provisions of this chapter))~~ as provided in RCW 77.55.021(4).

(4) No local government may require permits or charge fees for fish habitat enhancement projects that meet the criteria of subsection (1) of this section and that are reviewed and approved according to the provisions of this section.

Sec. 30. RCW 77.55.241 and 2005 c 146 s 602 are each amended to read as follows:

(1) The legislature finds that the construction of hydraulic projects may require mitigation for the protection of fish life, and that the mitigation may be most cost-effective and provide the most benefit to the fish resource if the mitigation is allowed to be applied in locations that are off-site of the hydraulic project location. The department may approve off-site mitigation plans that are submitted by permit applicants.

(2) If a permit applicant proposes off-site mitigation and the department does not approve the permit or conditions the permit in such a manner as to render off-site mitigation unpracticable, the project proponent ~~((must be given the opportunity to submit the permit application to the board for approval))~~ may appeal the decision as provided in RCW 77.55.021(4).

Sec. 31. RCW 77.55.291 and 2005 c 146 s 701 are each amended to read as follows:

(1) The department may levy civil penalties of up to one hundred dollars per day for violation of any provisions of RCW 77.55.021. The penalty provided shall be imposed by notice in writing, either by certified mail or personal service to the person incurring the penalty, from the director or the director's designee describing the violation.

(2)(a) Except as provided in (b) of this subsection, any person incurring any penalty under this chapter may appeal the same under chapter 34.05 RCW to the ((director)) board. Appeals shall be filed within thirty days from the date of receipt of ((notice imposing any)) the penalty in accordance with RCW 43.21B.230.

(b) Issuance of a civil penalty may be informally appealed to the department within thirty days from the date of receipt of the penalty. Requests for informal appeal must be filed in the form and manner prescribed by the department by rule. A civil penalty that has been informally appealed to the department is appealable to the board within thirty days from the date of receipt of the department's decision on the informal appeal.

(3) The penalty imposed shall become due and payable thirty days after receipt of a notice imposing the penalty unless an appeal is filed. Whenever an appeal of any penalty incurred under this chapter is filed, the penalty shall become due and payable only upon completion of all review proceedings and the issuance of a final order confirming the penalty in whole or in part.

(4) If the amount of any penalty is not paid within thirty days after it becomes due and payable, the attorney general, upon the request of the director, shall bring an action in the name of the state of Washington in the superior court of Thurston county or of any county in which such violator may do business, to recover such penalty. In all such actions the procedure and rules of evidence shall be the same as an ordinary civil action. All penalties recovered under this section shall be paid into the state's general fund.

Sec. 32. RCW 78.44.270 and 1993 c 518 s 35 are each amended to read as follows:

~~((Appeals from)) Department determinations under this chapter ((shall be made as follows:~~

Appeals from department determinations made under this chapter shall be made under the provisions of the Administrative Procedure Act (chapter 34.05 RCW), and shall be considered an adjudicative proceeding within the meaning of the Administrative Procedure Act, chapter 34.05 RCW)) may be appealed to the pollution control hearings board as provided in RCW 43.21B.230. Only a person aggrieved within the meaning of RCW 34.05.530 has standing and can file an appeal.

Sec. 33. RCW 78.44.380 and 2007 c 192 s 3 are each amended to read as follows:

(1) The department may issue an order to stop all surface mining to any permit holder, miner, or other person who authorizes, directs, or conducts such activities without a valid surface mine reclamation permit. This order is effective upon issuance unless otherwise stated in the order. Administrative appeal of the order to stop work does not stay the stop work requirement. The department shall notify the local jurisdiction of record when a stop work order has been issued for operating without a valid reclamation permit.

(2) The department may issue an order to stop surface mining occurring outside of any permit area to a permit holder that does not have a legal right to occupy the affected area. This order is effective upon issuance unless otherwise stated in the order. An administrative appeal of the order to stop work does not stay the stop work requirement.

(3) Where a permit holder is conducting surface mining activities outside of its permit boundary, but within land that it has the right to occupy, the department may issue an order to stop surface mining or mining-related activities occurring outside of the authorized area after the permit holder fails to comply with a notice of correction. The notice of correction must specify the corrections necessary as per the violation and provide a reasonable time to do so. This order is effective upon issuance unless otherwise stated in the order. An administrative appeal of the order to stop work does not stay the stop work requirement.

(4) Stop work orders must be in writing, delivered by United States certified mail with return receipt requested, facsimile, or by hand to the permit holder of record. The order must state the facts supporting the violation, the law being violated, and the specific activities being stopped. Stop work orders must be signed by the state geologist or an assistant state geologist. The ~~((department))~~ pollution control hearings board shall proceed as quickly as feasible to complete any requested adjudicative proceedings unless the parties stipulate to an appeal timeline or the department's stop work order states that it is not effective until after the administrative review process. If the recipient appeals the order, the recipient may file a motion for stay with the presiding officer, which will be reviewed under ~~((preliminary injunction standards))~~ RCW 43.21B.320.

Sec. 34. RCW 79.100.120 and 2006 c 153 s 5 are each amended to read as follows:

(1) A person seeking to contest an authorized public entity's decision to take temporary possession or custody of a vessel under this chapter, or to contest the amount of reimbursement owed to an authorized public entity under this chapter, may request a hearing in accordance with this section.

(2)(a) If the contested decision or action was undertaken by a state agency, a written request for a hearing related to the decision or action must be filed with the ~~((aquatic resources division of the department))~~ pollution control hearings board and served on the state agency in accordance with RCW 43.21B.230 (2) and (3) within ~~((twenty))~~ thirty days of the date the authorized public entity acquires custody of the vessel under RCW 79.100.040, or if the vessel is redeemed before the authorized public entity acquires custody, the date of redemption, or the right to a hearing is deemed waived and the vessel's owner is liable for any costs owed the authorized public entity. In the event of litigation, the prevailing party is entitled to reasonable attorneys' fees and costs.

(b) Upon receipt of a timely hearing request, the ~~((department))~~ pollution control hearings board shall proceed to hear and determine the validity of the decision to take the vessel into temporary possession or custody and the reasonableness of any towing, storage, or other charges permitted under this chapter. Within five business days after the request for a hearing is filed, the ~~((department))~~ pollution control hearings board shall notify the vessel owner requesting the hearing and the authorized public entity of the date, time, and location for the hearing. Unless the vessel is redeemed before the request for

hearing is filed, the ~~((department))~~ pollution control hearings board shall set the hearing on a date that is within ten business days of the filing of the request for hearing. If the vessel is redeemed before the request for a hearing is filed, the ~~((department))~~ pollution control hearings board shall set the hearing on a date that is within sixty days of the filing of the request for hearing. A proceeding brought under this subsection may be heard by one member of the pollution control hearings board, whose decision is the final decision of the board.

(3)(a) If the contested decision or action was undertaken by a metropolitan park district, port district, city, town, or county, which has adopted rules or procedures for contesting decisions or actions pertaining to derelict or abandoned vessels, those rules or procedures must be followed in order to contest a decision to take temporary possession or custody of a vessel, or to contest the amount of reimbursement owed.

(b) If the metropolitan park district, port district, city, town, or county has not adopted rules or procedures for contesting decisions or actions pertaining to derelict or abandoned vessels, then a person requesting a hearing under this section must follow the procedure established in RCW 53.08.320(5) for contesting the decisions or actions of moorage facility operators.

Sec. 35. RCW 84.33.0775 and 1999 sp.s. c 5 s 1 are each amended to read as follows:

(1) A taxpayer is allowed a credit against the tax imposed under RCW 84.33.041 for timber harvested on and after January 1, 2000, under a forest practices notification filed or application approved under RCW 76.09.050 and subject to enhanced aquatic resources requirements.

(2)(a) For a person other than a small harvester who elects to calculate tax under RCW 84.33.074, the credit is equal to the stumpage value of timber harvested for sale or for commercial or industrial use multiplied by eight-tenths of one percent.

(b) For a small harvester who elects to calculate tax under RCW 84.33.074, the credit is equal to sixteen percent of the tax imposed under this chapter.

(c) The amount of credit claimed by a taxpayer under this section shall be reduced by the amount of any compensation received from the federal government for reduced timber harvest due to enhanced aquatic resource requirements. If the amount of compensation from the federal government exceeds the amount of credit available to a taxpayer in any reporting period, the excess shall be carried forward and applied against credits in future reporting periods. This subsection does not apply to small harvesters as defined in RCW 84.33.073.

(d) Refunds may not be given in place of credits. Credit may not be claimed in excess of tax owed. The department of revenue shall disallow any credits, used or unused, upon written notification from the department of natural resources of a final decision that timber for which credit was claimed was not harvested under a forest practices notification filed or application approved under RCW 76.09.050 and subject to enhanced aquatic resources requirements.

(3) As used in this section, a forest ~~((practices))~~ practices notification or application is subject to enhanced aquatic resource requirements if it includes, in whole or in part, riparian area, wetland, or steep or unstable slope from which the operator is limited, by rule adopted under RCW 76.09.055, 34.05.090, 43.21C.250, and 76.09.370, or any federally approved habitat conservation plan

or department of natural resources approved watershed analysis, from harvesting timber, or if a road is included within or adjacent to the area covered by such notification or application and the road is covered by a road maintenance plan approved by the department of natural resources under rules adopted under chapter 76.09 RCW, the forest practices act, or a federally approved habitat conservation plan.

(4) For forest practices notification or applications submitted after January 1, 2000, the department of natural resources shall indicate whether the notification or application is subject to enhanced aquatic resource requirements and, unless notified of a contrary determination by the (~~forest practices appeals board~~) pollution control hearings board, the department of revenue shall use such indication in determining the credit to be allowed against the tax assessed under RCW 84.33.041. The department of natural resources shall develop revisions to the form of the forest practices notifications and applications to provide a space for the applicant to indicate and the department of natural resources to confirm or not confirm, whether the notification or application is subject to enhanced aquatic resource requirements. For forest practices notifications or applications submitted before January 1, 2000, the applicant may submit the approved notification or application to the department of natural resources for confirmation that the notification or application is subject to enhanced aquatic resource requirements. Upon any such submission, the department of natural resources will within thirty days confirm or deny that the notification or application is subject to enhanced aquatic resource requirements and will forward separate evidence of each confirmation to the department of revenue. Unless notified of a contrary ruling by the (~~forest practices appeals board~~) pollution control hearings board, the department of revenue shall use the separate confirmations in determining the credit to be allowed against the tax assessed under RCW 84.33.041.

(5) A refusal by the department of natural resources to confirm that a notification or application is subject to enhanced aquatic resources requirements may be appealed to the (~~forest practices appeals board under RCW 76.09.220~~) pollution control hearings board.

(6) A person receiving approval of credit must keep records necessary for the department of revenue to verify eligibility under this section.

Sec. 36. RCW 90.58.140 and 1995 c 347 s 309 are each amended to read as follows:

(1) A development shall not be undertaken on the shorelines of the state unless it is consistent with the policy of this chapter and, after adoption or approval, as appropriate, the applicable guidelines, rules, or master program.

(2) A substantial development shall not be undertaken on shorelines of the state without first obtaining a permit from the government entity having administrative jurisdiction under this chapter.

A permit shall be granted:

(a) From June 1, 1971, until such time as an applicable master program has become effective, only when the development proposed is consistent with: (i) The policy of RCW 90.58.020; and (ii) after their adoption, the guidelines and rules of the department; and (iii) so far as can be ascertained, the master program being developed for the area;

(b) After adoption or approval, as appropriate, by the department of an applicable master program, only when the development proposed is consistent with the applicable master program and this chapter.

(3) The local government shall establish a program, consistent with rules adopted by the department, for the administration and enforcement of the permit system provided in this section. The administration of the system so established shall be performed exclusively by the local government.

(4) Except as otherwise specifically provided in subsection (11) of this section, the local government shall require notification of the public of all applications for permits governed by any permit system established pursuant to subsection (3) of this section by ensuring that notice of the application is given by at least one of the following methods:

(a) Mailing of the notice to the latest recorded real property owners as shown by the records of the county assessor within at least three hundred feet of the boundary of the property upon which the substantial development is proposed;

(b) Posting of the notice in a conspicuous manner on the property upon which the project is to be constructed; or

(c) Any other manner deemed appropriate by local authorities to accomplish the objectives of reasonable notice to adjacent landowners and the public.

The notices shall include a statement that any person desiring to submit written comments concerning an application, or desiring to receive notification of the final decision concerning an application as expeditiously as possible after the issuance of the decision, may submit the comments or requests for decisions to the local government within thirty days of the last date the notice is to be published pursuant to this subsection. The local government shall forward, in a timely manner following the issuance of a decision, a copy of the decision to each person who submits a request for the decision.

If a hearing is to be held on an application, notices of such a hearing shall include a statement that any person may submit oral or written comments on an application at the hearing.

(5) The system shall include provisions to assure that construction pursuant to a permit will not begin or be authorized until twenty-one days from the date ~~((the permit decision was filed))~~ of receipt as provided in subsection (6) of this section; or until all review proceedings are terminated if the proceedings were initiated within twenty-one days from the date of ~~((filing))~~ receipt as defined in subsection (6) of this section except as follows:

(a) In the case of any permit issued to the state of Washington, department of transportation, for the construction and modification of SR 90 (I-90) on or adjacent to Lake Washington, the construction may begin after thirty days from the date of filing, and the permits are valid until December 31, 1995;

(b) Construction may be commenced no sooner than thirty days after the date of the appeal of the board's decision is filed if a permit is granted by the local government and (i) the granting of the permit is appealed to the shorelines hearings board within twenty-one days of the date of ~~((filing))~~ receipt, (ii) the hearings board approves the granting of the permit by the local government or approves a portion of the substantial development for which the local government issued the permit, and (iii) an appeal for judicial review of the hearings board decision is filed pursuant to chapter 34.05 RCW. The appellant

may request, within ten days of the filing of the appeal with the court, a hearing before the court to determine whether construction pursuant to the permit approved by the hearings board or to a revised permit issued pursuant to the order of the hearings board should not commence. If, at the conclusion of the hearing, the court finds that construction pursuant to such a permit would involve a significant, irreversible damaging of the environment, the court shall prohibit the permittee from commencing the construction pursuant to the approved or revised permit until all review proceedings are final. Construction pursuant to a permit revised at the direction of the hearings board may begin only on that portion of the substantial development for which the local government had originally issued the permit, and construction pursuant to such a revised permit on other portions of the substantial development may not begin until after all review proceedings are terminated. In such a hearing before the court, the burden of proving whether the construction may involve significant irreversible damage to the environment and demonstrating whether such construction would or would not be appropriate is on the appellant;

(c) If the permit is for a substantial development meeting the requirements of subsection (11) of this section, construction pursuant to that permit may not begin or be authorized until twenty-one days from the date (~~the permit decision was filed~~) of receipt as provided in subsection (6) of this section.

If a permittee begins construction pursuant to subsections (a), (b), or (c) of this subsection, the construction is begun at the permittee's own risk. If, as a result of judicial review, the courts order the removal of any portion of the construction or the restoration of any portion of the environment involved or require the alteration of any portion of a substantial development constructed pursuant to a permit, the permittee is barred from recovering damages or costs involved in adhering to such requirements from the local government that granted the permit, the hearings board, or any appellant or intervener.

(6) Any decision on an application for a permit under the authority of this section, whether it is an approval or a denial, shall, concurrently with the transmittal of the ruling to the applicant, be (~~filed with~~) transmitted to the department and the attorney general. A petition for review of such a decision must be commenced within twenty-one days from the date of receipt of the decision. With regard to a permit other than a permit governed by subsection (10) of this section, "date of (~~filing~~) receipt" as used herein (~~means~~) refers to the date (~~of actual receipt by the department~~) that the applicant receives written notice from the department that the department has received the decision. With regard to a permit for a variance or a conditional use, "date of (~~filing~~) receipt" means the date a local government or applicant receives the written decision of the department rendered on the permit pursuant to subsection (10) of this section (~~is transmitted by the department to the local government. The department shall notify in writing the local government and the applicant of the date of filing~~). For the purposes of this subsection, the term "date of receipt" has the same meaning as provided in RCW 43.21B.001.

(7) Applicants for permits under this section have the burden of proving that a proposed substantial development is consistent with the criteria that must be met before a permit is granted. In any review of the granting or denial of an application for a permit as provided in RCW 90.58.180 (1) and (2), the person requesting the review has the burden of proof.

(8) Any permit may, after a hearing with adequate notice to the permittee and the public, be rescinded by the issuing authority upon the finding that a permittee has not complied with conditions of a permit. If the department is of the opinion that noncompliance exists, the department shall provide written notice to the local government and the permittee. If the department is of the opinion that the noncompliance continues to exist thirty days after the date of the notice, and the local government has taken no action to rescind the permit, the department may petition the hearings board for a rescission of the permit upon written notice of the petition to the local government and the permittee if the request by the department is made to the hearings board within fifteen days of the termination of the thirty-day notice to the local government.

(9) The holder of a certification from the governor pursuant to chapter 80.50 RCW shall not be required to obtain a permit under this section.

(10) Any permit for a variance or a conditional use by local government under approved master programs must be submitted to the department for its approval or disapproval.

(11)(a) An application for a substantial development permit for a limited utility extension or for the construction of a bulkhead or other measures to protect a single family residence and its appurtenant structures from shoreline erosion shall be subject to the following procedures:

(i) The public comment period under subsection (4) of this section shall be twenty days. The notice provided under subsection (4) of this section shall state the manner in which the public may obtain a copy of the local government decision on the application no later than two days following its issuance;

(ii) The local government shall issue its decision to grant or deny the permit within twenty-one days of the last day of the comment period specified in (i) of this subsection; and

(iii) If there is an appeal of the decision to grant or deny the permit to the local government legislative authority, the appeal shall be finally determined by the legislative authority within thirty days.

(b) For purposes of this section, a limited utility extension means the extension of a utility service that:

(i) Is categorically exempt under chapter 43.21C RCW for one or more of the following: Natural gas, electricity, telephone, water, or sewer;

(ii) Will serve an existing use in compliance with this chapter; and

(iii) Will not extend more than twenty-five hundred linear feet within the shorelines of the state.

Sec. 37. RCW 90.58.180 and 2003 c 393 s 22 are each amended to read as follows:

(1) Any person aggrieved by the granting, denying, or rescinding of a permit on shorelines of the state pursuant to RCW 90.58.140 may, except as otherwise provided in chapter 43.21L RCW, seek review from the shorelines hearings board by filing a petition for review within twenty-one days of the date of ~~((filing))~~ receipt of the decision as ~~((defined))~~ provided for in RCW 90.58.140(6).

Within seven days of the filing of any petition for review with the board as provided in this section pertaining to a final decision of a local government, the petitioner shall serve copies of the petition on the department, the office of the attorney general, and the local government. The department and the attorney

general may intervene to protect the public interest and (~~insure~~) ensure that the provisions of this chapter are complied with at any time within fifteen days from the date of the receipt by the department or the attorney general of a copy of the petition for review filed pursuant to this section. The shorelines hearings board shall schedule review proceedings on the petition for review without regard as to whether the period for the department or the attorney general to intervene has or has not expired.

(2) The department or the attorney general may obtain review of any final decision granting a permit, or granting or denying an application for a permit issued by a local government by filing a written petition with the shorelines hearings board and the appropriate local government within twenty-one days from the date (~~the final decision was filed~~) of receipt as provided in RCW 90.58.140(6).

(3) The review proceedings authorized in subsections (1) and (2) of this section are subject to the provisions of chapter 34.05 RCW pertaining to procedures in adjudicative proceedings. Judicial review of such proceedings of the shorelines hearings board is governed by chapter 34.05 RCW. The board shall issue its decision on the appeal authorized under subsections (1) and (2) of this section within one hundred eighty days after the date the petition is filed with the board or a petition to intervene is filed by the department or the attorney general, whichever is later. The time period may be extended by the board for a period of thirty days upon a showing of good cause or may be waived by the parties.

(4) Any person may appeal any rules, regulations, or guidelines adopted or approved by the department within thirty days of the date of the adoption or approval. The board shall make a final decision within sixty days following the hearing held thereon.

(5) The board shall find the rule, regulation, or guideline to be valid and enter a final decision to that effect unless it determines that the rule, regulation, or guideline:

- (a) Is clearly erroneous in light of the policy of this chapter; or
- (b) Constitutes an implementation of this chapter in violation of constitutional or statutory provisions; or
- (c) Is arbitrary and capricious; or
- (d) Was developed without fully considering and evaluating all material submitted to the department during public review and comment; or
- (e) Was not adopted in accordance with required procedures.

(6) If the board makes a determination under subsection (5)(a) through (e) of this section, it shall enter a final decision declaring the rule, regulation, or guideline invalid, remanding the rule, regulation, or guideline to the department with a statement of the reasons in support of the determination, and directing the department to adopt, after a thorough consultation with the affected local government and any other interested party, a new rule, regulation, or guideline consistent with the board's decision.

(7) A decision of the board on the validity of a rule, regulation, or guideline shall be subject to review in superior court, if authorized pursuant to chapter 34.05 RCW. A petition for review of the decision of the shorelines hearings board on a rule, regulation, or guideline shall be filed within thirty days after the date of final decision by the shorelines hearings board.

Sec. 38. RCW 90.58.190 and 2003 c 321 s 4 are each amended to read as follows:

(1) The appeal of the department's decision to adopt a master program or amendment pursuant to RCW 90.58.070(2) or 90.58.090(5) is governed by RCW 34.05.510 through 34.05.598.

(2)(a) The department's final decision to approve~~(;)~~ or reject~~(; or modify)~~ a proposed master program or master program amendment ~~((adopted))~~ by a local government planning under RCW 36.70A.040 shall be appealed to the growth management hearings board ~~((with jurisdiction over the local government. The appeal shall be initiated))~~ by filing a petition within sixty days from the date of the department's written notice to the local government of the department's final decision to approve or reject a proposed master program or master program amendment, as provided in RCW ((36.70A.250 through 36.70A.320)) 36.70A.290. The department's written notice must conspicuously and plainly state that it is the department's final decision and that there will be no further modifications under RCW 90.58.090(2).

(b) If the appeal to the growth management hearings board concerns shorelines, the growth management hearings board shall review the proposed master program or amendment solely for compliance with the requirements of this chapter, the policy of RCW 90.58.020 and the applicable guidelines, the internal consistency provisions of RCW 36.70A.070, 36.70A.040(4), 35.63.125, and 35A.63.105, and chapter 43.21C RCW as it relates to the adoption of master programs and amendments under chapter 90.58 RCW.

(c) If the appeal to the growth management hearings board concerns a shoreline of statewide significance, the board shall uphold the decision by the department unless the board, by clear and convincing evidence, determines that the decision of the department is inconsistent with the policy of RCW 90.58.020 and the applicable guidelines.

(d) The appellant has the burden of proof in all appeals to the growth management hearings board under this subsection.

(e) Any party aggrieved by a final decision of a growth management hearings board under this subsection may appeal the decision to superior court as provided in RCW 36.70A.300.

(3)(a) The department's final decision to approve~~(;)~~ or reject~~(; or modify)~~ a proposed master program or master program amendment by a local government not planning under RCW 36.70A.040 shall be appealed to the shorelines hearings board by filing a petition within thirty days of the date of the department's written notice to the local government of the department's final decision to approve~~(;)~~ or reject~~(; or modify)~~ a proposed master program or master program amendment ~~((as provided in RCW 90.58.090(2)))~~. The department's written notice must conspicuously and plainly state that it is the department's final decision and that there will be no further modifications under RCW 90.58.090(2).

(b) In an appeal relating to shorelines, the shorelines hearings board shall review the proposed master program or master program amendment and, after full consideration of the presentations of the local government and the department, shall determine the validity of the local government's master program or amendment in light of the policy of RCW 90.58.020 and the applicable guidelines.

(c) In an appeal relating to shorelines of statewide significance, the shorelines hearings board shall uphold the decision by the department unless the board determines, by clear and convincing evidence that the decision of the department is inconsistent with the policy of RCW 90.58.020 and the applicable guidelines.

(d) Review by the shorelines hearings board shall be considered an adjudicative proceeding under chapter 34.05 RCW, the administrative procedure act. The aggrieved local government shall have the burden of proof in all such reviews.

(e) Whenever possible, the review by the shorelines hearings board shall be heard within the county where the land subject to the proposed master program or master program amendment is primarily located. The department and any local government aggrieved by a final decision of the hearings board may appeal the decision to superior court as provided in chapter 34.05 RCW.

(4) A master program amendment shall become effective after the approval of the department or after the decision of the shorelines hearings board to uphold the master program or master program amendment, provided that the board may remand the master program or master program adjustment to the local government or the department for modification prior to the final adoption of the master program or master program amendment.

Sec. 39. RCW 90.58.210 and 1995 c 403 s 637 are each amended to read as follows:

(1) Except as provided in RCW 43.05.060 through 43.05.080 and 43.05.150, the attorney general or the attorney for the local government shall bring such injunctive, declaratory, or other actions as are necessary to ~~((insure))~~ ensure that no uses are made of the shorelines of the state in conflict with the provisions and programs of this chapter, and to otherwise enforce the provisions of this chapter.

(2) Any person who shall fail to conform to the terms of a permit issued under this chapter or who shall undertake development on the shorelines of the state without first obtaining any permit required under this chapter shall also be subject to a civil penalty not to exceed one thousand dollars for each violation. Each permit violation or each day of continued development without a required permit shall constitute a separate violation.

(3) The penalty provided for in this section shall be imposed by a notice in writing, either by certified mail with return receipt requested or by personal service, to the person incurring the same from the department or local government, describing the violation with reasonable particularity and ordering the act or acts constituting the violation or violations to cease and desist or, in appropriate cases, requiring necessary corrective action to be taken within a specific and reasonable time.

(4) ~~((Within thirty days after the notice is received, the person incurring the penalty may apply in writing to the department for remission or mitigation of such penalty. Upon receipt of the application, the department or local government may remit or mitigate the penalty upon whatever terms the department or local government in its discretion deems proper.))~~ The person incurring the penalty may appeal within thirty days from the date of receipt of the penalty. The term "date of receipt" has the same meaning as provided in RCW 43.21B.001. Any penalty imposed pursuant to this section by the

department shall be subject to review by the shorelines hearings board. Any penalty imposed pursuant to this section by local government shall be subject to review by the local government legislative authority. Any penalty jointly imposed by the department and local government shall be appealed to the shorelines hearings board.

Sec. 40. RCW 90.58.560 and 1995 c 403 s 638 are each amended to read as follows:

(1) Except as provided in RCW 43.05.060 through 43.05.080 and 43.05.150, a person who violates RCW 90.58.550, or any rule adopted thereunder, is subject to a penalty in an amount of up to five thousand dollars a day for every such violation. Each and every such violation shall be a separate and distinct offense, and in case of a continuing violation, every day's continuance shall be and be deemed to be a separate and distinct violation. Every act of commission or omission which procures, aids or abets in the violation shall be considered a violation under the provisions of this section and subject to the penalty provided for in this section.

(2) The penalty shall be imposed by a notice in writing, either by certified mail with return receipt requested or by personal service, to the person incurring the penalty from the director or the director's representative describing such violation with reasonable particularity. ~~((The director or the director's representative may, upon written application therefor received within fifteen days after notice imposing any penalty is received by the person incurring the penalty, and when deemed to carry out the purposes of this chapter, remit or mitigate any penalty provided for in this section upon such terms as he or she deems proper, and shall have authority to ascertain the facts upon all such applications in such manner and under such regulations as he or she may deem proper.))~~

(3) Any person incurring any penalty under this section may appeal the penalty to the hearings board as provided for in chapter 43.21B RCW. Such appeals shall be filed within thirty days from the date of receipt of ~~((notice imposing any))~~ the penalty ~~((unless an application for remission or mitigation is made to the department. When an application for remission or mitigation is made, such appeals shall be filed within thirty days of receipt of notice from the director or the director's representative setting forth the disposition of the application)).~~ Any penalty imposed under this section shall become due and payable thirty days after receipt of a notice imposing the same unless ~~((application for remission or mitigation is made or))~~ an appeal is filed. ~~((When an application for remission or mitigation is made, any penalty incurred hereunder shall become due and payable thirty days after receipt of notice setting forth the disposition of the application unless an appeal is filed from such disposition.))~~ Whenever an appeal of any penalty incurred under this section is filed, the penalty shall become due and payable only upon completion of all review proceedings and the issuance of a final order confirming the penalty in whole or in part.

(4) If the amount of any penalty is not paid to the department within thirty days after it becomes due and payable, the attorney general, upon the request of the director, shall bring an action in the name of the state of Washington in the superior court of Thurston county or of any county in which such violator may do business, to recover such penalty. In all such actions the procedure and rules

of evidence shall be the same as an ordinary civil action except as otherwise provided in this chapter (~~provided~~). All penalties recovered under this section shall be paid into the state treasury and credited to the general fund.

NEW SECTION. Sec. 41. The following acts or parts of acts are each repealed:

(1) RCW 43.21B.190 (Judicial review—Appeal from board's order) and 2004 c 204 s 2, 1995 c 382 s 4, 1994 c 253 s 7, 1988 c 202 s 43, & 1970 ex.s. c 62 s 49;

(2) RCW 76.09.210 (Forest practices appeals board—Created—Membership—Terms—Vacancies—Removal) and 1979 ex.s. c 47 s 4 & 1974 ex.s. c 137 s 21;

(3) RCW 76.09.220 (Forest practices appeals board—Compensation—Travel expenses—Chair—Office—Quorum—Powers and duties—Jurisdiction—Review) and 2007 c 480 s 8, 2003 c 393 s 20, 1999 sp.s. c 4 s 902, & 1999 c 90 s 1;

(4) RCW 76.09.230 (Forest practices appeals board—Mediation—Appeal procedure—Judicial review) and 1994 c 253 s 9, 1992 c 52 s 23, 1989 c 175 s 165, & 1974 ex.s. c 137 s 23;

(5) RCW 77.55.301 (Hydraulic appeals board—Members—Jurisdiction—Procedures) and 2005 c 146 s 801, 2003 c 393 s 21, 2000 c 107 s 20, 1996 c 276 s 2, 1993 sp.s. c 2 s 37, 1989 c 175 s 160, 1988 c 272 s 3, 1988 c 36 s 37, & 1986 c 173 s 4; and

(6) RCW 77.55.311 (Hydraulic appeals board—Procedures) and 2005 c 146 s 802, 1995 c 382 s 7, 1989 c 175 s 161, & 1986 c 173 s 5.

NEW SECTION. Sec. 42. (1) This act applies prospectively only and not retroactively. It applies only to appeals that are commenced on or after the effective date of this section. The repeals in section 41 of this act do not affect any existing right acquired or liability or obligation incurred under the statutes repealed or under any rule or order adopted under those statutes nor do they affect any proceeding instituted under them.

(2) All pending cases before the forest practices appeals board and the hydraulics appeals board shall be continued and acted upon by those boards. All existing rules of the forest practices appeals board shall remain in effect and be used by the pollution control hearings board until the pollution control hearings board adopts superceding rules for forest practices appeals.

NEW SECTION. Sec. 43. A new section is added to chapter 36.70A RCW to read as follows:

(1) The powers, duties, and functions of the growth management hearings board are hereby transferred to the environmental and land use hearings office.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the growth management hearings board shall be delivered to the custody of the environmental and land use hearings office. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the growth management hearings board shall be made available to the environmental and land use hearings office. All funds, credits, or other assets held by the growth management hearings board shall be assigned to the environmental and land use hearings office.

(b) Any appropriations made to the growth management hearings board shall, on the effective date of this section, be transferred and credited to the environmental and land use hearings office.

(c) If any question arises as to the transfer of any personnel, funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

(3) All employees of the growth management hearings board are transferred to the jurisdiction of the environmental and land use hearings office. All employees classified under chapter 41.06 RCW, the state civil service law, are assigned to the environmental and land use hearings office to perform their usual duties upon the same terms as formerly, without any loss of rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing state civil service.

(4) All existing rules and all pending cases before the growth management hearings board shall be continued and acted upon by the growth management hearings board located within the environmental and land use hearings office. All pending business, existing contracts, and obligations shall remain in full force and shall be performed by the environmental and land use hearings office.

(5) The transfer of the powers, duties, functions, and personnel of the growth management hearings board shall not affect the validity of any act performed before the effective date of this section.

(6) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification.

NEW SECTION. Sec. 44. (1) Sections 1, 3, 5, 7, 9 through 14, and 16 through 42 of this act take effect July 1, 2010.

(2) Sections 2, 4, 6, 15, 43, and 46 of this act take effect July 1, 2011. The chief executive officer of the environmental hearings office may take the necessary steps to ensure that these sections are implemented on their effective date.

(3) Section 8 of this act takes effect June 30, 2019.

NEW SECTION. Sec. 45. (1) Sections 3 and 5 of this act expire July 1, 2011.

(2) Section 7 of this act expires June 30, 2019.

NEW SECTION. Sec. 46. The following acts or parts of acts are each repealed:

(1) RCW 43.21L.005 (Purpose) and 2003 c 393 s 1;

(2) RCW 43.21L.010 (Definitions) and 2003 c 393 s 2;

(3) RCW 43.21L.020 (Exclusive review process—Exception—Procedural rules) and 2003 c 393 s 3;

(4) RCW 43.21L.030 (Designation as qualifying project—Request for determination—Duties of office of permit assistance) and 2003 c 393 s 4;

- (5) RCW 43.21L.040 (Environmental and land use hearings board) and 2003 c 393 s 5;
- (6) RCW 43.21L.050 (Review proceedings—Commencement—Rules for filing and service) and 2003 c 393 s 6;
- (7) RCW 43.21L.060 (Standing) and 2003 c 393 s 7;
- (8) RCW 43.21L.070 (Petition requirements) and 2003 c 393 s 8;
- (9) RCW 43.21L.080 (Affidavit certifying applications for permits—Initial hearing on jurisdictional and preliminary matters) and 2003 c 393 s 9;
- (10) RCW 43.21L.090 (Expedited review of petitions) and 2003 c 393 s 10;
- (11) RCW 43.21L.100 (Stay or suspension of board action) and 2003 c 393 s 11;
- (12) RCW 43.21L.110 (Decision record—Certified copy to board—Costs) and 2003 c 393 s 12;
- (13) RCW 43.21L.120 (Board review of permit decisions—Correction of errors and omissions—Pretrial discovery—Requests for records under chapter 42.56 RCW) and 2005 c 274 s 295 & 2003 c 393 s 13;
- (14) RCW 43.21L.130 (Standards for granting relief—Action by board) and 2003 c 393 s 14;
- (15) RCW 43.21L.140 (Judicial review) and 2003 c 393 s 15;
- (16) RCW 43.21L.900 (Implementation—2003 c 393) and 2003 c 393 s 24;
- and
- (17) RCW 43.21L.901 (Effective date—2003 c 393) and 2003 c 393 s 25.

Passed by the House March 9, 2010.

Passed by the Senate March 8, 2010.

Approved by the Governor March 25, 2010.

Filed in Office of Secretary of State March 26, 2010.

CHAPTER 211

[Substitute Senate Bill 6214]

GROWTH MANAGEMENT HEARINGS BOARDS—RESTRUCTURING

AN ACT Relating to restructuring three growth management hearings boards into one board; amending RCW 36.70A.130, 36.70A.172, 36.70A.250, 36.70A.260, 36.70A.270, 36.70A.280, 36.70A.290, 36.70A.295, 36.70A.302, 36.70A.310, 36.70A.3201, 36.70A.345, 90.58.190, 34.05.518, and 34.12.020; reenacting and amending RCW 36.70A.110; creating a new section; and providing an effective date.

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

Sec. 1. RCW 36.70A.110 and 2009 c 342 s 1 and 2009 c 121 s 1 are each reenacted and amended to read as follows:

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

(2) Based upon the growth management population projection made for the county by the office of financial management, the county and each city within the county shall include areas and densities sufficient to permit the urban growth that is projected to occur in the county or city for the succeeding twenty-year period, except for those urban growth areas contained totally within a national historical reserve. As part of this planning process, each city within the county must include areas sufficient to accommodate the broad range of needs and uses that will accompany the projected urban growth including, as appropriate, medical, governmental, institutional, commercial, service, retail, and other nonresidential uses.

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

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

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

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

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

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

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

(8)(a) Except as provided in (b) of this subsection, the expansion of an urban growth area is prohibited into the one hundred year floodplain of any river or river segment that: (i) Is located west of the crest of the Cascade mountains; and (ii) has a mean annual flow of one thousand or more cubic feet per second as determined by the department of ecology.

(b) Subsection (8)(a) of this section does not apply to:

(i) Urban growth areas that are fully contained within a floodplain and lack adjacent buildable areas outside the floodplain;

(ii) Urban growth areas where expansions are precluded outside floodplains because:

(A) Urban governmental services cannot be physically provided to serve areas outside the floodplain; or

(B) Expansions outside the floodplain would require a river or estuary crossing to access the expansion; or

(iii) Urban growth area expansions where:

(A) Public facilities already exist within the floodplain and the expansion of an existing public facility is only possible on the land to be included in the urban growth area and located within the floodplain; or

(B) Urban development already exists within a floodplain as of July 26, 2009, and is adjacent to, but outside of, the urban growth area, and the expansion of the urban growth area is necessary to include such urban development within the urban growth area; or

(C) The land is owned by a jurisdiction planning under this chapter or the rights to the development of the land have been permanently extinguished, and the following criteria are met:

(I) The permissible use of the land is limited to one of the following: Outdoor recreation; environmentally beneficial projects, including but not limited to habitat enhancement or environmental restoration; storm water facilities; flood control facilities; or underground conveyances; and

(II) The development and use of such facilities or projects will not decrease flood storage, increase storm water runoff, discharge pollutants to fresh or salt

waters during normal operations or floods, or increase hazards to people and property.

(c) For the purposes of this subsection (8), "one hundred year floodplain" means the same as "special flood hazard area" as set forth in WAC 173-158-040 as it exists on July 26, 2009.

Sec. 2. RCW 36.70A.130 and 2009 c 479 s 23 are each amended to read as follows:

(1)(a) Each comprehensive land use plan and development regulations shall be subject to continuing review and evaluation by the county or city that adopted them. Except as otherwise provided, a county or city shall take legislative action to review and, if needed, revise its comprehensive land use plan and development regulations to ensure the plan and regulations comply with the requirements of this chapter according to the time periods specified in subsection (4) of this section.

(b) Except as otherwise provided, a county or city not planning under RCW 36.70A.040 shall take action to review and, if needed, revise its policies and development regulations regarding critical areas and natural resource lands adopted according to this chapter to ensure these policies and regulations comply with the requirements of this chapter according to the time periods specified in subsection (4) of this section. Legislative action means the adoption of a resolution or ordinance following notice and a public hearing indicating at a minimum, a finding that a review and evaluation has occurred and identifying the revisions made, or that a revision was not needed and the reasons therefor.

(c) The review and evaluation required by this subsection may be combined with the review required by subsection (3) of this section. The review and evaluation required by this subsection shall include, but is not limited to, consideration of critical area ordinances and, if planning under RCW 36.70A.040, an analysis of the population allocated to a city or county from the most recent ten-year population forecast by the office of financial management.

(d) Any amendment of or revision to a comprehensive land use plan shall conform to this chapter. Any amendment of or revision to development regulations shall be consistent with and implement the comprehensive plan.

(2)(a) Each county and city shall establish and broadly disseminate to the public a public participation program consistent with RCW 36.70A.035 and 36.70A.140 that identifies procedures and schedules whereby updates, proposed amendments, or revisions of the comprehensive plan are considered by the governing body of the county or city no more frequently than once every year. "Updates" means to review and revise, if needed, according to subsection (1) of this section, and the time periods specified in subsection (4) of this section or in accordance with the provisions of subsections (5) and (8) of this section. Amendments may be considered more frequently than once per year under the following circumstances:

(i) The initial adoption of a subarea plan that does not modify the comprehensive plan policies and designations applicable to the subarea;

(ii) The adoption or amendment of a shoreline master program under the procedures set forth in chapter 90.58 RCW;

(iii) The amendment of the capital facilities element of a comprehensive plan that occurs concurrently with the adoption or amendment of a county or city budget;

(iv) Until June 30, 2006, the designation of recreational lands under RCW 36.70A.1701. A county amending its comprehensive plan pursuant to this subsection (2)(a)(iv) may not do so more frequently than every eighteen months; and

(v) The adoption of comprehensive plan amendments necessary to enact a planned action under RCW 43.21C.031(2), provided that amendments are considered in accordance with the public participation program established by the county or city under this subsection (2)(a) and all persons who have requested notice of a comprehensive plan update are given notice of the amendments and an opportunity to comment.

(b) Except as otherwise provided in (a) of this subsection, all proposals shall be considered by the governing body concurrently so the cumulative effect of the various proposals can be ascertained. However, after appropriate public participation a county or city may adopt amendments or revisions to its comprehensive plan that conform with this chapter whenever an emergency exists or to resolve an appeal of a comprehensive plan filed with ((a)) the growth management hearings board or with the court.

(3)(a) Each county that designates urban growth areas under RCW 36.70A.110 shall review, at least every ten years, its designated urban growth area or areas, and the densities permitted within both the incorporated and unincorporated portions of each urban growth area. In conjunction with this review by the county, each city located within an urban growth area shall review the densities permitted within its boundaries, and the extent to which the urban growth occurring within the county has located within each city and the unincorporated portions of the urban growth areas.

(b) The county comprehensive plan designating urban growth areas, and the densities permitted in the urban growth areas by the comprehensive plans of the county and each city located within the urban growth areas, shall be revised to accommodate the urban growth projected to occur in the county for the succeeding twenty-year period. The review required by this subsection may be combined with the review and evaluation required by RCW 36.70A.215.

(4) The department shall establish a schedule for counties and cities to take action to review and, if needed, revise their comprehensive plans and development regulations to ensure the plan and regulations comply with the requirements of this chapter. Except as provided in subsections (5) and (8) of this section, the schedule established by the department shall provide for the reviews and evaluations to be completed as follows:

(a) On or before December 1, 2004, and every seven years thereafter, for Clallam, Clark, Jefferson, King, Kitsap, Pierce, Snohomish, Thurston, and Whatcom counties and the cities within those counties;

(b) On or before December 1, 2005, and every seven years thereafter, for Cowlitz, Island, Lewis, Mason, San Juan, Skagit, and Skamania counties and the cities within those counties;

(c) On or before December 1, 2006, and every seven years thereafter, for Benton, Chelan, Douglas, Grant, Kittitas, Spokane, and Yakima counties and the cities within those counties; and

(d) On or before December 1, 2007, and every seven years thereafter, for Adams, Asotin, Columbia, Ferry, Franklin, Garfield, Grays Harbor, Klickitat,

Lincoln, Okanogan, Pacific, Pend Oreille, Stevens, Wahkiakum, Walla Walla, and Whitman counties and the cities within those counties.

(5)(a) Nothing in this section precludes a county or city from conducting the review and evaluation required by this section before the time limits established in subsection (4) of this section. Counties and cities may begin this process early and may be eligible for grants from the department, subject to available funding, if they elect to do so.

(b) A county that is subject to a schedule established by the department under subsection (4)(b) through (d) of this section and meets the following criteria may comply with the requirements of this section at any time within the thirty-six months following the date established in the applicable schedule: The county has a population of less than fifty thousand and has had its population increase by no more than seventeen percent in the ten years preceding the date established in the applicable schedule as of that date.

(c) A city that is subject to a schedule established by the department under subsection (4)(b) through (d) of this section and meets the following criteria may comply with the requirements of this section at any time within the thirty-six months following the date established in the applicable schedule: The city has a population of no more than five thousand and has had its population increase by the greater of either no more than one hundred persons or no more than seventeen percent in the ten years preceding the date established in the applicable schedule as of that date.

(d) State agencies are encouraged to provide technical assistance to the counties and cities in the review of critical area ordinances, comprehensive plans, and development regulations.

(6) A county or city subject to the time periods in subsection (4)(a) of this section that, pursuant to an ordinance adopted by the county or city establishing a schedule for periodic review of its comprehensive plan and development regulations, has conducted a review and evaluation of its comprehensive plan and development regulations and, on or after January 1, 2001, has taken action in response to that review and evaluation shall be deemed to have conducted the first review required by subsection (4)(a) of this section. Subsequent review and evaluation by the county or city of its comprehensive plan and development regulations shall be conducted in accordance with the time periods established under subsection (4)(a) of this section.

(7) The requirements imposed on counties and cities under this section shall be considered "requirements of this chapter" under the terms of RCW 36.70A.040(1). Only those counties and cities: (a) Complying with the schedules in this section; (b) demonstrating substantial progress towards compliance with the schedules in this section for development regulations that protect critical areas; or (c) complying with the extension provisions of subsection (5)(b) or (c) of this section may receive grants, loans, pledges, or financial guarantees under chapter 43.155 or 70.146 RCW. A county or city that is fewer than twelve months out of compliance with the schedules in this section for development regulations that protect critical areas is making substantial progress towards compliance. Only those counties and cities in compliance with the schedules in this section may receive preference for grants or loans subject to the provisions of RCW 43.17.250.

(8) Except as provided in subsection (5)(b) and (c) of this section:

(a) Counties and cities required to satisfy the requirements of this section according to the schedule established by subsection (4)(b) through (d) of this section may comply with the requirements of this section for development regulations that protect critical areas one year after the dates established in subsection (4)(b) through (d) of this section;

(b) Counties and cities complying with the requirements of this section one year after the dates established in subsection (4)(b) through (d) of this section for development regulations that protect critical areas shall be deemed in compliance with the requirements of this section; and

(c) This subsection (8) applies only to the counties and cities specified in subsection (4)(b) through (d) of this section, and only to the requirements of this section for development regulations that protect critical areas that must be satisfied by December 1, 2005, December 1, 2006, and December 1, 2007.

(9) Notwithstanding subsection (8) of this section and the substantial progress provisions of subsections (7) and (10) of this section, only those counties and cities complying with the schedule in subsection (4) of this section, or the extension provisions of subsection (5)(b) or (c) of this section, may receive preferences for grants, loans, pledges, or financial guarantees under chapter 43.155 or 70.146 RCW.

(10) Until December 1, 2005, and notwithstanding subsection (7) of this section, a county or city subject to the time periods in subsection (4)(a) of this section demonstrating substantial progress towards compliance with the schedules in this section for its comprehensive land use plan and development regulations may receive grants, loans, pledges, or financial guarantees under chapter 43.155 or 70.146 RCW. A county or city that is fewer than twelve months out of compliance with the schedules in this section for its comprehensive land use plan and development regulations is deemed to be making substantial progress towards compliance.

Sec. 3. RCW 36.70A.172 and 1995 c 347 s 105 are each amended to read as follows:

(1) In designating and protecting critical areas under this chapter, counties and cities shall include the best available science in developing policies and development regulations to protect the functions and values of critical areas. In addition, counties and cities shall give special consideration to conservation or protection measures necessary to preserve or enhance anadromous fisheries.

(2) If it determines that advice from scientific or other experts is necessary or will be of substantial assistance in reaching its decision, ((a)) the growth management hearings board may retain scientific or other expert advice to assist in reviewing a petition under RCW 36.70A.290 that involves critical areas.

Sec. 4. RCW 36.70A.250 and 1994 c 249 s 29 are each amended to read as follows:

~~((1)) There are hereby created three growth management hearings boards for the state of Washington. The boards shall be established as follows:~~

~~(a) An Eastern Washington board with jurisdictional boundaries including all counties that are required to or choose to plan under RCW 36.70A.040 and are located east of the crest of the Cascade mountains;~~

~~(b) A Central Puget Sound board with jurisdictional boundaries including King, Pierce, Snohomish, and Kitsap counties; and~~

~~(e) A Western Washington board with jurisdictional boundaries including all counties that are required or choose to plan under RCW 36.70A.040 and are located west of the crest of the Cascade mountains and are not included in the Central Puget Sound board jurisdictional boundaries. Skamania county, should it be required or choose to plan under RCW 36.70A.040, may elect to be included within the jurisdictional boundaries of either the Western or Eastern board.~~

~~(2) Each board shall only hear matters pertaining to the cities and counties located within its jurisdictional boundaries.)~~ (1) A growth management hearings board for the state of Washington is created. The board shall consist of seven members qualified by experience or training in matters pertaining to land use law or land use planning and who have experience in the practical application of those matters. All seven board members shall be appointed by the governor, two each residing respectively in the Central Puget Sound, Eastern Washington, and Western Washington regions, plus one board member residing within the state of Washington. At least three members of the board shall be admitted to practice law in this state, one each residing respectively in the Central Puget Sound, Eastern Washington, and Western Washington regions. At least three members of the board shall have been a city or county elected official, one each residing respectively in the Central Puget Sound, Eastern Washington, and Western Washington regions. After expiration of the terms of board members on the previously existing three growth management hearings boards, no more than four members of the seven-member board may be members of the same major political party. No more than two members at the time of their appointment or during their term may reside in the same county.

(2) Each member of the board shall be appointed for a term of six years. A vacancy shall be filled by appointment by the governor for the unexpired portion of the term in which the vacancy occurs. Members of the previously existing three growth management hearings boards appointed before the effective date of this section shall complete their staggered, six-year terms as members of the growth management hearings board created under subsection (1) of this section. The reduction from nine board members on the previously existing three growth management hearings boards to seven total members on the growth management hearings board shall be made through attrition, voluntary resignation, or retirement.

Sec. 5. RCW 36.70A.260 and 1994 c 249 s 30 are each amended to read as follows:

~~((1) Each growth management hearings board shall consist of three members qualified by experience or training in matters pertaining to land use planning and residing within the jurisdictional boundaries of the applicable board. At least one member of each board must be admitted to practice law in this state and at least one member must have been a city or county elected official. Each board shall be appointed by the governor and not more than two members at the time of appointment or during their term shall be members of the same political party. No more than two members at the time of appointment or during their term shall reside in the same county.~~

~~(2) Each member of a board shall be appointed for a term of six years. A vacancy shall be filled by appointment by the governor for the unexpired portion of the term in which the vacancy occurs. The terms of the first three members of~~

~~a board shall be staggered so that one member is appointed to serve until July 1, 1994, one member until July 1, 1996, and one member until July 1, 1998.)) (1) Each petition for review that is filed with the growth management hearings board shall be heard and decided by a regional panel of growth management hearings board members. Regional panels shall be constituted as follows:~~

~~(a) Central Puget Sound Region. A three-member Central Puget Sound panel shall be selected to hear matters pertaining to cities and counties located within the region comprised of King, Pierce, Snohomish, and Kitsap counties.~~

~~(b) Eastern Washington Region. A three-member Eastern Washington panel shall be selected to hear matters pertaining to cities and counties that are required or choose to plan under RCW 36.70A.040 and are located east of the crest of the Cascade mountains.~~

~~(c) Western Washington Region. A three-member Western Washington panel shall be selected to hear matters pertaining to cities and counties that are required or choose to plan under RCW 36.70A.040, are located west of the crest of the Cascade mountains, and are not included in the Central Puget Sound Region. Skamania county, if it is required or chooses to plan under RCW 36.70A.040, may elect to be included within either the Western Washington Region or the Eastern Washington Region.~~

~~(2)(a) Each regional panel selected to hear and decide cases shall consist of three board members, at least a majority of whom shall reside within the region in which the case arose, unless such members cannot sit on a particular case because of recusal or disqualification, or unless the board administrative officer determines that there is an emergency including, but not limited to, the unavailability of a board member due to illness, absence, vacancy, or significant workload imbalance. The presiding officer of each case shall reside within the region in which the case arose, unless the board administrative officer determines that there is an emergency.~~

~~(b) Except as provided otherwise in this subsection (2)(b), each regional panel must: (i) Include one member admitted to practice law in this state; (ii) include one member who has been a city or county elected official; and (iii) reflect the political composition of the board. The requirements of this subsection (2)(b) may be waived by the board administrative officer due to member unavailability, significant workload imbalances, or other reasons.~~

Sec. 6. RCW 36.70A.270 and 1997 c 429 s 11 are each amended to read as follows:

~~((Each))~~ The growth management hearings board shall be governed by the following rules on conduct and procedure:

(1) Any board member may be removed for inefficiency, malfeasance, and misfeasance in office, under specific written charges filed by the governor. The governor shall transmit such written charges to the member accused and the chief justice of the supreme court. The chief justice shall thereupon designate a tribunal composed of three judges of the superior court to hear and adjudicate the charges. Removal of any member of ~~((a))~~ the board by the tribunal shall disqualify such member for reappointment.

(2) Each board member shall receive reimbursement for travel expenses incurred in the discharge of his or her duties in accordance with RCW 43.03.050 and 43.03.060. ~~((If it is determined that the review boards shall operate on a full-time basis,))~~ Each member shall receive an annual salary to be determined

by the governor pursuant to RCW 43.03.040. ~~((If it is determined that a review board shall operate on a part-time basis, each member shall receive compensation pursuant to RCW 43.03.250, provided such amount shall not exceed the amount that would be set if they were a full-time board member.))~~ The principal office of ~~((each))~~ the board shall be located ~~((by the governor within the jurisdictional boundaries of each board. The boards shall operate on either a part-time or full-time basis, as determined by the governor))~~ in Olympia.

(3) Each board member shall not: (a) Be a candidate for or hold any other public office or trust; (b) engage in any occupation or business interfering with or inconsistent with his or her duty as a board member; and (c) for a period of one year after the termination of his or her board membership, act in a representative capacity before the board on any matter.

(4) A majority of ~~((each))~~ the board shall constitute a quorum for ~~((making orders or decisions,))~~ adopting rules necessary for the conduct of its powers and duties~~(s)~~ or transacting other official business, and may act even though one position of the board is vacant. One or more members may hold hearings and take testimony to be reported for action by the board when authorized by rule or order of the board. The board shall perform all the powers and duties specified in this chapter or as otherwise provided by law.

(5) The board may appoint one or more hearing examiners to assist the board in its hearing function, to make conclusions of law and findings of fact and, if requested by the board, to make recommendations to the board for decisions in cases before the board. Such hearing examiners must have demonstrated knowledge of land use planning and law. The board~~(s)~~ shall specify in ~~((their joint))~~ its rules of practice and procedure, as required by subsection (7) of this section, the procedure and criteria to be employed for designating hearing examiners as a presiding officer. Hearing examiners selected by ~~((a))~~ the board shall meet the requirements of subsection (3) of this section. The findings and conclusions of the hearing examiner shall not become final until they have been formally approved by the board. This authorization to use hearing examiners does not waive the requirement of RCW 36.70A.300 that final orders be issued within one hundred eighty days of board receipt of a petition.

(6) ~~((Each))~~ The board shall make findings of fact and prepare a written decision in each case decided by it, and such findings and decision shall be effective upon being signed by two or more members of the ~~((board))~~ regional panel deciding the particular case and upon being filed at the board's principal office, and shall be open for public inspection at all reasonable times.

(7) All proceedings before the board, any of its members, or a hearing examiner appointed by the board shall be conducted in accordance with such administrative rules of practice and procedure as the board~~(s-jointly))~~ prescribes. ~~((All three))~~ The board~~(s)~~ shall ~~((jointly meet to))~~ develop and adopt ~~((joint))~~ rules of practice and procedure, including rules regarding expeditious and summary disposition of appeals and the assignment of cases to regional panels. The board~~(s)~~ shall publish such rules and decisions ~~((they))~~ it renders and arrange for the reasonable distribution of the rules and decisions. Except as it conflicts with specific provisions of this chapter, the administrative procedure act, chapter 34.05 RCW, and specifically including the provisions of

RCW 34.05.455 governing ex parte communications, shall govern the practice and procedure of the board((s)).

(8) A board member or hearing examiner is subject to disqualification under chapter 34.05 RCW. The ~~((joint))~~ rules of practice of the board((s)) shall establish procedures by which a party to a hearing conducted before the board may file with the board a motion to disqualify, with supporting affidavit, against a board member or hearing examiner assigned to preside at the hearing.

(9) ~~((The))~~ All members of the board((s)) shall meet ~~((jointly))~~ on at least an annual basis with the objective of sharing information that promotes the goals and purposes of this chapter.

(10) The board shall annually elect one of its members to be the board administrative officer. The duties and responsibilities of the administrative officer include handling day-to-day administrative, budget, and personnel matters on behalf of the board, together with making case assignments to board members in accordance with the board's rules of procedure in order to achieve a fair and balanced workload among all board members. The administrative officer of the board may carry a reduced caseload to allow time for performing the administrative work functions.

Sec. 7. RCW 36.70A.280 and 2008 c 289 s 5 are each amended to read as follows:

(1) ~~((A))~~ The growth management hearings board shall hear and determine only those petitions alleging either:

(a) That, except as provided otherwise by this subsection, a state agency, county, or city planning under this chapter is not in compliance with the requirements of this chapter, chapter 90.58 RCW as it relates to the adoption of shoreline master programs or amendments thereto, or chapter 43.21C RCW as it relates to plans, development regulations, or amendments, adopted under RCW 36.70A.040 or chapter 90.58 RCW. Nothing in this subsection authorizes ~~((a))~~ the board to hear petitions alleging noncompliance with RCW 36.70A.5801; or

(b) That the twenty-year growth management planning population projections adopted by the office of financial management pursuant to RCW 43.62.035 should be adjusted.

(2) A petition may be filed only by: (a) The state, or a county or city that plans under this chapter; (b) a person who has participated orally or in writing before the county or city regarding the matter on which a review is being requested; (c) a person who is certified by the governor within sixty days of filing the request with the board; or (d) a person qualified pursuant to RCW 34.05.530.

(3) For purposes of this section "person" means any individual, partnership, corporation, association, state agency, governmental subdivision or unit thereof, or public or private organization or entity of any character.

(4) To establish participation standing under subsection (2)(b) of this section, a person must show that his or her participation before the county or city was reasonably related to the person's issue as presented to the board.

(5) When considering a possible adjustment to a growth management planning population projection prepared by the office of financial management, ~~((a))~~ the board shall consider the implications of any such adjustment to the population forecast for the entire state.

The rationale for any adjustment that is adopted by ((a)) the board must be documented and filed with the office of financial management within ten working days after adoption.

If adjusted by ((a)) the board, a county growth management planning population projection shall only be used for the planning purposes set forth in this chapter and shall be known as ((a)) the "board adjusted population projection." None of these changes shall affect the official state and county population forecasts prepared by the office of financial management, which shall continue to be used for state budget and planning purposes.

Sec. 8. RCW 36.70A.290 and 1997 c 429 s 12 are each amended to read as follows:

(1) All requests for review to ((a)) the growth management hearings board shall be initiated by filing a petition that includes a detailed statement of issues presented for resolution by the board. The board shall render written decisions articulating the basis for its holdings. The board shall not issue advisory opinions on issues not presented to the board in the statement of issues, as modified by any prehearing order.

(2) All petitions relating to whether or not an adopted comprehensive plan, development regulation, or permanent amendment thereto, is in compliance with the goals and requirements of this chapter or chapter 90.58 or 43.21C RCW must be filed within sixty days after publication by the legislative bodies of the county or city.

(a) Except as provided in (c) of this subsection, the date of publication for a city shall be the date the city publishes the ordinance, or summary of the ordinance, adopting the comprehensive plan or development regulations, or amendment thereto, as is required to be published.

(b) Promptly after adoption, a county shall publish a notice that it has adopted the comprehensive plan or development regulations, or amendment thereto.

Except as provided in (c) of this subsection, for purposes of this section the date of publication for a county shall be the date the county publishes the notice that it has adopted the comprehensive plan or development regulations, or amendment thereto.

(c) For local governments planning under RCW 36.70A.040, promptly after approval or disapproval of a local government's shoreline master program or amendment thereto by the department of ecology as provided in RCW 90.58.090, the local government shall publish a notice that the shoreline master program or amendment thereto has been approved or disapproved by the department of ecology. For purposes of this section, the date of publication for the adoption or amendment of a shoreline master program is the date the local government publishes notice that the shoreline master program or amendment thereto has been approved or disapproved by the department of ecology.

(3) Unless the board dismisses the petition as frivolous or finds that the person filing the petition lacks standing, or the parties have filed an agreement to have the case heard in superior court as provided in RCW 36.70A.295, the board shall, within ten days of receipt of the petition, set a time for hearing the matter.

(4) The board shall base its decision on the record developed by the city, county, or the state and supplemented with additional evidence if the board

determines that such additional evidence would be necessary or of substantial assistance to the board in reaching its decision.

(5) The board, shall consolidate, when appropriate, all petitions involving the review of the same comprehensive plan or the same development regulation or regulations.

Sec. 9. RCW 36.70A.295 and 1997 c 429 s 13 are each amended to read as follows:

(1) The superior court may directly review a petition for review filed under RCW 36.70A.290 if all parties to the proceeding before the board have agreed to direct review in the superior court. The agreement of the parties shall be in writing and signed by all of the parties to the proceeding or their designated representatives. The agreement shall include the parties' agreement to proper venue as provided in RCW 36.70A.300(5). The parties shall file their agreement with the board within ten days after the date the petition is filed, or if multiple petitions have been filed and the board has consolidated the petitions pursuant to RCW 36.70A.300, within ten days after the board serves its order of consolidation.

(2) Within ten days of receiving the timely and complete agreement of the parties, the board shall file a certificate of agreement with the designated superior court and shall serve the parties with copies of the certificate. The superior court shall obtain exclusive jurisdiction over a petition when it receives the certificate of agreement. With the certificate of agreement the board shall also file the petition for review, any orders entered by the board, all other documents in the board's files regarding the action, and the written agreement of the parties.

(3) For purposes of a petition that is subject to direct review, the superior court's subject matter jurisdiction shall be equivalent to that of the board. Consistent with the requirements of the superior court civil rules, the superior court may consolidate a petition subject to direct review under this section with a separate action filed in the superior court.

(4)(a) Except as otherwise provided in (b) and (c) of this subsection, the provisions of RCW 36.70A.280 through 36.70A.330, which specify the nature and extent of board review, shall apply to the superior court's review.

(b) The superior court:

(i) Shall not have jurisdiction to directly review or modify an office of financial management population projection;

(ii) Except as otherwise provided in RCW 36.70A.300(2)(b), shall render its decision on the petition within one hundred eighty days of receiving the certification of agreement; and

(iii) Shall give a compliance hearing under RCW 36.70A.330(2) the highest priority of all civil matters before the court.

(c) An aggrieved party may secure appellate review of a final judgment of the superior court under this section by the supreme court or the court of appeals. The review shall be secured in the manner provided by law for review of superior court decisions in other civil cases.

(5) If, following a compliance hearing, the court finds that the state agency, county, or city is not in compliance with the court's prior order, the court may use its remedial and contempt powers to enforce compliance.

(6) The superior court shall transmit a copy of its decision and order on direct review to the board, the department, and the governor. If the court has determined that a county or city is not in compliance with the provisions of this chapter, the governor may impose sanctions against the county or city in the same manner as if ~~((a))~~ the board had recommended the imposition of sanctions as provided in RCW 36.70A.330.

(7) After the court has assumed jurisdiction over a petition for review under this section, the superior court civil rules shall govern a request for intervention and all other procedural matters not specifically provided for in this section.

Sec. 10. RCW 36.70A.302 and 1997 c 429 s 16 are each amended to read as follows:

(1) ~~((A))~~ The board may determine that part or all of a comprehensive plan or development regulations are invalid if the board:

(a) Makes a finding of noncompliance and issues an order of remand under RCW 36.70A.300;

(b) Includes in the final order a determination, supported by findings of fact and conclusions of law, that the continued validity of part or parts of the plan or regulation would substantially interfere with the fulfillment of the goals of this chapter; and

(c) Specifies in the final order the particular part or parts of the plan or regulation that are determined to be invalid, and the reasons for their invalidity.

(2) A determination of invalidity is prospective in effect and does not extinguish rights that vested under state or local law before receipt of the board's order by the city or county. The determination of invalidity does not apply to a completed development permit application for a project that vested under state or local law before receipt of the board's order by the county or city or to related construction permits for that project.

(3)(a) Except as otherwise provided in subsection (2) of this section and (b) of this subsection, a development permit application not vested under state or local law before receipt of the board's order by the county or city vests to the local ordinance or resolution that is determined by the board not to substantially interfere with the fulfillment of the goals of this chapter.

(b) Even though the application is not vested under state or local law before receipt by the county or city of the board's order, a determination of invalidity does not apply to a development permit application for:

(i) A permit for construction by any owner, lessee, or contract purchaser of a single-family residence for his or her own use or for the use of his or her family on a lot existing before receipt by the county or city of the board's order, except as otherwise specifically provided in the board's order to protect the public health and safety;

(ii) A building permit and related construction permits for remodeling, tenant improvements, or expansion of an existing structure on a lot existing before receipt of the board's order by the county or city; and

(iii) A boundary line adjustment or a division of land that does not increase the number of buildable lots existing before receipt of the board's order by the county or city.

(4) If the ordinance that adopts a plan or development regulation under this chapter includes a savings clause intended to revive prior policies or regulations in the event the new plan or regulations are determined to be invalid, the board

shall determine under subsection (1) of this section whether the prior policies or regulations are valid during the period of remand.

(5) A county or city subject to a determination of invalidity may adopt interim controls and other measures to be in effect until it adopts a comprehensive plan and development regulations that comply with the requirements of this chapter. A development permit application may vest under an interim control or measure upon determination by the board that the interim controls and other measures do not substantially interfere with the fulfillment of the goals of this chapter.

(6) A county or city subject to a determination of invalidity may file a motion requesting that the board clarify, modify, or rescind the order. The board shall expeditiously schedule a hearing on the motion. At the hearing on the motion, the parties may present information to the board to clarify the part or parts of the comprehensive plan or development regulations to which the final order applies. The board shall issue any supplemental order based on the information provided at the hearing not later than thirty days after the date of the hearing.

(7)(a) If a determination of invalidity has been made and the county or city has enacted an ordinance or resolution amending the invalidated part or parts of the plan or regulation or establishing interim controls on development affected by the order of invalidity, after a compliance hearing, the board shall modify or rescind the determination of invalidity if it determines under the standard in subsection (1) of this section that the plan or regulation, as amended or made subject to such interim controls, will no longer substantially interfere with the fulfillment of the goals of this chapter.

(b) If the board determines that part or parts of the plan or regulation are no longer invalid as provided in this subsection, but does not find that the plan or regulation is in compliance with all of the requirements of this chapter, the board, in its order, may require periodic reports to the board on the progress the jurisdiction is making towards compliance.

Sec. 11. RCW 36.70A.310 and 1994 c 249 s 32 are each amended to read as follows:

A request for review by the state to ~~((a))~~ the growth management hearings board may be made only by the governor, or with the governor's consent the head of an agency, or by the commissioner of public lands as relating to state trust lands, for the review of whether: (1) A county or city that is required or chooses to plan under RCW 36.70A.040 has failed to adopt a comprehensive plan or development regulations, or county-wide planning policies within the time limits established by this chapter; or (2) a county or city that is required or chooses to plan under this chapter has adopted a comprehensive plan, development regulations, or county-wide planning policies, that are not in compliance with the requirements of this chapter.

Sec. 12. RCW 36.70A.3201 and 1997 c 429 s 2 are each amended to read as follows:

~~((In amending RCW 36.70A.320(3) by section 20(3), chapter 429, Laws of 1997,))~~ The legislature intends that the board~~((s-apply))~~ applies a more deferential standard of review to actions of counties and cities than the preponderance of the evidence standard provided for under existing law. In

recognition of the broad range of discretion that may be exercised by counties and cities consistent with the requirements of this chapter, the legislature intends for the board((s)) to grant deference to counties and cities in how they plan for growth, consistent with the requirements and goals of this chapter. Local comprehensive plans and development regulations require counties and cities to balance priorities and options for action in full consideration of local circumstances. The legislature finds that while this chapter requires local planning to take place within a framework of state goals and requirements, the ultimate burden and responsibility for planning, harmonizing the planning goals of this chapter, and implementing a county's or city's future rests with that community.

Sec. 13. RCW 36.70A.345 and 1994 c 249 s 33 are each amended to read as follows:

The governor may impose a sanction or sanctions specified under RCW 36.70A.340 on: (1) A county or city that fails to designate critical areas, agricultural lands, forest lands, or mineral resource lands under RCW 36.70A.170 by the date such action was required to have been taken; (2) a county or city that fails to adopt development regulations under RCW 36.70A.060 protecting critical areas or conserving agricultural lands, forest lands, or mineral resource lands by the date such action was required to have been taken; (3) a county that fails to designate urban growth areas under RCW 36.70A.110 by the date such action was required to have been taken; and (4) a county or city that fails to adopt its comprehensive plan or development regulations when such actions are required to be taken.

Imposition of a sanction or sanctions under this section shall be preceded by written findings by the governor, that either the county or city is not proceeding in good faith to meet the requirements of the act; or that the county or city has unreasonably delayed taking the required action. The governor shall consult with and communicate his or her findings to the ((appropriate)) growth management hearings board prior to imposing the sanction or sanctions. For those counties or cities that are not required to plan or have not opted in, the governor in imposing sanctions shall consider the size of the jurisdiction relative to the requirements of this chapter and the degree of technical and financial assistance provided.

Sec. 14. RCW 90.58.190 and 2003 c 321 s 4 are each amended to read as follows:

(1) The appeal of the department's decision to adopt a master program or amendment pursuant to RCW 90.58.070(2) or 90.58.090(5) is governed by RCW 34.05.510 through 34.05.598.

(2)(a) The department's decision to approve, reject, or modify a proposed master program or amendment adopted by a local government planning under RCW 36.70A.040 shall be appealed to the growth management hearings board ((with jurisdiction over the local government)). The appeal shall be initiated by filing a petition as provided in RCW 36.70A.250 through 36.70A.320.

(b) If the appeal to the growth management hearings board concerns shorelines, the growth management hearings board shall review the proposed master program or amendment solely for compliance with the requirements of this chapter, the policy of RCW 90.58.020 and the applicable guidelines, the

internal consistency provisions of RCW 36.70A.070, 36.70A.040(4), 35.63.125, and 35A.63.105, and chapter 43.21C RCW as it relates to the adoption of master programs and amendments under chapter 90.58 RCW.

(c) If the appeal to the growth management hearings board concerns a shoreline of statewide significance, the board shall uphold the decision by the department unless the board, by clear and convincing evidence, determines that the decision of the department is inconsistent with the policy of RCW 90.58.020 and the applicable guidelines.

(d) The appellant has the burden of proof in all appeals to the growth management hearings board under this subsection.

(e) Any party aggrieved by a final decision of ((a)) the growth management hearings board under this subsection may appeal the decision to superior court as provided in RCW 36.70A.300.

(3)(a) The department's decision to approve, reject, or modify a proposed master program or master program amendment by a local government not planning under RCW 36.70A.040 shall be appealed to the shorelines hearings board by filing a petition within thirty days of the date of the department's written notice to the local government of the department's decision to approve, reject, or modify a proposed master program or master program amendment as provided in RCW 90.58.090(2).

(b) In an appeal relating to shorelines, the shorelines hearings board shall review the proposed master program or master program amendment and, after full consideration of the presentations of the local government and the department, shall determine the validity of the local government's master program or amendment in light of the policy of RCW 90.58.020 and the applicable guidelines.

(c) In an appeal relating to shorelines of statewide significance, the shorelines hearings board shall uphold the decision by the department unless the board determines, by clear and convincing evidence that the decision of the department is inconsistent with the policy of RCW 90.58.020 and the applicable guidelines.

(d) Review by the shorelines hearings board shall be considered an adjudicative proceeding under chapter 34.05 RCW, the Administrative Procedure Act. The aggrieved local government shall have the burden of proof in all such reviews.

(e) Whenever possible, the review by the shorelines hearings board shall be heard within the county where the land subject to the proposed master program or master program amendment is primarily located. The department and any local government aggrieved by a final decision of the hearings board may appeal the decision to superior court as provided in chapter 34.05 RCW.

(4) A master program amendment shall become effective after the approval of the department or after the decision of the shorelines hearings board to uphold the master program or master program amendment, provided that the board may remand the master program or master program adjustment to the local government or the department for modification prior to the final adoption of the master program or master program amendment.

Sec. 15. RCW 34.05.518 and 2003 c 393 s 16 are each amended to read as follows:

(1) The final decision of an administrative agency in an adjudicative proceeding under this chapter may, except as otherwise provided in chapter 43.21L RCW, be directly reviewed by the court of appeals either (a) upon certification by the superior court pursuant to this section or (b) if the final decision is from an environmental board as defined in subsection (3) of this section, upon acceptance by the court of appeals after a certificate of appealability has been filed by the environmental board that rendered the final decision.

(2) For direct review upon certification by the superior court, an application for direct review must be filed with the superior court within thirty days of the filing of the petition for review in superior court. The superior court may certify a case for direct review only if the judicial review is limited to the record of the agency proceeding and the court finds that:

(a) Fundamental and urgent issues affecting the future administrative process or the public interest are involved which require a prompt determination;

(b) Delay in obtaining a final and prompt determination of such issues would be detrimental to any party or the public interest;

(c) An appeal to the court of appeals would be likely regardless of the determination in superior court; and

(d) The appellate court's determination in the proceeding would have significant precedential value.

Procedures for certification shall be established by court rule.

(3)(a) For the purposes of direct review of final decisions of environmental boards, environmental boards include those boards identified in RCW 43.21B.005 and the growth management hearings board(s) as identified in RCW 36.70A.250.

(b) An environmental board may issue a certificate of appealability if it finds that delay in obtaining a final and prompt determination of the issues would be detrimental to any party or the public interest and either:

(i) Fundamental and urgent statewide or regional issues are raised; or

(ii) The proceeding is likely to have significant precedential value.

(4) The environmental board shall state in the certificate of appealability which criteria it applied, explain how that criteria was met, and file with the certificate a copy of the final decision.

(5) For an appellate court to accept direct review of a final decision of an environmental board, it shall consider the same criteria outlined in subsection (3) of this section, except as otherwise provided in chapter 43.21L RCW.

(6) The procedures for direct review of final decisions of environmental boards include:

(a) Within thirty days after filing the petition for review with the superior court, a party may file an application for direct review with the superior court and serve the appropriate environmental board and all parties of record. The application shall request the environmental board to file a certificate of appealability.

(b) If an issue on review is the jurisdiction of the environmental board, the board may file an application for direct review on that issue.

(c) The environmental board shall have thirty days to grant or deny the request for a certificate of appealability and its decision shall be filed with the superior court and served on all parties of record.

(d) If a certificate of appealability is issued, the parties shall have fifteen days from the date of service to file a notice of discretionary review in the superior court, and the notice shall include a copy of the certificate of appealability and a copy of the final decision.

(e) If the appellate court accepts review, the certificate of appealability shall be transmitted to the court of appeals as part of the certified record.

(f) If a certificate of appealability is denied, review shall be by the superior court. The superior court's decision may be appealed to the court of appeals.

Sec. 16. RCW 34.12.020 and 2002 c 354 s 226 are each amended to read as follows:

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

(1) "Office" means the office of administrative hearings.

(2) "Administrative law judge" means any person appointed by the chief administrative law judge to conduct or preside over hearings as provided in this chapter.

(3) "Hearing" means an adjudicative proceeding within the meaning of RCW 34.05.010(1) conducted by a state agency under RCW 34.05.413 through 34.05.476.

(4) "State agency" means any state board, commission, department, or officer authorized by law to make rules or to conduct adjudicative proceedings, except those in the legislative or judicial branches, the growth management hearings board((s)), the utilities and transportation commission, the pollution control hearings board, the shorelines hearings board, the forest practices appeals board, the environmental hearings office, the board of industrial insurance appeals, the Washington personnel resources board, the public employment relations commission, and the board of tax appeals.

NEW SECTION. Sec. 17. (1) The three growth management hearings boards are abolished and their powers, duties, and functions are transferred to the growth management hearings board.

(2) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the three growth management hearings boards must be delivered to the custody of the growth management hearings board. All office furnishings, office equipment, motor vehicles, and other tangible property in the possession of the three growth management hearings boards must be made available to the growth management hearings board.

(3) All funds, credits, or other assets held by the three growth management hearings boards must, on the effective date of this section, be transferred to the growth management hearings board. Any appropriations made to the three growth management hearings boards must, on the effective date of this section, be transferred and credited to the growth management hearings board. If any question arises as to the transfer of any personnel, funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

(4) All employees of the three growth management hearings boards are transferred to the growth management hearings board. All employees classified

under chapter 41.06 RCW, the state civil service law, are assigned to the growth management hearings board to perform their usual duties upon the same terms as formerly, without any loss of rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing state civil service.

(5) This section may not be construed to alter any existing collective bargaining unit or the provisions of any existing collective bargaining agreement until the agreement has expired or until the bargaining unit has been modified by action of the public employment relations commission as provided by law.

(6) All rules and pending business before the three growth management hearings boards must be continued and acted upon by the growth management hearings board. All existing contracts and obligations remain in full force and must be performed by the growth management hearings board.

(7) The transfer of the powers, duties, functions, and personnel of the three growth management hearings boards to the growth management hearings board does not affect the validity of any act performed before the effective date of this section.

(8) All cases decided and all orders previously issued by the three growth management hearings boards remain in full force and effect and are not affected by this act.

NEW SECTION. Sec. 18. This act takes effect July 1, 2010.

Passed by the Senate March 8, 2010.

Passed by the House March 2, 2010.

Approved by the Governor March 25, 2010.

Filed in Office of Secretary of State March 26, 2010.

CHAPTER 212

[Substitute House Bill 3046]

NONPROFIT CORPORATIONS—DISSOLUTION

AN ACT Relating to dissolving the assets and affairs of a nonprofit corporation; amending RCW 7.60.025; adding new sections to chapter 24.03 RCW; creating a new section; repealing RCW 24.03.265, 24.03.270, and 24.03.290; and declaring an emergency.

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

NEW SECTION. Sec. 1. A new section is added to chapter 24.03 RCW to read as follows:

Superior courts may dissolve a nonprofit corporation:

(1) Except as provided in the articles of incorporation or bylaws, in a proceeding by fifty members or members holding at least five percent of the voting power, whichever is less, by one or more directors, or by the attorney general if it is established that:

(a) The directors are deadlocked in the management of the corporate affairs, the members, if any, are unable to break the deadlock, and irreparable injury to the corporation or its mission is threatened or being suffered because of the deadlock;

(b) The directors or those in control of the corporation have acted, are acting, or will act in a manner that is illegal, oppressive, or fraudulent;

(c) The members are deadlocked in voting power and have failed, for a period that includes at least two consecutive annual meeting dates, to elect successors to directors whose terms have, or otherwise would have, expired;

(d) The corporate assets are being misapplied or wasted; or

(e) The corporation has insufficient assets to continue its activities and it is no longer able to assemble a quorum of directors or members;

(2) In a proceeding by a creditor, if it is established that:

(a) The creditor's claim has been reduced to judgment, the execution on the judgment returned unsatisfied, and the corporation is insolvent; or

(b) The corporation has admitted in a record that the creditor's claim is due and owing and the corporation is insolvent; or

(3) In a proceeding by the corporation to have its voluntary dissolution continued under court supervision.

NEW SECTION. Sec. 2. A new section is added to chapter 24.03 RCW to read as follows:

(1) Venue for a proceeding brought by the attorney general to dissolve a corporation pursuant to section 1 of this act lies in the court specified in RCW 24.03.260. Venue for a proceeding brought by any other party named in section 1 of this act lies in the county where a corporation's principal office (or, if none in this state, its registered office) is or was last located.

(2) It is not necessary to make directors or members parties to a proceeding to dissolve a nonprofit corporation unless relief is sought against them individually.

(3) A court in a proceeding brought to dissolve a nonprofit corporation may issue injunctions, appoint a general or custodial receiver with all powers and duties the court directs, take other action required to preserve the corporate assets wherever located, and carry on the activities of the corporation until a full hearing can be held.

(4) A court in a judicial proceeding brought to dissolve a nonprofit corporation may appoint one or more general receivers to wind up and liquidate, or one or more custodial receivers to manage, the affairs of the corporation. The court shall hold a hearing, after giving notice to all parties to the proceeding and any interested persons designated by the court, before appointing a general or custodial receiver. The court appointing a general or custodial receiver has exclusive jurisdiction over the corporation and all of its property wherever located.

(5) The court may require the general or custodial receiver to post bond, with or without sureties, in an amount the court directs.

(6) The court shall describe the powers and duties of the general or custodial receiver in its appointing order, which may be amended from time to time. Among other powers:

(a) The general receiver:

(i) May dispose of all or any part of the assets of the nonprofit corporation wherever located, at a public or private sale, if authorized by the court; and

(ii) May sue and defend in his or her own name as general receiver of the corporation in all courts of this state;

(b) The custodial receiver may exercise all of the powers of the corporation, through or in place of its board of directors, to the extent necessary to manage

the affairs of the corporation consistent with its mission and in the best interests of the corporation, and its creditors.

(7) During a general receivership, the court may redesignate the general receiver a custodial receiver, and during a custodial receivership may redesignate the custodial receiver a general receiver, if doing so is consistent with the mission of the nonprofit corporation and in the best interests of the corporation and its creditors.

(8) The court from time to time during the general or custodial receivership may order compensation paid and expense disbursements or reimbursements made to the general or custodial receiver and counsel from the assets of the nonprofit corporation or proceeds from the sale of the assets.

(9) The assets of the corporation or the proceeds resulting from the sale, conveyance, or other disposition thereof shall be applied and distributed as follows:

(a) All costs and expenses of the court proceedings and all liabilities and obligations of the corporation shall be paid, satisfied, and discharged, or adequate provision shall be made therefor;

(b) Assets held by the corporation upon condition requiring return, transfer, or conveyance, which condition occurs by reason of the dissolution or liquidation, shall be returned, transferred, or conveyed in accordance with such requirements;

(c) Assets received and held by the corporation subject to limitations permitting their use only for charitable, religious, eleemosynary, benevolent, educational, or similar purposes, but not held upon a condition requiring return, transfer, or conveyance by reason of the dissolution or liquidation, shall be transferred or conveyed to one or more domestic or foreign corporations, societies, or organizations engaged in activities substantially similar to those of the dissolving or liquidating corporation as the court may direct;

(d) Other assets, if any, shall be distributed in accordance with the provisions of the articles of incorporation or the bylaws to the extent that the articles of incorporation or bylaws determine the distributive rights of members, or any class or classes of members, or provide for distribution to others;

(e) Any remaining assets may be distributed to such persons, societies, organizations, or domestic or foreign corporations, whether for profit or not for profit, specified in the plan of distribution adopted as provided in this chapter, or where no plan of distribution has been adopted, as the court may direct.

(10) Subsections (4) through (8) of this section do not apply to a church or its integrated auxiliaries.

NEW SECTION. Sec. 3. A new section is added to chapter 24.03 RCW to read as follows:

(1) If after a hearing the court determines that one or more grounds for judicial dissolution described in section 1 of this act exist, it may enter a decree dissolving the nonprofit corporation and specifying the effective date of the dissolution, and the clerk of the court shall deliver a certified copy of the decree to the secretary of state, who shall file it.

(2) After entering the decree of dissolution, the court shall direct the winding up and liquidation of the nonprofit corporation's affairs in accordance with this chapter.

Sec. 4. RCW 7.60.025 and 2006 c 52 s 1 are each amended to read as follows:

(1) A receiver may be appointed by the superior court of this state in the following instances, but except in any case in which a receiver's appointment is expressly required by statute, or any case in which a receiver's appointment is sought by a state agent whose authority to seek the appointment of a receiver is expressly conferred by statute, or any case in which a receiver's appointment with respect to real property is sought under (b)(ii) of this subsection, a receiver shall be appointed only if the court additionally determines that the appointment of a receiver is reasonably necessary and that other available remedies either are not available or are inadequate:

(a) On application of any party, when the party is determined to have a probable right to or interest in property that is a subject of the action and in the possession of an adverse party, or when the property or its revenue-producing potential is in danger of being lost or materially injured or impaired. A receiver may be appointed under this subsection (1)(a) whether or not the application for appointment of a receiver is combined with, or is ancillary to, an action seeking a money judgment or other relief;

(b) Provisionally, during the pendency of any action to foreclose upon any lien against or for forfeiture of any interest in real or personal property, or after notice of a trustee's sale has been given under RCW 61.24.040, or after notice of forfeiture has been given under RCW 61.30.040, on application of any person, when the interest in the property that is the subject of foreclosure or forfeiture of the person seeking the receiver's appointment is determined to be probable and either:

(i) The property or its revenue-producing potential is in danger of being lost or materially injured or impaired; or

(ii) The appointment of a receiver with respect to the real or personal property that is the subject of the action, the notice of trustee's sale or notice of forfeiture is provided for by agreement or is reasonably necessary to effectuate or enforce an assignment of rents or other revenues from the property;

(c) After judgment, in order to give effect to the judgment;

(d) To dispose of property according to provisions of a judgment dealing with its disposition;

(e) To the extent that property is not exempt from execution, at the instance of a judgment creditor either before or after the issuance of any execution, to preserve or protect it, or prevent its transfer;

(f) If and to the extent that property is subject to execution to satisfy a judgment, to preserve the property during the pendency of an appeal, or when an execution has been returned unsatisfied, or when an order requiring a judgment debtor to appear for proceedings supplemental to judgment has been issued and the judgment debtor fails to submit to examination as ordered;

(g) Upon an attachment of real or personal property when the property attached is of a perishable nature or is otherwise in danger of waste, impairment, or destruction, or where the abandoned property's owner has absconded with, secreted, or abandoned the property, and it is necessary to collect, conserve, manage, control, or protect it, or to dispose of it promptly, or when the court determines that the nature of the property or the exigency of the case otherwise provides cause for the appointment of a receiver;

(h) In an action by a transferor of real or personal property to avoid or rescind the transfer on the basis of fraud, or in an action to subject property or a fund to the payment of a debt;

(i) In an action against any person who is not an individual if the object of the action is the dissolution of that person, or if that person has been dissolved, or if that person is insolvent or is not generally paying the person's debts as those debts become due unless they are the subject of bona fide dispute, or if that person is in imminent danger of insolvency;

(j) In accordance with RCW 7.08.030 (4) and (6), in cases in which a general assignment for the benefit of creditors has been made;

(k) In quo warranto proceedings under chapter 7.56 RCW;

(l) As provided under RCW 11.64.022;

(m) In an action by the department of licensing under RCW 18.35.220(3) with respect to persons engaged in the business of dispensing of hearing aids, RCW ~~((18.85.350))~~ 18.85.430 in the case of persons engaged in the business of a real estate broker, associate real estate broker, or real estate salesperson, or RCW 19.105.470 with respect to persons engaged in the business of camping resorts;

(n) In an action under RCW 18.44.470 or 18.44.490 in the case of persons engaged in the business of escrow agents;

(o) Upon a petition with respect to a nursing home in accordance with and subject to receivership provisions under chapter 18.51 RCW;

(p) Under RCW 19.40.071(3), in connection with a proceeding for relief with respect to a transfer fraudulent as to a creditor or creditors;

(q) Under RCW 19.100.210(1), in an action by the attorney general or director of financial institutions to restrain any actual or threatened violation of the franchise investment protection act;

(r) In an action by the attorney general or by a prosecuting attorney under RCW 19.110.160 with respect to a seller of business opportunities;

(s) In an action by the director of financial institutions under RCW 21.20.390 in cases involving actual or threatened violations of the securities act of Washington or under RCW 21.30.120 in cases involving actual or threatened violations of chapter 21.30 RCW with respect to certain businesses and transactions involving commodities;

(t) In an action for or relating to dissolution of a business corporation under RCW 23B.14.065, 23B.14.300, 23B.14.310, or 23B.14.320, for dissolution of a nonprofit corporation under ~~((RCW 24.03.270))~~ section 2 of this act, for dissolution of a mutual corporation under RCW 24.06.305, or in any other action for the dissolution or winding up of any other entity provided for by Title 23, 23B, 24, or 25 RCW;

(u) In any action in which the dissolution of any public or private entity is sought, in any action involving any dispute with respect to the ownership or governance of such an entity, or upon the application of a person having an interest in such an entity when the appointment is reasonably necessary to protect the property of the entity or its business or other interests;

(v) Under RCW 25.05.215, in aid of a charging order with respect to a partner's interest in a partnership;

(w) Under and subject to RCW 30.44.100, 30.44.270, and 30.56.030, in the case of a bank or trust company or, under and subject to RCW 32.24.070 through 32.24.090, in the case of a mutual savings bank;

(x) Under and subject to RCW 31.12.637 and 31.12.671 through 31.12.724, in the case of credit unions;

(y) Upon the application of the director of financial institutions under RCW 31.35.090 in actions to enforce chapter 31.35 RCW applicable to agricultural lenders, under RCW 31.40.120 in actions to enforce chapter 31.40 RCW applicable to entities engaged in federally guaranteed small business loans, under RCW 31.45.160 in actions to enforce chapter 31.45 RCW applicable to persons licensed as check cashers or check sellers, or under RCW 19.230.230 in actions to enforce chapter 19.230 RCW applicable to persons licensed under the uniform money services act;

(z) Under RCW 35.82.090 or 35.82.180, with respect to a housing project;

(aa) Under RCW 39.84.160 or 43.180.360, in proceedings to enforce rights under any revenue bonds issued for the purpose of financing industrial development facilities or bonds of the Washington state housing finance commission, or any financing document securing any such bonds;

(bb) Under and subject to RCW 43.70.195, in an action by the secretary of health or by a local health officer with respect to a public water system;

(cc) As contemplated by RCW 61.24.030, with respect to real property that is the subject of nonjudicial foreclosure proceedings under chapter 61.24 RCW;

(dd) As contemplated by RCW 61.30.030(3), with respect to real property that is the subject of judicial or nonjudicial forfeiture proceedings under chapter 61.30 RCW;

(ee) Under RCW 64.32.200(2), in an action to foreclose upon a lien for common expenses against a dwelling unit subject to the horizontal property regimes act, chapter 64.32 RCW;

(ff) Under RCW 64.34.364(10), in an action by a unit owners' association to foreclose a lien for nonpayment of delinquent assessments against condominium units;

(gg) Upon application of the attorney general under RCW 64.36.220(3), in aid of any writ or order restraining or enjoining violations of chapter 64.36 RCW applicable to timeshares;

(hh) Under RCW 70.95A.050(3), in aid of the enforcement of payment or performance of municipal bonds issued with respect to facilities used to abate, control, or prevent pollution;

(ii) Upon the application of the department of social and health services under RCW 74.42.580, in cases involving nursing homes;

(jj) Upon the application of the utilities and transportation commission under RCW 80.28.040, with respect to a water company that has failed to comply with an order of such commission within the time deadline specified therein;

(kk) Under RCW 87.56.065, in connection with the dissolution of an irrigation district;

(ll) Upon application of the attorney general or the department of licensing, in any proceeding that either of them are authorized by statute to bring to enforce Title 18 or 19 RCW; the securities act of Washington, chapter 21.20 RCW; the Washington commodities act, chapter 21.30 RCW; the land development act, chapter 58.19 RCW; or under chapter 64.36 RCW relating to the regulation of timeshares;

(mm) Upon application of the director of financial institutions in any proceeding that the director of financial institutions is authorized to bring to enforce chapters 31.35, 31.40, and 31.45 RCW; or

(nn) In such other cases as may be provided for by law, or when, in the discretion of the court, it may be necessary to secure ample justice to the parties.

(2) The superior courts of this state shall appoint as receiver of property located in this state a person who has been appointed by a federal or state court located elsewhere as receiver with respect to the property specifically or with respect to the owner's property generally, upon the application of the person or of any party to that foreign proceeding, and following the appointment shall give effect to orders, judgments, and decrees of the foreign court affecting the property in this state held by the receiver, unless the court determines that to do so would be manifestly unjust or inequitable. The venue of such a proceeding may be any county in which the person resides or maintains any office, or any county in which any property over which the receiver is to be appointed is located at the time the proceeding is commenced.

(3) At least seven days' notice of any application for the appointment of a receiver shall be given to the owner of property to be subject thereto and to all other parties in the action, and to other parties in interest as the court may require. If any execution by a judgment creditor under Title 6 RCW or any application by a judgment creditor for the appointment of a receiver, with respect to property over which the receiver's appointment is sought, is pending in any other action at the time the application is made, then notice of the application for the receiver's appointment also shall be given to the judgment creditor in the other action. The court may shorten or expand the period for notice of an application for the appointment of a receiver upon good cause shown.

(4) The order appointing a receiver in all cases shall reasonably describe the property over which the receiver is to take charge, by category, individual items, or both if the receiver is to take charge of less than all of the owner's property. If the order appointing a receiver does not expressly limit the receiver's authority to designated property or categories of property of the owner, the receiver is a general receiver with the authority to take charge over all of the owner's property, wherever located.

(5) The court may condition the appointment of a receiver upon the giving of security by the person seeking the receiver's appointment, in such amount as the court may specify, for the payment of costs and damages incurred or suffered by any person should it later be determined that the appointment of the receiver was wrongfully obtained.

NEW SECTION. Sec. 5. The following acts or parts of acts are each repealed:

(1) RCW 24.03.265 (Jurisdiction of court to liquidate assets and affairs of corporation) and 1986 c 240 s 39 & 1967 c 235 s 54;

(2) RCW 24.03.270 (Procedure in liquidation of corporation by court) and 1967 c 235 s 55; and

(3) RCW 24.03.290 (Decree of involuntary dissolution) and 1967 c 235 s 59.

NEW SECTION. Sec. 6. This act is prospective and applies only to actions or proceedings commenced on or after the effective date of this act.

NEW SECTION. **Sec. 7.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed by the House March 9, 2010.

Passed by the Senate March 2, 2010.

Approved by the Governor March 25, 2010.

Filed in Office of Secretary of State March 26, 2010.

CHAPTER 213

[House Bill 3061]

INDUSTRIAL INSURANCE—SELF-INSURED EMPLOYERS—INSOLVENCY

AN ACT Relating to claims of insolvent self-insurers under industrial insurance; and amending RCW 51.16.120 and 51.14.060.

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

Sec. 1. RCW 51.16.120 and 2004 c 258 s 1 are each amended to read as follows:

(1) Whenever a worker has a previous bodily disability from any previous injury or disease, whether known or unknown to the employer, and shall suffer a further disability from injury or occupational disease in employment covered by this title and become totally and permanently disabled from the combined effects thereof or die when death was substantially accelerated by the combined effects thereof, then the experience record of an employer insured with the state fund at the time of ~~((said))~~ the further injury or disease shall be charged and a self-insured employer shall pay directly into the reserve fund only the accident cost which would have resulted solely from ~~((said))~~ the further injury or disease, had there been no preexisting disability, and which accident cost shall be based upon an evaluation of the disability by medical experts. The difference between the charge thus assessed to such employer at the time of ~~((said))~~ the further injury or disease and the total cost of the pension reserve shall be assessed against the second injury fund. Except as provided in subsection (2) of this section, the department shall pass upon the application of this section in all cases where benefits are paid for total permanent disability or death and issue an order thereon appealable by the employer. Pending outcome of such appeal the transfer or payment shall be made as required by such order.

(2) If a self-insured employer is in default or the director has withdrawn the certification of a self-insured employer, the department shall not pass on the application of this section. In such cases, the total cost of the pension reserve shall first be assessed against the defaulting self-insured employer's deposit required by RCW 51.14.020 and in cases where the surety funds are insufficient the remaining cost of the pension reserve shall be assessed against the insolvency trust fund.

(3) The department shall, in cases of claims of workers sustaining injuries or occupational diseases in the employ of state fund employers, recompute the experience record of such employers when the claims of workers injured in their employ have been found to qualify for payments from the second injury fund after the regular time for computation of such experience records and the

department may make appropriate adjustments in such cases including cash refunds or credits to such employers.

~~((3))~~ (4) To encourage employment of injured workers who are not reemployed by the employer at the time of injury, the department may adopt rules providing for the reduction or elimination of premiums or assessments from subsequent employers of such workers and may also adopt rules for the reduction or elimination of charges against such employers in the event of further injury to such workers in their employ.

~~((4))~~ (5) To encourage employment of injured workers who have a developmental disability as defined in RCW 71A.10.020, the department may adopt rules providing for the reduction or elimination of premiums or assessments from employers of such workers and may also adopt rules for the reduction or elimination of charges against their employers in the event of further injury to such workers in their employ.

Sec. 2. RCW 51.14.060 and 1986 c 57 s 2 are each amended to read as follows:

(1) The director may, in cases of default upon any obligation under this title by the self-insurer, after ten days notice by certified mail to the defaulting self-insurer of the intention to do so, bring suit upon such bond or collect the interest and principal of any of the securities as they may become due or sell the securities or any of them as may be required or apply the money deposited, all in order to pay compensation and discharge the obligations of the defaulting self-insurer under this title.

(2) The director shall be authorized to fulfill the defaulting self-insured employer's obligations under this title from the defaulting self-insured employer's deposit or from other funds provided under this title for the satisfaction of claims against the defaulting self-insured employer. The defaulting self-insured employer is liable to and shall reimburse the director for the amounts necessary to fulfill the obligations of the defaulting self-insured employer that are in excess of the amounts received by the director from any bond filed, or securities or money deposited, by the defaulting self-insured employer pursuant to chapter 51.14 RCW. The amounts to be reimbursed shall include all amounts paid or payable as compensation under this title together with administrative costs, including attorneys' fees, and shall be considered taxes due the state of Washington.

(3) The department shall transfer the balance of any defaulted self-insured employer's deposit as required by RCW 51.14.020 into the insolvency trust fund when the following have occurred:

- (a) All claims against the defaulted self-insured employer are closed; and
- (b) The self-insured employer has been in default for ten years.

Passed by the House February 10, 2010.

Passed by the Senate March 11, 2010.

Approved by the Governor March 25, 2010.

Filed in Office of Secretary of State March 26, 2010.

CHAPTER 214

[Substitute House Bill 3124]

LAW ENFORCEMENT—DUTY TO REPORT—DUI—CHILDREN IN VEHICLE

AN ACT Relating to requiring a report to child protective services when a child is present in the vehicle of a person arrested for driving or being in control of a vehicle while under the influence of alcohol or drugs; adding a new section to chapter 46.61 RCW; and adding a new section to chapter 26.44 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 46.61 RCW to read as follows:

A law enforcement officer shall promptly notify child protective services whenever a child is present in a vehicle being driven by his or her parent, guardian, or legal custodian and that person is being arrested for a drug or alcohol-related driving offense. This section does not require law enforcement to take custody of the child unless there is no other responsible person, or an agency having the right to physical custody of the child that can be contacted, or the officer has reasonable grounds to believe the child should be taken into custody pursuant to RCW 13.34.050 or 26.44.050. For purposes of this section, "child" means any person under thirteen years of age.

NEW SECTION. Sec. 2. A new section is added to chapter 26.44 RCW to read as follows:

A law enforcement officer shall promptly notify child protective services whenever a child is present in a vehicle being driven by his or her parent, guardian, or legal custodian and that person is being arrested for a drug or alcohol-related driving offense. This section does not require law enforcement to take custody of the child unless there is no other responsible person, or an agency having the right to physical custody of the child that can be contacted, or the officer has reasonable grounds to believe the child should be taken into custody pursuant to RCW 13.34.050 or 26.44.050. For purposes of this section, "child" means any person under thirteen years of age.

Passed by the House March 11, 2010.

Passed by the Senate March 9, 2010.

Approved by the Governor March 25, 2010.

Filed in Office of Secretary of State March 26, 2010.

CHAPTER 215

[Engrossed Substitute Senate Bill 5902]

PERSONS WITH DISABILITIES—INCREASED ACCESS

AN ACT Relating to promoting accessible communities for persons with disabilities; amending RCW 29A.46.260 and 43.79A.040; reenacting and amending RCW 46.16.381; adding a new section to chapter 50.40 RCW; adding a new section to chapter 36.01 RCW; creating new sections; and prescribing penalties.

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

NEW SECTION. Sec. 1. The legislature finds that when people who have disabilities are welcomed and included as members of our communities and provided with equal access to the opportunities available to others, their participation enriches those communities, enhances the strength of those

communities' diversity, and contributes toward the economic vitality of those communities. The legislature further finds that more than nine hundred thousand Washington state residents with disabilities continue to face barriers to full participation that could be easily eliminated.

NEW SECTION. Sec. 2. (1) The accessible communities account is created in the custody of the state treasurer. One hundred dollars of the assessment imposed under RCW 46.16.381 (7), (8), and (9) must be deposited into the account. Any reduction in the penalty or fine and assessment imposed under section 6 of this act shall be applied proportionally between the penalty or fine and the assessment.

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

(3) Expenditures from the account may be used for promoting greater awareness of disability issues and improved access for and inclusion and acceptance of persons with disabilities in communities in the state of Washington, including:

(a) Reimbursing travel, per diem, and reasonable accommodation for county accessible community advisory committee meetings and committee sponsored activities including, but not limited to, supporting the involvement of people with disabilities and disability organization in emergency planning and emergency preparedness activities;

(b) Establishing and maintaining an accessible communities web site;

(c) Providing training or technical assistance for county accessible community advisory committees;

(d) A grant program for funding proposals developed and submitted by county accessible community advisory committees to promote greater awareness of disability issues and acceptance, inclusion, and access for persons with disabilities within the community;

(e) Reimbursing the state agency that provides administrative support to the governor's committee on disability issues and employment for costs associated with implementing this act; and

(f) Programming changes to the judicial information system accounting module required for disbursement of funds to this account.

NEW SECTION. Sec. 3. A new section is added to chapter 50.40 RCW to read as follows:

(1) To the extent allowed by funds available from the accessible communities account created in section 2 of this act, the governor's committee on disability issues and employment shall:

(a) Determine eligibility of accessible community advisory committees for reimbursement or for grant funding according to section 4 of this act; and

(b) Solicit proposals from active accessible community advisory committees for projects to improve disability awareness and access for persons with disabilities, and shall select projects for funding from moneys available in the accessible communities account.

(2) The commissioner shall adopt rules to administer this section.

(3) To the extent allowed by funds available from the accessible communities account created in section 2 of this act, the governor's committee

on disability issues and employment shall establish an accessible communities web site to provide the following information: Guidance, technical assistance, reference materials, and resource identification for local governments, accessible community advisory committees, and public accommodations; examples of best practices for local initiatives and activities to promote greater awareness of disability issues and access for persons with disabilities within the community; and a searchable listing of local public accommodations that have taken steps to be more disability friendly, including information on the specific access features provided.

NEW SECTION. Sec. 4. A new section is added to chapter 36.01 RCW to read as follows:

(1) A county has the option to expand the scope of an advisory committee established and maintained under RCW 29A.46.260 to that of an accessible community advisory committee, or to create an accessible community advisory committee.

(2) A county that has an active accessible community advisory committee may be reimbursed within available funds from the accessible communities account created in section 2 of this act for travel, per diem, and reasonable accommodation expenses for the participation of that committee's members in committee meetings and sponsored activities.

(3) A county establishes that it has an active accessible community advisory committee by submitting biennial assurances to the governor's committee on disability issues and employment that:

(a) The decision to establish an accessible community advisory committee was made by the county legislative authority, or by agents or officers acting under that authority.

(b) If an accessible community advisory committee is established by expanding the advisory committee established and maintained under RCW 29A.46.260, the county auditor supports that expansion.

(c) Committee members include persons with a diverse range of disabilities who are knowledgeable in identifying and eliminating attitudinal, programmatic, communication, and physical barriers encountered by persons with disabilities.

(d) The committee is actively involved in the following activities: Advising on addressing the needs of persons with disabilities in emergency plans; advising the county and other local governments within the county on access to programs services and activities, new construction or renovation projects, sidewalks, other pedestrian routes of travel, and disability parking enforcement; and developing local initiatives and activities to promote greater awareness of disability issues, and acceptance, involvement, and access for persons with disabilities within the community.

(4) Counties may form joint accessible community advisory committees, as long as no more than one of the participating counties has a population greater than seventy thousand.

Sec. 5. RCW 29A.46.260 and 2006 c 207 s 7 are each amended to read as follows:

(1) The legislature finds that the elimination of polling places resulting from the transition to vote by mail creates barriers that restrict the ability of many voters with disabilities from achieving the independence and privacy in voting

provided by the accessible voting devices required under the help America vote act. Counties adopting a vote by mail system must take appropriate steps to mitigate these impacts and to address the obligation to provide voters with disabilities an equal opportunity to vote independently and privately, to the extent that this can be achieved without incurring undue administrative and financial burden.

(2) Each county shall establish and maintain an advisory committee that includes persons with diverse disabilities and persons with expertise in providing accommodations for persons with disabilities. The committee shall assist election officials in developing a plan to identify and implement changes to improve the accessibility of elections for voters with disabilities. The plan shall include recommendations for the following:

(a) The number of polling places that will be maintained in order to ensure that people with disabilities have reasonable access to accessible voting devices, and a written explanation for how the determination was made;

(b) The locations of polling places, drop-off facilities, voting centers, and other election-related functions necessary to maximize accessibility to persons with disabilities;

(c) Outreach to voters with disabilities on the availability of disability accommodation, including in-person disability access voting;

(d) Transportation of voting devices to locations convenient for voters with disabilities in order to ensure reasonable access for voters with disabilities; and

(e) Implementation of the provisions of the help America vote act related to persons with disabilities.

Counties must update the plan at least annually. The election review staff of the secretary of state shall review and evaluate the plan in conformance with the review procedure identified in RCW 29A.04.570.

(3) Counties may form a joint advisory committee to develop the plan identified in subsection (2) of this section if ~~((the total population of the joining counties does not exceed thirty thousand, and the counties are geographically adjacent))~~ no more than one of the participating counties has a population greater than seventy thousand.

Sec. 6. RCW 46.16.381 and 2007 c 262 s 1 and 2007 c 44 s 1 are each reenacted and amended to read as follows:

(1) The director shall grant special parking privileges to any person who has a disability that limits or impairs the ability to walk or involves acute sensitivity to light and meets one of the following criteria, as determined by a licensed physician, an advanced registered nurse practitioner licensed under chapter 18.79 RCW, or a physician assistant licensed under chapter 18.71A or 18.57A RCW:

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

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

(c) Has such a severe disability, that the person cannot walk without the use of or assistance from a brace, cane, another person, prosthetic device, wheelchair, or other assistive device;

(d) Uses portable oxygen;

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

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

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

(h) Is legally blind and has limited mobility; or

(i) Is restricted by a form of porphyria to the extent that the applicant would significantly benefit from a decrease in exposure to light.

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

(3) Persons who qualify for special parking privileges are entitled to receive from the department of licensing a removable windshield placard bearing the international symbol of access and an individual serial number, along with a special identification card bearing the name and date of birth of the person to whom the placard is issued, and the placard's serial number. The special identification card shall be issued to all persons who are issued parking placards, including those issued for temporary disabilities, and special parking license plates for persons with disabilities. The department shall design the placard to be displayed when the vehicle is parked by suspending it from the rearview mirror, or in the absence of a rearview mirror the card may be displayed on the dashboard of any vehicle used to transport the person with disabilities. Instead of regular motor vehicle license plates, persons with disabilities are entitled to receive special license plates under this section or RCW 46.16.385 bearing the international symbol of access for one vehicle registered in the name of the person with disabilities. Persons with disabilities who are not issued the special license plates are entitled to receive a second special placard upon submitting a written request to the department. Persons who have been issued the parking privileges and who are using a vehicle or are riding in a vehicle displaying the placard or special license plates issued under this section or RCW 46.16.385 may park in places reserved for persons with physical disabilities. The director shall adopt rules providing for the issuance of special placards and license plates to public transportation authorities, nursing homes licensed under chapter 18.51 RCW, boarding homes licensed under chapter 18.20 RCW, senior citizen

centers, private nonprofit agencies as defined in chapter 24.03 RCW, and vehicles registered with the department as cabulances that regularly transport persons with disabilities who have been determined eligible for special parking privileges provided under this section. The director may issue special license plates for a vehicle registered in the name of the public transportation authority, nursing home, boarding home, senior citizen center, private nonprofit agency, or cabulance service if the vehicle is primarily used to transport persons with disabilities described in this section. Public transportation authorities, nursing homes, boarding homes, senior citizen centers, private nonprofit agencies, and cabulance services are responsible for insuring that the special placards and license plates are not used improperly and are responsible for all fines and penalties for improper use.

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

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

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

(7) Any unauthorized use of the special placard, special license plate issued under this section or RCW 46.16.385, or identification card is a ~~((traffic))~~ parking infraction with a monetary penalty of two hundred fifty dollars. In addition to any penalty or fine imposed under this subsection, two hundred dollars shall be assessed.

(8) It is a parking infraction, with a monetary penalty of two hundred fifty dollars for a person to park in, block, or otherwise make inaccessible the access aisle located next to a space reserved for persons with physical disabilities. In addition to any penalty or fine imposed under this subsection, two hundred dollars shall be assessed. The clerk of the court shall report all violations related to this subsection to the department.

(9) It is a parking infraction, with a monetary penalty of two hundred fifty dollars for any person to park a vehicle in a parking place provided on private property without charge or on public property reserved for persons with physical disabilities without a placard or special license plate issued under this section or RCW 46.16.385. In addition to any penalty or fine imposed under this subsection, two hundred dollars shall be assessed. If a person is charged with a violation, the person shall not be determined to have committed an infraction if the person produces in court or before the court appearance the placard or special license plate issued under this section or RCW 46.16.385 required under this section. A local jurisdiction providing nonmetered, on-street parking places reserved for persons with physical disabilities may impose by ordinance time restrictions of no less than four hours on the use of these parking places. A local jurisdiction may impose by ordinance time restrictions of no less than four hours on the use of nonreserved, on-street parking spaces by vehicles displaying the special parking placards or special license plates issued under this section or RCW 46.16.385. All time restrictions must be clearly posted.

(10) ~~((The penalties))~~ (a) The assessment imposed under subsections (7), (8), and (9) of this section shall be allocated as follows:

(i) One hundred dollars shall be deposited in the accessible communities account created in section 2 of this act; and

(ii) One hundred dollars shall be deposited in the multimodal transportation account under RCW 47.66.070 for the sole purpose of supplementing a grant program for special needs transportation provided by transit agencies and nonprofit providers of transportation that is administered by the department of transportation.

(b) Any reduction in any penalty or fine and assessment imposed under subsections (7), (8), and (9) of this section shall be applied proportionally between the penalty or fine and the assessment. When a reduced penalty is imposed under subsection (7), (8), or (9) of this section, the amount deposited in the accounts identified in (a) of this subsection shall be reduced equally and proportionally.

(c) The penalty or fine amounts shall be used by that local jurisdiction exclusively for law enforcement. The court may also impose an additional penalty sufficient to reimburse the local jurisdiction for any costs it may have incurred in removal and storage of the improperly parked vehicle.

(11) Except as provided by subsection (2) of this section, it is a traffic infraction with a monetary penalty of two hundred fifty dollars for any person willfully to obtain a special license plate issued under this section or RCW 46.16.385, placard, or identification card in a manner other than that established under this section.

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

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

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

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

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

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

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

(14) The court may not suspend more than one-half of any fine imposed under subsection (7), (8), (9), or (11) of this section.

(15) For the purposes of this section, "legally blind" means a person who:

(a) Has no vision or whose vision with corrective lenses is so limited that the individual requires alternative methods or skills to do efficiently those things that are ordinarily done with sight by individuals with normal vision; or (b) has an eye condition of a progressive nature which may lead to blindness.

Sec. 7. RCW 43.79A.040 and 2009 c 87 s 4 are each amended to read as follows:

(1) Money in the treasurer's trust fund may be deposited, invested, and reinvested by the state treasurer in accordance with RCW 43.84.080 in the same manner and to the same extent as if the money were in the state treasury.

(2) All income received from investment of the treasurer's trust fund shall be set aside in an account in the treasury trust fund to be known as the investment income account.

(3) The investment income account may be utilized for the payment of purchased banking services on behalf of treasurer's trust funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasurer or affected state agencies. The investment income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4)(a) Monthly, the state treasurer shall distribute the earnings credited to the investment income account to the state general fund except under (b) and (c) of this subsection.

(b) The following accounts and funds shall receive their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The Washington promise scholarship account, the college savings program account, the Washington advanced college tuition payment program account, the accessible communities account, the agricultural local fund, the American Indian scholarship endowment fund, the foster care scholarship endowment fund, the foster care endowed scholarship trust fund, the students with dependents grant account, the basic health plan self-insurance reserve account, the contract harvesting revolving account, the Washington state combined fund drive account, the commemorative works account, the Washington international exchange scholarship endowment fund, the toll

collection account, the developmental disabilities endowment trust fund, the energy account, the fair fund, the family leave insurance account, the food animal veterinarian conditional scholarship account, the fruit and vegetable inspection account, the future teachers conditional scholarship account, the game farm alternative account, the GET ready for math and science scholarship account, the grain inspection revolving fund, the juvenile accountability incentive account, the law enforcement officers' and firefighters' plan 2 expense fund, the local tourism promotion account, the pilotage account, the produce railcar pool account, the regional transportation investment district account, the rural rehabilitation account, the stadium and exhibition center account, the youth athletic facility account, the self-insurance revolving fund, the sulfur dioxide abatement account, the children's trust fund, the Washington horse racing commission Washington bred owners' bonus fund and breeder awards account, the Washington horse racing commission class C purse fund account, the individual development account program account, the Washington horse racing commission operating account (earnings from the Washington horse racing commission operating account must be credited to the Washington horse racing commission class C purse fund account), the life sciences discovery fund, the Washington state heritage center account, the reduced cigarette ignition propensity account, and the reading achievement account. However, the earnings to be distributed shall first be reduced by the allocation to the state treasurer's service fund pursuant to RCW 43.08.190.

(c) The following accounts and funds shall receive eighty percent of their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The advanced right-of-way revolving fund, the advanced environmental mitigation revolving account, the city and county advance right-of-way revolving fund, the federal narcotics asset forfeitures account, the high occupancy vehicle account, the local rail service assistance account, and the miscellaneous transportation programs account.

(5) In conformance with Article II, section 37 of the state Constitution, no trust accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

Passed by the Senate March 11, 2010.

Passed by the House March 9, 2010.

Approved by the Governor March 25, 2010.

Filed in Office of Secretary of State March 26, 2010.

CHAPTER 216

[Substitute Senate Bill 6611]

GROWTH MANAGEMENT ACT—COMPREHENSIVE PLANS AND DEVELOPMENT REGULATIONS—SUBAREA PLANS

AN ACT Relating to extending the deadlines for the review and evaluation of comprehensive land use plan and development regulations for three years and addressing the timing for adopting certain subarea plans; and amending RCW 36.70A.130.

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

Sec. 1. RCW 36.70A.130 and 2009 c 479 s 23 are each amended to read as follows:

(1)(a) Each comprehensive land use plan and development regulations shall be subject to continuing review and evaluation by the county or city that adopted them. Except as otherwise provided, a county or city shall take legislative action to review and, if needed, revise its comprehensive land use plan and development regulations to ensure the plan and regulations comply with the requirements of this chapter according to the ~~((time periods specified))~~ deadlines in subsections (4) and (5) of this section.

(b) Except as otherwise provided, a county or city not planning under RCW 36.70A.040 shall take action to review and, if needed, revise its policies and development regulations regarding critical areas and natural resource lands adopted according to this chapter to ensure these policies and regulations comply with the requirements of this chapter according to the ~~((time periods specified))~~ deadlines in subsections (4) and (5) of this section. Legislative action means the adoption of a resolution or ordinance following notice and a public hearing indicating at a minimum, a finding that a review and evaluation has occurred and identifying the revisions made, or that a revision was not needed and the reasons therefor.

(c) The review and evaluation required by this subsection may be combined with the review required by subsection (3) of this section. The review and evaluation required by this subsection shall include, but is not limited to, consideration of critical area ordinances and, if planning under RCW 36.70A.040, an analysis of the population allocated to a city or county from the most recent ten-year population forecast by the office of financial management.

(d) Any amendment of or revision to a comprehensive land use plan shall conform to this chapter. Any amendment of or revision to development regulations shall be consistent with and implement the comprehensive plan.

(2)(a) Each county and city shall establish and broadly disseminate to the public a public participation program consistent with RCW 36.70A.035 and 36.70A.140 that identifies procedures and schedules whereby updates, proposed amendments, or revisions of the comprehensive plan are considered by the governing body of the county or city no more frequently than once every year. "Updates" means to review and revise, if needed, according to subsection (1) of this section, and the ~~((time periods specified))~~ deadlines in subsections (4) and (5) of this section or in accordance with the provisions of subsection ~~((s (5) and (8)))~~ (6) of this section. Amendments may be considered more frequently than once per year under the following circumstances:

(i) The initial adoption of a subarea plan ~~((that does not modify the comprehensive plan policies and designations applicable to the subarea))~~. Subarea plans adopted under this subsection (2)(a)(i) must clarify, supplement, or implement jurisdiction-wide comprehensive plan policies, and may only be adopted if the cumulative impacts of the proposed plan are addressed by appropriate environmental review under chapter 43.21C RCW;

(ii) The development of an initial subarea plan for economic development located outside of the one hundred year floodplain in a county that has completed a state-funded pilot project that is based on watershed characterization and local habitat assessment;

(iii) The adoption or amendment of a shoreline master program under the procedures set forth in chapter 90.58 RCW;

~~((iii))~~ (iv) The amendment of the capital facilities element of a comprehensive plan that occurs concurrently with the adoption or amendment of a county or city budget; or

~~((iv) Until June 30, 2006, the designation of recreational lands under RCW 36.70A.1701. A county amending its comprehensive plan pursuant to this subsection (2)(a)(iv) may not do so more frequently than every eighteen months; and))~~

(v) The adoption of comprehensive plan amendments necessary to enact a planned action under RCW 43.21C.031(2), provided that amendments are considered in accordance with the public participation program established by the county or city under this subsection (2)(a) and all persons who have requested notice of a comprehensive plan update are given notice of the amendments and an opportunity to comment.

(b) Except as otherwise provided in (a) of this subsection, all proposals shall be considered by the governing body concurrently so the cumulative effect of the various proposals can be ascertained. However, after appropriate public participation a county or city may adopt amendments or revisions to its comprehensive plan that conform with this chapter whenever an emergency exists or to resolve an appeal of a comprehensive plan filed with a growth management hearings board or with the court.

(3)(a) Each county that designates urban growth areas under RCW 36.70A.110 shall review, at least every ten years, its designated urban growth area or areas, and the densities permitted within both the incorporated and unincorporated portions of each urban growth area. In conjunction with this review by the county, each city located within an urban growth area shall review the densities permitted within its boundaries, and the extent to which the urban growth occurring within the county has located within each city and the unincorporated portions of the urban growth areas.

(b) The county comprehensive plan designating urban growth areas, and the densities permitted in the urban growth areas by the comprehensive plans of the county and each city located within the urban growth areas, shall be revised to accommodate the urban growth projected to occur in the county for the succeeding twenty-year period. The review required by this subsection may be combined with the review and evaluation required by RCW 36.70A.215.

(4) ~~((The department shall establish a schedule for))~~ Except as provided in subsection (6) of this section, counties and cities ((~~to~~)) shall take action to review and, if needed, revise their comprehensive plans and development regulations to ensure the plan and regulations comply with the requirements of this chapter((- Except as provided in subsections (5) and (8) of this section, the schedule established by the department shall provide for the reviews and evaluations to be completed)) as follows:

(a) On or before December 1, 2004, ~~((and every seven years thereafter,))~~ for Clallam, Clark, Jefferson, King, Kitsap, Pierce, Snohomish, Thurston, and Whatcom counties and the cities within those counties;

(b) On or before December 1, 2005, ~~((and every seven years thereafter,))~~ for Cowlitz, Island, Lewis, Mason, San Juan, Skagit, and Skamania counties and the cities within those counties;

(c) On or before December 1, 2006, ~~((and every seven years thereafter,))~~ for Benton, Chelan, Douglas, Grant, Kittitas, Spokane, and Yakima counties and the cities within those counties; and

(d) On or before December 1, 2007, ~~((and every seven years thereafter,))~~ for Adams, Asotin, Columbia, Ferry, Franklin, Garfield, Grays Harbor, Klickitat, Lincoln, Okanogan, Pacific, Pend Oreille, Stevens, Wahkiakum, Walla Walla, and Whitman counties and the cities within those counties.

(5) Except as otherwise provided in subsection (6) of this section, following the review of comprehensive plans and development regulations required by subsection (4) of this section, counties and cities shall take action to review and, if needed, revise their comprehensive plans and development regulations to ensure the plan and regulations comply with the requirements of this chapter as follows:

(a) On or before December 1, 2014, and every seven years thereafter, for Clallam, Clark, Jefferson, King, Kitsap, Pierce, Snohomish, Thurston, and Whatcom counties and the cities within those counties;

(b) On or before December 1, 2015, and every seven years thereafter, for Cowlitz, Island, Lewis, Mason, San Juan, Skagit, and Skamania counties and the cities within those counties;

(c) On or before December 1, 2016, and every seven years thereafter, for Benton, Chelan, Douglas, Grant, Kittitas, Spokane, and Yakima counties and the cities within those counties; and

(d) On or before December 1, 2017, and every seven years thereafter, for Adams, Asotin, Columbia, Ferry, Franklin, Garfield, Grays Harbor, Klickitat, Lincoln, Okanogan, Pacific, Pend Oreille, Stevens, Wahkiakum, Walla Walla, and Whitman counties and the cities within those counties.

(6)(a) Nothing in this section precludes a county or city from conducting the review and evaluation required by this section before the ~~((time limits))~~ deadlines established in subsections (4) and (5) of this section. Counties and cities may begin this process early and may be eligible for grants from the department, subject to available funding, if they elect to do so.

(b) A county that is subject to a ~~((schedule))~~ deadline established ~~((by the department under))~~ in subsection (4)(b) through (d) of this section and meets the following criteria may comply with the requirements of this section at any time within the thirty-six months following the ~~((date))~~ deadline established in ~~((the applicable schedule))~~ subsection (4) of this section: The county has a population of less than fifty thousand and has had its population increase by no more than seventeen percent in the ten years preceding the ~~((date))~~ deadline established in ~~((the applicable schedule))~~ subsection (4) of this section as of that date.

(c) A city that is subject to ~~((a schedule established by the department under))~~ a deadline established in subsection (4)(b) through (d) of this section and meets the following criteria may comply with the requirements of this section at any time within the thirty-six months following the ~~((date))~~ deadline established in ~~((the applicable schedule))~~ subsection (4) of this section: The city has a population of no more than five thousand and has had its population increase by the greater of either no more than one hundred persons or no more than seventeen percent in the ten years preceding the ~~((date))~~ deadline established in ~~((the applicable schedule))~~ subsection (4) of this section as of that date.

(d) A county or city that is subject to a deadline established in subsection (4)(d) of this section and that meets the criteria established in subsection (6)(b) or (c) of this section may comply with the requirements of subsection (4)(d) of this section at any time within the thirty-six months after the extension provided in subsection (6)(b) or (c) of this section.

(e) State agencies are encouraged to provide technical assistance to the counties and cities in the review of critical area ordinances, comprehensive plans, and development regulations.

~~((6) A county or city subject to the time periods in subsection (4)(a) of this section that, pursuant to an ordinance adopted by the county or city establishing a schedule for periodic review of its comprehensive plan and development regulations, has conducted a review and evaluation of its comprehensive plan and development regulations and, on or after January 1, 2001, has taken action in response to that review and evaluation shall be deemed to have conducted the first review required by subsection (4)(a) of this section. Subsequent review and evaluation by the county or city of its comprehensive plan and development regulations shall be conducted in accordance with the time periods established under subsection (4)(a) of this section.)~~

(7)(a) The requirements imposed on counties and cities under this section shall be considered "requirements of this chapter" under the terms of RCW 36.70A.040(1). Only those counties and cities that meet the following criteria may receive grants, loans, pledges, or financial guarantees under chapter 43.155 or 70.146 RCW:

~~((a))~~ (i) Complying with the ~~((schedules))~~ deadlines in this section;

~~((b))~~ (ii) Demonstrating substantial progress towards compliance with the schedules in this section for development regulations that protect critical areas;
or

~~((c))~~ (iii) Complying with the extension provisions of subsection ~~((5))~~ (6)(b) ~~((or))~~, (c), or (d) of this section ~~((may receive grants, loans, pledges, or financial guarantees under chapter 43.155 or 70.146 RCW)).~~

(b) A county or city that is fewer than twelve months out of compliance with the schedules in this section for development regulations that protect critical areas is making substantial progress towards compliance. Only those counties and cities in compliance with the schedules in this section may receive preference for grants or loans subject to the provisions of RCW 43.17.250.

~~((8) Except as provided in subsection (5)(b) and (c) of this section:~~

~~(a) Counties and cities required to satisfy the requirements of this section according to the schedule established by subsection (4)(b) through (d) of this section may comply with the requirements of this section for development regulations that protect critical areas one year after the dates established in subsection (4)(b) through (d) of this section;~~

~~(b) Counties and cities complying with the requirements of this section one year after the dates established in subsection (4)(b) through (d) of this section for development regulations that protect critical areas shall be deemed in compliance with the requirements of this section; and~~

~~(c) This subsection (8) applies only to the counties and cities specified in subsection (4)(b) through (d) of this section, and only to the requirements of this section for development regulations that protect critical areas that must be satisfied by December 1, 2005, December 1, 2006, and December 1, 2007.~~

~~(9) Notwithstanding subsection (8) of this section and the substantial progress provisions of subsections (7) and (10) of this section, only those counties and cities complying with the schedule in subsection (4) of this section, or the extension provisions of subsection (5)(b) or (c) of this section, may receive preferences for grants, loans, pledges, or financial guarantees under chapter 43.155 or 70.146 RCW.~~

~~(10) Until December 1, 2005, and notwithstanding subsection (7) of this section, a county or city subject to the time periods in subsection (4)(a) of this section demonstrating substantial progress towards compliance with the schedules in this section for its comprehensive land use plan and development regulations may receive grants, loans, pledges, or financial guarantees under chapter 43.155 or 70.146 RCW. A county or city that is fewer than twelve months out of compliance with the schedules in this section for its comprehensive land use plan and development regulations is deemed to be making substantial progress towards compliance.)~~

Passed by the Senate March 11, 2010.

Passed by the House March 2, 2010.

Approved by the Governor March 25, 2010.

Filed in Office of Secretary of State March 26, 2010.

CHAPTER 217

[Substitute Senate Bill 6207]

GOLF CART ZONES

AN ACT Relating to allowing local governments to create golf cart zones; amending RCW 46.04.320, 46.04.670, 46.16.010, and 46.61.687; reenacting and amending RCW 46.37.010; adding a new section to chapter 46.04 RCW; and adding a new section to chapter 46.08 RCW.

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

Sec. 1. RCW 46.04.320 and 2007 c 510 s 1 are each amended to read as follows:

"Motor vehicle" means every vehicle that is self-propelled and every vehicle that is propelled by electric power obtained from overhead trolley wires, but not operated upon rails. "Motor vehicle" includes a neighborhood electric vehicle as defined in RCW 46.04.357. "Motor vehicle" includes a medium-speed electric vehicle as defined in RCW 46.04.295. An electric personal assistive mobility device is not considered a motor vehicle. A power wheelchair is not considered a motor vehicle. A golf cart is not considered a motor vehicle, except for the purposes of chapter 46.61 RCW.

Sec. 2. RCW 46.04.670 and 2003 c 141 s 6 are each amended to read as follows:

"Vehicle" includes every device capable of being moved upon a public highway and in, upon, or by which any persons or property is or may be transported or drawn upon a public highway, including bicycles. The term does not include power wheelchairs or devices other than bicycles moved by human or animal power or used exclusively upon stationary rails or tracks. Mopeds shall not be considered vehicles or motor vehicles for the purposes of chapter 46.70 RCW. Bicycles shall not be considered vehicles for the purposes of chapter 46.12, 46.16, or 46.70 RCW. Electric personal assistive mobility

devices are not considered vehicles or motor vehicles for the purposes of chapter 46.12, 46.16, 46.29, 46.37, or 46.70 RCW. A golf cart is not considered a vehicle, except for the purposes of chapter 46.61 RCW.

NEW SECTION. Sec. 3. A new section is added to chapter 46.04 RCW to read as follows:

"Golf cart" means a gas-powered or electric-powered four-wheeled vehicle originally designed and manufactured for operation on a golf course for sporting purposes and has a speed attainable in one mile of not more than twenty miles per hour. A golf cart is not a nonhighway vehicle or off-road vehicle as defined in RCW 46.09.020.

NEW SECTION. Sec. 4. A new section is added to chapter 46.08 RCW to read as follows:

(1) The legislative authority of a city or county may by ordinance or resolution create a golf cart zone, for the purposes of permitting the incidental operation of golf carts, as defined in section 3 of this act, upon a street or highway of this state having a speed limit of twenty-five miles per hour or less.

(2) Every person operating a golf cart as authorized under this section is granted all rights and is subject to all duties applicable to the driver of a vehicle under chapter 46.61 RCW.

(3) Every person operating a golf cart as authorized under this section must be at least sixteen years of age and must have completed a driver education course or have previous experience driving as a licensed driver.

(4) A person who has a revoked license under RCW 46.20.285 may not operate a golf cart as authorized under this section.

(5) The legislative authority of a city or county may prohibit any person from operating a golf cart as authorized under this section at any time from a half hour after sunset to a half hour before sunrise.

(6) The legislative authority of a city or county may require a decal or other identifying device to be displayed on golf carts authorized on the streets and highways of this state under this section. The city or county may charge a fee for the decal or other identifying device.

(7) The legislative authority of a city or county may prohibit the operation of golf carts in designated bicycle lanes that are within a golf cart zone.

(8) Golf carts must be equipped with reflectors, seat belts, and rearview mirrors when operated upon streets and highways as authorized under this section.

(9) A city or county that creates a golf cart zone under this section must clearly identify the zone by placing signage at the beginning and end of the golf cart zone on a street or road that is part of the golf cart zone. The signage must be in compliance with the department of transportation's manual on uniform traffic control devices for streets and highways.

(10) Accidents that involve golf carts operated upon streets and highways as authorized under this section must be recorded and tracked in compliance with chapter 46.52 RCW. The accident report must indicate that a golf cart operating within a golf cart zone is involved in the accident.

Sec. 5. RCW 46.16.010 and 2007 c 242 s 2 are each amended to read as follows:

(1) It is unlawful for a person to operate any vehicle over and along a public highway of this state without first having obtained and having in full force and effect a current and proper vehicle license and display vehicle license number plates therefor as by this chapter provided.

(2) Failure to make initial registration before operation on the highways of this state is a traffic infraction, and any person committing this infraction shall pay a penalty of five hundred twenty-nine dollars, no part of which may be suspended or deferred.

(3) Failure to renew an expired registration before operation on the highways of this state is a traffic infraction.

(4) The licensing of a vehicle in another state by a resident of this state, as defined in RCW 46.16.028, evading the payment of any tax or license fee imposed in connection with registration, is a gross misdemeanor punishable as follows:

(a) For a first offense, up to one year in the county jail and payment of a fine of five hundred twenty-nine dollars plus twice the amount of delinquent taxes and fees, no part of which may be suspended or deferred;

(b) For a second or subsequent offense, up to one year in the county jail and payment of a fine of five hundred twenty-nine dollars plus four times the amount of delinquent taxes and fees, no part of which may be suspended or deferred;

(c) For fines levied under (b) of this subsection, an amount equal to the avoided taxes and fees owed will be deposited in the vehicle licensing fraud account created in the state treasury;

(d) The avoided taxes and fees shall be deposited and distributed in the same manner as if the taxes and fees were properly paid in a timely fashion.

(5) These provisions shall not apply to the following vehicles:

(a) Motorized foot scooters;

(b) Electric-assisted bicycles;

(c) Off-road vehicles operating on nonhighway roads under RCW 46.09.115;

(d) Farm vehicles if operated within a radius of fifteen miles of the farm where principally used or garaged, farm tractors and farm implements including trailers designed as cook or bunk houses used exclusively for animal herding temporarily operating or drawn upon the public highways, and trailers used exclusively to transport farm implements from one farm to another during the daylight hours or at night when such equipment has lights that comply with the law;

(e) Spray or fertilizer applicator rigs designed and used exclusively for spraying or fertilization in the conduct of agricultural operations and not primarily for the purpose of transportation, and nurse rigs or equipment auxiliary to the use of and designed or modified for the fueling, repairing, or loading of spray and fertilizer applicator rigs and not used, designed, or modified primarily for the purpose of transportation;

(f) Fork lifts operated during daylight hours on public highways adjacent to and within five hundred feet of the warehouses which they serve: PROVIDED FURTHER, That these provisions shall not apply to vehicles used by the state parks and recreation commission exclusively for park maintenance and operations upon public highways within state parks;

(g) "Trams" used for transporting persons to and from facilities related to the horse racing industry as regulated in chapter 67.16 RCW, as long as the public right-of-way routes over which the trams operate are not more than one mile from end to end, the public rights-of-way over which the tram operates have an average daily traffic of not more than 15,000 vehicles per day, and the activity is in conformity with federal law. The operator must be a licensed driver and at least eighteen years old. For the purposes of this section, "tram" also means a vehicle, or combination of vehicles linked together with a single mode of propulsion, used to transport persons from one location to another;

(h) "Special highway construction equipment" defined as follows: Any vehicle which is designed and used primarily for grading of highways, paving of highways, earth moving, and other construction work on highways and which is not designed or used primarily for the transportation of persons or property on a public highway and which is only incidentally operated or moved over the highway. It includes, but is not limited to, road construction and maintenance machinery so designed and used such as portable air compressors, air drills, asphalt spreaders, bituminous mixers, bucket loaders, track laying tractors, ditchers, leveling graders, finishing machines, motor graders, paving mixers, road rollers, scarifiers, earth moving scrapers and carryalls, lighting plants, welders, pumps, power shovels and draglines, self-propelled and tractor-drawn earth moving equipment and machinery, including dump trucks and tractor-dump trailer combinations which either (i) are in excess of the legal width, or (ii) which, because of their length, height, or unladen weight, may not be moved on a public highway without the permit specified in RCW 46.44.090 and which are not operated laden except within the boundaries of the project limits as defined by the contract, and other similar types of construction equipment, or (iii) which are driven or moved upon a public highway only for the purpose of crossing such highway from one property to another, provided such movement does not exceed five hundred feet and the vehicle is equipped with wheels or pads which will not damage the roadway surface.

Exclusions:

"Special highway construction equipment" does not include any of the following:

Dump trucks originally designed to comply with the legal size and weight provisions of this code notwithstanding any subsequent modification which would require a permit, as specified in RCW 46.44.090, to operate such vehicles on a public highway, including trailers, truck-mounted transit mixers, cranes and shovels, or other vehicles designed for the transportation of persons or property to which machinery has been attached; and

(i) Golf carts, as defined in section 3 of this act, operating within a designated golf cart zone as described in section 4 of this act.

(6) The following vehicles, whether operated solo or in combination, are exempt from license registration and displaying license plates as required by this chapter:

(a) A converter gear used to convert a semitrailer into a trailer or a two-axle truck or tractor into a three or more axle truck or tractor or used in any other manner to increase the number of axles of a vehicle. Converter gear includes an auxiliary axle, booster axle, dolly, and jeep axle.

(b) A tow dolly that is used for towing a motor vehicle behind another motor vehicle. The front or rear wheels of the towed vehicle are secured to and rest on the tow dolly that is attached to the towing vehicle by a tow bar.

(c) An off-road vehicle operated on a street, road, or highway as authorized under RCW 46.09.180.

(7)(a) A motor vehicle subject to initial or renewal registration under this section shall not be registered to a natural person unless the person at time of application:

(i) Presents an unexpired Washington state driver's license; or

(ii) Certifies that he or she is:

(A) A Washington resident who does not operate a motor vehicle on public roads; or

(B) Exempt from the requirement to obtain a Washington state driver's license under RCW 46.20.025.

(b) For shared or joint ownership, the department will set up procedures to verify that all owners meet the requirements of this subsection.

(c) A person falsifying residency is guilty of a gross misdemeanor punishable only by a fine of five hundred twenty-nine dollars.

(d) The department may adopt rules necessary to implement this subsection, including rules under which a natural person applying for registration may be exempt from the requirements of this subsection where the person provides evidence satisfactory to the department that he or she has a valid and compelling reason for not being able to meet the requirements of this subsection.

(8) A vehicle with an expired registration of more than forty-five days parked on a public street may be impounded by a police officer under RCW 46.55.113(2).

Sec. 6. RCW 46.37.010 and 2006 c 306 s 1 and 2006 c 212 s 5 are each reenacted and amended to read as follows:

(1) It is a traffic infraction for any person to drive or move, or for a vehicle owner to cause or knowingly permit to be driven or moved, on any highway any vehicle or combination of vehicles that:

(a) Is in such unsafe condition as to endanger any person;

(b) Is not at all times equipped with such lamps and other equipment in proper working condition and adjustment as required by this chapter or by rules issued by the Washington state patrol;

(c) Contains any parts in violation of this chapter or rules issued by the Washington state patrol.

(2) It is a traffic infraction for any person to do any act forbidden or fail to perform any act required under this chapter or rules issued by the Washington state patrol.

(3) Nothing contained in this chapter or the state patrol's regulations shall be construed to prohibit the use of additional parts and accessories on any vehicle not inconsistent with the provisions of this chapter or the state patrol's regulations.

(4) The provisions of the chapter and the state patrol's regulations with respect to equipment on vehicles shall not apply to implements of husbandry, road machinery, road rollers, or farm tractors except as herein made applicable.

(5) No owner or operator of a farm tractor, self-propelled unit of farm equipment, or implement of husbandry shall be guilty of a crime or subject to

penalty for violation of RCW 46.37.160 as now or hereafter amended unless such violation occurs on a public highway.

(6) It is a traffic infraction for any person to sell or offer for sale vehicle equipment which is required to be approved by the state patrol as prescribed in RCW 46.37.005 unless it has been approved by the state patrol.

(7) The provisions of this chapter with respect to equipment required on vehicles shall not apply to:

(a) Motorcycles or motor-driven cycles except as herein made applicable;

(b) Golf carts, as defined in section 3 of this act, operating within a designated golf cart zone as described in section 4 of this act, except as provided in section 4(8) of this act.

(8) This chapter does not apply to off-road vehicles used on nonhighway roads or used on streets, roads, or highways as authorized under RCW 46.09.180.

(9) This chapter does not apply to vehicles used by the state parks and recreation commission exclusively for park maintenance and operations upon public highways within state parks.

(10) Notices of traffic infraction issued to commercial drivers under the provisions of this chapter with respect to equipment required on commercial motor vehicles shall not be considered for driver improvement purposes under chapter 46.20 RCW.

(11) Whenever a traffic infraction is chargeable to the owner or lessee of a vehicle under subsection (1) of this section, the driver shall not be arrested or issued a notice of traffic infraction unless the vehicle is registered in a jurisdiction other than Washington state, or unless the infraction is for an offense that is clearly within the responsibility of the driver.

(12) Whenever the owner or lessee is issued a notice of traffic infraction under this section the court may, on the request of the owner or lessee, take appropriate steps to make the driver of the vehicle, or any other person who directs the loading, maintenance, or operation of the vehicle, a codefendant. If the codefendant is held solely responsible and is found to have committed the traffic infraction, the court may dismiss the notice against the owner or lessee.

**Sec. 7. RCW 46.61.687 and 2007 c 510 s 4 are each amended to read as follows:*

(1) Whenever a child who is less than sixteen years of age is being transported in a motor vehicle that is in operation and that is required by RCW 46.37.510 to be equipped with a safety belt system in a passenger seating position, or is being transported in a neighborhood electric vehicle or medium-speed electric vehicle that is in operation, the driver of the vehicle shall keep the child properly restrained as follows:

(a) A child must be restrained in a child restraint system, if the passenger seating position equipped with a safety belt system allows sufficient space for installation, until the child is eight years old, unless the child is four feet nine inches or taller. The child restraint system must comply with standards of the United States department of transportation and must be secured in the vehicle in accordance with instructions of the vehicle manufacturer and the child restraint system manufacturer.

(b) A child who is eight years of age or older or four feet nine inches or taller shall be properly restrained with the motor vehicle's safety belt properly

adjusted and fastened around the child's body or an appropriately fitting child restraint system.

(c) The driver of a vehicle transporting a child who is under thirteen years old shall transport the child in the back seat positions in the vehicle where it is practical to do so.

(2) Enforcement of subsection (1) of this section is subject to a visual inspection by law enforcement to determine if the child restraint system in use is appropriate for the child's individual height, weight, and age. The visual inspection for usage of a child restraint system must ensure that the child restraint system is being used in accordance with the instruction of the vehicle and the child restraint system manufacturers. The driver of a vehicle transporting a child who is under thirteen years old shall transport the child in the back seat positions in the vehicle where it is practical to do so.

(3) A person violating subsection (1) of this section may be issued a notice of traffic infraction under chapter 46.63 RCW. If the person to whom the notice was issued presents proof of acquisition of an approved child passenger restraint system or a child booster seat, as appropriate, within seven days to the jurisdiction issuing the notice and the person has not previously had a violation of this section dismissed, the jurisdiction shall dismiss the notice of traffic infraction.

(4) Failure to comply with the requirements of this section shall not constitute negligence by a parent or legal guardian. Failure to use a child restraint system shall not be admissible as evidence of negligence in any civil action.

(5) This section does not apply to: (a) For hire vehicles, (b) vehicles designed to transport sixteen or less passengers, including the driver, operated by auto transportation companies, as defined in RCW 81.68.010, (c) vehicles providing customer shuttle service between parking, convention, and hotel facilities, and airport terminals, ~~(and)~~ (d) golf carts, as defined in section 3 of this act, operating within a designated golf cart zone as described in section 4 of this act, and (e) school buses.

(6) As used in this section, "child restraint system" means a child passenger restraint system that meets the Federal Motor Vehicle Safety Standards set forth in 49 C.F.R. 571.213.

(7) The requirements of subsection (1) of this section do not apply in any seating position where there is only a lap belt available and the child weighs more than forty pounds.

(8)(a) Except as provided in (b) of this subsection, a person who has a current national certification as a child passenger safety technician and who in good faith provides inspection, adjustment, or educational services regarding child passenger restraint systems is not liable for civil damages resulting from any act or omission in providing the services, other than acts or omissions constituting gross negligence or willful or wanton misconduct.

(b) The immunity provided in this subsection does not apply to a certified child passenger safety technician who is employed by a retailer of child passenger restraint systems and who, during his or her hours of employment and while being compensated, provides inspection, adjustment, or educational services regarding child passenger restraint systems.

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

Passed by the Senate March 8, 2010.

Passed by the House March 3, 2010.

Approved by the Governor March 25, 2010, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State March 26, 2010.

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

"I am returning herewith, without my approval as to Section 7, Substitute Senate Bill 6207 entitled:

"AN ACT Relating to allowing local governments to create golf cart zones."

This bill authorizes local jurisdictions to allow the use of golf carts on public roads that have speed limits of 25 miles per hour or less, under certain restrictions. The bill contains some important safety precautions, including requiring local jurisdictions to post signs identifying golf cart zones, and requiring that golf carts have seatbelts and proper lighting. Section 7 would exempt passengers under age 16 from the state's seatbelt and child restraint requirements. I believe it is important these passenger safety provisions apply to the use of vehicles transporting a child on a public road.

For this reason, I have vetoed Section 7 of Substitute Senate Bill 6207.

With the exception of Section 7 of Substitute Senate Bill 6207 is approved."

CHAPTER 218

[Senate Bill 6308]

SPECIAL COMMITMENT CENTERS—COMPUTER ACCESS

AN ACT Relating to controlling computer access by residents of the special commitment center; amending RCW 71.09.080; and creating a new section.

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

NEW SECTION. Sec. 1. The legislature finds that there have been ongoing, egregious examples of certain residents of the special commitment center having illegal child pornography, other prohibited pornography, and other banned materials on their computers. The legislature also finds that activities at the special commitment center must be designed and implemented to meet the treatment goals of the special commitment center, and proper and appropriate computer usage is one such activity. The legislature also finds that by linking computer usage to treatment plans, residents are less likely to have prohibited materials on their computers and are more likely to successfully complete their treatment plans. Therefore, the legislature finds that residents' computer usage in compliance with conditions placed on computer usage is essential to achieving their therapeutic goals. If residents' usage of computers is not in compliance or is not related to meeting their treatment goals, computer usage will be limited in order to prevent or reduce residents' access to prohibited materials.

Sec. 2. RCW 71.09.080 and 2009 c 409 s 7 are each amended to read as follows:

(1) Any person subjected to restricted liberty as a sexually violent predator pursuant to this chapter shall not forfeit any legal right or suffer any legal disability as a consequence of any actions taken or orders made, other than as specifically provided in this chapter, or as otherwise authorized by law.

(2)(a) Any person committed or detained pursuant to this chapter shall be prohibited from possessing or accessing a personal computer if the resident's

individualized treatment plan states that access to a computer is harmful to bringing about a positive response to a specific and certain phase or course of treatment.

(b) A person who is prohibited from possessing or accessing a personal computer under (a) of this subsection shall be permitted to access a limited functioning personal computer capable of word processing and limited data storage on the computer only that does not have: (i) Internet access capability; (ii) an optical drive, external drive, universal serial bus port, or similar drive capability; or (iii) the capability to display photographs, images, videos, or motion pictures, or similar display capability from any drive or port capability listed under (b)(i) of this subsection.

(3) Any person committed pursuant to this chapter has the right to adequate care and individualized treatment. The department of social and health services shall keep records detailing all medical, expert, and professional care and treatment received by a committed person, and shall keep copies of all reports of periodic examinations made pursuant to this chapter. All such records and reports shall be made available upon request only to: The committed person, his or her attorney, the prosecuting attorney, the court, the protection and advocacy agency, or another expert or professional person who, upon proper showing, demonstrates a need for access to such records.

~~((3))~~ (4) At the time a person is taken into custody or transferred into a facility pursuant to a petition under this chapter, the professional person in charge of such facility or his or her designee shall take reasonable precautions to inventory and safeguard the personal property of the persons detained or transferred. A copy of the inventory, signed by the staff member making it, shall be given to the person detained and shall, in addition, be open to inspection to any responsible relative, subject to limitations, if any, specifically imposed by the detained person. For purposes of this subsection, "responsible relative" includes the guardian, conservator, attorney, spouse, parent, adult child, or adult brother or sister of the person. The facility shall not disclose the contents of the inventory to any other person without consent of the patient or order of the court.

~~((4))~~ (5) Nothing in this chapter prohibits a person presently committed from exercising a right presently available to him or her for the purpose of obtaining release from confinement, including the right to petition for a writ of habeas corpus.

~~((5))~~ (6) No indigent person may be conditionally released or unconditionally discharged under this chapter without suitable clothing, and the secretary shall furnish the person with such sum of money as is required by RCW 72.02.100 for persons without ample funds who are released from correctional institutions. As funds are available, the secretary may provide payment to the indigent persons conditionally released pursuant to this chapter consistent with the optional provisions of RCW 72.02.100 and 72.02.110, and may adopt rules to do so.

~~((6))~~ (7) If a civil commitment petition is dismissed, or a trier of fact determines that a person does not meet civil commitment criteria, the person shall be released within twenty-four hours of service of the release order on the superintendent of the special commitment center, or later by agreement of the person who is the subject of the petition.

NEW SECTION. **Sec. 3.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed by the Senate March 9, 2010.

Passed by the House March 5, 2010.

Approved by the Governor March 25, 2010.

Filed in Office of Secretary of State March 26, 2010.

CHAPTER 219

[Senate Bill 6481]

GMA PLANNING—REQUIRED ADOPTION OF FOREST PRACTICES REGULATIONS

AN ACT Relating to clarifying which local governments have jurisdiction over conversion-related forest practices; and reenacting and amending RCW 76.09.240.

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

Sec. 1. RCW 76.09.240 and 2007 c 236 s 1 and 2007 c 106 s 6 are each reenacted and amended to read as follows:

(1) ~~((On or before December 31, 2008:))~~

(a) Counties planning under RCW 36.70A.040 with a population greater than one hundred thousand, and the cities and towns within those counties, where more than a total of twenty-five Class IV forest practices applications, as defined in RCW 76.09.050(1) Class IV (a) through (d), have been filed with the department between January 1, 2003, and December 31, 2005, shall adopt and enforce ordinances or regulations as provided in subsection (2) of this section for the following:

(i) Forest practices classified as Class I, II, III, and IV that are within urban growth areas designated under RCW 36.70A.110, except for forest practices on ownerships of contiguous forest land equal to or greater than twenty acres where the forest landowner provides, to the department and the county, a written statement of intent, signed by the forest landowner, not to convert to a use other than growing commercial timber for ten years. This statement must be accompanied by either:

(A) A written forest management plan acceptable to the department; or

(B) Documentation that the land is enrolled as forest land of long-term commercial significance under the provisions of chapter 84.33 RCW; and

(ii) Forest practices classified as Class IV, outside urban growth areas designated under RCW 36.70A.110, involving either timber harvest or road construction, or both on:

(A) Lands platted after January 1, 1960, as provided in chapter 58.17 RCW;

(B) Lands that have or are being converted to another use; or

(C) Lands which, under RCW 76.09.070, are not to be reforested because of the likelihood of future conversion to urban development;

(b) Counties planning under RCW 36.70A.040, and the cities and towns within those counties, not included in (a) of this subsection, may adopt and enforce ordinances or regulations as provided in (a) of this subsection; and

(c) Counties not planning under RCW 36.70A.040, and the cities and towns within those counties, may adopt and enforce ordinances or regulations as

provided in subsection (2) of this section for forest practices classified as Class IV involving either timber harvest or road construction, or both on:

- (i) Lands platted after January 1, 1960, as provided in chapter 58.17 RCW;
- (ii) Lands that have or are being converted to another use; or
- (iii) Lands which, under RCW 76.09.070, are not to be reforested because of the likelihood of future conversion to urban development.

(2) Before a county, city, or town may regulate forest practices under subsection (1) of this section, it shall ensure that its critical areas and development regulations are in compliance with RCW 36.70A.130 and, if applicable, RCW 36.70A.215. The county, city, or town shall notify the department and the department of ecology in writing sixty days prior to adoption of the development regulations required in this section. The transfer of jurisdiction shall not occur until the county, city, or town has notified the department, the department of revenue, and the department of ecology in writing of the effective date of the regulations. Ordinances and regulations adopted under subsection (1) of this section and this subsection must be consistent with or supplement development regulations that protect critical areas pursuant to RCW 36.70A.060, and shall at a minimum include:

(a) Provisions that require appropriate approvals for all phases of the conversion of forest lands, including land clearing and grading; and

(b) Procedures for the collection and administration of permit and recording fees.

(3) Activities regulated by counties, cities, or towns as provided in subsections (1) and (2) of this section shall be administered and enforced by those counties, cities, or towns. The department shall not regulate these activities under this chapter.

(4) The board shall continue to adopt rules and the department shall continue to administer and enforce those rules in each county, city, or town for all forest practices as provided in this chapter until such a time as the county, city, or town has updated its development regulations as required by RCW 36.70A.130 and, if applicable, RCW 36.70A.215, and has adopted ordinances or regulations under subsections (1) and (2) of this section. However, counties, cities, and towns that have adopted ordinances or regulations regarding forest practices prior to July 22, 2007, are not required to readopt their ordinances or regulations in order to satisfy the requirements of this section.

(5) Upon request, the department shall provide technical assistance to all counties, cities, and towns while they are in the process of adopting the regulations required by this section, and after the regulations become effective.

(6) For those forest practices over which the board and the department maintain regulatory authority no county, city, municipality, or other local or regional governmental entity shall adopt or enforce any law, ordinance, or regulation pertaining to forest practices, except that to the extent otherwise permitted by law, such entities may exercise any:

(a) Land use planning or zoning authority: PROVIDED, That exercise of such authority may regulate forest practices only: (i) Where the application submitted under RCW 76.09.060 as now or hereafter amended indicates that the lands have been or will be converted to a use other than commercial forest product production; or (ii) on lands which have been platted after January 1, 1960, as provided in chapter 58.17 RCW: PROVIDED, That no permit system

solely for forest practices shall be allowed; that any additional or more stringent regulations shall not be inconsistent with the forest practices regulations enacted under this chapter; and such local regulations shall not unreasonably prevent timber harvesting;

(b) Taxing powers;

(c) Regulatory authority with respect to public health; and

(d) Authority granted by chapter 90.58 RCW, the "Shoreline Management Act of 1971."

(7) All counties and cities adopting or enforcing regulations or ordinances under this section shall include in the regulation or ordinance a requirement that a verification accompany every permit issued for forest land by that county or city associated with the conversion to a use other than commercial timber operation, as that term is defined in RCW 76.09.020, that verifies that the land in question is not or has not been subject to a notice of conversion to nonforestry uses under RCW 76.09.060 during the six-year period prior to the submission of a permit application.

(8) To improve the administration of the forest excise tax created in chapter 84.33 RCW, a county, city, or town that regulates forest practices under this section shall report permit information to the department of revenue for all approved forest practices permits. The permit information shall be reported to the department of revenue no later than sixty days after the date the permit was approved and shall be in a form and manner agreed to by the county, city, or town and the department of revenue. Permit information includes the landowner's legal name, address, telephone number, and parcel number.

Passed by the Senate March 9, 2010.

Passed by the House February 28, 2010.

Approved by the Governor March 25, 2010.

Filed in Office of Secretary of State March 26, 2010.

CHAPTER 220

[Engrossed Substitute Senate Bill 6522]

ACCOUNTABLE CARE ORGANIZATION PILOT PROJECTS

AN ACT Relating to establishing the accountable care organization pilot projects; adding a new section to chapter 70.54 RCW; and creating a new section.

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

NEW SECTION. **Sec. 1.** (1)(a) The legislature finds that a necessary component of bending the health care cost curve is innovative payment and practice reforms that capitalize on current incentives and create new incentives in the delivery system to further the goals of increased quality, accessibility, and affordability.

(b) The legislature further finds that accountable care organizations have received significant attention in the recent health care reform debate and have been found by the congressional budget office to be one of the few comprehensive reform models that can be relied on to reduce costs.

(c) The legislature further finds that accountable care organizations present an intriguing path forward on reform that builds on current provider referral

patterns and offers shared savings payments to providers willing to be held accountable for quality and costs.

(d) The legislature further finds that the accountable care organization framework offers a basic method of decoupling volume and intensity from revenue and profit and is thus a crucial step toward achieving a truly sustainable health care delivery system.

(2) The legislature declares that collaboration among public payors, private health carriers, third-party purchasers, health care delivery systems, and providers to identify appropriate reimbursement methods to align incentives in support of accountable care organizations is in the best interest of the public. The legislature therefore intends to exempt from state antitrust laws, and to provide immunity from federal antitrust laws through the state action doctrine, for activities undertaken pursuant to pilots designed and implemented under section 2 of this act that might otherwise be constrained by such laws. The legislature does not intend and does not authorize any person or entity to engage in activities or to conspire to engage in activities that would constitute per se violations of state and federal antitrust laws including, but not limited to, agreements among competing health care providers or health carriers as to the price or specific level of reimbursement for health care services.

(3) The legislature further finds that public-private partnerships and joint projects, such as the Washington patient-centered medical home collaborative administered and funded jointly between the department of health and the Washington academy of family physicians, are research-supported, evidence-based primary care delivery projects that should be encouraged to the fullest extent possible because they improve health outcomes for patients and increase primary care clinical effectiveness, thereby reducing the overall costs in our health care system.

NEW SECTION. Sec. 2. A new section is added to chapter 70.54 RCW to read as follows:

(1) The administrator shall within available resources appoint a lead organization by January 1, 2011, to support at least one integrated health care delivery system and one network of nonintegrated community health care providers in establishing two distinct accountable care organization pilot projects. The intent is that at least two accountable care organization pilot projects be in the process of implementation no later than January 1, 2012. In order to obtain expert guidance and consultation in design and implementation of the pilots, the lead organization shall contract with a recognized national learning collaborative with a reputable research organization having expertise in the development and implementation of accountable care organizations and payment systems.

(2) The lead organization designated by the administrator under this section shall:

- (a) Be representative of health care providers and payors across the state;
- (b) Have expertise and knowledge in medical payment and practice reform;
- (c) Be able to support the costs of its work without recourse to state funding.

The administrator and the lead organization are authorized and encouraged to seek federal funds, as well as solicit, receive, contract for, collect, and hold grants, donations, and gifts to support the implementation of this section and may scale back implementation to fall within resulting resource parameters;

(d) In collaboration with the health care authority, identify and convene work groups, as needed, to accomplish the goals of this act; and

(e) Submit regular reports to the administrator on the progress of implementing the requirements of this act.

(3) As used in this section, an "accountable care organization" is an entity that enables networks consisting of health care providers or a health care delivery system to become accountable for the overall costs and quality of care for the population they jointly serve and to share in the savings created by improving quality and slowing spending growth while relying on the following principles:

(a) Local accountability:

(i) Accountable care organizations must be composed of local delivery systems; and

(ii) Accountable care organizations spending benchmarks must make the local system accountable for cost, quality, and capacity;

(b) Appropriate payment and delivery models:

(i) Accountable care organizations with expenditures below benchmarks are recognized and rewarded with appropriate financial incentives;

(ii) Payment models have financial incentives that allow stakeholders to make investments that improve care and slow cost growth such as health information technology; and

(iii) Patient-centered medical homes are an integral component to an accountable care organization with a focus on improving patient outcomes, optimizing the use of health care information technology, patient registries, and chronic disease management, thereby improving the primary care team, and achieving cost savings through lowering health care utilization;

(c) Performance measurement:

(i) Measurement is essential to ensure that appropriate care is being delivered and that cost savings are not the result of limiting necessary care; and

(ii) Accountable care organizations must report patient experience data in addition to clinical process and outcome measures.

(4) The lead organization, subject to available resources, shall research other opportunities to establish accountable care organization pilot projects, which may become available through participation in a demonstration project in medicaid, payment reform in medicare, national health care reform, or other federal changes that support the development of accountable care organizations.

(5) The lead organization, subject to available resources, shall coordinate the accountable care organization selection process with the primary care medical home reimbursement pilot projects established in RCW 70.54.380 and the ongoing joint project of the department of health and the Washington academy of family physicians patient-centered medical home collaborative being put into practice under section 2, chapter 295, Laws of 2008, as well as other private and public efforts to promote adoption of medical homes within the state.

(6) The lead organization shall make a report to the health care committees of the legislature, by January 1, 2013, on the progress of the accountable care organization pilot projects, recommendations about further expansion, and needed changes to the statute to more broadly implement and oversee accountable care organizations in the state.

(7) As used in this section, "administrator," "health care provider," "lead organization," and "payor" have the same meaning as provided in RCW 41.05.036.

Passed by the Senate February 16, 2010.

Passed by the House March 2, 2010.

Approved by the Governor March 25, 2010.

Filed in Office of Secretary of State March 26, 2010.

CHAPTER 221

[Senate Bill 6826]

VEHICLE LICENSING SUBAGENTS—FEES

AN ACT Relating to subagent service fees; amending RCW 46.01.140; and adding a new section to chapter 46.01 RCW.

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

Sec. 1. RCW 46.01.140 and 2005 c 343 s 1 are each amended to read as follows:

(1) The county auditor, if appointed by the director of licensing shall carry out the provisions of this title relating to the licensing of vehicles and the issuance of vehicle license number plates under the direction and supervision of the director and may with the approval of the director appoint assistants as special deputies and recommend subagents to accept applications and collect fees for vehicle licenses and transfers and to deliver vehicle license number plates.

(2) A county auditor appointed by the director may request that the director appoint subagencies within the county.

(a) Upon authorization of the director, the auditor shall use an open competitive process including, but not limited to, a written business proposal and oral interview to determine the qualifications of all interested applicants.

(b) A subagent may recommend a successor who is either the subagent's sibling, spouse, or child, or a subagency employee, as long as the recommended successor participates in the open, competitive process used to select an applicant. In making successor recommendation and appointment determinations, the following provisions apply:

(i) If a subagency is held by a partnership or corporate entity, the nomination must be submitted on behalf of, and agreed to by, all partners or corporate officers.

(ii) No subagent may receive any direct or indirect compensation or remuneration from any party or entity in recognition of a successor nomination. A subagent may not receive any financial benefit from the transfer or termination of an appointment.

(iii) (a) and (b) of this subsection are intended to assist in the efficient transfer of appointments in order to minimize public inconvenience. They do not create a proprietary or property interest in the appointment.

(c) The auditor shall submit all proposals to the director, and shall recommend the appointment of one or more subagents who have applied through the open competitive process. The auditor shall include in his or her recommendation to the director, not only the name of the successor who is a

relative or employee, if applicable and if otherwise qualified, but also the name of one other applicant who is qualified and was chosen through the open competitive process. The director has final appointment authority.

(3)(a) A county auditor who is appointed as an agent by the department shall enter into a standard contract provided by the director, developed with the advice of the title and registration advisory committee.

(b) A subagent appointed under subsection (2) of this section shall enter into a standard contract with the county auditor, developed with the advice of the title and registration advisory committee. The director shall provide the standard contract to county auditors.

(c) The contracts provided for in (a) and (b) of this subsection must contain at a minimum provisions that:

(i) Describe the responsibilities, and where applicable, the liability, of each party relating to the service expectations and levels, equipment to be supplied by the department, and equipment maintenance;

(ii) Require the specific type of insurance or bonds so that the state is protected against any loss of collected motor vehicle tax revenues or loss of equipment;

(iii) Specify the amount of training that will be provided by the state, the county auditor, or subagents;

(iv) Describe allowable costs that may be charged to vehicle licensing activities as provided for in (d) of this subsection;

(v) Describe the causes and procedures for termination of the contract, which may include mediation and binding arbitration.

(d) The department shall develop procedures that will standardize and prescribe allowable costs that may be assigned to vehicle licensing and vessel registration and title activities performed by county auditors.

(e) The contracts may include any provision that the director deems necessary to ensure acceptable service and the full collection of vehicle and vessel tax revenues.

(f) The director may waive any provisions of the contract deemed necessary in order to ensure that readily accessible service is provided to the citizens of the state.

(4)(a) At any time any application is made to the director, the county auditor, or other agent pursuant to any law dealing with licenses, registration, or the right to operate any vehicle or vessel upon the public highways or waters of this state, excluding applicants already paying such fee under RCW 46.16.070 or 46.16.085, the applicant shall pay to the director, county auditor, or other agent a fee of three dollars for each application in addition to any other fees required by law.

(b) Counties that do not cover the expenses of vehicle licensing and vessel registration and title activities may submit to the department a request for cost-coverage moneys. The request must be submitted on a form developed by the department. The department shall develop procedures to verify whether a request is reasonable. Payment shall be made on requests found to be allowable from the licensing services account.

(c) Applicants for certificates of ownership, including applicants paying fees under RCW 46.16.070 or 46.16.085, shall pay to the director, county

auditor, or other agent a fee of four dollars in addition to any other fees required by law.

(d) The fees under (a) and (c) of this subsection, if paid to the county auditor as agent of the director, or if paid to a subagent of the county auditor, shall be paid to the county treasurer in the same manner as other fees collected by the county auditor and credited to the county current expense fund. If the fee is paid to another agent of the director, the fee shall be used by the agent to defray his or her expenses in handling the application.

(e) Applicants required to pay the three-dollar fee established under (a) of this subsection, must pay an additional seventy-five cents, which must be collected and remitted to the state treasurer and distributed as follows:

(i) Fifty cents must be deposited into the department of licensing services account of the motor vehicle fund and must be used for agent and subagent support, which is to include but not be limited to the replacement of department-owned equipment in the possession of agents and subagents.

(ii) Twenty-five cents must be deposited into the license plate technology account created under RCW 46.16.685.

(5) A subagent shall collect a service fee of (a) (~~ten~~) twelve dollars for changes in a certificate of ownership, with or without registration renewal, or verification of record and preparation of an affidavit of lost title other than at the time of the title application or transfer and (b) (~~four~~) five dollars for registration renewal only, issuing a transit permit, or any other service under this section.

(6) If the fee is collected by the state patrol as agent for the director, the fee so collected shall be certified to the state treasurer and deposited to the credit of the state patrol highway account. If the fee is collected by the department of transportation as agent for the director, the fee shall be certified to the state treasurer and deposited to the credit of the motor vehicle fund. All such fees collected by the director or branches of his office shall be certified to the state treasurer and deposited to the credit of the highway safety fund.

(7) Any county revenues that exceed the cost of providing vehicle licensing and vessel registration and title activities in a county, calculated in accordance with the procedures in subsection (3)(d) of this section, shall be expended as determined by the county legislative authority during the process established by law for adoption of county budgets.

(8) The director may adopt rules to implement this section.

****NEW SECTION. Sec. 2. A new section is added to chapter 46.01 RCW to read as follows:***

The department must implement a fair, equitable, and objective rotation of public and private entity listings on the department's vehicle licensing and registration web site. The entities to be listed on the rotation are the vehicle licensing subagents and county auditors to assist the public and businesses in locating vehicle licensing offices.

*Sec. 2 was vetoed. See message at end of chapter.

Passed by the Senate March 9, 2010.

Passed by the House March 3, 2010.

Approved by the Governor March 25, 2010, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State March 26, 2010.

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

"I am returning herewith, without my approval as to Section 2 of Senate Bill 6826.

"AN ACT Relating to subagent service fees."

This bill authorizes a fee increase to help independent vehicle licensing subagents keep up with the cost of doing business and requires the Department of Licensing to implement a rotation of public and private vehicle service office listings on the Department's website. For some time now the Department has been working with the Washington Association of Vehicle Subagents to redesign the website listings, so that the lookup function will allow a person to enter his or her zip code and receive a listing of licensing offices in order of proximity to that zip code. The Department has indicated to the Association that they will have this change completed by December 31, 2010. This proximity website feature will better serve the needs of the public and the subagents. Section 2 would not allow implementation of the proximity website feature requested by the subagents and planned by the Department.

For this reason I have vetoed Section 2 of Senate Bill 6826.

With the exception of Section 2, Senate Bill 6826 is approved."

CHAPTER 222

[Senate Bill 6833]

STATE TREASURER—MANAGEMENT OF FUNDS AND ACCOUNTS

AN ACT Relating to management of funds and accounts by the state treasurer; amending RCW 43.08.150, 43.08.190 and 43.79A.040; reenacting and amending RCW 43.84.092; adding a new section to chapter 43.79 RCW; and creating new sections.

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

NEW SECTION. Sec. 1. The legislature recognizes the significant financial benefits realized by the state through consolidated cash management activities. It is the intent of this act to encourage and, when financially advantageous, to expand those activities.

Sec. 2. RCW 43.08.150 and 2009 c 549 s 5045 are each amended to read as follows:

As soon as possible after the close of each calendar month, the state treasurer shall prepare a report as to the state of the general fund and every other fund under his or her control itemized as to:

- (1) The amount in the fund at the close of business at the end of the preceding month;
- (2) The amount of revenue deposited or transferred to the credit of each fund during the current month;
- (3) The amount of withdrawals or transfers from each fund during the current month; and
- (4) The amount on hand in each fund at the close of business at the end of the current month.

One copy of each report shall be provided promptly to those requesting them so long as the supply lasts. The report shall be posted on the official web site of the state treasurer. The report shall also include a graphical display of month end balances, for both the current and previous fiscal year, for the general fund, total funds in the treasury, total funds in the treasurer's trust fund, and total funds managed by the state treasurer.

Sec. 3. RCW 43.08.190 and 2009 c 564 s 926 are each amended to read as follows:

There is hereby created a fund within the state treasury to be known as the "state treasurer's service fund." Such fund shall be used solely for the payment of costs and expenses incurred in the operation and administration of the state treasurer's office.

Moneys shall be allocated monthly and placed in the state treasurer's service fund equivalent to a maximum of one percent of the trust and treasury average daily cash balances from the earnings generated under the authority of RCW 43.79A.040 and 43.84.080 other than earnings generated from investment of balances in funds and accounts specified in RCW 43.79A.040 (~~or 43.84.092(4)~~) (4)(c). The allocation shall precede the distribution of the remaining earnings as prescribed under RCW 43.79A.040 and 43.84.092. The state treasurer shall establish a uniform allocation rate (~~based on the appropriations for the treasurer's office~~) for all funds and accounts; except that the state treasurer may negotiate a different allocation rate with any state agency that has independent authority over funds not statutorily required to be held in the state treasury or in the custody of the state treasurer. In no event shall the rate be less than the actual costs incurred by the state treasurer's office. If no rate is separately negotiated, the default rate for any funds held shall be the rate set for funds held pursuant to statute.

During the 2009-2011 fiscal biennium, the legislature may transfer from the state treasurer's service fund to the state general fund such amounts as reflect the excess fund balance of the fund.

Sec. 4. RCW 43.79A.040 and 2009 c 87 s 4 are each amended to read as follows:

(1) Money in the treasurer's trust fund may be deposited, invested, and reinvested by the state treasurer in accordance with RCW 43.84.080 in the same manner and to the same extent as if the money were in the state treasury, and may be commingled with moneys in the state treasury for cash management and cash balance purposes.

(2) All income received from investment of the treasurer's trust fund shall be set aside in an account in the treasury trust fund to be known as the investment income account.

(3) The investment income account may be utilized for the payment of purchased banking services on behalf of treasurer's trust funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasurer or affected state agencies. The investment income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4)(a) Monthly, the state treasurer shall distribute the earnings credited to the investment income account to the state general fund except under (b) (~~and~~), (c), and (d) of this subsection.

(b) The following accounts and funds shall receive their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The Washington promise scholarship account, the college savings program account, the Washington advanced college tuition payment program account, the agricultural local fund, the American Indian scholarship endowment

fund, the foster care scholarship endowment fund, the foster care endowed scholarship trust fund, the students with dependents grant account, the basic health plan self-insurance reserve account, the contract harvesting revolving account, the Washington state combined fund drive account, the commemorative works account, the Washington international exchange scholarship endowment fund, the toll collection account, the developmental disabilities endowment trust fund, the energy account, the fair fund, the family leave insurance account, the food animal veterinarian conditional scholarship account, the fruit and vegetable inspection account, the future teachers conditional scholarship account, the game farm alternative account, the GET ready for math and science scholarship account, the grain inspection revolving fund, the juvenile accountability incentive account, the law enforcement officers' and firefighters' plan 2 expense fund, the local tourism promotion account, the pilotage account, the produce railcar pool account, the regional transportation investment district account, the rural rehabilitation account, the stadium and exhibition center account, the youth athletic facility account, the self-insurance revolving fund, the sulfur dioxide abatement account, the children's trust fund, the Washington horse racing commission Washington bred owners' bonus fund and breeder awards account, the Washington horse racing commission class C purse fund account, the individual development account program account, the Washington horse racing commission operating account (earnings from the Washington horse racing commission operating account must be credited to the Washington horse racing commission class C purse fund account), the life sciences discovery fund, the Washington state heritage center account, the reduced cigarette ignition propensity account, and the reading achievement account. ~~((However, the earnings to be distributed shall first be reduced by the allocation to the state treasurer's service fund pursuant to RCW 43.08.190.))~~

(c) The following accounts and funds shall receive eighty percent of their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The advanced right-of-way revolving fund, the advanced environmental mitigation revolving account, the city and county advance right-of-way revolving fund, the federal narcotics asset forfeitures account, the high occupancy vehicle account, the local rail service assistance account, and the miscellaneous transportation programs account.

(d) Any state agency that has independent authority over accounts or funds not statutorily required to be held in the custody of the state treasurer that deposits funds into a fund or account in the custody of the state treasurer pursuant to an agreement with the office of the state treasurer shall receive its proportionate share of earnings based upon each account's or fund's average daily balance for the period.

(5) In conformance with Article II, section 37 of the state Constitution, no trust accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

Sec. 5. RCW 43.84.092 and 2009 c 479 s 31, 2009 c 472 s 5, and 2009 c 451 s 8 are each reenacted and amended to read as follows:

(1) All earnings of investments of surplus balances in the state treasury shall be deposited to the treasury income account, which account is hereby established in the state treasury.

(2) The treasury income account shall be utilized to pay or receive funds associated with federal programs as required by the federal cash management improvement act of 1990. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for refunds or allocations of interest earnings required by the cash management improvement act. Refunds of interest to the federal treasury required under the cash management improvement act fall under RCW 43.88.180 and shall not require appropriation. The office of financial management shall determine the amounts due to or from the federal government pursuant to the cash management improvement act. The office of financial management may direct transfers of funds between accounts as deemed necessary to implement the provisions of the cash management improvement act, and this subsection. Refunds or allocations shall occur prior to the distributions of earnings set forth in subsection (4) of this section.

(3) Except for the provisions of RCW 43.84.160, the treasury income account may be utilized for the payment of purchased banking services on behalf of treasury funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasury and affected state agencies. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4) Monthly, the state treasurer shall distribute the earnings credited to the treasury income account. The state treasurer shall credit the general fund with all the earnings credited to the treasury income account except:

(a) The following accounts and funds shall receive their proportionate share of earnings based upon each account's and fund's average daily balance for the period: The aeronautics account, the aircraft search and rescue account, the budget stabilization account, the capitol building construction account, the Cedar River channel construction and operation account, the Central Washington University capital projects account, the charitable, educational, penal and reformatory institutions account, the cleanup settlement account, the Columbia river basin water supply development account, the common school construction fund, the county arterial preservation account, the county criminal justice assistance account, the county sales and use tax equalization account, the data processing building construction account, the deferred compensation administrative account, the deferred compensation principal account, the department of licensing services account, the department of retirement systems expense account, the developmental disabilities community trust account, the drinking water assistance account, the drinking water assistance administrative account, the drinking water assistance repayment account, the Eastern Washington University capital projects account, the education construction fund, the education legacy trust account, the election account, the energy freedom account, the energy recovery act account, the essential rail assistance account, The Evergreen State College capital projects account, the federal forest revolving account, the ferry bond retirement fund, the freight congestion relief account, the freight mobility investment account, the freight mobility multimodal account, the grade crossing protective fund, the public health services account, the health system capacity account, the personal health services account, the high capacity transportation account, the state higher education construction account, the higher education construction account, the

highway bond retirement fund, the highway infrastructure account, the highway safety account, the high occupancy toll lanes operations account, the industrial insurance premium refund account, the judges' retirement account, the judicial retirement administrative account, the judicial retirement principal account, the local leasehold excise tax account, the local real estate excise tax account, the local sales and use tax account, the medical aid account, the mobile home park relocation fund, the motor vehicle fund, the motorcycle safety education account, the multimodal transportation account, the municipal criminal justice assistance account, the municipal sales and use tax equalization account, the natural resources deposit account, the oyster reserve land account, the pension funding stabilization account, the perpetual surveillance and maintenance account, the public employees' retirement system plan 1 account, the public employees' retirement system combined plan 2 and plan 3 account, the public facilities construction loan revolving account beginning July 1, 2004, the public health supplemental account, the public transportation systems account, the public works assistance account, the Puget Sound capital construction account, the Puget Sound ferry operations account, the Puyallup tribal settlement account, the real estate appraiser commission account, the recreational vehicle account, the regional mobility grant program account, the resource management cost account, the rural arterial trust account, the rural Washington loan fund, the site closure account, the small city pavement and sidewalk account, the special category C account, the special wildlife account, the state employees' insurance account, the state employees' insurance reserve account, the state investment board expense account, the state investment board commingled trust fund accounts, the state patrol highway account, the state route number 520 corridor account, the supplemental pension account, the Tacoma Narrows toll bridge account, the teachers' retirement system plan 1 account, the teachers' retirement system combined plan 2 and plan 3 account, the tobacco prevention and control account, the tobacco settlement account, the transportation 2003 account (nickel account), the transportation equipment fund, the transportation fund, the transportation improvement account, the transportation improvement board bond retirement account, the transportation infrastructure account, the transportation partnership account, the traumatic brain injury account, the tuition recovery trust fund, the University of Washington bond retirement fund, the University of Washington building account, the urban arterial trust account, the volunteer firefighters' and reserve officers' relief and pension principal fund, the volunteer firefighters' and reserve officers' administrative fund, the Washington fruit express account, the Washington judicial retirement system account, the Washington law enforcement officers' and firefighters' system plan 1 retirement account, the Washington law enforcement officers' and firefighters' system plan 2 retirement account, the Washington public safety employees' plan 2 retirement account, the Washington school employees' retirement system combined plan 2 and 3 account, the Washington state health insurance pool account, the Washington state patrol retirement account, the Washington State University building account, the Washington State University bond retirement fund, the water pollution control revolving fund, and the Western Washington University capital projects account. Earnings derived from investing balances of the agricultural permanent fund, the normal school permanent fund, the permanent common school fund, the scientific permanent fund, and the state university

permanent fund shall be allocated to their respective beneficiary accounts. ~~((All earnings to be distributed under this subsection (4) shall first be reduced by the allocation to the state treasurer's service fund pursuant to RCW 43.08.190.))~~

(b) Any state agency that has independent authority over accounts or funds not statutorily required to be held in the state treasury that deposits funds into a fund or account in the state treasury pursuant to an agreement with the office of the state treasurer shall receive its proportionate share of earnings based upon each account's or fund's average daily balance for the period.

(5) In conformance with Article II, section 37 of the state Constitution, no treasury accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

NEW SECTION. Sec. 6. A new section is added to chapter 43.79 RCW to read as follows:

By October 31st of each odd-numbered year, the state treasurer shall provide to the office of financial management and the appropriate fiscal committees of the legislature a list of any funds or accounts in the state treasury or in the custody of the state treasurer that he or she believes to be obsolete. The list must include the standard or process the treasurer used to determine whether an account is believed to be obsolete.

NEW SECTION. Sec. 7. By June 1, 2010, the office of financial management shall provide the state treasurer with a list of all funds or accounts held locally by any state agency. By October 31, 2010, the state treasurer, working with the office of financial management, shall review all locally held accounts, other than those held by institutions of higher education, and determine whether it would be financially advantageous to the state for those accounts to instead be held in the state treasury or in the custody of the state treasurer. When the treasurer deems it financially advantageous for local accounts to be held in the custody of the state treasurer or in the state treasury, he or she is encouraged to propose executive request legislation to effect those changes.

Passed by the Senate March 11, 2010.

Passed by the House March 10, 2010.

Approved by the Governor March 25, 2010.

Filed in Office of Secretary of State March 26, 2010.

CHAPTER 223

[Substitute Senate Bill 6345]

DRIVING INFRACTIONS—USE OF WIRELESS DEVICES

AN ACT Relating to the use of wireless communications devices while driving; and amending RCW 46.20.055, 46.20.075, 46.61.667, and 46.61.668.

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

Sec. 1. RCW 46.20.055 and 2006 c 219 s 14 are each amended to read as follows:

(1) **Driver's instruction permit.** The department may issue a driver's instruction permit with or without a photograph to an applicant who has successfully passed all parts of the examination other than the driving test,

provided the information required by RCW 46.20.091, paid a fee of twenty dollars, and meets the following requirements:

(a) Is at least fifteen and one-half years of age; or

(b) Is at least fifteen years of age and:

(i) Has submitted a proper application; and

(ii) Is enrolled in a traffic safety education program offered, approved, and accredited by the superintendent of public instruction or offered by a driver training school licensed and inspected by the department of licensing under chapter 46.82 RCW, that includes practice driving.

(2) **Waiver of written examination for instruction permit.** The department may waive the written examination, if, at the time of application, an applicant is enrolled in:

(a) A traffic safety education course as defined by RCW 28A.220.020(2); or

(b) A course of instruction offered by a licensed driver training school as defined by RCW 46.82.280((4)).

The department may require proof of registration in such a course as it deems necessary.

(3) **Effect of instruction permit.** A person holding a driver's instruction permit may drive a motor vehicle, other than a motorcycle, upon the public highways if:

(a) The person has immediate possession of the permit; ~~((and))~~

(b) The person is not using a wireless communications device, unless the person is using the device to report illegal activity, summon medical or other emergency help, or prevent injury to a person or property; and

(c) An approved instructor, or a licensed driver with at least five years of driving experience, occupies the seat beside the driver.

(4) **Term of instruction permit.** A driver's instruction permit is valid for one year from the date of issue.

(a) The department may issue one additional one-year permit.

(b) The department may issue a third driver's permit if it finds after an investigation that the permittee is diligently seeking to improve driving proficiency.

(c) A person applying to renew an instruction permit must submit the application to the department in person.

Sec. 2. RCW 46.20.075 and 2009 c 125 s 1 are each amended to read as follows:

(1) An intermediate license authorizes the holder to drive a motor vehicle under the conditions specified in this section. An applicant for an intermediate license must be at least sixteen years of age and:

(a) Have possessed a valid instruction permit for a period of not less than six months;

(b) Have passed a driver licensing examination administered by the department;

(c) Have passed a course of driver's education in accordance with the standards established in RCW 46.20.100;

(d) Present certification by his or her parent, guardian, or employer to the department stating (i) that the applicant has had at least fifty hours of driving experience, ten of which were at night, during which the driver was supervised by a person at least twenty-one years of age who has had a valid driver's license

for at least three years, and (ii) that the applicant has not been issued a notice of traffic infraction or cited for a traffic violation that is pending at the time of the application for the intermediate license;

(e) Not have been convicted of or found to have committed a traffic violation within the last six months before the application for the intermediate license; and

(f) Not have been adjudicated for an offense involving the use of alcohol or drugs during the period the applicant held an instruction permit.

(2) For the first six months after the issuance of an intermediate license or until the holder reaches eighteen years of age, whichever occurs first, the holder of the license may not operate a motor vehicle that is carrying any passengers under the age of twenty who are not members of the holder's immediate family as defined in RCW 42.17.020. For the remaining period of the intermediate license, the holder may not operate a motor vehicle that is carrying more than three passengers who are under the age of twenty who are not members of the holder's immediate family.

(3) The holder of an intermediate license may not operate a motor vehicle between the hours of 1 a.m. and 5 a.m. except when the holder is accompanied by a parent, guardian, or a licensed driver who is at least twenty-five years of age.

(4) The holder of an intermediate license may not operate a moving motor vehicle while using a wireless communications device unless the holder is using the device to report illegal activity, summon medical or other emergency help, or prevent injury to a person or property.

(5) It is a traffic infraction for the holder of an intermediate license to operate a motor vehicle in violation of the restrictions imposed under this section.

~~((5))~~ (6) Except for a violation of subsection (4) of this section, enforcement of this section by law enforcement officers may be accomplished only as a secondary action when a driver of a motor vehicle has been detained for a suspected violation of this title or an equivalent local ordinance or some other offense.

~~((6))~~ (7) An intermediate licensee may drive at any hour without restrictions on the number of passengers in the vehicle if necessary for agricultural purposes.

~~((7))~~ (8) An intermediate licensee may drive at any hour without restrictions on the number of passengers in the vehicle if, for the twelve-month period following the issuance of the intermediate license, he or she:

(a) Has not been involved in an accident involving only one motor vehicle;

(b) Has not been involved in an accident where he or she was cited in connection with the accident or was found to have caused the accident;

(c) Has not been involved in an accident where no one was cited or was found to have caused the accident; and

(d) Has not been convicted of or found to have committed a traffic offense described in chapter 46.61 RCW or violated restrictions placed on an intermediate licensee under this section.

Sec. 3. RCW 46.61.667 and 2007 c 417 s 2 are each amended to read as follows:

(1) Except as provided in subsections (2) and (3) of this section, a person operating a moving motor vehicle while holding a wireless communications device to his or her ear is guilty of a traffic infraction.

(2) Subsection (1) of this section does not apply to a person operating:

(a) An authorized emergency vehicle, or a tow truck responding to a disabled vehicle;

(b) A moving motor vehicle using a wireless communications device in hands-free mode;

(c) A moving motor vehicle using a hand-held wireless communications device to:

(i) Report illegal activity;

(ii) Summon medical or other emergency help;

(iii) Prevent injury to a person or property; or

(iv) Relay information that is time sensitive between a transit or for-hire operator and that operator's dispatcher, in which the device is permanently affixed to the vehicle;

(d) A moving motor vehicle while using a hearing aid.

(3) Subsection (1) of this section does not restrict the operation of an amateur radio station by a person who holds a valid amateur radio operator license issued by the federal communications commission.

(4) For purposes of this section, "hands-free mode" means the use of a wireless communications device with a speaker phone, headset, or earpiece.

(5) The state preempts the field of regulating the use of wireless communications devices in motor vehicles, and this section supersedes any local laws, ordinances, orders, rules, or regulations enacted by a political subdivision or municipality to regulate the use of wireless communications devices by the operator of a motor vehicle.

~~(6) ((Enforcement of this section by law enforcement officers may be accomplished only as a secondary action when a driver of a motor vehicle has been detained for a suspected violation of this title or an equivalent local ordinance or some other offense.~~

~~(7))~~ Infractions that result from the use of a wireless communications device while operating a motor vehicle under this section shall not become part of the driver's record under RCW 46.52.101 and 46.52.120. Additionally, a finding that a person has committed a traffic infraction under this section shall not be made available to insurance companies or employers.

Sec. 4. RCW 46.61.668 and 2007 c 416 s 1 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, a person operating a moving motor vehicle who, by means of an electronic wireless communications device, ~~((other than a voice-activated global positioning or navigation system that is permanently affixed to the vehicle,))~~ sends, reads, or writes a text message, is guilty of a traffic infraction. A person does not send, read, or write a text message when he or she reads, selects, or enters a phone number or name in a wireless communications device for the purpose of making a phone call.

(2) Subsection (1) of this section does not apply to a person operating:

(a) An authorized emergency vehicle; ~~((or))~~

(b) A voice-operated global positioning or navigation system that is affixed to the vehicle and that allows the user to send or receive messages without diverting visual attention from the road or engaging the use of either hand; or

(c) A moving motor vehicle while using an electronic wireless communications device to:

- (i) Report illegal activity;
- (ii) Summon medical or other emergency help;
- (iii) Prevent injury to a person or property; or
- (iv) Relay information that is time sensitive between a transit or for-hire operator and that operator's dispatcher, in which the device is permanently affixed to the vehicle.

~~(3) ((Enforcement of this section by law enforcement officers may be accomplished only as a secondary action when a driver of a motor vehicle has been detained for a suspected violation of this title or an equivalent local ordinance or some other offense.~~

~~(4))~~ Infractions under this section shall not become part of the driver's record under RCW 46.52.101 and 46.52.120. Additionally, a finding that a person has committed a traffic infraction under this section shall not be made available to insurance companies or employers.

Passed by the Senate February 5, 2010.

Passed by the House March 11, 2010.

Approved by the Governor March 26, 2010.

Filed in Office of Secretary of State March 26, 2010.

CHAPTER 224

[Substitute Senate Bill 6639]

SENTENCING ALTERNATIVES—OFFENDERS WITH MINOR CHILDREN

AN ACT Relating to creating alternatives to total confinement for nonviolent offenders with minor children; amending RCW 9.94A.030, 9.94A.501, 9.94A.505, 9.94A.701, 9.94A.729, 9.94A.734, 9.94A.190, 9.94A.6332, and 9.94A.633; reenacting and amending RCW 9.94A.728; and adding new sections to chapter 9.94A RCW.

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

Sec. 1. RCW 9.94A.030 and 2009 c 375 s 4 are each amended to read as follows:

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

(1) "Board" means the indeterminate sentence review board created under chapter 9.95 RCW.

(2) "Collect," or any derivative thereof, "collect and remit," or "collect and deliver," when used with reference to the department, means that the department, either directly or through a collection agreement authorized by RCW 9.94A.760, is responsible for monitoring and enforcing the offender's sentence with regard to the legal financial obligation, receiving payment thereof from the offender, and, consistent with current law, delivering daily the entire payment to the superior court clerk without depositing it in a departmental account.

(3) "Commission" means the sentencing guidelines commission.

(4) "Community corrections officer" means an employee of the department who is responsible for carrying out specific duties in supervision of sentenced offenders and monitoring of sentence conditions.

(5) "Community custody" means that portion of an offender's sentence of confinement in lieu of earned release time or imposed as part of a sentence under this chapter and served in the community subject to controls placed on the offender's movement and activities by the department.

(6) "Community protection zone" means the area within eight hundred eighty feet of the facilities and grounds of a public or private school.

(7) "Community restitution" means compulsory service, without compensation, performed for the benefit of the community by the offender.

(8) "Confinement" means total or partial confinement.

(9) "Conviction" means an adjudication of guilt pursuant to Title 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and acceptance of a plea of guilty.

(10) "Crime-related prohibition" means an order of a court prohibiting conduct that directly relates to the circumstances of the crime for which the offender has been convicted, and shall not be construed to mean orders directing an offender affirmatively to participate in rehabilitative programs or to otherwise perform affirmative conduct. However, affirmative acts necessary to monitor compliance with the order of a court may be required by the department.

(11) "Criminal history" means the list of a defendant's prior convictions and juvenile adjudications, whether in this state, in federal court, or elsewhere.

(a) The history shall include, where known, for each conviction (i) whether the defendant has been placed on probation and the length and terms thereof; and (ii) whether the defendant has been incarcerated and the length of incarceration.

(b) A conviction may be removed from a defendant's criminal history only if it is vacated pursuant to RCW 9.96.060, 9.94A.640, 9.95.240, or a similar out-of-state statute, or if the conviction has been vacated pursuant to a governor's pardon.

(c) The determination of a defendant's criminal history is distinct from the determination of an offender score. A prior conviction that was not included in an offender score calculated pursuant to a former version of the sentencing reform act remains part of the defendant's criminal history.

(12) "Criminal street gang" means any ongoing organization, association, or group of three or more persons, whether formal or informal, having a common name or common identifying sign or symbol, having as one of its primary activities the commission of criminal acts, and whose members or associates individually or collectively engage in or have engaged in a pattern of criminal street gang activity. This definition does not apply to employees engaged in concerted activities for their mutual aid and protection, or to the activities of labor and bona fide nonprofit organizations or their members or agents.

(13) "Criminal street gang associate or member" means any person who actively participates in any criminal street gang and who intentionally promotes, furthers, or assists in any criminal act by the criminal street gang.

(14) "Criminal street gang-related offense" means any felony or misdemeanor offense, whether in this state or elsewhere, that is committed for the benefit of, at the direction of, or in association with any criminal street gang,

or is committed with the intent to promote, further, or assist in any criminal conduct by the gang, or is committed for one or more of the following reasons:

- (a) To gain admission, prestige, or promotion within the gang;
- (b) To increase or maintain the gang's size, membership, prestige, dominance, or control in any geographical area;
- (c) To exact revenge or retribution for the gang or any member of the gang;
- (d) To obstruct justice, or intimidate or eliminate any witness against the gang or any member of the gang;
- (e) To directly or indirectly cause any benefit, aggrandizement, gain, profit, or other advantage for the gang, its reputation, influence, or membership; or
- (f) To provide the gang with any advantage in, or any control or dominance over any criminal market sector, including, but not limited to, manufacturing, delivering, or selling any controlled substance (chapter 69.50 RCW); arson (chapter 9A.48 RCW); trafficking in stolen property (chapter 9A.82 RCW); promoting prostitution (chapter 9A.88 RCW); human trafficking (RCW 9A.40.100); or promoting pornography (chapter 9.68 RCW).

(15) "Day fine" means a fine imposed by the sentencing court that equals the difference between the offender's net daily income and the reasonable obligations that the offender has for the support of the offender and any dependents.

(16) "Day reporting" means a program of enhanced supervision designed to monitor the offender's daily activities and compliance with sentence conditions, and in which the offender is required to report daily to a specific location designated by the department or the sentencing court.

(17) "Department" means the department of corrections.

(18) "Determinate sentence" means a sentence that states with exactitude the number of actual years, months, or days of total confinement, of partial confinement, of community custody, the number of actual hours or days of community restitution work, or dollars or terms of a legal financial obligation. The fact that an offender through earned release can reduce the actual period of confinement shall not affect the classification of the sentence as a determinate sentence.

(19) "Disposable earnings" means that part of the earnings of an offender remaining after the deduction from those earnings of any amount required by law to be withheld. For the purposes of this definition, "earnings" means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonuses, or otherwise, and, notwithstanding any other provision of law making the payments exempt from garnishment, attachment, or other process to satisfy a court-ordered legal financial obligation, specifically includes periodic payments pursuant to pension or retirement programs, or insurance policies of any type, but does not include payments made under Title 50 RCW, except as provided in RCW 50.40.020 and 50.40.050, or Title 74 RCW.

(20) "Drug offender sentencing alternative" is a sentencing option available to persons convicted of a felony offense other than a violent offense or a sex offense and who are eligible for the option under RCW 9.94A.660.

(21) "Drug offense" means:

(a) Any felony violation of chapter 69.50 RCW except possession of a controlled substance (RCW 69.50.4013) or forged prescription for a controlled substance (RCW 69.50.403);

(b) Any offense defined as a felony under federal law that relates to the possession, manufacture, distribution, or transportation of a controlled substance; or

(c) Any out-of-state conviction for an offense that under the laws of this state would be a felony classified as a drug offense under (a) of this subsection.

(22) "Earned release" means earned release from confinement as provided in RCW 9.94A.728.

(23) "Escape" means:

(a) Sexually violent predator escape (RCW 9A.76.115), escape in the first degree (RCW 9A.76.110), escape in the second degree (RCW 9A.76.120), willful failure to return from furlough (RCW 72.66.060), willful failure to return from work release (RCW 72.65.070), or willful failure to be available for supervision by the department while in community custody (RCW 72.09.310); or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as an escape under (a) of this subsection.

(24) "Felony traffic offense" means:

(a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW 46.61.522), eluding a police officer (RCW 46.61.024), felony hit-and-run injury-accident (RCW 46.52.020(4)), felony driving while under the influence of intoxicating liquor or any drug (RCW 46.61.502(6)), or felony physical control of a vehicle while under the influence of intoxicating liquor or any drug (RCW 46.61.504(6)); or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a felony traffic offense under (a) of this subsection.

(25) "Fine" means a specific sum of money ordered by the sentencing court to be paid by the offender to the court over a specific period of time.

(26) "First-time offender" means any person who has no prior convictions for a felony and is eligible for the first-time offender waiver under RCW 9.94A.650.

(27) "Home detention" means a program of partial confinement available to offenders wherein the offender is confined in a private residence subject to electronic surveillance.

(28) "Legal financial obligation" means a sum of money that is ordered by a superior court of the state of Washington for legal financial obligations which may include restitution to the victim, statutorily imposed crime victims' compensation fees as assessed pursuant to RCW 7.68.035, court costs, county or interlocal drug funds, court-appointed attorneys' fees, and costs of defense, fines, and any other financial obligation that is assessed to the offender as a result of a felony conviction. Upon conviction for vehicular assault while under the influence of intoxicating liquor or any drug, RCW 46.61.522(1)(b), or vehicular homicide while under the influence of intoxicating liquor or any drug, RCW 46.61.520(1)(a), legal financial obligations may also include payment to a public

agency of the expense of an emergency response to the incident resulting in the conviction, subject to RCW 38.52.430.

(29) "Minor child" means a biological or adopted child of the offender who is under age eighteen at the time of the offender's current offense.

(30) "Most serious offense" means any of the following felonies or a felony attempt to commit any of the following felonies:

(a) Any felony defined under any law as a class A felony or criminal solicitation of or criminal conspiracy to commit a class A felony;

(b) Assault in the second degree;

(c) Assault of a child in the second degree;

(d) Child molestation in the second degree;

(e) Controlled substance homicide;

(f) Extortion in the first degree;

(g) Incest when committed against a child under age fourteen;

(h) Indecent liberties;

(i) Kidnapping in the second degree;

(j) Leading organized crime;

(k) Manslaughter in the first degree;

(l) Manslaughter in the second degree;

(m) Promoting prostitution in the first degree;

(n) Rape in the third degree;

(o) Robbery in the second degree;

(p) Sexual exploitation;

(q) Vehicular assault, when caused by the operation or driving of a vehicle by a person while under the influence of intoxicating liquor or any drug or by the operation or driving of a vehicle in a reckless manner;

(r) Vehicular homicide, when proximately caused by the driving of any vehicle by any person while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.502, or by the operation of any vehicle in a reckless manner;

(s) Any other class B felony offense with a finding of sexual motivation;

(t) Any other felony with a deadly weapon verdict under RCW 9.94A.825;

(u) Any felony offense in effect at any time prior to December 2, 1993, that is comparable to a most serious offense under this subsection, or any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a most serious offense under this subsection;

(v)(i) A prior conviction for indecent liberties under RCW 9A.88.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex. sess. as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b), and (c) as it existed from July 1, 1979, until June 11, 1986, and RCW 9A.44.100(1) (a), (b), and (d) as it existed from June 11, 1986, until July 1, 1988;

(ii) A prior conviction for indecent liberties under RCW 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988, if: (A) The crime was committed against a child under the age of fourteen; or (B) the relationship between the victim and perpetrator is included in the definition of indecent liberties under RCW 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27, 1997, or RCW 9A.44.100(1) (d) or (e) as it existed from July 25, 1993, through July 27, 1997;

(w) Any out-of-state conviction for a felony offense with a finding of sexual motivation if the minimum sentence imposed was ten years or more; provided that the out-of-state felony offense must be comparable to a felony offense under Title 9 or 9A RCW and the out-of-state definition of sexual motivation must be comparable to the definition of sexual motivation contained in this section.

~~((30))~~ (31) "Nonviolent offense" means an offense which is not a violent offense.

~~((31))~~ (32) "Offender" means a person who has committed a felony established by state law and is eighteen years of age or older or is less than eighteen years of age but whose case is under superior court jurisdiction under RCW 13.04.030 or has been transferred by the appropriate juvenile court to a criminal court pursuant to RCW 13.40.110. In addition, for the purpose of community custody requirements under this chapter, "offender" also means a misdemeanor or gross misdemeanor probationer convicted of an offense included in RCW 9.94A.501(1) and ordered by a superior court to probation under the supervision of the department pursuant to RCW 9.92.060, 9.95.204, or 9.95.210. Throughout this chapter, the terms "offender" and "defendant" are used interchangeably.

~~((32))~~ (33) "Partial confinement" means confinement for no more than one year in a facility or institution operated or utilized under contract by the state or any other unit of government, or, if home detention or work crew has been ordered by the court or home detention has been ordered by the department as part of the parenting program, in an approved residence, for a substantial portion of each day with the balance of the day spent in the community. Partial confinement includes work release, home detention, work crew, and a combination of work crew and home detention.

~~((33))~~ (34) "Pattern of criminal street gang activity" means:

(a) The commission, attempt, conspiracy, or solicitation of, or any prior juvenile adjudication of or adult conviction of, two or more of the following criminal street gang-related offenses:

(i) Any "serious violent" felony offense as defined in this section, excluding Homicide by Abuse (RCW 9A.32.055) and Assault of a Child 1 (RCW 9A.36.120);

(ii) Any "violent" offense as defined by this section, excluding Assault of a Child 2 (RCW 9A.36.130);

(iii) Deliver or Possession with Intent to Deliver a Controlled Substance (chapter 69.50 RCW);

(iv) Any violation of the firearms and dangerous weapon act (chapter 9.41 RCW);

(v) Theft of a Firearm (RCW 9A.56.300);

(vi) Possession of a Stolen Firearm (RCW 9A.56.310);

(vii) Malicious Harassment (RCW 9A.36.080);

(viii) Harassment where a subsequent violation or deadly threat is made (RCW 9A.46.020(2)(b));

(ix) Criminal Gang Intimidation (RCW 9A.46.120);

(x) Any felony conviction by a person eighteen years of age or older with a special finding of involving a juvenile in a felony offense under RCW 9.94A.833;

(xi) Residential Burglary (RCW 9A.52.025);

- (xii) Burglary 2 (RCW 9A.52.030);
- (xiii) Malicious Mischief 1 (RCW 9A.48.070);
- (xiv) Malicious Mischief 2 (RCW 9A.48.080);
- (xv) Theft of a Motor Vehicle (RCW 9A.56.065);
- (xvi) Possession of a Stolen Motor Vehicle (RCW 9A.56.068);
- (xvii) Taking a Motor Vehicle Without Permission 1 (RCW 9A.56.070);
- (xviii) Taking a Motor Vehicle Without Permission 2 (RCW 9A.56.075);
- (xix) Extortion 1 (RCW 9A.56.120);
- (xx) Extortion 2 (RCW 9A.56.130);
- (xxi) Intimidating a Witness (RCW 9A.72.110);
- (xxii) Tampering with a Witness (RCW 9A.72.120);
- (xxiii) Reckless Endangerment (RCW 9A.36.050);
- (xxiv) Coercion (RCW 9A.36.070);
- (xxv) Harassment (RCW 9A.46.020); or
- (xxvi) Malicious Mischief 3 (RCW 9A.48.090);

(b) That at least one of the offenses listed in (a) of this subsection shall have occurred after July 1, 2008;

(c) That the most recent committed offense listed in (a) of this subsection occurred within three years of a prior offense listed in (a) of this subsection; and

(d) Of the offenses that were committed in (a) of this subsection, the offenses occurred on separate occasions or were committed by two or more persons.

~~((34))~~ (35) "Persistent offender" is an offender who:

(a)(i) Has been convicted in this state of any felony considered a most serious offense; and

(ii) Has, before the commission of the offense under (a) of this subsection, been convicted as an offender on at least two separate occasions, whether in this state or elsewhere, of felonies that under the laws of this state would be considered most serious offenses and would be included in the offender score under RCW 9.94A.525; provided that of the two or more previous convictions, at least one conviction must have occurred before the commission of any of the other most serious offenses for which the offender was previously convicted; or

(b)(i) Has been convicted of: (A) Rape in the first degree, rape of a child in the first degree, child molestation in the first degree, rape in the second degree, rape of a child in the second degree, or indecent liberties by forcible compulsion; (B) any of the following offenses with a finding of sexual motivation: Murder in the first degree, murder in the second degree, homicide by abuse, kidnapping in the first degree, kidnapping in the second degree, assault in the first degree, assault in the second degree, assault of a child in the first degree, assault of a child in the second degree, or burglary in the first degree; or (C) an attempt to commit any crime listed in this subsection ~~((34))~~ (35)(b)(i); and

(ii) Has, before the commission of the offense under (b)(i) of this subsection, been convicted as an offender on at least one occasion, whether in this state or elsewhere, of an offense listed in (b)(i) of this subsection or any federal or out-of-state offense or offense under prior Washington law that is comparable to the offenses listed in (b)(i) of this subsection. A conviction for rape of a child in the first degree constitutes a conviction under (b)(i) of this subsection only when the offender was sixteen years of age or older when the offender committed the offense. A conviction for rape of a child in the second

degree constitutes a conviction under (b)(i) of this subsection only when the offender was eighteen years of age or older when the offender committed the offense.

~~((35))~~ (36) "Predatory" means: (a) The perpetrator of the crime was a stranger to the victim, as defined in this section; (b) the perpetrator established or promoted a relationship with the victim prior to the offense and the victimization of the victim was a significant reason the perpetrator established or promoted the relationship; or (c) the perpetrator was: (i) A teacher, counselor, volunteer, or other person in authority in any public or private school and the victim was a student of the school under his or her authority or supervision. For purposes of this subsection, "school" does not include home-based instruction as defined in RCW 28A.225.010; (ii) a coach, trainer, volunteer, or other person in authority in any recreational activity and the victim was a participant in the activity under his or her authority or supervision; or (iii) a pastor, elder, volunteer, or other person in authority in any church or religious organization, and the victim was a member or participant of the organization under his or her authority.

~~((36))~~ (37) "Private school" means a school regulated under chapter 28A.195 or 28A.205 RCW.

~~((37))~~ (38) "Public school" has the same meaning as in RCW 28A.150.010.

~~((38))~~ (39) "Restitution" means a specific sum of money ordered by the sentencing court to be paid by the offender to the court over a specified period of time as payment of damages. The sum may include both public and private costs.

~~((39))~~ (40) "Risk assessment" means the application of the risk instrument recommended to the department by the Washington state institute for public policy as having the highest degree of predictive accuracy for assessing an offender's risk of reoffense.

~~((40))~~ (41) "Serious traffic offense" means:

(a) Nonfelony driving while under the influence of intoxicating liquor or any drug (RCW 46.61.502), nonfelony actual physical control while under the influence of intoxicating liquor or any drug (RCW 46.61.504), reckless driving (RCW 46.61.500), or hit-and-run an attended vehicle (RCW 46.52.020(5)); or

(b) Any federal, out-of-state, county, or municipal conviction for an offense that under the laws of this state would be classified as a serious traffic offense under (a) of this subsection.

~~((41))~~ (42) "Serious violent offense" is a subcategory of violent offense and means:

- (a)(i) Murder in the first degree;
- (ii) Homicide by abuse;
- (iii) Murder in the second degree;
- (iv) Manslaughter in the first degree;
- (v) Assault in the first degree;
- (vi) Kidnapping in the first degree;
- (vii) Rape in the first degree;

(viii) Assault of a child in the first degree; or

(ix) An attempt, criminal solicitation, or criminal conspiracy to commit one of these felonies; or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a serious violent offense under (a) of this subsection.

~~((42))~~ (43) "Sex offense" means:

(a)(i) A felony that is a violation of chapter 9A.44 RCW other than RCW 9A.44.130(12);

(ii) A violation of RCW 9A.64.020;

(iii) A felony that is a violation of chapter 9.68A RCW other than RCW 9.68A.080; or

(iv) A felony that is, under chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or criminal conspiracy to commit such crimes;

(b) Any conviction for a felony offense in effect at any time prior to July 1, 1976, that is comparable to a felony classified as a sex offense in (a) of this subsection;

(c) A felony with a finding of sexual motivation under RCW 9.94A.835 or 13.40.135; or

(d) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a sex offense under (a) of this subsection.

~~((43))~~ (44) "Sexual motivation" means that one of the purposes for which the defendant committed the crime was for the purpose of his or her sexual gratification.

~~((44))~~ (45) "Standard sentence range" means the sentencing court's discretionary range in imposing a nonappealable sentence.

~~((45))~~ (46) "Statutory maximum sentence" means the maximum length of time for which an offender may be confined as punishment for a crime as prescribed in chapter 9A.20 RCW, RCW 9.92.010, the statute defining the crime, or other statute defining the maximum penalty for a crime.

~~((46))~~ (47) "Stranger" means that the victim did not know the offender twenty-four hours before the offense.

~~((47))~~ (48) "Total confinement" means confinement inside the physical boundaries of a facility or institution operated or utilized under contract by the state or any other unit of government for twenty-four hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

~~((48))~~ (49) "Transition training" means written and verbal instructions and assistance provided by the department to the offender during the two weeks prior to the offender's successful completion of the work ethic camp program. The transition training shall include instructions in the offender's requirements and obligations during the offender's period of community custody.

~~((49))~~ (50) "Victim" means any person who has sustained emotional, psychological, physical, or financial injury to person or property as a direct result of the crime charged.

~~((50))~~ (51) "Violent offense" means:

(a) Any of the following felonies:

(i) Any felony defined under any law as a class A felony or an attempt to commit a class A felony;

(ii) Criminal solicitation of or criminal conspiracy to commit a class A felony;

(iii) Manslaughter in the first degree;

- (iv) Manslaughter in the second degree;
- (v) Indecent liberties if committed by forcible compulsion;
- (vi) Kidnapping in the second degree;
- (vii) Arson in the second degree;
- (viii) Assault in the second degree;
- (ix) Assault of a child in the second degree;
- (x) Extortion in the first degree;
- (xi) Robbery in the second degree;
- (xii) Drive-by shooting;
- (xiii) Vehicular assault, when caused by the operation or driving of a vehicle by a person while under the influence of intoxicating liquor or any drug or by the operation or driving of a vehicle in a reckless manner; and
- (xiv) Vehicular homicide, when proximately caused by the driving of any vehicle by any person while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.502, or by the operation of any vehicle in a reckless manner;

(b) Any conviction for a felony offense in effect at any time prior to July 1, 1976, that is comparable to a felony classified as a violent offense in (a) of this subsection; and

(c) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a violent offense under (a) or (b) of this subsection.

~~((51))~~ (52) "Work crew" means a program of partial confinement consisting of civic improvement tasks for the benefit of the community that complies with RCW 9.94A.725.

~~((52))~~ (53) "Work ethic camp" means an alternative incarceration program as provided in RCW 9.94A.690 designed to reduce recidivism and lower the cost of corrections by requiring offenders to complete a comprehensive array of real-world job and vocational experiences, character-building work ethics training, life management skills development, substance abuse rehabilitation, counseling, literacy training, and basic adult education.

~~((53))~~ (54) "Work release" means a program of partial confinement available to offenders who are employed or engaged as a student in a regular course of study at school.

NEW SECTION. Sec. 2. A new section is added to chapter 9.94A RCW to read as follows:

(1) An offender is eligible for the parenting sentencing alternative if:

(a) The high end of the standard sentence range for the current offense is greater than one year;

(b) The offender has no prior or current conviction for a felony that is a sex offense or a violent offense;

(c) The offender has not been found by the United States attorney general to be subject to a deportation detainer or order and does not become subject to a deportation order during the period of the sentence;

(d) The offender signs any release of information waivers required to allow information regarding current or prior child welfare cases to be shared with the department and the court; and

(e) The offender has physical custody of his or her minor child or is a legal guardian or custodian with physical custody of a child under the age of eighteen at the time of the current offense.

(2) To assist the court in making its determination, the court may order the department to complete either a risk assessment report or a chemical dependency screening report as provided in RCW 9.94A.500, or both reports prior to sentencing.

(3) If the court is considering this alternative, the court shall request that the department contact the children's administration of the Washington state department of social and health services to determine if the agency has an open child welfare case or prior substantiated referral of abuse or neglect involving the offender or if the agency is aware of any substantiated case of abuse or neglect with a tribal child welfare agency involving the offender.

(a) If the offender has an open child welfare case, the department will provide the release of information waiver and request that the children's administration or the tribal child welfare agency provide a report to the court. The children's administration shall provide a report within seven business days of the request that includes, at the minimum, the following:

(i) Legal status of the child welfare case;

(ii) Length of time the children's administration has been involved with the offender;

(iii) Legal status of the case and permanent plan;

(iv) Any special needs of the child;

(v) Whether or not the offender has been cooperative with services ordered by a juvenile court under a child welfare case; and

(vi) If the offender has been convicted of a crime against a child.

(b) If a report is required from a tribal child welfare agency, the department shall attempt to obtain information that is similar to what is required for the report provided by the children's administration in a timely manner.

(c) If the offender does not have an open child welfare case with the children's administration or with a tribal child welfare agency but has prior involvement, the department will obtain information from the children's administration on the number and type of past substantiated referrals of abuse or neglect and report that information to the court. If the children's administration has never had any substantiated referrals or an open case with the offender, the department will inform the court.

(4) If the sentencing court determines that the offender is eligible for a sentencing alternative under this section and that the sentencing alternative is appropriate and should be imposed, the court shall waive imposition of a sentence within the standard sentence range and impose a sentence consisting of twelve months of community custody. The court shall consider the offender's criminal history when determining if the alternative is appropriate.

(5) When a court imposes a sentence of community custody under this section:

(a) The court may impose conditions as provided in RCW 9.94A.703 and may impose other affirmative conditions as the court considers appropriate.

(b) The department may impose conditions as authorized in RCW 9.94A.704 that may include, but are not limited to:

(i) Parenting classes;

- (ii) Chemical dependency treatment;
- (iii) Mental health treatment;
- (iv) Vocational training;
- (v) Offender change programs;
- (vi) Life skills classes.

(c) The department shall report to the court if the offender commits any violations of his or her sentence conditions.

(6) The department shall provide the court with quarterly progress reports regarding the offender's progress in required programming, treatment, and other supervision conditions. When an offender has an open child welfare case, the department will seek to coordinate services with the children's administration.

(7)(a) The court may bring any offender sentenced under this section back into court at any time during the period of community custody on its own initiative to evaluate the offender's progress in treatment, or to determine if any violations of the conditions of the sentence have occurred.

(b) If the offender is brought back to court, the court may modify the conditions of community custody or impose sanctions under (c) of this subsection.

(c) The court may order the offender to serve a term of total confinement within the standard range of the offender's current offense at any time during the period of community custody, if the offender violates the conditions or requirements of the sentence or if the offender is failing to make satisfactory progress in treatment.

(d) An offender ordered to serve a term of total confinement under (c) of this subsection shall receive credit for any time previously served in confinement under this section.

Sec. 3. RCW 9.94A.501 and 2009 c 376 s 2 are each amended to read as follows:

(1) The department shall supervise every offender convicted of a misdemeanor or gross misdemeanor offense who is sentenced to probation in superior court, pursuant to RCW 9.92.060, 9.95.204, or 9.95.210, for an offense included in (a) and (b) of this subsection. The superior court shall order probation for:

(a) Offenders convicted of fourth degree assault, violation of a domestic violence court order pursuant to RCW 10.99.040, 10.99.050, 26.09.300, 26.10.220, 26.26.138, 26.50.110, 26.52.070, or 74.34.145, and who also have a prior conviction for one or more of the following:

- (i) A violent offense;
- (ii) A sex offense;
- (iii) A crime against a person as provided in RCW 9.94A.411;
- (iv) Fourth degree assault; or
- (v) Violation of a domestic violence court order; and

(b) Offenders convicted of:

- (i) Sexual misconduct with a minor second degree;
- (ii) Custodial sexual misconduct second degree;
- (iii) Communication with a minor for immoral purposes; and
- (iv) Failure to register pursuant to RCW 9A.44.130.

(2) Misdemeanor and gross misdemeanor offenders supervised by the department pursuant to this section shall be placed on community custody.

(3) The department shall supervise every felony offender sentenced to community custody whose risk assessment, conducted pursuant to subsection (6) of this section, classifies the offender as one who is at a high risk to reoffend.

(4) Notwithstanding any other provision of this section, the department shall supervise an offender sentenced to community custody regardless of risk classification if the offender:

(a) Has a current conviction for a sex offense or a serious violent offense as defined in RCW 9.94A.030;

(b) Has been identified by the department as a dangerous mentally ill offender pursuant to RCW 72.09.370;

(c) Has an indeterminate sentence and is subject to parole pursuant to RCW 9.95.017;

(d) Was sentenced under RCW 9.94A.650, 9.94A.660, section 2 of this act, or 9.94A.670; or

(e) Is subject to supervision pursuant to RCW 9.94A.745.

(5) The department is not authorized to, and may not, supervise any offender sentenced to a term of community custody or any probationer unless the offender or probationer is one for whom supervision is required under subsection (1), (2), (3), or (4) of this section.

(6) The department shall conduct a risk assessment for every felony offender sentenced to a term of community custody who may be subject to supervision under this section.

Sec. 4. RCW 9.94A.505 and 2009 c 389 s 1 are each amended to read as follows:

(1) When a person is convicted of a felony, the court shall impose punishment as provided in this chapter.

(2)(a) The court shall impose a sentence as provided in the following sections and as applicable in the case:

(i) Unless another term of confinement applies, a sentence within the standard sentence range established in RCW 9.94A.510 or 9.94A.517;

(ii) RCW 9.94A.701 and 9.94A.702, relating to community custody;

(iii) RCW 9.94A.570, relating to persistent offenders;

(iv) RCW 9.94A.540, relating to mandatory minimum terms;

(v) RCW 9.94A.650, relating to the first-time offender waiver;

(vi) RCW 9.94A.660, relating to the drug offender sentencing alternative;

(vii) RCW 9.94A.670, relating to the special sex offender sentencing alternative;

(viii) Section 2 of this act, relating to the parenting sentencing alternative;

~~(ix)~~ RCW 9.94A.507, relating to certain sex offenses;

~~((ix))~~ (x) RCW 9.94A.535, relating to exceptional sentences;

~~((x))~~ (xi) RCW 9.94A.589, relating to consecutive and concurrent sentences;

~~((xi))~~ (xii) RCW 9.94A.603, relating to felony driving while under the influence of intoxicating liquor or any drug and felony physical control of a vehicle while under the influence of intoxicating liquor or any drug.

(b) If a standard sentence range has not been established for the offender's crime, the court shall impose a determinate sentence which may include not more than one year of confinement; community restitution work; a term of community custody under RCW 9.94A.702 not to exceed one year; and/or other

legal financial obligations. The court may impose a sentence which provides more than one year of confinement and a community custody term under RCW 9.94A.701 if the court finds reasons justifying an exceptional sentence as provided in RCW 9.94A.535.

(3) If the court imposes a sentence requiring confinement of thirty days or less, the court may, in its discretion, specify that the sentence be served on consecutive or intermittent days. A sentence requiring more than thirty days of confinement shall be served on consecutive days. Local jail administrators may schedule court-ordered intermittent sentences as space permits.

(4) If a sentence imposed includes payment of a legal financial obligation, it shall be imposed as provided in RCW 9.94A.750, 9.94A.753, 9.94A.760, and 43.43.7541.

(5) Except as provided under RCW 9.94A.750(4) and 9.94A.753(4), a court may not impose a sentence providing for a term of confinement or community custody that exceeds the statutory maximum for the crime as provided in chapter 9A.20 RCW.

(6) The sentencing court shall give the offender credit for all confinement time served before the sentencing if that confinement was solely in regard to the offense for which the offender is being sentenced.

(7) The court shall order restitution as provided in RCW 9.94A.750 and 9.94A.753.

(8) As a part of any sentence, the court may impose and enforce crime-related prohibitions and affirmative conditions as provided in this chapter.

(9) In any sentence of partial confinement, the court may require the offender to serve the partial confinement in work release, in a program of home detention, on work crew, or in a combined program of work crew and home detention.

Sec. 5. RCW 9.94A.701 and 2009 c 375 s 5 are each amended to read as follows:

(1) If an offender is sentenced to the custody of the department for one of the following crimes, the court shall, in addition to the other terms of the sentence, sentence the offender to community custody for three years:

(a) A sex offense not sentenced under RCW 9.94A.507;

(b) A serious violent offense; or

(c) A violation of RCW 9A.44.130(11)(a) committed on or after June 7, 2006, when a court sentences the person to a term of confinement of one year or less.

(2) A court shall, in addition to the other terms of the sentence, sentence an offender to community custody for eighteen months when the court sentences the person to the custody of the department for a violent offense that is not considered a serious violent offense.

(3) A court shall, in addition to the other terms of the sentence, sentence an offender to community custody for one year when the court sentences the person to the custody of the department for:

(a) Any crime against persons under RCW 9.94A.411(2);

(b) An offense involving the unlawful possession of a firearm under RCW 9.41.040, where the offender is a criminal street gang member or associate; or

(c) A felony offense under chapter 69.50 or 69.52 RCW, committed on or after July 1, 2000.

(4) If an offender is sentenced under the drug offender sentencing alternative, the court shall impose community custody as provided in RCW 9.94A.660.

(5) If an offender is sentenced under the special ~~((sexual-[sex]))~~ sex offender sentencing alternative, the court shall impose community custody as provided in RCW 9.94A.670.

(6) If an offender is sentenced to a work ethic camp, the court shall impose community custody as provided in RCW 9.94A.690.

(7) If an offender is sentenced under the parenting sentencing alternative, the court shall impose a term of community custody as provided in section 2 of this act.

~~(8)~~ If a sex offender is sentenced as a nonpersistent offender pursuant to RCW 9.94A.507, the court shall impose community custody as provided in that section.

~~((8))~~ (9) The term of community custody specified by this section shall be reduced by the court whenever an offender's standard range term of confinement in combination with the term of community custody exceeds the statutory maximum for the crime as provided in RCW 9A.20.021.

Sec. 6. RCW 9.94A.728 and 2009 c 455 s 2, 2009 c 441 s 1, and 2009 c 399 s 1 are each reenacted and amended to read as follows:

No person serving a sentence imposed pursuant to this chapter and committed to the custody of the department shall leave the confines of the correctional facility or be released prior to the expiration of the sentence except as follows:

(1) An offender may earn early release time as authorized by RCW 9.94A.729;

(2) An offender may leave a correctional facility pursuant to an authorized furlough or leave of absence. In addition, offenders may leave a correctional facility when in the custody of a corrections officer or officers;

(3)(a) The secretary may authorize an extraordinary medical placement for an offender when all of the following conditions exist:

(i) The offender has a medical condition that is serious and is expected to require costly care or treatment;

(ii) The offender poses a low risk to the community because he or she is currently physically incapacitated due to age or the medical condition or is expected to be so at the time of release; and

(iii) It is expected that granting the extraordinary medical placement will result in a cost savings to the state.

(b) An offender sentenced to death or to life imprisonment without the possibility of release or parole is not eligible for an extraordinary medical placement.

(c) The secretary shall require electronic monitoring for all offenders in extraordinary medical placement unless the electronic monitoring equipment interferes with the function of the offender's medical equipment or results in the loss of funding for the offender's medical care, in which case, an alternative type of monitoring shall be utilized. The secretary shall specify who shall provide the monitoring services and the terms under which the monitoring shall be performed.

(d) The secretary may revoke an extraordinary medical placement under this subsection at any time.

(e) Persistent offenders are not eligible for extraordinary medical placement;

(4) The governor, upon recommendation from the clemency and pardons board, may grant an extraordinary release for reasons of serious health problems, senility, advanced age, extraordinary meritorious acts, or other extraordinary circumstances;

(5) No more than the final six months of the offender's term of confinement may be served in partial confinement designed to aid the offender in finding work and reestablishing himself or herself in the community or no more than the final twelve months of the offender's term of confinement may be served in partial confinement as part of the parenting program in section 8 of this act. This is in addition to that period of earned early release time that may be exchanged for partial confinement pursuant to RCW 9.94A.729(5)(d);

(6) The governor may pardon any offender;

(7) The department may release an offender from confinement any time within ten days before a release date calculated under this section;

(8) An offender may leave a correctional facility prior to completion of his or her sentence if the sentence has been reduced as provided in RCW 9.94A.870; and

(9) Notwithstanding any other provisions of this section, an offender sentenced for a felony crime listed in RCW 9.94A.540 as subject to a mandatory minimum sentence of total confinement shall not be released from total confinement before the completion of the listed mandatory minimum sentence for that felony crime of conviction unless allowed under RCW 9.94A.540.

Sec. 7. RCW 9.94A.729 and 2009 c 455 s 3 are each amended to read as follows:

(1)(a) The term of the sentence of an offender committed to a correctional facility operated by the department may be reduced by earned release time in accordance with procedures that shall be developed and adopted by the correctional agency having jurisdiction in which the offender is confined. The earned release time shall be for good behavior and good performance, as determined by the correctional agency having jurisdiction. The correctional agency shall not credit the offender with earned release credits in advance of the offender actually earning the credits.

(b) Any program established pursuant to this section shall allow an offender to earn early release credits for presentence incarceration. If an offender is transferred from a county jail to the department, the administrator of a county jail facility shall certify to the department the amount of time spent in custody at the facility and the amount of earned release time. The department may approve a jail certification from a correctional agency that calculates earned release time based on the actual amount of confinement time served by the offender before sentencing when an erroneous calculation of confinement time served by the offender before sentencing appears on the judgment and sentence.

(2) An offender who has been convicted of a felony committed after July 23, 1995, that involves any applicable deadly weapon enhancements under RCW 9.94A.533 (3) or (4), or both, shall not receive any good time credits or earned release time for that portion of his or her sentence that results from any deadly weapon enhancements.

(3) An offender may earn early release time as follows:

(a) In the case of an offender convicted of a serious violent offense, or a sex offense that is a class A felony, committed on or after July 1, 1990, and before July 1, 2003, the aggregate earned release time may not exceed fifteen percent of the sentence.

(b) In the case of an offender convicted of a serious violent offense, or a sex offense that is a class A felony, committed on or after July 1, 2003, the aggregate earned release time may not exceed ten percent of the sentence.

(c) An offender is qualified to earn up to fifty percent of aggregate earned release time if he or she:

(i) Is not classified as an offender who is at a high risk to reoffend as provided in subsection (4) of this section;

(ii) Is not confined pursuant to a sentence for:

(A) A sex offense;

(B) A violent offense;

(C) A crime against persons as defined in RCW 9.94A.411;

(D) A felony that is domestic violence as defined in RCW 10.99.020;

(E) A violation of RCW 9A.52.025 (residential burglary);

(F) A violation of, or an attempt, solicitation, or conspiracy to violate, RCW 69.50.401 by manufacture or delivery or possession with intent to deliver methamphetamine; or

(G) A violation of, or an attempt, solicitation, or conspiracy to violate, RCW 69.50.406 (delivery of a controlled substance to a minor);

(iii) Has no prior conviction for the offenses listed in (c)(ii) of this subsection;

(iv) Participates in programming or activities as directed by the offender's individual reentry plan as provided under RCW 72.09.270 to the extent that such programming or activities are made available by the department; and

(v) Has not committed a new felony after July 22, 2007, while under community custody.

(d) In no other case shall the aggregate earned release time exceed one-third of the total sentence.

(4) The department shall perform a risk assessment of each offender who may qualify for earned early release under subsection (3)(c) of this section utilizing the risk assessment tool recommended by the Washington state institute for public policy. Subsection (3)(c) of this section does not apply to offenders convicted after July 1, 2010.

(5)(a) A person who is eligible for earned early release as provided in this section and who is convicted of a sex offense, a violent offense, any crime against persons under RCW 9.94A.411(2), or a felony offense under chapter 69.50 or 69.52 RCW, shall be transferred to community custody in lieu of earned release time;

(b) The department shall, as a part of its program for release to the community in lieu of earned release, require the offender to propose a release plan that includes an approved residence and living arrangement. All offenders with community custody terms eligible for release to community custody in lieu of earned release shall provide an approved residence and living arrangement prior to release to the community;

(c) The department may deny transfer to community custody in lieu of earned release time if the department determines an offender's release plan, including proposed residence location and living arrangements, may violate the conditions of the sentence or conditions of supervision, place the offender at risk to violate the conditions of the sentence, place the offender at risk to reoffend, or present a risk to victim safety or community safety. The department's authority under this section is independent of any court-ordered condition of sentence or statutory provision regarding conditions for community custody;

(d) If the department is unable to approve the offender's release plan, the department may do one or more of the following:

(i) Transfer an offender to partial confinement in lieu of earned early release for a period not to exceed three months. The three months in partial confinement is in addition to that portion of the offender's term of confinement that may be served in partial confinement as provided in RCW 9.94A.728(5);

(ii) Provide rental vouchers to the offender for a period not to exceed three months if rental assistance will result in an approved release plan. The voucher must be provided in conjunction with additional transition support programming or services that enable an offender to participate in services including, but not limited to, substance abuse treatment, mental health treatment, sex offender treatment, educational programming, or employment programming;

(e) For each offender who is the recipient of a rental voucher, the department shall include, concurrent with the data that the department otherwise obtains and records, the housing status of the offender for the duration of the offender's supervision.

(6) An offender serving a term of confinement imposed under RCW 9.94A.670(5)(a) is not eligible for earned release credits under this section.

NEW SECTION. Sec. 8. A new section is added to chapter 9.94A RCW to read as follows:

For offenders not sentenced under section 2 of this act, but otherwise eligible under this section, no more than the final twelve months of the offender's term of confinement may be served in partial confinement as home detention as part of the parenting program developed by the department.

(1) The secretary may transfer an offender from a correctional facility to home detention in the community if it is determined that the parenting program is an appropriate placement and when all of the following conditions exist:

(a) The offender is serving a sentence in which the high end of the range is greater than one year;

(b) The offender has no current conviction for a felony that is a sex offense or a violent offense;

(c) The offender has not been found by the United States attorney general to be subject to a deportation detainer or order and does not become subject to a deportation order during the period of the sentence;

(d) The offender signs any release of information waivers required to allow information regarding current or prior child welfare cases to be shared with the department and the court;

(e) The offender:

(i) Has physical or legal custody of a minor child;

(ii) Has a proven, established, ongoing, and substantial relationship with his or her minor child that existed prior to the commission of the current offense; or

(iii) Is a legal guardian of a child that was under the age of eighteen at the time of the current offense; and

(f) The department determines that such a placement is in the best interests of the child.

(2) When the department is considering partial confinement as part of the parenting program for an offender, the department shall inquire of the individual and the children's administration with the Washington state department of social and health services whether the agency has an open child welfare case or prior substantiated referral for abuse or neglect involving the offender. If the children's administration or a tribal jurisdiction has an open child welfare case, the department will seek input from the children's administration or the involved tribal jurisdiction as to: (a) The status of the child welfare case; and (b) recommendations regarding placement of the offender and services required of the department and the court governing the individual's child welfare case. The department and its officers, agents, and employees are not liable for the acts of offenders participating in the parenting program unless the department or its officers, agents, and employees acted with willful and wanton disregard.

(3) All offenders placed on home detention as part of the parenting program shall provide an approved residence and living arrangement prior to transfer to home detention.

(4) While in the community on home detention as part of the parenting program, the department shall:

(a) Require the offender to be placed on electronic home monitoring;

(b) Require the offender to participate in programming and treatment that the department determines is needed;

(c) Assign a community corrections officer who will monitor the offender's compliance with conditions of partial confinement and programming requirements; and

(d) If the offender has an open child welfare case with the children's administration, collaborate and communicate with the identified social worker in the provision of services.

(5) The department has the authority to return any offender serving partial confinement in the parenting program to total confinement if the offender is not complying with sentence requirements.

Sec. 9. RCW 9.94A.734 and 2007 c 199 s 9 are each amended to read as follows:

(1) Home detention may not be imposed for offenders convicted of the following offenses, unless imposed as partial confinement in the department's parenting program under section 8 of this act:

(a) A violent offense;

(b) Any sex offense;

(c) Any drug offense;

(d) Reckless burning in the first or second degree as defined in RCW 9A.48.040 or 9A.48.050;

(e) Assault in the third degree as defined in RCW 9A.36.031;

(f) Assault of a child in the third degree;

(g) Unlawful imprisonment as defined in RCW 9A.40.040; or

(h) Harassment as defined in RCW 9A.46.020.

Home detention may be imposed for offenders convicted of possession of a controlled substance under RCW 69.50.4013 or forged prescription for a controlled substance under RCW 69.50.403 if the offender fulfills the participation conditions set forth in this section and is monitored for drug use by a treatment alternatives to street crime program or a comparable court or agency-referred program.

(2) Home detention may be imposed for offenders convicted of burglary in the second degree as defined in RCW 9A.52.030 or residential burglary conditioned upon the offender:

- (a) Successfully completing twenty-one days in a work release program;
- (b) Having no convictions for burglary in the second degree or residential burglary during the preceding two years and not more than two prior convictions for burglary or residential burglary;
- (c) Having no convictions for a violent felony offense during the preceding two years and not more than two prior convictions for a violent felony offense;
- (d) Having no prior charges of escape; and
- (e) Fulfilling the other conditions of the home detention program.

(3) Home detention may be imposed for offenders convicted of taking a motor vehicle without permission in the second degree as defined in RCW 9A.56.075, theft of a motor vehicle as defined under RCW 9A.56.065, or possession of a stolen motor vehicle as defined under RCW 9A.56.068 conditioned upon the offender:

- (a) Having no convictions for taking a motor vehicle without permission, theft of a motor vehicle or possession of a stolen motor vehicle during the preceding five years and not more than two prior convictions for taking a motor vehicle without permission, theft of a motor vehicle or possession of a stolen motor vehicle;
- (b) Having no convictions for a violent felony offense during the preceding two years and not more than two prior convictions for a violent felony offense;
- (c) Having no prior charges of escape; and
- (d) Fulfilling the other conditions of the home detention program.

(4) Participation in a home detention program shall be conditioned upon:

- (a) The offender obtaining or maintaining current employment or attending a regular course of school study at regularly defined hours, or the offender performing parental duties to offspring or minors normally in the custody of the offender;
- (b) Abiding by the rules of the home detention program; and

(c) Compliance with court-ordered legal financial obligations. The home detention program may also be made available to offenders whose charges and convictions do not otherwise disqualify them if medical or health-related conditions, concerns or treatment would be better addressed under the home detention program, or where the health and welfare of the offender, other inmates, or staff would be jeopardized by the offender's incarceration. Participation in the home detention program for medical or health-related reasons is conditioned on the offender abiding by the rules of the home detention program and complying with court-ordered restitution.

Sec. 10. RCW 9.94A.190 and 2009 c 28 s 5 are each amended to read as follows:

(1) A sentence that includes a term or terms of confinement totaling more than one year shall be served in a facility or institution operated, or utilized under contract, by the state, or in home detention pursuant to section 8 of this act. Except as provided in subsection (3) or (5) of this section, a sentence of not more than one year of confinement shall be served in a facility operated, licensed, or utilized under contract, by the county, or if home detention or work crew has been ordered by the court, in the residence of either the offender or a member of the offender's immediate family.

(2) If a county uses a state partial confinement facility for the partial confinement of a person sentenced to confinement for not more than one year, the county shall reimburse the state for the use of the facility as provided in this subsection. The office of financial management shall set the rate of reimbursement based upon the average per diem cost per offender in the facility. The office of financial management shall determine to what extent, if any, reimbursement shall be reduced or eliminated because of funds provided by the legislature to the department for the purpose of covering the cost of county use of state partial confinement facilities. The office of financial management shall reestablish reimbursement rates each even-numbered year.

(3) A person who is sentenced for a felony to a term of not more than one year, and who is committed or returned to incarceration in a state facility on another felony conviction, either under the indeterminate sentencing laws, chapter 9.95 RCW, or under this chapter shall serve all terms of confinement, including a sentence of not more than one year, in a facility or institution operated, or utilized under contract, by the state, consistent with the provisions of RCW 9.94A.589.

(4) Notwithstanding any other provision of this section, a sentence imposed pursuant to RCW 9.94A.660 which has a standard sentence range of over one year, regardless of length, shall be served in a facility or institution operated, or utilized under contract, by the state.

(5) Sentences imposed pursuant to RCW 9.94A.507 shall be served in a facility or institution operated, or utilized under contract, by the state.

Sec. 11. RCW 9.94A.6332 and 2009 c 375 s 14 are each amended to read as follows:

The procedure for imposing sanctions for violations of sentence conditions or requirements is as follows:

(1) If the offender was sentenced under the drug offender sentencing alternative, any sanctions shall be imposed by the department or the court pursuant to RCW 9.94A.660.

(2) If the offender was sentenced under the special ~~((sexual [sex]))~~ sex offender sentencing alternative, any sanctions shall be imposed by the department or the court pursuant to RCW 9.94A.670.

~~(3) If the offender was sentenced under the parenting sentencing alternative, any sanctions shall be imposed by the department or by the court pursuant to section 2 of this act.~~

~~(4) If a sex offender was sentenced pursuant to RCW 9.94A.507, any sanctions shall be imposed by the board pursuant to RCW 9.95.435.~~

~~((4))~~ (5) In any other case, if the offender is being supervised by the department, any sanctions shall be imposed by the department pursuant to RCW 9.94A.737. If a probationer is being supervised by the department pursuant to

RCW 9.92.060, 9.95.204, or 9.95.210, upon receipt of a violation hearing report from the department, the court retains any authority that those statutes provide to respond to a probationer's violation of conditions.

~~((5))~~ (6) If the offender is not being supervised by the department, any sanctions shall be imposed by the court pursuant to RCW 9.94A.6333.

Sec. 12. RCW 9.94A.633 and 2009 c 375 s 12 are each amended to read as follows:

(1)(a) An offender who violates any condition or requirement of a sentence may be sanctioned with up to sixty days' confinement for each violation.

(b) In lieu of confinement, an offender may be sanctioned with work release, home detention with electronic monitoring, work crew, community restitution, inpatient treatment, daily reporting, curfew, educational or counseling sessions, supervision enhanced through electronic monitoring, or any other sanctions available in the community.

(2) If an offender was under community custody pursuant to one of the following statutes, the offender may be sanctioned as follows:

(a) If the offender was transferred to community custody in lieu of earned early release in accordance with RCW 9.94A.728(2), the offender may be transferred to a more restrictive confinement status to serve up to the remaining portion of the sentence, less credit for any period actually spent in community custody or in detention awaiting disposition of an alleged violation.

(b) If the offender was sentenced under the drug offender sentencing alternative set out in RCW 9.94A.660, the offender may be sanctioned in accordance with that section.

(c) If the offender was sentenced under the parenting sentencing alternative set out in section 2 of this act, the offender may be sanctioned in accordance with that section.

~~(d)~~ If the offender was sentenced under the special ~~((sexual-[sex]))~~ sex offender sentencing alternative set out in RCW 9.94A.670, the suspended sentence may be revoked and the offender committed to serve the original sentence of confinement.

~~((4))~~ (e) If the offender was sentenced to a work ethic camp pursuant to RCW 9.94A.690, the offender may be reclassified to serve the unexpired term of his or her sentence in total confinement.

~~((e))~~ (f) If a sex offender was sentenced pursuant to RCW 9.94A.507, the offender may be transferred to a more restrictive confinement status to serve up to the remaining portion of the sentence, less credit for any period actually spent in community custody or in detention awaiting disposition of an alleged violation.

(3) If a probationer is being supervised by the department pursuant to RCW 9.92.060, 9.95.204, or 9.95.210, the probationer may be sanctioned pursuant to subsection (1) of this section. The department shall have authority to issue a warrant for the arrest of an offender who violates a condition of community custody, as provided in RCW 9.94A.716. Any sanctions shall be imposed by the department pursuant to RCW 9.94A.737. The department shall provide a copy of the violation hearing report to the sentencing court in a timely manner. Nothing in this subsection is intended to limit the power of the sentencing court to respond to a probationer's violation of conditions.

Passed by the Senate March 9, 2010.
Passed by the House March 3, 2010.
Approved by the Governor March 26, 2010.
Filed in Office of Secretary of State March 26, 2010.

CHAPTER 225

[Substitute Senate Bill 6339]

SALES AND USE TAX EXEMPTION—WAX AND CERAMIC MATERIALS

AN ACT Relating to a sales and use tax exemption for wax and ceramic materials used to create molds for ferrous and nonferrous investment castings; adding a new section to chapter 82.08 RCW; adding a new section to chapter 82.12 RCW; providing an effective date; and providing an expiration date.

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

NEW SECTION. Sec. 1. A new section is added to chapter 82.08 RCW to read as follows:

(1) The tax levied by RCW 82.08.020 does not apply to sales of wax and ceramic materials used to create molds consumed during the process of creating ferrous and nonferrous investment castings used in industrial applications. The tax also does not apply to labor or services used to create wax patterns and ceramic shells used as molds and consumed during the process of creating ferrous and nonferrous investment castings used in industrial applications.

(2) A person claiming the exemption under this section must claim the exemption in a form and manner prescribed by the department.

NEW SECTION. Sec. 2. A new section is added to chapter 82.12 RCW to read as follows:

The provisions of this chapter do not apply with respect to the use of wax and ceramic materials used to create molds consumed during the process of creating ferrous and nonferrous investment castings used in industrial applications.

NEW SECTION. Sec. 3. This act takes effect July 1, 2010.

NEW SECTION. Sec. 4. This act expires June 30, 2015.

Passed by the Senate March 8, 2010.

Passed by the House March 11, 2010.

Approved by the Governor March 26, 2010.

Filed in Office of Secretary of State March 26, 2010.

CHAPTER 226

[Second Substitute Senate Bill 6702]

JUVENILES IN ADULT JAILS—EDUCATION PROGRAMS

AN ACT Relating to providing education programs for juveniles in adult jails; and adding a new chapter to Title 28A RCW.

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

NEW SECTION. Sec. 1. INTENT. The legislature intends to provide for the operation of education programs for juvenile inmates incarcerated in adult jails.

The legislature finds that this chapter fully satisfies any constitutional duty to provide education programs for juvenile inmates in adult jails. The legislature further finds that biennial appropriations for education programs under this chapter amply provide for any constitutional duty to educate juvenile inmates in adult jails.

NEW SECTION. Sec. 2. EDUCATION PROGRAMS FOR JUVENILES IN ADULT JAILS. A program of education shall be made available for juvenile inmates by adult jail facilities and the several school districts of the state for persons under the age of eighteen years who have been incarcerated in any adult jail facilities operated under the authority of chapter 70.48 RCW. Each school district within which there is located an adult jail facility shall, singly or in concert with another school district pursuant to RCW 28A.335.160 and 28A.225.250 or chapter 39.34 RCW, conduct a program of education, including related student activities for inmates in adult jail facilities. School districts are not precluded from contracting with educational service districts, community and technical colleges, four-year institutions of higher education, or other qualified entities to provide all or part of these education programs. The division of duties, authority, and liabilities of the adult jail facilities and the several school districts of the state respecting the educational programs shall be as provided for in this chapter with regard to programs for juveniles in adult jail facilities.

NEW SECTION. Sec. 3. "ADULT JAIL FACILITY"—DEFINED. As used in this chapter, "adult jail facility" means an adult jail operated under the authority of chapter 70.48 RCW.

NEW SECTION. Sec. 4. DUTIES, AUTHORITY, AND RESPONSIBILITIES OF EDUCATION PROVIDER. (1) Except as otherwise provided for by contract under section 7 of this act, the duties and authority of a school district, educational service district, institution of higher education, or private contractor to provide for education programs under this chapter include:

(a) Employing, supervising, and controlling administrators, teachers, specialized personnel, and other persons necessary to conduct education programs, subject to security clearance by the adult jail facilities;

(b) Purchasing, leasing, renting, or providing textbooks, maps, audiovisual equipment paper, writing instruments, physical education equipment, and other instructional equipment, materials, and supplies deemed necessary by the provider of the education programs;

(c) Conducting education programs for inmates under the age of eighteen in accordance with program standards established by the superintendent of public instruction;

(d) Expending funds for the direct and indirect costs of maintaining and operating the program of education that are appropriated by the legislature and allocated by the superintendent of public instruction for the exclusive purpose of maintaining and operating education programs for juvenile inmates incarcerated in adult jail facilities, in addition to funds from federal and private grants, and bequests, and gifts made for the purpose of maintaining and operating the program of education; and

(e) Providing educational services to juvenile inmates within five school days of receiving notification from an adult jail facility within the district's boundaries that an individual under the age of eighteen has been incarcerated.

(2) The school district, educational service district, institution of higher education, or private contractor shall develop the curricula, instruction methods, and educational objectives of the education programs, subject to applicable requirements of state and federal law. For inmates who are under the age of eighteen when they commence the program and who have not met high school graduation requirements, such courses of instruction and school-related student activities as are provided by the school district for students outside of adult jail facilities shall be provided by the school district for students in adult jail facilities, to the extent that it is practical and judged appropriate by the school district and the administrator of the adult jail facility.

NEW SECTION. Sec. 5. SCHOOL DISTRICTS—ADDITIONAL AUTHORITY AND LIMITATION. School districts providing an education program to juvenile inmates in an adult jail facility, may:

(1) Award appropriate diplomas or certificates to juvenile inmates who successfully complete graduation requirements;

(2) Allow students eighteen years of age who have participated in an education program under this chapter to continue in the program, under rules adopted by the superintendent of public instruction; and

(3) Spend only funds appropriated by the legislature and allocated by the superintendent of public instruction for the exclusive purpose of maintaining and operating education programs under this chapter, including direct and indirect costs of maintaining and operating the education programs, and funds from federal and private grants, bequests, and gifts made for that purpose. School districts may not expend excess tax levy proceeds authorized for school district purposes to pay costs incurred under this chapter.

NEW SECTION. Sec. 6. SUPPORT OF EDUCATION PROGRAMS. To support each education program under this chapter, the adult jail facility and each superintendent or chief administrator of an adult jail facility shall:

(1) Provide necessary access to existing instructional and exercise spaces for the education program that are safe and secure;

(2) Provide equipment deemed necessary by the adult jail facility to conduct the education program;

(3) Maintain a clean and appropriate classroom environment that is sufficient to meet the program requirements and consistent with security conditions;

(4) Provide appropriate supervision of juvenile inmates consistent with security conditions to safeguard agents of the education providers and juvenile inmates while engaged in educational and related activities conducted under this chapter;

(5) Provide such other support services and facilities deemed necessary by the adult jail facilities to conduct the education program;

(6) Provide the available medical and mental health records necessary to a determination by the school district of the educational needs of the juvenile inmate; and

(7) Notify the school district within which the adult jail facility resides within five school days that an eligible juvenile inmate has been incarcerated in the adult jail facility.

NEW SECTION. **Sec. 7. CONTRACT BETWEEN SCHOOL DISTRICTS AND ADULT JAIL FACILITIES.** Each education provider under this chapter and the adult jail facility shall negotiate and execute a written contract for each school year, or such longer period as may be agreed to, that delineates the manner in which their respective duties and authority will be cooperatively performed and exercised, and any disputes and grievances resolved through mediation, and if necessary, arbitration. Any such contract may provide for the performance of duties by an education provider in addition to those in this chapter, including duties imposed upon the adult jail facility and its agents under section 6 of this act, if supplemental funding is available to fully pay the direct and indirect costs of these additional duties.

NEW SECTION. **Sec. 8. EDUCATION SITE CLOSURES OR REDUCTION IN SERVICES—NOTICE.** (1) By September 30, 2010, districts must, in coordination with adult jail facilities residing within their boundaries, submit an instructional service plan to the office of the superintendent of public instruction. Service plans must meet requirements stipulated in the rules developed in accordance with section 9 of this act, provided that (a) the rules shall not govern requirements regarding security within the jail facility nor the physical facility of the adult jail, including but not limited to, the classroom space chosen for instruction, and (b) any excess costs to the jails associated with implementing rules shall be negotiated pursuant to the contractual agreements between the education provider and adult jail facility.

(2) Once districts have submitted a plan to the office of the superintendent of public instruction, districts are not required to resubmit their plans unless either districts or adult jail facilities initiate a significant change to their plans.

(3) An adult jail facility shall notify the office of the superintendent of public instruction as soon as practicable upon the closure of any adult jail facility or upon the adoption of a policy that no juvenile shall be held in the adult jail facility.

NEW SECTION. **Sec. 9. ALLOCATION OF MONEY—ACCOUNTABILITY REQUIREMENTS—RULES.** The superintendent of public instruction shall:

(1) Allocate money appropriated by the legislature to administer and provide education programs under this chapter to school districts that have assumed the primary responsibility to administer and provide education programs under this chapter or to the educational service district operating the program under contract; and

(2) Adopt rules that apply to school districts and educational providers in accordance with chapter 34.05 RCW that establish reporting, program compliance, audit, and such other accountability requirements as are reasonably necessary to implement this chapter and related provisions of the omnibus appropriations act effectively. In adopting the rules pursuant to this subsection, the superintendent of public instruction shall collaborate with representatives from the Washington association of sheriffs and police chiefs and shall attempt to negotiate rules that deliver the educational program in the most cost-effective

manner while, to the extent practicable, not imposing additional costs on local jail facilities.

NEW SECTION. Sec. 10. Sections 1 through 9 of this act constitute a new chapter in Title 28A RCW.

NEW SECTION. Sec. 11. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed by the Senate March 9, 2010.

Passed by the House March 4, 2010.

Approved by the Governor March 26, 2010.

Filed in Office of Secretary of State March 26, 2010.

CHAPTER 227

[Engrossed Substitute House Bill 2424]

SEX OFFENSES INVOLVING MINORS—DEPICTIONS—PREDATORY SEX OFFENSES

AN ACT Relating to protecting children from sexual exploitation and abuse; amending RCW 9.68A.001, 9.68A.011, 9.68A.050, 9.68A.060, 9.68A.070, 9.68A.110, and 9.94A.030; reenacting and amending RCW 9.94A.515 and 9.94A.535; adding new sections to chapter 9.68A RCW; and prescribing penalties.

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

Sec. 1. RCW 9.68A.001 and 2007 c 368 s 1 are each amended to read as follows:

The legislature finds that the prevention of sexual exploitation and abuse of children constitutes a government objective of surpassing importance. The care of children is a sacred trust and should not be abused by those who seek commercial gain or personal gratification based on the exploitation of children.

The legislature further finds that the protection of children from sexual exploitation can be accomplished without infringing on a constitutionally protected activity. The definition of "sexually explicit conduct" and other operative definitions demarcate a line between protected and prohibited conduct and should not inhibit legitimate scientific, medical, or educational activities.

The legislature further finds that children engaged in sexual conduct for financial compensation are frequently the victims of sexual abuse. Approximately eighty to ninety percent of children engaged in sexual activity for financial compensation have a history of sexual abuse victimization. It is the intent of the legislature to encourage these children to engage in prevention and intervention services and to hold those who pay to engage in the sexual abuse of children accountable for the trauma they inflict on children.

The legislature further finds that due to the changing nature of technology, offenders are now able to access child pornography in different ways and in increasing quantities. By amending current statutes governing depictions of a minor engaged in sexually explicit conduct, it is the intent of the legislature to ensure that intentional viewing of and dealing in child pornography over the internet is subject to a criminal penalty without limiting the scope of existing prohibitions on the possession of or dealing in child pornography, including the possession of electronic depictions of a minor engaged in sexually explicit conduct. It is also the intent of the legislature to clarify, in response to *State v.*

Sutherby, 204 P.3d 916 (2009), the unit of prosecution for the statutes governing possession of and dealing in depictions of a minor engaged in sexually explicit conduct. It is the intent of the legislature that the first degree offenses under RCW 9.68A.050, 9.68A.060, and 9.68A.070 have a per depiction or image unit of prosecution, while the second degree offenses under RCW 9.68A.050, 9.68A.060, and 9.68A.070 have a per incident unit of prosecution as established in State v. Sutherby, 204 P.3d 916 (2009). Furthermore, it is the intent of the legislature to set a different unit of prosecution for the new offense of viewing of depictions of a minor engaged in sexually explicit conduct such that each separate session of intentionally viewing over the internet of visual depictions or images of a minor engaged in sexually explicit conduct constitutes a separate offense.

NEW SECTION. Sec. 2. A new section is added to chapter 9.68A RCW to read as follows:

This chapter does not apply to lawful conduct between spouses.

Sec. 3. RCW 9.68A.011 and 2002 c 70 s 1 are each amended to read as follows:

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

(1) An "internet session" means a period of time during which an internet user, using a specific internet protocol address, visits or is logged into an internet site for an uninterrupted period of time.

(2) To "photograph" means to make a print, negative, slide, digital image, motion picture, or videotape. A "photograph" means anything tangible or intangible produced by photographing.

~~((2))~~ (3) "Visual or printed matter" means any photograph or other material that contains a reproduction of a photograph.

~~((3))~~ (4) "Sexually explicit conduct" means actual or simulated:

(a) Sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex or between humans and animals;

(b) Penetration of the vagina or rectum by any object;

(c) Masturbation;

(d) Sadomasochistic abuse ~~((for the purpose of sexual stimulation of the viewer));~~

(e) ~~((Exhibition of the genitals or unclothed pubic or rectal areas of any minor, or the unclothed breast of a female minor, for the purpose of sexual stimulation of the viewer;~~

~~((f))~~ Defecation or urination for the purpose of sexual stimulation of the viewer;

(f) Depiction of the genitals or unclothed pubic or rectal areas of any minor, or the unclothed breast of a female minor, for the purpose of sexual stimulation of the viewer. For the purposes of this subsection (4)(f), it is not necessary that the minor know that he or she is participating in the described conduct, or any aspect of it; and

(g) Touching of a person's clothed or unclothed genitals, pubic area, buttocks, or breast area for the purpose of sexual stimulation of the viewer.

~~((4))~~ (5) "Minor" means any person under eighteen years of age.

~~((5))~~ (6) "Live performance" means any play, show, skit, dance, or other exhibition performed or presented to or before an audience of one or more, with or without consideration.

Sec. 4. RCW 9.68A.050 and 1989 c 32 s 3 are each amended to read as follows:

~~(A person who:)~~

(1)(a) A person commits the crime of dealing in depictions of a minor engaged in sexually explicit conduct in the first degree when he or she:

(i) Knowingly develops, duplicates, publishes, prints, disseminates, exchanges, finances, attempts to finance, or sells ~~((any))~~ a visual or printed matter that depicts a minor engaged in an act of sexually explicit conduct as defined in RCW 9.68A.011(4) (a) through (e); or

~~((2))~~ (ii) Possesses with intent to develop, duplicate, publish, print, disseminate, exchange, or sell any visual or printed matter that depicts a minor engaged in an act of sexually explicit conduct as defined in RCW 9.68A.011(4) (a) through (e).

(b) Dealing in depictions of a minor engaged in sexually explicit conduct in the first degree is ~~((guilty of))~~ a class ~~((C))~~ B felony punishable under chapter 9A.20 RCW.

(c) For the purposes of determining the unit of prosecution under this subsection, each depiction or image of visual or printed matter constitutes a separate offense.

(2)(a) A person commits the crime of dealing in depictions of a minor engaged in sexually explicit conduct in the second degree when he or she:

(i) Knowingly develops, duplicates, publishes, prints, disseminates, exchanges, finances, attempts to finance, or sells any visual or printed matter that depicts a minor engaged in an act of sexually explicit conduct as defined in RCW 9.68A.011(4) (f) or (g); or

(ii) Possesses with intent to develop, duplicate, publish, print, disseminate, exchange, or sell any visual or printed matter that depicts a minor engaged in an act of sexually explicit conduct as defined in RCW 9.68A.011(4) (f) or (g).

(b) Dealing in depictions of a minor engaged in sexually explicit conduct in the second degree is a class C felony punishable under chapter 9A.20 RCW.

(c) For the purposes of determining the unit of prosecution under this subsection, each incident of dealing in one or more depictions or images of visual or printed matter constitutes a separate offense.

Sec. 5. RCW 9.68A.060 and 1989 c 32 s 4 are each amended to read as follows:

(1)(a) A person ~~((who))~~ commits the crime of sending or bringing into the state depictions of a minor engaged in sexually explicit conduct in the first degree when he or she knowingly sends or causes to be sent, or brings or causes to be brought, into this state for sale or distribution, ~~((any))~~ a visual or printed matter that depicts a minor engaged in sexually explicit conduct as defined in RCW 9.68A.011(4) (a) through (e).

(b) Sending or bringing into the state depictions of a minor engaged in sexually explicit conduct in the first degree is ~~((guilty of))~~ a class ~~((C))~~ B felony punishable under chapter 9A.20 RCW.

(c) For the purposes of determining the unit of prosecution under this subsection, each depiction or image of visual or printed matter constitutes a separate offense.

(2)(a) A person commits the crime of sending or bringing into the state depictions of a minor engaged in sexually explicit conduct in the second degree when he or she knowingly sends or causes to be sent, or brings or causes to be brought, into this state for sale or distribution, any visual or printed matter that depicts a minor engaged in sexually explicit conduct as defined in RCW 9.68A.011(4) (f) or (g).

(b) Sending or bringing into the state depictions of a minor engaged in sexually explicit conduct in the second degree is a class C felony punishable under chapter 9A.20 RCW.

(c) For the purposes of determining the unit of prosecution under this subsection, each incident of sending or bringing into the state one or more depictions or images of visual or printed matter constitutes a separate offense.

Sec. 6. RCW 9.68A.070 and 2006 c 139 s 3 are each amended to read as follows:

(1)(a) A person (~~who~~) commits the crime of possession of depictions of a minor engaged in sexually explicit conduct in the first degree when he or she knowingly possesses a visual or printed matter depicting a minor engaged in sexually explicit conduct as defined in RCW 9.68A.011(4) (a) through (e).

(b) Possession of depictions of a minor engaged in sexually explicit conduct in the first degree is (~~guilty of~~) a class B felony punishable under chapter 9A.20 RCW.

(c) For the purposes of determining the unit of prosecution under this subsection, each depiction or image of visual or printed matter constitutes a separate offense.

(2)(a) A person commits the crime of possession of depictions of a minor engaged in sexually explicit conduct in the second degree when he or she knowingly possesses any visual or printed matter depicting a minor engaged in sexually explicit conduct as defined in RCW 9.68A.011(4) (f) or (g).

(b) Possession of depictions of a minor engaged in sexually explicit conduct in the second degree is a class C felony punishable under chapter 9A.20 RCW.

(c) For the purposes of determining the unit of prosecution under this subsection, each incident of possession of one or more depictions or images of visual or printed matter constitutes a separate offense.

NEW SECTION. Sec. 7. A new section is added to chapter 9.68A RCW to read as follows:

(1) A person who intentionally views over the internet visual or printed matter depicting a minor engaged in sexually explicit conduct as defined in RCW 9.68A.011(4) (a) through (e) is guilty of viewing depictions of a minor engaged in sexually explicit conduct in the first degree, a class B felony punishable under chapter 9A.20 RCW.

(2) A person who intentionally views over the internet visual or printed matter depicting a minor engaged in sexually explicit conduct as defined in RCW 9.68A.011(4) (f) or (g) is guilty of viewing depictions of a minor engaged in sexually explicit conduct in the second degree, a class C felony punishable under chapter 9A.20 RCW.

(3) For the purposes of determining whether a person intentionally viewed over the internet a visual or printed matter depicting a minor engaged in sexually explicit conduct in subsection (1) or (2) of this section, the trier of fact shall consider the title, text, and content of the visual or printed matter, as well as the internet history, search terms, thumbnail images, downloading activity, expert computer forensic testimony, number of visual or printed matter depicting minors engaged in sexually explicit conduct, defendant's access to and control over the electronic device and its contents upon which the visual or printed matter was found, or any other relevant evidence. The state must prove beyond a reasonable doubt that the viewing was initiated by the user of the computer where the viewing occurred.

(4) For the purposes of this section, each separate internet session of intentionally viewing over the internet visual or printed matter depicting a minor engaged in sexually explicit conduct constitutes a separate offense.

Sec. 8. RCW 9.68A.110 and 2007 c 368 s 3 are each amended to read as follows:

(1) In a prosecution under RCW 9.68A.040, it is not a defense that the defendant was involved in activities of law enforcement and prosecution agencies in the investigation and prosecution of criminal offenses. Law enforcement and prosecution agencies shall not employ minors to aid in the investigation of a violation of RCW 9.68A.090 or 9.68A.100. ~~((This chapter does not apply to lawful conduct between spouses.))~~

(2) In a prosecution under RCW 9.68A.050, 9.68A.060, 9.68A.070, or 9.68A.080, it is not a defense that the defendant did not know the age of the child depicted in the visual or printed matter: PROVIDED, That it is a defense, which the defendant must prove by a preponderance of the evidence, that at the time of the offense the defendant was not in possession of any facts on the basis of which he or she should reasonably have known that the person depicted was a minor.

(3) In a prosecution under RCW 9.68A.040, 9.68A.090, 9.68A.101, or 9.68A.102, it is not a defense that the defendant did not know the alleged victim's age: PROVIDED, That it is a defense, which the defendant must prove by a preponderance of the evidence, that at the time of the offense, the defendant made a reasonable bona fide attempt to ascertain the true age of the minor by requiring production of a driver's license, marriage license, birth certificate, or other governmental or educational identification card or paper and did not rely solely on the oral allegations or apparent age of the minor.

(4) In a prosecution under RCW 9.68A.050, 9.68A.060, ~~((or))~~ 9.68A.070, or section 7 of this act, it shall be an affirmative defense that the defendant was a law enforcement officer or a person specifically authorized, in writing, to assist a law enforcement officer and acting at the direction of a law enforcement officer in the process of conducting an official investigation of a sex-related crime against a minor, or that the defendant was providing individual case treatment as a recognized medical facility or as a psychiatrist or psychologist licensed under Title 18 RCW. Nothing in this act is intended to in any way affect or diminish the immunity afforded an electronic communication service provider, remote computing service provider, or domain name registrar acting in the performance of its reporting or preservation responsibilities under 18 U.S.C. Secs. 2258a, 2258b, or 2258c.

(5) In a prosecution under RCW 9.68A.050, 9.68A.060, ~~((or))~~ 9.68A.070, or section 7 of this act, the state is not required to establish the identity of the alleged victim.

(6) In a prosecution under RCW 9.68A.070 or section 7 of this act, it shall be an affirmative defense that:

(a) The defendant was employed at or conducting research in partnership or in cooperation with any institution of higher education as defined in RCW 28B.07.020 or 28B.10.016, and:

(i) He or she was engaged in a research activity;

(ii) The research activity was specifically approved prior to the possession or viewing activity being conducted in writing by a person, or other such entity vested with the authority to grant such approval by the institution of higher learning; and

(iii) Viewing or possessing the visual or printed matter is an essential component of the authorized research; or

(b) The defendant was an employee of the Washington state legislature engaged in research at the request of a member of the legislature and:

(i) The request for research is made prior to the possession or viewing activity being conducted in writing by a member of the legislature;

(ii) The research is directly related to a legislative activity; and

(iii) Viewing or possessing the visual or printed matter is an essential component of the requested research and legislative activity.

(c) Nothing in this section authorizes otherwise unlawful viewing or possession of visual or printed matter depicting a minor engaged in sexually explicit conduct.

Sec. 9. RCW 9.94A.515 and 2008 c 108 s 23 and 2008 c 38 s 1 are each reenacted and amended to read as follows:

TABLE 2	
CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL	
XVI	Aggravated Murder 1 (RCW 10.95.020)
XV	Homicide by abuse (RCW 9A.32.055) Malicious explosion 1 (RCW 70.74.280(1)) Murder 1 (RCW 9A.32.030)
XIV	Murder 2 (RCW 9A.32.050) Trafficking 1 (RCW 9A.40.100(1))
XIII	Malicious explosion 2 (RCW 70.74.280(2)) Malicious placement of an explosive 1 (RCW 70.74.270(1))
XII	Assault 1 (RCW 9A.36.011) Assault of a Child 1 (RCW 9A.36.120)

- Malicious placement of an imitation device 1 (RCW 70.74.272(1)(a))
- Rape 1 (RCW 9A.44.040)
- Rape of a Child 1 (RCW 9A.44.073)
- Trafficking 2 (RCW 9A.40.100(2))
- XI Manslaughter 1 (RCW 9A.32.060)
- Rape 2 (RCW 9A.44.050)
- Rape of a Child 2 (RCW 9A.44.076)
- X Child Molestation 1 (RCW 9A.44.083)
- Criminal Mistreatment 1 (RCW 9A.42.020)
- Indecent Liberties (with forcible compulsion) (RCW 9A.44.100(1)(a))
- Kidnapping 1 (RCW 9A.40.020)
- Leading Organized Crime (RCW 9A.82.060(1)(a))
- Malicious explosion 3 (RCW 70.74.280(3))
- Sexually Violent Predator Escape (RCW 9A.76.115)
- IX Abandonment of Dependent Person 1 (RCW 9A.42.060)
- Assault of a Child 2 (RCW 9A.36.130)
- Explosive devices prohibited (RCW 70.74.180)
- Hit and Run—Death (RCW 46.52.020(4)(a))
- Homicide by Watercraft, by being under the influence of intoxicating liquor or any drug (RCW 79A.60.050)
- Inciting Criminal Profiteering (RCW 9A.82.060(1)(b))
- Malicious placement of an explosive 2 (RCW 70.74.270(2))
- Robbery 1 (RCW 9A.56.200)
- Sexual Exploitation (RCW 9.68A.040)

- Vehicular Homicide, by being under the influence of intoxicating liquor or any drug (RCW 46.61.520)
- VIII Arson 1 (RCW 9A.48.020)
- Homicide by Watercraft, by the operation of any vessel in a reckless manner (RCW 79A.60.050)
- Manslaughter 2 (RCW 9A.32.070)
- Promoting Commercial Sexual Abuse of a Minor (RCW 9.68A.101)
- Promoting Prostitution 1 (RCW 9A.88.070)
- Theft of Ammonia (RCW 69.55.010)
- Vehicular Homicide, by the operation of any vehicle in a reckless manner (RCW 46.61.520)
- VII Burglary 1 (RCW 9A.52.020)
- Child Molestation 2 (RCW 9A.44.086)
- Civil Disorder Training (RCW 9A.48.120)
- Dealing in depictions of minor engaged in sexually explicit conduct 1 (RCW 9.68A.050(1))
- Drive-by Shooting (RCW 9A.36.045)
- Homicide by Watercraft, by disregard for the safety of others (RCW 79A.60.050)
- Indecent Liberties (without forcible compulsion) (RCW 9A.44.100(1) (b) and (c))
- Introducing Contraband 1 (RCW 9A.76.140)
- Malicious placement of an explosive ³ (RCW 70.74.270(3))
- Negligently Causing Death By Use of a Signal Preemption Device (RCW 46.37.675)

- Sending, bringing into state depictions of minor engaged in sexually explicit conduct 1 (RCW 9.68A.0601)
- Unlawful Possession of a Firearm in the first degree (RCW 9.41.040(1))
- Use of a Machine Gun in Commission of a Felony (RCW 9.41.225)
- Vehicular Homicide, by disregard for the safety of others (RCW 46.61.520)
- VI Bail Jumping with Murder 1 (RCW 9A.76.170(3)(a))
 - Bribery (RCW 9A.68.010)
 - Incest 1 (RCW 9A.64.020(1))
 - Intimidating a Judge (RCW 9A.72.160)
 - Intimidating a Juror/Witness (RCW 9A.72.110, 9A.72.130)
 - Malicious placement of an imitation device 2 (RCW 70.74.272(1)(b))
 - Possession of Depictions of a Minor Engaged in Sexually Explicit Conduct 1 (RCW 9.68A.0701)
 - Rape of a Child 3 (RCW 9A.44.079)
 - Theft of a Firearm (RCW 9A.56.300)
 - Unlawful Storage of Ammonia (RCW 69.55.020)
- V Abandonment of Dependent Person 2 (RCW 9A.42.070)
 - Advancing money or property for extortionate extension of credit (RCW 9A.82.030)
 - Bail Jumping with class A Felony (RCW 9A.76.170(3)(b))
 - Child Molestation 3 (RCW 9A.44.089)
 - Criminal Mistreatment 2 (RCW 9A.42.030)
 - Custodial Sexual Misconduct 1 (RCW 9A.44.160)

Dealing in Depictions of Minor Engaged
in Sexually Explicit Conduct 2
(RCW 9.68A.050(2))

Domestic Violence Court Order
Violation (RCW 10.99.040,
10.99.050, 26.09.300, 26.10.220,
26.26.138, 26.50.110, 26.52.070,
or 74.34.145)

Driving While Under the Influence
(RCW 46.61.502(6))

Extortion 1 (RCW 9A.56.120)

Extortionate Extension of Credit (RCW
9A.82.020)

Extortionate Means to Collect
Extensions of Credit (RCW
9A.82.040)

Incest 2 (RCW 9A.64.020(2))

Kidnapping 2 (RCW 9A.40.030)

Perjury 1 (RCW 9A.72.020)

Persistent prison misbehavior (RCW
9.94.070)

Physical Control of a Vehicle While
Under the Influence (RCW
46.61.504(6))

Possession of a Stolen Firearm (RCW
9A.56.310)

Rape 3 (RCW 9A.44.060)

Rendering Criminal Assistance 1
(RCW 9A.76.070)

Sending, Bringing into State Depictions
of Minor Engaged in Sexually
Explicit Conduct 2 (RCW
9.68A.060(2))

Sexual Misconduct with a Minor 1
(RCW 9A.44.093)

Sexually Violating Human Remains
(RCW 9A.44.105)

Stalking (RCW 9A.46.110)

Taking Motor Vehicle Without
Permission 1 (RCW 9A.56.070)

- IV Arson 2 (RCW 9A.48.030)
- Assault 2 (RCW 9A.36.021)
- Assault 3 (of a Peace Officer with a Projectile Stun Gun) (RCW 9A.36.031(1)(h))
- Assault by Watercraft (RCW 79A.60.060)
- Bribing a Witness/Bribe Received by Witness (RCW 9A.72.090, 9A.72.100)
- Cheating 1 (RCW 9.46.1961)
- Commercial Bribery (RCW 9A.68.060)
- Counterfeiting (RCW 9.16.035(4))
- Endangerment with a Controlled Substance (RCW 9A.42.100)
- Escape 1 (RCW 9A.76.110)
- Hit and Run—Injury (RCW 46.52.020(4)(b))
- Hit and Run with Vessel—Injury Accident (RCW 79A.60.200(3))
- Identity Theft 1 (RCW 9.35.020(2))
- Indecent Exposure to Person Under Age Fourteen (subsequent sex offense) (RCW 9A.88.010)
- Influencing Outcome of Sporting Event (RCW 9A.82.070)
- Malicious Harassment (RCW 9A.36.080)
- Possession of Depictions of a Minor Engaged in Sexually Explicit Conduct 2 (RCW 9.68.070(2))
- Residential Burglary (RCW 9A.52.025)
- Robbery 2 (RCW 9A.56.210)
- Theft of Livestock 1 (RCW 9A.56.080)
- Threats to Bomb (RCW 9.61.160)
- Trafficking in Stolen Property 1 (RCW 9A.82.050)

- Unlawful factoring of a credit card or payment card transaction (RCW 9A.56.290(4)(b))
- Unlawful transaction of health coverage as a health care service contractor (RCW 48.44.016(3))
- Unlawful transaction of health coverage as a health maintenance organization (RCW 48.46.033(3))
- Unlawful transaction of insurance business (RCW 48.15.023(3))
- Unlicensed practice as an insurance professional (RCW 48.17.063(~~(3)~~)) (2)
- Use of Proceeds of Criminal Profiteering (RCW 9A.82.080 (1) and (2))
- Vehicular Assault, by being under the influence of intoxicating liquor or any drug, or by the operation or driving of a vehicle in a reckless manner (RCW 46.61.522)
- Viewing of Depictions of a Minor Engaged in Sexually Explicit Conduct 1 (section 7(1) of this act)
- Willful Failure to Return from Furlough (RCW 72.66.060)
- III Animal Cruelty 1 (Sexual Conduct or Contact) (RCW 16.52.205(3))
- Assault 3 (Except Assault 3 of a Peace Officer With a Projectile Stun Gun) (RCW 9A.36.031 except subsection (1)(h))
- Assault of a Child 3 (RCW 9A.36.140)
- Bail Jumping with class B or C Felony (RCW 9A.76.170(3)(c))
- Burglary 2 (RCW 9A.52.030)
- Commercial Sexual Abuse of a Minor (RCW 9.68A.100)

Communication with a Minor for
Immoral Purposes (RCW
9.68A.090)

Criminal Gang Intimidation (RCW
9A.46.120)

Custodial Assault (RCW 9A.36.100)

Cyberstalking (subsequent conviction
or threat of death) (RCW
9.61.260(3))

Escape 2 (RCW 9A.76.120)

Extortion 2 (RCW 9A.56.130)

Harassment (RCW 9A.46.020)

Intimidating a Public Servant (RCW
9A.76.180)

Introducing Contraband 2 (RCW
9A.76.150)

Malicious Injury to Railroad Property
(RCW 81.60.070)

Mortgage Fraud (RCW 19.144.080)

Negligently Causing Substantial Bodily
Harm By Use of a Signal
Preemption Device (RCW
46.37.674)

Organized Retail Theft 1 (RCW
9A.56.350(2))

Perjury 2 (RCW 9A.72.030)

Possession of Incendiary Device (RCW
9.40.120)

Possession of Machine Gun or Short-
Barreled Shotgun or Rifle (RCW
9.41.190)

Promoting Prostitution 2 (RCW
9A.88.080)

Retail Theft with Extenuating
Circumstances 1 (RCW
9A.56.360(2))

Securities Act violation (RCW
21.20.400)

Tampering with a Witness (RCW
9A.72.120)

- Telephone Harassment (subsequent conviction or threat of death) (RCW 9.61.230(2))
- Theft of Livestock 2 (RCW 9A.56.083)
- Theft with the Intent to Resell 1 (RCW 9A.56.340(2))
- Trafficking in Stolen Property 2 (RCW 9A.82.055)
- Unlawful Imprisonment (RCW 9A.40.040)
- Unlawful possession of firearm in the second degree (RCW 9.41.040(2))
- Vehicular Assault, by the operation or driving of a vehicle with disregard for the safety of others (RCW 46.61.522)
- Willful Failure to Return from Work Release (RCW 72.65.070)
- II Computer Trespass 1 (RCW 9A.52.110)
- Counterfeiting (RCW 9.16.035(3))
- Escape from Community Custody (RCW 72.09.310)
- Failure to Register as a Sex Offender (second or subsequent offense) (RCW 9A.44.130(11)(a))
- Health Care False Claims (RCW 48.80.030)
- Identity Theft 2 (RCW 9.35.020(3))
- Improperly Obtaining Financial Information (RCW 9.35.010)
- Malicious Mischief 1 (RCW 9A.48.070)
- Organized Retail Theft 2 (RCW 9A.56.350(3))
- Possession of Stolen Property 1 (RCW 9A.56.150)
- Possession of a Stolen Vehicle (RCW 9A.56.068)

- Retail Theft with Extenuating Circumstances 2 (RCW 9A.56.360(3))
- Theft 1 (RCW 9A.56.030)
- Theft of a Motor Vehicle (RCW 9A.56.065)
- Theft of Rental, Leased, or Lease-purchased Property (valued at one thousand five hundred dollars or more) (RCW 9A.56.096(5)(a))
- Theft with the Intent to Resell 2 (RCW 9A.56.340(3))
- Trafficking in Insurance Claims (RCW 48.30A.015)
- Unlawful factoring of a credit card or payment card transaction (RCW 9A.56.290(4)(a))
- Unlawful Practice of Law (RCW 2.48.180)
- Unlicensed Practice of a Profession or Business (RCW 18.130.190(7))
- Voyeurism (RCW 9A.44.115)
- I Attempting to Elude a Pursuing Police Vehicle (RCW 46.61.024)
- False Verification for Welfare (RCW 74.08.055)
- Forgery (RCW 9A.60.020)
- Fraudulent Creation or Revocation of a Mental Health Advance Directive (RCW 9A.60.060)
- Malicious Mischief 2 (RCW 9A.48.080)
- Mineral Trespass (RCW 78.44.330)
- Possession of Stolen Property 2 (RCW 9A.56.160)
- Reckless Burning 1 (RCW 9A.48.040)
- Taking Motor Vehicle Without Permission 2 (RCW 9A.56.075)
- Theft 2 (RCW 9A.56.040)

Theft of Rental, Leased, or Lease-purchased Property (valued at two hundred fifty dollars or more but less than one thousand five hundred dollars) (RCW 9A.56.096(5)(b))

Transaction of insurance business beyond the scope of licensure (RCW 48.17.063(((4))))

Unlawful Issuance of Checks or Drafts (RCW 9A.56.060)

Unlawful Possession of Fictitious Identification (RCW 9A.56.320)

Unlawful Possession of Instruments of Financial Fraud (RCW 9A.56.320)

Unlawful Possession of Payment Instruments (RCW 9A.56.320)

Unlawful Possession of a Personal Identification Device (RCW 9A.56.320)

Unlawful Production of Payment Instruments (RCW 9A.56.320)

Unlawful Trafficking in Food Stamps (RCW 9.91.142)

Unlawful Use of Food Stamps (RCW 9.91.144)

Vehicle Prowl 1 (RCW 9A.52.095)

Sec. 10. RCW 9.94A.535 and 2008 c 276 s 303 and 2008 c 233 s 9 are each reenacted and amended to read as follows:

The court may impose a sentence outside the standard sentence range for an offense if it finds, considering the purpose of this chapter, that there are substantial and compelling reasons justifying an exceptional sentence. Facts supporting aggravated sentences, other than the fact of a prior conviction, shall be determined pursuant to the provisions of RCW 9.94A.537.

Whenever a sentence outside the standard sentence range is imposed, the court shall set forth the reasons for its decision in written findings of fact and conclusions of law. A sentence outside the standard sentence range shall be a determinate sentence.

If the sentencing court finds that an exceptional sentence outside the standard sentence range should be imposed, the sentence is subject to review only as provided for in RCW 9.94A.585(4).

A departure from the standards in RCW 9.94A.589 (1) and (2) governing whether sentences are to be served consecutively or concurrently is an

exceptional sentence subject to the limitations in this section, and may be appealed by the offender or the state as set forth in RCW 9.94A.585 (2) through (6).

(1) Mitigating Circumstances - Court to Consider

The court may impose an exceptional sentence below the standard range if it finds that mitigating circumstances are established by a preponderance of the evidence. The following are illustrative only and are not intended to be exclusive reasons for exceptional sentences.

(a) To a significant degree, the victim was an initiator, willing participant, aggressor, or provoker of the incident.

(b) Before detection, the defendant compensated, or made a good faith effort to compensate, the victim of the criminal conduct for any damage or injury sustained.

(c) The defendant committed the crime under duress, coercion, threat, or compulsion insufficient to constitute a complete defense but which significantly affected his or her conduct.

(d) The defendant, with no apparent predisposition to do so, was induced by others to participate in the crime.

(e) The defendant's capacity to appreciate the wrongfulness of his or her conduct, or to conform his or her conduct to the requirements of the law, was significantly impaired. Voluntary use of drugs or alcohol is excluded.

(f) The offense was principally accomplished by another person and the defendant manifested extreme caution or sincere concern for the safety or well-being of the victim.

(g) The operation of the multiple offense policy of RCW 9.94A.589 results in a presumptive sentence that is clearly excessive in light of the purpose of this chapter, as expressed in RCW 9.94A.010.

(h) The defendant or the defendant's children suffered a continuing pattern of physical or sexual abuse by the victim of the offense and the offense is a response to that abuse.

(2) Aggravating Circumstances - Considered and Imposed by the Court

The trial court may impose an aggravated exceptional sentence without a finding of fact by a jury under the following circumstances:

(a) The defendant and the state both stipulate that justice is best served by the imposition of an exceptional sentence outside the standard range, and the court finds the exceptional sentence to be consistent with and in furtherance of the interests of justice and the purposes of the sentencing reform act.

(b) The defendant's prior unscored misdemeanor or prior unscored foreign criminal history results in a presumptive sentence that is clearly too lenient in light of the purpose of this chapter, as expressed in RCW 9.94A.010.

(c) The defendant has committed multiple current offenses and the defendant's high offender score results in some of the current offenses going unpunished.

(d) The failure to consider the defendant's prior criminal history which was omitted from the offender score calculation pursuant to RCW 9.94A.525 results in a presumptive sentence that is clearly too lenient.

(3) Aggravating Circumstances - Considered by a Jury - Imposed by the Court

Except for circumstances listed in subsection (2) of this section, the following circumstances are an exclusive list of factors that can support a sentence above the standard range. Such facts should be determined by procedures specified in RCW 9.94A.537.

(a) The defendant's conduct during the commission of the current offense manifested deliberate cruelty to the victim.

(b) The defendant knew or should have known that the victim of the current offense was particularly vulnerable or incapable of resistance.

(c) The current offense was a violent offense, and the defendant knew that the victim of the current offense was pregnant.

(d) The current offense was a major economic offense or series of offenses, so identified by a consideration of any of the following factors:

(i) The current offense involved multiple victims or multiple incidents per victim;

(ii) The current offense involved attempted or actual monetary loss substantially greater than typical for the offense;

(iii) The current offense involved a high degree of sophistication or planning or occurred over a lengthy period of time; or

(iv) The defendant used his or her position of trust, confidence, or fiduciary responsibility to facilitate the commission of the current offense.

(e) The current offense was a major violation of the Uniform Controlled Substances Act, chapter 69.50 RCW (VUCSA), related to trafficking in controlled substances, which was more onerous than the typical offense of its statutory definition: The presence of ANY of the following may identify a current offense as a major VUCSA:

(i) The current offense involved at least three separate transactions in which controlled substances were sold, transferred, or possessed with intent to do so;

(ii) The current offense involved an attempted or actual sale or transfer of controlled substances in quantities substantially larger than for personal use;

(iii) The current offense involved the manufacture of controlled substances for use by other parties;

(iv) The circumstances of the current offense reveal the offender to have occupied a high position in the drug distribution hierarchy;

(v) The current offense involved a high degree of sophistication or planning, occurred over a lengthy period of time, or involved a broad geographic area of disbursement; or

(vi) The offender used his or her position or status to facilitate the commission of the current offense, including positions of trust, confidence or fiduciary responsibility (e.g., pharmacist, physician, or other medical professional).

(f) The current offense included a finding of sexual motivation pursuant to RCW 9.94A.835.

(g) The offense was part of an ongoing pattern of sexual abuse of the same victim under the age of eighteen years manifested by multiple incidents over a prolonged period of time.

(h) The current offense involved domestic violence, as defined in RCW 10.99.020, and one or more of the following was present:

(i) The offense was part of an ongoing pattern of psychological, physical, or sexual abuse of the victim manifested by multiple incidents over a prolonged period of time;

(ii) The offense occurred within sight or sound of the victim's or the offender's minor children under the age of eighteen years; or

(iii) The offender's conduct during the commission of the current offense manifested deliberate cruelty or intimidation of the victim.

(i) The offense resulted in the pregnancy of a child victim of rape.

(j) The defendant knew that the victim of the current offense was a youth who was not residing with a legal custodian and the defendant established or promoted the relationship for the primary purpose of victimization.

(k) The offense was committed with the intent to obstruct or impair human or animal health care or agricultural or forestry research or commercial production.

(l) The current offense is trafficking in the first degree or trafficking in the second degree and any victim was a minor at the time of the offense.

(m) The offense involved a high degree of sophistication or planning.

(n) The defendant used his or her position of trust, confidence, or fiduciary responsibility to facilitate the commission of the current offense.

(o) The defendant committed a current sex offense, has a history of sex offenses, and is not amenable to treatment.

(p) The offense involved an invasion of the victim's privacy.

(q) The defendant demonstrated or displayed an egregious lack of remorse.

(r) The offense involved a destructive and foreseeable impact on persons other than the victim.

(s) The defendant committed the offense to obtain or maintain his or her membership or to advance his or her position in the hierarchy of an organization, association, or identifiable group.

(t) The defendant committed the current offense shortly after being released from incarceration.

(u) The current offense is a burglary and the victim of the burglary was present in the building or residence when the crime was committed.

(v) The offense was committed against a law enforcement officer who was performing his or her official duties at the time of the offense, the offender knew that the victim was a law enforcement officer, and the victim's status as a law enforcement officer is not an element of the offense.

(w) The defendant committed the offense against a victim who was acting as a good samaritan.

(x) The defendant committed the offense against a public official or officer of the court in retaliation of the public official's performance of his or her duty to the criminal justice system.

(y) The victim's injuries substantially exceed the level of bodily harm necessary to satisfy the elements of the offense. This aggravator is not an exception to RCW 9.94A.530(2).

(z)(i)(A) The current offense is theft in the first degree, theft in the second degree, possession of stolen property in the first degree, or possession of stolen property in the second degree; (B) the stolen property involved is metal property; and (C) the property damage to the victim caused in the course of the

theft of metal property is more than three times the value of the stolen metal property, or the theft of the metal property creates a public hazard.

(ii) For purposes of this subsection, "metal property" means commercial metal property, private metal property, or nonferrous metal property, as defined in RCW 19.290.010.

(aa) The defendant committed the offense with the intent to directly or indirectly cause any benefit, aggrandizement, gain, profit, or other advantage to or for a criminal street gang as defined in RCW 9.94A.030, its reputation, influence, or membership.

(bb) The current offense involved paying to view, over the internet in violation of section 7 of this act, depictions of a minor engaged in an act of sexually explicit conduct as defined in RCW 9.68A.011(4) (a) through (g).

Sec. 11. RCW 9.94A.030 and 2009 c 375 s 4 are each amended to read as follows:

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

(1) "Board" means the indeterminate sentence review board created under chapter 9.95 RCW.

(2) "Collect," or any derivative thereof, "collect and remit," or "collect and deliver," when used with reference to the department, means that the department, either directly or through a collection agreement authorized by RCW 9.94A.760, is responsible for monitoring and enforcing the offender's sentence with regard to the legal financial obligation, receiving payment thereof from the offender, and, consistent with current law, delivering daily the entire payment to the superior court clerk without depositing it in a departmental account.

(3) "Commission" means the sentencing guidelines commission.

(4) "Community corrections officer" means an employee of the department who is responsible for carrying out specific duties in supervision of sentenced offenders and monitoring of sentence conditions.

(5) "Community custody" means that portion of an offender's sentence of confinement in lieu of earned release time or imposed as part of a sentence under this chapter and served in the community subject to controls placed on the offender's movement and activities by the department.

(6) "Community protection zone" means the area within eight hundred eighty feet of the facilities and grounds of a public or private school.

(7) "Community restitution" means compulsory service, without compensation, performed for the benefit of the community by the offender.

(8) "Confinement" means total or partial confinement.

(9) "Conviction" means an adjudication of guilt pursuant to Title 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and acceptance of a plea of guilty.

(10) "Crime-related prohibition" means an order of a court prohibiting conduct that directly relates to the circumstances of the crime for which the offender has been convicted, and shall not be construed to mean orders directing an offender affirmatively to participate in rehabilitative programs or to otherwise perform affirmative conduct. However, affirmative acts necessary to monitor compliance with the order of a court may be required by the department.

(11) "Criminal history" means the list of a defendant's prior convictions and juvenile adjudications, whether in this state, in federal court, or elsewhere.

(a) The history shall include, where known, for each conviction (i) whether the defendant has been placed on probation and the length and terms thereof; and (ii) whether the defendant has been incarcerated and the length of incarceration.

(b) A conviction may be removed from a defendant's criminal history only if it is vacated pursuant to RCW 9.96.060, 9.94A.640, 9.95.240, or a similar out-of-state statute, or if the conviction has been vacated pursuant to a governor's pardon.

(c) The determination of a defendant's criminal history is distinct from the determination of an offender score. A prior conviction that was not included in an offender score calculated pursuant to a former version of the sentencing reform act remains part of the defendant's criminal history.

(12) "Criminal street gang" means any ongoing organization, association, or group of three or more persons, whether formal or informal, having a common name or common identifying sign or symbol, having as one of its primary activities the commission of criminal acts, and whose members or associates individually or collectively engage in or have engaged in a pattern of criminal street gang activity. This definition does not apply to employees engaged in concerted activities for their mutual aid and protection, or to the activities of labor and bona fide nonprofit organizations or their members or agents.

(13) "Criminal street gang associate or member" means any person who actively participates in any criminal street gang and who intentionally promotes, furthers, or assists in any criminal act by the criminal street gang.

(14) "Criminal street gang-related offense" means any felony or misdemeanor offense, whether in this state or elsewhere, that is committed for the benefit of, at the direction of, or in association with any criminal street gang, or is committed with the intent to promote, further, or assist in any criminal conduct by the gang, or is committed for one or more of the following reasons:

(a) To gain admission, prestige, or promotion within the gang;

(b) To increase or maintain the gang's size, membership, prestige, dominance, or control in any geographical area;

(c) To exact revenge or retribution for the gang or any member of the gang;

(d) To obstruct justice, or intimidate or eliminate any witness against the gang or any member of the gang;

(e) To directly or indirectly cause any benefit, aggrandizement, gain, profit, or other advantage for the gang, its reputation, influence, or membership; or

(f) To provide the gang with any advantage in, or any control or dominance over any criminal market sector, including, but not limited to, manufacturing, delivering, or selling any controlled substance (chapter 69.50 RCW); arson (chapter 9A.48 RCW); trafficking in stolen property (chapter 9A.82 RCW); promoting prostitution (chapter 9A.88 RCW); human trafficking (RCW 9A.40.100); or promoting pornography (chapter 9.68 RCW).

(15) "Day fine" means a fine imposed by the sentencing court that equals the difference between the offender's net daily income and the reasonable obligations that the offender has for the support of the offender and any dependents.

(16) "Day reporting" means a program of enhanced supervision designed to monitor the offender's daily activities and compliance with sentence conditions, and in which the offender is required to report daily to a specific location designated by the department or the sentencing court.

(17) "Department" means the department of corrections.

(18) "Determinate sentence" means a sentence that states with exactitude the number of actual years, months, or days of total confinement, of partial confinement, of community custody, the number of actual hours or days of community restitution work, or dollars or terms of a legal financial obligation. The fact that an offender through earned release can reduce the actual period of confinement shall not affect the classification of the sentence as a determinate sentence.

(19) "Disposable earnings" means that part of the earnings of an offender remaining after the deduction from those earnings of any amount required by law to be withheld. For the purposes of this definition, "earnings" means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonuses, or otherwise, and, notwithstanding any other provision of law making the payments exempt from garnishment, attachment, or other process to satisfy a court-ordered legal financial obligation, specifically includes periodic payments pursuant to pension or retirement programs, or insurance policies of any type, but does not include payments made under Title 50 RCW, except as provided in RCW 50.40.020 and 50.40.050, or Title 74 RCW.

(20) "Drug offender sentencing alternative" is a sentencing option available to persons convicted of a felony offense other than a violent offense or a sex offense and who are eligible for the option under RCW 9.94A.660.

(21) "Drug offense" means:

(a) Any felony violation of chapter 69.50 RCW except possession of a controlled substance (RCW 69.50.4013) or forged prescription for a controlled substance (RCW 69.50.403);

(b) Any offense defined as a felony under federal law that relates to the possession, manufacture, distribution, or transportation of a controlled substance; or

(c) Any out-of-state conviction for an offense that under the laws of this state would be a felony classified as a drug offense under (a) of this subsection.

(22) "Earned release" means earned release from confinement as provided in RCW 9.94A.728.

(23) "Escape" means:

(a) Sexually violent predator escape (RCW 9A.76.115), escape in the first degree (RCW 9A.76.110), escape in the second degree (RCW 9A.76.120), willful failure to return from furlough (RCW 72.66.060), willful failure to return from work release (RCW 72.65.070), or willful failure to be available for supervision by the department while in community custody (RCW 72.09.310); or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as an escape under (a) of this subsection.

(24) "Felony traffic offense" means:

(a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW 46.61.522), eluding a police officer (RCW 46.61.024), felony hit-and-run injury-accident (RCW 46.52.020(4)), felony driving while under the influence of intoxicating liquor or any drug (RCW 46.61.502(6)), or felony physical control

of a vehicle while under the influence of intoxicating liquor or any drug (RCW 46.61.504(6)); or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a felony traffic offense under (a) of this subsection.

(25) "Fine" means a specific sum of money ordered by the sentencing court to be paid by the offender to the court over a specific period of time.

(26) "First-time offender" means any person who has no prior convictions for a felony and is eligible for the first-time offender waiver under RCW 9.94A.650.

(27) "Home detention" means a program of partial confinement available to offenders wherein the offender is confined in a private residence subject to electronic surveillance.

(28) "Legal financial obligation" means a sum of money that is ordered by a superior court of the state of Washington for legal financial obligations which may include restitution to the victim, statutorily imposed crime victims' compensation fees as assessed pursuant to RCW 7.68.035, court costs, county or interlocal drug funds, court-appointed attorneys' fees, and costs of defense, fines, and any other financial obligation that is assessed to the offender as a result of a felony conviction. Upon conviction for vehicular assault while under the influence of intoxicating liquor or any drug, RCW 46.61.522(1)(b), or vehicular homicide while under the influence of intoxicating liquor or any drug, RCW 46.61.520(1)(a), legal financial obligations may also include payment to a public agency of the expense of an emergency response to the incident resulting in the conviction, subject to RCW 38.52.430.

(29) "Most serious offense" means any of the following felonies or a felony attempt to commit any of the following felonies:

(a) Any felony defined under any law as a class A felony or criminal solicitation of or criminal conspiracy to commit a class A felony;

(b) Assault in the second degree;

(c) Assault of a child in the second degree;

(d) Child molestation in the second degree;

(e) Controlled substance homicide;

(f) Extortion in the first degree;

(g) Incest when committed against a child under age fourteen;

(h) Indecent liberties;

(i) Kidnapping in the second degree;

(j) Leading organized crime;

(k) Manslaughter in the first degree;

(l) Manslaughter in the second degree;

(m) Promoting prostitution in the first degree;

(n) Rape in the third degree;

(o) Robbery in the second degree;

(p) Sexual exploitation;

(q) Vehicular assault, when caused by the operation or driving of a vehicle by a person while under the influence of intoxicating liquor or any drug or by the operation or driving of a vehicle in a reckless manner;

(r) Vehicular homicide, when proximately caused by the driving of any vehicle by any person while under the influence of intoxicating liquor or any

drug as defined by RCW 46.61.502, or by the operation of any vehicle in a reckless manner;

(s) Any other class B felony offense with a finding of sexual motivation;

(t) Any other felony with a deadly weapon verdict under RCW 9.94A.825;

(u) Any felony offense in effect at any time prior to December 2, 1993, that is comparable to a most serious offense under this subsection, or any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a most serious offense under this subsection;

(v)(i) A prior conviction for indecent liberties under RCW 9A.88.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex. sess. as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b), and (c) as it existed from July 1, 1979, until June 11, 1986, and RCW 9A.44.100(1) (a), (b), and (d) as it existed from June 11, 1986, until July 1, 1988;

(ii) A prior conviction for indecent liberties under RCW 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988, if: (A) The crime was committed against a child under the age of fourteen; or (B) the relationship between the victim and perpetrator is included in the definition of indecent liberties under RCW 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27, 1997, or RCW 9A.44.100(1) (d) or (e) as it existed from July 25, 1993, through July 27, 1997;

(w) Any out-of-state conviction for a felony offense with a finding of sexual motivation if the minimum sentence imposed was ten years or more; provided that the out-of-state felony offense must be comparable to a felony offense under Title 9 or 9A RCW and the out-of-state definition of sexual motivation must be comparable to the definition of sexual motivation contained in this section.

(30) "Nonviolent offense" means an offense which is not a violent offense.

(31) "Offender" means a person who has committed a felony established by state law and is eighteen years of age or older or is less than eighteen years of age but whose case is under superior court jurisdiction under RCW 13.04.030 or has been transferred by the appropriate juvenile court to a criminal court pursuant to RCW 13.40.110. In addition, for the purpose of community custody requirements under this chapter, "offender" also means a misdemeanor or gross misdemeanor probationer convicted of an offense included in RCW 9.94A.501(1) and ordered by a superior court to probation under the supervision of the department pursuant to RCW 9.92.060, 9.95.204, or 9.95.210. Throughout this chapter, the terms "offender" and "defendant" are used interchangeably.

(32) "Partial confinement" means confinement for no more than one year in a facility or institution operated or utilized under contract by the state or any other unit of government, or, if home detention or work crew has been ordered by the court, in an approved residence, for a substantial portion of each day with the balance of the day spent in the community. Partial confinement includes work release, home detention, work crew, and a combination of work crew and home detention.

(33) "Pattern of criminal street gang activity" means:

(a) The commission, attempt, conspiracy, or solicitation of, or any prior juvenile adjudication of or adult conviction of, two or more of the following criminal street gang-related offenses:

(i) Any "serious violent" felony offense as defined in this section, excluding Homicide by Abuse (RCW 9A.32.055) and Assault of a Child 1 (RCW 9A.36.120);

(ii) Any "violent" offense as defined by this section, excluding Assault of a Child 2 (RCW 9A.36.130);

(iii) Deliver or Possession with Intent to Deliver a Controlled Substance (chapter 69.50 RCW);

(iv) Any violation of the firearms and dangerous weapon act (chapter 9.41 RCW);

(v) Theft of a Firearm (RCW 9A.56.300);

(vi) Possession of a Stolen Firearm (RCW 9A.56.310);

(vii) Malicious Harassment (RCW 9A.36.080);

(viii) Harassment where a subsequent violation or deadly threat is made (RCW 9A.46.020(2)(b));

(ix) Criminal Gang Intimidation (RCW 9A.46.120);

(x) Any felony conviction by a person eighteen years of age or older with a special finding of involving a juvenile in a felony offense under RCW 9.94A.833;

(xi) Residential Burglary (RCW 9A.52.025);

(xii) Burglary 2 (RCW 9A.52.030);

(xiii) Malicious Mischief 1 (RCW 9A.48.070);

(xiv) Malicious Mischief 2 (RCW 9A.48.080);

(xv) Theft of a Motor Vehicle (RCW 9A.56.065);

(xvi) Possession of a Stolen Motor Vehicle (RCW 9A.56.068);

(xvii) Taking a Motor Vehicle Without Permission 1 (RCW 9A.56.070);

(xviii) Taking a Motor Vehicle Without Permission 2 (RCW 9A.56.075);

(xix) Extortion 1 (RCW 9A.56.120);

(xx) Extortion 2 (RCW 9A.56.130);

(xxi) Intimidating a Witness (RCW 9A.72.110);

(xxii) Tampering with a Witness (RCW 9A.72.120);

(xxiii) Reckless Endangerment (RCW 9A.36.050);

(xxiv) Coercion (RCW 9A.36.070);

(xxv) Harassment (RCW 9A.46.020); or

(xxvi) Malicious Mischief 3 (RCW 9A.48.090);

(b) That at least one of the offenses listed in (a) of this subsection shall have occurred after July 1, 2008;

(c) That the most recent committed offense listed in (a) of this subsection occurred within three years of a prior offense listed in (a) of this subsection; and

(d) Of the offenses that were committed in (a) of this subsection, the offenses occurred on separate occasions or were committed by two or more persons.

(34) "Persistent offender" is an offender who:

(a)(i) Has been convicted in this state of any felony considered a most serious offense; and

(ii) Has, before the commission of the offense under (a) of this subsection, been convicted as an offender on at least two separate occasions, whether in this state or elsewhere, of felonies that under the laws of this state would be considered most serious offenses and would be included in the offender score under RCW 9.94A.525; provided that of the two or more previous convictions,

at least one conviction must have occurred before the commission of any of the other most serious offenses for which the offender was previously convicted; or

(b)(i) Has been convicted of: (A) Rape in the first degree, rape of a child in the first degree, child molestation in the first degree, rape in the second degree, rape of a child in the second degree, or indecent liberties by forcible compulsion; (B) any of the following offenses with a finding of sexual motivation: Murder in the first degree, murder in the second degree, homicide by abuse, kidnapping in the first degree, kidnapping in the second degree, assault in the first degree, assault in the second degree, assault of a child in the first degree, assault of a child in the second degree, or burglary in the first degree; or (C) an attempt to commit any crime listed in this subsection (34)(b)(i); and

(ii) Has, before the commission of the offense under (b)(i) of this subsection, been convicted as an offender on at least one occasion, whether in this state or elsewhere, of an offense listed in (b)(i) of this subsection or any federal or out-of-state offense or offense under prior Washington law that is comparable to the offenses listed in (b)(i) of this subsection. A conviction for rape of a child in the first degree constitutes a conviction under (b)(i) of this subsection only when the offender was sixteen years of age or older when the offender committed the offense. A conviction for rape of a child in the second degree constitutes a conviction under (b)(i) of this subsection only when the offender was eighteen years of age or older when the offender committed the offense.

(35) "Predatory" means: (a) The perpetrator of the crime was a stranger to the victim, as defined in this section; (b) the perpetrator established or promoted a relationship with the victim prior to the offense and the victimization of the victim was a significant reason the perpetrator established or promoted the relationship; or (c) the perpetrator was: (i) A teacher, counselor, volunteer, or other person in authority in any public or private school and the victim was a student of the school under his or her authority or supervision. For purposes of this subsection, "school" does not include home-based instruction as defined in RCW 28A.225.010; (ii) a coach, trainer, volunteer, or other person in authority in any recreational activity and the victim was a participant in the activity under his or her authority or supervision; ~~((e))~~ (iii) a pastor, elder, volunteer, or other person in authority in any church or religious organization, and the victim was a member or participant of the organization under his or her authority; or (iv) a teacher, counselor, volunteer, or other person in authority providing home-based instruction and the victim was a student receiving home-based instruction while under his or her authority or supervision. For purposes of this subsection: (A) "Home-based instruction" has the same meaning as defined in RCW 28A.225.010; and (B) "teacher, counselor, volunteer, or other person in authority" does not include the parent or legal guardian of the victim.

(36) "Private school" means a school regulated under chapter 28A.195 or 28A.205 RCW.

(37) "Public school" has the same meaning as in RCW 28A.150.010.

(38) "Restitution" means a specific sum of money ordered by the sentencing court to be paid by the offender to the court over a specified period of time as payment of damages. The sum may include both public and private costs.

(39) "Risk assessment" means the application of the risk instrument recommended to the department by the Washington state institute for public

policy as having the highest degree of predictive accuracy for assessing an offender's risk of reoffense.

(40) "Serious traffic offense" means:

(a) Nonfelony driving while under the influence of intoxicating liquor or any drug (RCW 46.61.502), nonfelony actual physical control while under the influence of intoxicating liquor or any drug (RCW 46.61.504), reckless driving (RCW 46.61.500), or hit-and-run an attended vehicle (RCW 46.52.020(5)); or

(b) Any federal, out-of-state, county, or municipal conviction for an offense that under the laws of this state would be classified as a serious traffic offense under (a) of this subsection.

(41) "Serious violent offense" is a subcategory of violent offense and means:

(a)(i) Murder in the first degree;

(ii) Homicide by abuse;

(iii) Murder in the second degree;

(iv) Manslaughter in the first degree;

(v) Assault in the first degree;

(vi) Kidnapping in the first degree;

(vii) Rape in the first degree;

(viii) Assault of a child in the first degree; or

(ix) An attempt, criminal solicitation, or criminal conspiracy to commit one of these felonies; or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a serious violent offense under (a) of this subsection.

(42) "Sex offense" means:

(a)(i) A felony that is a violation of chapter 9A.44 RCW other than RCW 9A.44.130(12);

(ii) A violation of RCW 9A.64.020;

(iii) A felony that is a violation of chapter 9.68A RCW other than RCW 9.68A.080; or

(iv) A felony that is, under chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or criminal conspiracy to commit such crimes;

(b) Any conviction for a felony offense in effect at any time prior to July 1, 1976, that is comparable to a felony classified as a sex offense in (a) of this subsection;

(c) A felony with a finding of sexual motivation under RCW 9.94A.835 or 13.40.135; or

(d) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a sex offense under (a) of this subsection.

(43) "Sexual motivation" means that one of the purposes for which the defendant committed the crime was for the purpose of his or her sexual gratification.

(44) "Standard sentence range" means the sentencing court's discretionary range in imposing a nonappealable sentence.

(45) "Statutory maximum sentence" means the maximum length of time for which an offender may be confined as punishment for a crime as prescribed in

chapter 9A.20 RCW, RCW 9.92.010, the statute defining the crime, or other statute defining the maximum penalty for a crime.

(46) "Stranger" means that the victim did not know the offender twenty-four hours before the offense.

(47) "Total confinement" means confinement inside the physical boundaries of a facility or institution operated or utilized under contract by the state or any other unit of government for twenty-four hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

(48) "Transition training" means written and verbal instructions and assistance provided by the department to the offender during the two weeks prior to the offender's successful completion of the work ethic camp program. The transition training shall include instructions in the offender's requirements and obligations during the offender's period of community custody.

(49) "Victim" means any person who has sustained emotional, psychological, physical, or financial injury to person or property as a direct result of the crime charged.

(50) "Violent offense" means:

(a) Any of the following felonies:

(i) Any felony defined under any law as a class A felony or an attempt to commit a class A felony;

(ii) Criminal solicitation of or criminal conspiracy to commit a class A felony;

(iii) Manslaughter in the first degree;

(iv) Manslaughter in the second degree;

(v) Indecent liberties if committed by forcible compulsion;

(vi) Kidnapping in the second degree;

(vii) Arson in the second degree;

(viii) Assault in the second degree;

(ix) Assault of a child in the second degree;

(x) Extortion in the first degree;

(xi) Robbery in the second degree;

(xii) Drive-by shooting;

(xiii) Vehicular assault, when caused by the operation or driving of a vehicle by a person while under the influence of intoxicating liquor or any drug or by the operation or driving of a vehicle in a reckless manner; and

(xiv) Vehicular homicide, when proximately caused by the driving of any vehicle by any person while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.502, or by the operation of any vehicle in a reckless manner;

(b) Any conviction for a felony offense in effect at any time prior to July 1, 1976, that is comparable to a felony classified as a violent offense in (a) of this subsection; and

(c) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a violent offense under (a) or (b) of this subsection.

(51) "Work crew" means a program of partial confinement consisting of civic improvement tasks for the benefit of the community that complies with RCW 9.94A.725.

(52) "Work ethic camp" means an alternative incarceration program as provided in RCW 9.94A.690 designed to reduce recidivism and lower the cost of corrections by requiring offenders to complete a comprehensive array of real-world job and vocational experiences, character-building work ethics training, life management skills development, substance abuse rehabilitation, counseling, literacy training, and basic adult education.

(53) "Work release" means a program of partial confinement available to offenders who are employed or engaged as a student in a regular course of study at school.

Passed by the House March 10, 2010.

Passed by the Senate March 10, 2010.

Approved by the Governor March 26, 2010.

Filed in Office of Secretary of State March 26, 2010.

CHAPTER 228

[Substitute House Bill 2686]

DENTAL INSURANCE—DENTAL SERVICE FEES

AN ACT Relating to fees for dental services that are not covered services under dental insurance or dental health care service contracts; adding a new section to chapter 48.20 RCW; adding a new section to chapter 48.21 RCW; and adding a new section to chapter 48.44 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 48.20 RCW to read as follows:

(1) Notwithstanding any other provisions of law, no disability insurance policy of any disability insurer as provided in this chapter subject to the jurisdiction of the state of Washington that covers any dental services, and no contract or participating provider agreement with a dentist may:

(a) Require, directly or indirectly, that a dentist who is a participating provider provide services to a subscriber at a fee set by, or at a fee subject to the approval of, the disability insurer unless the dental services are covered services, including services that would be reimbursable but for the application of contractual limitations such as benefit maximums, deductibles, coinsurance, waiting periods, or frequency limitations, under the applicable disability insurance policy; nor

(b) Prohibit, directly or indirectly, a dentist who is a participating provider from offering or providing to a subscriber dental services that are not covered services on any terms or conditions acceptable to the dentist and the subscriber.

(2) For the purposes of this section, "covered services" means dental services that are reimbursable under the applicable insurance policy or subscriber agreement or would be reimbursable but for the application of contractual limitations such as benefit maximums, deductibles, coinsurance, waiting periods or frequency limitations.

NEW SECTION. Sec. 2. A new section is added to chapter 48.21 RCW to read as follows:

(1) Notwithstanding any other provisions of law, no group disability insurance contract or blanket disability insurance contract of any disability insurer as provided for in this chapter subject to the jurisdiction of the state of

Washington that covers any dental services, and no contract or participating provider agreement with a dentist may:

(a) Require, directly or indirectly, that a dentist who is a participating provider provide services to a subscriber at a fee set by, or at a fee subject to the approval of, the disability insurer unless the dental services are covered services, including services that would be reimbursable but for the application of contractual limitations such as benefit maximums, deductibles, coinsurance, waiting periods, or frequency limitations, under the applicable group plan or disability insurance policy; nor

(b) Prohibit, directly or indirectly, a dentist who is a participating provider from offering or providing to a subscriber dental services that are not covered services on any terms or conditions acceptable to the dentist and the subscriber.

(2) For the purposes of this section, "covered services" means dental services that are reimbursable under the applicable insurance policy, group plan, or subscriber agreement or would be reimbursable but for the application of contractual limitations such as benefit maximums, deductibles, coinsurance, waiting periods or frequency limitations.

NEW SECTION. Sec. 3. A new section is added to chapter 48.44 RCW to read as follows:

(1) Notwithstanding any other provisions of law, no contract of any health care service contractor subject to the jurisdiction of the state of Washington that covers any dental services, and no contract or participating provider agreement with a dentist may:

(a) Require, directly or indirectly, that a dentist who is a participating provider provide services to an enrolled participant at a fee set by, or at a fee subject to the approval of, the health care service contractor unless the dental services are covered services, including services that would be reimbursable but for the application of contractual limitations such as benefit maximums, deductibles, coinsurance, waiting periods, or frequency limitations, under the applicable group contract or individual contract; nor

(b) Prohibit, directly or indirectly, a dentist who is a participating provider from offering or providing to an enrolled participant dental services that are not covered services on any terms or conditions acceptable to the dentist and the enrolled participant.

(2) For the purposes of this section, "covered services" means dental services that are reimbursable under the applicable subscriber agreement or would be reimbursable but for the application of contractual limitations such as benefit maximums, deductibles, coinsurance, waiting periods or frequency limitations.

Passed by the House March 6, 2010.

Passed by the Senate March 2, 2010.

Approved by the Governor March 26, 2010.

Filed in Office of Secretary of State March 26, 2010.

CHAPTER 229

[Engrossed Substitute House Bill 2752]

RUNAWAY YOUTH—PARENTAL NOTIFICATION—SHELTER DUTIES

AN ACT Relating to the safety of runaway youth; amending RCW 13.32A.082 and 43.43.510; adding a new section to chapter 13.32A RCW; creating a new section; and providing an expiration date.

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

NEW SECTION. Sec. 1. The legislature finds that youth services provide safety to youth on the streets and are a critical pathway to ensuring the youth's return home. Runaway youth are without protection, live under the threat of violence, and fall victim to predators who exploit their vulnerability. The policy of this state is to provide assistance to youth in crisis and to protect and preserve families. In order to effectively serve youth on the streets and promote their safe return home, shelters must have the time to establish and maintain an environment that facilitates open communication and trust.

The legislature also finds that parents of runaway youth have an interest in knowing their sons and daughters are safe in a shelter, rather than on the streets without protection. The legislature further finds that law enforcement and the department can notify a parent that the youth is safe, without disclosing the youth's location or compromising the ability of youth services providers to effectively assist youth in crisis.

Sec. 2. RCW 13.32A.082 and 2000 c 123 s 10 are each amended to read as follows:

(1)(a) Except as provided in (b) of this subsection, any person, including unlicensed youth shelters or runaway and homeless youth programs, who, without legal authorization, provides shelter to a minor and who knows at the time of providing the shelter that the minor is away from the parent's home without the permission of the parent, or other lawfully prescribed residence, shall promptly report the location of the child to the parent, the law enforcement agency of the jurisdiction in which the person lives, or the department. ((The report))

(b)(i) If a licensed overnight youth shelter, or another licensed organization whose stated mission is to provide services to homeless or runaway youth and their families, provides shelter to a minor and knows at the time of providing the shelter that the minor is away from a lawfully prescribed residence or home without parental permission, it shall contact the youth's parent, preferably within twenty-four hours but within no more than seventy-two hours following the time that the youth is admitted to the shelter or other licensed organization's program. The notification must include the whereabouts of the youth, a description of the youth's physical and emotional condition, and the circumstances surrounding the youth's contact with the shelter or organization. If there are compelling reasons not to notify the parent, the shelter or organization shall instead notify the department.

(ii) At least once every eight hours after learning that a youth receiving services or shelter under this section is away from home without permission, the shelter or organization staff must consult the information that the Washington state patrol makes publicly available under RCW 43.43.510(2). If the youth is publicly listed as missing, the shelter or organization shall immediately notify

the department of its contact with the youth listed as missing. The notification must include a description of the youth's physical and emotional condition and the circumstances surrounding the youth's contact with the shelter or organization.

(c) Reports required under this section may be made by telephone or any other reasonable means.

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

(a) "Shelter" means the person's home or any structure over which the person has any control.

(b) "Promptly report" means to report within eight hours after the person has knowledge that the minor is away from a lawfully prescribed residence or home without parental permission.

(c) "Compelling reasons" include, but are not limited to, circumstances that indicate that notifying the parent or legal guardian will subject the child to abuse or neglect as defined in chapter 26.44 RCW.

(3) When the department receives a report under subsection (1) of this section, it shall make a good faith attempt to notify the parent that a report has been received and offer services designed to resolve the conflict and accomplish a reunification of the family.

(4) Nothing in this section prohibits any person from immediately reporting the identity and location of any minor who is away from a lawfully prescribed residence or home without parental permission more promptly than required under this section.

(5) This section expires on July 1, 2012.

NEW SECTION. Sec. 3. A new section is added to chapter 13.32A RCW to read as follows:

A private right of action or claim on the part of a parent is created against an unlicensed youth shelter or unlicensed runaway and homeless youth program who fails to meet the notification requirements in RCW 13.32A.082(1)(a).

Sec. 4. RCW 43.43.510 and 1998 c 67 s 2 are each amended to read as follows:

(1) As soon as is practical and feasible there shall be established, by means of data processing, files listing stolen and wanted vehicles, outstanding warrants, identifying children whose parents, custodians, or legal guardians have reported as having run away from home or the custodial residence, identifiable stolen property, files maintaining the central registry of sex offenders required to register under chapter 9A.44 RCW, and such other files as may be of general assistance to law enforcement agencies.

(2)(a) At the request of a parent, legal custodian, or guardian who has reported a child as having run away from home or the custodial residence, the Washington state patrol shall make the information about the runaway child as is filed in subsection (1) of this section publicly available.

(b) The information that can be made publicly available under (a) of this subsection is limited to the information that will facilitate the safe return of the child to his or her home or custodial residence and so long as making the information publicly available incurs no additional costs.

Passed by the House March 6, 2010.
Passed by the Senate March 4, 2010.
Approved by the Governor March 26, 2010.
Filed in Office of Secretary of State March 26, 2010.

CHAPTER 230

[Engrossed Substitute House Bill 2560]

JOINT UNDERWRITING ASSOCIATION—EXCESS FLOOD INSURANCE

AN ACT Relating to forming joint underwriting associations; amending RCW 48.15.040; adding a new chapter to Title 48 RCW; providing an expiration date; and declaring an emergency.

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

NEW SECTION. Sec. 1. Availability of insurance for loss arising from flooding in the geographical area protected by any dam is vital to the economy of the state of Washington. If adequate property insurance for loss arising from this flood is not available, the security of citizens' property and the viability of business operations and services are threatened. This chapter gives the commissioner authority to ensure continued availability of excess insurance to insure property at risk from, and business that is interrupted by, flood arising from the failure of a dam or from efforts to prevent the failure of a dam. The commissioner may establish a temporary joint underwriting association for excess flood insurance to insure property at risk from, and business that is interrupted by, flood arising from the failure of a dam or from efforts to prevent the failure of a dam if:

- (1) Excess flood insurance of a particular class or type is not available from the voluntary market; or
- (2) There are so few insurers selling excess flood insurance that a competitive market does not exist.

The commissioner may use appropriated funds as needed to establish and supervise the association.

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

- (1) "Association" means a nonprofit underwriting association established under this chapter.
- (2) "Board" means the governing board of the association.
- (3) "Casualty insurance" has the same meaning as "general casualty insurance" in RCW 48.11.070. "Casualty insurance" does not include any type of:
 - (a) Workers' compensation insurance;
 - (b) Employers' liability insurance;
 - (c) Nuclear liability insurance;
 - (d) Personal insurance; or
 - (e) Surety insurance.
- (4) "Dam" means any United States army corps of engineers dam located in a county with a population that exceeds one million.
- (5) "Excess flood insurance" means insurance against loss, including business interruption, arising from flood that is in excess of the limit of liability insurance offered by the national flood insurance program.

(6) "Person" means a natural person, association, partnership, or corporation.

(7) "Personal insurance" means:

(a) Private passenger automobile coverage;

(b) Homeowner's coverage, including mobile homeowners, manufactured homeowners, condominium owners, and renter's coverage;

(c) Dwelling property coverage;

(d) Earthquake coverage for a residence or personal property;

(e) Personal liability and theft coverage;

(f) Personal inland marine coverage; and

(g) Mechanical breakdown coverage for personal auto or home appliances.

(8) "Property insurance" has the same meaning as in RCW 48.11.040 and does not include personal insurance or surety insurance.

NEW SECTION. Sec. 3. (1) The commissioner may create an association to provide excess flood insurance to insure property at risk from, and business that is interrupted by, flood arising from the failure of a dam or from efforts to prevent the failure of a dam if the requirements of this section are met.

(2) The commissioner must hold a hearing under chapters 48.04 and 34.05 RCW before forming an association.

(3) An association may not begin underwriting operations for excess flood or business interruption insurance until the commissioner finds that:

(a) If a market assistance plan formed under section 15 of this act finds that there are fewer than four admitted or surplus lines insurers offering excess flood insurance, exclusive of personal insurance, then the market assistance plan is inadequate to insure property at risk from, and business that is interrupted by, flood arising from the failure of a dam or from efforts to prevent the failure of a dam;

(b) Persons cannot buy excess flood insurance through the voluntary market; or

(c) There are so few insurers selling excess flood insurance that a competitive market does not exist.

(4) At a hearing to appeal the commissioner's finding that excess flood insurance is unavailable through the voluntary market or that a competitive market does not exist, the finding that four or more admitted or surplus lines insurers are offering excess flood insurance, exclusive of personal insurance, is prima facie evidence that a competitive market does exist. A decision of the commissioner, finding that excess flood insurance is unavailable through the market assistance plan, voluntary market, or that a competitive market does not exist, may be appealed under chapters 48.04 and 34.05 RCW.

NEW SECTION. Sec. 4. (1) The association may offer policies only as follows:

(a) The coverage of any one policy may not exceed five million dollars; and

(b) The total amount of all coverage offered by the association may never exceed two hundred fifty million dollars.

(2) The board, jointly with the commissioner, shall apportion policies within these limitations on an equitable basis.

NEW SECTION. Sec. 5. (1) If an association is formed, a person that is unable to obtain excess flood or business interruption insurance because it is

unavailable in the voluntary market or because the market is not competitive is eligible to apply to an association for insurance.

(2) The association may decline to insure particular persons that present an extraordinary risk because of the nature of their operations, property condition, past claims experience, or inadequate risk management. However, the location of a property for which insurance is sought from the association must not, in and of itself, constitute an extraordinary risk.

(3) Any decision to decline coverage must be sent to the applicant and include:

(a) A statement of the actual reason for declination; and

(b) A statement that the applicant may appeal the decision to the commissioner.

(4) If the commissioner finds that the decision to decline coverage is not supported by the criteria in this section, the commissioner may require the association to provide coverage.

(5) A decision of the commissioner to provide or to decline to provide coverage under this may be appealed under chapters 48.04 and 34.05 RCW.

NEW SECTION. Sec. 6. (1) The association is composed of all insurers that have a certificate of authority to write either casualty or property insurance, or both, in this state. Every property or casualty insurer, or both, must be a member of the association as a condition of its authority to continue to transact business in this state.

(2) The association has the general powers and limitations of a nonprofit corporation under chapter 24.03 RCW and of an insurance company under Title 48 RCW, as needed to transact its business.

(3) To the extent consistent with this chapter, the association and its member insurers are "persons" under chapter 48.30 RCW.

NEW SECTION. Sec. 7. (1) A governing board shall administer the association.

(2) The board and the commissioner shall work cooperatively to achieve the objectives of this chapter.

(3) The board may select and employ one or more persons to manage the operations of an association. Every managing person must be authorized to transact insurance in the state of Washington and have demonstrated expertise in excess flood insurance. The board may employ any advisors that the board deems necessary.

(4) The board must consist of seven persons appointed as set forth in this subsection.

(a) Three board members must be member insurers appointed by each of the following three trade associations: Property casualty insurers association of America, American insurance association, and national association of mutual insurance companies. At least one of the three insurers on the board must be a domestic insurer.

(b) Four board members must be residents of the state. One is appointed by the insurance commissioner. One is appointed by the King county council. One is appointed by the association of Washington cities, to represent one or more of the following municipal governments: Auburn, Kent, Renton, or Tukwila. One is appointed by the board of directors of the center for advanced manufacturing

Puget Sound. None of the resident-appointees may be employed by, serve on the board of directors of, or have a substantial ownership interest in any insurer.

(c) Original board members must be appointed to serve an initial term of three years and may be appointed for a second term. Board members may serve consecutive terms. Successor board members must be appointed as soon as possible subject to (a) and (b) of this subsection.

(5) The commissioner shall notify the members of the board if he or she has information that any board member is dishonest, reckless, or incompetent or is failing to perform any duty of his or her office, and the board shall meet immediately to consider the matter. The commissioner must receive notice of the time and place of this meeting. If the board finds by a majority of the board members, with the accused board member not voting on this matter, that the commissioner's objection is well-founded, the accused board member shall be removed immediately. The successor of a board member removed under this section must be appointed as soon as possible subject to subsection (4) of this section.

(6) All members of the board shall conduct the business of the association in a manner that is in the interest of all policyholders of the association. Board members stand in a fiduciary relationship to the association and must discharge their duties in good faith and with that diligence, care, and skill that ordinary, prudent persons would exercise under similar circumstances in a like position.

(7) Each person serving on the board or any subcommittee thereof, each member insurer of the association, and each officer and employee of the association must be indemnified by the association against all costs and expenses actually and necessarily incurred by him, her, or it in connection with the defense of any action, suit, or proceeding in which he, she, or it is made a party by reason of his, her, or its being or having been a member of the board, or a member or officer or employee of the association, except in relation to matters as to which he, she, or it has been judged in such action, suit, or proceeding to be liable by reason of willful misconduct in the performance of his, her, or its duties as a member of the board, or member, officer, or employee of the association. This indemnification is not exclusive of other rights as to which the member, officer, or employee may be entitled as a matter of law.

(8) Board members shall receive no compensation, but may be reimbursed for all travel expenses as provided in RCW 43.03.050 and 43.03.060.

NEW SECTION. Sec. 8. (1) The board must adopt a plan of operation within thirty days of its appointment.

(2) The plan of operation may take effect only after it has been reviewed by the commissioner. Any changes recommended by the commissioner must be either approved by a majority of the members of the board or a written statement of the board's reasons for rejection of any provision provided to the commissioner. The commissioner may continue to consult with the board to arrive at a plan of operation that is approved by both the commissioner and the board, or the commissioner may accept the plan of operation of the board. This process must conclude with a plan of operation accepted by the board within thirty days of the first board appointed under this act.

(a) The plan of operation may be amended by agreement of a majority of the members of the board and the commissioner.

(b) The association must use rates that are demonstrably sound as compared to accepted actuarial standards. At the time of filing with the commissioner, the rates must be accompanied by an actuarial analysis. The rates must comply with chapter 48.19 RCW and be approved by the commissioner.

NEW SECTION. Sec. 9. The association must file a statement annually with the commissioner that contains information about the association's transactions, financial condition, and operations during the preceding year. The statement must be in the form and in a manner approved by the commissioner. The association must maintain its records according to the accounting practices and procedures manual adopted by the national association of insurance commissioners. The commissioner may require the association to furnish additional information if the commissioner considers it necessary to evaluate the scope, operation, and experience of the association.

NEW SECTION. Sec. 10. (1) The commissioner may examine the transactions, financial condition, and operations of the association when the commissioner finds it necessary in order to carry out the purposes of this chapter. Except as set forth in subsections (2) and (3) of this section, each examination must be conducted in the manner prescribed for domestic insurance companies in chapter 48.03 or 48.37 RCW.

(2) The commissioner is not required to examine any association on a prescribed cycle or schedule.

(3) An association created under this chapter is responsible for the total costs of its financial and market conduct examinations. RCW 48.03.060 (1) and (2) and 48.37.060(14) (a) and (b) are not applicable to the examination of an association created under this chapter.

NEW SECTION. Sec. 11. (1) The association is not a member of the guaranty fund created under chapter 48.32 RCW. The guaranty fund, this state, and any political subdivisions are not responsible for losses sustained by the association.

(2) The association is exempt from payment of all fees and all taxes levied by the state or any of its subdivisions, except taxes levied on real or personal property.

NEW SECTION. Sec. 12. (1) The association is funded by premiums paid by persons insured by the association.

(a) All premiums for the association must be deposited into a fund or funds under management of the board.

(b) Premiums must be used to pay claims, administrative costs, and other expenses of the association.

(2) The association may assess its members to pay past and future financial obligations of the association, not funded by premiums. Each member insurer must be assessed a proportionate share based on the sum of direct premiums earned in this state for all property insurance and casualty insurance.

(3) If the association makes an assessment, an assessed insurer must pay the association within thirty days after it receives notice of the assessment. If an insurer does not pay an assessment within thirty days after it receives notice of the assessment:

(a) The assessment accrues interest at the maximum legal rate until it is paid in full. The interest is paid to the association;

(b) The association may collect the assessment in a civil action and must be awarded its attorneys' fees if it prevails;

(c) The commissioner may suspend, revoke, or refuse to renew an insurer's certificate of authority; and

(d) The commissioner may fine the insurer up to ten thousand dollars.

(4) This section may be enforced under RCW 48.02.080.

NEW SECTION. Sec. 13. (1) The association may operate for a period of five years. At the end of the five-year period, the association must be dissolved unless the legislature authorizes its continued operation.

(2) If, at any time, the commissioner or the board of directors holds a hearing under chapters 48.04 and 34.05 RCW and determines that excess flood and business interruption insurance is available through a market assistance plan, in the voluntary market, or that a competitive market exists, the commissioner must order the association to end its underwriting operations.

(3) If the commissioner or the board of directors orders the association to end all underwriting operations, the commissioner must supervise the dissolution of the association, including settlement of all financial and legal obligations and distribution of any remaining assets as follows:

(a) If there has been an assessment on the members of the association, and after all creditors of the association are paid in full, then to the member insurers in a proportional manner and as determined by rule by the commissioner; or

(b) If there has not been an assessment on the members of the association, or if there are funds remaining after distribution under (a) of this subsection and after all creditors of the association are paid in full, then to the policyholders in a proportional manner and as determined by rule by the commissioner.

NEW SECTION. Sec. 14. The commissioner may adopt all rules needed to implement and administer this chapter and to ensure the efficient operation of the association, including but not limited to rules:

(1) Creating sample plans of operation for the assistance of the board;

(2) Requiring or limiting certain policy provisions;

(3) Containing the basis and method for assessing members for operation of the association; and

(4) Establishing the order in which the assets of the association that is dissolved by the commissioner must be distributed.

NEW SECTION. Sec. 15. (1) The commissioner must by rule require insurers authorized to write property insurance in this state to form a market assistance plan to assist persons located in the geographical area protected by any dam that are unable to purchase excess flood or business interruption insurance in an adequate amount from either the admitted or nonadmitted market.

(2) For the purpose of this section, a market assistance plan means a voluntary mechanism by insurers writing property insurance in this state in either the admitted or nonadmitted market to provide excess flood or business interruption insurance for a class of insurance as designated in writing to the plan by the commissioner.

(3) The bylaws and method of operation of any market assistance plan must be approved by the commissioner prior to its operation.

(4) A market assistance plan must have a minimum of twenty-five insurers willing to insure risks within the class designated by the commissioner. If twenty-five insurers do not voluntarily agree to participate, the commissioner may require either property or property and casualty, or both, insurers to participate in a market assistance plan as a condition of continuing to do business in this state. The commissioner must make this requirement to fulfill the quota of at least twenty-five insurers. The commissioner must make his or her designation on the basis of the insurer's premium volume of property insurance in this state.

NEW SECTION. Sec. 16. The board and the commissioner shall report to the respective committees of the house of representatives and senate having jurisdiction over the insurance code by January 31, 2011, and each subsequent January 31st of each year that the association remains in existence.

Sec. 17. RCW 48.15.040 and 1983 1st ex.s. c 32 s 4 are each amended to read as follows:

If certain insurance coverages cannot be procured from authorized insurers, such coverages, hereinafter designated as "surplus lines," may be procured from unauthorized insurers subject to the following conditions:

- (1) The insurance must be procured through a licensed surplus line broker.
- (2) The insurance must not be procurable, after diligent effort has been made to do so from among a majority of the insurers authorized to transact that kind of insurance in this state.
- (3) Coverage shall not be procured from an unauthorized insurer for the purpose of securing a lower premium rate than would be accepted by any authorized insurer nor to secure any other competitive advantage.
- (4) The commissioner may by regulation establish the degree of effort required to comply with subsections (2) and (3) of this section.
- (5) At the time of the procuring of any such insurance an affidavit setting forth the facts referred to in subsections (2) and (3) of this section must be executed by the surplus line broker. Such affidavit shall be filed with the commissioner within thirty days after the insurance is procured.

(6) For purposes of chapter 48.— RCW (the new chapter created in section 18 of this act), a joint underwriting association established or authorized by the legislature is not an authorized insurer.

NEW SECTION. Sec. 18. Sections 1 through 16 of this act constitute a new chapter in Title 48 RCW.

NEW SECTION. Sec. 19. 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. 20. This act expires December 31, 2016.

Passed by the House February 12, 2010.

Passed by the Senate March 2, 2010.

Approved by the Governor March 29, 2010.

Filed in Office of Secretary of State March 30, 2010.

CHAPTER 231

[Second Substitute House Bill 2731]

VOLUNTARY PRESCHOOL OPPORTUNITIES—AT-RISK CHILDREN

AN ACT Relating to implementing a program of early learning for educationally at-risk children; amending RCW 43.215.020 and 43.215.405; adding new sections to chapter 43.215 RCW; adding a new section to chapter 28A.320 RCW; and creating a new section.

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

****NEW SECTION. Sec. 1. The legislature finds that a critical factor in the eventual successful outcome of a K-12 education is for students to begin school ready, both intellectually and socially, to learn. The legislature also finds that, due to a variety of factors, some young children need supplemental instruction in preschool to assure that they have the opportunity to participate meaningfully and reach the necessary levels of achievement in the regular program of basic education. The legislature further finds that children who participate in high quality preschool programs have improved educational and life outcomes and are more likely to graduate from high school and pursue higher education, experience successful employment opportunities, and have increased earnings. Therefore the legislature intends to create a program of early learning that, when fully implemented, shall be an entitlement program for eligible children.***

The legislature also finds that the state early childhood education and assistance program was established to help children from low-income families be prepared for kindergarten, and that the program has been a successful model for achieving that goal. Therefore, the legislature intends that the first phase of implementing the entitlement program of early learning shall be accomplished by utilizing the program standards and eligibility criteria in the early childhood education and assistance program. The legislature also intends that the implementation of subsequent phases of the program established by the ready for school act of 2010 will be aligned with the implementation of the state's all-day kindergarten program in order to maximize the gains resulting from investments in the two programs.

*Sec. 1 was vetoed. See message at end of chapter.

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

(1) "Community-based early learning providers" includes for-profit and nonprofit licensed providers of child care and preschool programs.

(2) "Program" means the program of early learning established in section 3 of this act for eligible children who are three and four years of age.

NEW SECTION. Sec. 3. PROGRAM STANDARDS. (1) Beginning September 1, 2011, an early learning program to provide voluntary preschool opportunities for children three and four years of age shall be implemented according to the funding and implementation plan in section 4 of this act. The program must be a comprehensive program providing early childhood education and family support, options for parental involvement, and health information, screening, and referral services, as family need is determined. Participation in the program is voluntary. On a space available basis, the program may allow enrollment of children who are not otherwise eligible by assessing a fee.

(2) The first phase of the program shall be implemented by utilizing the program standards and eligibility criteria in the early childhood education and assistance program.

(3) The director shall adopt rules for the following program components, as appropriate and necessary during the phased implementation of the program:

(a) Minimum program standards, including lead teacher, assistant teacher, and staff qualifications;

(b) Approval of program providers; and

(c) Accountability and adherence to performance standards.

(4) The department has administrative responsibility for:

(a) Approving and contracting with providers according to rules developed by the director under this section;

(b) In partnership with school districts, monitoring program quality and assuring the program is responsive to the needs of eligible children;

(c) Assuring that program providers work cooperatively with school districts to coordinate the transition from preschool to kindergarten so that children and their families are well-prepared and supported; and

(d) Providing technical assistance to contracted providers.

NEW SECTION. Sec. 4. FUNDING AND STATEWIDE IMPLEMENTATION. (1) Funding for the program of early learning established under this chapter must be appropriated to the department. Allocations must be made on the basis of eligible children enrolled with eligible providers.

(2) The program shall be implemented in phases, so that full implementation is achieved in the 2018-19 school year.

(3) For the initial phase of the early learning program in school years 2011-12 and 2012-13, the legislature shall appropriate funding to the department for implementation of the program in an amount not less than the 2009-2011 enacted budget for the early childhood education and assistance program. The appropriation shall be sufficient to fund an equivalent number of slots as funded in the 2009-2011 enacted budget.

(4) Beginning in the 2013-14 school year, additional funding for the program must be phased in beginning in school districts providing all-day kindergarten programs under RCW 28A.150.315.

(5) Funding shall continue to be phased in incrementally each year until full statewide implementation of the early learning program is achieved in the 2018-19 school year, at which time any eligible child shall be entitled to be enrolled in the program.

(6) The department and the office of financial management shall annually review the caseload forecasts for the program and, beginning December 1, 2012, and annually thereafter, report to the governor and the appropriate committees of the legislature with recommendations for phasing in additional funding necessary to achieve statewide implementation in the 2018-19 school year.

(7) School districts and approved community-based early learning providers may contract with the department to provide services under the program. The department shall collaborate with school districts, community-based providers, and educational service districts to promote an adequate supply of approved providers.

NEW SECTION. Sec. 5. A new section is added to chapter 28A.320 RCW to read as follows:

For the program of early learning established in section 3 of this act, school districts:

(1) Shall work cooperatively with program providers to coordinate the transition from preschool to kindergarten so that children and their families are well-prepared and supported; and

(2) May contract with the department of early learning to deliver services under the program.

Sec. 6. RCW 43.215.020 and 2007 c 394 s 5 are each amended to read as follows:

(1) The department of early learning is created as an executive branch agency. The department is vested with all powers and duties transferred to it under this chapter and such other powers and duties as may be authorized by law.

(2) The primary duties of the department are to implement state early learning policy and to coordinate, consolidate, and integrate child care and early learning programs in order to administer programs and funding as efficiently as possible. The department's duties include, but are not limited to, the following:

(a) To support both public and private sectors toward a comprehensive and collaborative system of early learning that serves parents, children, and providers and to encourage best practices in child care and early learning programs;

(b) To make early learning resources available to parents and caregivers;

(c) To carry out activities, including providing clear and easily accessible information about quality and improving the quality of early learning opportunities for young children, in cooperation with the nongovernmental private-public partnership;

(d) To administer child care and early learning programs;

(e) To standardize internal financial audits, oversight visits, performance benchmarks, and licensing criteria, so that programs can function in an integrated fashion;

(f) To support the implementation of the nongovernmental private-public partnership and cooperate with that partnership in pursuing its goals including providing data and support necessary for the successful work of the partnership;

(g) To work cooperatively and in coordination with the early learning council;

(h) To collaborate with the K-12 school system at the state and local levels to ensure appropriate connections and smooth transitions between early learning and K-12 programs; ~~(and)~~

(i) To develop and adopt rules for administration of the program of early learning established in section 3 of this act; and

(j) Upon the development of an early learning information system, to make available to parents timely inspection and licensing action information through the internet and other means.

(3) The department's programs shall be designed in a way that respects and preserves the ability of parents and legal guardians to direct the education, development, and upbringing of their children. The department shall include

parents and legal guardians in the development of policies and program decisions affecting their children.

Sec. 7. RCW 43.215.405 and 2006 c 265 s 210 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 43.215.400 through 43.215.450 and 43.215.900 through 43.215.903.

(1) "Advisory committee" means the advisory committee under RCW 43.215.420.

(2) "Department" means the department of early learning.

(3) "Eligible child" means a child not eligible for kindergarten whose family income is at or below one hundred ten percent of the federal poverty level, as published annually by the federal department of health and human services, and includes a child whose family is eligible for public assistance, and who is not a participant in a federal or state program providing comprehensive services; a child eligible for special education due to disability under RCW 28A.155.020; and may include children who are eligible under rules adopted by the department if the number of such children equals not more than ten percent of the total enrollment in the early childhood program. Priority for enrollment shall be given to children from families with the lowest income, children in foster care, or to eligible children from families with multiple needs.

(4) "Approved programs" means those state-supported education and special assistance programs which are recognized by the department as meeting the minimum program rules adopted by the department to qualify under RCW 43.215.400 through 43.215.450 and 43.215.900 through 43.215.903 and are designated as eligible for funding by the department under RCW 43.215.430 and 43.215.440.

(5) "Comprehensive" means an assistance program that focuses on the needs of the child and includes education, health, and family support services.

(6) "Family support services" means providing opportunities for parents to:

- (a) Actively participate in their child's early childhood program;
- (b) Increase their knowledge of child development and parenting skills;
- (c) Further their education and training;
- (d) Increase their ability to use needed services in the community;
- (e) Increase their self-reliance.

NEW SECTION. **Sec. 8.** Sections 2 through 4 and 9 of this act are each added to chapter 43.215 RCW.

NEW SECTION. **Sec. 9.** This act may be known as the ready for school act of 2010.

Passed by the House March 11, 2010.

Passed by the Senate March 10, 2010.

Approved by the Governor March 29, 2010, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State March 30, 2010.

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

"I am returning herewith, without my approval as to Section 1, Second Substitute House Bill 2731 entitled:

"AN ACT Relating to implementing a program of early learning for educationally at-risk children."

Section 1 indicates the Legislature's intent regarding the future of early learning in our state. The Legislature is undertaking a study of the optimal approach for implementing a voluntary program for early learning in Senate Bill 6759 which I am signing today. I look forward to future legislation implementing the results of that study. Because the language in this section presupposes the outcome of the study called for in Senate Bill 6759, I am vetoing this section.

For this reason, I have vetoed Section 1 of Second Substitute House Bill 2731.

With the exception of Section 1, Second Substitute House Bill 2731 is approved."

CHAPTER 232

[Second Substitute House Bill 2867]

EARLY LEARNING—BIRTH-TO-THREE PLAN

AN ACT Relating to early learning; amending RCW 43.215.005 and 43.215.020; and creating a new section.

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

Sec. 1. RCW 43.215.005 and 2007 c 415 s 1 are each amended to read as follows:

(1) The legislature recognizes that:

(a) Parents are their children's first and most important teachers and decision makers;

(b) Research across disciplines now demonstrates that what happens in the earliest years makes a critical difference in children's readiness to succeed in school and life;

(c) Washington's competitiveness in the global economy requires a world-class education system that starts early and supports life-long learning;

(d) Washington state currently makes substantial investments in voluntary child care and early learning services and supports, but because services are fragmented across multiple state agencies, and early learning providers lack the supports and incentives needed to improve the quality of services they provide, many parents have difficulty accessing high quality early learning services;

(e) A more cohesive and integrated voluntary early learning system would result in greater efficiencies for the state, increased partnership between the state and the private sector, improved access to high quality early learning services, and better employment and early learning outcomes for families and all children.

(2) The legislature finds that:

(a) The early years of a child's life are critical to the child's healthy brain development and that the quality of caregiving during the early years can significantly impact the child's intellectual, social, and emotional development;

(b) A successful outcome for every child obtaining a K-12 education depends on children being prepared from birth for academic and social success in school. For children at risk of school failure, the achievement gap often emerges as early as eighteen months of age;

(c) There currently is a shortage of high quality services and supports for children ages birth to three and their parents and caregivers; and

(d) Increasing the availability of high quality services for children ages birth to three and their parents and caregivers will result in improved school and life outcomes.

(3) Therefore, the legislature intends to establish a robust birth-to-three continuum of services for parents and caregivers of young children in order to provide education and support regarding the importance of early childhood development.

~~((3))~~ (4) The purpose of this chapter is:

- (a) To establish the department of early learning;
- (b) To coordinate and consolidate state activities relating to child care and early learning programs;
- (c) To safeguard and promote the health, safety, and well-being of children receiving child care and early learning assistance, which is paramount over the right of any person to provide care;
- (d) To provide tools to promote the hiring of suitable providers of child care by:
 - (i) Providing parents with access to information regarding child care providers;
 - (ii) Providing parents with child care licensing action histories regarding child care providers; and
 - (iii) Requiring background checks of applicants for employment in any child care facility licensed or regulated under current law;
- (e) To promote linkages and alignment between early learning programs and elementary schools and support the transition of children and families from prekindergarten environments to kindergarten;
- (f) To promote the development of a sufficient number and variety of adequate child care and early learning facilities, both public and private; and
- (g) To license agencies and to assure the users of such agencies, their parents, the community at large and the agencies themselves that adequate minimum standards are maintained by all child care and early learning facilities.

~~((4))~~ (5) This chapter does not expand the state's authority to license or regulate activities or programs beyond those licensed or regulated under existing law.

Sec. 2. RCW 43.215.020 and 2007 c 394 s 5 are each amended to read as follows:

- (1) The department of early learning is created as an executive branch agency. The department is vested with all powers and duties transferred to it under this chapter and such other powers and duties as may be authorized by law.
- (2) The primary duties of the department are to implement state early learning policy and to coordinate, consolidate, and integrate child care and early learning programs in order to administer programs and funding as efficiently as possible. The department's duties include, but are not limited to, the following:
 - (a) To support both public and private sectors toward a comprehensive and collaborative system of early learning that serves parents, children, and providers and to encourage best practices in child care and early learning programs;
 - (b) To make early learning resources available to parents and caregivers;
 - (c) To carry out activities, including providing clear and easily accessible information about quality and improving the quality of early learning opportunities for young children, in cooperation with the nongovernmental private-public partnership;

- (d) To administer child care and early learning programs;
- (e) To standardize internal financial audits, oversight visits, performance benchmarks, and licensing criteria, so that programs can function in an integrated fashion;
- (f) To support the implementation of the nongovernmental private-public partnership and cooperate with that partnership in pursuing its goals including providing data and support necessary for the successful work of the partnership;
- (g) To work cooperatively and in coordination with the early learning council;
- (h) To collaborate with the K-12 school system at the state and local levels to ensure appropriate connections and smooth transitions between early learning and K-12 programs; ~~((and))~~
- (i) To develop a comprehensive birth-to-three plan to provide education and support through a continuum of options including, but not limited to, services such as: Home visiting; quality incentives for infant and toddler child care subsidies; quality improvements for family home and center-based child care programs serving infants and toddlers; professional development; early literacy programs; and informal supports for family, friend, and neighbor caregivers;
- (j) Upon the development of an early learning information system, to make available to parents timely inspection and licensing action information through the internet and other means.

(3) The department's programs shall be designed in a way that respects and preserves the ability of parents and legal guardians to direct the education, development, and upbringing of their children, and that recognizes and honors cultural and linguistic diversity. The department shall include parents and legal guardians in the development of policies and program decisions affecting their children.

NEW SECTION. Sec. 3. The department of early learning, in collaboration with the early learning nongovernmental private-public partnership and the early learning advisory council, shall develop a birth-to-three plan, including recommended appropriation levels, and report to the appropriate committees of the legislature and the governor by December 1, 2010. The plan and recommendations required under this section shall be developed within existing resources.

Passed by the House March 8, 2010.

Passed by the Senate March 5, 2010.

Approved by the Governor March 29, 2010.

Filed in Office of Secretary of State March 30, 2010.

CHAPTER 233

[Senate Bill 6593]

INFANT AND TODDLER EARLY INTERVENTION PROGRAM—TRANSFER

AN ACT Relating to the transfer of the administration of the infant and toddler early intervention program from the department of social and health services to the department of early learning; amending RCW 43.215.020 and 70.198.020; creating a new section; and providing an effective date.

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

Sec. 1. RCW 43.215.020 and 2007 c 394 s 5 are each amended to read as follows:

(1) The department of early learning is created as an executive branch agency. The department is vested with all powers and duties transferred to it under this chapter and such other powers and duties as may be authorized by law.

(2) The primary duties of the department are to implement state early learning policy and to coordinate, consolidate, and integrate child care and early learning programs in order to administer programs and funding as efficiently as possible. The department's duties include, but are not limited to, the following:

(a) To support both public and private sectors toward a comprehensive and collaborative system of early learning that serves parents, children, and providers and to encourage best practices in child care and early learning programs;

(b) To make early learning resources available to parents and caregivers;

(c) To carry out activities, including providing clear and easily accessible information about quality and improving the quality of early learning opportunities for young children, in cooperation with the nongovernmental private-public partnership;

(d) To administer child care and early learning programs;

(e) To serve as the state lead agency for Part C of the federal individuals with disabilities education act (IDEA);

(f) To standardize internal financial audits, oversight visits, performance benchmarks, and licensing criteria, so that programs can function in an integrated fashion;

~~((f))~~ (g) To support the implementation of the nongovernmental private-public partnership and cooperate with that partnership in pursuing its goals including providing data and support necessary for the successful work of the partnership;

~~((g))~~ (h) To work cooperatively and in coordination with the early learning council;

~~((h))~~ (i) To collaborate with the K-12 school system at the state and local levels to ensure appropriate connections and smooth transitions between early learning and K-12 programs; and

~~((i))~~ (j) Upon the development of an early learning information system, to make available to parents timely inspection and licensing action information through the internet and other means.

(3) The department's programs shall be designed in a way that respects and preserves the ability of parents and legal guardians to direct the education, development, and upbringing of their children. The department shall include parents and legal guardians in the development of policies and program decisions affecting their children.

Sec. 2. RCW 70.198.020 and 2009 c 381 s 33 are each amended to read as follows:

(1) There is established an advisory council in the department of social and health services for the purpose of advancing the development of a comprehensive and effective statewide system to provide prompt and effective early interventions for children in the state who are deaf or hard of hearing and their families.

(2) Members of the advisory council shall have training, experience, or interest in hearing loss in children. Membership shall include, but not be limited to, the following: Pediatricians; audiologists; teachers of the deaf and hard of hearing; parents of children who are deaf or hard of hearing; a representative from the Washington state center for childhood deafness and hearing loss; and representatives of the ~~((infant toddler early intervention))~~ early support for infants and toddlers program in the department of ~~((social and health services))~~ early learning, the department of health, and the office of the superintendent of public instruction.

NEW SECTION. Sec. 3. (1) All powers, duties, and functions of the department of social and health services pertaining to administration of the infant and toddler early intervention program are transferred to the department of early learning. The program shall be renamed the early support for infants and toddlers program.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the department of social and health services pertaining to the powers, functions, and duties transferred shall be delivered to the custody of the department of early learning. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the department of social and health services in carrying out the powers, functions, and duties transferred shall be made available to the department of early learning. All funds, credits, or other assets held in connection with the powers, functions, and duties transferred shall be assigned to the department of early learning.

(b) Any appropriations made to the department of social and health services for carrying out the powers, functions, and duties transferred shall, on the effective date of this section, be transferred and credited to the department of early learning.

(c) Whenever any question arises as to the transfer of any personnel, funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

(3) All employees of the department of social and health services engaged in performing the powers, functions, and duties transferred are transferred to the jurisdiction of the department of early learning. All employees classified under chapter 41.06 RCW, the state civil service law, are assigned to the department of early learning to perform their usual duties upon the same terms as formerly, without any loss of rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing state civil service.

(4) All rules and all pending business before the department of social and health services pertaining to the powers, functions, and duties transferred shall be continued and acted upon by the department of early learning. All existing contracts and obligations shall remain in full force and shall be performed by the department of early learning.

(5) The transfer of the powers, duties, functions, and personnel of the department of social and health services shall not affect the validity of any act performed before the effective date of this section.

(6) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification.

(7) All classified employees of the department of social and health services assigned to the department of early learning under this section whose positions are within an existing bargaining unit description at the department of early learning shall become a part of the existing bargaining unit at the department of early learning and shall be considered an appropriate inclusion or modification of the existing bargaining unit under the provisions of chapter 41.80 RCW.

NEW SECTION. Sec. 4. This act takes effect July 1, 2010.

Passed by the Senate March 9, 2010.

Passed by the House March 2, 2010.

Approved by the Governor March 29, 2010.

Filed in Office of Secretary of State March 30, 2010.

CHAPTER 234

[Substitute Senate Bill 6759]

VOLUNTARY PROGRAM OF EARLY LEARNING—PLAN

AN ACT Relating to a plan for a voluntary program of early learning; amending RCW 43.215.090 and 28A.290.010; and creating new sections.

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

NEW SECTION. Sec. 1. The department of early learning, the superintendent of public instruction, and thrive by five's joint early learning recommendations to the governor, and the quality education council's January 2010 recommendations to the legislature both suggested that a voluntary program of early learning should be included within the overall program of basic education. The legislature intends to examine these recommendations and Attorney General Opinion Number 8 (2009) through the development of a working group to identify and recommend a comprehensive plan.

NEW SECTION. Sec. 2. (1) Beginning April 1, 2010, the office of the superintendent of public instruction, with assistance and support from the department of early learning, shall convene a technical working group to develop a comprehensive plan for a voluntary program of early learning. The plan shall examine the opportunities and barriers of at least two options:

- (a) A program of early learning under the program of basic education; and
- (b) A program of early learning as an entitlement, either statutorily or constitutionally protected.

(2) The working group shall, at a minimum, include in the plan the following recommendations for each option:

- (a) Criteria for eligible children;
- (b) Program standards, including, but not limited to, direct services to be provided, number of hours per school year, teacher qualifications, and transportation requirements;
- (c) Performance measures;

- (d) Criteria for eligible providers, specifying whether or not they may be:
 - (i) Approved, certified, or licensed by the department of early learning; and
 - (ii) Public, private, nonsectarian, or sectarian organizations;
- (e) Governance responsibilities for the superintendent of public instruction and the department of early learning;
- (f) Funding necessary to implement a voluntary program of early learning, including, but not limited to, early learning teachers, professional development, facilities, and technical assistance;
- (g) A timeline for implementation; and
- (h) The early childhood education and assistance program's role in the new program of early learning.

(3) While developing the plan, the working group shall review early learning programs in Washington state, including the early childhood education and assistance program and the federal head start program, as well as programs in other states.

(4) The working group shall be composed of:

(a) At least one representative each from the following: The department of early learning, the office of the superintendent of public instruction, the nongovernmental private-public partnership created in RCW 43.215.070, and the office of the attorney general;

(b) Two members of the early learning advisory council established in RCW 43.215.090 to be appointed by the council; and

(c) Additional stakeholders with expertise in early learning to be appointed by the early learning advisory council.

(5) The working group may convene advisory subgroups on specific topics as necessary to assure participation and input from a broad array of diverse stakeholders.

(6) The working group shall be monitored and overseen by the quality education council created in RCW 28A.290.010. The working group shall submit a progress report by July 1, 2011, and final report with the plan by November 1, 2011, to the early learning advisory council and the quality education council.

Sec. 3. RCW 43.215.090 and 2007 c 394 s 3 are each amended to read as follows:

(1) The early learning advisory council is established to advise the department on statewide early learning ~~((community needs and progress))~~ issues that would build a comprehensive system of quality early learning programs and services for Washington's children and families by assessing needs and the availability of services, aligning resources, developing plans for data collection and professional development of early childhood educators, and establishing key performance measures.

(2) The council shall work in conjunction with the department to develop a statewide early learning plan that ~~((crosses systems and sectors to promote))~~ guides the department in promoting alignment of private and public sector actions, objectives, and resources, and ~~((to ensure))~~ ensuring school readiness.

(3) The council shall include diverse, statewide representation from public, nonprofit, and for-profit entities. Its membership shall reflect regional, racial, and cultural diversity to adequately represent the needs of all children and families in the state.

(4) Council members shall serve two-year terms. However, to stagger the terms of the council, the initial appointments for twelve of the members shall be for one year. Once the initial one-year to two-year terms expire, all subsequent terms shall be for two years, with the terms expiring on June 30th of the applicable year. The terms shall be staggered in such a way that, where possible, the terms of members representing a specific group do not expire simultaneously.

(5) The council shall consist of not more than ~~((twenty-five))~~ twenty-three members, as follows:

(a) The governor shall appoint at least one representative from each of the following: The department, the office of financial management, the department of social and health services, the department of health, the higher education coordinating board, and the state board for community and technical colleges;

(b) One representative from the office of the superintendent of public instruction, to be appointed by the superintendent of public instruction;

(c) The governor shall appoint ~~((at least))~~ seven leaders in early childhood education, with at least one representative with experience or expertise in each of the areas such as the following ~~((areas))~~: Children with disabilities, the K-12 system, family day care providers, and child care centers;

(d) Two members of the house of representatives, one from each caucus, and two members of the senate, one from each caucus, to be appointed by the speaker of the house of representatives and the president of the senate, respectively;

(e) Two parents, one of whom serves on the department's parent advisory council, to be appointed by the governor;

(f) ~~((Two))~~ One representative~~((s))~~ of the private-public partnership created in RCW 43.215.070, to be appointed by the partnership board;

(g) One representative designated by sovereign tribal governments; and

(h) One representative from the Washington federation of independent schools.

(6) The council shall be cochaired by one representative of a state agency and one nongovernmental member, to be elected by the council for two-year terms.

(7) The council shall appoint two members and stakeholders with expertise in early learning to sit on the technical working group created in section 2, chapter . . . Laws of 2010 (section 2 of the act).

(8) Each member of the board shall be compensated in accordance with RCW 43.03.240 and reimbursed for travel expenses incurred in carrying out the duties of the board in accordance with RCW 43.03.050 and 43.03.060.

~~((8))~~ (9) The department shall provide staff support to the council.

Sec. 4. RCW 28A.290.010 and 2009 c 548 s 114 are each amended to read as follows:

(1) The quality education council is created to recommend and inform the ongoing implementation by the legislature of an evolving program of basic education and the financing necessary to support such program. The council shall develop strategic recommendations on the program of basic education for the common schools. The council shall take into consideration the capacity report produced under RCW 28A.300.172 and the availability of data and progress of implementing the data systems required under RCW 28A.655.210.

Any recommendations for modifications to the program of basic education shall be based on evidence that the programs effectively support student learning. The council shall update the statewide strategic recommendations every four years. The recommendations of the council are intended to:

(a) Inform future educational policy and funding decisions of the legislature and governor;

(b) Identify measurable goals and priorities for the educational system in Washington state for a ten-year time period, including the goals of basic education and ongoing strategies for coordinating statewide efforts to eliminate the achievement gap and reduce student dropout rates; and

(c) Enable the state of Washington to continue to implement an evolving program of basic education.

(2) The council may request updates and progress reports from the office of the superintendent of public instruction, the state board of education, the professional educator standards board, and the department of early learning on the work of the agencies as well as educational working groups established by the legislature.

(3) The chair of the council shall be selected from the councilmembers. The council shall be composed of the following members:

(a) Four members of the house of representatives, with two members representing each of the major caucuses and appointed by the speaker of the house of representatives;

(b) Four members of the senate, with two members representing each of the major caucuses and appointed by the president of the senate; and

(c) One representative each from the office of the governor, office of the superintendent of public instruction, state board of education, professional educator standards board, and department of early learning.

(4) In the 2009 fiscal year, the council shall meet as often as necessary as determined by the chair. In subsequent years, the council shall meet no more than four times a year.

(5)(a) The council shall submit an initial report to the governor and the legislature by January 1, 2010, detailing its recommendations, including recommendations for resolving issues or decisions requiring legislative action during the 2010 legislative session, and recommendations for any funding necessary to continue development and implementation of chapter 548, Laws of 2009.

(b) The initial report shall, at a minimum, include:

(i) Consideration of how to establish a statewide beginning teacher mentoring and support system;

(ii) Recommendations for a program of early learning for at-risk children;

(iii) A recommended schedule for the concurrent phase-in of the changes to the instructional program of basic education and the implementation of the funding formulas and allocations to support the new instructional program of basic education as established under chapter 548, Laws of 2009. The phase-in schedule shall have full implementation completed by September 1, 2018; and

(iv) A recommended schedule for phased-in implementation of the new distribution formula for allocating state funds to school districts for the transportation of students to and from school, with phase-in beginning no later than September 1, 2013.

(6) The council shall submit a report to the legislature by January 1, 2012, detailing its recommendations for a comprehensive plan for a voluntary program of early learning. Before submitting the report, the council shall seek input from the early learning advisory council created in RCW 43.215.090.

(7) The council shall be staffed by the office of the superintendent of public instruction and the office of financial management. Additional staff support shall be provided by the state entities with representatives on the ~~(committee)~~ council. Senate committee services and the house of representatives office of program research may provide additional staff support.

~~((7))~~ (8) Legislative members of the council shall serve without additional compensation but may be reimbursed for travel expenses in accordance with RCW 44.04.120 while attending sessions of the council or on official business authorized by the council. Nonlegislative members of the council may be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

Passed by the Senate March 11, 2010.

Passed by the House March 10, 2010.

Approved by the Governor March 29, 2010.

Filed in Office of Secretary of State March 30, 2010.

CHAPTER 235

[Engrossed Second Substitute Senate Bill 6696]

EDUCATION REFORM

AN ACT Relating to education reform; amending RCW 28A.305.225, 28A.150.230, 28A.405.100, 28A.405.220, 28A.405.210, 28A.405.230, 28A.405.300, 28A.400.200, 28A.660.020, 28B.76.335, 28A.655.110, 41.56.100, 41.59.120, and 28A.300.136; reenacting and amending RCW 28A.660.040 and 28A.660.050; adding new sections to chapter 28A.405 RCW; adding new sections to chapter 28A.410 RCW; adding a new section to chapter 28B.76 RCW; adding new sections to chapter 28A.655 RCW; adding a new section to chapter 28A.605 RCW; adding a new section to chapter 28A.300 RCW; adding a new section to chapter 41.56 RCW; adding a new section to chapter 41.59 RCW; adding a new chapter to Title 28A RCW; creating new sections; recodifying RCW 28A.305.225; repealing RCW 28A.660.010, 28A.415.100, 28A.415.105, 28A.415.125, 28A.415.130, 28A.415.135, 28A.415.140, 28A.415.145, and 28A.660.030; and providing an expiration date.

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

PART I

ACCOUNTABILITY FRAMEWORK

NEW SECTION. Sec. 101. The legislature finds that it is the state's responsibility to create a coherent and effective accountability framework for the continuous improvement for all schools and districts. This system must provide an excellent and equitable education for all students; an aligned federal/state accountability system; and the tools necessary for schools and districts to be accountable. These tools include the necessary accounting and data reporting systems, assessment systems to monitor student achievement, and a system of general support, targeted assistance, and if necessary, intervention.

The office of the superintendent of public instruction is responsible for developing and implementing the accountability tools to build district capacity and working within federal and state guidelines. The legislature assigned the

state board of education responsibility and oversight for creating an accountability framework. This framework provides a unified system of support for challenged schools that aligns with basic education, increases the level of support based upon the magnitude of need, and uses data for decisions. Such a system will identify schools and their districts for recognition as well as for additional state support. For a specific group of challenged schools, defined as persistently lowest-achieving schools, and their districts, it is necessary to provide a required action process that creates a partnership between the state and local district to target funds and assistance to turn around the identified lowest-achieving schools.

Phase I of this accountability system will recognize schools that have done an exemplary job of raising student achievement and closing the achievement gaps using the state board of education's accountability index. The state board of education shall have ongoing collaboration with the achievement gap oversight and accountability committee regarding the measures used to measure the closing of the achievement gaps and the recognition provided to the school districts for closing the achievement gaps. Phase I will also target the lowest five percent of persistently lowest-achieving schools defined under federal guidelines to provide federal funds and federal intervention models through a voluntary option in 2010, and for those who do not volunteer and have not improved student achievement, a required action process beginning in 2011.

Phase II of this accountability system will work toward implementing the state board of education's accountability index for identification of schools in need of improvement, including those that are not Title I schools, and the use of state and local intervention models and state funds through a required action process beginning in 2013, in addition to the federal program. Federal approval of the state board of education's accountability index must be obtained or else the federal guidelines for persistently lowest-achieving schools will continue to be used.

The expectation from implementation of this accountability system is the improvement of student achievement for all students to prepare them for postsecondary education, work, and global citizenship in the twenty-first century.

NEW SECTION. Sec. 102. (1) Beginning in 2010, and each year thereafter, by December 1st, the superintendent of public instruction shall annually identify schools as one of the state's persistently lowest-achieving schools if the school is a Title I school, or a school that is eligible for but does not receive Title I funds, that is among the lowest-achieving five percent of Title I or Title I eligible schools in the state.

(2) The criteria for determining whether a school is among the persistently lowest-achieving five percent of Title I schools, or Title I eligible schools, under subsection (1) of this section shall be established by the superintendent of public instruction. The criteria must meet all applicable requirements for the receipt of a federal school improvement grant under the American recovery and reinvestment act of 2009 and Title I of the elementary and secondary education act of 1965, and take into account both:

(a) The academic achievement of the "all students" group in a school in terms of proficiency on the state's assessment, and any alternative assessments, in reading and mathematics combined; and

(b) The school's lack of progress on the mathematics and reading assessments over a number of years in the "all students" group.

NEW SECTION. Sec. 103. (1) Beginning in January 2011, the superintendent of public instruction shall annually recommend to the state board of education school districts for designation as required action districts. A district with at least one school identified as a persistently lowest-achieving school shall be designated as a required action district if it meets the criteria developed by the superintendent of public instruction. However, a school district shall not be recommended for designation as a required action district if the district was awarded a federal school improvement grant by the superintendent in 2010 and for three consecutive years following receipt of the grant implemented a federal school intervention model at each school identified for improvement. The state board of education may designate a district that received a school improvement grant in 2010 as a required action district if after three years of voluntarily implementing a plan the district continues to have a school identified as persistently lowest-achieving and meets the criteria for designation established by the superintendent of public instruction.

(2) The superintendent of public instruction shall provide a school district superintendent with written notice of the recommendation for designation as a required action district by certified mail or personal service. A school district superintendent may request reconsideration of the superintendent of public instruction's recommendation. The reconsideration shall be limited to a determination of whether the school district met the criteria for being recommended as a required action district. A request for reconsideration must be in writing and served on the superintendent of public instruction within ten days of service of the notice of the superintendent's recommendation.

(3) The state board of education shall annually designate those districts recommended by the superintendent in subsection (1) of this section as required action districts. A district designated as a required action district shall be required to notify all parents of students attending a school identified as a persistently lowest-achieving school in the district of the state board of education's designation of the district as a required action district and the process for complying with the requirements set forth in sections 104 through 110 of this act.

NEW SECTION. Sec. 104. (1) The superintendent of public instruction shall contract with an external review team to conduct an academic performance audit of the district and each persistently lowest-achieving school in a required action district to identify the potential reasons for the school's low performance and lack of progress. The review team must consist of persons under contract with the superintendent who have expertise in comprehensive school and district reform and may not include staff from the agency, the school district that is the subject of the audit, or members or staff of the state board of education.

(2) The audit must be conducted based on criteria developed by the superintendent of public instruction and must include but not be limited to an examination of the following:

- (a) Student demographics;
- (b) Mobility patterns;
- (c) School feeder patterns;

- (d) The performance of different student groups on assessments;
 - (e) Effective school leadership;
 - (f) Strategic allocation of resources;
 - (g) Clear and shared focus on student learning;
 - (h) High standards and expectations for all students;
 - (i) High level of collaboration and communication;
 - (j) Aligned curriculum, instruction, and assessment to state standards;
 - (k) Frequency of monitoring of learning and teaching;
 - (l) Focused professional development;
 - (m) Supportive learning environment;
 - (n) High level of family and community involvement;
 - (o) Alternative secondary schools best practices; and
 - (p) Any unique circumstances or characteristics of the school or district.
- (3) Audit findings must be made available to the local school district, its staff, the community, and the state board of education.

NEW SECTION. Sec. 105. (1) The local district superintendent and local school board of a school district designated as a required action district must submit a required action plan to the state board of education for approval. Unless otherwise required by subsection (3) of this section, the plan must be submitted under a schedule as required by the state board. A required action plan must be developed in collaboration with administrators, teachers, and other staff, parents, unions representing any employees within the district, students, and other representatives of the local community. The superintendent of public instruction shall provide a district with assistance in developing its plan if requested. The school board must conduct a public hearing to allow for comment on a proposed required action plan. The local school district shall submit the plan first to the office of the superintendent of public instruction to review and approve that the plan is consistent with federal guidelines. After the office of the superintendent of public instruction has approved that the plan is consistent with federal guidelines, the local school district must submit its required action plan to the state board of education for approval.

(2) A required action plan must include all of the following:

(a) Implementation of one of the four federal intervention models required for the receipt of a federal school improvement grant, for those persistently lowest-achieving schools that the district will be focusing on for required action. However, a district may not establish a charter school under a federal intervention model without express legislative authority. The intervention models are the turnaround, restart, school closure, and transformation models. The intervention model selected must address the concerns raised in the academic performance audit and be intended to improve student performance to allow a school district to be removed from the list of districts designated as a required action district by the state board of education within three years of implementation of the plan;

(b) Submission of an application for a federal school improvement grant or a grant from other federal funds for school improvement to the superintendent of public instruction;

(c) A budget that provides for adequate resources to implement the federal model selected and any other requirements of the plan;

(d) A description of the changes in the district's or school's existing policies, structures, agreements, processes, and practices that are intended to attain significant achievement gains for all students enrolled in the school and how the district intends to address the findings of the academic performance audit; and

(e) Identification of the measures that the school district will use in assessing student achievement at a school identified as a persistently lowest-achieving school, which include improving mathematics and reading student achievement and graduation rates as defined by the office of the superintendent of public instruction that enable the school to no longer be identified as a persistently lowest-achieving school.

(3)(a) For any district designated for required action, the parties to any collective bargaining agreement negotiated, renewed, or extended under chapter 41.59 or 41.56 RCW after the effective date of this section must reopen the agreement, or negotiate an addendum, if needed, to make changes to terms and conditions of employment that are necessary to implement a required action plan.

(b) If the school district and the employee organizations are unable to agree on the terms of an addendum or modification to an existing collective bargaining agreement, the parties, including all labor organizations affected under the required action plan, shall request the public employment relations commission to, and the commission shall, appoint an employee of the commission to act as a mediator to assist in the resolution of a dispute between the school district and the employee organizations. Beginning in 2011, and each year thereafter, mediation shall commence no later than April 15th. All mediations held under this section shall include the employer and representatives of all affected bargaining units.

(c) If the executive director of the public employment relations commission, upon the recommendation of the assigned mediator, finds that the employer and any affected bargaining unit are unable to reach agreement following a reasonable period of negotiations and mediation, but by no later than May 15th of the year in which mediation occurred, the executive director shall certify any disputed issues for a decision by the superior court in the county where the school district is located. The issues for determination by the superior court must be limited to the issues certified by the executive director.

(d) The process for filing with the court in this subsection (3)(d) must be used in the case where the executive director certifies issues for a decision by the superior court.

(i) The school district shall file a petition with the superior court, by no later than May 20th of the same year in which the issues were certified, setting forth the following:

(A) The name, address, and telephone number of the school district and its principal representative;

(B) The name, address, and telephone number of the employee organizations and their principal representatives;

(C) A description of the bargaining units involved;

(D) A copy of the unresolved issues certified by the executive director for a final and binding decision by the court; and

(E) The academic performance audit that the office of the superintendent of public instruction completed for the school district.

(ii) Within seven days after the filing of the petition, each party shall file with the court the proposal it is asking the court to order be implemented in a required action plan for the district for each issue certified by the executive director. Contemporaneously with the filing of the proposal, a party must file a brief with the court setting forth the reasons why the court should order implementation of its proposal in the final plan.

(iii) Following receipt of the proposals and briefs of the parties, the court must schedule a date and time for a hearing on the petition. The hearing must be limited to argument of the parties or their counsel regarding the proposals submitted for the court's consideration. The parties may waive a hearing by written agreement.

(iv) The court must enter an order selecting the proposal for inclusion in a required action plan that best responds to the issues raised in the school district's academic performance audit, and allows for the award of a federal school improvement grant or a grant from other federal funds for school improvement to the district from the office of the superintendent of public instruction to implement one of the four federal intervention models. The court's decision must be issued no later than June 15th of the year in which the petition is filed and is final and binding on the parties; however the court's decision is subject to appeal only in the case where it does not allow the school district to implement a required action plan consistent with the requirements for the award of a federal school improvement grant or other federal funds for school improvement by the superintendent of public instruction.

(e) Each party shall bear its own costs and attorneys' fees incurred under this statute.

(f) Any party that proceeds with the process in this section after knowledge that any provision of this section has not been complied with and who fails to state its objection in writing is deemed to have waived its right to object.

(4) All contracts entered into between a school district and an employee must be consistent with this section and allow school districts designated as required action districts to implement one of the four federal models in a required action plan.

NEW SECTION. Sec. 106. A required action plan developed by a district's school board and superintendent must be submitted to the state board of education for approval. The state board must accept for inclusion in any required action plan the final decision by the superior court on any issue certified by the executive director of the public employment relations commission under the process in section 105 of this act. The state board of education shall approve a plan proposed by a school district only if the plan meets the requirements in section 105 of this act and provides sufficient remedies to address the findings in the academic performance audit to improve student achievement. Any addendum or modification to an existing collective bargaining agreement, negotiated under section 105 of this act or by agreement of the district and the exclusive bargaining unit, related to student achievement or school improvement shall not go into effect until approval of a required action plan by the state board of education. If the state board does not approve a proposed plan, it must notify the local school board and local district's superintendent in writing with an explicit rationale for why the plan was not approved. Nonapproval by the state board of education of the local school district's initial required action plan

submitted is not intended to trigger any actions under section 108 of this act. With the assistance of the office of the superintendent of public instruction, the superintendent and school board of the required action district shall either: (a) Submit a new plan to the state board of education for approval within forty days of notification that its plan was rejected, or (b) submit a request to the required action plan review panel established under section 107 of this act for reconsideration of the state board's rejection within ten days of the notification that the plan was rejected. If federal funds are not available, the plan is not required to be implemented until such funding becomes available. If federal funds for this purpose are available, a required action plan must be implemented in the immediate school year following the district's designation as a required action district.

NEW SECTION. Sec. 107. (1) A required action plan review panel shall be established to offer an objective, external review of a request from a school district for reconsideration of the state board of education's rejection of the district's required action plan. The review and reconsideration by the panel shall be based on whether the state board of education gave appropriate consideration to the unique circumstances and characteristics identified in the academic performance audit of the local school district whose required action plan was rejected.

(2)(a) The panel shall be composed of five individuals with expertise in school improvement, school and district restructuring, or parent and community involvement in schools. Two of the panel members shall be appointed by the speaker of the house of representatives; two shall be appointed by the president of the senate; and one shall be appointed by the governor.

(b) The speaker of the house of representatives, president of the senate, and governor shall solicit recommendations for possible panel members from the Washington association of school administrators, the Washington state school directors' association, the association of Washington school principals, the achievement gap oversight and accountability committee, and associations representing certificated teachers, classified school employees, and parents.

(c) Members of the panel shall be appointed no later than December 1, 2010, but the superintendent of public instruction shall convene the panel only as needed to consider a school district's request for reconsideration. Appointments shall be for a four-year term, with opportunity for reappointment. Reappointments in the case of a vacancy shall be made expeditiously so that all requests are considered in a timely manner.

(3) The required action plan review panel may reaffirm the decision of the state board of education, recommend that the state board reconsider the rejection, or recommend changes to the required action plan that should be considered by the district and the state board of education to secure approval of the plan. The state board of education shall consider the recommendations of the panel and issue a decision in writing to the local school district and the panel. If the school district must submit a new required action plan to the state board of education, the district must submit the plan within forty days of the board's decision.

(4) The state board of education and superintendent of public instruction must develop timelines and procedures for the deliberations under this section so

that school districts can implement a required action plan within the time frame required under section 106 of this act.

NEW SECTION. Sec. 108. The state board of education may direct the superintendent of public instruction to require a school district that has not submitted a final required action plan for approval, or has submitted but not received state board of education approval of a required action plan by the beginning of the school year in which the plan is intended to be implemented, to redirect the district's Title I funds based on the academic performance audit findings.

NEW SECTION. Sec. 109. A school district must implement a required action plan upon approval by the state board of education. The office of superintendent of public instruction must provide the required action district with technical assistance and federal school improvement grant funds or other federal funds for school improvement, if available, to implement an approved plan. The district must submit a report to the superintendent of public instruction that provides the progress the district is making in meeting the student achievement goals based on the state's assessments, identifying strategies and assets used to solve audit findings, and establishing evidence of meeting plan implementation benchmarks as set forth in the required action plan.

NEW SECTION. Sec. 110. (1) The superintendent of public instruction must provide a report twice per year to the state board of education regarding the progress made by all school districts designated as required action districts.

(2) The superintendent of public instruction must recommend to the state board of education that a school district be released from the designation as a required action district after the district implements a required action plan for a period of three years; has made progress, as defined by the superintendent of public instruction, in reading and mathematics on the state's assessment over the past three consecutive years; and no longer has a school within the district identified as persistently lowest achieving. The state board shall release a school district from the designation as a required action district upon confirmation that the district has met the requirements for a release.

(3) If the state board of education determines that the required action district has not met the requirements for release, the district remains in required action and must submit a new or revised plan under the process in section 105 of this act.

Sec. 111. RCW 28A.305.225 and 2009 c 548 s 503 are each amended to read as follows:

(1) The state board of education shall continue to refine the development of an accountability framework that creates a unified system of support for challenged schools, that aligns with basic education, increases the level of support based upon the magnitude of need, and uses data for decisions.

(2) The state board of education shall develop an accountability index to identify schools and districts for recognition, for continuous improvement, and for additional state support. The index shall be based on criteria that are fair, consistent, and transparent. Performance shall be measured using multiple outcomes and indicators including, but not limited to, graduation rates and results from statewide assessments. The index shall be developed in such a way as to be easily understood by both employees within the schools and districts, as

well as parents and community members. It is the legislature's intent that the index provide feedback to schools and districts to self-assess their progress, and enable the identification of schools with exemplary student performance and those that need assistance to overcome challenges in order to achieve exemplary student performance. ~~((Once the accountability index has identified schools that need additional help, a more thorough analysis will be done to analyze specific conditions in the district including but not limited to the level of state resources a school or school district receives in support of the basic education system, achievement gaps for different groups of students, and community support.~~

~~(3) Based on the accountability index and in consultation with the superintendent of public instruction, the state board of education shall develop a proposal and timeline for implementation of a comprehensive system of voluntary support and assistance for schools and districts. The timeline must take into account and accommodate capacity limitations of the K-12 educational system. Changes that have a fiscal impact on school districts, as identified by a fiscal analysis prepared by the office of the superintendent of public instruction, shall take effect only if formally authorized by the legislature through the omnibus appropriations act or other enacted legislation.~~

~~(4)(a) The state board of education shall develop a proposal and implementation timeline for a more formalized comprehensive system improvement targeted to challenged schools and districts that have not demonstrated sufficient improvement through the voluntary system. The timeline must take into account and accommodate capacity limitations of the K-12 educational system. The proposal and timeline shall be submitted to the education committees of the legislature by December 1, 2009, and shall include recommended legislation and recommended resources to implement the system according to the timeline developed.~~

~~(b) The proposal shall outline a process for addressing performance challenges that will include the following features: (i) An academic performance audit using peer review teams of educators that considers school and community factors in addition to other factors in developing recommended specific corrective actions that should be undertaken to improve student learning; (ii) a requirement for the local school board plan to develop and be responsible for implementation of corrective action plan taking into account the audit findings, which plan must be approved by the state board of education at which time the plan becomes binding upon the school district to implement; and (iii) monitoring of local district progress by the office of the superintendent of public instruction. The proposal shall take effect only if formally authorized by the legislature through the omnibus appropriations act or other enacted legislation.~~

~~(5)) (3) The state board of education, in cooperation with the office of the superintendent of public instruction, shall annually recognize schools for exemplary performance as measured on the state board of education accountability index. The state board of education shall have ongoing collaboration with the achievement gap oversight and accountability committee regarding the measures used to measure the closing of the achievement gaps and the recognition provided to the school districts for closing the achievement gaps.~~

~~(4) In coordination with the superintendent of public instruction, the state board of education shall seek approval from the United States department of~~

education for use of the accountability index and the state system of support, assistance, and intervention, to replace the federal accountability system under P.L. 107-110, the no child left behind act of 2001.

~~((6))~~ (5) The state board of education shall work with the education data center established within the office of financial management and the technical working group established in section 112, chapter 548, Laws of 2009 to determine the feasibility of using the prototypical funding allocation model as not only a tool for allocating resources to schools and districts but also as a tool for schools and districts to report to the state legislature and the state board of education on how the state resources received are being used.

NEW SECTION. Sec. 112. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "All students group" means those students in grades three through eight and high school who take the state's assessment in reading and mathematics required under 20 U.S.C. Sec. 6311(b)(3).

(2) "Title I" means Title I, part A of the federal elementary and secondary education act of 1965 (ESEA) (20 U.S.C. Secs. 6311-6322).

NEW SECTION. Sec. 113. The superintendent of public instruction and the state board of education may each adopt rules in accordance with chapter 34.05 RCW as necessary to implement this chapter.

NEW SECTION. Sec. 114. (1) The legislature finds that a unified and equitable system of education accountability must include expectations and benchmarks for improvement, along with support for schools and districts to make the necessary changes that will lead to success for all students. Such a system must also clearly address the consequences for persistent lack of improvement. Establishing a process for school districts to prepare and implement a required action plan is one such consequence. However, to be truly accountable to students, parents, the community, and taxpayers, the legislature must also consider what should happen if a required action district continues not to make improvement after an extended period of time. Without an answer to this significant question, the state's system of education accountability is incomplete. Furthermore, accountability must be appropriately shared among various levels of decision makers, including in the building, in the district, and at the state.

(2)(a) A joint select committee on education accountability is established beginning no earlier than May 1, 2012, with the following members:

(i) The president of the senate shall appoint two members from each of the two largest caucuses of the senate.

(ii) The speaker of the house of representatives shall appoint two members from each of the two largest caucuses of the house of representatives.

(b) The committee shall choose its cochairs from among its membership.

(3) The committee shall:

(a) Identify and analyze options for a complete system of education accountability, particularly consequences in the case of persistent lack of improvement by a required action district;

(b) Identify and analyze appropriate decision-making responsibilities and accompanying consequences at the building, district, and state level within such an accountability system;

- (c) Examine models and experiences in other states;
 - (d) Identify the circumstances under which significant state action may be required; and
 - (e) Analyze the financial, legal, and practical considerations that would accompany significant state action.
- (4) Staff support for the committee must be provided by the senate committee services and the house of representatives office of program research.
- (5) The committee shall submit an interim report to the education committees of the legislature by September 1, 2012, and a final report with recommendations by September 1, 2013.
- (6) This section expires June 30, 2014.

PART II EVALUATIONS

Sec. 201. RCW 28A.150.230 and 2006 c 263 s 201 are each amended to read as follows:

(1) It is the intent and purpose of this section to guarantee that each common school district board of directors, whether or not acting through its respective administrative staff, be held accountable for the proper operation of their district to the local community and its electorate. In accordance with the provisions of Title 28A RCW, as now or hereafter amended, each common school district board of directors shall be vested with the final responsibility for the setting of policies ensuring quality in the content and extent of its educational program and that such program provide students with the opportunity to achieve those skills which are generally recognized as requisite to learning.

(2) In conformance with the provisions of Title 28A RCW, as now or hereafter amended, it shall be the responsibility of each common school district board of directors to adopt policies to:

(a) Establish performance criteria and an evaluation process for its superintendent, classified staff, certificated personnel, including administrative staff, and for all programs constituting a part of such district's curriculum. Each district shall report annually to the superintendent of public instruction the following for each employee group listed in this subsection (2)(a): (i) Evaluation criteria and rubrics; (ii) a description of each rating; and (iii) the number of staff in each rating;

(b) Determine the final assignment of staff, certificated or classified, according to board enumerated classroom and program needs and data, based upon a plan to ensure that the assignment policy: (i) Supports the learning needs of all the students in the district; and (ii) gives specific attention to high-need schools and classrooms;

(c) Provide information to the local community and its electorate describing the school district's policies concerning hiring, assigning, terminating, and evaluating staff, including the criteria for evaluating teachers and principals;

(d) Determine the amount of instructional hours necessary for any student to acquire a quality education in such district, in not less than an amount otherwise required in RCW 28A.150.220, or rules of the state board of education;

~~((d))~~ (e) Determine the allocation of staff time, whether certificated or classified;

~~((f))~~ (f) Establish final curriculum standards consistent with law and rules of the superintendent of public instruction, relevant to the particular needs of district students or the unusual characteristics of the district, and ensuring a quality education for each student in the district; and

~~((g))~~ (g) Evaluate teaching materials, including text books, teaching aids, handouts, or other printed material, in public hearing upon complaint by parents, guardians or custodians of students who consider dissemination of such material to students objectionable.

Sec. 202. RCW 28A.405.100 and 1997 c 278 s 1 are each amended to read as follows:

(1)(a) Except as provided in subsection (2) of this section, the superintendent of public instruction shall establish and may amend from time to time minimum criteria for the evaluation of the professional performance capabilities and development of certificated classroom teachers and certificated support personnel. For classroom teachers the criteria shall be developed in the following categories: Instructional skill; classroom management, professional preparation and scholarship; effort toward improvement when needed; the handling of student discipline and attendant problems; and interest in teaching pupils and knowledge of subject matter.

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

(2)(a) Pursuant to the implementation schedule established in subsection (7)(b) of this section, every board of directors shall, in accordance with procedures provided in RCW 41.59.010 through 41.59.170, 41.59.910, and 41.59.920, establish revised evaluative criteria and a four-level rating system for all certificated classroom teachers.

(b) The minimum criteria shall include: (i) Centering instruction on high expectations for student achievement; (ii) demonstrating effective teaching practices; (iii) recognizing individual student learning needs and developing strategies to address those needs; (iv) providing clear and intentional focus on subject matter content and curriculum; (v) fostering and managing a safe, positive learning environment; (vi) using multiple student data elements to modify instruction and improve student learning; (vii) communicating and collaborating with parents and school community; and (viii) exhibiting collaborative and collegial practices focused on improving instructional practice and student learning.

(c) The four-level rating system used to evaluate the certificated classroom teacher must describe performance along a continuum that indicates the extent to which the criteria have been met or exceeded. When student growth data, if available and relevant to the teacher and subject matter, is referenced in the evaluation process it must be based on multiple measures that can include classroom-based, school-based, district-based, and state-based tools. As used in

this subsection. "student growth" means the change in student achievement between two points in time.

(3)(a) Except as provided in subsection ~~((5))~~ (10) of this section, it shall be the responsibility of a principal or his or her designee to evaluate all certificated personnel in his or her school. During each school year all classroom teachers and certificated support personnel ~~(, hereinafter referred to as "employees" in this section,)~~ shall be observed for the purposes of evaluation at least twice in the performance of their assigned duties. Total observation time for each employee for each school year shall be not less than sixty minutes. An employee in the third year of provisional status as defined in RCW 28A.405.220 shall be observed at least three times in the performance of his or her duties and the total observation time for the school year shall not be less than ninety minutes. Following each observation, or series of observations, the principal or other evaluator shall promptly document the results of the observation in writing, and shall provide the employee with a copy thereof within three days after such report is prepared. New employees shall be observed at least once for a total observation time of thirty minutes during the first ninety calendar days of their employment period.

(b) As used in this subsection and subsection (4) of this section, "employees" means classroom teachers and certificated support personnel.

(4)(a) At any time after October 15th, an employee whose work is not judged ~~((unsatisfactory))~~ satisfactory based on district evaluation criteria shall be notified in writing of the specific areas of deficiencies along with a reasonable program for improvement. During the period of probation, the employee may not be transferred from the supervision of the original evaluator. Improvement of performance or probable cause for nonrenewal must occur and be documented by the original evaluator before any consideration of a request for transfer or reassignment as contemplated by either the individual or the school district. A probationary period of sixty school days shall be established. The establishment of a probationary period does not adversely affect the contract status of an employee within the meaning of RCW 28A.405.300. The purpose of the probationary period is to give the employee opportunity to demonstrate improvements in his or her areas of deficiency. The establishment of the probationary period and the giving of the notice to the employee of deficiency shall be by the school district superintendent and need not be submitted to the board of directors for approval. During the probationary period the evaluator shall meet with the employee at least twice monthly to supervise and make a written evaluation of the progress, if any, made by the employee. The evaluator may authorize one additional certificated employee to evaluate the probationer and to aid the employee in improving his or her areas of deficiency; such additional certificated employee shall be immune from any civil liability that might otherwise be incurred or imposed with regard to the good faith performance of such evaluation. The probationer may be removed from probation if he or she has demonstrated improvement to the satisfaction of the principal in those areas specifically detailed in his or her initial notice of deficiency and subsequently detailed in his or her improvement program. Lack of necessary improvement during the established probationary period, as specifically documented in writing with notification to the probationer and shall

constitute grounds for a finding of probable cause under RCW 28A.405.300 or 28A.405.210.

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

~~((2))~~ (5) Every board of directors shall establish evaluative criteria and procedures for all superintendents, principals, and other administrators. It shall be the responsibility of the district superintendent or his or her designee to evaluate all administrators. Except as provided in subsection (6) of this section, such evaluation shall be based on the administrative position job description. Such criteria, when applicable, shall include at least the following categories: Knowledge of, experience in, and training in recognizing good professional performance, capabilities and development; school administration and management; school finance; professional preparation and scholarship; effort toward improvement when needed; interest in pupils, employees, patrons and subjects taught in school; leadership; and ability and performance of evaluation of school personnel.

~~((3))~~ (6)(a) Pursuant to the implementation schedule established by subsection (7)(b) of this section, every board of directors shall establish revised evaluative criteria and a four-level rating system for principals.

(b) The minimum criteria shall include: (i) Creating a school culture that promotes the ongoing improvement of learning and teaching for students and staff; (ii) demonstrating commitment to closing the achievement gap; (iii) providing for school safety; (iv) leading the development, implementation, and evaluation of a data-driven plan for increasing student achievement, including the use of multiple student data elements; (v) assisting instructional staff with alignment of curriculum, instruction, and assessment with state and local district learning goals; (vi) monitoring, assisting, and evaluating effective instruction and assessment practices; (vii) managing both staff and fiscal resources to support student achievement and legal responsibilities; and (viii) partnering with the school community to promote student learning.

(c) The four-level rating system used to evaluate the principal must describe performance along a continuum that indicates the extent to which the criteria have been met or exceeded. When available, student growth data that is referenced in the evaluation process must be based on multiple measures that can include classroom-based, school-based, district-based, and state-based tools. As used in this subsection, "student growth" means the change in student achievement between two points in time.

(7)(a) The superintendent of public instruction, in collaboration with state associations representing teachers, principals, administrators, and parents, shall create models for implementing the evaluation system criteria, student growth tools, professional development programs, and evaluator training for certificated classroom teachers and principals. Human resources specialists, professional

development experts, and assessment experts must also be consulted. Due to the diversity of teaching assignments and the many developmental levels of students, classroom teachers and principals must be prominently represented in this work. The models must be available for use in the 2011-12 school year.

(b) A new certificated classroom teacher evaluation system that implements the provisions of subsection (2) of this section and a new principal evaluation system that implements the provisions of subsection (6) of this section shall be phased-in beginning with the 2010-11 school year by districts identified in (c) of this subsection and implemented in all school districts beginning with the 2013-14 school year.

(c) A set of school districts shall be selected by the superintendent of public instruction to participate in a collaborative process resulting in the development and piloting of new certificated classroom teacher and principal evaluation systems during the 2010-11 and 2011-12 school years. These school districts must be selected based on: (i) The agreement of the local associations representing classroom teachers and principals to collaborate with the district in this developmental work and (ii) the agreement to participate in the full range of development and implementation activities, including: Development of rubrics for the evaluation criteria and ratings in subsections (2) and (6) of this section; identification of or development of appropriate multiple measures of student growth in subsections (2) and (6) of this section; development of appropriate evaluation system forms; participation in professional development for principals and classroom teachers regarding the content of the new evaluation system; participation in evaluator training; and participation in activities to evaluate the effectiveness of the new systems and support programs. The school districts must submit to the office of the superintendent of public instruction data that is used in evaluations and all district-collected student achievement, aptitude, and growth data regardless of whether the data is used in evaluations. If the data is not available electronically, the district may submit it in nonelectronic form. The superintendent of public instruction must analyze the districts' use of student data in evaluations, including examining the extent that student data is not used or is underutilized. The superintendent of public instruction must also consult with participating districts and stakeholders, recommend appropriate changes, and address statewide implementation issues. The superintendent of public instruction shall report evaluation system implementation status, evaluation data, and recommendations to appropriate committees of the legislature and governor by July 1, 2011, and at the conclusion of the development phase by July 1, 2012. In the July 1, 2011 report, the superintendent shall include recommendations for whether a single statewide evaluation model should be adopted, whether modified versions developed by school districts should be subject to state approval, and what the criteria would be for determining if a school district's evaluation model meets or exceeds a statewide model. The report shall also identify challenges posed by requiring a state approval process.

(8) Each certificated ((employee)) classroom teacher and certificated support personnel shall have the opportunity for confidential conferences with his or her immediate supervisor on no less than two occasions in each school year. Such confidential conference shall have as its sole purpose the aiding of

the administrator in his or her assessment of the employee's professional performance.

~~((4))~~ (9) The failure of any evaluator to evaluate or supervise or cause the evaluation or supervision of certificated ~~((employees))~~ classroom teachers and certificated support personnel or administrators in accordance with this section, as now or hereafter amended, when it is his or her specific assigned or delegated responsibility to do so, shall be sufficient cause for the nonrenewal of any such evaluator's contract under RCW 28A.405.210, or the discharge of such evaluator under RCW 28A.405.300.

~~((5))~~ (10) After ~~((an employee))~~ a certificated classroom teacher or certificated support personnel has four years of satisfactory evaluations under subsection (1) of this section or has received one of the two top ratings for four years under subsection (2) of this section, a school district may use a short form of evaluation, a locally bargained evaluation emphasizing professional growth, an evaluation under subsection (1) or (2) of this section, or any combination thereof. The short form of evaluation shall include either a thirty minute observation during the school year with a written summary or a final annual written evaluation based on the criteria in subsection (1) or (2) of this section and based on at least two observation periods during the school year totaling at least sixty minutes without a written summary of such observations being prepared. A locally bargained short-form evaluation emphasizing professional growth must provide that the professional growth activity conducted by the certificated classroom teacher be specifically linked to one or more of the certificated classroom teacher evaluation criteria. However, the evaluation process set forth in subsection (1) or (2) of this section shall be followed at least once every three years unless this time is extended by a local school district under the bargaining process set forth in chapter 41.59 RCW. The employee or evaluator may require that the evaluation process set forth in subsection (1) or (2) of this section be conducted in any given school year. No evaluation other than the evaluation authorized under subsection (1) or (2) of this section may be used as a basis for determining that an employee's work is ~~((unsatisfactory))~~ not satisfactory under subsection (1) or (2) of this section or as probable cause for the nonrenewal of an employee's contract under RCW 28A.405.210 unless an evaluation process developed under chapter 41.59 RCW determines otherwise.

Sec. 203. RCW 28A.405.220 and 2009 c 57 s 2 are each amended to read as follows:

(1) Notwithstanding the provisions of RCW 28A.405.210, every person employed by a school district in a teaching or other nonsupervisory certificated position shall be subject to nonrenewal of employment contract as provided in this section during the first ~~((two))~~ three years of employment by such district, unless: (a) The employee has previously completed at least two years of certificated employment in another school district in the state of Washington, in which case the employee shall be subject to nonrenewal of employment contract pursuant to this section during the first year of employment with the new district; or (b) the school district superintendent may make a determination to remove an employee from provisional status if the employee has received one of the top two evaluation ratings during the second year of employment by the district. Employees as defined in this section shall hereinafter be referred to as "provisional employees~~((s))~~."

(2) In the event the superintendent of the school district determines that the employment contract of any provisional employee should not be renewed by the district for the next ensuing term such provisional employee shall be notified thereof in writing on or before May 15th preceding the commencement of such school term, or if the omnibus appropriations act has not passed the legislature by May 15th, then notification shall be no later than June 15th, which notification shall state the reason or reasons for such determination. Such notice shall be served upon the provisional employee personally, or by certified or registered mail, or by leaving a copy of the notice at the place of his or her usual abode with some person of suitable age and discretion then resident therein. The determination of the superintendent shall be subject to the evaluation requirements of RCW 28A.405.100.

(3) Every such provisional employee so notified, at his or her request made in writing and filed with the superintendent of the district within ten days after receiving such notice, shall be given the opportunity to meet informally with the superintendent for the purpose of requesting the superintendent to reconsider his or her decision. Such meeting shall be held no later than ten days following the receipt of such request, and the provisional employee shall be given written notice of the date, time and place of meeting at least three days prior thereto. At such meeting the provisional employee shall be given the opportunity to refute any facts upon which the superintendent's determination was based and to make any argument in support of his or her request for reconsideration.

(4) Within ten days following the meeting with the provisional employee, the superintendent shall either reinstate the provisional employee or shall submit to the school district board of directors for consideration at its next regular meeting a written report recommending that the employment contract of the provisional employee be nonrenewed and stating the reason or reasons therefor. A copy of such report shall be delivered to the provisional employee at least three days prior to the scheduled meeting of the board of directors. In taking action upon the recommendation of the superintendent, the board of directors shall consider any written communication which the provisional employee may file with the secretary of the board at any time prior to that meeting.

(5) The board of directors shall notify the provisional employee in writing of its final decision within ten days following the meeting at which the superintendent's recommendation was considered. The decision of the board of directors to nonrenew the contract of a provisional employee shall be final and not subject to appeal.

(6) This section applies to any person employed by a school district in a teaching or other nonsupervisory certificated position after June 25, 1976. This section provides the exclusive means for nonrenewing the employment contract of a provisional employee and no other provision of law shall be applicable thereto, including, without limitation, RCW 28A.405.210 and chapter 28A.645 RCW.

NEW SECTION. Sec. 204. A new section is added to chapter 28A.405 RCW to read as follows:

(1) Representatives of the office of the superintendent of public instruction and statewide associations representing administrators, principals, human resources specialists, and certificated classroom teachers shall analyze how the

evaluation systems in RCW 28A.405.100 (2) and (6) affect issues related to a change in contract status.

(2) The analysis shall be conducted during each of the phase-in years of the certificated classroom teacher and principal evaluation systems. The analysis shall include: Procedures, timelines, probationary periods, appeal procedures, and other items related to the timely exercise of employment decisions and due process provisions for certificated classroom teachers and principals.

NEW SECTION. Sec. 205. A new section is added to chapter 28A.405 RCW to read as follows:

If funds are provided for professional development activities designed specifically for first through third-year teachers, the funds shall be allocated first to districts participating in the evaluation systems in RCW 28A.405.100 (2) and (6) before the required implementation date under that section.

PART III PRINCIPAL PERFORMANCE

NEW SECTION. Sec. 301. The legislature finds that the presence of highly effective principals in schools has never been more important than it is today. To enable students to meet high academic standards, principals must lead and encourage teams of teachers and support staff to work together, align curriculum and instruction, use student data to target instruction and intervention strategies, and serve as the chief school officer with parents and the community. Greater responsibility should come with greater authority over personnel, budgets, resource allocation, and programs. But greater responsibility also comes with greater accountability for outcomes. Washington is putting into place an updated and rigorous system of evaluating principal performance, one that will measure what matters. This system will never be truly effective unless the results are meaningfully used.

NEW SECTION. Sec. 302. A new section is added to chapter 28A.405 RCW to read as follows:

(1) Any certificated employee of a school district under this section who is first employed as a principal after the effective date of this section shall be subject to transfer as provided under this section, at the expiration of the term of his or her employment contract, to any subordinate certificated position within the school district. "Subordinate certificated position" as used in this section means any administrative or nonadministrative certificated position for which the annual compensation is less than the position currently held by the administrator. This section applies only to school districts with an annual average student enrollment of more than thirty-five thousand full-time equivalent students.

(2) During the first three consecutive school years of employment as a principal by the school district, or during the first full school year of such employment in the case of a principal who has been previously employed as a principal by another school district in the state for three or more consecutive school years, the transfer of the principal to a subordinate certificated position may be made by a determination of the superintendent that the best interests of the school district would be served by the transfer.

(3) Commencing with the fourth consecutive school year of employment as a principal, or the second consecutive school year of such employment in the case of a principal who has been previously employed as a principal by another school district in the state for three or more consecutive school years, the transfer of the principal to a subordinate certificated position shall be based on the superintendent's determination that the results of the evaluation of the principal's performance using the evaluative criteria and rating system established under RCW 28A.405.100 provide a valid reason for the transfer without regard to whether there is probable cause for the transfer. If a valid reason is shown, it shall be deemed that the transfer is reasonably related to the principal's performance. No probationary period is required. However, provision of support and an attempt at remediation of the performance of the principal, as defined by the superintendent, are required for a determination by the superintendent under this subsection that the principal should be transferred to a subordinate certificated position.

(4) Any superintendent transferring a principal under this section to a subordinate certificated position shall notify that principal in writing on or before May 15th before the beginning of the school year of that determination, or if the omnibus appropriations act has not passed the legislature by May 15th, then notification shall be no later than June 15th. The notification shall state the reason or reasons for the transfer and shall identify the subordinate certificated position to which the principal will be transferred. The notification shall be served upon the principal personally, or by certified or registered mail, or by leaving a copy of the notice at the place of his or her usual abode with some person of suitable age and discretion then resident therein.

(5) Any principal so notified may request to the president or chair of the board of directors of the district, in writing and within ten days after receiving notice, an opportunity to meet informally with the board of directors in an executive session for the purpose of requesting the board to reconsider the decision of the superintendent, and shall be given such opportunity. The board, upon receipt of such request, shall schedule the meeting for no later than the next regularly scheduled meeting of the board, and shall give the principal written notice at least three days before the meeting of the date, time, and place of the meeting. At the meeting the principal shall be given the opportunity to refute any evidence upon which the determination was based and to make any argument in support of his or her request for reconsideration. The principal and the board may invite their respective legal counsel to be present and to participate at the meeting. The board shall notify the principal in writing of its final decision within ten days following its meeting with the principal. No appeal to the courts shall lie from the final decision of the board of directors to transfer a principal to a subordinate certificated position.

(6) This section provides the exclusive means for transferring a certificated employee first employed by a school district under this section as a principal after the effective date of this section to a subordinate certificated position at the expiration of the term of his or her employment contract.

Sec. 303. RCW 28A.405.210 and 2009 c 57 s 1 are each amended to read as follows:

No teacher, principal, supervisor, superintendent, or other certificated employee, holding a position as such with a school district, hereinafter referred

to as "employee", shall be employed except by written order of a majority of the directors of the district at a regular or special meeting thereof, nor unless he or she is the holder of an effective teacher's certificate or other certificate required by law or the Washington professional educator standards board for the position for which the employee is employed.

The board shall make with each employee employed by it a written contract, which shall be in conformity with the laws of this state, and except as otherwise provided by law, limited to a term of not more than one year. Every such contract shall be made in duplicate, one copy to be retained by the school district superintendent or secretary and one copy to be delivered to the employee. No contract shall be offered by any board for the employment of any employee who has previously signed an employment contract for that same term in another school district of the state of Washington unless such employee shall have been released from his or her obligations under such previous contract by the board of directors of the school district to which he or she was obligated. Any contract signed in violation of this provision shall be void.

In the event it is determined that there is probable cause or causes that the employment contract of an employee should not be renewed by the district for the next ensuing term such employee shall be notified in writing on or before May 15th preceding the commencement of such term of that determination, or if the omnibus appropriations act has not passed the legislature by May 15th, then notification shall be no later than June 15th, which notification shall specify the cause or causes for nonrenewal of contract. Such determination of probable cause for certificated employees, other than the superintendent, shall be made by the superintendent. Such notice shall be served upon the employee personally, or by certified or registered mail, or by leaving a copy of the notice at the house of his or her usual abode with some person of suitable age and discretion then resident therein. Every such employee so notified, at his or her request made in writing and filed with the president, chair or secretary of the board of directors of the district within ten days after receiving such notice, shall be granted opportunity for hearing pursuant to RCW 28A.405.310 to determine whether there is sufficient cause or causes for nonrenewal of contract: PROVIDED, That any employee receiving notice of nonrenewal of contract due to an enrollment decline or loss of revenue may, in his or her request for a hearing, stipulate that initiation of the arrangements for a hearing officer as provided for by RCW 28A.405.310(4) shall occur within ten days following July 15 rather than the day that the employee submits the request for a hearing. If any such notification or opportunity for hearing is not timely given, the employee entitled thereto shall be conclusively presumed to have been reemployed by the district for the next ensuing term upon contractual terms identical with those which would have prevailed if his or her employment had actually been renewed by the board of directors for such ensuing term.

This section shall not be applicable to "provisional employees" as so designated in RCW 28A.405.220; transfer to a subordinate certificated position as that procedure is set forth in RCW 28A.405.230 or section 302 of this act shall not be construed as a nonrenewal of contract for the purposes of this section.

Sec. 304. RCW 28A.405.230 and 2009 c 57 s 3 are each amended to read as follows:

Any certificated employee of a school district employed as an assistant superintendent, director, principal, assistant principal, coordinator, or in any other supervisory or administrative position, hereinafter in this section referred to as "administrator", shall be subject to transfer, at the expiration of the term of his or her employment contract, to any subordinate certificated position within the school district. "Subordinate certificated position" as used in this section, shall mean any administrative or nonadministrative certificated position for which the annual compensation is less than the position currently held by the administrator.

Every superintendent determining that the best interests of the school district would be served by transferring any administrator to a subordinate certificated position shall notify that administrator in writing on or before May 15th preceding the commencement of such school term of that determination, or if the omnibus appropriations act has not passed the legislature by May 15th, then notification shall be no later than June 15th, which notification shall state the reason or reasons for the transfer, and shall identify the subordinate certificated position to which the administrator will be transferred. Such notice shall be served upon the administrator personally, or by certified or registered mail, or by leaving a copy of the notice at the place of his or her usual abode with some person of suitable age and discretion then resident therein.

Every such administrator so notified, at his or her request made in writing and filed with the president or chair, or secretary of the board of directors of the district within ten days after receiving such notice, shall be given the opportunity to meet informally with the board of directors in an executive session thereof for the purpose of requesting the board to reconsider the decision of the superintendent. Such board, upon receipt of such request, shall schedule the meeting for no later than the next regularly scheduled meeting of the board, and shall notify the administrator in writing of the date, time and place of the meeting at least three days prior thereto. At such meeting the administrator shall be given the opportunity to refute any facts upon which the determination was based and to make any argument in support of his or her request for reconsideration. The administrator and the board may invite their respective legal counsel to be present and to participate at the meeting. The board shall notify the administrator in writing of its final decision within ten days following its meeting with the administrator. No appeal to the courts shall lie from the final decision of the board of directors to transfer an administrator to a subordinate certificated position: PROVIDED, That in the case of principals such transfer shall be made at the expiration of the contract year and only during the first three consecutive school years of employment as a principal by a school district; except that if any such principal has been previously employed as a principal by another school district in the state of Washington for three or more consecutive school years the provisions of this section shall apply only to the first full school year of such employment.

This section applies to any person employed as an administrator by a school district on June 25, 1976, and to all persons so employed at any time thereafter, except that section 302 of this act applies to persons first employed after the effective date of this section as a principal by a school district meeting the criteria of section 302 of this act. This section provides the exclusive means for

transferring an administrator subject to this section to a subordinate certificated position at the expiration of the term of his or her employment contract.

Sec. 305. RCW 28A.405.300 and 1990 c 33 s 395 are each amended to read as follows:

In the event it is determined that there is probable cause or causes for a teacher, principal, supervisor, superintendent, or other certificated employee, holding a position as such with the school district, hereinafter referred to as "employee", to be discharged or otherwise adversely affected in his or her contract status, such employee shall be notified in writing of that decision, which notification shall specify the probable cause or causes for such action. Such determinations of probable cause for certificated employees, other than the superintendent, shall be made by the superintendent. Such notices shall be served upon that employee personally, or by certified or registered mail, or by leaving a copy of the notice at the house of his or her usual abode with some person of suitable age and discretion then resident therein. Every such employee so notified, at his or her request made in writing and filed with the president, chair of the board or secretary of the board of directors of the district within ten days after receiving such notice, shall be granted opportunity for a hearing pursuant to RCW 28A.405.310 to determine whether or not there is sufficient cause or causes for his or her discharge or other adverse action against his or her contract status.

In the event any such notice or opportunity for hearing is not timely given, or in the event cause for discharge or other adverse action is not established by a preponderance of the evidence at the hearing, such employee shall not be discharged or otherwise adversely affected in his or her contract status for the causes stated in the original notice for the duration of his or her contract.

If such employee does not request a hearing as provided herein, such employee may be discharged or otherwise adversely affected as provided in the notice served upon the employee.

Transfer to a subordinate certificated position as that procedure is set forth in RCW 28A.405.230 or section 302 of this act shall not be construed as a discharge or other adverse action against contract status for the purposes of this section.

PART IV ENCOURAGING INNOVATIONS

Sec. 401. RCW 28A.400.200 and 2002 c 353 s 2 are each amended to read as follows:

(1) Every school district board of directors shall fix, alter, allow, and order paid salaries and compensation for all district employees in conformance with this section.

(2)(a) Salaries for certificated instructional staff shall not be less than the salary provided in the appropriations act in the statewide salary allocation schedule for an employee with a baccalaureate degree and zero years of service; and

(b) Salaries for certificated instructional staff with a master's degree shall not be less than the salary provided in the appropriations act in the statewide

salary allocation schedule for an employee with a master's degree and zero years of service;

(3)(a) The actual average salary paid to certificated instructional staff shall not exceed the district's average certificated instructional staff salary used for the state basic education allocations for that school year as determined pursuant to RCW 28A.150.410.

(b) Fringe benefit contributions for certificated instructional staff shall be included as salary under (a) of this subsection only to the extent that the district's actual average benefit contribution exceeds the amount of the insurance benefits allocation provided per certificated instructional staff unit in the state operating appropriations act in effect at the time the compensation is payable. For purposes of this section, fringe benefits shall not include payment for unused leave for illness or injury under RCW 28A.400.210; employer contributions for old age survivors insurance, workers' compensation, unemployment compensation, and retirement benefits under the Washington state retirement system; or employer contributions for health benefits in excess of the insurance benefits allocation provided per certificated instructional staff unit in the state operating appropriations act in effect at the time the compensation is payable. A school district may not use state funds to provide employer contributions for such excess health benefits.

(c) Salary and benefits for certificated instructional staff in programs other than basic education shall be consistent with the salary and benefits paid to certificated instructional staff in the basic education program.

(4) Salaries and benefits for certificated instructional staff may exceed the limitations in subsection (3) of this section only by separate contract for additional time, for additional responsibilities, ~~((or))~~ for incentives, or for implementing specific measurable innovative activities, including professional development, specified by the school district to: (a) Close one or more achievement gaps, (b) focus on development of science, technology, engineering, and mathematics (STEM) learning opportunities, or (c) provide arts education. Beginning September 1, 2011, school districts shall annually provide a brief description of the innovative activities included in any supplemental contract to the office of the superintendent of public instruction. The office of the superintendent of public instruction shall summarize the district information and submit an annual report to the education committees of the house of representatives and the senate. Supplemental contracts shall not cause the state to incur any present or future funding obligation. Supplemental contracts shall be subject to the collective bargaining provisions of chapter 41.59 RCW and the provisions of RCW 28A.405.240, shall not exceed one year, and if not renewed shall not constitute adverse change in accordance with RCW 28A.405.300 through 28A.405.380. No district may enter into a supplemental contract under this subsection for the provision of services which are a part of the basic education program required by Article IX, section 3 of the state Constitution.

(5) Employee benefit plans offered by any district shall comply with RCW 28A.400.350 and 28A.400.275 and 28A.400.280.

PART V
EXPANDING PROFESSIONAL PREPARATION OPTIONS AND
WORKFORCE INFORMATION

NEW SECTION. Sec. 501. A new section is added to chapter 28A.410 RCW to read as follows:

(1) Beginning with the 2011-12 school year, all professional educator standards board-approved teacher preparation programs must administer to all preservice candidates the evidence-based assessment of teaching effectiveness adopted by the professional educator standards board. The professional educator standards board shall adopt rules that establish a date during the 2012-13 school year after which candidates completing teacher preparation programs must successfully pass this assessment. Assessment results from persons completing each preparation program must be reported annually by the professional educator standards board to the governor and the education and fiscal committees of the legislature by December 1st.

(2) The professional educator standards board and the superintendent of public instruction, as determined by the board, may contract with one or more third parties for:

(a) The administration, scoring, and reporting of scores of the assessment under this section;

(b) Related clerical and administrative activities; or

(c) Any combination of the purposes of this subsection (2).

(3) Candidates for residency certification who are required to successfully complete the assessment under this section, and who are charged a fee for the assessment by a third party contracted with under this section, shall pay the fee charged by the contractor directly to the contractor. Such fees shall be reasonably related to the actual costs of the contractor in providing the assessment.

NEW SECTION. Sec. 502. A new section is added to chapter 28A.410 RCW to read as follows:

(1) By September 30, 2010, the professional educator standards board shall review and revise teacher and administrator preparation program approval standards and proposal review procedures at the residency certificate level to ensure they are rigorous and appropriate standards for an expanded range of potential providers, including community college and nonhigher education providers. All approved providers must adhere to the same standards and comply with the same requirements.

(2) Beginning September 30, 2010, the professional educator standards board must accept proposals for community college and nonhigher education providers of educator preparation programs. Proposals must be processed and considered by the board as expeditiously as possible.

(3) By September 1, 2011, all professional educator standards board-approved residency teacher preparation programs at institutions of higher education as defined in RCW 28B.10.016 not currently a partner in an alternative route program approved by the professional educator standards board must submit to the board a proposal to offer one or more of the alternative route programs that meet the requirements of RCW 28A.660.020 and 28A.660.040.

Sec. 503. RCW 28A.660.020 and 2006 c 263 s 816 are each amended to read as follows:

(1) ~~((Each))~~ The professional educator standards board shall transition the alternative route partnership grant program from a separate competitive grant program to a preparation program model to be expanded among approved preparation program providers. Alternative routes are partnerships between professional educator standards board-approved preparation programs, Washington school districts, and other partners as appropriate.

(2) Each prospective teacher preparation program provider, in cooperation with a Washington school district or consortia of school districts applying ~~((for the))~~ to operate alternative route certification program shall ~~((submit a))~~ include in its proposal to the Washington professional educator standards board ~~((specifying))~~:

(a) The route or routes the partnership program intends to offer and a detailed description of how the routes will be structured and operated by the partnership;

(b) The estimated number of candidates that will be enrolled per route;

(c) An identification, indication of commitment, and description of the role of approved teacher preparation programs ~~((that are))~~ and partnering ~~((with the))~~ district or consortia of districts;

(d) An assurance ~~((of))~~ that the district ~~((provision of))~~ or approved preparation program provider will provide adequate training for mentor teachers ~~((either through participation in a state mentor training academy or district-provided training that meets state-established mentor training standards))~~ specific to the mentoring of alternative route candidates;

(e) An assurance that significant time will be provided for mentor teachers to spend with the alternative route teacher candidates throughout the internship. Partnerships must provide each candidate with intensive classroom mentoring until such time as the candidate demonstrates the competency necessary to manage the classroom with less intensive supervision and guidance from a mentor;

(f) A description of the rigorous screening process for applicants to alternative route programs, including entry requirements specific to each route, as provided in RCW 28A.660.040; ~~((and))~~

(g) A summary of procedures that provide flexible completion opportunities for candidates to achieve a residency certificate; and

(h) The design and use of a teacher development plan for each candidate. The plan shall specify the alternative route coursework and training required of each candidate and shall be developed by comparing the candidate's prior experience and coursework with the state's new performance-based standards for residency certification and adjusting any requirements accordingly. The plan may include the following components:

(i) A minimum of one-half of a school year, and an additional significant amount of time if necessary, of intensive mentorship during field experience, starting with full-time mentoring and progressing to increasingly less intensive monitoring and assistance as the intern demonstrates the skills necessary to take over the classroom with less intensive support. ~~((For route one and two candidates;))~~ Before the supervision is diminished, the mentor of the teacher candidate at the school and the supervisor of the teacher candidate from the

~~((higher education))~~ teacher preparation program must both agree that the teacher candidate is ready to manage the classroom with less intensive supervision~~((For route three and four candidates, the mentor of the teacher candidate shall make the decision))~~;

(ii) Identification of performance indicators based on the knowledge and skills standards required for residency certification by the Washington professional educator standards board;

(iii) Identification of benchmarks that will indicate when the standard is met for all performance indicators;

(iv) A description of strategies for assessing candidate performance on the benchmarks;

(v) Identification of one or more tools to be used to assess a candidate's performance once the candidate has been in the classroom for about one-half of a school year; ~~((and))~~

(vi) A description of the criteria that would result in residency certification after about one-half of a school year but before the end of the program; and

(vii) A description of how the district intends for the alternative route program to support its workforce development plan and how the presence of alternative route interns will advance its school improvement plans.

~~((2))~~ (3) To the extent funds are appropriated for this purpose, ~~((districts))~~ alternative route programs may apply for program funds to pay stipends to trained mentor teachers of interns during the mentored internship. The per intern amount of mentor stipend provided by state funds shall not exceed five hundred dollars.

Sec. 504. RCW 28A.660.040 and 2009 c 192 s 1 and 2009 c 166 s 1 are each reenacted and amended to read as follows:

~~((Partnership grants funded))~~ Alternative route programs under this chapter shall operate one to four specific route programs. Successful completion of the program shall make a candidate eligible for residency teacher certification. ~~((For route one and two candidates,))~~ The mentor of the teacher candidate at the school and the supervisor of the teacher candidate from the ~~((higher education))~~ teacher preparation program must both agree that the teacher candidate has successfully completed the program. ~~((For route three and four candidates, the mentor of the teacher candidate shall make the determination that the candidate has successfully completed the program.))~~

(1) ~~((Partnership grant programs seeking funds to operate))~~ Alternative route programs operating route one programs shall enroll currently employed classified instructional employees with transferable associate degrees seeking residency teacher certification with endorsements in special education, bilingual education, or English as a second language. It is anticipated that candidates enrolled in this route will complete both their baccalaureate degree and requirements for residency certification in two years or less, including a mentored internship to be completed in the final year. In addition, partnership programs shall uphold entry requirements for candidates that include:

(a) District or building validation of qualifications, including one year of successful student interaction and leadership as a classified instructional employee;

(b) Successful passage of the statewide basic skills exam~~((, when available))~~; and

(c) Meeting the age, good moral character, and personal fitness requirements adopted by rule for teachers.

(2) ~~((Partnership grant programs seeking funds to operate))~~ Alternative route programs operating route two programs shall enroll currently employed classified staff with baccalaureate degrees seeking residency teacher certification in subject matter shortage areas and areas with shortages due to geographic location. Candidates enrolled in this route must complete a mentored internship complemented by flexibly scheduled training and coursework offered at a local site, such as a school or educational service district, or online or via video-conference over the K-20 network, in collaboration with the partnership program's higher education partner. In addition, partnership grant programs shall uphold entry requirements for candidates that include:

(a) District or building validation of qualifications, including one year of successful student interaction and leadership as classified staff;

(b) A baccalaureate degree from a regionally accredited institution of higher education. The individual's college or university grade point average may be considered as a selection factor;

(c) Successful completion of the ~~((content test, once the state content test is available))~~ subject matter assessment required by RCW 28A.410.220(3);

(d) Meeting the age, good moral character, and personal fitness requirements adopted by rule for teachers; and

(e) Successful passage of the statewide basic skills exam ~~((, when available))~~.

(3) ~~((Partnership grant))~~ Alternative route programs seeking funds to operate route three programs shall enroll individuals with baccalaureate degrees, who are not employed in the district at the time of application. When selecting candidates for certification through route three, districts and approved preparation program providers shall give priority to individuals who are seeking residency teacher certification in subject matter shortage areas or shortages due to geographic locations. ~~((For route three only, the districts may include additional candidates in nonshortage subject areas if the candidates are seeking endorsements with a secondary grade level designation as defined by rule by the professional educator standards board. The districts shall disclose to candidates in nonshortage subject areas available information on the demand in those subject areas.))~~ Cohorts of candidates for this route shall attend an intensive summer teaching academy, followed by a full year employed by a district in a mentored internship, followed, if necessary, by a second summer teaching academy. In addition, partnership programs shall uphold entry requirements for candidates that include:

(a) A baccalaureate degree from a regionally accredited institution of higher education. The individual's grade point average may be considered as a selection factor;

(b) Successful completion of the ~~((content test, once the state content test is available))~~ subject matter assessment required by RCW 28A.410.220(3);

(c) External validation of qualifications, including demonstrated successful experience with students or children, such as reference letters and letters of support from previous employers;

(d) Meeting the age, good moral character, and personal fitness requirements adopted by rule for teachers; and

(e) Successful passage of statewide basic skills exam(~~(s, when available)~~).

(4) (~~(Partnership grant programs seeking funds to operate)~~) Alternative route programs operating route four programs shall enroll individuals with baccalaureate degrees, who are employed in the district at the time of application, or who hold conditional teaching certificates or emergency substitute certificates. Cohorts of candidates for this route shall attend an intensive summer teaching academy, followed by a full year employed by a district in a mentored internship. If employed on a conditional certificate, the intern may serve as the teacher of record, supported by a well-trained mentor. In addition, partnership programs shall uphold entry requirements for candidates that include:

(a) A baccalaureate degree from a regionally accredited institution of higher education. The individual's grade point average may be considered as a selection factor;

(b) Successful completion of the (~~(content test, once the state content test is available)~~) subject matter assessment required by RCW 28A.410.220(3);

(c) External validation of qualifications, including demonstrated successful experience with students or children, such as reference letters and letters of support from previous employers;

(d) Meeting the age, good moral character, and personal fitness requirements adopted by rule for teachers; and

(e) Successful passage of statewide basic skills exam(~~(s, when available)~~).

(5) Applicants for alternative route programs who are eligible veterans or national guard members and who meet the entry requirements for the alternative route program for which application is made shall be given preference in admission.

Sec. 505. RCW 28A.660.050 and 2009 c 539 s 3 and 2009 c 192 s 2 are each reenacted and amended to read as follows:

Subject to the availability of amounts appropriated for these purposes, the conditional scholarship programs in this chapter are created under the following guidelines:

(1) The programs shall be administered by the higher education coordinating board. In administering the programs, the higher education coordinating board has the following powers and duties:

(a) To adopt necessary rules and develop guidelines to administer the programs;

(b) To collect and manage repayments from participants who do not meet their service obligations; and

(c) To accept grants and donations from public and private sources for the programs.

(2) Requirements for participation in the conditional scholarship programs are as provided in this subsection (2).

(a) The alternative route conditional scholarship program is limited to interns of (~~(the partnership grant)~~) professional educator standards board-approved alternative routes to teaching programs under RCW 28A.660.040. For fiscal year 2011, priority must be given to fiscal year 2010 participants in the

alternative route partnership program. In order to receive conditional scholarship awards, recipients shall:

(i) Be accepted and maintain enrollment in alternative certification routes through ~~((the partnership grant))~~ a professional educator standards board-approved program;

(ii) Continue to make satisfactory progress toward completion of the alternative route certification program and receipt of a residency teaching certificate; and

(iii) Receive no more than the annual amount of the scholarship, not to exceed eight thousand dollars, for the cost of tuition, fees, and educational expenses, including books, supplies, and transportation for the alternative route certification program in which the recipient is enrolled. The board may adjust the annual award by the average rate of resident undergraduate tuition and fee increases at the state universities as defined in RCW 28B.10.016.

(b) The pipeline for paraeducators conditional scholarship program is limited to qualified paraeducators as provided by RCW 28A.660.042. In order to receive conditional scholarship awards, recipients shall:

(i) Be accepted and maintain enrollment at a community and technical college for no more than two years and attain an associate of arts degree;

(ii) Continue to make satisfactory progress toward completion of an associate of arts degree. This progress requirement is a condition for eligibility into a route one program of the alternative routes to teacher certification program for a mathematics, special education, or English as a second language endorsement; and

(iii) Receive no more than the annual amount of the scholarship, not to exceed four thousand dollars, for the cost of tuition, fees, and educational expenses, including books, supplies, and transportation for the alternative route certification program in which the recipient is enrolled. The board may adjust the annual award by the average rate of tuition and fee increases at the state community and technical colleges.

(c) The retooling to teach mathematics and science conditional scholarship program is limited to current K-12 teachers ~~((and individuals having an elementary education certificate but who are not employed in positions requiring an elementary education certificate as provided by RCW 28A.660.045))~~. In order to receive conditional scholarship awards:

(i) Individuals currently employed as teachers shall pursue a middle level mathematics or science, or secondary mathematics or science endorsement; or

(ii) Individuals who are certificated with an elementary education endorsement ~~((, but not employed in positions requiring an elementary education certificate.))~~ shall pursue an endorsement in middle level mathematics or science, or both; and

(iii) Individuals shall use one of the pathways to endorsement processes to receive a mathematics or science endorsement, or both, which shall include passing a mathematics or science endorsement test, or both tests, plus observation and completing applicable coursework to attain the proper endorsement; and

(iv) Individuals shall receive no more than the annual amount of the scholarship, not to exceed three thousand dollars, for the cost of tuition, test fees,

and educational expenses, including books, supplies, and transportation for the endorsement pathway being pursued.

(3) The Washington professional educator standards board shall select individuals to receive conditional scholarships. In selecting recipients, preference shall be given to eligible veterans or national guard members.

(4) For the purpose of this chapter, a conditional scholarship is a loan that is forgiven in whole or in part in exchange for service as a certificated teacher employed in a Washington state K-12 public school. The state shall forgive one year of loan obligation for every two years a recipient teaches in a public school. Recipients who fail to continue a course of study leading to residency teacher certification or cease to teach in a public school in the state of Washington in their endorsement area are required to repay the remaining loan principal with interest.

(5) Recipients who fail to fulfill the required teaching obligation are required to repay the remaining loan principal with interest and any other applicable fees. The higher education coordinating board shall adopt rules to define the terms for repayment, including applicable interest rates, fees, and deferments.

(6) The higher education coordinating board may deposit all appropriations, collections, and any other funds received for the program in this chapter in the future teachers conditional scholarship account authorized in RCW 28B.102.080.

NEW SECTION. Sec. 506. A new section is added to chapter 28A.410 RCW to read as follows:

Beginning with the 2010 school year and annually thereafter, each educational service district, in cooperation with the professional educator standards board, must convene representatives from school districts within that region and professional educator standards board-approved educator preparation programs to review district and regional educator workforce data, make biennial projections of certificate staffing needs, and identify how recruitment and enrollment plans in educator preparation programs reflect projected need.

Sec. 507. RCW 28B.76.335 and 2007 c 396 s 17 are each amended to read as follows:

As part of the state needs assessment process conducted by the board in accordance with RCW 28B.76.230, the board shall in collaboration with the professional educator standards board, assess the need for additional ~~((baccalaureate))~~ degree and certificate programs in Washington that specialize in teacher preparation ~~((in mathematics, science, and technology))~~ to meet regional or subject area shortages. If the board determines that there is a need for additional programs, then the board shall encourage the appropriate institutions of higher education or institutional sectors to create such a program.

NEW SECTION. Sec. 508. A new section is added to chapter 28B.76 RCW to read as follows:

(1) The board must establish boundaries for service regions for institutions of higher education as defined in RCW 28B.10.016 implementing professional educator standards board-approved educator preparation programs. Regions shall be established to encourage and support, not exclude, the reach of public institutions of higher education across the state.

(2) Based on the data in the assessment in RCW 28B.76.230 and 28B.76.335, the board shall determine whether reasonable teacher preparation program access for prospective teachers is available in each region. If access is determined to be inadequate in a region, the institution of higher education responsible for the region shall submit a plan for meeting the access need to the board.

(3) Partnerships with other teacher preparation program providers and the use of appropriate technology shall be considered. The board shall review the plan and, as appropriate, assist the institution in developing support and resources for implementing the plan.

NEW SECTION. Sec. 509. In conjunction with the regional needs assessments in sections 506 through 508 of this act, the council of presidents shall convene an interinstitutional work group to implement the plans developed under section 601, chapter 564, Laws of 2009 to increase the number of mathematics and science teacher endorsements and certificates. The work group must collaborate in evaluating regional needs and identifying strategies to meet those needs. The council of presidents shall report to the education and higher education committees of the legislature on demonstrated progress toward achieving outcomes identified in the plans no later than December 31, 2011.

NEW SECTION. Sec. 510. The following acts or parts of acts are each repealed:

(1) RCW 28A.660.010 (Partnership grant program) and 2004 c 23 s 1 & 2001 c 158 s 2;

(2) RCW 28A.415.100 (Student teaching centers—Legislative recognition—Intent) and 1991 c 258 s 1;

(3) RCW 28A.415.105 (Definitions) and 2006 c 263 s 811, 1995 c 335 s 403, & 1991 c 258 s 2;

(4) RCW 28A.415.125 (Network of student teaching centers) and 2006 c 263 s 812 & 1991 c 258 s 6;

(5) RCW 28A.415.130 (Allocation of funds for student teaching centers) and 2006 c 263 s 813 & 1991 c 258 s 7;

(6) RCW 28A.415.135 (Alternative means of teacher placement) and 1991 c 258 s 8;

(7) RCW 28A.415.140 (Field experiences) and 1991 c 258 s 9;

(8) RCW 28A.415.145 (Rules) and 2006 c 263 s 814 & 1991 c 258 s 10; and

(9) RCW 28A.660.030 (Partnership grants—Selection—Administration) and 2004 c 23 s 3, 2003 c 410 s 2, & 2001 c 158 s 4.

PART VI COMMON CORE STANDARDS

NEW SECTION. Sec. 601. A new section is added to chapter 28A.655 RCW to read as follows:

(1) By August 2, 2010, the superintendent of public instruction may revise the state essential academic learning requirements authorized under RCW 28A.655.070 for mathematics, reading, writing, and communication by provisionally adopting a common set of standards for students in grades kindergarten through twelve. The revised state essential academic learning requirements may be substantially identical with the standards developed by a

multistate consortium in which Washington participated, must be consistent with the requirements of RCW 28A.655.070, and may include additional standards if the additional standards do not exceed fifteen percent of the standards for each content area. However, the superintendent of public instruction shall not take steps to implement the provisionally adopted standards until the education committees of the house of representatives and the senate have an opportunity to review the standards.

(2) By January 1, 2011, the superintendent of public instruction shall submit to the education committees of the house of representatives and the senate:

(a) A detailed comparison of the provisionally adopted standards and the state essential academic learning requirements as of the effective date of this section, including the comparative level of rigor and specificity of the standards and the implications of any identified differences; and

(b) An estimated timeline and costs to the state and to school districts to implement the provisionally adopted standards, including providing necessary training, realignment of curriculum, adjustment of state assessments, and other actions.

(3) The superintendent may implement the revisions to the essential academic learning requirements under this section after the 2011 legislative session unless otherwise directed by the legislature.

PART VII PARENTS AND COMMUNITY

NEW SECTION. Sec. 701. A new section is added to chapter 28A.605 RCW to read as follows:

School districts are encouraged to strengthen family, school, and community partnerships by creating spaces in school buildings, if space is available, where students and families can access the services they need, such as after-school tutoring, dental and health services, counseling, or clothing and food banks.

NEW SECTION. Sec. 702. A new section is added to chapter 28A.655 RCW to read as follows:

(1) Beginning with the 2010-11 school year, each school shall conduct outreach and seek feedback from a broad and diverse range of parents, other individuals, and organizations in the community regarding their experiences with the school. The school shall summarize the responses in its annual report under RCW 28A.655.110.

(2) The office of the superintendent of public instruction shall create a working group with representatives of organizations representing parents, teachers, and principals as well as diverse communities. The working group shall also include a representative from the achievement gap oversight and accountability committee. By September 1, 2010, the working group shall develop model feedback tools and strategies that school districts may use to facilitate the feedback process required in subsection (1) of this section. The model tools and strategies are intended to provide assistance to school districts. School districts are encouraged to adapt the models or develop unique tools and strategies that best fit the circumstances in their communities.

Sec. 703. RCW 28A.655.110 and 1999 c 388 s 303 are each amended to read as follows:

(1) Beginning with the 1994-95 school year, to provide the local community and electorate with access to information on the educational programs in the schools in the district, each school shall publish annually a school performance report and deliver the report to each parent with children enrolled in the school and make the report available to the community served by the school. The annual performance report shall be in a form that can be easily understood and be used by parents, guardians, and other members of the community who are not professional educators to make informed educational decisions. As data from the assessments in RCW 28A.655.060 becomes available, the annual performance report should enable parents, educators, and school board members to determine whether students in the district's schools are attaining mastery of the student learning goals under RCW 28A.150.210, and other important facts about the schools' performance in assisting students to learn. The annual report shall make comparisons to a school's performance in preceding years (~~and shall include school level goals under RCW 28A.655.050~~), student performance relative to the goals and the percentage of students performing at each level of the assessment, a comparison of student performance at each level of the assessment to the previous year's performance, and information regarding school-level plans to achieve the goals.

(2) The annual performance report shall include, but not be limited to: (a) A brief statement of the mission of the school and the school district; (b) enrollment statistics including student demographics; (c) expenditures per pupil for the school year; (d) a summary of student scores on all mandated tests; (e) a concise annual budget report; (f) student attendance, graduation, and dropout rates; (g) information regarding the use and condition of the school building or buildings; (h) a brief description of the learning improvement plans for the school; (i) a summary of the feedback from parents and community members obtained under section 702 of this act; and ~~((+))~~ (j) an invitation to all parents and citizens to participate in school activities.

(3) The superintendent of public instruction shall develop by June 30, 1994, and update periodically, a model report form, which shall also be adapted for computers, that schools may use to meet the requirements of subsections (1) and (2) of this section. In order to make school performance reports broadly accessible to the public, the superintendent of public instruction, to the extent feasible, shall make information on each school's report available on or through the superintendent's internet web site.

NEW SECTION. **Sec. 704.** A new section is added to chapter 28A.300 RCW to read as follows:

There is a sizeable body of research positively supporting the involvement of parents taking an engaged and active role in their child's education. Therefore, the legislature intends to provide state recognition by the center for the improvement of student learning within the office of the superintendent of public instruction for schools that increase the level of direct parental involvement with their child's education. By September 1, 2010, the center for the improvement of student learning shall determine measures that can be used to evaluate the level of parental involvement in a school. The center for the improvement of student learning shall collaborate with school district family and

community outreach programs and educational service districts to identify and highlight successful models and practices of parent involvement.

PART VIII COLLECTIVE BARGAINING

Sec. 801. RCW 41.56.100 and 1989 c 45 s 1 are each amended to read as follows:

(1) A public employer shall have the authority to engage in collective bargaining with the exclusive bargaining representative and no public employer shall refuse to engage in collective bargaining with the exclusive bargaining representative(~~(: PROVIDED, That nothing contained herein shall require any)~~). However, a public employer is not required to bargain collectively with any bargaining representative concerning any matter which by ordinance, resolution, or charter of said public employer has been delegated to any civil service commission or personnel board similar in scope, structure, and authority to the board created by chapter 41.06 RCW.

(2) Upon the failure of the public employer and the exclusive bargaining representative to conclude a collective bargaining agreement, any matter in dispute may be submitted by either party to the commission. This subsection does not apply to negotiations and mediations conducted between a school district employer and an exclusive bargaining representative under section 105 of this act.

(3) If a public employer implements its last and best offer where there is no contract settlement, allegations that either party is violating the terms of the implemented offer shall be subject to grievance arbitration procedures if and as such procedures are set forth in the implemented offer, or, if not in the implemented offer, if and as such procedures are set forth in the parties' last contract.

NEW SECTION. Sec. 802. A new section is added to chapter 41.56 RCW to read as follows:

All collective bargaining agreements entered into between a school district employer and school district employees under this chapter after the effective date of this section, as well as bargaining agreements existing on the effective date of this section but renewed or extended after the effective date of this section, shall be consistent with section 105 of this act.

NEW SECTION. Sec. 803. A new section is added to chapter 41.59 RCW to read as follows:

All collective bargaining agreements entered into between a school district employer and school district employees under this chapter after the effective date of this section, as well as bargaining agreements existing on the effective date of this section but renewed or extended after the effective date of this section, shall be consistent with section 105 of this act.

Sec. 804. RCW 41.59.120 and 1975 1st ex.s. c 288 s 13 are each amended to read as follows:

(1) Either an employer or an exclusive bargaining representative may declare that an impasse has been reached between them in collective bargaining and may request the commission to appoint a mediator for the purpose of

assisting them in reconciling their differences and resolving the controversy on terms which are mutually acceptable. If the commission determines that its assistance is needed, not later than five days after the receipt of a request therefor, it shall appoint a mediator in accordance with rules and regulations for such appointment prescribed by the commission. The mediator shall meet with the parties or their representatives, or both, forthwith, either jointly or separately, and shall take such other steps as he may deem appropriate in order to persuade the parties to resolve their differences and effect a mutually acceptable agreement. The mediator, without the consent of both parties, shall not make findings of fact or recommend terms of settlement. The services of the mediator, including, if any, per diem expenses, shall be provided by the commission without cost to the parties. Nothing in this subsection (1) shall be construed to prevent the parties from mutually agreeing upon their own mediation procedure, and in the event of such agreement, the commission shall not appoint its own mediator unless failure to do so would be inconsistent with the effectuation of the purposes and policy of this chapter.

(2) If the mediator is unable to effect settlement of the controversy within ten days after his or her appointment, either party, by written notification to the other, may request that their differences be submitted to fact-finding with recommendations, except that the time for mediation may be extended by mutual agreement between the parties. Within five days after receipt of the aforesaid written request for fact-finding, the parties shall select a person to serve as fact finder and obtain a commitment from that person to serve. If they are unable to agree upon a fact finder or to obtain such a commitment within that time, either party may request the commission to designate a fact finder. The commission, within five days after receipt of such request, shall designate a fact finder in accordance with rules and regulations for such designation prescribed by the commission. The fact finder so designated shall not be the same person who was appointed mediator pursuant to subsection (1) of this section without the consent of both parties.

The fact finder, within five days after his appointment, shall meet with the parties or their representatives, or both, either jointly or separately, and make inquiries and investigations, hold hearings, and take such other steps as he may deem appropriate. For the purpose of such hearings, investigations and inquiries, the fact finder shall have the power to issue subpoenas requiring the attendance and testimony of witnesses and the production of evidence. If the dispute is not settled within ten days after his appointment, the fact finder shall make findings of fact and recommend terms of settlement within thirty days after his appointment, which recommendations shall be advisory only.

(3) Such recommendations, together with the findings of fact, shall be submitted in writing to the parties and the commission privately before they are made public. Either the commission, the fact finder, the employer, or the exclusive bargaining representative may make such findings and recommendations public if the dispute is not settled within five days after their receipt from the fact finder.

(4) The costs for the services of the fact finder, including, if any, per diem expenses and actual and necessary travel and subsistence expenses, and any other incurred costs, shall be borne by the commission without cost to the parties.

(5) Nothing in this section shall be construed to prohibit an employer and an exclusive bargaining representative from agreeing to substitute, at their own expense, their own procedure for resolving impasses in collective bargaining for that provided in this section or from agreeing to utilize for the purposes of this section any other governmental or other agency or person in lieu of the commission.

(6) Any fact finder designated by an employer and an exclusive representative or the commission for the purposes of this section shall be deemed an agent of the state.

(7) This section does not apply to negotiations and mediations conducted under section 105 of this act.

PART IX CLOSING THE ACHIEVEMENT GAP

Sec. 901. RCW 28A.300.136 and 2009 c 468 s 2 are each amended to read as follows:

(1) An achievement gap oversight and accountability committee is created to synthesize the findings and recommendations from the 2008 achievement gap studies into an implementation plan, and to recommend policies and strategies to the superintendent of public instruction, the professional educator standards board, and the state board of education to close the achievement gap.

(2) The committee shall recommend specific policies and strategies in at least the following areas:

(a) Supporting and facilitating parent and community involvement and outreach;

(b) Enhancing the cultural competency of current and future educators and the cultural relevance of curriculum and instruction;

(c) Expanding pathways and strategies to prepare and recruit diverse teachers and administrators;

(d) Recommending current programs and resources that should be redirected to narrow the gap;

(e) Identifying data elements and systems needed to monitor progress in closing the gap;

(f) Making closing the achievement gap part of the school and school district improvement process; and

(g) Exploring innovative school models that have shown success in closing the achievement gap.

(3) Taking a multidisciplinary approach, the committee may seek input and advice from other state and local agencies and organizations with expertise in health, social services, gang and violence prevention, substance abuse prevention, and other issues that disproportionately affect student achievement and student success.

(4) The achievement gap oversight and accountability committee shall be composed of the following members:

(a) The chairs and ranking minority members of the house and senate education committees, or their designees;

(b) One additional member of the house of representatives appointed by the speaker of the house and one additional member of the senate appointed by the president of the senate;

(c) A representative of the office of the education ombudsman;

(d) A representative of the center for the improvement of student learning in the office of the superintendent of public instruction;

(e) A representative of federally recognized Indian tribes whose traditional lands and territories lie within the borders of Washington state, designated by the federally recognized tribes; and

(f) Four members appointed by the governor in consultation with the state ethnic commissions, who represent the following populations: African-Americans, Hispanic Americans, Asian Americans, and Pacific Islander Americans.

(5) The governor and the tribes are encouraged to designate members who have experience working in and with schools.

(6) The committee may convene ad hoc working groups to obtain additional input and participation from community members. Members of ad hoc working groups shall serve without compensation and shall not be reimbursed for travel or other expenses.

(7) The chair or cochairs of the committee shall be selected by the members of the committee. Staff support for the committee shall be provided by the center for the improvement of student learning. Members of the committee shall serve without compensation but must be reimbursed as provided in RCW 43.03.050 and 43.03.060. Legislative members of the committee shall be reimbursed for travel expenses in accordance with RCW 44.04.120.

(8) The superintendent of public instruction, the state board of education, the professional educator standards board, and the quality education council shall work collaboratively with the achievement gap oversight and accountability committee to close the achievement gap.

PART X MISCELLANEOUS PROVISIONS

NEW SECTION. Sec. 1001. RCW 28A.305.225 is recodified as a section in the chapter created in section 1002 of this act.

NEW SECTION. Sec. 1002. Sections 101 through 110 and 112 through 114 of this act constitute a new chapter in Title 28A RCW.

Passed by the Senate March 11, 2010.

Passed by the House March 11, 2010.

Approved by the Governor March 29, 2010.

Filed in Office of Secretary of State March 30, 2010.

CHAPTER 236

[Substitute House Bill 2776]

K-12 EDUCATION—FUNDING DISTRIBUTION FORMULAS

AN ACT Relating to funding distribution formulas for K-12 education; amending RCW 28A.150.260, 28A.150.390, 28A.150.315, 43.41.398, 28A.160.192, 28A.150.410, 28A.175.010, 28A.150.100, and 28A.290.010; amending 2009 c 548 s 112 (uncodified); amending 2009 c 548 s

302 (uncodified); amending 2009 c 548 s 710 (uncodified); amending 2009 c 548 s 805 (uncodified); adding a new section to chapter 28A.160 RCW; adding a new section to chapter 28A.300 RCW; adding a new section to chapter 28A.290 RCW; adding a new section to chapter 28A.400 RCW; creating a new section; recodifying RCW 43.41.398; providing effective dates; and declaring an emergency.

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

NEW SECTION. Sec. 1. (1) It is the legislature's intent to continue implementation of chapter 548, Laws of 2009, by adopting the technical details of a new distribution formula for the instructional program of basic education and authorizing a phase-in of implementation of a new distribution formula for pupil transportation, both to take effect during the 2011-2013 biennium. Unless otherwise stated, the numeric values adopted in section 2 of this act represent the translation of 2009-2010 state funding levels for the basic education act into the funding factors of the prototypical school funding formula, based on the expert advice and extensive work of the funding formula technical working group established by the legislature for this purpose. The legislature intends to continue to review and revise the formulas and may make revisions as necessary for technical purposes and consistency in the event of mathematical or other technical errors.

(2) The legislature intends that per-pupil basic education funding for a school district shall not be decreased as a result of the transition of basic education funding formulas in effect during the 2009-2011 biennium to the new funding formulas under RCW 28A.150.260 that take effect during the 2011-2013 biennium.

(3) It is also the legislature's intent to begin phasing-in enhancements to the baseline funding levels of 2009-10 in the 2011-2013 biennium for pupil transportation, class size allocations for grades kindergarten through three, full-day kindergarten, and allocations for maintenance, supplies, and operating costs.

(4) Finally, it is the legislature's intent to adjust the timelines for other working groups so that their expertise and advice can be received as soon as possible and to make technical adjustments to certain provisions of chapter 548, Laws of 2009.

Sec. 2. RCW 28A.150.260 and 2009 c 548 s 106 are each amended to read as follows:

The purpose of this section is to provide for the allocation of state funding that the legislature deems necessary to support school districts in offering the minimum instructional program of basic education under RCW 28A.150.220. The allocation shall be determined as follows:

(1) The governor shall and the superintendent of public instruction may recommend to the legislature a formula for the distribution of a basic education instructional allocation for each common school district.

(2) The distribution formula under this section shall be for allocation purposes only. Except as may be required under chapter 28A.155, 28A.165, 28A.180, or ~~((28A.155))~~ 28A.185 RCW, or federal laws and regulations, nothing in this section requires school districts to use basic education instructional funds to implement a particular instructional approach or service. Nothing in this section requires school districts to maintain a particular classroom teacher-to-student ratio or other staff-to-student ratio or to use allocated funds to pay for

particular types or classifications of staff. Nothing in this section entitles an individual teacher to a particular teacher planning period.

(3)(a) To the extent the technical details of the formula have been adopted by the legislature and except when specifically provided as a school district allocation, the distribution formula for the basic education instructional allocation shall be based on minimum staffing and nonstaff costs the legislature deems necessary to support instruction and operations in prototypical schools serving high, middle, and elementary school students as provided in this section. The use of prototypical schools for the distribution formula does not constitute legislative intent that schools should be operated or structured in a similar fashion as the prototypes. Prototypical schools illustrate the level of resources needed to operate a school of a particular size with particular types and grade levels of students using commonly understood terms and inputs, such as class size, hours of instruction, and various categories of school staff. It is the intent that the funding allocations to school districts be adjusted from the school prototypes based on the actual number of annual average full-time equivalent students in each grade level at each school in the district and not based on the grade-level configuration of the school to the extent that data is available. The allocations shall be further adjusted from the school prototypes with minimum allocations for small schools and to reflect other factors identified in the omnibus appropriations act.

(b) For the purposes of this section, prototypical schools are defined as follows:

- (i) A prototypical high school has six hundred average annual full-time equivalent students in grades nine through twelve;
- (ii) A prototypical middle school has four hundred thirty-two average annual full-time equivalent students in grades seven and eight; and
- (iii) A prototypical elementary school has four hundred average annual full-time equivalent students in grades kindergarten through six.

~~((e))~~ (4)(a) The minimum allocation for each level of prototypical school shall be based on the number of full-time equivalent classroom teachers needed to provide instruction over the minimum required annual instructional hours under RCW 28A.150.220 and provide at least one teacher planning period per school day, and based on ~~((an))~~ the following general education average class size ~~((as specified in the omnibus appropriations act.))~~ of full-time equivalent students per teacher:

	<u>General education average class size</u>
<u>Grades K-3</u>	<u>25.23</u>
<u>Grade 4</u>	<u>27.00</u>
<u>Grades 5-6</u>	<u>27.00</u>
<u>Grades 7-8</u>	<u>28.53</u>
<u>Grades 9-12</u>	<u>28.74</u>

(b) During the 2011-2013 biennium and beginning with schools with the highest percentage of students eligible for free and reduced-price meals in the prior school year, the general education average class size for grades K-3 shall be reduced until the average class size funded under this subsection (4) is no

more than 17.0 full-time equivalent students per teacher beginning in the 2017-18 school year.

(c) The minimum allocation for each prototypical middle and high school shall also provide for full-time equivalent classroom teachers based on the following number of full-time equivalent students per teacher in career and technical education:

	<u>Career and technical education</u>
	<u>average class size</u>
<u>Approved career and technical education offered at</u>	
<u>the middle school and high school level</u>	<u>26.57</u>
<u>Skill center programs meeting the standards established</u>	
<u>by the office of the superintendent of public instruction</u>	<u>22.76</u>

- (d) In addition, the omnibus appropriations act shall at a minimum specify:
- (i) ~~(Basic average class size;~~
 - (ii) ~~Basic~~) A high-poverty average class size in schools where more than fifty percent of the students are eligible for free and reduced-price meals; and
 - ~~((iii)) (i) A specialty average class size for ((exploratory and preparatory career and technical education,)) laboratory science, advanced placement, and international baccalaureate courses((; and~~
 - (iv) Average class size in grades kindergarten through three).

~~((d)) (5) The minimum allocation for each level of prototypical school shall include allocations for the following types of staff in addition to classroom teachers:~~

- ~~((i) Principals, including assistant principals, and other certificated building-level administrators;~~
- ~~(ii) Teacher librarians, performing functions including information literacy, technology, and media to support school library media programs;~~
- ~~(iii) Student health services, a function that includes school nurses, whether certificated instructional or classified employee, and social workers;~~
- ~~(iv) Guidance counselors, performing functions including parent outreach and graduation advisor;~~
- ~~(v) Professional development coaches;~~
- ~~(vi) Teaching assistance, which includes any aspect of educational instructional services provided by classified employees;~~
- ~~(vii) Office support, technology support, and other noninstructional aides;~~
- ~~(viii) Custodians, warehouse, maintenance, laborer, and professional and technical education support employees; and~~
- ~~(ix) Classified staff providing student and staff safety.~~

	<u>Elementary</u> <u>School</u>	<u>Middle</u> <u>School</u>	<u>High</u> <u>School</u>
<u>Principals, assistant principals, and other certificated building-level administrators</u>	<u>1.253</u>	<u>1.353</u>	<u>1.880</u>
<u>Teacher librarians, a function that includes information literacy, technology, and media to support school library media programs</u>	<u>0.663</u>	<u>0.519</u>	<u>0.523</u>

<u>Health and social services:</u>			
School nurses	<u>0.076</u>	<u>0.060</u>	<u>0.096</u>
Social workers	<u>0.042</u>	<u>0.006</u>	<u>0.015</u>
Psychologists	<u>0.017</u>	<u>0.002</u>	<u>0.007</u>
<u>Guidance counselors, a function that includes parent outreach and graduation advising</u>	<u>0.493</u>	<u>1.116</u>	<u>1.909</u>
<u>Teaching assistance, including any aspect of educational instructional services provided by classified employees</u>	<u>0.936</u>	<u>0.700</u>	<u>0.652</u>
<u>Office support and other noninstructional aides</u>	<u>2.012</u>	<u>2.325</u>	<u>3.269</u>
<u>Custodians</u>	<u>1.657</u>	<u>1.942</u>	<u>2.965</u>
<u>Classified staff providing student and staff safety</u>	<u>0.079</u>	<u>0.092</u>	<u>0.141</u>
<u>Parent involvement coordinators</u>	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>

(6)(a) The minimum staffing allocation for each school district to provide district-wide support services shall be allocated per one thousand annual average full-time equivalent students in grades K-12 as follows:

	<u>Staff per 1,000</u>
	<u>K-12 students</u>
<u>Technology</u>	<u>0.628</u>
<u>Facilities, maintenance, and grounds</u>	<u>1.813</u>
<u>Warehouse, laborers, and mechanics</u>	<u>0.332</u>

(b) The minimum allocation of staff units for each school district to support certificated and classified staffing of central administration shall be 5.30 percent of the staff units generated under subsections (4)(a) and (b) and (5) of this section and (a) of this subsection.

(7) The distribution formula shall include staffing allocations to school districts for career and technical education and skill center administrative and other school-level certificated staff, as specified in the omnibus appropriations act.

(8)(a) Except as provided in (b) of this subsection, the minimum allocation for each school district shall include allocations per annual average full-time equivalent student for the following materials, supplies, and operating costs, to be adjusted for inflation from the 2008-09 school year: ((Student technology; utilities; curriculum, textbooks, library materials, and instructional supplies; instructional professional development for both certificated and classified staff; other building-level costs including maintenance, custodial, and security; and central office administration.))

	<u>Per annual average full-time equivalent student in grades K-12</u>
<u>Technology</u>	\$54.43
<u>Utilities and insurance</u>	\$147.90
<u>Curriculum and textbooks</u>	\$58.44
<u>Other supplies and library materials</u>	\$124.07
<u>Instructional professional development for certified and classified staff</u>	\$9.04
<u>Facilities maintenance</u>	\$73.27
<u>Security and central office</u>	\$50.76

(b) ((The annual average full-time equivalent student amounts in (a) of this subsection shall be enhanced)) During the 2011-2013 biennium, the minimum allocation for maintenance, supplies, and operating costs shall be increased as specified in the omnibus appropriations act. The following allocations, adjusted for inflation from the 2007-08 school year, are provided in the 2015-16 school year, after which the allocations shall be adjusted annually for inflation as specified in the omnibus appropriations act:

	<u>Per annual average full-time equivalent student in grades K-12</u>
<u>Technology</u>	\$113.80
<u>Utilities and insurance</u>	\$309.21
<u>Curriculum and textbooks</u>	\$122.17
<u>Other supplies and library materials</u>	\$259.39
<u>Instructional professional development for certificated and classified staff</u>	\$18.89
<u>Facilities maintenance</u>	\$153.18
<u>Security and central office administration</u>	\$106.12

(9) In addition to the amounts provided in subsection (8) of this section, the omnibus appropriations act shall provide an amount based on full-time equivalent student enrollment in each of the following:

- (a) Exploratory career and technical education courses for students in grades seven through twelve;
- (b) Laboratory science courses for students in grades nine through twelve;
- (c) Preparatory career and technical education courses for students in grades nine through twelve offered in a high school; and
- (d) Preparatory career and technical education courses for students in grades eleven and twelve offered through a skill center.

((~~(5)~~)) (10) In addition to the allocations otherwise provided under ((subsections (3) and (4) of)) this section ((shall be enhanced as follows to provide additional allocations for classroom teachers and maintenance, supplies, and operating costs)), amounts shall be provided to support the following programs and services:

- (a) To provide supplemental instruction and services for underachieving students through the learning assistance program under RCW 28A.165.005 through 28A.165.065, allocations shall be based on the ((percent)) district

percentage of students in ~~((each school))~~ grades K-12 who ~~((are))~~ were eligible for free ~~((and))~~ or reduced-price meals in the prior school year. The minimum allocation for the ~~((learning assistance))~~ program shall provide ~~((an extended school day and extended school year))~~ for each level of prototypical school ~~((and a per student allocation for maintenance, supplies, and operating costs))~~ resources to provide, on a statewide average, 1.5156 hours per week in extra instruction with a class size of fifteen learning assistance program students per teacher.

(b) To provide supplemental instruction and services for students whose primary language is other than English, allocations shall be based on the head count number of students in each school who are eligible for and enrolled in the transitional bilingual instruction program under RCW 28A.180.010 through 28A.180.080. The minimum allocation for each level of prototypical school shall provide ~~((for supplemental instruction based on percent of the school day a student is assumed to receive supplemental instruction and a per student allocation for maintenance, supplies, and operating costs))~~ resources to provide, on a statewide average, 4.7780 hours per week in extra instruction with fifteen transitional bilingual instruction program students per teacher.

~~((6))~~ ~~The allocations provided under subsections (3) and (4) of this section shall be enhanced))~~ (c) To provide additional allocations to support programs for highly capable students under RCW 28A.185.010 through 28A.185.030, allocations shall be based on two and three hundred fourteen one-thousandths percent of each school district's full-time equivalent basic education enrollment. The minimum allocation for the programs shall provide ~~((an extended school day and extended school year for each level of prototypical school and a per student allocation for maintenance, supplies, and operating costs))~~ resources to provide, on a statewide average, 2.1590 hours per week in extra instruction with fifteen highly capable program students per teacher.

~~((7))~~ (11) The allocations under subsections ~~((3))~~ (4)(a) and (b), ~~((e)(i), and (d), (4);))~~ (5), (6), and (8) of this section shall be enhanced as provided under RCW 28A.150.390 on an excess cost basis to provide supplemental instructional resources for students with disabilities.

~~((8))~~ The distribution formula shall include allocations to school districts to support certificated and classified staffing of central office administration. The minimum allocation shall be calculated as a percentage, identified in the omnibus appropriations act, of the total allocations for staff under subsections (3) and (6) of this section for all schools in the district.

~~((9))~~ (12)(a) For the purposes of allocations for prototypical high schools and middle schools under subsections ~~((3))~~ (4) and ~~((5))~~ (10) of this section that are based on the percent of students in the school who are eligible for free and reduced-price meals, the actual percent of such students in a school shall be adjusted by a factor identified in the omnibus appropriations act to reflect underreporting of free and reduced-price meal eligibility among middle and high school students.

(b) Allocations or enhancements provided under subsections ~~((3) and))~~ (4), (7), and (9) of this section for exploratory and preparatory career and technical education courses shall be provided only for courses approved by the office of the superintendent of public instruction under chapter 28A.700 RCW.

~~((10))~~ (13)(a) This formula for distribution of basic education funds shall be reviewed biennially by the superintendent and governor. The recommended formula shall be subject to approval, amendment or rejection by the legislature.

(b) In the event the legislature rejects the distribution formula recommended by the governor, without adopting a new distribution formula, the distribution formula for the previous school year shall remain in effect.

(c) The enrollment of any district shall be the annual average number of full-time equivalent students and part-time students as provided in RCW 28A.150.350, enrolled on the first school day of each month, including students who are in attendance pursuant to RCW 28A.335.160 and 28A.225.250 who do not reside within the servicing school district. The definition of full-time equivalent student shall be determined by rules of the superintendent of public instruction and shall be included as part of the superintendent's biennial budget request. The definition shall be based on the minimum instructional hour offerings required under RCW 28A.150.220. Any revision of the present definition shall not take effect until approved by the house ways and means committee and the senate ways and means committee.

(d) The office of financial management shall make a monthly review of the superintendent's reported full-time equivalent students in the common schools in conjunction with RCW 43.62.050.

Sec. 3. RCW 28A.150.390 and 2009 c 548 s 108 are each amended to read as follows:

(1) The superintendent of public instruction shall submit to each regular session of the legislature during an odd-numbered year a programmed budget request for special education programs for students with disabilities. Funding for programs operated by local school districts shall be on an excess cost basis from appropriations provided by the legislature for special education programs for students with disabilities and shall take account of state funds accruing through RCW 28A.150.260 ~~((3) (b), (c)(i), and (d), (4), and (8) and federal medical assistance and private funds accruing under RCW 74.09.5249 through 74.09.5253 and 74.09.5254 through 74.09.5256))~~ (4)(a) and (b), (5), (6), and (8).

(2) The excess cost allocation to school districts shall be based on the following:

(a) A district's annual average headcount enrollment of students ages birth through four and those five year olds not yet enrolled in kindergarten who are eligible for and enrolled in special education, multiplied by the district's base allocation per full-time equivalent student, multiplied by 1.15; and

(b) A district's annual average full-time equivalent basic education enrollment, multiplied by the district's funded enrollment percent, multiplied by the district's base allocation per full-time equivalent student, multiplied by 0.9309.

(3) As used in this section:

(a) "Base allocation" means the total state allocation to all schools in the district generated by the distribution formula under RCW 28A.150.260 ~~((3) (b), (c)(i), and (d), (4), and (8))~~ (4)(a) and (b), (5), (6), and (8), to be divided by the district's full-time equivalent enrollment.

(b) "Basic education enrollment" means enrollment of resident students including nonresident students enrolled under RCW 28A.225.225 and students from nonhigh districts enrolled under RCW 28A.225.210 and excluding students

residing in another district enrolled as part of an interdistrict cooperative program under RCW 28A.225.250.

(c) "Enrollment percent" means the district's resident special education annual average enrollment, excluding students ages birth through four and those five year olds not yet enrolled in kindergarten, as a percent of the district's annual average full-time equivalent basic education enrollment.

(d) "Funded enrollment percent" means the lesser of the district's actual enrollment percent or twelve and seven-tenths percent.

Sec. 4. RCW 28A.150.315 and 2009 c 548 s 107 are each amended to read as follows:

(1) Beginning with the 2007-08 school year, funding for voluntary all-day kindergarten programs shall be phased-in beginning with schools with the highest poverty levels, defined as those schools with the highest percentages of students qualifying for free and reduced-price lunch support in the prior school year. During the 2011-2013 biennium, funding shall continue to be phased-in each year until full statewide implementation of all-day kindergarten is achieved in the 2017-18 school year. Once a school receives funding for the all-day kindergarten program, that school shall remain eligible for funding in subsequent school years regardless of changes in the school's percentage of students eligible for free and reduced-price lunches as long as other program requirements are fulfilled. Additionally, schools receiving all-day kindergarten program support shall agree to the following conditions:

(a) Provide at least a one thousand-hour instructional program;

(b) Provide a curriculum that offers a rich, varied set of experiences that assist students in:

(i) Developing initial skills in the academic areas of reading, mathematics, and writing;

(ii) Developing a variety of communication skills;

(iii) Providing experiences in science, social studies, arts, health and physical education, and a world language other than English;

(iv) Acquiring large and small motor skills;

(v) Acquiring social and emotional skills including successful participation in learning activities as an individual and as part of a group; and

(vi) Learning through hands-on experiences;

(c) Establish learning environments that are developmentally appropriate and promote creativity;

(d) Demonstrate strong connections and communication with early learning community providers; and

(e) Participate in kindergarten program readiness activities with early learning providers and parents.

(2) Subject to funds appropriated for this purpose, the superintendent of public instruction shall designate one or more school districts to serve as resources and examples of best practices in designing and operating a high-quality all-day kindergarten program. Designated school districts shall serve as lighthouse programs and provide technical assistance to other school districts in the initial stages of implementing an all-day kindergarten program. Examples of topics addressed by the technical assistance include strategic planning, developing the instructional program and curriculum, working with

early learning providers to identify students and communicate with parents, and developing kindergarten program readiness activities.

Sec. 5. 2009 c 548 s 112 (uncodified) is amended to read as follows:

(1) The legislature intends to continue to redefine the instructional program of education under RCW 28A.150.220 that fulfills the obligations and requirements of Article IX of the state Constitution. The funding formulas under RCW 28A.150.260 to support the instructional program shall be implemented to the extent the technical details of the formula have been established and according to an implementation schedule to be adopted by the legislature. The object of the schedule is to assure that any increases in funding allocations are timely, predictable, and occur concurrently with any increases in program or instructional requirements. It is the intent of the legislature that no increased programmatic or instructional expectations be imposed upon schools or school districts without an accompanying increase in resources as necessary to support those increased expectations.

(2) The office of financial management, with assistance and support from the office of the superintendent of public instruction, shall convene a technical working group to:

(a) Develop the details of the funding formulas under RCW 28A.150.260;

(b) Recommend to the legislature an implementation schedule for phasing-in any increased program or instructional requirements concurrently with increases in funding for adoption by the legislature; and

(c) Examine possible sources of revenue to support increases in funding allocations and present options to the legislature and the quality education council created in (~~section 114 of this act~~) RCW 28A.290.010 for consideration.

(3) The working group shall include representatives of the legislative evaluation and accountability program committee, school district and educational service district financial managers, the Washington association of school business officers, the Washington education association, the Washington association of school administrators, the association of Washington school principals, the Washington state school directors' association, the public school employees of Washington, and other interested stakeholders with expertise in education finance. The working group may convene advisory subgroups on specific topics as necessary to assure participation and input from a broad array of diverse stakeholders.

(4) The working group shall be monitored and overseen by the legislature and the quality education council established in (~~section 114 of this act~~) RCW 28A.290.010. The working group shall submit its recommendations to the legislature by December 1, 2009.

(5) After the 2009 report to the legislature, the office of financial management and the office of the superintendent of public instruction shall periodically reconvene the working group to monitor and provide advice on further development and implementation of the funding formulas under RCW 28A.150.260 and provide technical assistance to the ongoing work of the quality education council.

Sec. 6. 2009 c 548 s 302 (uncodified) is amended to read as follows:

(1) Beginning ~~((July))~~ April 1, 2010, the office of financial management, with assistance and support from the office of the superintendent of public instruction, shall convene a technical working group to develop options for a new system of supplemental school funding through local school levies and local effort assistance.

(2) The working group shall consider the impact on overall school district revenues of the new basic education funding system established under ~~((this act))~~ chapter 548, Laws of 2009 and shall recommend a phase-in plan that ensures that no school district suffers a decrease in funding from one school year to the next due to implementation of the new system of supplemental funding.

(3) The working group shall also:

(a) Examine local school district capacity to address facility needs associated with phasing-in full-day kindergarten across the state and reducing class size in kindergarten through third grade; and

(b) Provide the quality education council with analysis on the potential use of local funds that may become available for redeployment and redirection as a result of increased state funding allocations for pupil transportation and maintenance, supplies, and operating costs.

(4) The working group shall be composed of representatives from the department of revenue, the legislative evaluation and accountability program committee, school district and educational service district financial managers, and representatives of the Washington association of school business officers, the Washington education association, the Washington association of school administrators, the association of Washington school principals, the Washington state school directors' association, the public school employees of Washington, and other interested stakeholders with expertise in education finance. The working group may convene advisory subgroups on specific topics as necessary to assure participation and input from a broad array of diverse stakeholders.

~~((4))~~ (5) The local funding working group shall be monitored and overseen by the legislature and by the quality education council created in ~~((section 114 of this act))~~ RCW 28A.290.010. The working group shall report to the legislature ~~((December 1))~~ June 30, 2011.

Sec. 7. RCW 43.41.398 and 2009 c 548 s 601 are each amended to read as follows:

(1) The legislature recognizes that providing students with the opportunity to access a world-class educational system depends on our continuing ability to provide students with access to world-class educators. The legislature also understands that continuing to attract and retain the highest quality educators will require increased investments. The legislature intends to enhance the current salary allocation model and recognizes that changes to the current model cannot be imposed without great deliberation and input from teachers, administrators, and classified employees. Therefore, it is the intent of the legislature to begin the process of developing an enhanced salary allocation model that is collaboratively designed to ensure the rationality of any conclusions regarding what constitutes adequate compensation.

(2) Beginning July 1, 2011, the office of the superintendent of public instruction, in collaboration with the office of financial management, shall convene a technical working group to recommend the details of an enhanced salary allocation model that aligns state expectations for educator development

and certification with the compensation system and establishes recommendations for a concurrent implementation schedule. In addition to any other details the technical working group deems necessary, the technical working group shall make recommendations on the following:

(a) How to reduce the number of tiers within the existing salary allocation model;

(b) How to account for labor market adjustments;

(c) How to account for different geographic regions of the state where districts may encounter difficulty recruiting and retaining teachers;

(d) The role of and types of bonuses available;

(e) Ways to accomplish salary equalization over a set number of years; and

(f) Initial fiscal estimates for implementing the recommendations including a recognition that staff on the existing salary allocation model would have the option to grandfather in permanently to the existing schedule.

(3) As part of its work, the technical working group shall conduct or contract for a preliminary comparative labor market analysis of salaries and other compensation for school district employees to be conducted and shall include the results in any reports to the legislature. For the purposes of this subsection, "salaries and other compensation" includes average base salaries, average total salaries, average employee basic benefits, and retirement benefits.

(4) The analysis required under subsection (1) of this section must:

(a) Examine salaries and other compensation for teachers, other certificated instructional staff, principals, and other building-level certificated administrators, and the types of classified employees for whom salaries are allocated;

(b) Be calculated at a statewide level that identifies labor markets in Washington through the use of data from the United States bureau of the census and the bureau of labor statistics; and

(c) Include a comparison of salaries and other compensation to the appropriate labor market for at least the following subgroups of educators: Beginning teachers and types of educational staff associates.

(5) The working group shall include representatives of the department of personnel, the professional educator standards board, the office of the superintendent of public instruction, the Washington education association, the Washington association of school administrators, the association of Washington school principals, the Washington state school directors' association, the public school employees of Washington, and other interested stakeholders with appropriate expertise in compensation related matters. The working group may convene advisory subgroups on specific topics as necessary to assure participation and input from a broad array of diverse stakeholders.

(6) The working group shall be monitored and overseen by the legislature and the quality education council created in RCW 28A.290.010. The working group shall make an initial report to the legislature by ~~((December 1))~~ June 30, 2012, and shall include in its report recommendations for whether additional further work of the group is necessary.

Sec. 8. RCW 28A.160.192 and 2009 c 548 s 311 are each amended to read as follows:

(1) The superintendent of public instruction shall phase-in the implementation of the distribution formula under this chapter for allocating state

funds to school districts for the transportation of students to and from school. The phase-in shall ~~((be according to the implementation schedule adopted by the legislature and shall))~~ begin no later than the ~~((2013-14 school year))~~ 2011-2013 biennium and be fully implemented by the 2013-2015 biennium.

(a) The formula must be developed and revised on an ongoing basis using the major cost factors in student transportation, including basic and special student loads, school district land area, average distance to school, roadway miles, and number of locations served. Factors must include all those site characteristics that are statistically significant after analysis of the data required by the revised reporting process.

(b) The formula must allocate funds to school districts based on the average predicted costs of transporting students to and from school, using a regression analysis.

(2) During the phase-in period, funding provided to school districts for student transportation operations shall be distributed on the following basis:

(a) Annually, each school district shall receive the lesser of the previous school year's pupil transportation operations allocation, or the total of allowable pupil transportation expenditures identified on the previous school year's final expenditure report to the state plus district indirect expenses using the state recovery rate identified by the superintendent; and

(b) Annually, any funds appropriated by the legislature in excess of the maintenance level funding amount for student transportation shall be distributed among school districts on a prorated basis using the difference between the amount identified in (a) of this subsection and the amount determined under the formula in RCW 28A.160.180.

~~((3) The superintendent shall develop, implement, and provide a copy of the rules specifying the student transportation reporting requirements to the legislature and school districts no later than December 1, 2009.~~

~~(4) Beginning in December 2009, and continuing until December 2014, the superintendent shall provide quarterly updates and progress reports to the fiscal committees of the legislature on the implementation and testing of the distribution formula.)~~

NEW SECTION. Sec. 9. A new section is added to chapter 28A.160 RCW to read as follows:

(1) The superintendent of public instruction shall develop, implement, and provide a copy of the rules specifying the student transportation reporting requirements to the legislature and school districts no later than December 1, 2010.

(2) Beginning in December 2010, and continuing until December 2014, the superintendent shall provide quarterly updates and progress reports to the fiscal committees of the legislature on the implementation and testing of the distribution formula.

(3) This section expires June 30, 2015.

Sec. 10. RCW 28A.150.410 and 2007 c 403 s 1 are each amended to read as follows:

(1) The legislature shall establish for each school year in the appropriations act a statewide salary allocation schedule, for allocation purposes only, to be used to distribute funds for basic education certificated instructional staff

salaries under RCW 28A.150.260. For the purposes of this section, the staff allocations for classroom teachers, teacher librarians, guidance counselors, and student health services staff under RCW 28A.150.260 are considered allocations for certificated instructional staff.

(2) Salary allocations for state-funded basic education certificated instructional staff shall be calculated by the superintendent of public instruction by determining the district's average salary for certificated instructional staff, using the statewide salary allocation schedule and related documents, conditions, and limitations established by the omnibus appropriations act.

(3) Beginning January 1, 1992, no more than ninety college quarter-hour credits received by any employee after the baccalaureate degree may be used to determine compensation allocations under the state salary allocation schedule and LEAP documents referenced in the omnibus appropriations act, or any replacement schedules and documents, unless:

(a) The employee has a master's degree; or

(b) The credits were used in generating state salary allocations before January 1, 1992.

(4) Beginning in the 2007-08 school year, the calculation of years of service for occupational therapists, physical therapists, speech-language pathologists, audiologists, nurses, social workers, counselors, and psychologists regulated under Title 18 RCW may include experience in schools and other nonschool positions as occupational therapists, physical therapists, speech-language pathologists, audiologists, nurses, social workers, counselors, or psychologists. The calculation shall be that one year of service in a nonschool position counts as one year of service for purposes of this chapter, up to a limit of two years of nonschool service. Nonschool years of service included in calculations under this subsection shall not be applied to service credit totals for purposes of any retirement benefit under chapter 41.32, 41.35, or 41.40 RCW, or any other state retirement system benefits.

**Sec. 11. RCW 28A.175.010 and 2005 c 207 s 3 are each amended to read as follows:*

Each school district shall account for the educational progress of each of its students. To achieve this, school districts shall be required to report annually to the superintendent of public instruction:

(1) For students enrolled in each of a school district's high school programs:

(a) The number of students who graduate in fewer than four years;

(b) The number of students who graduate in four years;

(c) The number of students who remain in school for more than four years but who eventually graduate and the number of students who remain in school for more than four years but do not graduate;

(d) The number of students who transfer to other schools;

(e) The number of students in the ninth through twelfth grade who drop out of school over a four-year period; and

(f) The number of students whose status is unknown.

(2) Dropout rates of students in each of the grades seven through twelve.

(3) Dropout rates for student populations in each of the grades seven through twelve by:

(a) Ethnicity;

(b) Gender;

(c) Socioeconomic status; and

(d) Disability status.

(4) The causes or reasons, or both, attributed to students for having dropped out of school in grades seven through twelve.

(5) The superintendent of public instruction shall adopt rules under chapter 34.05 RCW to assure uniformity in the information districts are required to report under subsections (1) through (4) of this section. In developing rules, the superintendent of public instruction shall consult with school districts, including administrative and counseling personnel, with regard to the methods through which information is to be collected and reported.

(6) In reporting on the causes or reasons, or both, attributed to students for having dropped out of school, school building officials shall, to the extent reasonably practical, obtain such information directly from students. In lieu of obtaining such information directly from students, building principals and counselors shall identify the causes or reasons, or both, based on their professional judgment.

(7) The superintendent of public instruction shall report annually to the legislature the information collected under subsections (1) through (4) of this section.

(8) The Washington state institute for public policy shall calculate an annual estimate of the savings to taxpayers resulting from any improvement compared to the prior school year in the extended graduation rate, as calculated by the superintendent of public instruction. The superintendent shall include the estimate from the institute in an appendix of the report required under subsection (7) of this section, beginning with the 2010 report.

*Sec. 11 was vetoed. See message at end of chapter.

NEW SECTION. Sec. 12. A new section is added to chapter 28A.300 RCW to read as follows:

The office of the superintendent of public instruction shall implement and maintain an internet-based portal that provides ready public access to the state's prototypical school funding model for basic education under RCW 28A.150.260. The portal must provide citizens the opportunity to view, for each local school building, the staffing levels and other prototypical school funding elements that are assumed under the state funding formula. The portal must also provide a matrix displaying how individual school districts are deploying those same state resources through their allocation of staff and other resources to school buildings, so that citizens are able to compare the state assumptions to district allocation decisions for each local school building.

Sec. 13. RCW 28A.150.100 and 1990 c 33 s 103 are each amended to read as follows:

(1) For the purposes of this section and RCW 28A.150.410 and 28A.400.200, "basic education certificated instructional staff" (~~shall~~) means all full-time equivalent classroom teachers, teacher librarians, guidance counselors, certificated student health services staff, and other certificated instructional staff in the following programs as defined for statewide school district accounting purposes: Basic education, secondary vocational education, general instructional support, and general supportive services.

(2) ~~((In the 1988-89 school year and thereafter,))~~ Each school district shall maintain a ratio of at least forty-six basic education certificated instructional staff to one thousand annual average full time equivalent students.

Sec. 14. 2009 c 548 s 710 (uncodified) is amended to read as follows:

(1) RCW 28A.150.030 (School day) and 1971 ex.s. c 161 s 1 & 1969 ex.s. c 223 s 28A.01.010;

(2) RCW 28A.150.060 (Certificated employee) and 2005 c 497 s 212, 1990 c 33 s 102, 1977 ex.s. c 359 s 17, 1975 1st ex.s. c 288 s 21, & 1973 1st ex.s. c 105 s 1;

~~(3) ((RCW 28A.150.100 (Basic education certificated instructional staff—Definition—Ratio to students) and 1990 c 33 s 103 & 1987 1st ex.s. c 2 s 203;~~

~~(4))~~ RCW 28A.150.040 (School year—Beginning—End) and 1990 c 33 s 101, 1982 c 158 s 5, 1977 ex.s. c 286 s 1, 1975-'76 2nd ex.s. c 118 s 22, & 1969 ex.s. c 223 s 28A.01.020;

~~((5))~~ (4) RCW 28A.150.370 (Additional programs for which legislative appropriations must or may be made) and 1995 c 335 s 102, 1995 c 77 s 5, 1990 c 33 s 114, 1982 1st ex.s. c 24 s 1, & 1977 ex.s. c 359 s 7; and

~~((6))~~ (5) RCW 28A.155.180 (Safety net funds—Application—Technical assistance—Annual survey) and 2007 c 400 s 8.

Sec. 15. RCW 28A.290.010 and 2009 c 548 s 114 are each amended to read as follows:

(1) The quality education council is created to recommend and inform the ongoing implementation by the legislature of an evolving program of basic education and the financing necessary to support such program. The council shall develop strategic recommendations on the program of basic education for the common schools. The council shall take into consideration the capacity report produced under RCW 28A.300.172 and the availability of data and progress of implementing the data systems required under RCW 28A.655.210. Any recommendations for modifications to the program of basic education shall be based on evidence that the programs effectively support student learning. The council shall update the statewide strategic recommendations every four years. The recommendations of the council are intended to:

(a) Inform future educational policy and funding decisions of the legislature and governor;

(b) Identify measurable goals and priorities for the educational system in Washington state for a ten-year time period, including the goals of basic education and ongoing strategies for coordinating statewide efforts to eliminate the achievement gap and reduce student dropout rates; and

(c) Enable the state of Washington to continue to implement an evolving program of basic education.

(2) The council may request updates and progress reports from the office of the superintendent of public instruction, the state board of education, the professional educator standards board, and the department of early learning on the work of the agencies as well as educational working groups established by the legislature.

(3) The chair of the council shall be selected from the councilmembers. The council shall be composed of the following members:

(a) Four members of the house of representatives, with two members representing each of the major caucuses and appointed by the speaker of the house of representatives;

(b) Four members of the senate, with two members representing each of the major caucuses and appointed by the president of the senate; ~~((and))~~

(c) One representative each from the office of the governor, office of the superintendent of public instruction, state board of education, professional educator standards board, and department of early learning; and

(d) One nonlegislative representative from the achievement gap oversight and accountability committee established under RCW 28A.300.136, to be selected by the members of the committee.

(4) In the 2009 fiscal year, the council shall meet as often as necessary as determined by the chair. In subsequent years, the council shall meet no more than four times a year.

(5)(a) The council shall submit an initial report to the governor and the legislature by January 1, 2010, detailing its recommendations, including recommendations for resolving issues or decisions requiring legislative action during the 2010 legislative session, and recommendations for any funding necessary to continue development and implementation of chapter 548, Laws of 2009.

(b) The initial report shall, at a minimum, include:

(i) Consideration of how to establish a statewide beginning teacher mentoring and support system;

(ii) Recommendations for a program of early learning for at-risk children;

(iii) A recommended schedule for the concurrent phase-in of the changes to the instructional program of basic education and the implementation of the funding formulas and allocations to support the new instructional program of basic education as established under chapter 548, Laws of 2009. The phase-in schedule shall have full implementation completed by September 1, 2018; and

(iv) A recommended schedule for phased-in implementation of the new distribution formula for allocating state funds to school districts for the transportation of students to and from school, with phase-in beginning no later than September 1, 2013.

(6) The council shall submit a report to the governor and the legislature by December 1, 2010, that includes:

(a) Recommendations for specific strategies, programs, and funding, including funding allocations through the funding distribution formula in RCW 28A.150.260, that are designed to close the achievement gap and increase the high school graduation rate in Washington public schools. The council shall consult with the achievement gap oversight and accountability committee and the building bridges work group in developing its recommendations; and

(b) Recommendations for assuring adequate levels of state-funded classified staff to support essential school and district services.

(7) The council shall be staffed by the office of the superintendent of public instruction and the office of financial management. Additional staff support shall be provided by the state entities with representatives on the committee. Senate committee services and the house of representatives office of program research may provide additional staff support.

~~((7))~~ (8) Legislative members of the council shall serve without additional compensation but may be reimbursed for travel expenses in accordance with RCW 44.04.120 while attending sessions of the council or on official business authorized by the council. Nonlegislative members of the council may be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

Sec. 16. 2009 c 548 s 805 (uncodified) is amended to read as follows:

Sections 304 through 311 of this act take effect September 1, ~~((2013))~~ 2011.

NEW SECTION. **Sec. 17.** 2009 c 548 s 112, as amended by section 5 of this act, is codified as a section in chapter 28A.290 RCW.

NEW SECTION. **Sec. 18.** RCW 43.41.398 is recodified as a section in chapter 28A.400 RCW.

NEW SECTION. **Sec. 19.** Sections 2, 3, 4, 8, 10, 13, and 14 of this act take effect September 1, 2011.

NEW SECTION. **Sec. 20.** Section 6 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed by the House March 11, 2010.

Passed by the Senate March 11, 2010.

Approved by the Governor March 29, 2010, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State March 30, 2010.

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

"I am returning herewith, without my approval as to Section 11, Substitute House Bill 2776 entitled:

"AN ACT Relating to funding distribution formulas for K-12 education."

Section 11 amends RCW 28.175.010 to add the requirement that the Washington State Institute for Public Policy annually calculate savings to taxpayers resulting from improved graduation rates. Since this provision is also contained in Senate Bill 6403 which I am also signing today, I am vetoing Section 11 in order to avoid a double amendment regarding the same subject.

For this reason, I have vetoed Section 11 of Substitute House Bill 2776.

With the exception of Section 11, Substitute House Bill 2776 is approved."

CHAPTER 237

[Substitute House Bill 2893]

SCHOOL LEVIES

AN ACT Relating to school levies; amending RCW 84.52.0531, 84.52.0531, 84.52.053, and 28A.500.020; amending 2009 c 4 s 909 (uncodified); amending 2006 c 119 s 3 (uncodified); reenacting and amending RCW 28A.500.030; creating new sections; providing an effective date; providing an expiration date; and declaring an emergency.

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

Sec. 1. RCW 84.52.0531 and 2009 c 4 s 908 are each amended to read as follows:

LEVY BASE 2011-17. The maximum dollar amount which may be levied by or for any school district for maintenance and operation support under the provisions of RCW 84.52.053 shall be determined as follows:

(1) For excess levies for collection in calendar year 1997, the maximum dollar amount shall be calculated pursuant to the laws and rules in effect in November 1996.

(2) For excess levies for collection in calendar year 1998 and thereafter, the maximum dollar amount shall be the sum of (a) plus or minus (b) and (c) of this subsection minus (d) of this subsection:

(a) The district's levy base as defined in subsections (3) and (4) of this section multiplied by the district's maximum levy percentage as defined in subsection ~~((5))~~ (6) of this section;

(b) For districts in a high/nonhigh relationship, the high school district's maximum levy amount shall be reduced and the nonhigh school district's maximum levy amount shall be increased by an amount equal to the estimated amount of the nonhigh payment due to the high school district under RCW 28A.545.030(3) and 28A.545.050 for the school year commencing the year of the levy;

(c) For districts in an interdistrict cooperative agreement, the nonresident school district's maximum levy amount shall be reduced and the resident school district's maximum levy amount shall be increased by an amount equal to the per pupil basic education allocation included in the nonresident district's levy base under subsection (3) of this section multiplied by:

(i) The number of full-time equivalent students served from the resident district in the prior school year; multiplied by:

(ii) The serving district's maximum levy percentage determined under subsection ~~((5))~~ (6) of this section; increased by:

(iii) The percent increase per full-time equivalent student as stated in the state basic education appropriation section of the biennial budget between the prior school year and the current school year divided by fifty-five percent;

(d) The district's maximum levy amount shall be reduced by the maximum amount of state matching funds for which the district is eligible under RCW 28A.500.010.

(3) For excess levies for collection in calendar year 2005 and thereafter, a district's levy base shall be the sum of allocations in (a) through (c) of this subsection received by the district for the prior school year and the amounts determined under subsection (4) of this section, including allocations for compensation increases, plus the sum of such allocations multiplied by the percent increase per full time equivalent student as stated in the state basic education appropriation section of the biennial budget between the prior school year and the current school year and divided by fifty-five percent. A district's levy base shall not include local school district property tax levies or other local revenues, or state and federal allocations not identified in (a) through (c) of this subsection.

(a) The district's basic education allocation as determined pursuant to RCW 28A.150.250, 28A.150.260, and 28A.150.350;

(b) State and federal categorical allocations for the following programs:

(i) Pupil transportation;

(ii) Special education;

- (iii) Education of highly capable students;
- (iv) Compensatory education, including but not limited to learning assistance, migrant education, Indian education, refugee programs, and bilingual education;
- (v) Food services; and
- (vi) Statewide block grant programs; and
- (c) Any other federal allocations for elementary and secondary school programs, including direct grants, other than federal impact aid funds and allocations in lieu of taxes.

(4) For levy collections in calendar years 2005 through ~~((2011))~~ 2017, in addition to the allocations included under subsection (3)(a) through (c) of this section, a district's levy base shall also include the following:

(a)(i) For levy collections in calendar year 2010, the difference between the allocation the district would have received in the current school year had RCW 84.52.068 not been amended by chapter 19, Laws of 2003 1st sp. sess. and the allocation the district received in the current school year pursuant to RCW ((84.52.068. The office of the superintendent of public instruction shall offset the amount added to a district's levy base pursuant to this subsection (4)(a) by any additional per student allocations included in a district's levy base pursuant to the enactment of an initiative to the people subsequent to June 10, 2004)) 28A.505.220;

(ii) For levy collections in calendar years 2011 through 2017, the difference between the allocation rate the district would have received in the prior school year using the Initiative 728 rate and the allocation rate the district received in the prior school year pursuant to RCW 28A.505.220 multiplied by the full-time equivalent student enrollment used to calculate the Initiative 728 allocation for the prior school year; and

(b) The difference between the allocations the district would have received the prior school year ((had RCW 28A.400.205 not been amended by chapter 20, Laws of 2003 1st sp. sess.)) using the Initiative 732 base and the allocations the district actually received the prior school year pursuant to RCW 28A.400.205. ((The office of the superintendent of public instruction shall offset the amount added to a district's levy base pursuant to this subsection (4)(b) by any additional salary increase allocations included in a district's levy base pursuant to the enactment of an initiative to the people subsequent to June 10, 2004.))

(5) For levy collections in calendar years 2011 through 2017, in addition to the allocations included under subsections (3)(a) through (c) and (4)(a) and (b) of this section, a district's levy base shall also include the difference between an allocation of fifty-three and two-tenths certificated instructional staff units per thousand full-time equivalent students in grades kindergarten through four enrolled in the prior school year and the allocation of certificated instructional staff units per thousand full-time equivalent students in grades kindergarten through four that the district actually received in the prior school year, except that the levy base for a school district whose allocation in the 2009-10 school year was less than fifty-three and two-tenths certificated instructional staff units per thousand full-time equivalent students in grades kindergarten through four shall include the difference between the allocation the district actually received in the 2009-10 school year and the allocation the district actually received in the prior school year.

(6)(a) A district's maximum levy percentage shall be ~~((twenty-two))~~ twenty-four percent in ((+998)) 2010 and ((twenty-four)) twenty-eight percent in ((+999)) 2011 through 2017 and twenty-four percent every year thereafter; ~~((plus;))~~

(b) For qualifying districts, in addition to the percentage in (a) of this subsection the grandfathered percentage determined as follows:

~~((+))~~ (i) For 1997, the difference between the district's 1993 maximum levy percentage and twenty percent; and

~~((+))~~ (ii) For ~~((1998 and thereafter))~~ 2011 through 2017, the percentage calculated as follows:

~~((+))~~ (A) Multiply the grandfathered percentage for the prior year times the district's levy base determined under subsection (3) of this section;

~~((+))~~ (B) Reduce the result of ~~((+))~~ (b)(i)(A) of this subsection by any levy reduction funds as defined in subsection ~~((+))~~ (7) of this section that are to be allocated to the district for the current school year;

~~((+))~~ (C) Divide the result of ~~((+))~~ (b)(i)(B) of this subsection by the district's levy base; and

~~((+))~~ (D) Take the greater of zero or the percentage calculated in ~~((+))~~ (b)(i)(C) of this subsection.

~~((+))~~ (7) "Levy reduction funds" shall mean increases in state funds from the prior school year for programs included under subsections (3) and (4) of this section: (a) That are not attributable to enrollment changes, compensation increases, or inflationary adjustments; and (b) that are or were specifically identified as levy reduction funds in the appropriations act. If levy reduction funds are dependent on formula factors which would not be finalized until after the start of the current school year, the superintendent of public instruction shall estimate the total amount of levy reduction funds by using prior school year data in place of current school year data. Levy reduction funds shall not include moneys received by school districts from cities or counties.

~~((7))~~ (8) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Prior school year" means the most recent school year completed prior to the year in which the levies are to be collected.

~~((8))~~ (b) "Current school year" means the year immediately following the prior school year.

(c) "Initiative 728 rate" means the allocation rate at which the student achievement program would have been funded under chapter 3, Laws of 2001, if all annual adjustments to the initial 2001 allocation rate had been made in previous years and in each subsequent year as provided for under chapter 3, Laws of 2001.

(d) "Initiative 732 base" means the prior year's state allocation for annual salary cost-of-living increases for district employees in the state-funded salary base as it would have been calculated under chapter 4, Laws of 2001, if each annual cost-of-living increase allocation had been provided in previous years and in each subsequent year.

(9) Funds collected from transportation vehicle fund tax levies shall not be subject to the levy limitations in this section.

(10) The superintendent of public instruction shall develop rules (~~and regulations~~) and inform school districts of the pertinent data necessary to carry out the provisions of this section.

(11) For calendar year 2009, the office of the superintendent of public instruction shall recalculate school district levy authority to reflect levy rates certified by school districts for calendar year 2009.

Sec. 2. RCW 84.52.0531 and 1997 c 259 s 2 are each amended to read as follows:

LEVY BASE 2018 AND THEREAFTER. The maximum dollar amount which may be levied by or for any school district for maintenance and operation support under the provisions of RCW 84.52.053 shall be determined as follows:

(1) For excess levies for collection in calendar year 1997, the maximum dollar amount shall be calculated pursuant to the laws and rules in effect in November 1996.

(2) For excess levies for collection in calendar year 1998 and thereafter, the maximum dollar amount shall be the sum of (a) plus or minus (b) and (c) of this subsection minus (d) of this subsection:

(a) The district's levy base as defined in subsection (3) of this section multiplied by the district's maximum levy percentage as defined in subsection (4) of this section;

(b) For districts in a high/nonhigh relationship, the high school district's maximum levy amount shall be reduced and the nonhigh school district's maximum levy amount shall be increased by an amount equal to the estimated amount of the nonhigh payment due to the high school district under RCW 28A.545.030(3) and 28A.545.050 for the school year commencing the year of the levy;

(c) For districts in an interdistrict cooperative agreement, the nonresident school district's maximum levy amount shall be reduced and the resident school district's maximum levy amount shall be increased by an amount equal to the per pupil basic education allocation included in the nonresident district's levy base under subsection (3) of this section multiplied by:

(i) The number of full-time equivalent students served from the resident district in the prior school year; multiplied by:

(ii) The serving district's maximum levy percentage determined under subsection (4) of this section; increased by:

(iii) The percent increase per full-time equivalent student as stated in the state basic education appropriation section of the biennial budget between the prior school year and the current school year divided by fifty-five percent;

(d) The district's maximum levy amount shall be reduced by the maximum amount of state matching funds for which the district is eligible under RCW 28A.500.010.

(3) For excess levies for collection in calendar year 1998 and thereafter, a district's levy base shall be the sum of allocations in (a) through (c) of this subsection received by the district for the prior school year, including allocations for compensation increases, plus the sum of such allocations multiplied by the percent increase per full time equivalent student as stated in the state basic education appropriation section of the biennial budget between the prior school year and the current school year and divided by fifty-five percent. A district's levy base shall not include local school district property tax levies or other local

revenues, or state and federal allocations not identified in (a) through (c) of this subsection.

(a) The district's basic education allocation as determined pursuant to RCW 28A.150.250, 28A.150.260, and 28A.150.350;

(b) State and federal categorical allocations for the following programs:

(i) Pupil transportation;

(ii) Special education;

(iii) Education of highly capable students;

(iv) Compensatory education, including but not limited to learning assistance, migrant education, Indian education, refugee programs, and bilingual education;

(v) Food services; and

(vi) Statewide block grant programs; and

(c) Any other federal allocations for elementary and secondary school programs, including direct grants, other than federal impact aid funds and allocations in lieu of taxes.

~~(4)(a)~~ A district's maximum levy percentage shall be ~~((twenty-two))~~ twenty-four percent in ~~((1998))~~ 2010 and ~~((twenty-four))~~ twenty-eight percent in ~~((1999))~~ 2011 through 2017 and twenty-four percent every year thereafter; ~~((plus,))~~

~~(b)~~ For qualifying districts, in addition to the percentage in (a) of this subsection the grandfathered percentage determined as follows:

~~((i))~~ (i) For 1997, the difference between the district's 1993 maximum levy percentage and twenty percent; and

~~((ii))~~ (ii) For ~~((1998 and thereafter))~~ 2011 through 2017, the percentage calculated as follows:

~~((i))~~ (A) Multiply the grandfathered percentage for the prior year times the district's levy base determined under subsection (3) of this section;

~~((ii))~~ (B) Reduce the result of ~~((b)(i))~~ (b)(i)(A) of this subsection by any levy reduction funds as defined in subsection (5) of this section that are to be allocated to the district for the current school year;

~~((iii))~~ (C) Divide the result of ~~((b)(ii))~~ (b)(ii)(B) of this subsection by the district's levy base; and

~~((iv))~~ (D) Take the greater of zero or the percentage calculated in ~~((b)(iii))~~ (b)(ii)(C) of this subsection.

(iii) For 2018 and thereafter, the percentage shall be calculated as follows:

(A) Multiply the grandfathered percentage for the prior year times the district's levy base determined under subsection (3) of this section;

(B) Reduce the result of (b)(iii)(A) of this subsection by any levy reduction funds as defined in subsection (5) of this section that are to be allocated to the district for the current school year;

(C) Divide the result of (b)(iii)(B) of this subsection by the district's levy base; and

(D) Take the greater of zero or the percentage calculated in (b)(iii)(C) of this subsection.

(5) "Levy reduction funds" shall mean increases in state funds from the prior school year for programs included under subsection (3) of this section: (a) That are not attributable to enrollment changes, compensation increases, or inflationary adjustments; and (b) that are or were specifically identified as levy

reduction funds in the appropriations act. If levy reduction funds are dependent on formula factors which would not be finalized until after the start of the current school year, the superintendent of public instruction shall estimate the total amount of levy reduction funds by using prior school year data in place of current school year data. Levy reduction funds shall not include moneys received by school districts from cities or counties.

(6) For the purposes of this section, "prior school year" means the most recent school year completed prior to the year in which the levies are to be collected.

(7) For the purposes of this section, "current school year" means the year immediately following the prior school year.

(8) Funds collected from transportation vehicle fund tax levies shall not be subject to the levy limitations in this section.

(9) The superintendent of public instruction shall develop rules and regulations and inform school districts of the pertinent data necessary to carry out the provisions of this section.

NEW SECTION. Sec. 3. INTENT REGARDING ADDITIONAL LEVIES. The legislature recognizes that school districts request voter approval for two-year through four-year levies based on their projected levy capacities at the time that the levies are submitted to the voters. It is the intent of the legislature to permit school districts with voter-approved maintenance and operation levies to seek an additional approval from the voters, if subsequently enacted legislation would permit a higher levy.

Sec. 4. RCW 84.52.053 and 2009 c 460 s 2 are each amended to read as follows:

ADDITIONAL LEVIES FOR SUBSEQUENTLY ENACTED INCREASE.

(1) The limitations imposed by RCW 84.52.050 through 84.52.056, and 84.52.043 shall not prevent the levy of taxes by school districts, when authorized so to do by the voters of such school district in the manner and for the purposes and number of years allowable under Article VII, section 2(a) of the Constitution of this state. Elections for such taxes shall be held in the year in which the levy is made or, in the case of propositions authorizing two-year through four-year levies for maintenance and operation support of a school district, authorizing two-year levies for transportation vehicle funds established in RCW 28A.160.130, or authorizing two-year through six-year levies to support the construction, modernization, or remodeling of school facilities, which includes the purposes of RCW 28A.320.330(2) (f) and (g), in the year in which the first annual levy is made.

(2) Once additional tax levies have been authorized for maintenance and operation support of a school district for a two-year through four-year period as provided under subsection (1) of this section, no further additional tax levies for maintenance and operation support of the district for that period may be authorized, except for additional levies to provide for subsequently enacted increases affecting the district's levy base or maximum levy percentage. For the purpose of applying the limitation of this subsection, a two-year through six-year levy to support the construction, modernization, or remodeling of school facilities shall not be deemed to be a tax levy for maintenance and operation support of a school district.

(3) A special election may be called and the time therefor fixed by the board of school directors, by giving notice thereof by publication in the manner provided by law for giving notices of general elections, at which special election the proposition authorizing such excess levy shall be submitted in such form as to enable the voters favoring the proposition to vote "yes" and those opposed thereto to vote "no".

Sec. 5. RCW 28A.500.020 and 2004 c 21 s 1 are each amended to read as follows:

LEVY EQUALIZATION—DEFINITIONS. (1) Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(a) "Prior tax collection year" means the year immediately preceding the year in which the local effort assistance shall be allocated.

(b) "Statewide average (~~twelve~~) fourteen percent levy rate" means (~~twelve~~) fourteen percent of the total levy bases as defined in RCW 84.52.0531 (3) and (4) summed for all school districts, and divided by the total assessed valuation for excess levy purposes in the prior tax collection year for all districts as adjusted to one hundred percent by the county indicated ratio established in RCW 84.48.075.

(c) The "district's (~~twelve~~) fourteen percent levy amount" means the school district's maximum levy authority after transfers determined under RCW 84.52.0531(2) (a) through (c) divided by the district's maximum levy percentage determined under RCW 84.52.0531(5) multiplied by (~~twelve~~) fourteen percent.

(d) The "district's (~~twelve~~) fourteen percent levy rate" means the district's (~~twelve~~) fourteen percent levy amount divided by the district's assessed valuation for excess levy purposes for the prior tax collection year as adjusted to one hundred percent by the county indicated ratio.

(e) "Districts eligible for local effort assistance" means those districts with a (~~twelve~~) fourteen percent levy rate that exceeds the statewide average (~~twelve~~) fourteen percent levy rate.

(2) Unless otherwise stated all rates, percents, and amounts are for the calendar year for which local effort assistance is being calculated under this chapter.

Sec. 6. RCW 28A.500.030 and 2006 c 372 s 904 and 2006 c 119 s 1 are each reenacted and amended to read as follows:

LEVY EQUALIZATION—ALLOCATION. Allocation of state matching funds to eligible districts for local effort assistance shall be determined as follows:

(1) Funds raised by the district through maintenance and operation levies shall be matched with state funds using the following ratio of state funds to levy funds:

(a) The difference between the district's (~~twelve~~) fourteen percent levy rate and the statewide average (~~twelve~~) fourteen percent levy rate; to

(b) The statewide average (~~twelve~~) fourteen percent levy rate.

(2) The maximum amount of state matching funds for districts eligible for local effort assistance shall be the district's (~~twelve~~) fourteen percent levy amount, multiplied by the following percentage:

(a) The difference between the district's (~~twelve~~) fourteen percent levy rate and the statewide average (~~twelve~~) fourteen percent levy rate; divided by

(b) The district's ~~((twelve))~~ fourteen percent levy rate.

(3) ~~((Calendar year 2003 allocations and maximum eligibility under this chapter shall be multiplied by 0.99.~~

~~(4) From January 1, 2004, to December 31, 2005, allocations and maximum eligibility under this chapter shall be multiplied by 0.937.~~

~~(5) From January 1, 2006, to December 31, 2006, allocations and maximum eligibility under this chapter shall be multiplied by 0.9563.)~~ Beginning with calendar year 2007, allocations and maximum eligibility under this chapter shall be fully funded at one hundred percent and shall not be reduced.

Sec. 7. 2009 c 4 s 909 (uncodified) is amended to read as follows:
Section 908 of this act expires January 1, ~~((2012))~~ 2018.

Sec. 8. 2006 c 119 s 3 (uncodified) is amended to read as follows:
This act expires January 1, ~~((2012))~~ 2018.

NEW SECTION. **Sec. 9.** Sections 1, 5, and 6 of this act expire January 1, 2018.

NEW SECTION. **Sec. 10.** Section 2 of this act takes effect January 1, 2018.

NEW SECTION. **Sec. 11.** Sections 1 and 3 through 9 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect immediately.

****NEW SECTION. Sec. 12. The legislature finds that the sections contained in this act constitute a single integrated plan for revising the laws relating to school district maintenance and operations levies. If each provision of this act as passed by the senate and house of representatives is not enacted into law, the entire act is null and void. If by June 30, 2010, the superintendent of public instruction does not certify to the legislature that full funding has been appropriated in the 2010 omnibus operating appropriations act for the local effort assistance rates specified in sections 5 and 6 of this act, the entire act is null and void. If any provision of this act or its application to any person or circumstance is held invalid, the act shall be considered invalid in its entirety, and the act and the application of any provision of the act to any person or circumstance shall be considered null and void and of no effect.***

*Sec. 12 was vetoed. See message at end of chapter.

Passed by the House February 13, 2010.

Passed by the Senate March 11, 2010.

Approved by the Governor March 29, 2010, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State March 30, 2010.

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

"I am returning herewith, without my approval as to Section 12, Substitute House Bill 2893 entitled:

"AN ACT Relating to school levies."

Section 12 provides in part: "If each provision of this act as passed by the senate and house of representatives is not enacted into law, the entire act is null and void." The only action that could prevent any provision of the bill from being enacted into law is the veto power of the Governor. The Washington Constitution provides the Governor with the power to object to one or more sections of a

bill while approving other sections of the bill. Section 12 purports to provide that the veto of *any* section of this bill is a veto of the *entire* bill. This attempt to constrain the Governor's veto power is inconsistent with our state constitution.

As noted by the Washington Supreme Court in *Washington State Legislature v. Lowry*, 131 Wn.2d 309, 320 (1997), "[o]ur constitution condones neither artful legislative drafting nor crafty gubernatorial vetoes." Neither the Legislature in its bill drafting nor the Governor in exercising the veto should deprive the other of the fair opportunity to exercise its constitutional prerogatives. A veto of Section 12 will cause "the act ... to be considered now just as it would have been if the vetoed provisions had never been written into the bill at any stage of the proceedings." *State ex rel. Stiner v. Yelle*, 174 Wash. 402, 408 (1933).

For these reasons, I have vetoed Section 12 of Substitute House Bill 2893.

With the exception of Section 12, Substitute House Bill 2893 is approved."

CHAPTER 238

[House Bill 2621]

SCIENCE, TECHNOLOGY, ENGINEERING, AND MATHEMATICS EDUCATION— RESOURCE PROGRAMS

AN ACT Relating to designating resource programs for science, technology, engineering, and mathematics instruction in K-12 schools; adding a new section to chapter 28A.630 RCW; and creating a new section.

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

NEW SECTION. Sec. 1. (1) The legislature has made a commitment to support multiple strategies to improve teaching and learning of science, technology, engineering, and mathematics in Washington's public schools. In recent years, Washington has adopted new technology, mathematics, and science learning standards; initiated funding for middle schools to provide a career and technical program in science, technology, engineering, and mathematics at the same rate as a high school operating a similar program; provided professional development for mathematics and science teachers; created a scholarship program to encourage students to enter mathematics and science degree programs; supported career and technical education in high-demand fields; and authorized alternative ways for teachers to earn certification in the mathematics and science fields.

(2) At the local level, school districts and their communities are also finding new ways to improve teaching and learning of science, technology, engineering, and mathematics. Some districts have combined several best practices into promising learning models for students. For example, Aviation high school in the Highline school district offers a small, highly personalized learning community that is focused on interdisciplinary immersion in science, technology, engineering, and mathematics using a hands-on, project-based curriculum. Delta high school in the Tri-Cities is a collaboration among three school districts, a skill center, two institutions of higher education, a community foundation, and local business leaders. The science and math institute at Point Defiance in Tacoma offers students field-based applied learning using the natural, historical, and community resources of a large metropolitan park. These schools draw students from across regions who are seeking an exciting, rigorous, and nontraditional learning experience. Other schools and communities across the state are seeking to replicate these innovative learning models.

(3) The legislature intends to support continued expansion of the type of innovation and creativity displayed by Aviation, Delta, and the science and math institute by designating so-called "lighthouse" high schools to serve as resources and examples of best practices in science, technology, engineering, and mathematics instruction.

NEW SECTION. Sec. 2. A new section is added to chapter 28A.630 RCW to read as follows:

(1) Subject to funds appropriated for this purpose, the superintendent of public instruction shall designate up to three middle schools and up to three high schools to serve as resources and examples of how to combine the following best practices:

(a) A small, highly personalized learning community;

(b) An interdisciplinary curriculum with a strong focus on science, technology, engineering, and mathematics delivered through a project-based instructional approach; and

(c) Active partnerships with businesses and the local community to connect learning beyond the classroom.

(2) The designated middle and high schools shall serve as lighthouse programs and provide technical assistance and advice to other middle and high schools and communities in the initial stages of creating an alternative learning environment focused on science, technology, engineering, and mathematics. The designated middle and high schools must have proven experience and be recognized as model programs.

(3) In addition, the office of the superintendent of public instruction shall work with the designated middle and high schools to publicize the models of best practices in science, technology, engineering, and mathematics instruction used by the designated middle and high schools and shall encourage other middle and high schools and communities to work with the designated middle and high schools to replicate similar models.

Passed by the House March 6, 2010.

Passed by the Senate March 4, 2010.

Approved by the Governor March 29, 2010.

Filed in Office of Secretary of State March 30, 2010.

CHAPTER 239

[Substitute House Bill 2801]

K-12 EDUCATION—HARASSMENT, INTIMIDATION, AND BULLYING

AN ACT Relating to antiharassment strategies in public schools; amending RCW 28A.300.285; adding a new section to chapter 43.06B RCW; and creating a new section.

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

NEW SECTION. Sec. 1. The legislature finds that despite a recognized law prohibiting harassment, intimidation, and bullying of students in public schools and despite widespread adoption of antiharassment policies by school districts, harassment of students continues and has not declined since the law was enacted. Furthermore, students and parents continue to seek assistance against harassment, and schools need to disseminate more widely their antiharassment policies and procedures. The legislature intends to expand the

tools, information, and strategies that can be used to combat harassment, intimidation, and bullying of students, and increase awareness of the need for respectful learning communities in all public schools.

Sec. 2. RCW 28A.300.285 and 2007 c 407 s 1 are each amended to read as follows:

(1) By August 1, ~~((2003))~~ 2011, each school district shall adopt or amend if necessary a policy ~~((, within the scope of its authority,))~~ and procedure that at a minimum incorporates the revised model policy and procedure provided under subsection (4) of this section that prohibits the harassment, intimidation, or bullying of any student. It is the responsibility of each school district to share this policy with parents or guardians, students, volunteers, and school employees in accordance with rules adopted by the superintendent of public instruction. Each school district shall designate one person in the district as the primary contact regarding the antiharassment, intimidation, or bullying policy. The primary contact shall receive copies of all formal and informal complaints, have responsibility for assuring the implementation of the policy and procedure, and serve as the primary contact on the policy and procedures between the school district, the office of the education ombudsman, and the office of the superintendent of public instruction.

(2) "Harassment, intimidation, or bullying" means any intentional electronic, written, verbal, or physical act, including but not limited to one shown to be motivated by any characteristic in RCW 9A.36.080(3), or other distinguishing characteristics, when the intentional electronic, written, verbal, or physical act:

- (a) Physically harms a student or damages the student's property; or
- (b) Has the effect of substantially interfering with a student's education; or
- (c) Is so severe, persistent, or pervasive that it creates an intimidating or threatening educational environment; or
- (d) Has the effect of substantially disrupting the orderly operation of the school.

Nothing in this section requires the affected student to actually possess a characteristic that is a basis for the harassment, intimidation, or bullying.

(3) The policy and procedure should be adopted or amended through a process that includes representation of parents or guardians, school employees, volunteers, students, administrators, and community representatives. It is recommended that each such policy emphasize positive character traits and values, including the importance of civil and respectful speech and conduct, and the responsibility of students to comply with the district's policy prohibiting harassment, intimidation, or bullying.

(4)~~(a)~~ By August 1, ~~((2002))~~ 2010, the superintendent of public instruction, in consultation with representatives of parents, school personnel, the office of the education ombudsman, the Washington state school directors' association, and other interested parties, shall provide to ((school districts and educational service districts a)) the education committees of the legislature a revised and updated model harassment, intimidation, and bullying prevention policy and procedure. The superintendent of public instruction shall publish on its web site, with a link to the safety center web page, the revised and updated model harassment, intimidation, and bullying prevention policy and procedure, along with training and instructional materials on the components that ((should)) shall

be included in any district policy and procedure. The superintendent shall adopt rules regarding school districts' communication of the policy and procedure to parents, students, employees, and volunteers. ~~((Training materials shall be disseminated in a variety of ways, including workshops and other staff developmental activities, and through the office of the superintendent of public instruction's web site, with a link to the safety center web page. On the web site:~~

~~(a) The office of the superintendent of public instruction shall post its model policy, recommended training materials, and instructional materials;))~~

~~(b) The office of the superintendent of public instruction has the authority to update with new technologies access to this information in the safety center, to the extent resources are made available((; and)).~~

~~(c) ((Individual school districts shall have direct access to the safety center web site to post a brief summary of their policies, programs, partnerships, vendors, and instructional and training materials, and to provide a link to the school district's web site for further information.))~~ Each school district shall by August 15, 2011, provide to the superintendent of public instruction a brief summary of its policies, procedures, programs, partnerships, vendors, and instructional and training materials to be posted on the school safety center web site, and shall also provide the superintendent with a link to the school district's web site for further information. The district's primary contact for bullying and harassment issues shall annually by August 15th verify posted information and links and notify the school safety center of any updates or changes.

(5) The Washington state school directors association, with the assistance of the office of the superintendent of public instruction, shall convene an advisory committee to develop a model policy prohibiting acts of harassment, intimidation, or bullying that are conducted via electronic means by a student while on school grounds and during the school day. The policy shall include a requirement that materials meant to educate parents and students about the seriousness of cyberbullying be disseminated to parents or made available on the school district's web site. The school directors association and the advisory committee shall develop sample materials for school districts to disseminate, which shall also include information on responsible and safe internet use as well as what options are available if a student is being bullied via electronic means, including but not limited to, reporting threats to local police and when to involve school officials, the internet service provider, or phone service provider. The school directors association shall submit the model policy and sample materials, along with a recommendation for local adoption, to the governor and the legislature and shall post the model policy and sample materials on its web site by January 1, 2008. Each school district board of directors shall establish its own policy by August 1, 2008.

(6) As used in this section, "electronic" or "electronic means" means any communication where there is the transmission of information by wire, radio, optical cable, electromagnetic, or other similar means.

NEW SECTION. Sec. 3. A new section is added to chapter 43.06B RCW to read as follows:

In addition to duties assigned under RCW 43.06B.020, the office of the education ombudsman shall serve as the lead agency to provide resources and tools to parents and families about public school antiharassment policies and strategies.

Passed by the House March 6, 2010.
Passed by the Senate March 4, 2010.
Approved by the Governor March 29, 2010.
Filed in Office of Secretary of State March 30, 2010.

CHAPTER 240

[Engrossed Second Substitute House Bill 3026]

K-12 EDUCATION—PROHIBITION OF DISCRIMINATION

AN ACT Relating to school districts' compliance with state and federal civil rights laws; adding a new chapter to Title 28A RCW; and creating a new section.

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

NEW SECTION. Sec. 1. The legislature finds that in 1975 legislation was adopted, codified as chapter 28A.640 RCW, recognizing the deleterious effect of discrimination on the basis of sex, specifically prohibiting such discrimination in Washington public schools, and requiring the office of the superintendent of public instruction to monitor and enforce compliance. The legislature further finds that, while numerous state and federal laws prohibit discrimination on other bases in addition to sex, the common school provisions in Title 28A RCW do not include specific acknowledgment of the right to be free from discrimination because of race, creed, color, national origin, honorably discharged veteran or military status, sexual orientation, the presence of any sensory, mental, or physical disability, or the use of a trained dog guide or service animal by a person with a disability, nor do any common school provisions specifically direct the office of the superintendent of public instruction to monitor and enforce compliance with these laws. The legislature finds that one of the recommendations made to the legislature by the achievement gap oversight and accountability committee created in chapter 468, Laws of 2009, was that the office of the superintendent of public instruction should be specifically authorized to take affirmative steps to ensure that school districts comply with all civil rights laws, similar to what has already been authorized in chapter 28A.640 RCW with respect to discrimination on the basis of sex.

NEW SECTION. Sec. 2. Discrimination in Washington public schools on the basis of race, creed, religion, color, national origin, honorably discharged veteran or military status, sexual orientation including gender expression or identity, the presence of any sensory, mental, or physical disability, or the use of a trained dog guide or service animal by a person with a disability is prohibited. The definitions given these terms in chapter 49.60 RCW apply throughout this chapter unless the context clearly requires otherwise.

NEW SECTION. Sec. 3. The superintendent of public instruction shall develop rules and guidelines to eliminate discrimination prohibited in section 2 of this act as it applies to public school employment, counseling and guidance services to students, recreational and athletic activities for students, access to course offerings, and in textbooks and instructional materials used by students.

NEW SECTION. Sec. 4. The office of the superintendent of public instruction shall monitor local school districts' compliance with this chapter, and

shall establish a compliance timetable, rules, and guidelines for enforcement of this chapter.

NEW SECTION. Sec. 5. Any person aggrieved by a violation of this chapter, or aggrieved by the violation of any rule or guideline adopted under this chapter, has a right of action in superior court for civil damages and such equitable relief as the court determines.

NEW SECTION. Sec. 6. The superintendent of public instruction has the power to enforce and obtain compliance with the provisions of this chapter and the rules and guidelines adopted under this chapter, by appropriate order made pursuant to chapter 34.05 RCW. The order may include, but is not limited to, termination of all or part of state apportionment or categorical moneys to the offending school district, termination of specified programs in which violations may be flagrant within the offending school district, institution of corrective action, and the placement of the offending school district on probation with appropriate sanctions until compliance is achieved.

NEW SECTION. Sec. 7. This chapter is supplementary to, and does not supersede, existing law and procedures and future amendments to those laws and procedures relating to unlawful discrimination.

NEW SECTION. Sec. 8. Sections 1 through 7 of this act constitute a new chapter in Title 28A RCW.

NEW SECTION. Sec. 9. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2010, in the omnibus appropriations act, this act is null and void.

Passed by the House March 8, 2010.

Passed by the Senate March 5, 2010.

Approved by the Governor March 29, 2010.

Filed in Office of Secretary of State March 30, 2010.

CHAPTER 241

[Substitute House Bill 3036]

NONVOTER-APPROVED SCHOOL DISTRICT DEBT

AN ACT Relating to nonvoter-approved school district debt; amending RCW 28A.530.080; and creating a new section.

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

Sec. 1. RCW 28A.530.080 and 1999 c 314 s 2 are each amended to read as follows:

(1) In addition to the authority granted under RCW 28A.530.010, a school district may contract indebtedness for any purpose specified in RCW 28A.530.010 (2), (4), and (5) or for the purpose of purchasing any real or personal property, or property rights, in connection with the exercise of any powers or duties which it is now or hereafter authorized to exercise, and issue bonds, notes, or other evidences of indebtedness therefor without a vote of the qualified electors of the district, subject to the limitations on indebtedness set forth in RCW 39.36.020(3).

(2) Before issuing nonvoted bonds in excess of two hundred fifty thousand dollars, a school district shall publish notice of intent to issue such bonds and

shall hold a public hearing on the proposal at any regular or special meeting of the school board. The notice shall designate: The date, time, and place of the hearing; the purpose and amount of the bonds; the type, terms, and conditions of bonds; and the means identified for repayment. The notice shall also state that any person may appear and be heard on the issue of issuing such bonds. The notice shall be published at least once each week for two consecutive weeks in a newspaper of general circulation in the district, or if there is none, in a newspaper of general circulation in the county or counties in which such district is a part. The last notice shall be published no later than seven days immediately before the hearing. At the conclusion of public comment, the board of directors may proceed to determine, by resolution, whether to issue such bonds.

(3) The public notice and hearing requirements in subsection (2) of this section shall not apply to any refinancing or refunding of outstanding nonvoted or voted bonds.

(4) Such bonds, notes, or other evidences of indebtedness shall be issued and sold in accordance with chapter 39.46 RCW, and the proceeds thereof shall be deposited in the capital projects fund, the transportation vehicle fund, or the general fund, as applicable.

NEW SECTION. Sec. 2. This act applies prospectively only.

Passed by the House February 10, 2010.

Passed by the Senate March 5, 2010.

Approved by the Governor March 29, 2010.

Filed in Office of Secretary of State March 30, 2010.

CHAPTER 242

[Substitute Senate Bill 6363]

TRAFFIC INFRACTIONS—SCHOOL, PLAYGROUND, AND CROSSWALK SPEED ZONES

AN ACT Relating to the enforcement of certain school or playground crosswalk violations; amending RCW 46.61.235, 46.61.245, 46.61.261, and 46.61.440; adding a new section to chapter 46.61 RCW; prescribing penalties; and providing an effective date.

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

Sec. 1. RCW 46.61.235 and 2000 c 85 s 1 are each amended to read as follows:

(1) The operator of an approaching vehicle shall stop and remain stopped to allow a pedestrian or bicycle to cross the roadway within an unmarked or marked crosswalk when the pedestrian or bicycle is upon or within one lane of the half of the roadway upon which the vehicle is traveling or onto which it is turning. For purposes of this section "half of the roadway" means all traffic lanes carrying traffic in one direction of travel, and includes the entire width of a one-way roadway.

(2) No pedestrian or bicycle shall suddenly leave a curb or other place of safety and walk, run, or otherwise move into the path of a vehicle which is so close that it is impossible for the driver to stop.

(3) Subsection (1) of this section does not apply under the conditions stated in RCW 46.61.240(2).

(4) Whenever any vehicle is stopped at a marked crosswalk or at any unmarked crosswalk at an intersection to permit a pedestrian or bicycle to cross

the roadway, the driver of any other vehicle approaching from the rear shall not overtake and pass such stopped vehicle.

(5)(a) If a person is found to have committed an infraction under this section within a school, playground, or crosswalk speed zone created under RCW 46.61.440, the person must be assessed a monetary penalty equal to twice the penalty assessed under RCW 46.63.110. The penalty may not be waived, reduced, or suspended.

(b) Fifty percent of the moneys collected under this subsection must be deposited into the school zone safety account.

Sec. 2. RCW 46.61.245 and 1965 ex.s. c 155 s 36 are each amended to read as follows:

(1) Notwithstanding the foregoing provisions of this chapter every driver of a vehicle shall exercise due care to avoid colliding with any pedestrian upon any roadway and shall give warning by sounding the horn when necessary and shall exercise proper precaution upon observing any child or any obviously confused or incapacitated person upon a roadway.

(2)(a) If a person is found to have committed an infraction under this section within a school, playground, or crosswalk speed zone created under RCW 46.61.440, the person must be assessed a monetary penalty equal to twice the penalty assessed under RCW 46.63.110. The penalty may not be waived, reduced, or suspended.

(b) Fifty percent of the moneys collected under this subsection must be deposited into the school zone safety account.

Sec. 3. RCW 46.61.261 and 2000 c 85 s 2 are each amended to read as follows:

(1) The driver of a vehicle shall yield the right-of-way to any pedestrian or bicycle on a sidewalk. The rider of a bicycle shall yield the right-of-way to a pedestrian on a sidewalk or crosswalk.

(2)(a) If a person is found to have committed an infraction under this section within a school, playground, or crosswalk speed zone created under RCW 46.61.440, the person must be assessed a monetary penalty equal to twice the penalty assessed under RCW 46.63.110. The penalty may not be waived, reduced, or suspended.

(b) Fifty percent of the moneys collected under this subsection must be deposited into the school zone safety account.

Sec. 4. RCW 46.61.440 and 2003 c 192 s 1 are each amended to read as follows:

(1) Subject to RCW 46.61.400(1), and except in those instances where a lower maximum lawful speed is provided by this chapter or otherwise, it shall be unlawful for the operator of any vehicle to operate the same at a speed in excess of twenty miles per hour when operating any vehicle upon a highway either inside or outside an incorporated city or town when passing any marked school or playground crosswalk when such marked crosswalk is fully posted with standard school speed limit signs or standard playground speed limit signs. The speed zone at the crosswalk shall extend three hundred feet in either direction from the marked crosswalk.

(2) A county or incorporated city or town may create a school or playground speed zone on a highway bordering a marked school or playground, in which

zone it is unlawful for a person to operate a vehicle at a speed in excess of twenty miles per hour. The school or playground speed zone may extend three hundred feet from the border of the school or playground property; however, the speed zone may only include area consistent with active school or playground use.

(3) A person found to have committed any infraction relating to speed restrictions within a school or playground speed zone shall be assessed a monetary penalty equal to twice the penalty assessed under RCW 46.63.110. This penalty may not be waived, reduced, or suspended.

(4) School districts may erect signs that comply with the uniform state standards adopted and designated by the department of transportation under RCW 47.36.030, informing motorists of the increased monetary penalties assessed for violations of RCW 46.61.235, 46.61.245, or 46.61.261 within a school, playground, or crosswalk speed zone created under subsection (1) or (2) of this section.

(5) The school zone safety account is created in the custody of the state treasurer. Fifty percent of the moneys collected under subsection (3) of this section and the moneys collected under RCW 46.61.235(5), 46.61.245(2), or 46.61.261(2) shall be deposited into the account. Expenditures from the account may be used only by the Washington traffic safety commission solely to fund projects in local communities to improve school zone safety, pupil transportation safety, and student safety in school bus loading and unloading areas. Only the director of the traffic safety commission or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but no appropriation is required for expenditures until July 1, 1999, after which date moneys in the account may be spent only after appropriation.

NEW SECTION. Sec. 5. A new section is added to chapter 46.61 RCW to read as follows:

(1) A crossing guard who is eighteen years of age or older and observes a violation of RCW 46.61.235(5), 46.61.245(2), or 46.61.261(2) may prepare a written report on a form provided by the state patrol or another law enforcement agency indicating that a violation has occurred. A crossing guard or school official may deliver the report to a law enforcement officer of the state, county, or municipality in which the violation occurred, but not more than seventy-two hours after the violation occurred. The crossing guard must include in the report the time and location at which the violation occurred, the vehicle license plate number, and a description of the vehicle involved in the violation.

(2) The law enforcement officer may initiate an investigation of the reported violation after receiving the report described in subsection (1) of this section by contacting the owner of the motor vehicle involved in the reported violation and requesting the owner to supply information identifying the driver. If, after an investigation, the law enforcement officer is able to identify the driver and has reasonable cause to believe a violation of RCW 46.61.235(5), 46.61.245(2), or 46.61.261(2) has occurred, the law enforcement officer shall prepare a notice of traffic infraction and have it served upon the driver of the vehicle.

NEW SECTION. Sec. 6. This act takes effect July 1, 2010.

Passed by the Senate February 12, 2010.
Passed by the House March 4, 2010.
Approved by the Governor March 29, 2010.
Filed in Office of Secretary of State March 30, 2010.

CHAPTER 243

[Engrossed Substitute Senate Bill 6403]

K-12 DROPOUT PREVENTION AND INTERVENTION

AN ACT Relating to accountability and support for vulnerable students and dropouts, including prevention, intervention, and reengagement; amending RCW 28A.175.075 and 28A.175.010; adding a new section to chapter 28A.175 RCW; and creating new sections.

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

****NEW SECTION. Sec. 1. (1) The legislature finds that by preventing one high school student from dropping out the annual savings is approximately ten thousand five hundred dollars, including lost state and local taxes and savings to the temporary assistance to needy families program, food stamps, housing assistance, the criminal justice system, and the health care system.***

(2) The legislature further finds that school districts need both accountability and technical assistance to improve high school graduation rates.

(3) The legislature further finds that many vulnerable students fail to graduate from high school without adequate dropout prevention, intervention, and reengagement systems at the school district level.

(4) The legislature further finds that school districts need the support of families, agencies, and organizations in the local community to prevent dropouts. In order to significantly improve statewide high school graduation rates, it is the intent of the legislature to facilitate the development of a collaborative infrastructure at the local, regional, and state level between systems that serve vulnerable youth.

*Sec. 1 was vetoed. See message at end of chapter.

NEW SECTION. Sec. 2. A new section is added to chapter 28A.175 RCW to read as follows:

The definitions in this section apply throughout sections 3 and 4 of this act unless the context clearly requires otherwise.

(1) "Critical community members" means representatives in the local community from among the following agencies and organizations: Student/parent organizations, parents and families, local government, law enforcement, juvenile corrections, any tribal organization in the local school district, the local health district, nonprofit and social service organizations serving youth, and faith organizations.

(2) "Dropout early warning and intervention data system" means a student information system that provides the data needed to conduct a universal screening to identify students at risk of dropping out, catalog student interventions, and monitor student progress towards graduation.

(3) "K-12 dropout prevention, intervention, and reengagement system" means a system that provides all of the following functions:

(a) Engaging in school improvement planning specifically focused on improving high school graduation rates, including goal-setting and action planning, based on a comprehensive assessment of strengths and challenges;

(b) Providing prevention activities including, but not limited to, emotionally and physically safe school environments, implementation of a comprehensive guidance and counseling model facilitated by certified school counselors, core academic instruction, and career and technical education exploratory and preparatory programs;

(c) Identifying vulnerable students based on a dropout early warning and intervention data system;

(d) Timely academic and nonacademic group and individual interventions for vulnerable students based on a response to intervention model, including planning and sharing of information at critical academic transitions;

(e) Providing graduation coaches, mentors, certified school counselors, and/or case managers for vulnerable students identified as needing a more intensive one-on-one adult relationship;

(f) Establishing and providing staff to coordinate a school/family/community partnership that assists in building a K-12 dropout prevention, intervention, and reengagement system;

(g) Providing retrieval or reentry activities; and

(h) Providing alternative educational programming including, but not limited to, credit retrieval and online learning opportunities.

(4) "School/family/community partnership" means a partnership between a school or schools, families, and the community, that engages critical community members in a formal, structured partnership with local school districts in a coordinated effort to provide comprehensive support services and improve outcomes for vulnerable youth.

(5) "Vulnerable students" means students who are in foster care, involved in the juvenile justice system, receiving special education services under chapter 28A.155 RCW, recent immigrants, homeless, emotionally traumatized, or are facing behavioral health issues, and students deemed at-risk of school failure as identified by a dropout early warning data system or other assessment.

NEW SECTION. Sec. 3. By September 15, 2010, the office of the superintendent of public instruction, in collaboration with the work group established in RCW 28A.175.075, shall develop and report recommendations to the quality education council and the legislature for the development of a comprehensive, K-12 dropout reduction initiative designed to integrate multiple tiers of dropout prevention, intervention, and technical assistance provided through federal and state programs and to support a K-12 dropout prevention, intervention, and reengagement system as defined in section 2 of this act.

Sec. 4. RCW 28A.175.075 and 2007 c 408 s 7 are each amended to read as follows:

(1) The office of the superintendent of public instruction shall establish a state-level building bridges work group that includes K-12 and state agencies that work with youth who have dropped out or are at risk of dropping out of school. The following agencies shall appoint representatives to the work group: The office of the superintendent of public instruction, the workforce training and education coordinating board, the department of early learning, the employment

security department, the state board for community and technical colleges, the department of health, the community mobilization office, and the children's services and behavioral health and recovery divisions of the department of social and health services. The ((state-level leadership)) work group ((shall)) should also consist of one representative from each of the following agencies and organizations: ((The workforce training and education coordinating board;)) A statewide organization representing career and technical education programs including skill centers; ((relevant divisions of the department of social and health services;)) the juvenile courts or the office of juvenile justice, or both; the Washington association of prosecuting attorneys; the Washington state office of public defense; ((the employment security department;)) accredited institutions of higher education; the educational service districts; the area workforce development councils; parent and educator associations; ((the department of health)) achievement gap oversight and accountability committee; office of the education ombudsman; local school districts; agencies or organizations that provide services to special education students; community organizations serving youth; federally recognized tribes and urban tribal centers; each of the major political caucuses of the senate and house of representatives; and the minority commissions.

(2) To assist and enhance the work of the building bridges programs established in RCW ((28A.175.055)) 28A.175.025, the state-level work group shall:

(a) Identify and make recommendations to the legislature for the reduction of fiscal, legal, and regulatory barriers that prevent coordination of program resources across agencies at the state and local level;

(b) Develop and track performance measures and benchmarks for each partner agency or organization across the state including performance measures and benchmarks based on student characteristics and outcomes specified in RCW 28A.175.035(1)(e); and

(c) Identify research-based and emerging best practices regarding prevention, intervention, and retrieval programs.

(3)(a) The work group shall report to the quality education council, appropriate committees of the legislature, and the governor on an annual basis beginning December 1, 2007, with proposed strategies for building K-12 dropout prevention, intervention, and reengagement systems in local communities throughout the state including, but not limited to, recommendations for implementing emerging best practices, needed additional resources, and eliminating barriers.

(b) By September 15, 2010, the work group shall report on:

(i) A recommended state goal and annual state targets for the percentage of students graduating from high school;

(ii) A recommended state goal and annual state targets for the percentage of youth who have dropped out of school who should be reengaged in education and be college and work ready;

(iii) Recommended funding for supporting career guidance and the planning and implementation of K-12 dropout prevention, intervention, and reengagement systems in school districts and a plan for phasing the funding into the program of basic education, beginning in the 2011-2013 biennium; and

(iv) A plan for phasing in the expansion of the current school improvement planning program to include state-funded, dropout-focused school improvement technical assistance for school districts in significant need of improvement regarding high school graduation rates.

(4) State agencies in the building bridges work group shall work together, wherever feasible, on the following activities to support school/family/community partnerships engaged in building K-12 dropout prevention, intervention, and reengagement systems:

(a) Providing opportunities for coordination and flexibility of program eligibility and funding criteria;

(b) Providing joint funding;

(c) Developing protocols and templates for model agreements on sharing records and data;

(d) Providing joint professional development opportunities that provide knowledge and training on:

(i) Research-based and promising practices;

(ii) The availability of programs and services for vulnerable youth; and

(iii) Cultural competence.

(5) The building bridges work group shall make recommendations to the governor and the legislature by December 1, 2010, on a state-level and regional infrastructure for coordinating services for vulnerable youth. Recommendations must address the following issues:

(a) Whether to adopt an official conceptual approach or framework for all entities working with vulnerable youth that can support coordinated planning and evaluation;

(b) The creation of a performance-based management system, including outcomes, indicators, and performance measures relating to vulnerable youth and programs serving them, including accountability for the dropout issue;

(c) The development of regional and/or county-level multipartner youth consortia with a specific charge to assist school districts and local communities in building K-12 comprehensive dropout prevention, intervention, and reengagement systems;

(d) The development of integrated or school-based one-stop shopping for services that would:

(i) Provide individualized attention to the neediest youth and prioritized access to services for students identified by a dropout early warning and intervention data system;

(ii) Establish protocols for coordinating data and services, including getting data release at time of intake and common assessment and referral processes; and

(iii) Build a system of single case managers across agencies;

(e) Launching a statewide media campaign on increasing the high school graduation rate; and

(f) Developing a statewide database of available services for vulnerable youth.

Sec. 5. RCW 28A.175.010 and 2005 c 207 s 3 are each amended to read as follows:

Each school district shall account for the educational progress of each of its students. To achieve this, school districts shall be required to report annually to the superintendent of public instruction:

- (1) For students enrolled in each of a school district's high school programs:
 - (a) The number of students who graduate in fewer than four years;
 - (b) The number of students who graduate in four years;
 - (c) The number of students who remain in school for more than four years but who eventually graduate and the number of students who remain in school for more than four years but do not graduate;
 - (d) The number of students who transfer to other schools;
 - (e) The number of students in the ninth through twelfth grade who drop out of school over a four-year period; and
 - (f) The number of students whose status is unknown.

- (2) Dropout rates of students in each of the grades seven through twelve.
- (3) Dropout rates for student populations in each of the grades seven through twelve by:

- (a) Ethnicity;
- (b) Gender;
- (c) Socioeconomic status; and
- (d) Disability status.

- (4) The causes or reasons, or both, attributed to students for having dropped out of school in grades seven through twelve.

- (5) The superintendent of public instruction shall adopt rules under chapter 34.05 RCW to assure uniformity in the information districts are required to report under subsections (1) through (4) of this section. In developing rules, the superintendent of public instruction shall consult with school districts, including administrative and counseling personnel, with regard to the methods through which information is to be collected and reported.

- (6) In reporting on the causes or reasons, or both, attributed to students for having dropped out of school, school building officials shall, to the extent reasonably practical, obtain such information directly from students. In lieu of obtaining such information directly from students, building principals and counselors shall identify the causes or reasons, or both, based on their professional judgment.

- (7) The superintendent of public instruction shall report annually to the legislature the information collected under subsections (1) through (4) of this section.

- (8) The Washington state institute for public policy shall calculate an annual estimate of the savings resulting from any change compared to the prior school year in the extended graduation rate. The superintendent shall include the estimate from the institute in an appendix of the report required under subsection (7) of this section, beginning with the 2010 report.

Passed by the Senate March 9, 2010.

Passed by the House March 3, 2010.

Approved by the Governor March 29, 2010, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State March 30, 2010.

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

"I am returning herewith, without my approval as to Section 1, Engrossed Substitute Senate Bill 6403 entitled:

"AN ACT Relating to accountability and support for vulnerable students and dropouts, including prevention, intervention, and reengagement."

Section 1 is an intent section including legislative findings and goals regarding the development of a dropout prevention program to serve vulnerable youth. The intent section could be read to conflict with the substantive description of the type of program to be developed as stated in Section 3. A veto of the intent section eliminates this potential conflict.

For this reason, I have vetoed Section 1 of Engrossed Substitute Senate Bill 6403.

With the exception of Section 1, Engrossed Substitute Senate Bill 6403 is approved."

CHAPTER 244

[Engrossed Substitute Senate Bill 6604]

K-12 EDUCATION—STATE ASSESSMENTS—STUDENT LEARNING PLANS

AN ACT Relating to flexibility in the education system; and amending RCW 28A.655.061.

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

Sec. 1. RCW 28A.655.061 and 2009 c 524 s 5 are each amended to read as follows:

(1) The high school assessment system shall include but need not be limited to the Washington assessment of student learning, opportunities for a student to retake the content areas of the assessment in which the student was not successful, and if approved by the legislature pursuant to subsection (10) of this section, one or more objective alternative assessments for a student to demonstrate achievement of state academic standards. The objective alternative assessments for each content area shall be comparable in rigor to the skills and knowledge that the student must demonstrate on the Washington assessment of student learning for each content area.

(2) Subject to the conditions in this section, a certificate of academic achievement shall be obtained by most students at about the age of sixteen, and is evidence that the students have successfully met the state standard in the content areas included in the certificate. With the exception of students satisfying the provisions of RCW 28A.155.045 or 28A.655.0611, acquisition of the certificate is required for graduation from a public high school but is not the only requirement for graduation.

(3) Beginning with the graduating class of 2008, with the exception of students satisfying the provisions of RCW 28A.155.045, a student who meets the state standards on the reading, writing, and mathematics content areas of the high school Washington assessment of student learning shall earn a certificate of academic achievement. If a student does not successfully meet the state standards in one or more content areas required for the certificate of academic achievement, then the student may retake the assessment in the content area up to four times at no cost to the student. If the student successfully meets the state standards on a retake of the assessment then the student shall earn a certificate of academic achievement. Once objective alternative assessments are authorized pursuant to subsection (10) of this section, a student may use the objective alternative assessments to demonstrate that the student successfully meets the state standards for that content area if the student has taken the Washington

assessment of student learning at least once. If the student successfully meets the state standards on the objective alternative assessments then the student shall earn a certificate of academic achievement.

(4) Beginning no later than with the graduating class of 2013, a student must meet the state standards in science in addition to the other content areas required under subsection (3) of this section on the Washington assessment of student learning or the objective alternative assessments in order to earn a certificate of academic achievement. The state board of education may adopt a rule that implements the requirements of this subsection (4) beginning with a graduating class before the graduating class of 2013, if the state board of education adopts the rule by September 1st of the freshman school year of the graduating class to which the requirements of this subsection (4) apply. The state board of education's authority under this subsection (4) does not alter the requirement that any change in performance standards for the tenth grade assessment must comply with RCW 28A.305.130.

(5) The state board of education may not require the acquisition of the certificate of academic achievement for students in home-based instruction under chapter 28A.200 RCW, for students enrolled in private schools under chapter 28A.195 RCW, or for students satisfying the provisions of RCW 28A.155.045.

(6) A student may retain and use the highest result from each successfully completed content area of the high school assessment.

(7) School districts must make available to students the following options:

(a) To retake the Washington assessment of student learning up to four times in the content areas in which the student did not meet the state standards if the student is enrolled in a public school; or

(b) To retake the Washington assessment of student learning up to four times in the content areas in which the student did not meet the state standards if the student is enrolled in a high school completion program at a community or technical college. The superintendent of public instruction and the state board for community and technical colleges shall jointly identify means by which students in these programs can be assessed.

(8) Students who achieve the standard in a content area of the high school assessment but who wish to improve their results shall pay for retaking the assessment, using a uniform cost determined by the superintendent of public instruction.

(9) Opportunities to retake the assessment at least twice a year shall be available to each school district.

(10)(a) The office of the superintendent of public instruction shall develop options for implementing objective alternative assessments, which may include an appeals process for students' scores, for students to demonstrate achievement of the state academic standards. The objective alternative assessments shall be comparable in rigor to the skills and knowledge that the student must demonstrate on the Washington assessment of student learning and be objective in its determination of student achievement of the state standards. Before any objective alternative assessments in addition to those authorized in RCW 28A.655.065 or (b) of this subsection are used by a student to demonstrate that the student has met the state standards in a content area required to obtain a certificate, the legislature shall formally approve the use of any objective

alternative assessments through the omnibus appropriations act or by statute or concurrent resolution.

(b)(i) A student's score on the mathematics, reading or English, or writing portion of the SAT or the ACT may be used as an objective alternative assessment under this section for demonstrating that a student has met or exceeded the state standards for the certificate of academic achievement. The state board of education shall identify the scores students must achieve on the relevant portion of the SAT or ACT to meet or exceed the state standard in the relevant content area on the Washington assessment of student learning. The state board of education shall identify the first scores by December 1, 2007. After the first scores are established, the state board may increase but not decrease the scores required for students to meet or exceed the state standards.

(ii) Until August 31, 2008, a student's score on the mathematics portion of the PSAT may be used as an objective alternative assessment under this section for demonstrating that a student has met or exceeded the state standard for the certificate of academic achievement. The state board of education shall identify the score students must achieve on the mathematics portion of the PSAT to meet or exceed the state standard in that content area on the Washington assessment of student learning.

(iii) A student who scores at least a three on the grading scale of one to five for selected AP examinations may use the score as an objective alternative assessment under this section for demonstrating that a student has met or exceeded state standards for the certificate of academic achievement. A score of three on the AP examinations in calculus or statistics may be used as an alternative assessment for the mathematics portion of the Washington assessment of student learning. A score of three on the AP examinations in English language and composition may be used as an alternative assessment for the writing portion of the Washington assessment of student learning. A score of three on the AP examinations in English literature and composition, macroeconomics, microeconomics, psychology, United States history, world history, United States government and politics, or comparative government and politics may be used as an alternative assessment for the reading portion of the Washington assessment of student learning.

(11) By December 15, 2004, the house of representatives and senate education committees shall obtain information and conclusions from recognized, independent, national assessment experts regarding the validity and reliability of the high school Washington assessment of student learning for making individual student high school graduation determinations.

(12) To help assure continued progress in academic achievement as a foundation for high school graduation and to assure that students are on track for high school graduation, each school district shall prepare plans for and notify students and their parents or legal guardians as provided in this subsection ~~((12))~~.

~~((a))~~ Student learning plans are required for eighth ~~((through twelfth))~~ grade students who were not successful on any or all of the content areas of the ~~((Washington))~~ state assessment ~~((for student learning))~~ during the previous school year or who may not be on track to graduate due to credit deficiencies or absences. The parent or legal guardian shall be notified about the information in the student learning plan, preferably through a parent conference and at least

annually. To the extent feasible, schools serving English language learner students and their parents shall translate the plan into the primary language of the family. The plan shall include the following information as applicable:

~~((i))~~ (a) The student's results on the ~~((Washington))~~ state assessment ~~((of student learning))~~;

~~((ii))~~ (b) If the student is in the transitional bilingual program, the score on his or her Washington language proficiency test II;

~~((iii))~~ (c) Any credit deficiencies;

~~((iv))~~ (d) The student's attendance rates over the previous two years;

~~((v))~~ (e) The student's progress toward meeting state and local graduation requirements;

~~((vi))~~ (f) The courses, competencies, and other steps needed to be taken by the student to meet state academic standards and stay on track for graduation;

~~((vii))~~ (g) Remediation strategies and alternative education options available to students, including informing students of the option to continue to receive instructional services after grade twelve or until the age of twenty-one;

~~((viii))~~ (h) The alternative assessment options available to students under this section and RCW 28A.655.065;

~~((ix))~~ (i) School district programs, high school courses, and career and technical education options available for students to meet graduation requirements; and

~~((x))~~ (j) Available programs offered through skill centers or community and technical colleges, including the college high school diploma options under RCW 28B.50.535.

~~((b) All fifth grade students who were not successful in one or more of the content areas of the fourth grade Washington assessment of student learning shall have a student learning plan.~~

~~(i) The parent or guardian of the student shall be notified, preferably through a parent conference, of the student's results on the Washington assessment of student learning, actions the school intends to take to improve the student's skills in any content area in which the student was unsuccessful, and provide strategies to help them improve their student's skills.~~

~~(ii) Progress made on the student plan shall be reported to the student's parents or guardian at least annually and adjustments to the plan made as necessary.)~~

Passed by the Senate March 11, 2010.

Passed by the House March 11, 2010.

Approved by the Governor March 29, 2010.

Filed in Office of Secretary of State March 30, 2010.

CHAPTER 245

[Substitute Senate Bill 6355]

HIGHER EDUCATION—EXPAND ON DEMAND

AN ACT Relating to expanding the higher education system upon proven demand; amending RCW 28B.50.020, 28B.50.810, 28B.76.020, 28B.76.230, 28B.120.005, 28B.120.010, 28B.120.020, 43.88D.010, and 28B.76.210; adding a new section to chapter 28B.20 RCW; adding new sections to chapter 43.131 RCW; and creating a new section.

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

NEW SECTION. **Sec. 1.** The legislature finds that the state institutions of higher education are providing a high quality education to the citizens of the state. The legislature further finds that to meet goals of the strategic master plan for higher education the state needs a higher education system that is capable of delivering many more degrees. The legislature also finds that expansion of the system should be based on the proven demands of the citizens and the marketplace, a concept called "expand on demand." The legislature further finds that the higher education coordinating board, in collaboration with the state board for community and technical colleges, the two-year and four-year institutions of higher education, and other stakeholders developed a system design plan that contains seven guiding principles for system expansion, focuses near-term enrollment growth at university branch campuses, comprehensive universities, and university centers where existing capacity is available without new state capital investment, establishes a process for evaluating major new capital expansion, and creates a fund for innovation to foster change and innovation in higher education delivery. The legislature finds that the strategies in the plan support the concept of expand on demand and would increase degree production by first reinvesting in higher education to use existing capacity while also providing long-term strategies to guide decisions on when and where to build new campuses, significantly expand existing sites, and change missions of existing institutions.

The legislature endorses the system design plan, approved by the higher education coordinating board in November 2009, and adopts the recommendations and strategies in the plan.

Sec. 2. RCW 28B.50.020 and 2009 c 64 s 2 are each amended to read as follows:

The purpose of this chapter is to provide for the dramatically increasing number of students requiring high standards of education either as a part of the continuing higher education program or for occupational education and training, or for adult basic skills and literacy education, by creating a new, independent system of community and technical colleges which will:

(1) Offer an open door to every citizen, regardless of his or her academic background or experience, at a cost normally within his or her economic means;

(2) Ensure that each college district shall offer thoroughly comprehensive educational, training, and service programs to meet the needs of both the communities and students served by combining high standards of excellence in academic transfer courses; realistic and practical courses in occupational education, both graded and ungraded; community services of an educational, cultural, and recreational nature; and adult education, including basic skills and general, family, and workforce literacy programs and services;

(3) Provide for basic skills and literacy education, and occupational education and technical training at technical colleges in order to prepare students for careers in a competitive workforce;

(4) Provide or coordinate related and supplemental instruction for apprentices at community and technical colleges;

(5) Provide administration by state and local boards which will avoid unnecessary duplication of facilities or programs; and which will encourage efficiency in operation and creativity and imagination in education, training, and service to meet the needs of the community and students;

(6) Allow for the growth, improvement, flexibility and modification of the community colleges and their education, training, and service programs as future needs occur; and

(7) Establish firmly that(~~(, except on a pilot basis)~~) as provided under RCW 28B.50.810, community colleges are, for purposes of academic training, two year institutions, and are an independent, unique, and vital section of our state's higher education system, separate from both the common school system and other institutions of higher learning(~~(, and never to be considered for conversion into four-year liberal arts colleges)~~).

Sec. 3. RCW 28B.50.810 and 2008 c 166 s 2 are each amended to read as follows:

(1) (~~(By April 2006,)~~) The college board (~~(shall)~~) may select (~~(four)~~) community or technical colleges to develop and offer programs of study leading to (~~(an)~~) applied baccalaureate degrees. (~~(At least one of the four pilot programs chosen must lead to a baccalaureate of applied science degree which builds on an associate of applied science degree. The college board shall convene a task force that includes representatives of both the community and technical colleges to develop objective selection criteria.~~)

(2) ~~By February 2008, the college board shall select up to three colleges to develop and offer programs of study leading to an applied baccalaureate degree. At least one of the colleges selected must be a technical college. The college board shall use the objective selection criteria developed under subsections (1) and (3) of this section to make the selection.~~

(~~(3)~~) Colleges may submit (~~(an)~~) applications to (~~(become a pilot college under this section)~~) the college board. The college board and the higher education coordinating board shall review the applications and select the (~~(pilot)~~) colleges using objective criteria, including but not limited to:

(a) The college demonstrates the capacity to make a long-term commitment of resources to build and sustain a high quality program;

(b) The college has or can readily engage faculty appropriately qualified to develop and deliver a high quality curriculum at the baccalaureate level;

(c) The college can demonstrate demand for the proposed program from a sufficient number of students within its service area to make the program cost-effective and feasible to operate;

(d) The college can demonstrate that employers demand the level of technical training proposed within the program, making it cost-effective for students to seek the degree; and

(e) The proposed program fills a gap in options available for students because it is not offered by a public four-year institution of higher education in the college's geographic area.

(~~(4)~~) (2) A college selected (~~(as a pilot college)~~) under this section may develop the curriculum for and design and deliver courses leading to an applied baccalaureate degree. However, degree programs developed under this section are subject to approval by the college board under RCW 28B.50.090 and by the higher education coordinating board under RCW 28B.76.230 before a (~~(pilot)~~) college may enroll students in upper division courses. (~~(A pilot college approved under subsection (1) of this section may not enroll students in upper division courses before the fall academic quarter of 2006. A pilot college~~

~~approved under subsection (2) of this section may not enroll students in upper division courses before the fall academic quarter of 2009.)~~

Sec. 4. RCW 28B.76.020 and 1985 c 370 s 2 are each amended to read as follows:

~~((For the purposes of this chapter:))~~ The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Board" means the higher education coordinating board~~((; and))~~.

(2) "Four-year institutions" means the University of Washington, Washington State University, Central Washington University, Eastern Washington University, Western Washington University, and The Evergreen State College.

(3) "Major expansion" means expansion of the higher education system that requires significant new capital investment, including building new institutions, campuses, branches, or centers or conversion of existing campuses, branches, or centers that would result in a mission change.

(4) "Mission change" means a change in the level of degree awarded or institutional type not currently authorized in statute.

Sec. 5. RCW 28B.76.230 and 2005 c 258 s 11 are each amended to read as follows:

(1) The board shall develop a comprehensive and ongoing assessment process to analyze the need for additional degrees and programs, additional off-campus centers and locations for degree programs, and consolidation or elimination of programs by the four-year institutions. Board recommendations regarding proposed major expansion shall be limited to determinations of whether the major expansion is within the scope indicated in the most recent strategic master plan for higher education or most recent system design plan. Recommendations regarding existing capital prioritization processes are not within the scope of the evaluation of major expansion. Major expansion and proposed mission changes may be proposed by the board, any public institution of higher education, or by a state or local government.

(2) As part of the needs assessment process, the board shall examine:

(a) Projections of student, employer, and community demand for education and degrees, including liberal arts degrees, on a regional and statewide basis;

(b) Current and projected degree programs and enrollment at public and private institutions of higher education, by location and mode of service delivery; ~~((and))~~

(c) Data from the workforce training and education coordinating board and the state board for community and technical colleges on the supply and demand for workforce education and certificates and associate degrees; and

(d) Recommendations from the technology transformation task force created in chapter 407, Laws of 2009, and institutions of higher education relative to the strategic and operational use of technology in higher education. These and other reports, reviews, and audits shall allow for: The development of enterprise-wide digital information technology across educational sectors, systems, and delivery methods; the integration and streamlining of administrative tools including but not limited to student information management, financial management, payroll, human resources, data collection,

reporting, and analysis; and a determination of the costs of multiple technology platforms, systems, and models.

(3) Every two years the board shall produce, jointly with the state board for community and technical colleges and the workforce training and education coordinating board, an assessment of the number and type of higher education and training credentials required to match employer demand for a skilled and educated workforce. The assessment shall include the number of forecasted net job openings at each level of higher education and training and the number of credentials needed to match the forecast of net job openings.

(4) The board shall determine whether certain major lines of study or types of degrees, including applied degrees or research-oriented degrees, shall be assigned uniquely to some institutions or institutional sectors in order to create centers of excellence that focus resources and expertise.

(5) The following activities are subject to approval by the board:

(a) New degree programs by a four-year institution;

(b) Creation of any off-campus program by a four-year institution;

(c) Purchase or lease of major off-campus facilities by a four-year institution or a community or technical college;

(d) Creation of higher education centers and consortia;

(e) New degree programs and creation of off-campus programs by an independent college or university in collaboration with a community or technical college; and

(f) Applied baccalaureate degree programs developed by colleges under RCW 28B.50.810.

(6) Institutions seeking board approval under this section must demonstrate that the proposal is justified by the needs assessment developed under this section. Institutions must also demonstrate how the proposals align with or implement the statewide strategic master plan for higher education under RCW 28B.76.200.

(7) The board shall develop clear guidelines and objective decision-making criteria regarding approval of proposals under this section, which must include review and consultation with the institution and other interested agencies and individuals.

(8) The board shall periodically recommend consolidation or elimination of programs at the four-year institutions, based on the needs assessment analysis.

(9) In the case of a proposed major expansion or mission change, the needs assessment process under subsection (2) of this section constitutes a threshold inquiry. If the board determines that the need for the proposed major expansion or mission change has not been justified, the inquiry is concluded. If the board determines that the need for the proposed major expansion or mission change has been sufficiently established, the board, in consultation with any directly involved institutions and other interested agencies and individuals, shall proceed to examine the viability of the proposal using criteria including, but not limited to:

(a) The specific scope of the project including the capital investment requirements, the number of full-time equivalent students anticipated, and the number of academic programs planned;

(b) The existence of an efficient and sustainable financial plan;

(c) The extent to which existing resources can be leveraged;

(d) The current and five-year projected student population, faculty, and staff to support the proposed programs, institution, or innovation;

(e) The plans to accommodate expected growth over a twenty-year time frame;

(f) The extent to which new or existing partnerships and collaborations are a part of the proposal; and

(g) The feasibility of any proposed innovations to accelerate degree production.

(10) After the board completes its evaluation of the proposed major expansion or mission change using the needs assessment under subsection (2) of this section and viability determination under subsection (9) of this section, the board shall make a recommendation to either proceed, modify, or not proceed with the proposed major expansion or mission change. The board's recommendation shall be presented to the governor and the legislature.

Sec. 6. RCW 28B.120.005 and 1999 c 169 s 2 are each amended to read as follows:

The legislature finds that encouraging collaboration among the various educational sectors to meet statewide productivity and educational attainment needs as described in the system design plan developed by the higher education coordinating board will strengthen the entire educational system, kindergarten through twelfth grade and higher education. The legislature also recognizes that the most effective way to develop innovative and collaborative programs is to encourage institutions to develop them voluntarily, in line with established state goals. Through a system of competitive grants, the legislature shall encourage the development of innovative and collaborative and cost-effective solutions to issues of critical statewide need, including:

(1) Raising educational attainment and planning and piloting innovative initiatives to reach new locations and populations;

(2) Recognizing needs of special populations of students, including access and completion efforts targeting underrepresented populations;

~~((2))~~ (3) Furthering the development of learner-centered, technology-assisted course delivery, including expansion of online and hybrid coursework, open courseware, and other uses of technology in order to effectively and efficiently share costs, improve the quality of instruction and student, faculty, and administrative services, increase undergraduate and graduate student access, retention, and graduation, and to enhance transfer capability;

~~((3))~~ (4) Furthering the development of competency-based measurements of student achievement to be used as the basis for awarding degrees and certificates; ~~and~~

~~(4))~~ (5) Increasing the collaboration among both public and private sector institutions of higher education; and

(6) Improving productivity through innovations such as accelerated programs and alternative scheduling.

Sec. 7. RCW 28B.120.010 and 1999 c 169 s 5 are each amended to read as follows:

The Washington fund for innovation and quality in higher education program is established. The higher education coordinating board shall administer the program ~~((for the purpose of awarding grants in which a four-year~~

~~institution of higher education is named as the lead institution. The state board for community and technical colleges shall administer the program for the purpose of awarding grants in which a community or technical college is named as the lead institution)) and shall work in close collaboration with the state board for community and technical colleges and other local and regional entities. Through this program the higher education coordinating board((s)) may award on a competitive basis incentive grants to state public or private nonprofit institutions of higher education or consortia of institutions to encourage ((cooperative)) programs designed to address specific system problems. ((Grants shall not exceed a two-year period.)) Each institution or consortia of institutions receiving the award shall contribute some financial support, either by covering part of the costs for the program during its implementation, or by assuming continuing support at the end of the grant period. Strong priority will be given to proposals that involve more than one sector of education((, and to proposals that show substantive institutional commitment)). Institutions are encouraged to solicit nonstate funds to support these cooperative programs.~~

Sec. 8. RCW 28B.120.020 and 1999 c 169 s 3 are each amended to read as follows:

The higher education coordinating board shall have the following powers and duties in administering the program for those proposals in which a four-year institution of higher education is named as the lead institution and fiscal agent:

(1) To adopt rules necessary to carry out the program;

~~(2) ((To establish one or more review committees to assist in the evaluation of proposals for funding. The review committee shall include individuals with significant experience in higher education in areas relevant to one or more of the funding period priorities and shall include representatives from both the four-year and two-year sectors of higher education;~~

~~(3)) To award grants no later than September 1st in those years when funding is available by June 30th;~~

~~((4)) (3) To establish each biennium specific guidelines for submitting grant proposals consistent with RCW 28B.120.005 and consistent with the strategic master plan for higher education, the system design plan, the overall goals of the program and ((consistent with)) the guidelines established by the state board for community and technical colleges under RCW 28B.120.025. ((During the 1999-01 biennium the guidelines shall be consistent with the following desired outcomes of:~~

~~(a) Minority and diversity initiatives that encourage the participation of minorities in higher education, including students with disabilities;~~

~~(b) K-12 teacher preparation models that encourage collaboration between higher education and K-12 to improve the preparedness of teachers, including provisions for higher education faculty involved with teacher preparation to spend time teaching in K-12 schools;~~

~~(c) Collaborative instructional programs involving K-12, community and technical colleges, and four-year institutions of higher education to develop a three-year degree program, or reduce the time to degree;~~

~~(d) Contracts with public or private institutions or businesses to provide services or the development of collaborative programs;~~

~~(e) Articulation and transfer activities to smooth the transfer of students from K-12 to higher education, or from the community colleges and technical colleges to four-year institutions;~~

~~(f) Projects that further the development of learner-centered, technology-assisted course delivery; and~~

~~(g) Projects that further the development of competency-based measurements of student achievement to be used as the basis for awarding degrees and certificates.)~~

After June 30, 2001, and each biennium thereafter, the board shall determine funding priorities for ~~((collaborative))~~ proposals for the biennium in consultation with the governor, the legislature, the office of the superintendent of public instruction, the state board for community and technical colleges, the workforce training and education coordinating board, higher education institutions, educational associations, and business and community groups consistent with statewide needs;

~~((5))~~ (4) To solicit grant proposals and provide information to the institutions of higher education about the program; and

~~((6))~~ (5) To establish reporting, evaluation, accountability, monitoring, and dissemination requirements for the recipients of the grants awarded by the higher education coordinating board.

Sec. 9. RCW 43.88D.010 and 2008 c 205 s 2 are each amended to read as follows:

(1) By October ~~((15th))~~ 1st of each even-numbered year, the office of financial management shall complete an objective analysis and scoring of all capital budget projects proposed by the public four-year institutions of higher education and submit the results of the scoring process to the legislative fiscal committees, the higher education coordinating board, and the four-year institutions ~~((, except that, for 2008, the office of financial management shall complete the objective analysis and scoring by November 1st))~~. Each project must be reviewed and scored within one of the following categories, according to the project's principal purpose. Each project may be scored in only one category. The categories are:

(a) Access-related projects to accommodate enrollment growth at main and branch campuses, at existing or new university centers, or through distance learning. Growth projects should provide significant additional student capacity. Proposed projects must demonstrate that they are based on solid enrollment demand projections, more cost-effectively provide enrollment access than alternatives such as university centers and distance learning, and make cost-effective use of existing and proposed new space;

~~(b) Projects that replace failing permanent buildings ((or renovate facilities to restore building life and upgrade space to meet current program requirements)). Facilities that cannot be economically renovated are considered replacement projects. ((Renovation projects should represent a complete renovation of a total facility or an isolated wing of a facility. A reasonable renovation project should cost between sixty to eighty percent of current replacement value and restore the renovated area to at least twenty-five years of useful life.))~~ New space may be programmed for the same or a different use than the space being replaced ~~((or renovated))~~ and may include additions to improve access and enhance the relationship of program or support space;

(c) Projects that renovate facilities to restore building life and upgrade space to meet current program requirements. Renovation projects should represent a complete renovation of a total facility or an isolated wing of a facility. A reasonable renovation project should cost between sixty to eighty percent of current replacement value and restore the renovated area to at least twenty-five years of useful life. New space may be programmed for the same or a different use than the space being renovated and may include additions to improve access and enhance the relationship of program or support space;

(d) Major stand-alone campus infrastructure projects;

~~((4))~~ (e) Projects that promote economic growth and innovation through expanded research activity. The acquisition and installation of specialized equipment is authorized under this category; and

~~((e))~~ (f) Other project categories as determined by the office of financial management in consultation with the legislative fiscal committees.

(2) The office of financial management, in consultation with the legislative fiscal committees ~~((and the joint legislative audit and review committee))~~, shall establish a scoring system and process for each four-year project category that is based on the framework used in the community and technical college system of prioritization. Staff from the state board for community and technical colleges, the higher education coordinating board, and the four-year institutions shall provide technical assistance on the development of a scoring system and process.

(3) The office of financial management shall consult with the legislative fiscal committees in the scoring of four-year institution project proposals, and may also solicit participation by ~~((the joint legislative audit and review committee and))~~ independent experts.

(a) For each four-year project category, the scoring system must, at a minimum, include an evaluation of enrollment trends, reasonableness of cost, the ability of the project to enhance specific strategic master plan goals, age and condition of the facility if applicable, and impact on space utilization.

(b) Each four-year project category may include projects at the predesign, design, or construction funding phase.

(c) To the extent possible, the objective analysis and scoring system of all capital budget projects shall occur within the context of any and all performance agreements between the office of financial management and the governing board of a public, four-year institution of higher education that aligns goals, priorities, desired outcomes, flexibility, institutional mission, accountability, and levels of resources.

(4) In evaluating and scoring four-year institution projects, the office of financial management shall take into consideration project schedules that result in realistic, balanced, and predictable expenditure patterns over the ensuing three biennia.

(5) The office of financial management shall distribute common definitions, the scoring system, and other information required for the project proposal and scoring process as part of its biennial budget instructions ~~((except that, for the 2009-2011 budget development cycle, this information must be distributed by July 1, 2008))~~. The office of financial management, in consultation with the legislative fiscal committees ~~((and the joint legislative audit and review~~

committee)), shall develop common definitions that four-year institutions must use in developing their project proposals and lists under this section.

(6) In developing any scoring system for capital projects proposed by the four-year institutions, the office of financial management:

(a) Shall be provided with all required information by the four-year institutions as deemed necessary by the office of financial management;

(b) May utilize independent services to verify, sample, or evaluate information provided to the office of financial management by the four-year institutions; and

(c) Shall have full access to all data maintained by the higher education coordinating board and the joint legislative audit and review committee concerning the condition of higher education facilities.

(7) By August (~~(15th)~~) 1st of each even-numbered year(~~(, beginning in 2008,)~~) each public four-year higher education institution shall prepare and submit prioritized lists of the individual projects proposed by the institution for the ensuing six-year period in each category. (~~(On a pilot basis, the office of financial management shall require one research university to prepare two separate prioritized lists for each category, one for the main campus, and one covering all of the institution's branch campuses. The office of financial management shall report to the legislative fiscal committees by December 1, 2009, on the effect of this pilot project on capital project financing for all branch campuses.)~~) The lists must be submitted to the office of financial management and the legislative fiscal committees. The four-year institutions may aggregate minor works project proposals by primary purpose for ranking purposes. Proposed minor works projects must be prioritized within the aggregated proposal, and supporting documentation, including project descriptions and cost estimates, must be provided to the office of financial management and the legislative fiscal committees.

Sec. 10. RCW 28B.76.210 and 2008 c 205 s 4 are each amended to read as follows:

(1) The board shall collaborate with the four-year institutions including the council of presidents, the community and technical college system, and when appropriate the workforce training and education coordinating board, the superintendent of public instruction, and the independent higher educational institutions to identify budget priorities and levels of funding for higher education, including the two and four-year institutions of higher education and state financial aid programs. It is the intent of the legislature that recommendations from the board reflect not merely the sum of budget requests from multiple institutions, but prioritized funding needs for the overall system of higher education.

(2) By December of each odd-numbered year, the board shall distribute guidelines which outline the board's fiscal priorities to the institutions and the state board for community and technical colleges.

(a) The institutions and the state board for community and technical colleges shall submit an outline of their proposed operating budgets to the board no later than July 1st of each even-numbered year. Pursuant to guidelines developed by the board, operating budget outlines submitted by the institutions and the state board for community and technical colleges after January 1, 2007, shall include all policy changes and enhancements that will be requested by the

institutions and the state board for community and technical colleges in their respective biennial budget requests. Operating budget outlines shall include a description of each policy enhancement, the dollar amount requested, and the fund source being requested.

(b) Capital budget outlines for the two-year institutions shall be submitted by August 15th of each even-numbered year, and shall include the prioritized ranking of the capital projects being requested, a description of each capital project, and the amount and fund source being requested.

(c) Capital budget outlines for the four-year institutions must be submitted by August 15th of each even-numbered year, and must include: The institutions' priority ranking of the project; the capital budget category within which the project will be submitted to the office of financial management in accordance with RCW 43.88D.010; a description of each capital project; and the amount and fund source being requested.

(d) The office of financial management shall reference these reporting requirements in its budget instructions.

(3) The board shall review and evaluate the operating and capital budget requests from four-year institutions and the community and technical college system based on how the requests align with the board's budget priorities, the missions of the institutions, and the statewide strategic master plan for higher education under RCW 28B.76.200.

(4) The board shall submit recommendations on the proposed operating budget and priorities to the office of financial management by October 1st of each even-numbered year, and to the legislature by January 1st of each odd-numbered year.

(5) The board's capital budget recommendations for the community and technical college system and the four-year institutions must be submitted to the office of financial management (~~by November 15th of each even-numbered year~~) and to the legislature by (~~January 1st of each odd-numbered~~) November 15th of each even-numbered year. The board's recommendations for the four-year institutions must include (~~the relative share of the higher education capital budget that the board recommends be assigned to each project category, as defined in RCW 43.88D.010, and to minor works program and preservation~~) a single, prioritized list of the major projects that the board recommends be funded with state bond and building account appropriations during the forthcoming fiscal biennium. In developing this single prioritized list, the board shall:

(a) Seek to identify the combination of projects that will most cost-effectively achieve the state's goals. These goals include increasing baccalaureate and graduate degree production, particularly in high-demand fields; promoting economic development through research and innovation; providing quality, affordable educational environments; preserving existing assets; and maximizing the efficient utilization of instructional space;

(b) Be guided by the objective analysis and scoring of capital budget projects completed by the office of financial management pursuant to chapter 43.88D RCW;

(c) Anticipate (i) that state bond and building account appropriations continue at the same level during each of the two subsequent fiscal biennia as has actually been appropriated for the baccalaureate institutions during the current one; (ii) that major projects funded for design during a biennium are

funded for construction during the subsequent one before state appropriations are provided for new major projects; and (iii) that minor health, safety, code, and preservation projects are funded at the same average level as in recent biennia before state appropriations are provided for new major projects.

~~((5))~~ (6) Institutions and the state board for community and technical colleges shall submit any supplemental budget requests and revisions to the board at the same time they are submitted to the office of financial management. The board shall submit recommendations on the proposed supplemental budget requests to the office of financial management by November 1st and to the legislature by January 1st.

NEW SECTION. Sec. 11. A new section is added to chapter 28B.20 RCW to read as follows:

(1) This section provides an alternative process for awarding contracts for construction, building, renovation, remodeling, alteration, repair, or improvement of university buildings and facilities in which critical patient care or highly specialized medical research is located. These provisions may be used, in lieu of other procedures to award contracts for such work, when the estimated cost of the work is equal to or less than five million dollars and the project involves construction, renovation, remodeling, or alteration of improvements within a building that is used directly for critical patient care or highly specialized medical research.

(2) The university may create a single critical patient care or specialized medical research facilities roster or may create multiple critical patient care or specialized medical research facilities rosters for different trade specialties or categories of anticipated work. At least once a year, the university shall publish in a newspaper of general circulation a notice of the existence of the roster or rosters and solicit a statement of qualifications from contractors who wish to be on the roster or rosters of prime contractors. In addition, qualified contractors shall be added to the roster or rosters at any time they submit a written request, necessary records, and meet the qualifications established by the university. The university may require eligible contractors desiring to be placed on a roster to keep current records of any applicable licenses, certifications, registrations, bonding, insurance, or other appropriate matters on file with the university as a condition of being placed on a roster or rosters. Placement on a roster shall be on the basis of qualifications.

(3) The public solicitation of qualifications shall include but not be limited to:

(a) A description of the types of projects to be completed and where possible may include programmatic, performance, and technical requirements and specifications;

(b) The reasons for using the critical patient care and specialized medical research roster process;

(c) A description of the qualifications to be required of a contractor, including submission of an accident prevention program;

(d) A description of the process the university will use to evaluate qualifications, including evaluation factors and the relative weight of factors;

(e) The form of the contract to be awarded;

(f) A description of the administrative process by which the required qualifications, evaluation process, and project types may be appealed; and

(g) A description of the administrative process by which decisions of the university may be appealed.

(4) The university shall establish a committee to evaluate the contractors submitting qualifications. Evaluation criteria for selection of the contractor or contractors to be included on a roster shall include, but not be limited to:

(a) Ability of a contractor's professional personnel;

(b) A contractor's past performance on similar projects, including but not limited to medical facilities, and involving either negotiated work or other public works contracts;

(c) The contractor's ability to meet time and budget requirements;

(d) The contractor's ability to provide preconstruction services, as appropriate;

(e) The contractor's capacity to successfully complete the project;

(f) The contractor's approach to executing projects;

(g) The contractor's approach to safety and the contractor's safety history; and

(h) The contractor's record of performance, integrity, judgment, and skills.

(5) Contractors meeting the evaluation committee's criteria for selection must be placed on the applicable roster or rosters.

(6) When a project is selected for delivery through this roster process, the university must establish a procedure for securing written quotations from all contractors on a roster to assure that a competitive price is established. Invitations for quotations shall include an estimate of the scope and nature of the work to be performed as well as materials and equipment to be furnished. Plans and specifications must be included in the invitation but may not be detailed. Award of a project must be made to the responsible bidder submitting the lowest responsive bid.

(7) The university shall make an effort to solicit proposals from certified minority or certified woman-owned contractors to the extent permitted by the Washington state civil rights act, RCW 49.60.400.

(8) Beginning in September 2010 and every other year thereafter, the university shall provide a report to the capital projects advisory review board which must, at a minimum, include a list of rosters used, contracts awarded, and a description of outreach to and participation by women and minority-owned businesses.

NEW SECTION. Sec. 12. A new section is added to chapter 43.131 RCW to read as follows:

The alternative process for awarding contracts established in section 11 of this act terminates June 30, 2015, as provided in section 13 of this act.

NEW SECTION. Sec. 13. A new section is added to chapter 43.131 RCW to read as follows:

Section 11 of this act, as now existing or hereafter amended, is repealed, effective June 30, 2016.

Passed by the Senate March 11, 2010.

Passed by the House March 10, 2010.

Approved by the Governor March 29, 2010.

Filed in Office of Secretary of State March 30, 2010.

CHAPTER 246

[Engrossed Substitute Senate Bill 6359]

COMMUNITY AND TECHNICAL COLLEGES—EFFICIENCIES—
INSTITUTIONAL COORDINATION

AN ACT Relating to promoting efficiencies including institutional coordination and partnerships in the community and technical college system; amending RCW 28B.50.020 and 28B.50.090; adding a new section to chapter 28B.50 RCW; and creating a new section.

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

NEW SECTION. Sec. 1. The legislature finds that Washington's community and technical college system consists of thirty-four two-year institutions geographically dispersed across the state to encourage and enable student access and participation. The legislature also finds that, compared with other states, Washington's two-year public participation rate is ranked as high as fifth in the nation. The legislature further finds that Washington's community and technical colleges have been making and are continuing to make great progress towards system efficiencies and coordination of their efforts through such things as common course numbering, the student achievement initiative, associate transfer degrees, eLearning and integrated basic education, skills training, and some common administrative systems. While maintaining Washington's recognized leadership in community and technical college education, the legislature intends to provide mechanisms to encourage further efficiencies that will provide cost savings to be used to enhance student access and success, strengthen academic programs, and develop and retain high quality faculty through cost-effective partnerships and coordination between institutions, including shared services and increased complementary programming, as well as structural administrative efficiencies.

Sec. 2. RCW 28B.50.020 and 2009 c 64 s 2 are each amended to read as follows:

The purpose of this chapter is to provide for the dramatically increasing number of students requiring high standards of education either as a part of the continuing higher education program or for occupational education and training, or for adult basic skills and literacy education, by creating a new, independent system of community and technical colleges which will:

(1) Offer an open door to every citizen, regardless of his or her academic background or experience, at a cost normally within his or her economic means;

(2) Ensure that each college district, in coordination with adjacent college districts, shall offer thoroughly comprehensive educational, training, and service programs to meet the needs of both the communities and students served by combining high standards of excellence in academic transfer courses; realistic and practical courses in occupational education, both graded and ungraded; community services of an educational, cultural, and recreational nature; and adult education, including basic skills and general, family, and workforce literacy programs and services;

(3) Provide for basic skills and literacy education, and occupational education and technical training (~~(at technical colleges)~~) in order to prepare students for careers in a competitive workforce;

(4) Provide or coordinate related and supplemental instruction for apprentices at community and technical colleges;

(5) Provide administration by state and local boards which will avoid unnecessary duplication of facilities ~~((or)),~~ programs, student services, or administrative functions; and which will encourage efficiency in operation and creativity and imagination in education, training, and service to meet the needs of the community and students;

(6) Allow for the growth, improvement, flexibility and modification of the community colleges and their education, training, and service programs as future needs occur; and

(7) Establish firmly that, except on a pilot basis as provided under RCW 28B.50.810, community colleges are, for purposes of academic training, two year institutions, and are an independent, unique, and vital section of our state's higher education system, separate from both the common school system and other institutions of higher learning, and never to be considered for conversion into four-year liberal arts colleges.

Sec. 3. RCW 28B.50.090 and 2009 c 64 s 4 are each amended to read as follows:

The college board shall have general supervision and control over the state system of community and technical colleges. In addition to the other powers and duties imposed upon the college board by this chapter, the college board shall be charged with the following powers, duties and responsibilities:

(1) Review the budgets prepared by the boards of trustees, prepare a single budget for the support of the state system of community and technical colleges and adult education, and submit this budget to the governor as provided in RCW 43.88.090;

(2) Establish guidelines for the disbursement of funds; and receive and disburse such funds for adult education and maintenance and operation and capital support of the college districts in conformance with the state and district budgets, and in conformance with chapter 43.88 RCW;

(3) Ensure, through the full use of its authority:

(a) That each college district, in coordination with colleges, within a regional area, shall offer thoroughly comprehensive educational, training, and service programs to meet the needs of both the communities and students served by combining high standards of excellence in academic transfer courses; realistic and practical courses in occupational education, both graded and ungraded; and community services of an educational, cultural, and recreational nature; and adult education, including basic skills and general, family, and workforce literacy programs and services;

(b) That each college district shall maintain an open-door policy, to the end that no student will be denied admission because of the location of the student's residence or because of the student's educational background or ability; that, insofar as is practical in the judgment of the college board, curriculum offerings will be provided to meet the educational and training needs of the community generally and the students thereof; and that all students, regardless of their differing courses of study, will be considered, known and recognized equally as members of the student body: PROVIDED, That the administrative officers of a community or technical college may deny admission to a prospective student or attendance to an enrolled student if, in their judgment, the student would not be competent to profit from the curriculum offerings of the college, or would, by his or her presence or conduct, create a disruptive atmosphere within the college not

consistent with the purposes of the institution. This subsection (3)(b) shall not apply to competency, conduct, or presence associated with a disability in a person twenty-one years of age or younger attending a technical college;

(4) Prepare a comprehensive master plan for the development of community and technical college education and training in the state; and assist the office of financial management in the preparation of enrollment projections to support plans for providing adequate college facilities in all areas of the state. The master plan shall include implementation of the vision, goals, priorities, and strategies in the statewide strategic master plan for higher education under RCW 28B.76.200 based on the community and technical college system's role and mission. The master plan shall also contain measurable performance indicators and benchmarks for gauging progress toward achieving the goals and priorities;

(5) Define and administer criteria and guidelines for the establishment of new community and technical colleges or campuses within the existing districts;

(6) Establish criteria and procedures for modifying district boundary lines and consolidating district structures to form multiple campus districts consistent with the purposes set forth in RCW 28B.50.020 as now or hereafter amended and in accordance therewith make such changes as it deems advisable;

(7) Establish minimum standards to govern the operation of the community and technical colleges with respect to:

(a) Qualifications and credentials of instructional and key administrative personnel, except as otherwise provided in the state plan for vocational education,

(b) Internal budgeting, accounting, auditing, and financial procedures as necessary to supplement the general requirements prescribed pursuant to chapter 43.88 RCW,

(c) The content of the curriculums and other educational and training programs, and the requirement for degrees and certificates awarded by the colleges,

(d) Standard admission policies,

(e) Eligibility of courses to receive state fund support;

(8) Establish and administer criteria and procedures for all capital construction including the establishment, installation, and expansion of facilities within the various college districts;

(9) Encourage innovation in the development of new educational and training programs and instructional methods; coordinate research efforts to this end; and disseminate the findings thereof;

(10) Exercise any other powers, duties and responsibilities necessary to carry out the purposes of this chapter;

(11) Authorize the various community and technical colleges to offer programs and courses in other districts when it determines that such action is consistent with the purposes set forth in RCW 28B.50.020 as now or hereafter amended;

(12) Notwithstanding any other law or statute regarding the sale of state property, sell or exchange and convey any or all interest in any community and technical college real and personal property, except such property as is received by a college district in accordance with RCW 28B.50.140(8), when it determines that such property is surplus or that such a sale or exchange is in the best interests of the community and technical college system;

(13) In order that the treasurer for the state board for community and technical colleges appointed in accordance with RCW 28B.50.085 may make vendor payments, the state treasurer will honor warrants drawn by the state board providing for an initial advance on July 1, 1982, of the current biennium and on July 1 of each succeeding biennium from the state general fund in an amount equal to twenty-four percent of the average monthly allotment for such budgeted biennium expenditures for the state board for community and technical colleges as certified by the office of financial management; and at the conclusion of such initial month and for each succeeding month of any biennium, the state treasurer will reimburse expenditures incurred and reported monthly by the state board treasurer in accordance with chapter 43.88 RCW: PROVIDED, That the reimbursement to the state board for actual expenditures incurred in the final month of each biennium shall be less the initial advance made in such biennium;

(14) Notwithstanding the provisions of subsection (12) of this section, may receive such gifts, grants, conveyances, devises, and bequests of real or personal property from private sources as may be made from time to time, in trust or otherwise, whenever the terms and conditions thereof will aid in carrying out the community and technical college programs and may sell, lease or exchange, invest or expend the same or the proceeds, rents, profits and income thereof according to the terms and conditions thereof; and adopt regulations to govern the receipt and expenditure of the proceeds, rents, profits and income thereof; and

(15) The college board shall have the power of eminent domain.

NEW SECTION. Sec. 4. A new section is added to chapter 28B.50 RCW to read as follows:

(1) The state board for community and technical colleges, in collaboration with the boards of trustees for the community and technical colleges, shall identify potential administrative efficiencies, complementary administrative functions, and complementary academic programs based upon consultation with colleges within a regional area. To study and identify potential administrative efficiencies and complementary administrative functions and programs, colleges within the regional area shall work with stakeholders including faculty and staff representatives appointed by their respective unions. Factors to be considered include, but are not limited to:

(a) The economic feasibility and cost savings anticipated from the proposed changes;

(b) The extent to which the changes will contribute to student access to academic programs and services, including greater flexibility for students to transfer credits and obtain degrees and certificates from other colleges within the regional area; and

(c) The extent to which the changes contribute to the vision, goals, priorities, and statewide strategies in the comprehensive master plan and the statewide strategic master plan for higher education.

(2) The state board for community and technical colleges shall develop and adopt a detailed plan for the implementation of any identified changes that would result in cost savings while maintaining or enhancing student access and achievement. If educational programs are identified that would provide cost savings if consolidated, the faculty and staff of those programs shall be convened to assist in the development of the part of the plan that will impact

their programs and collective bargaining agreements. The plan must establish a time frame within which any proposed changes must be accomplished and must include any agreements, approved by the state board for community and technical colleges, between colleges within a regional area to provide complementary academic programs or coordinate administrative functions. The implementation plan shall take effect upon approval by the state board for community and technical colleges. The state board shall submit a preliminary report on the plan to the appropriate legislative committees and the governor December 1, 2010, and shall submit a final report December 1, 2011.

(3) Any cost savings realized as a result of the implementation of administrative efficiencies, complementary administrative functions, and complementary academic programming under the plan shall be retained by the respective districts to be used for enhancing student access and success, and the retention and recruitment of high quality faculty, including but not limited to, full-time faculty, faculty development, and academic programs.

(4) The college board, using the criteria and processes established in this section and in consultation with the boards of trustees for the community and technical colleges, shall identify adjacent college districts that can feasibly be consolidated or whose boundaries can feasibly be modified to form a multiple campus district. The primary considerations shall be the extent to which the changes will: (a) Affect student access to academic programs and services, (b) affect the retention and recruitment of high quality faculty, and (c) result in financial efficiencies.

(5) By December 1, 2012, the college board, in consultation with local boards of trustees, shall evaluate any proposed district consolidations or boundary changes identified in subsection (4) of this section as it deems advisable and shall submit any required supporting legislative changes to the governor and appropriate committees of the legislature.

Passed by the Senate March 7, 2010.

Passed by the House March 4, 2010.

Approved by the Governor March 29, 2010.

Filed in Office of Secretary of State March 30, 2010.

CHAPTER 247

[Engrossed Substitute Senate Bill 6381]

SUPPLEMENTAL TRANSPORTATION BUDGET

AN ACT Relating to transportation funding and appropriations; amending RCW 43.19.642, 46.68.320, 47.12.340, and 70.95.532; amending 2009 c 8 s 2 (uncodified); amending 2009 c 470 ss 101, 102, 103, 104, 105, 106, 107, 108, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 222, 223, 224, 225, 302, 303, 306, 307, 308, 309, 310, 311, 401, 402, 403, 404, 405, 406, 407, 501, 503, 304, and 603 (uncodified); repealing 2009 c 470 s 502 (uncodified); creating new sections; making appropriations and authorizing expenditures for capital improvements; and declaring an emergency.

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

2009-11 FISCAL BIENNIUM ECONOMIC STIMULUS FUNDING

Sec. 1. 2009 c 8 s 2 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION—AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009.

Motor Vehicle Account—Federal Appropriation \$341,400,000

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

(1) The entire appropriation in this section is ~~((provided solely))~~ for the projects and amounts listed in ARRA Washington State Project LEAP document 2009, as developed on February 24, 2009. Funds under this section may be reallocated among projects shown in the document to the extent that the department finds it necessary for the purposes of facilitating completion of the projects with the highest priority or to maintain maximum federal funds eligibility.

(2) To achieve the legislative objectives provided in section 1(2) of this act with respect to highway projects, it is the intent of the legislature that the appropriation in this section be used for: Transportation 2003 account (nickel account) projects and transportation partnership account (TPA) projects that would have otherwise been delayed due to decreased revenues, so as to advance project completion dates similar to those envisioned in the enacted 2008 legislative list of projects; projects that preserve or rehabilitate Washington state highways and roads; and projects that modify roadway alignments and conditions to create safer roads for the traveling public.

(3)(a) The department of transportation shall obligate at least fifty percent of the funds no later than one hundred twenty days after surface transportation program funds under the American Recovery and Reinvestment Act of 2009 have been apportioned to the states;

(b) The department shall obligate all funds no later than one year after surface transportation program funds under the American Recovery and Reinvestment Act of 2009 have been apportioned to the states;

(c) The department shall place the first priority for allocating funds on those projects listed as "First Tier" projects on ARRA Washington State Project LEAP document 2009, as developed on February 24, 2009. The department shall place the second priority on projects listed as "Second Tier" projects on the document; and

(d) Within each tier of projects on ARRA Washington State Project LEAP document 2009, as developed on February 24, 2009, the department shall place the highest priority for allocating funds on the transportation 2003 account (nickel account) projects and transportation partnership account (TPA) projects listed to advance their completion. The department shall prioritize funding for other projects within the tier according to how soon the contract for the project could be awarded.

(4) By June 30, 2009, the department of transportation shall report to the legislative standing committees on transportation and the office of financial management on the status of federal stimulus funds including, but not limited to, identifying the projects shown in ARRA Washington State Project LEAP document 2009, as developed on February 24, 2009, for which federal stimulus funding has already been obligated, the amount of federal recovery funds estimated to be obligated to the projects, and the completion status of each project. Subsequent status reports are due to the legislative standing committees

on transportation and the office of financial management on August 31, 2009, and December 1, 2009.

GENERAL GOVERNMENT AGENCIES—OPERATING

Sec. 101. 2009 c 470 s 101 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF ARCHAEOLOGY AND HISTORIC PRESERVATION

Motor Vehicle Account—State Appropriation ~~(\$422,000)~~
\$413,000

The appropriation in this section is subject to the following conditions and limitations: The entire appropriation is provided solely for staffing costs to be dedicated to state transportation activities. Staff hired to support transportation activities must have practical experience with complex construction projects.

Sec. 102. 2009 c 470 s 102 (uncodified) is amended to read as follows:

FOR THE UTILITIES AND TRANSPORTATION COMMISSION

Grade Crossing Protective Account—State
Appropriation ~~(\$705,000)~~
\$702,000

Sec. 103. 2009 c 470 s 103 (uncodified) is amended to read as follows:

FOR THE OFFICE OF FINANCIAL MANAGEMENT

Motor Vehicle Account—State Appropriation ~~(\$3,389,000)~~
\$3,526,000

Puget Sound Ferry Operations Account—State
Appropriation ~~(\$100,000)~~
\$98,000

TOTAL APPROPRIATION ~~(\$3,489,000)~~
\$3,624,000

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

(1) \$1,699,000 of the motor vehicle account—state appropriation is provided solely for the office of regulatory assistance integrated permitting project.

(2) \$1,004,000 of the motor vehicle account—state appropriation is provided solely for the continued maintenance and support of the transportation executive information system. Of the amount provided in this subsection, \$502,000 is for two existing FTEs at the department of transportation to maintain and support the system.

(3) \$150,000 of the motor vehicle account—state appropriation is provided solely for the office of financial management to contract with the Washington state association of counties for a pilot program to develop and implement a streamlined process for programmatic hydraulic project approvals for multiple, recurring local transportation and public works projects. The pilot program must include the following: (a) Describing, defining, and documenting classes of local transportation and public works projects appropriate for programmatic hydraulic project approvals permits; (b) developing technical permitting requirements and conditions; (c) administratively adopting and implementing

programmatic hydraulic project approvals statewide; and (d) piloting, reviewing, updating, and training throughout all Washington counties. For the purpose of this subsection, the contract with the Washington state association of counties is deemed a revenue generation and auditing activity as that term is construed in section 602(2), chapter 3, Laws of 2010.

Sec. 104. 2009 c 470 s 104 (uncodified) is amended to read as follows:

FOR THE MARINE EMPLOYEES COMMISSION

Puget Sound Ferry Operations Account—State

Appropriation ((~~\$446,000~~)
\$440,000

Sec. 105. 2009 c 470 s 105 (uncodified) is amended to read as follows:

FOR THE STATE PARKS AND RECREATION COMMISSION

Motor Vehicle Account—State Appropriation ((~~\$986,000~~)

\$985,000

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.

Sec. 106. 2009 c 470 s 106 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF AGRICULTURE

Motor Vehicle Account—State Appropriation ((~~\$1,507,000~~)

\$1,493,000

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

(1) \$351,000 of the motor vehicle account—state appropriation is provided solely for costs associated with the motor fuel quality program.

(2) \$1,004,000 of the motor vehicle account—state appropriation is provided solely to test the quality of biofuel. The department must test fuel quality at the biofuel manufacturer, distributor, and retailer.

Sec. 107. 2009 c 470 s 107 (uncodified) is amended to read as follows:

FOR THE LEGISLATIVE EVALUATION AND ACCOUNTABILITY PROGRAM COMMITTEE

Motor Vehicle Account—State Appropriation ((~~\$502,000~~)

\$491,000

Sec. 108. 2009 c 470 s 108 (uncodified) is amended to read as follows:

FOR THE JOINT LEGISLATIVE AUDIT AND REVIEW COMMITTEE

Multimodal Transportation Account—State Appropriation \$50,000

(1) As part of its 2009-11 fiscal biennium work plan, the joint legislative audit and review committee shall audit the capital cost accounting practices of the Washington state ferries. The audit must review the following and provide a report on its findings and any related recommendations to the legislature by January 2011:

(a) Costs assigned to capital accounts to determine whether they are capital costs that meet the statutory requirements for preservation and improvement activities and whether they are within the scope of legislative appropriations;

(b) Implementation of the life-cycle cost model required under RCW 47.60.345 to determine if it was developed as required and is maintained and updated when asset inspections are made; and

(c) Washington state ferries' implementation of the cost allocation methodology evaluated under section 205, chapter 518, Laws of 2007, assessing whether actual costs are allocated consistently with the methodology, whether there are sufficient internal controls to ensure proper allocation, and the adequacy of staff training.

(2) The joint legislative audit and review committee shall use existing staff and resources to conduct a review of scoping and cost estimates for transportation highway improvement and preservation projects funded in whole, or in part, by transportation partnership account—state and transportation 2003 account (nickel account)—state funds, excluding mega-projects. The review will examine whether the scoping and cost estimates guidelines used by the department of transportation are consistent with general construction industry practices and other appropriate standards. The review will include an analysis of a sample of scope and cost estimates for future projects. A report on the committee's findings and recommendations must be submitted to the house of representatives and senate transportation committees by December 2009.

(3) As part of its 2009-11 fiscal biennium work plan, the joint legislative audit and review committee shall conduct an analysis of the cost of credit card payment options at the department of transportation. For programs where a credit card payment option is offered, the review must include:

(a) An analysis of the direct and indirect cost per transaction to process customer payments using credit cards;

(b) An analysis of the direct and indirect cost per transaction for other methods of processing customer payments;

(c) An analysis of the historical and projected total aggregate costs for processing all forms of customer payments;

(d) Identification of whether there are customer service, administrative, and revenue collection benefits resulting from credit card usage; and

(e) A review of the use of credit card payment options in other state agencies and in similar transportation programs at other states.

The committee shall provide a report on its findings and any related recommendations to the legislature by January 2010.

(4)(a) As part of its 2009-11 fiscal biennium work plan, the entire appropriation in this section is for the joint legislative audit and review committee to conduct an analysis of the storm water permit requirements issued by the department of ecology in February 2009 to determine the costs and benefits of alternative options for the department of transportation to meet the requirements. However, if the committee does not include the analysis as part of its 2009-11 fiscal biennium work plan by April 15, 2010, the amount provided in this section lapses. The analysis must include, at a minimum, an analysis of the following:

(i) The department of transportation performing the functions of the permit in house;

(ii) The functions of the permit being consolidated within the department of ecology or otherwise centralizing efforts for all state agencies; and

(iii) The use of an external firm or organization to meet the requirements.

(b) The entire appropriation is for a consultant contract to assist the committee with its analysis. For the purpose of this subsection, the consultant contract is deemed an auditing activity as that term is construed in section 602(2), chapter 3, Laws of 2010.

(c) The committee shall provide a report to the legislature by December 2010.

TRANSPORTATION AGENCIES—OPERATING

Sec. 201. 2009 c 470 s 201 (uncodified) is amended to read as follows:

FOR THE WASHINGTON TRAFFIC SAFETY COMMISSION

Highway Safety Account—State Appropriation	(\$2,542,000)
	<u>\$2,532,000</u>
Highway Safety Account—Federal Appropriation	(\$16,540,000)
	<u>\$34,630,000</u>
School Zone Safety Account—State Appropriation	\$3,340,000
Highway Safety Account—Local Appropriation	\$50,000
TOTAL APPROPRIATION	(\$22,472,000)
	<u>\$40,552,000</u>

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

(1) ~~(\$2,670,000)~~ \$2,826,000 of the highway safety account—federal appropriation is provided solely for a target zero trooper pilot program, which the commission shall develop and implement in collaboration with the Washington state patrol. The pilot program must demonstrate the effectiveness of intense, high visibility, driving under the influence enforcement in Washington. The commission shall apply to the national highway traffic safety administration for federal highway safety grants to cover the cost of the pilot program. If the pilot program is approved for funding by the national highway traffic safety administration, and sufficient federal grants are received, the commission shall provide grants to the Washington state patrol for the purchase of twenty-one fully equipped patrol vehicles in fiscal year 2010, and up to twenty-four months of salaries and benefits for eighteen troopers and three sergeants beginning in fiscal year ~~(2011)~~ 2010. The legislature anticipates that an additional ~~(\$1,830,000)~~ \$1,673,900 will be appropriated from the highway safety account—federal in the 2011-13 fiscal biennium to conclude this pilot program.

(2) The commission may 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 over two 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 projects.

(b) In order to ensure adequate time in the 2009-11 fiscal biennium to evaluate the effectiveness of the pilot projects, any projects authorized by the commission must be authorized by December 31, 2009.

(c) By January 1, 2011, the commission shall provide a report to the legislature regarding the use, public acceptance, outcomes, and other relevant issues regarding automated traffic safety cameras demonstrated by the projects.

(3) \$18,000,000 of the highway safety account—federal appropriation is for federal funds that may be received during the 2009-11 fiscal biennium. Upon receipt of the funds, the commission shall provide a report on the use of the funds to the transportation committees of the legislature and the office of financial management.

Sec. 202. 2009 c 470 s 202 (uncodified) is amended to read as follows:

FOR THE COUNTY ROAD ADMINISTRATION BOARD

Rural Arterial Trust Account—State Appropriation	(\$920,000)
	<u>\$896,000</u>
Motor Vehicle Account—State Appropriation	(\$2,129,000)
	<u>\$2,084,000</u>
County Arterial Preservation Account—State Appropriation	(\$1,423,000)
	<u>\$1,396,000</u>
TOTAL APPROPRIATION	(\$4,472,000)
	<u>\$4,376,000</u>

Sec. 203. 2009 c 470 s 203 (uncodified) is amended to read as follows:

FOR THE TRANSPORTATION IMPROVEMENT BOARD

Urban Arterial Trust Account—State Appropriation	(\$1,824,000)
	<u>\$1,793,000</u>
Transportation Improvement Account—State Appropriation	(\$1,827,000)
	<u>\$1,796,000</u>
TOTAL APPROPRIATION	(\$3,651,000)
	<u>\$3,589,000</u>

Sec. 204. 2009 c 470 s 204 (uncodified) is amended to read as follows:

FOR THE JOINT TRANSPORTATION COMMITTEE

Motor Vehicle Account—State Appropriation	(\$1,901,000)
	<u>\$2,163,000</u>
<u>Multimodal Transportation Account—State Appropriation</u>	<u>\$400,000</u>
<u>TOTAL APPROPRIATION</u>	<u>\$2,563,000</u>

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

(1) \$236,000 of the motor vehicle account—state appropriation is a reappropriation from the 2007-09 fiscal biennium for a comprehensive analysis of mid-term and long-term transportation funding mechanisms and methods. Elements of the study will include existing data and trends, policy objectives, performance and evaluation criteria, incremental transition strategies, and possibly, scaled testing. Baseline data and methods assessment must be concluded by December 31, 2009. Performance criteria must be developed by June 30, 2010, and recommended planning level alternative funding strategies must be completed by December 31, 2010.

(2) \$200,000 of the motor vehicle account—state appropriation is for the joint transportation committee to convene an independent expert review panel to

review the assumptions for toll operations costs used by the department to model financial plans for tolled facilities. The joint transportation committee shall work with staff from the senate and the house of representatives transportation committees to identify the scope of the review and to assure that the work performed meets the needs of the house of representatives and the senate. The joint transportation committee shall provide a report to the house of representatives and senate transportation committees by September 1, 2009.

(3) \$300,000 of the motor vehicle account—state appropriation is for an independent analysis of methodologies to value the reversible lanes on Interstate 90 to be used for high capacity transit pursuant to sound transit proposition 1 approved by voters in November 2008. The independent analysis shall be conducted by sound transit and the department of transportation, using consultant resources deemed appropriate by the secretary of the department, the chief executive officer of sound transit, and the cochairs of the joint transportation committee. It shall be conducted in consultation with the federal transit and federal highway administrations and account for applicable federal laws, regulations, and practices. It shall also account for the 1976 Interstate 90 memorandum of agreement and subsequent 2004 amendment and the 1978 federal secretary of transportation's environmental decision on Interstate 90. The department and sound transit must provide periodic reports to the joint transportation committee, the sound transit board of directors, and the governor, and report final recommendations by November 1, 2009.

(4) The joint transportation committee shall perform a review of the fuel tax refunds for nonhighway or off-road use of gasoline and diesel fuels as listed in RCW 46.09.170, 46.10.150, and 79A.25.070. The review must: Provide an overview of the off-road programs; analyze historical funding and expenditures from the respective treasury accounts; outline and provide process documentation on how the funds are distributed to the treasury accounts; and document future identified off-road, snowmobile, and marine funding needs. A report on the joint transportation committee review must be presented to the house of representatives and senate transportation committees by December 31, 2010.

(5)(a) \$350,000 of the multimodal transportation account—state appropriation is for the joint transportation committee to conduct a study to establish a statewide blueprint for public transportation that will serve to guide state investments in public transportation. At a minimum, the study should include an assessment of unmet operating and capital needs of public transportation agencies, the state role in funding those unmet needs, and the priorities for state investments. The report should include efficiency and accountability measures that inform future state investment in public transportation to maximize mobility, social, economic, and environmental benefits provided to the state.

(b) The statewide blueprint for public transportation should serve to guide state investments to support public transportation and address unmet needs to improve service, access to public transportation, and connectivity between public transportation providers across jurisdictional boundaries. The blueprint must be consistent with the state's transportation system policy goals provided in RCW 47.04.280 and the statewide transportation plan provided in RCW 47.01.071(4).

(c) To provide input to the study, the joint transportation committee shall convene a public transit advisory panel. The cochairs of the committee shall appoint and convene the advisory panel to be comprised of members as provided in this subsection:

(i) One member from each of the two largest caucuses of the senate;

(ii) One member from each of the two largest caucuses of the house of representatives;

(iii) One representative of the department of transportation's public transportation division;

(iv) Two representatives of users of public transportation systems, one of which must represent persons with special needs;

(v) Three representatives from transit agencies from a list recommended by the Washington state transit association;

(vi) Two representatives from regional transportation planning organizations, one representing eastern Washington and one representing western Washington;

(vii) Three representatives of employers at or owners of major work sites in Washington;

(viii) The chief executive officer, or the chief executive officer's designee, of a regional transit authority;

(ix) Two representatives of organizations that address primarily environmental issues;

(x) One member of a collective bargaining organization that primarily represents the interests of transit agency employees; and

(xi) Other individuals deemed appropriate.

Nonlegislative members of the advisory panel must seek reimbursement for travel and other membership expenses through their respective agencies or organizations. The committee may make exceptions and approve certain expenses for good cause on a case-by-case basis.

(d) The joint transportation committee shall submit a report on the study to the standing transportation committees of the legislature by December 15, 2010.

(6) The joint transportation committee shall work with the department of licensing, the office of the code reviser, staff to the legislative transportation committees, and other stakeholders to evaluate the implementation of Senate Bill No. 6379. At a minimum, the evaluation must identify the unintended impacts of Senate Bill No. 6379 on policy and revenue collection, if any. The joint transportation committee shall issue its evaluation, including corrective draft legislation if needed, by December 1, 2010.

(7) \$125,000 of the motor vehicle account—state appropriation is for the joint transportation committee to evaluate the preparation of state-level transportation plans. The evaluation must include a review of federal planning requirements, the Washington transportation plan and statewide modal plan requirements, and transportation plan requirements for regional and local entities. The evaluation must make recommendations concerning the appropriate responsibilities for preparation of plans, methods to develop plans more efficiently, and the utility of the state-level planning documents. The committee shall issue a report of its evaluation, including draft legislation if required, to the house of representatives and senate transportation committees by December 15, 2010.

(8)(a) \$200,000 of the motor vehicle account—state appropriation is for the joint transportation committee to evaluate funding assistance and services provided by the county road administration board, transportation improvement board, freight mobility strategic investment board, and the department of transportation's highway and local programs division. In 2010, the governor recommended consolidating small transportation agencies as part of an overall effort to streamline state government, provide economies of scale, and improve customer service. The evaluation may include recommendations on consolidating the agencies within the department of transportation, within another existing agency, or within a newly created agency. The study may also make recommendations on restructuring grant programs to generate efficiencies or other more efficient ways to distribute associated revenues.

(b) The joint transportation committee shall form a policy work group to oversee the evaluation. The work group must consist of legislators appointed by the joint transportation committee and a member of the governor's staff appointed by the governor.

(c) Any evaluation recommendations must be accompanied by a detailed implementation plan. The plan must include details on the recommended governance structure, accounts and program structure, and transition process and associated costs. The plan must include a proposed organization chart and proposed legislation to enact the recommended changes. A preliminary evaluation must be made to the joint transportation committee by November 15, 2010, and a final evaluation is due on December 15, 2010.

(9) The joint transportation committee shall conduct the following studies by December 15, 2010:

(a) A comparison of medical, time-loss, vocational and disability benefits available to injured workers, and costs payable by the state of Washington and employees, under the federal Jones act and Washington's industrial insurance act. The report must include information regarding the experience of the Alaska marine highway system; and

(b) A comparison of the processing time of grievances and hearings at the personnel relations employment commission and the marine employee commission. The review must also investigate whether the necessary expertise exists at the personnel relations employment commission to administer the grievances and hearings currently administered by the marine employee commission.

(10)(a) \$50,000 of the multimodal transportation account—state appropriation is for the joint transportation committee to conduct an analysis of the storm water permit requirements issued by the department of ecology in February 2009 to determine the costs and benefits of alternative options for the department of transportation to meet the requirements. However, if the committee does not include the analysis as part of its 2009-11 fiscal biennium work plan by April 15, 2010, the amount provided in this subsection lapses. The analysis must include, at a minimum, an analysis of the following:

(i) The department of transportation performing the functions of the permit in house;

(ii) The functions of the permit being consolidated within the department of ecology or otherwise centralizing efforts for all state agencies; and

(iii) The use of an external firm or organization to meet the requirements.

(b) The committee shall provide a report to the legislature by December 2010.

Sec. 205. 2009 c 470 s 205 (uncodified) is amended to read as follows:

FOR THE TRANSPORTATION COMMISSION

Motor Vehicle Account—State Appropriation	(\$2,237,000)
	<u>\$2,328,000</u>
Multimodal Transportation Account—State Appropriation	\$112,000
TOTAL APPROPRIATION	(\$2,349,000)
	<u>\$2,440,000</u>

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

(1) Pursuant to RCW 43.135.055, during the 2009-11 fiscal biennium, the transportation commission shall periodically review and, if necessary, modify the schedule of fares for the Washington state ferry system. The transportation commission may increase ferry fares, except no fare schedule modifications may be made prior to September 1, 2009. For purposes of this subsection, "modify" includes increases or decreases to the schedule. ~~((The commission may only approve ferry fare rate changes that have the same proportionate change for passengers as for vehicles.))~~

(2) Pursuant to RCW 43.135.055, during the 2009-11 fiscal biennium, the transportation commission shall periodically review and, if necessary, modify a schedule of toll charges applicable to the state route number 167 high occupancy toll lane pilot project, as required under RCW 47.56.403. For purposes of this subsection, "modify" includes increases or decreases to the schedule.

(3) Pursuant to RCW 43.135.055, during the 2009-11 fiscal biennium, the transportation commission shall periodically review and, if necessary, modify the schedule of toll charges applicable to the Tacoma Narrows bridge, taking into consideration the recommendations of the citizen advisory committee created under RCW 47.46.091. For purposes of this subsection, "modify" includes increases or decreases to the schedule.

(4) The commission may name state ferry vessels consistent with its authority to name state transportation facilities under RCW 47.01.420. When naming or renaming state ferry vessels, the commission shall investigate selling the naming rights and shall make recommendations to the legislature regarding this option.

(5) \$350,000 of the motor vehicle account—state appropriation is provided solely for consultant support services to assist the commission in updating the statewide transportation plan. The updated plan must be submitted to the legislature by December 1, 2010.

(6) If the commission considers implementing a ferry fuel surcharge, it must first submit an analysis and business plan to the office of financial management and either the joint transportation committee or the transportation committees of the legislature. The commission may impose a ferry fuel surcharge effective July 1, 2011. When implementing a ferry fuel surcharge, the commission must regard ferry fuel surcharges as fare policy changes and thus, ferry fuel surcharges should be included in all public procedures and processes currently used for fare pricing per RCW 47.60.290.

(7) The commission shall work with the department of transportation's economic partnerships (Program K) in conducting a best practices review of nontoll, public-private partnerships. The purpose of this review is to identify the policies and procedures that would be appropriate for application in Washington state. The commission must report its findings and recommendations, including draft legislation if warranted, to the house of representatives and senate transportation committees by January 2011.

(8) As part of its development of the statewide transportation plan, the commission shall review prioritized projects, including preservation and maintenance projects, from regional transportation and metropolitan planning organizations to identify statewide transportation needs. The review should include a brief description and status of each project along with the funding required and associated timeline from start to completion. The commission shall submit the review, along with recommendations, to the house of representatives and senate transportation committees by January 2011.

Sec. 206. 2009 c 470 s 206 (uncodified) is amended to read as follows:

FOR THE FREIGHT MOBILITY STRATEGIC INVESTMENT BOARD	
Motor Vehicle Account—State Appropriation	((\$695,000))
	<u>\$688,000</u>

The appropriation in this section is subject to the following conditions and limitations: The freight mobility strategic investment board shall, on a quarterly basis, provide status reports to the office of financial management and the transportation committees of the legislature on the delivery of projects funded by this act.

Sec. 207. 2009 c 470 s 207 (uncodified) is amended to read as follows:

FOR THE WASHINGTON STATE PATROL—FIELD OPERATIONS BUREAU	
State Patrol Highway Account—State	
Appropriation.	((\$228,024,000))
	<u>\$227,958,000</u>
State Patrol Highway Account—Federal	
Appropriation.	((\$10,602,000))
	<u>\$10,903,000</u>
State Patrol Highway Account—Private/Local	
Appropriation.	((\$859,000))
	<u>\$867,000</u>
TOTAL APPROPRIATION	((\$239,485,000))
	<u>\$239,728,000</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 shall be reimbursed for the use of the vehicle at the prevailing state employee rate for mileage and hours of usage, subject to guidelines developed by the chief of the Washington state

patrol, and Cessna pilots funded from the state patrol highway account who are certified to fly the King Airs may pilot those aircraft for general fund purposes with the general fund reimbursing the state patrol highway account an hourly rate to cover the costs incurred during the flights since the aviation section will no longer be part of the Washington state patrol cost allocation system as of July 1, 2009.

(2) The patrol shall not account for or record locally provided DUI cost reimbursement payments as expenditure credits to the state patrol highway account. The patrol shall report the amount of expected locally provided DUI cost reimbursements to the office of financial management and transportation committees of the legislature by September 30th of each year.

(3) During the 2009-11 fiscal biennium, the Washington state patrol shall continue to perform traffic accident investigations on Thurston county roads, and shall work with the county to transition the traffic accident investigations on Thurston county roads to the county by July 1, 2011.

(4) Within existing resources, the Washington state patrol shall make every reasonable effort to increase the enrollment in each academy class that commences during the 2009-11 fiscal biennium to fifty-five cadets.

(5) The Washington state patrol shall collaborate with the Washington traffic safety commission to develop and implement the target zero trooper pilot program referenced in section 201 of this act.

~~(6) ((The Washington state patrol shall discuss the implementation of the pilot program described under section 218(2) of this act with any union representing the affected employees.~~

~~(7) The Washington state patrol shall assign necessary personnel and equipment to implement and operate the pilot program described under section 218(2) of this act using the portion of the automated traffic safety camera fines deposited into the state patrol highway account, but not to exceed \$370,000. If the fines deposited into the state patrol highway account from automated traffic safety camera infractions do not reach \$370,000, the department of transportation shall remit funds necessary to the Washington state patrol to ensure the completion of the pilot program.)) \$370,000 of the state patrol highway account—state appropriation is provided solely for costs associated with the pilot program described under section 218(2) of this act. The Washington state patrol may incur costs related only to the assignment of cadets and necessary computer equipment and to the reimbursement of the Washington state department of transportation for contract costs. The appropriation in this subsection must be funded from the portion of the automated traffic safety camera fines deposited into the state patrol highway account; however, if the fines deposited into the state patrol highway account from automated traffic safety camera infractions do not reach three hundred seventy thousand dollars, the department of transportation shall remit funds necessary to the Washington state patrol to ensure the completion of the pilot program. The Washington state patrol may not incur overtime as a result of this pilot program. The Washington state patrol shall not assign troopers to operate or deploy the pilot program equipment used in the roadway construction zones.~~

~~(7) If, as a result of lower than average rate of attrition among troopers, the Washington state patrol postpones the year 2011 training for trooper cadets beyond June 30, 2011, funding provided in section 207, chapter 470, Laws of~~

2009 for the class must be used to fund the salaries and benefits associated with the existing commissioned Washington state patrol troopers that are funded within the field operations bureau.

(8) \$2,832,000 of the state patrol highway account—state appropriation is provided solely for the aerial traffic enforcement program. The Washington state patrol shall evaluate the costs associated with aerial traffic highway enforcement to determine if the costs are accurately apportioned between the state patrol highway account and the general fund. It is the intent of the legislature that the state patrol highway account incurs costs that result only from highway enforcement activities and that the general fund incurs costs associated with the King Airs. The Washington state patrol shall report the results of the evaluation to the legislature by June 30, 2010.

(9) For the remainder of the 2009-11 fiscal biennium, the Washington state patrol shall continue to work with Island county on traffic accident investigations.

(10) \$3,601,000 of the state patrol highway account—state appropriation is provided solely for the costs associated with a basic trooper class.

Sec. 208. 2009 c 470 s 208 (uncodified) is amended to read as follows:

FOR THE WASHINGTON STATE PATROL—INVESTIGATIVE SERVICES BUREAU

State Patrol Highway Account—State Appropriation	((\$1,557,000))
	<u>\$1,648,000</u>

Sec. 209. 2009 c 470 s 209 (uncodified) is amended to read as follows:

FOR THE WASHINGTON STATE PATROL—TECHNICAL SERVICES BUREAU

State Patrol Highway Account—State Appropriation	((\$105,680,000))
	<u>\$108,560,000</u>

State Patrol Highway Account—Private/Local Appropriation.	((\$2,008,000))
	<u>\$2,510,000</u>

TOTAL APPROPRIATION	((\$107,688,000))
	<u>\$111,070,000</u>

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

(1) The Washington state patrol shall work with the risk management division in the office of financial management in compiling the Washington state patrol's data for establishing the agency's risk management insurance premiums to the tort claims account. The office of financial management and the Washington state patrol shall submit a report to the legislative transportation committees by December 31st of each year on the number of claims, estimated claims to be paid, method of calculation, and the adjustment in the premium.

(2) ((~~\$8,673,000~~)) \$10,425,000 of the total appropriation is provided solely for automobile fuel in the 2009-11 fiscal biennium.

(3) \$7,421,000 of the total appropriation is provided solely for the purchase of pursuit vehicles.

(4) ((~~\$6,328,000~~)) \$6,611,000 of the total appropriation is provided solely for vehicle repair and maintenance costs of vehicles used for highway purposes.

(5) (~~(\$384,000)~~) \$1,724,000 of the total appropriation is provided solely for the purchase of mission vehicles used for highway purposes in the commercial vehicle and traffic investigation sections of the Washington state patrol.

(6) The Washington state patrol may submit information technology-related requests for funding only if the patrol has coordinated with the department of information services as required under section 601 of this act.

(7) \$345,000 of the state patrol highway account—state appropriation is provided solely for the implementation of Engrossed Substitute House Bill No. 1445 (domestic partners/Washington state patrol retirement system). If Engrossed Substitute House Bill No. 1445 is not enacted by June 30, 2009, the amount provided in this subsection shall lapse.

Sec. 210. 2009 c 470 s 210 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF LICENSING

Marine Fuel Tax Refund Account—State Appropriation	\$32,000
Motorcycle Safety Education Account—State Appropriation	(\$4,373,000)
	<u>\$4,356,000</u>
Wildlife Account—State Appropriation	(\$837,000)
	<u>\$821,000</u>
Highway Safety Account—State Appropriation	(\$145,085,000)
	<u>\$143,660,000</u>
Highway Safety Account—Federal Appropriation	(\$8,000)
	<u>\$944,000</u>
Motor Vehicle Account—State Appropriation	(\$78,805,000)
	<u>\$77,898,000</u>
Motor Vehicle Account—Private/Local Appropriation	\$1,372,000
Motor Vehicle Account—Federal Appropriation	\$242,000
Department of Licensing Services Account—State Appropriation	(\$3,867,000)
	<u>\$4,705,000</u>
Washington State Patrol Highway Account—State Appropriation	(\$738,000)
	<u>\$737,000</u>
Ignition Interlock Device Revolving Account—State Appropriation	(\$2,490,000)
	<u>\$1,315,000</u>
TOTAL APPROPRIATION	(\$237,849,000)
	<u>\$236,082,000</u>

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

(1)(a) By November 1, 2009, the department of licensing, working with the department of revenue, shall analyze and plan for the transfer by July 1, 2010, of the administration of fuel taxes imposed under chapters 82.36, 82.38, 82.41, and 82.42 RCW and other provisions of law from the department of licensing to the department of revenue. By November 1, 2009, the departments shall report findings and recommendations to the governor and the transportation and fiscal committees of the legislature.

(b) The analysis and planning directed under this subsection must include, but is not limited to, the following:

(i) Outreach to and solicitation of comment from parties affected by the fuel taxes, including taxpayers, industry associations, state and federal agencies, and Indian tribes, and from the transportation and fiscal committees of the legislature; and

(ii) Identification and analysis of relevant factors including, but not limited to:

(A) Taxpayer reporting and payment processes;

(B) The international fuel tax agreement;

(C) Proportional registration under the provisions of the international registration plan and chapter 46.87 RCW;

(D) Computer systems;

(E) Best management practices and efficiencies;

(F) Costs; and

(G) Personnel matters(;

~~(iii) Development of recommended actions to accomplish the transfer; and~~

~~(iv) An implementation plan and schedule.~~

~~(e) The report must include draft legislation, which transfers administration of fuel taxes as described under (a) of this subsection to the department of revenue on July 1, 2010, and amends existing law as needed)).~~

(2) \$55,845,000 of the highway safety account—state appropriation is provided solely for the driver examining program. In order to reduce costs and make the most efficient use of existing resources, the department may consolidate licensing service offices by closing the vehicle services counter at the highways licensing building in Olympia and up to twenty-five licensing service offices.

(a) When closing offices, the department may redistribute staff from consolidated offices to neighboring offices and local community supercenters.

(b) In order to mitigate the effects of office consolidations on customers, the department shall, within existing resources, provide the following enhanced services:

(i) Extended daily and weekend hours in regional supercenter offices;

(ii) Staffed greeter stations to improve office work flow; and

(iii) Self-service stations for online transaction access, including vehicle renewal transactions.

(c) In areas that are not consolidated, the department will work to reduce costs by identifying opportunities to share facilities with subagent offices and state, county, or local government offices and by analyzing hours and days of operation to meet demand.

(d) The department shall work with vehicle licensing subagents regarding potential placement of self-service driver licensing kiosks in communities that will be affected by licensing services offices closures. The department may place kiosks in those subagent offices where both parties agree, and may pay the subagents the fair market value for any space used for kiosks.

(e) The department shall report to the joint transportation committee by November 30, 2009, on the department's consolidation implementation to date and its plan for continued implementation.

(3) \$11,688,000 of the highway safety account—state appropriation is provided solely for costs associated with: Issuing enhanced drivers' licenses and identicards at the enhanced licensing services offices; extended hours at those licensing services offices; cross-border tourism education; and other education campaigns. This is the maximum amount the department may expend for this purpose.

(4) (~~(\$2,490,000)~~) \$1,315,000 of the ignition interlock device revolving account—state appropriation is provided solely for the department to assist indigent persons with the costs of installing, removing, and leasing the device, and applicable licensing pursuant to RCW 46.68.340.

(5) By December 31, 2009, the department shall report to the office of financial management and the transportation committees of the legislature a cost-benefit analysis of leasing versus purchasing field office equipment.

(6) By December 31, 2009, the department shall submit to the office of financial management and the transportation committees of the legislature draft legislation that rewrites RCW 46.52.130 (driving record abstracts) in plain language.

(7) The department may seek federal funds to implement a driver's license and identicard biometric matching system pilot program to verify the identity of applicants for, and holders of, drivers' licenses and identicards. If funds are received, the department shall report any benefits or problems identified during the course of the pilot program to the transportation committees of the legislature upon the completion of the program.

(8) The department may submit information technology-related requests for funding only if the department has coordinated with the department of information services as required under section 601 of this act.

(9) Consistent with the authority delegated to the director of licensing under RCW 46.01.100, the department may adopt a new organizational structure that includes the following programs: (a) Driver and vehicle services, which must encompass services relating to driver licensing customers, vehicle industry and fuel tax licensees, and vehicle and vessel licensing and registration; and (b) driver policy and programs, which must encompass policy development for all driver-related programs, including driver examining, driver records, commercial driver's license testing and auditing, driver training schools, motorcycle safety, technical services, hearings, driver special investigations, drivers' data management, central issuance contract management, and state and federal initiatives.

(10) The legislature finds that measuring the performance of the department requires the measurement of quality, timeliness, and unit cost of services delivered to customers. Consequently:

(a) The department shall develop a set of metrics that measure that performance and report to the transportation committees of the house of representatives and the senate and to the office of financial management on the development of these measurements along with recommendations to the 2010 legislature on which measurements must become a part of the next omnibus transportation appropriations act;

(b) The department shall study the process in place at the licensing services office and present to the 2010 legislature recommendations for process changes to improve efficiencies for both the department and the customer; and

(c) The department shall, on a quarterly basis, report to the transportation committees of the legislature the following monthly data by licensing service office locations: (i) Lease costs; (ii) salary and benefit costs; (iii) other costs; (iv) actual FTEs; (v) number of transactions completed, by type of transaction; and (vi) office hours.

(11) \$25,000 of the motor vehicle account—state appropriation is provided solely for the department to provide to at least five hundred limousine chauffeurs an overview of the laws and rules governing limousine carriers.

(12) \$938,000 of the highway safety account—federal appropriation is for federal funds that may be received during the 2009-11 fiscal biennium. Upon receipt of the funds, the department shall provide a report on the use of the funds to the transportation committees of the legislature and the office of financial management.

(13) \$869,000 of the department of licensing services account—state appropriation is provided solely for purchasing equipment for the field licensing service offices and subagent offices.

Sec. 211. 2009 c 470 s 211 (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 ~~(\$2,867,000)~~
\$2,852,000

Motor Vehicle Account—State Appropriation ~~(\$585,000)~~
\$575,000

Tacoma Narrows Toll Bridge Account—State
Appropriation ~~(\$27,358,000)~~
\$26,543,000

State Route Number 520 Corridor Account—State
Appropriation ~~(\$58,088,000)~~
\$28,000,000

State Route Number 520 Civil Penalties
Account—State Appropriation \$2,130,000
TOTAL APPROPRIATION ~~(\$88,898,000)~~
\$60,100,000

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

(1) 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 revenue generated by tolls on the Tacoma Narrows bridge and an itemized depiction of the use of that revenue.

(2) The department shall work with the office of financial management to review insurance coverage, deductibles, and limitations on tolled facilities to assure that the assets are well protected at a reasonable cost. Results from this review must be used to negotiate any future new or extended insurance agreements.

(3) ~~(\$58,088,000)~~ \$28,000,000 of the state route number 520 corridor account—state appropriation is provided solely for the costs directly related to

tolling the state route number 520 floating bridge. Of this amount, ~~(((\$175,000 is for the immediate costs necessary to pursue a request for proposal to implement variable, open road tolling on the state route number 520 floating bridge. The request for proposal must include tolling infrastructure and signage, customer service centers, collection and billing procedures, and, to the extent practicable, the maintenance and dispensing of transponders by the vendor. The remaining \$57,913,000))~~ \$8,000,000 must be retained in unallotted status, and may only be released by the office of financial management after consultation with the joint transportation committee ~~((following the committee's examination of toll operations costs referenced in section 204(2) of this act. The amount provided in this subsection is contingent on the enactment of (a) Engrossed Substitute House Bill No. 2211 and (b) either Engrossed Substitute House Bill No. 2326 or other legislation authorizing bonds for the state route number 520 corridor projects. If the conditions of this subsection are not satisfied, the amount provided in this subsection shall lapse)).~~

(4) The department shall consider transitioning to all electronic tolling on the Tacoma Narrows bridge toll facility and discontinuing a cash toll option.

(5) \$2,130,000 of the state route number 520 civil penalties account—state appropriation and \$140,000 of the Tacoma Narrows toll bridge account—state appropriation are provided solely for expenditures related to the toll adjudication process. The amount provided in this subsection is contingent on the enactment by June 30, 2010, of either Engrossed Substitute Senate Bill No. 6499 or Substitute House Bill No. 2897; however, if the enacted bill does not specify the department as the toll penalty adjudicating agency, the amounts provided in this subsection lapse.

(6) The department shall review, and revise where appropriate, current signage and ingress/egress locations on the state route number 167 high occupancy toll lanes pilot project. The department shall continue to work with the Washington state patrol on educating the public on the rules of the road related to crossing a double white line. The department shall continue to monitor the performance of the high occupancy toll lanes to ensure that driving conditions for high occupancy vehicles that share these lanes are not significantly changed.

Sec. 212. 2009 c 470 s 212 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION—INFORMATION TECHNOLOGY—PROGRAM C

Transportation Partnership Account—State	
Appropriation.	\$2,675,000
Motor Vehicle Account—State Appropriation	(\$67,811,000)
	<u>\$68,650,000</u>
Motor Vehicle Account—Federal Appropriation	\$240,000
Multimodal Transportation Account—State	
Appropriation.	\$363,000
Transportation 2003 Account (Nickel Account)—State	
Appropriation.	\$2,676,000
TOTAL APPROPRIATION	(\$73,765,000)
	<u>\$74,604,000</u>

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

(1) The department shall consult with the office of financial management and the department of information services to: (a) Ensure that the department's current and future system development is consistent with the overall direction of other key state systems; and (b) when possible, use or develop common statewide information systems to encourage coordination and integration of information used by the department and other state agencies and to avoid duplication.

(2) \$1,216,000 of the transportation partnership account—state appropriation and \$1,216,000 of the transportation 2003 account (nickel account)—state appropriation are provided solely for the department to develop a project management and reporting system which is a collection of integrated tools for capital construction project managers to use to perform all the necessary tasks associated with project management. The department shall integrate commercial off-the-shelf software with existing department systems and enhanced approaches to data management to provide web-based access for multi-level reporting and improved business work flows and reporting. On a quarterly basis, the department shall report to the office of financial management and the transportation committees of the legislature on the status of the development and integration of the system. At a minimum, the reports shall indicate the status of the work as it compares to the work plan, any discrepancies, and proposed adjustments necessary to bring the project back on schedule or budget if necessary.

(3) The department may submit information technology-related requests for funding only if the department has coordinated with the department of information services as required under section 601 of this act.

(4) \$573,000 of the motor vehicle account—state appropriation is provided solely for the department to maintain the investment in the electronic fare system at Washington's ferry terminals. Investment in the electronic fare system must include the following: Replacement of critical hardware components that are at risk of failure; implementation of software to allow ORCA cards to be used for vehicles; repair of the turnstiles to ensure that the turnstiles properly record ORCA credit and debit card charges; and dedication of a communication line for transmission of ORCA data to the clearinghouse.

Sec. 213. 2009 c 470 s 213 (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((~~\$25,501,000~~))
\$25,292,000

Sec. 214. 2009 c 470 s 214 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION—AVIATION—PROGRAM F

Aeronautics Account—State Appropriation((~~\$6,009,000~~))
\$5,960,000
Aeronautics Account—Federal Appropriation \$2,150,000

TOTAL APPROPRIATION	(\$8,159,000)
	<u>\$8,110,000</u>

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

(1) \$50,000 of the aeronautics account—state appropriation is a reappropriation provided solely to pay any outstanding obligations of the aviation planning council, which expires July 1, 2009.

(2) \$150,000 of the aeronautics account—state appropriation is a reappropriation provided solely to complete runway preservation projects.

(3) Within the amounts provided in this section, the department shall develop guidelines setting forth consultation procedures and a process to assist counties and cities to identify land uses that may be incompatible with airports and aircraft operations, and to encourage and facilitate the adoption and implementation of comprehensive plan policies and development regulations consistent with RCW 36.70.547 and 36.70A.510.

*Sec. 215. 2009 c 470 s 215 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION—PROGRAM DELIVERY MANAGEMENT AND SUPPORT—PROGRAM H

Motor Vehicle Account—State Appropriation	(\$48,032,000)
	<u>\$49,331,000</u>

Motor Vehicle Account—Federal Appropriation \$500,000

Multimodal Transportation Account—State Appropriation..... \$250,000

~~(Water Pollution Account—State Appropriation~~ \$2,000,000)

TOTAL APPROPRIATION	(\$50,782,000)
	<u>\$50,081,000</u>

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

(1) The department shall develop a plan for all current and future surplus property parcels based on the recommendations from the surplus property legislative work group that were presented to the senate transportation committee on February 26, 2009. The plan must include, at a minimum, strategies for maximizing the number of parcels sold, a schedule that optimizes proceeds, a recommended cash discount, a plan to report to the joint transportation committee, a recommendation for regional incentives, and a recommendation for equivalent value exchanges. This plan must accompany the department's 2010 supplemental budget request. If the department determines that all or a portion of real property or an interest in real property that was acquired through condemnation within the previous ten years is no longer necessary for a transportation purpose, the former owner has a right of repurchase as described in this subsection. For the purposes of this subsection, "former owner" means the person or entity from whom the department acquired title. At least ninety days prior to the date on which the property is intended to be sold by the department, the department must mail notice of the planned sale to the former owner of the property at the former owner's last known address or to a forwarding address if that owner has provided the department with a forwarding address. If the former owner of the property's last known address, or forwarding

address if a forwarding address has been provided, is no longer the former owner of the property's address, the right of repurchase is extinguished. If the former owner notifies the department within thirty days of the date of the notice that the former owner intends to repurchase the property, the department shall proceed with the sale of the property to the former owner for fair market value and shall not list the property for sale to other owners. If the former owner does not provide timely written notice to the department of the intent to exercise a repurchase right, or if the sale to the former owner is not completed within seven months of the date of notice that the former owner intends to repurchase the property, the right of repurchase is extinguished. By December 1, 2010, the department shall report to the legislative transportation committees on the individuals and entities eligible to receive surplus property provided in RCW 47.12.063 to determine the frequency with which the department transfers property to those individuals and entities and the implications to the department. It is the intent of the legislature that the list of individuals and entities eligible to receive surplus property be periodically evaluated to determine whether the list is appropriate and provides utility to the department.

~~((3))~~ (2) The legislature recognizes that the Dryden pit site (WSDOT Inventory Control (IC) No. 2-04-00103) is unused state-owned real property under the jurisdiction of the department of transportation, and that the public would benefit significantly from the complete enjoyment of the natural scenic beauty and recreational opportunities available at the site. Therefore, pursuant to RCW 47.12.080, the legislature declares that transferring the property to the department of fish and wildlife for recreational use and fish and wildlife restoration efforts is consistent with the public interest in order to preserve the area for the use of the public and the betterment of the natural environment. The department of transportation shall ~~(, as soon as is practicable,)~~ work with the department of fish and wildlife, and shall transfer and convey the Dryden pit site to the department of fish and wildlife as is for ~~((adequate consideration in the amount of no less than \$600,000))~~ an adjusted fair market value reflecting site conditions, the proceeds of which must be deposited in the motor vehicle fund. ~~((By July 1, 2009))~~ The department of transportation is not responsible for any costs associated with the cleanup or transfer of this property. By July 1, 2010, and annually thereafter until the entire Dryden pit property has been transferred, the department shall submit a status report regarding the transaction to the chairs of the legislative transportation committees.

~~((5) \$750,000)~~ (3) *\$3,175,000 of the motor vehicle account—state appropriation is provided solely for the department's compliance with its national pollution discharge elimination system permit. The department's work may include the completion of system development, reporting, and planning to meet deadlines in the current biennium. The appropriation provided in this subsection is contingent on either the joint legislative audit and review committee or the joint transportation committee including the analysis identified in sections 108(4) and 204 of this act in its respective 2009-11 fiscal biennium work plan by April 15, 2010.*

~~((6))~~ (4) The department shall provide updated information on six project milestones for all active projects, funded in part or in whole with 2005 transportation partnership account funds or 2003 nickel account funds, on a quarterly basis in the transportation executive information system (TEIS). The

department shall also provide updated information on six project milestones for projects, funded with preexisting funds and that are agreed to by the legislature, office of financial management, and the department, on a quarterly basis in TEIS.

(5) It is the intent of the legislature that the real estate services division of the department will recover the cost of its efforts from future sale proceeds. By January 31, 2011, the department must report to the office of financial management and the legislative transportation committees on the status of surplus property. The report must include: (a) The department's plan for continued disposal of surplus property; (b) a detail of changes from the previous report; and (c) a current list of surplus property by region that includes the acquisition date and price of the property, the status of the surplus property, and estimated value of the property. Except as provided otherwise in this subsection, by June 30, 2010, the department must finalize all pending equal value exchange activity for the construction or improvement of facilities, after which time the department may not pursue any other equal value exchanges for the construction or improvement of facilities. However, the northwest region may pursue an equal value exchange to replace the Mount Baker headquarters office. The exchange may include an exchange for the old Puget Sound energy site, the old Arco site, or any combination of the two.

*Sec. 215 was partially vetoed. See message at end of chapter.

Sec. 216. 2009 c 470 s 216 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION—ECONOMIC PARTNERSHIPS—PROGRAM K

Motor Vehicle Account—State Appropriation	((\$615,000))
	<u>\$673,000</u>
Multimodal Transportation Account—State Appropriation	\$200,000
TOTAL APPROPRIATION	((\$815,000))
	<u>\$873,000</u>

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

(1) \$200,000 of the multimodal transportation account—state appropriation is provided solely for the department to develop and implement public private partnerships at high priority terminals as identified in the January 12, 2009, final report on joint development opportunities at Washington state ferries terminals. The department shall first consider a mutually beneficial agreement at the Edmonds terminal.

(2) \$50,000 of the motor vehicle account—state appropriation is provided solely for the department to investigate the potential to generate revenue from web site sponsorships and similar ventures and, if feasible, pursue partnership opportunities.

(3) \$75,000 of the motor vehicle account—state appropriation is provided solely for the implementation of a pilot project allowing advertisements and sponsorships on select web pages. The pilot project must be organized under the partnership model described in the department's web site monetizing feasibility study, which was prepared under subsection (2) of this section. Once operational, the pilot project must operate for at least twelve consecutive months. After twelve months of continuous operation, the department shall

provide a report with recommendations on whether to continue project operations to the office of financial management and the chairs of the transportation committees. The department may end the pilot project after less than twelve consecutive months of operation if insufficient bids or proposals are received from potential sponsors or advertisers. For the purpose of this subsection, if a consultant contract is warranted, the consultant contract is deemed a revenue generation activity as that term is construed in section 602(2), chapter 3, Laws of 2010.

Sec. 217. 2009 c 470 s 217 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION—HIGHWAY MAINTENANCE—PROGRAM M

Motor Vehicle Account—State Appropriation	(\$347,637,000)
	<u>\$347,645,000</u>
Motor Vehicle Account—Federal Appropriation	(\$2,000,000)
	<u>\$7,000,000</u>
Motor Vehicle Account—Private/Local Appropriation	\$5,797,000
(Water Pollution Account—State Appropriation	\$12,500,000)
TOTAL APPROPRIATION	(\$367,934,000)
	<u>\$360,442,000</u>

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

(1) If portions of the appropriations in this section are required to fund maintenance work resulting from major disasters not covered by federal emergency funds such as fire, flooding, snow, and major slides, supplemental appropriations must be requested to restore state funding for ongoing maintenance activities.

(2) The department shall request an unanticipated receipt for any federal moneys received for emergency snow and ice removal and shall place an equal amount of the motor vehicle account—state into unallotted status. This exchange shall not affect the amount of funding available for snow and ice removal.

(3) The department shall request an unanticipated receipt for any private or local funds received for reimbursements of third party damages that are in excess of the motor vehicle account—private/local appropriation.

(4) ~~(\$2,000,000)~~ \$7,000,000 of the motor vehicle account—federal appropriation is for unanticipated federal funds that may be received during the 2009-11 fiscal biennium. Upon receipt of the funds, the department shall provide a report on the use of the funds to the transportation committees of the legislature and the office of financial management.

(5) The department may incur costs related to the maintenance of the decorative lights on the Tacoma Narrows bridge only if:

(a) The nonprofit corporation, narrows bridge lights organization, maintains an account balance sufficient to reimburse the department for all costs; and

(b) The department is reimbursed from the narrows bridge lights organization within three months from the date any maintenance work is performed. If the narrows bridge lights organization is unable to reimburse the department for any future costs incurred, the lights must be removed at the

expense of the narrows bridge lights organization subject to the terms of the contract.

(6) The department may work with the department of corrections to utilize corrections crews for the purposes of litter pickup on state highways.

(7) \$650,000 of the motor vehicle account—state appropriation is provided solely for increased asphalt costs. ~~((If Senate Bill No. 5976 is not enacted by June 30, 2009, the amount provided in this subsection shall lapse.))~~

(8) \$16,800,000 of the motor vehicle account—state appropriation is provided solely for the high priority maintenance backlog. Addressing the maintenance backlog must result in increased levels of service.

~~((10))~~ (9) \$750,000 of the motor vehicle account—state appropriation is provided solely for the department's compliance with its national pollution discharge elimination system permit.

(10) \$317,000 of the motor vehicle account—state appropriation is provided solely for maintaining a new active traffic management system on Interstate 5, Interstate 90, and SR 520. The department shall track the costs associated with these systems on a corridor basis and report to the legislative transportation committees on the cost and benefits of the system.

(11) \$286,000 of the motor vehicle account—state appropriation is provided solely for storm water assessment fees charged by local governments.

Sec. 218. 2009 c 470 s 218 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION—TRAFFIC OPERATIONS—PROGRAM Q—OPERATING

Motor Vehicle Account—State Appropriation	(\$51,526,000)
	<u>\$51,128,000</u>
Motor Vehicle Account—Federal Appropriation	\$2,050,000
Motor Vehicle Account—Private/Local Appropriation	\$127,000
TOTAL APPROPRIATION	(\$53,703,000)
	<u>\$53,305,000</u>

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

(1) \$2,400,000 of the motor vehicle account—state appropriation is provided solely for low-cost enhancements. The department shall give priority to low-cost enhancement projects that improve safety or provide congestion relief. The department shall prioritize low-cost enhancement projects on a statewide rather than regional basis. 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) The department, in consultation with the Washington state patrol, may continue a pilot program for the patrol to issue infractions based on information from automated traffic safety cameras in roadway construction zones on state highways. For the purpose of this pilot program, during the 2009-11 fiscal biennium, a roadway construction zone includes areas where public employees or private contractors are not present but where a driving condition exists that would make it unsafe to drive at higher speeds, such as, when the department is redirecting or realigning lanes on any public roadway pursuant to ongoing

construction. The department shall use the following guidelines to administer the program:

(a) Automated traffic safety cameras may only take pictures of the vehicle and vehicle license plate and only while an infraction is occurring. The picture must not reveal the face of the driver or of passengers in the vehicle;

(b) The department shall plainly mark the locations where the automated traffic safety cameras are used by placing signs on locations that clearly indicate to a driver that he or she is entering a roadway construction zone where traffic laws are enforced by an automated traffic safety camera;

(c) Notices of infractions must be mailed to the registered owner of a vehicle within fourteen days of the infraction occurring;

(d) The owner of the vehicle is not responsible for the violation if the owner of the vehicle, within fourteen days of receiving notification of the violation, mails to the patrol, a declaration under penalty of perjury, stating that the vehicle involved was, at the time, stolen or in the care, custody, or control of some person other than the registered owner, or any other extenuating circumstances;

(e) For purposes of the 2009-11 fiscal biennium pilot program, infractions detected through the use of automated traffic safety cameras are not part of the registered owner's driving record under RCW 46.52.101 and 46.52.120. Additionally, infractions generated by the use of automated traffic safety cameras must be processed in the same manner as parking infractions for the purposes of RCW 3.50.100, 35.20.220, 46.16.216, and 46.20.270(3). However, the amount of the fine issued under this subsection (2) for an infraction generated through the use of an automated traffic safety camera is one hundred thirty-seven dollars. The court shall remit thirty-two dollars of the fine to the state treasurer for deposit into the state patrol highway account; and

(f) If a notice of infraction is sent to the registered owner and the registered owner is a rental car business, the infraction must be dismissed against the business if it mails to the patrol, within fourteen days of receiving the notice, a declaration under penalty of perjury of the name and known mailing address of the individual driving or renting the vehicle when the infraction occurred. If the business is unable to determine who was driving or renting the vehicle at the time the infraction occurred, the business must sign a declaration under penalty of perjury to this effect. The declaration must be mailed to the patrol within fourteen days of receiving the notice of traffic infraction. Timely mailing of this declaration to the issuing agency relieves a rental car business of any liability under this section for the notice of infraction. A declaration form suitable for this purpose must be included with each automated traffic infraction notice issued, along with instructions for its completion and use.

(3) The department shall implement a pilot project to evaluate the benefits of using electronic traffic flagging devices. Electronic traffic flagging devices must be tested by the department at multiple sites and reviewed for efficiency and safety. The department shall report to the transportation committees of the legislature on the best use and practices involving electronic traffic flagging devices, including recommendations for future use, by June 30, 2010.

(4) \$173,000 of the motor vehicle account—state appropriation is provided solely for the department to continue a pilot tow truck incentive program and to expand the program to other areas of the state. The department may provide incentive payments to towing companies that meet clearance goals on accidents

that involve heavy trucks. The department shall report to the office of financial management and the transportation committees of the legislature on the effectiveness of the clearance goals and submit recommendations to improve the pilot program with the department's 2010 supplemental omnibus transportation appropriations act submittal. The tow truck incentive program may continue to provide incentives for quick clearance of traffic incidents involving large vehicles. The department shall make recommendations as part of its biennial budget proposal for expanding the use of the incentive program.

(5) \$92,000 of the motor vehicle account—state appropriation is provided solely for operating a new active traffic management system on Interstate 5, Interstate 90, and SR 520. The department shall track the costs associated with these systems on a corridor basis and report to the legislative transportation committees on the cost and benefits of the system.

(6) To the extent practicable, the department shall synchronize traffic lights on state route number 161 in the vicinity of Puyallup.

(7) During the 2009-11 biennium, the department shall implement 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 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. By June 30, 2011, the department shall report to the transportation committees of the legislature on whether private transportation provider use of high occupancy vehicle lanes under the pilot program reduces the speeds of high occupancy vehicle lanes. 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.

Sec. 219. 2009 c 470 s 219 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION—
TRANSPORTATION MANAGEMENT AND SUPPORT—PROGRAM S**

Motor Vehicle Account—State Appropriation	(\$29,153,000)
	<u>\$28,468,000</u>
Motor Vehicle Account—Federal Appropriation	\$30,000
Multimodal Transportation Account—State Appropriation	(\$973,000)
	<u>\$971,000</u>
State Route Number 520 Corridor Account—State Appropriation	\$264,000

TOTAL APPROPRIATION~~(\$30,420,000)~~
\$29,733,000

The appropriations in this section are subject to the following conditions and limitations: \$264,000 of the state route number 520 corridor account—state appropriation is provided solely for the costs directly related to tolling the state route number 520 floating bridge. This amount must be retained in unallotted status, and may only be released by the office of financial management after consultation with the joint transportation committee ~~((following the committee's examination of toll operations costs referenced in section 204(2) of this act. The amount provided in this section is contingent on the enactment of (1) Engrossed Substitute House Bill No. 2211 and (2) either Engrossed Substitute House Bill No. 2326 or other legislation authorizing bonds for the state route number 520 corridor projects. If the conditions of this section are not satisfied, the amount provided in this section shall lapse)).~~

Sec. 220. 2009 c 470 s 220 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION—
TRANSPORTATION PLANNING, DATA, AND RESEARCH—
PROGRAM T**

Motor Vehicle Account—State Appropriation~~(\$24,724,000)~~
\$25,955,000
Motor Vehicle Account—Federal Appropriation~~(\$19,116,000)~~
\$22,002,000
Multimodal Transportation Account—State
Appropriation. ~~(\$696,000)~~
\$1,090,000
Multimodal Transportation Account—Federal
Appropriation. ~~(\$2,809,000)~~
\$3,287,000
Multimodal Transportation Account—Private/Local
Appropriation. ~~(\$100,000)~~
\$99,000
TOTAL APPROPRIATION~~(\$47,445,000)~~
\$52,433,000

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

(1) \$150,000 of the motor vehicle account—federal appropriation is provided solely for the costs to develop an electronic map-based computer application that will enable law enforcement officers and others to more easily locate collisions and other incidents in the field.

(2) \$400,000 of the ~~((motor vehicle account))~~ multimodal transportation account—state appropriation is provided solely for a diesel multiple unit feasibility and initial planning study. The study must evaluate potential service on the Stampede Pass line from Maple Valley to Auburn via Covington. The study must evaluate the potential demand for service, the business model and capital needs for launching and running the line, and the need for improvements in switching, signaling, and tracking. The study must also consider the interconnectivity benefits of, and potential for, future Amtrak Cascades stops in

south King county and north Pierce county. As part of its consideration, the department shall conduct a thorough market analysis of the potential for adding or changing stops on the Amtrak Cascades route. The department shall amend the scope, schedule, and budget of the current study process to accommodate the market analysis. A report on the study must be submitted to the legislature by ~~(June)~~ September 30, 2010.

(3) ~~(\$243,000)~~ \$365,000 of the motor vehicle account—state appropriation and \$81,000 of the motor vehicle account—federal appropriation are provided solely for the development of a freight database to help guide freight investment decisions and track project effectiveness. The database must be based on truck movement tracked through geographic information system technology. For the remainder of the biennium, the department may expand data collection to any highways that have high truck volumes. TransNow shall contribute additional federal funds that are not appropriated in this act. The department shall work with the freight mobility strategic investment board to implement this database.

(4) \$2,000,000 of the motor vehicle account—state appropriation is provided solely for scoping unfunded state highway projects to ensure that a well-vetted project list is available for future program funding discussions.

(a) It is the intent of the legislature that the funding provided in this subsection support the development of transportation solutions that benefit all state residents, including addressing the impacts of traffic diversion from tolled facilities. It is further the intent of the legislature that the buying power of future revenue packages is maximized.

(b) Scoping work must be consistent with achieving transportation system policy goals as stated in RCW 47.04.280.

(c) The department shall provide cost-effective design solutions that achieve the desired functional outcomes. This may be achieved by providing one or more design alternatives for legislative consideration, based on a reasonable range of assumptions about traffic volume and speeds.

(d) Prior to the commencement of the 2011 legislative session, the department shall provide a report to the legislative transportation committees and the office of financial management that includes estimated costs and construction time frames.

(5) \$150,000 of the motor vehicle account—state appropriation is provided solely for a corridor study of state route number 516 from the eastern border of Maple Valley to state route number 167 to determine whether improvements are needed and the costs of any needed improvements.

(6) \$500,000 of the multimodal transportation account—federal appropriation is provided solely for continued support of the International Mobility and Trade Corridor project and for the department to work with the Whatcom council of governments to examine potential improvements to international border freight and passenger rail movement and the use of diesel multiple units.

(7) \$80,000 of the motor vehicle account—state appropriation is provided solely to continue existing work regarding feasibility of a new interchange between Rochester and Harrison Avenue on Interstate 5.

*Sec. 221. 2009 c 470 s 222 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION—PUBLIC TRANSPORTATION—PROGRAM V

Regional Mobility Grant Program Account—State	
Appropriation.....	((<u>\$54,677,000</u>))
	<u>\$65,274,000</u>
Multimodal Transportation Account—State	
Appropriation.....	((<u>\$65,795,000</u>))
	<u>\$65,667,000</u>
Multimodal Transportation Account—Federal	
Appropriation.....	((<u>\$2,582,000</u>))
	<u>\$2,573,000</u>
Multimodal Transportation Account—Private/Local	
Appropriation.....	((<u>\$1,027,000</u>))
	<u>\$1,025,000</u>
TOTAL APPROPRIATION.....	((<u>\$124,081,000</u>))
	<u>\$134,539,000</u>

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

(1) \$25,000,000 of the multimodal transportation account—state appropriation is provided solely for a grant program for special needs transportation provided by transit agencies and nonprofit providers of transportation.

(a) \$5,500,000 of the amount provided in this subsection is provided solely for grants to nonprofit providers of special needs transportation. Grants for nonprofit providers shall be based on need, including the availability of other providers of service in the area, efforts to coordinate trips among providers and riders, and the cost effectiveness of trips provided.

(b) \$19,500,000 of the amount provided in this subsection is provided solely for grants to transit agencies to transport persons with special transportation needs. To receive a grant, the transit agency must have a maintenance of effort for special needs transportation that is no less than the previous year's maintenance of effort for special needs transportation. Grants for transit agencies shall be prorated based on the amount expended for demand response service and route deviated service in calendar year 2007 as reported in the "Summary of Public Transportation - 2007" published by the department of transportation. No transit agency may receive more than thirty percent of these distributions.

(2) Funds are provided for the rural mobility grant program as follows:

(a) \$8,500,000 of the multimodal transportation account—state appropriation is provided solely for grants for those transit systems serving small cities and rural areas as identified in the "Summary of Public Transportation - 2007" published by the department of transportation. Noncompetitive grants must be distributed to the transit systems serving small cities and rural areas in a manner similar to past disparity equalization programs.

(b) \$8,500,000 of the multimodal transportation account—state appropriation is provided solely to providers of rural mobility service in areas

not served or underserved by transit agencies through a competitive grant process.

(3) \$7,000,000 of the multimodal transportation account—state appropriation is provided solely for a vanpool grant program for: (a) Public transit agencies to add vanpools or replace vans; and (b) 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. At least \$1,600,000 of this amount must be used for vanpool grants in congested corridors.

(4) \$400,000 of the multimodal transportation account—state appropriation is provided solely for a grant for a flexible carpooling pilot project program to be administered and monitored by the department. Funds are appropriated for one time only. The pilot project program must: Test and implement at least one flexible carpooling system in a high-volume commuter area that enables carpooling without prearrangement; utilize technologies that, among other things, allow for transfer of ride credits between participants; and be a membership system that involves prescreening to ensure safety of the participants. The program must include a pilot project that targets commuter traffic on the state route number 520 bridge. The department shall submit to the legislature by December 2010 a report on the program results and any recommendations for additional flexible carpooling programs.

(5) \$3,318,000 of the multimodal transportation account—state appropriation and \$21,248,000 of the regional mobility grant program account—state appropriation are reappropriated and provided solely for the regional mobility grant projects identified on the LEAP Transportation Document 2007-B, as developed April 20, 2007, or the LEAP Transportation Document 2006-D, as developed March 8, 2006. The department shall continue to review all projects receiving grant awards under this program at least semiannually to determine whether the projects are making satisfactory progress. The department shall promptly close out grants when projects have been completed, and any remaining funds available to the office of transit mobility must be used only to fund projects on the LEAP Transportation Document 2006-D, as developed March 8, 2006; the LEAP Transportation Document 2007-B, as developed April 20, 2007; or the LEAP Transportation Document 2009-B, as developed April 24, 2009. 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. However, the Chuckanut park and ride project (101100G) is recognized as a crucial investment in the transportation system. For this reason, the department shall not close out the grant for the Chuckanut park and ride project until Skagit transit has exhausted all other pending opportunities for federal and local funds. If additional funds cannot be secured, the department shall consider this project a priority in the 2011-13 grant process. The department shall make every effort to advance the Chuckanut park and ride project within existing resources.

(6) \$33,429,000 of the regional mobility grant program account—state appropriation is provided solely for the regional mobility grant projects identified in LEAP Transportation Document 2009-B, as developed April 24, 2009. 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 available to the office of transit mobility must be used only to fund projects identified in LEAP Transportation Document 2009-B, as developed April 24, 2009. The department shall provide annual status reports on December 15, 2009, and December 15, 2010, 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.

(7) \$10,596,768 of the regional mobility grant program account—state appropriation must be obligated no later than December 31, 2010, and is provided solely for the following recommended contingency regional mobility grant projects identified in the 2009-11 omnibus transportation appropriations act, LEAP Transportation Document 2009-B, as developed April 24, 2009, as follows:

(a) \$4,000,000 is provided solely for the Rainier/Jackson transit priority corridor improvements;

(b) \$2,100,000 is provided solely for the state route number 522 west city limits to Northeast 180th stage 2A (91st Ave NE to west of 96th Ave NE) project; and

(c) \$4,496,768 is provided solely for the sound transit express bus expansion - Snohomish to King county project.

(8) \$300,000 of the multimodal transportation account—state appropriation is provided solely for a transportation demand management program, developed by the Whatcom council of governments, to further reduce drive-alone trips and maximize the use of sustainable transportation choices. The community-based program must focus on all trips, not only commute trips, by providing education, assistance, and incentives to four target audiences: (a) Large work sites; (b) employees of businesses in downtown areas; (c) school children; and (d) residents of Bellingham.

~~((8))~~ (9) \$130,000 of the multimodal transportation account—state appropriation is provided solely to the department to distribute to support Engrossed Substitute House Bill No. 2072 (special needs transportation).

(a) \$80,000 of the amount provided in this subsection is provided solely for implementation of the work group related to federal requirements in section 1, chapter . . . (Engrossed Substitute House Bill No. 2072), Laws of 2009.

(b) \$50,000 of the amount provided in this subsection is provided solely to support the pilot project to be developed or implemented by the local coordinating coalition comprised of a single county, described in sections 9, 10, and 11, chapter . . . (Engrossed Substitute House Bill No. 2072), Laws of 2009. The department shall assist the local coordinating coalition to seek funding

sufficient to fully fund the pilot project from a variety of sources including, but not limited to, the regional transit authority serving the county, the regional transportation planning organization serving the county, and other appropriate state and federal agencies and grants. Development or implementation of the pilot project is contingent on securing funding sufficient to fully fund the pilot project.

(c) If Engrossed Substitute House Bill No. 2072 is not enacted by June 30, 2009, the amount provided in this subsection (~~((8))~~) (9) lapses. If Engrossed Substitute House Bill No. 2072 is enacted by June 30, 2009, but a commitment from other sources to fully fund the pilot project described in (b) of this subsection has not been obtained by September 30, 2009, the amount provided in (b) of this subsection lapses.

~~((9))~~ (10) Funds provided for the commute trip reduction program may also be used for the growth and transportation efficiency center program.

~~((10))~~ (11) An affected urban growth area that has not previously implemented a commute trip reduction program is exempt from the requirements in RCW 70.94.527 if a solution to address the state highway deficiency that exceeds the person hours of delay threshold has been funded and is in progress during the 2009-11 fiscal biennium.

~~((11))~~ (12) \$2,309,000 of the multimodal transportation account—state appropriation is provided solely for the tri-county connection service for Island, Skagit, and Whatcom transit agencies.

(13) During the 2009-11 biennium, the department shall implement a pilot project that expands opportunities for private transportation providers' use of high occupancy vehicle lanes, transit-only lanes, and certain park and ride facilities. 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. The pilot project must establish that to receive grant funding from a program administered by the public transportation office of the department during the 2009-11 biennium, the local jurisdiction in which the applicant is located must be able to show that it has in place an application process for the reasonable use by private transportation providers of high occupancy vehicle lanes, transit-only lanes, and certain park and ride facilities that are regulated by the local jurisdiction. If a private transportation provider clearly demonstrates that the local jurisdiction failed to consider an application in good faith, the department may not award the jurisdiction any grant funding. Reasonable use exists if the private transportation provider has applied for the use of: (a) High occupancy vehicle or transit-only lanes, and such use will not interfere with the safety of public transportation operations and not reduce the speed of the lanes more than five percent during peak hours; and (b) a park and ride lot (i) during peak hours at a lot that is below ninety percent capacity during peak hours or (ii) during off-peak hours only. A transit agency may require that a private transportation provider enter into an agreement for use of the park and ride lot, and may include provisions to recover actual costs for the use of the lot and its related facilities. For purposes of this subsection: A "private transportation provider" means an auto transportation company regulated under chapter 81.68 RCW; a passenger charter carrier regulated under chapter 81.70 RCW; a private nonprofit transportation provider regulated

under chapter 81.66 RCW; or a private employer transportation service provider; and "private employer transportation service" means regularly scheduled, fixed-route transportation service that is offered by an employer for the benefit of its employees.

*Sec. 221 was partially vetoed. See message at end of chapter.

Sec. 222. 2009 c 470 s 223 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION—MARINE—PROGRAM X

Puget Sound Ferry Operations Account—State

Appropriation.((~~\$400,592,000~~))
\$425,922,000

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

(1) (~~(\$53,110,560)~~) \$78,754,952 of the Puget Sound ferry operations account—state appropriation is provided solely for auto ferry vessel operating fuel in the 2009-11 fiscal biennium. This appropriation is contingent upon the enactment of sections 716 and 701 of this act. All fuel purchased by the Washington state ferries at Harbor Island truck terminal for the operation of the Washington state ferries diesel powered vessels must be a minimum of five percent biodiesel blend so long as the per gallon price of diesel containing a five percent biodiesel blend level does not exceed the per gallon price of diesel by more than five percent.

(2) To protect the waters of Puget Sound, the department shall investigate nontoxic alternatives to fuel additives and other commercial products that are used to operate, maintain, and preserve vessels.

(3) If, after the department's review of fares and pricing policies, the department proposes a fuel surcharge, the department must evaluate other cost savings and fuel price stabilization strategies that would be implemented before the imposition of a fuel surcharge. The department shall report to the legislature and transportation commission on its progress of implementing new fuel forecasting and budgeting practices, price hedging contracts for fuel purchases, and fuel conservation strategies by November 30, 2010.

(4) The department shall strive to significantly reduce the number of injuries suffered by Washington state ferries employees. By December 15, 2009, the department shall submit to the office of financial management and the transportation committees of the legislature its implementation plan to reduce such injuries.

(5) The department shall continue to provide service to Sidney, British Columbia. The department may place a Sidney terminal departure surcharge on fares for out of state residents riding the Washington state ferry route that runs between Anacortes, Washington and Sidney, British Columbia, if the cost for landing/license fee, taxes, and additional amounts charged for docking are in excess of \$280,000 CDN. The surcharge must be limited to recovering amounts above \$280,000 CDN.

(6) The department shall analyze operational solutions to enhance service on the Bremerton to Seattle ferry run. The Washington state ferries shall report its analysis to the transportation committees of the legislature by December 1, 2009.

(7) 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 2011-13 omnibus transportation appropriations act request, as determined jointly by the office of financial management, the Washington state ferries, and the legislative transportation committees.

(8) (~~(\$3,000,000)~~) \$4,794,000 of the Puget Sound ferry operations account—state appropriation is provided solely for commercial insurance for ferry assets. The office of financial management, after consultation with the transportation committees of the legislature, must present a business plan for the Washington state ferry system's insurance coverage to the 2010 legislature. The business plan must include a cost-benefit analysis of Washington state ferries' current commercial insurance purchased for ferry assets and a review of self-insurance for noncatastrophic events.

(9) \$1,100,000 of the Puget Sound ferry operations account—state appropriation is provided solely for a marketing program. The department shall present a marketing program proposal to the transportation committees of the legislature during the 2010 legislative session before implementing this program. Of this amount, \$10,000 is for the city of Port Townsend and \$10,000 is for the town of Coupeville for mitigation expenses related to only one vessel operating on the Port Townsend/Keystone ferry route. The moneys provided to the city of Port Townsend and town of Coupeville are not contingent upon the required marketing proposal.

(10) \$350,000 of the Puget Sound ferry operations account—state appropriation is provided solely for two extra trips per day during the summer of 2009 season, beyond the current schedule, on the Port Townsend/Keystone route.

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

(12) The legislature finds that measuring the performance of Washington state ferries requires the measurement of quality, timeliness, and unit cost of services delivered to customers. Consequently, the department must develop a set of metrics that measure that performance and report to the transportation committees of the legislature and to the office of financial management on the development of these measurements along with recommendations to the 2010 legislature on which measurements must become a part of the next omnibus transportation appropriations act.

(13) As a priority task, the department is directed to propose a comprehensive incident and accident investigation policy and appropriate procedures, and to provide the proposal to the legislature by November 1, 2009, using existing resources and staff expertise. In addition to consulting with ferry system unions and the United States coast guard, the Washington state ferries is encouraged to solicit independent outside expertise on incident and accident investigation best practices as they may be found in other organizations with a similar concern for marine safety. It is the intent of the legislature to enact the policies into law and to publish that law and procedures as a manual for Washington state ferries' accident/incident investigations. Until that time, the Washington state ferry system must exercise particular diligence to assure that

any incident or accident investigations are conducted within the spirit of the guidelines of this act. The proposed policy must contain, at a minimum:

(a) The definition of an incident and an accident and the type of investigation that is required by both types of events;

(b) The process for appointing an investigating officer or officers and a description of the authorities and responsibilities of the investigating officer or officers. The investigating officer or officers must:

(i) Have the appropriate training and experience as determined by the policy;

(ii) Not have been involved in the incident or accident so as to avoid any conflict of interest;

(iii) Have full access to all persons, records, and relevant organizations that may have information about or may have contributed to, directly or indirectly, the incident or accident under investigation, in compliance with any affected employee's or employees' respective collective bargaining agreement and state laws and rules regarding public disclosure under chapter 42.56 RCW;

(iv) Be provided with, if requested by the investigating officer or officers, appropriate outside technical expertise; and

(v) Be provided with staff and legal support by the Washington state ferries as may be appropriate to the type of investigation;

(c) The process of working with the affected employee or employees in accordance with the employee's or employees' respective collective bargaining agreement and the appropriate union officials, within protocols afforded to all public employees;

(d) The process by which the United States coast guard is kept informed of, interacts with, and reviews the investigation;

(e) The process for review, approval, and implementation of any approved recommendations within the department; and

(f) The process for keeping the public informed of the investigation and its outcomes, in compliance with any affected employee's or employees' respective collective bargaining agreement and state laws and rules regarding public disclosure under chapter 42.56 RCW.

(14) \$7,300,000 of the Puget Sound ferry operations account—state appropriation is provided solely for the purposes of travel time associated with Washington state ferries employees. However, if Engrossed Substitute House Bill No. 3209 (managing costs of ferry system) is enacted by June 30, 2010, containing an appropriation for purposes of travel time associated with Washington state ferries employees, the amount provided in this subsection lapses.

(15) \$50,000 of the Puget Sound ferry operations account—state appropriation is provided solely to implement a mechanism to report on-time performance statistics.

(a) The department shall conduct a study to identify process changes that would improve on-time performance on a route-by-route basis. The study must include looking into the slowing down of vessels for fuel economy purposes and touch-and-go sailings on peak runs. The department shall report its findings to the transportation committees of the senate and house of representatives by December 1, 2010.

(b) The department shall, by November 1, 2010, report to the transportation committees of the legislature statistics regarding its on-time arrival and departure status on a route-by-route and month-by-month basis, as well as an annual route-by-route and systemwide basis, weighted by the number of customers on each sailing and distinguishing peak period on-time performance. The statistics must include reasons for any delays over ten minutes from the scheduled time. The statistics must be prominently displayed on the Washington state ferries' web site. Each Washington state ferries vessel and terminal must prominently display the statistics as they relate to their specific route.

(16) The department shall investigate outsourcing the call center functions planned for the ferry reservation system and report its findings to the transportation committees of the senate and house of representatives by December 15, 2010.

(17) By July 1, 2010, the department shall provide to the governor and the transportation committees of the senate and house of representatives a listing of all benefits that Washington state ferries union employees receive that other state employees do not traditionally receive. The listing must include any costs associated with these benefits.

Sec. 223. 2009 c 470 s 224 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION—RAIL—PROGRAM Y—OPERATING

Multimodal Transportation Account—State

Appropriation ((~~\$34,933,000~~))
\$37,371,000

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

(1) (~~(\$29,091,000)~~) \$31,591,000 of the multimodal transportation account—state appropriation is provided solely for the Amtrak service contract and Talgo maintenance contract associated with providing and maintaining the state-supported passenger rail service. Upon completion of the rail platform project in the city of Stanwood, the department shall provide daily Amtrak Cascades service to the city.

(2) Amtrak Cascade runs may not be eliminated.

(3) The department shall begin planning for a third roundtrip Cascades train between Seattle and Vancouver, B.C. by 2010.

Sec. 224. 2009 c 470 s 225 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION—LOCAL PROGRAMS—PROGRAM Z—OPERATING

Motor Vehicle Account—State Appropriation ((~~\$8,739,000~~))
\$8,621,000

Motor Vehicle Account—Federal Appropriation ((~~\$2,567,000~~))
\$2,545,000

TOTAL APPROPRIATION ((~~\$11,306,000~~))
\$11,166,000

TRANSPORTATION AGENCIES—CAPITAL

Sec. 301. 2009 c 470 s 302 (uncodified) is amended to read as follows:

FOR THE COUNTY ROAD ADMINISTRATION BOARD

Rural Arterial Trust Account—State Appropriation	(\$51,000,000)
	<u>\$73,000,000</u>
Motor Vehicle Account—State Appropriation	\$1,048,000
County Arterial Preservation Account—State Appropriation	\$31,400,000
TOTAL APPROPRIATION	(\$83,448,000)
	<u>\$105,448,000</u>

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

(1) \$1,048,000 of the motor vehicle account—state appropriation may be used for county ferry projects as developed pursuant to RCW 47.56.725(4).

(2) The appropriations in this section include funding to counties to assist them in efforts to recover from federally declared emergencies, by providing capitalization advances and local match for federal emergency funding as determined by the county road administration board. The county road administration board shall specifically identify any such selected projects and shall include information concerning such selected projects in its next annual report to the legislature.

(3) \$22,000,000 of the rural arterial trust account—state appropriation is provided solely for additional grants for county road projects as approved by the county road administration board.

Sec. 302. 2009 c 470 s 303 (uncodified) is amended to read as follows:

FOR THE TRANSPORTATION IMPROVEMENT BOARD

Small City Pavement and Sidewalk Account—State Appropriation	(\$5,779,000)
	<u>\$3,927,000</u>
Urban Arterial Trust Account—State Appropriation	(\$122,400,000)
	<u>\$123,900,000</u>
Transportation Improvement Account—State Appropriation	(\$85,643,000)
	<u>\$81,643,000</u>
TOTAL APPROPRIATION	(\$213,822,000)
	<u>\$209,470,000</u>

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

(1) The transportation improvement account—state appropriation includes up to \$7,143,000 in proceeds from the sale of bonds authorized in RCW 47.26.500.

(2) The urban arterial trust account—state appropriation includes up to ~~(\$15,000,000)~~ \$7,143,000 in proceeds from the sale of bonds authorized in RCW 47.26.420.

*Sec. 303. 2009 c 470 s 306 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION—
IMPROVEMENTS—PROGRAM I**

Multimodal Transportation Account—State	
Appropriation	((<u>\$1,000</u>))
	<u>\$98,000</u>
Transportation Partnership Account—State	
Appropriation	((<u>\$1,723,834,000</u>))
	<u>\$1,665,644,000</u>
Motor Vehicle Account—State Appropriation	((<u>\$80,735,000</u>))
	<u>\$85,534,000</u>
Motor Vehicle Account—Federal Appropriation	((<u>\$410,341,000</u>))
	<u>\$570,107,000</u>
Motor Vehicle Account—Private/Local	
Appropriation	((<u>\$65,494,000</u>))
	<u>\$70,714,000</u>
Special Category C Account—State Appropriation	((<u>\$24,549,000</u>))
	<u>\$25,221,000</u>
Transportation 2003 Account (Nickel Account)—State	
Appropriation	((<u>\$703,708,000</u>))
	<u>\$713,205,000</u>
Freight Mobility Multimodal Account—State	
Appropriation	((<u>\$4,422,000</u>))
	<u>\$4,574,000</u>
Tacoma Narrows Toll Bridge Account—State	
Appropriation	((<u>\$788,000</u>))
	<u>\$789,000</u>
State Route Number 520 Corridor Account—State	
Appropriation	((<u>\$106,000,000</u>))
	<u>\$231,763,000</u>
<u>State Route Number 520 Civil Penalties Account—State</u>	
<u>Appropriation</u>	<u>\$1,190,000</u>
TOTAL APPROPRIATION	((<u>\$3,119,872,000</u>))
	<u>\$3,368,839,000</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 ((~~2009-1~~) 2010-1 as developed ((~~April 24, 2009~~) March 8, 2010, Program - Highway Improvement 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 603 of this act.

(2) ((~~As a result of economic changes since the initial development of the improvement program budget for the 2009-11 fiscal biennium, the department has received bids on construction contracts over the last several months that are favorable with respect to current estimates of project costs. National economic~~

forecasts indicate that inflationary pressures are likely to remain lower than previously expected for the next several years. As a result, the nominal project cost totals shown in LEAP Transportation Document 2009-1 in aggregate for the 2009-11 fiscal biennium and the 2011-13 fiscal biennium are expected to exceed the likely amount necessary to deliver the projects listed within those biennia by \$63,500,000 in the 2009-11 fiscal biennium and \$52,700,000 in the 2011-13 fiscal biennium. The appropriations provided in this section for the projects in those biennia are therefore \$63,500,000 less in the 2009-11 fiscal biennium and \$52,700,000 less in the 2011-13 fiscal biennium than the aggregate total of project costs listed. It is the intent of the legislature that the department shall deliver the projects listed in LEAP Transportation Document 2009-1 within the time, scope, and budgets identified in that document, provided that the prices of commodities used in transportation projects do not differ significantly from those assumed for the 2009-11 and 2011-13 fiscal biennia in the March 2009 forecast of the economic and revenue forecast council.

~~(3)~~ ~~(\$162,900,000)~~ \$163,385,000 of the transportation partnership account—state appropriation and ~~(\$106,000,000)~~ \$231,763,000 of the state route number 520 corridor account—state appropriation are provided solely for the state route number 520 bridge replacement and HOV project. The department shall submit an application for the eastside transit and HOV project to the supplemental discretionary grant program for regionally significant projects as provided in the American Recovery and Reinvestment Act of 2009. ~~((Eastside state route number 520 improvements shall be designed and constructed to accommodate a future full interchange at 124th Avenue Northeast. Concurrent with the eastside transit and HOV project, the department shall conduct engineering design of a full interchange at 124th Avenue Northeast. The amount provided in this subsection from the state route number 520 corridor account—state appropriation is contingent on the enactment of (a) Engrossed Substitute House Bill No. 2211 and (b) either Engrossed Substitute House Bill No. 2326 or other legislation authorizing bonds for the state route number 520 corridor projects. If the conditions of this subsection are not satisfied, the state route number 520 corridor account—state appropriation shall lapse.~~

~~(4))~~ ~~(3)~~ As required under section 305(6), chapter 518, Laws of 2007, the department shall report by January 2010 to the transportation committees of the legislature on the findings of the King county noise reduction solutions pilot project.

~~((5))~~ ~~(4)~~ Funding allocated for mitigation costs is provided solely for the purpose of project impact mitigation, and shall not be used to develop or otherwise participate in the environmental assessment process.

~~((6))~~ ~~(5)~~ The department shall apply for surface transportation program (STP) enhancement funds to be expended in lieu of or in addition to state funds for eligible costs of projects in Programs I and P including, but not limited to, the SR 518, SR 520, Columbia river crossing, and Alaskan Way viaduct projects.

~~((7))~~ ~~(6)~~ The department shall, on a quarterly basis beginning July 1, 2009, provide to the office of financial management and the legislature reports providing the status on each active project funded in part or whole by the transportation 2003 account (nickel account) or the transportation partnership account. Funding provided at a programmatic level for transportation

partnership account and transportation 2003 account (nickel account) projects relating to bridge rail, guard rail, fish passage barrier removal, and roadside safety projects should be reported on a programmatic basis. Projects within this programmatic level funding should be completed on a priority basis and scoped to be completed within the current programmatic budget. ~~((The department shall work with the office of financial management and the transportation committees of the legislature to agree on report formatting and elements. Elements must include, but not be limited to, project scope, schedule, and costs. For))~~ Report formatting and elements must be consistent with the October 2009 quarterly project report. On a representative sample of new construction contracts valued at fifteen million dollars or more, the department must also use an earned value method of project monitoring. ~~((The department shall also provide the information required under this subsection on a quarterly basis via the transportation executive information systems (TEIS).))~~

~~((8))~~ (7) The transportation 2003 account (nickel account)—state appropriation includes up to ~~(((\$628,000,000))~~ \$653,630,000 in proceeds from the sale of bonds authorized by RCW 47.10.861.

~~((9))~~ (8) The transportation partnership account—state appropriation includes up to ~~(((\$1,360,528,000))~~ \$1,347,939,000 in proceeds from the sale of bonds authorized in RCW 47.10.873.

~~((10))~~ (9) The special category C account—state appropriation includes up to ~~(((\$22,127,000))~~ \$25,221,000 in proceeds from the sale of bonds authorized in RCW 47.10.812.

~~((11))~~ (10) The motor vehicle account—state appropriation includes up to ~~(((\$31,500,000))~~ \$43,000,000 in proceeds from the sale of bonds authorized in RCW 47.10.843.

(11) The state route number 520 corridor account—state appropriation includes up to \$231,763,000 in proceeds from the sale of bonds authorized in RCW 47.10.879.

(12) The department must prepare a tolling study for the Columbia river crossing project. While conducting the study, the department must coordinate with the Oregon department of transportation to perform the following activities:

(a) Evaluate the potential diversion of traffic from Interstate 5 to other parts of the transportation system when tolls are implemented on Interstate 5 in the vicinity of the Columbia river;

(b) Evaluate the most advanced tolling technology to maintain travel time speed and reliability for users of the Interstate 5 bridge;

(c) Evaluate available active traffic management technology to determine the most effective options for technology that could maintain travel time speed and reliability on the Interstate 5 bridge;

(d) Confer with the project sponsor's council, as well as local and regional governing bodies adjacent to the Interstate 5 Columbia river crossing corridor and the Interstate 205 corridor regarding the implementation of tolls, the impacts that the implementation of tolls might have on the operation of the corridors, the diversion of traffic to local streets, and potential mitigation measures;

(e) Regularly report to the Washington transportation commission regarding the progress of the study for the purpose of guiding the commission's potential toll setting on the facility;

(f) Research and evaluate options for a potential toll-setting framework between the Oregon and Washington transportation commissions;

(g) Conduct public work sessions and open houses to provide information to citizens, including users of the bridge and business and freight interests, regarding implementation of tolls on the Interstate 5 and to solicit citizen views on the following items:

(i) Funding a portion of the Columbia river crossing project with tolls;

(ii) Implementing variable tolling as a way to reduce congestion on the facility; and

(iii) Tolling Interstate 205 separately as a management tool for the broader state and regional transportation system; and

(h) Provide a report to the governor and the legislature by January 2010.

(13)(a) By January 2010, the department must prepare a traffic and revenue study for Interstate 405 in King county and Snohomish county that includes funding for improvements and high occupancy toll lanes, as defined in RCW 47.56.401, for traffic management. The department must develop a plan to operate up to two high occupancy toll lanes in each direction on Interstate 405.

(b) For the facility listed in (a) of this subsection, the department must:

(i) Confer with the mayors and city councils of jurisdictions in the vicinity of the project regarding the implementation of high occupancy toll lanes and the impacts that the implementation of these high occupancy toll lanes might have on the operation of the corridor and adjacent local streets;

(ii) Conduct public work sessions and open houses to provide information to citizens regarding implementation of high occupancy toll lanes and to solicit citizen views;

(iii) Regularly report to the Washington transportation commission regarding the progress of the study for the purpose of guiding the commission's toll setting on the facility; and

(iv) Provide a report to the governor and the legislature by January 2010.

(14)(~~(\$9,199,985)~~) \$6,488,000 of the motor vehicle account—state appropriation ~~(is)~~ and \$5,000 of the motor vehicle account—federal appropriation are provided solely for project 100224I, ~~((as identified in the LEAP transportation document in subsection (1) of this section:))~~ US 2 high priority safety project. Expenditure of these funds is for safety projects on state route number 2 between Monroe and Gold Bar, which may include median rumble strips, traffic cameras, and electronic message signs.

(15) Expenditures for the state route number 99 Alaskan Way viaduct replacement project must be made in conformance with Engrossed Substitute Senate Bill No. 5768.

(16) The department shall conduct a public outreach process to identify and respond to community concerns regarding the Belfair bypass. The process must include representatives from Mason county, the legislature, area businesses, and community members. The department shall use this process to consider and develop design alternatives that alter the project's scope so that the community's needs are met within the project budget. The department shall provide a report on the process and outcomes to the legislature by June 30, 2010.

(17) The legislature is committed to the timely completion of R8A which supports the construction of sound transit's east link. Following the completion of the independent analysis of the methodologies to value the reversible lanes on

Interstate 90 which may be used for high capacity transit as directed in section 204 of this act, the department shall complete the process of negotiations with sound transit. Such agreement shall be completed no later than December 1, 2009.

(18) \$250,000 of the motor vehicle account—state appropriation is provided solely for the design and construction of a right turn lane to improve visibility and traffic flow on state route number 195 and Cheney-Spokane Road (project L1000001).

(19) ~~(\$846,700)~~ \$730,000 of the motor vehicle account—federal appropriation and ~~(\$17,280)~~ \$16,000 of the motor vehicle account—state appropriation are provided solely for the Westview school noise wall (project WESTV).

(20) ~~(\$1,360)~~ \$2,000 of the motor vehicle account—state appropriation and ~~(\$35,786)~~ \$131,000 of the motor vehicle account—federal appropriation are provided solely for interchange design and planning work on US 12 at A Street and Tank Farm Road (project PASCO).

(21) ~~(\$20,011,125)~~ \$21,566,000 of the transportation partnership account—state appropriation, ~~(\$2,550)~~ \$26,000 of the motor vehicle account—state appropriation, ~~(\$30,003,473)~~ \$30,000,000 of the motor vehicle account—private/local appropriation, and ~~(\$1,482,066)~~ \$4,334,000 of the motor vehicle account—federal appropriation are provided solely for project 400506A, the I-5/Columbia river crossing/Vancouver project. The funding described in this subsection includes a ~~(\$30,003,473)~~ \$30,000,000 contribution from the state of Oregon.

(22) It is important that the public and policymakers have accurate and timely access to information related to the Alaskan Way viaduct replacement project as it proceeds to, and during, the construction of all aspects of the project including, but not limited to, information regarding costs, schedules, contracts, project status, and neighborhood impacts. Therefore, it is the intent of the legislature that the state, city, and county departments of transportation establish a single source of accountability for integration, coordination, tracking, and information of all requisite components of the replacement project, which must include, at a minimum:

(a) A master schedule of all subprojects included in the full replacement project or program; and

(b) A single point of contact for the public, media, stakeholders, and other interested parties.

~~(23) ((The state route number 520 corridor account—state appropriation includes up to \$106,000,000 in proceeds from the sale of bonds authorized in Engrossed Substitute House Bill No. 2326 or in legislation authorizing bonds for the state route number 520 corridor projects. If Engrossed Substitute House Bill No. 2326, or legislation authorizing bonds for the state route number 520 corridor projects, is not enacted by June 30, 2009, the amount provided in this subsection shall lapse.~~

~~(24))~~ The department shall evaluate a potential deep bore culvert for the state route number 305/Bjorgen creek fish barrier project identified as project 330514A in LEAP Transportation Document ALL PROJECTS 2009-2, as developed April 24, 2009. The department shall evaluate whether a deep bore

culvert will be a less costly alternative than a traditional culvert since a traditional culvert would require extensive road detours during construction.

~~((25))~~ (24) Project number 330215A in the LEAP transportation document described in subsection (1) of this section is expanded to include safety and congestion improvements from the Key Peninsula Highway to the vicinity of Purdy. The department shall consult with the Washington traffic safety commission to ensure that this project includes improvements at intersections and along the roadway to reduce the frequency and severity of collisions related to roadway conditions and traffic congestion.

~~((26) \$10,600,000)~~ (25) \$8,890,000 of the transportation partnership account—state appropriation is provided solely for project 109040Q, the Interstate 90 Two Way Transit and HOV Improvements—Stage 2 and 3 project, as indicated in the LEAP transportation document referenced in subsection (1) of this section. ~~(Funds shall be used solely for preliminary engineering on stages 2 and 3 of this project.)~~

~~((27))~~ (26) The department shall continue to work with the local partners in developing transportation solutions necessary for the economic growth in the Red Mountain American Viticulture Area of Benton county.

~~((28))~~ (27) For highway construction projects where the department considers agricultural lands of long-term commercial significance, as defined in RCW 36.70A.030, in reviewing and selecting sites to meet environmental mitigation requirements under the national environmental policy act (42 U.S.C. Sec. 4321 et seq.) and the state environmental policy act (chapter 43.21C RCW), the department shall, to the greatest extent possible, consider using public land first. If public lands are not available that meet the required environmental mitigation needs, the department may use other sites while making every effort to avoid any net loss of agricultural lands that have a designation of long-term commercial significance.

~~((29))~~ (28) 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.

~~((30))~~ (29) Within the amounts provided in this section, \$200,000 of the transportation partnership account—state appropriation is provided solely for the department to prepare a comprehensive tolling study of the state route number 167 corridor to determine the feasibility of administering tolls within the corridor, identified as project number 316718A in the LEAP transportation document described in subsection (1) of this section. The department shall report to the joint transportation committee by September 30, 2010. The department shall regularly report to the Washington transportation commission regarding the progress of the study for the purpose of guiding the commission's potential toll setting on the facility. The elements of the study must include, at a minimum:

- (a) The potential for value pricing to generate revenues for needed transportation facilities within the corridor;
- (b) Maximizing the efficient operation of the corridor; and
- (c) Economic considerations for future system investments.

~~((31))~~ (30) Within the amounts provided in this section, \$200,000 of the transportation partnership account—state appropriation is provided solely for the

department to prepare a comprehensive tolling study of the state route number 509 corridor to determine the feasibility of administering tolls within the corridor, identified as project number 850901F in the LEAP transportation document described in subsection (1) of this section. The department shall report to the joint transportation committee by September 30, 2010. The department shall regularly report to the Washington transportation commission regarding the progress of the study for the purpose of guiding the commission's potential toll setting on the facility. The elements of the study must include, at a minimum:

(a) The potential for value pricing to generate revenues for needed transportation facilities within the corridor;

(b) Maximizing the efficient operation of the corridor; and

(c) Economic considerations for future system investments.

~~((32))~~ (31) Within the amounts provided in this section, \$28,000,000 of the transportation partnership account—state appropriation is for project 600010A, as identified in the LEAP transportation document in subsection (1) of this section: NSC-North Spokane corridor design and right-of-way - new alignment. Expenditure of these funds is for preliminary engineering and right-of-way purchasing to prepare for four lanes to be built from where existing construction ends at Francis Avenue for three miles to the Spokane river. Additionally, any savings realized on project 600001A, as identified in the LEAP transportation document in subsection (1) of this section: US 395/NSC-Francis Avenue to Farwell Road - New Alignment, must be applied to project 600010A.

~~((33))~~ (32) \$400,000 of the motor vehicle account—state appropriation is provided solely for the department to conduct a state route number 2 route development plan (project L2000016) that will identify essential improvements needed between the port of Everett/Naval station and approaching the state route number 9 interchange near the city of Snohomish.

~~((34))~~ (33) If the SR 26 - Intersection and Illumination Improvements are not completed by June 30, 2009, the department shall ensure that the improvements are completed as soon as practicable after June 30, 2009, and shall submit monthly progress reports on the improvements beginning July 1, 2009.

~~((35))~~ (34) \$200,000 of the transportation partnership account—state appropriation, identified on project number 400506A in the LEAP transportation document described in subsection (1) of this section, is provided solely for the department to work with the department of archaeology and historic preservation to ensure that the cultural resources investigation is properly conducted on the Columbia river crossing project. This project must be conducted with active archaeological management and result in one report that spans the single cultural area in Oregon and Washington. Additionally, the department shall establish a scientific peer review of independent archaeologists that are knowledgeable about the region and its cultural resources.

~~((36))~~ (35) The department shall work with the department of archaeology and historic preservation to ensure that the cultural resources investigation is properly conducted on all mega-highway projects and large ferry terminal projects. These projects must be conducted with active archaeological management. Additionally, the department shall establish a scientific peer

review of independent archaeologists that are knowledgeable about the region and its cultural resources.

~~((37))~~ (36) Within the amounts provided in this section, \$1,500,000 of the motor vehicle account—state appropriation is provided solely for necessary work along the south side of SR 532, identified as project number 053255C in the LEAP transportation document described in subsection (1) of this section.

~~((38))~~ (37) \$10,000,000 of the transportation partnership account—state appropriation is provided solely for the Spokane street viaduct portion of project 809936Z, SR 99/Alaskan Way Viaduct – Replacement project as indicated in the LEAP transportation document referenced in subsection (1) of this section.

~~((39))~~ (38) The department shall conduct a public outreach process to identify and respond to community concerns regarding the portion of John's Creek Road that connects state route number 3 and state route number 101. The process must include representatives from Mason county, the legislature, area businesses, and community members. The department shall use this process to consider, develop, and design a project scope so that the community's needs are met for the lowest cost. The department shall provide a report on the process and outcomes to the legislature by June 30, 2010.

~~((40))~~ (39) The department shall apply for the competitive portion of federal transit administration funds for eligible transit-related costs of the state route number 520 bridge replacement and HOV project and the Columbia river crossing project. The federal funds described in this subsection must not include those federal transit administration funds distributed by formula. The department shall provide a report regarding this effort to the legislature by January 1, 2010.

(40) \$5,500,000 of the motor vehicle account—federal appropriation is provided solely for the Alaskan Way Viaduct - Automatic Shutdown project, identified as project L1000034.

(41) \$2,244,000 of the motor vehicle account—federal appropriation and \$122,000 of the motor vehicle account—state appropriation are provided solely for the US 12/Nine Mile Hill to Woodward Canyon Vic - Build New Highway project, identified as project 501210T.

(42) \$790,000 of the motor vehicle account—federal appropriation is provided solely for the Express Lanes System Concept Study project, identified as project 800020A. As part of this project, the department shall prepare a comprehensive tolling study of the Interstate 5 express lanes to determine the feasibility of administering tolls within the corridor. The department shall regularly report to the Washington transportation commission regarding the progress of the study. The elements of the study must include, at a minimum:

(i) The potential for value pricing to generate revenues for needed transportation facilities;

(ii) Maximizing the efficient operation of the corridor;

(iii) Economic considerations for future system investments; and

(iv) An analysis of the impacts to the regional transportation system.

(b) The department shall submit a final report on the study to the joint transportation committee by June 30, 2011.

(43) Any redistributed federal funds received by the department must, to the greatest extent possible, be first applied to offset planned expenditures of state funds, and second to offset planned expenditures of federal funds, on

projects as identified in the LEAP transportation documents described in this act. If the redistributed federal funds cannot be used in this manner, the department must consult with the joint transportation committee prior to obligating any redistributed federal funds.

(44) \$226,000 of the motor vehicle account—federal appropriation and \$9,000 of the motor vehicle account—state appropriation are provided solely for the SR 16/Rosedale Street NW Vicinity - Frontage Road project (301639C). These funds must not be expended before an agreement stating that the city of Gig Harbor will take ownership of the road has been signed. The frontage road must be built for driving speeds of no more than thirty-five miles per hour.

(45) The department shall work with the Washington state transportation commission, the Oregon state department of transportation, and the Oregon state transportation commission to analyze and review potential options for a bistate toll setting framework. As part of the analysis, the department shall undertake the following actions: Review statutory provisions and the governance structures of toll facilities in the United States that are located within two or more states; review relevant federal law regarding transportation facilities that are located within two or more states; consult with the state treasurers in Washington and Oregon regarding the appropriate structure for the issuance of debt for toll facilities that are located within two states; report findings and recommendations to the Columbia river project sponsor's council by October 1, 2010; and provide a final report to the governor and the legislature by June 30, 2011.

(46) \$750,000 of the motor vehicle account—state appropriation is provided solely for improvements from Allan Road to state route number 12 (501207Z).

(47) \$500,000 of the motor vehicle account—state appropriation is provided solely for a traffic signal at the intersection of state route number 7 and state route number 702 (300738A).

(48) \$750,000 of the motor vehicle account—state appropriation is provided solely for environmental work on the Belfair Bypass (project 300344C).

(49) The legislature finds that state route number 522 corridor provides an important link between Interstates 5 and 405 and will be impacted by diversion from tolling elsewhere in the region. State route number 522 must be reviewed as part of the scoping work conducted under section 220(4) of this act. As such, the legislature intends to provide additional funding for the corridor as a priority in the next revenue package. The state will work with the affected cities and the federal government to secure the necessary resources to address the needs of this critical corridor.

(50) \$500,000 of the motor vehicle account—state appropriation is provided solely for the US 12/SR 122/Mossyrock - Intersection project (401212R) for safety improvements.

(51) \$200,000 of the motor vehicle account—federal appropriation is provided solely for project US 97A/North of Wenatchee - Wildlife Fence (209790B), and an offsetting reduction is anticipated in the 2011-13 biennium.

(52) If a planned roundabout in the vicinity of state route number 526 and 84th Street SW would divert commercial traffic onto neighborhood streets, the department may not proceed with improvements at state route number 526 and 84th Street SW until the traffic impacts in the vicinity of state route number 526 and 40th Avenue West are addressed.

(53) The department shall conduct a collision analysis corridor study on state route number 167 from milepost 0 to milepost 5 and report to the transportation committees of the legislature on the analysis results by December 1, 2010.

(54) \$2,600,000 of the motor vehicle account—federal appropriation is provided solely for the ITS Advanced Traveler Information System project in Whatcom county (100589B).

(55) \$900,000 of the motor vehicle account—federal appropriation is provided solely for the US 97/Cameron Lake Road intersection improvements project in Okanogan county (209700W).

(56) \$400,000 of the motor vehicle account—federal appropriation and \$100,000 of the motor vehicle account—state appropriation are provided solely for the SR 9/SR 204 Intersection Improvement project (L2000040).

(57) The legislature finds that the state route number 12 widening from state route number 124 to Walla Walla is an important east-west corridor in the southeast region of the state. Widening the highway to four lanes will increase safety and improve freight mobility. Therefore, the legislature intends for the department to use up to two million dollars in future redistributed federal obligation authority that may be received by the department for right-of-way purchase for the US 12/Nine Mile Hill to Woodward Canyon Vicinity - Phase 7-A project (501210T).

*Sec. 303 was partially vetoed. See message at end of chapter.

*Sec. 304. 2009 c 470 s 307 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION—
PRESERVATION—PROGRAM P**

Transportation Partnership Account—State	
Appropriation	(\$103,077,000)
	\$75,305,000
Motor Vehicle Account—State Appropriation	(\$88,142,000)
	\$96,884,000
Motor Vehicle Account—Federal Appropriation	(\$524,954,000)
	\$556,705,000
Motor Vehicle Account—Private/Local Appropriation	(\$6,417,000)
	\$18,768,000
Transportation 2003 Account (Nickel Account)—State	
Appropriation	(\$7,237,000)
	\$6,328,000
Puyallup Tribal Settlement Account—State	
Appropriation	(\$6,500,000)
	\$6,636,000
TOTAL APPROPRIATION	(\$736,327,000)
	\$760,626,000

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 (~~(2009-1)~~) 2010-1 as developed (~~(April 24, 2009)~~) March 8, 2010, 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 603 of this act.

(2) (~~(\$544,639)~~) \$542,000 of the motor vehicle account—federal appropriation and (~~(\$455,364)~~) \$453,000 of the motor vehicle account—state appropriation are provided solely for project 602110F, (~~(as identified in the LEAP transportation document in subsection (1) of this section.)~~) SR 21/Keller ferry boat - Preservation. Funds are provided solely for preservation work on the existing vessel, the Martha S.

(3) The department shall apply for surface transportation program (STP) enhancement funds to be expended in lieu of or in addition to state funds for eligible costs of projects in Programs I and P.

(4) (~~(\$6,500,000)~~) \$6,636,000 of the Puyallup tribal settlement account—state appropriation is provided solely for (~~(mitigation)~~) costs associated with the Murray Morgan/11th Street bridge (~~(demolition. The department may negotiate with the city of Tacoma for the purpose of transferring ownership of the Murray Morgan/11th Street bridge to the city. If the city agrees to accept ownership of the bridge, the department)~~) project. The city of Tacoma may use the Puyallup tribal settlement account appropriation and other appropriated funds for bridge rehabilitation, bridge replacement, bridge demolition, and related mitigation. The department's participation, including prior expenditures, may not exceed (~~(\$39,953,000)~~) \$40,270,000. (~~(Funds may not be expended unless)~~) The city of Tacoma (~~(agrees to take)~~) has taken ownership of the bridge in its entirety, and (~~(provides that)~~) the payment of these funds extinguishes any real or implied agreements regarding future bridge expenditures.

(5) The department and the city of Tacoma must present to the legislature an agreement on the timing of the transfer of ownership of the Murray Morgan/11th Street bridge and any additional necessary state funding required to achieve the transfer and rehabilitation of the bridge by January 1, 2010.

(6) The department shall, on a quarterly basis beginning July 1, 2009, provide to the office of financial management and the legislature reports providing the status on each active project funded in part or whole by the transportation 2003 account (nickel account) or the transportation partnership account. Funding provided at a programmatic level for transportation partnership account projects relating to seismic bridges should be reported on a programmatic basis. Projects within this programmatic level funding should be completed on a priority basis and scoped to be completed within the current programmatic budget. The department shall work with the office of financial management and the transportation committees of the legislature to agree on report formatting and elements. Elements must include, but not be limited to, project scope, schedule, and costs. For new construction contracts valued at fifteen million dollars or more, the department must also use an earned value method of project monitoring. The department shall also provide the information required under this subsection on a quarterly basis via the transportation executive information systems (TEIS).

(7) The department of transportation shall continue to implement the lowest life cycle cost planning approach to pavement management throughout the state to encourage the most effective and efficient use of pavement preservation

funds. Emphasis should be placed on increasing the number of roads addressed on time and reducing the number of roads past due.

(8)(a) The department shall conduct an analysis of state highway pavement replacement needs for the next ten years. The report must include:

(i) The current backlog of asphalt and concrete pavement preservation projects;

(ii) The level of investment needed to reduce or eliminate the backlog and resume the lowest life-cycle cost;

(iii) Strategies for addressing the recent rapid escalation of asphalt prices, including alternatives to using hot mix asphalt;

(iv) Criteria for determining which type of pavement will be used for specific projects, including annualized cost per mile, traffic volume per lane mile, and heavy truck traffic volume per lane mile; and

(v) The use of recycled asphalt and concrete in state highway construction and the effect on highway pavement replacement needs.

(b) Additionally, the department shall work with the department of ecology, the county road administration board, and the transportation improvement board to explore and explain the potential use of permeable asphalt and concrete pavement in state highway construction as an alternative method of storm water mitigation and the potential effects on highway pavement replacement needs.

(c) The department shall submit the report to the office of financial management and the transportation committees of the legislature by ~~((December))~~ September 1, 2010, in order to inform the development of the 2011-13 omnibus transportation appropriations act.

(9) ~~(((\$1,722))~~ \$299,000 of the motor vehicle account—state appropriation, ~~(((\$9,608,115))~~ \$23,425,000 of the motor vehicle account—federal appropriation, and ~~(((\$272,141))~~ \$373,000 of the transportation partnership account—state appropriation are provided solely for the SR 104/Hood Canal bridge - replace east half project, identified as project 310407B in the LEAP transportation document described in subsection (1) of this section.

(10) 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.

(11) Within the amounts provided in this section, \$1,510,000 of the motor vehicle account—state appropriation is provided solely to complete the rehabilitation of the SR 532/84th Avenue NW bridge deck.

(12) ~~(((\$1,500,000))~~ \$1,440,000 of the motor vehicle account—federal appropriation ~~((is))~~ and \$60,000 of the motor vehicle account—state appropriation are provided solely for the environmental impact statement and preliminary planning for the replacement of the state route number 9 Snohomish river bridge (project L2000018).

(13) \$12,503,000 of the motor vehicle account—federal appropriation and \$497,000 of the motor vehicle account—state appropriation are provided solely for the SR 410/Nile Valley Landslide - Establish Interim Detour project (541002R).

(14) \$4,239,000 of the motor vehicle account—federal appropriation and \$662,000 of the motor vehicle account—state appropriation are provided solely for the SR 410/Nile Valley Landslide - Reconstruct Route project (541002T).

(15) Any redistributed federal funds received by the department must, to the greatest extent possible, be first applied to offset planned expenditures of state funds, and second, to offset planned expenditures of federal funds, on projects as identified in the LEAP transportation documents described in this act. If the redistributed federal funds cannot be used in this manner, the department must consult with the joint transportation committee prior to obligating any redistributed federal funds.

(16) The legislature anticipates a report in September 2010 that will outline the department's recommendation for developing a Keller Ferry replacement at the lowest cost. The legislature supports the request to the federal government for federal aid for a replacement vessel and intends to provide reasonable matching amounts as necessary.

(17) \$2,100,000 of the motor vehicle account—federal appropriation is provided solely for the SR 21/Kettle River to Malo paving project in Ferry county (602117A).

*Sec. 304 was partially vetoed. See message at end of chapter.

Sec. 305. 2009 c 470 s 308 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION—TRAFFIC OPERATIONS—PROGRAM Q—CAPITAL

Motor Vehicle Account—State Appropriation	(\$6,394,000)
	<u>\$8,158,000</u>
Motor Vehicle Account—Federal Appropriation	(\$9,262,000)
	<u>\$18,037,000</u>
Motor Vehicle Account—Private/Local Appropriation	\$173,000
TOTAL APPROPRIATION	(\$15,656,000)
	<u>\$26,368,000</u>

Sec. 306. 2009 c 470 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	(\$118,752,000)
	<u>\$126,824,000</u>
Puget Sound Capital Construction Account—Federal Appropriation	(\$38,306,000)
	<u>\$60,364,000</u>
Puget Sound Capital Construction Account—Local Appropriation	(\$8,492,000)
	<u>\$200,000</u>
Transportation 2003 Account (Nickel Account)—State Appropriation	\$51,734,000
Transportation Partnership Account—State Appropriation	(\$67,234,000)
	<u>\$66,879,000</u>
Multimodal Transportation Account—State Appropriation	(\$170,000)
	<u>\$149,000</u>
TOTAL APPROPRIATION	(\$284,688,000)
	<u>\$306,150,000</u>

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

(1) ~~(((\$118,752,000)) \$126,824,000~~ of the Puget Sound capital construction account—state appropriation, ~~(((\$38,306,000)) \$60,364,000~~ of the Puget Sound capital construction account—federal appropriation, ~~(((\$8,492,000)) \$200,000~~ of the Puget Sound capital construction account—local appropriation, ~~(((\$67,234,000)) \$66,879,000~~ of the transportation partnership account—state appropriation, \$51,734,000 of the transportation 2003 account (nickel account)—state appropriation, and ~~(((\$170,000)) \$149,000~~ of the multimodal transportation account—state appropriation are provided solely for ferry capital projects, project support, and administration as listed in LEAP Transportation Document ALL PROJECTS ~~((2009-2)) 2010-2~~ as developed ~~((April 24, 2009)) March 8, 2010~~, Program - Ferries Construction Program (W). Of the total appropriation, a maximum of \$10,627,000 may be used for administrative support, a maximum of \$8,184,000 may be used for terminal project support, and a maximum of \$4,497,000 may be used for vessel project support. Of the total appropriation, \$5,851,000 is provided solely for a reservation system and associated communications projects.

(2) \$51,734,000 of the transportation 2003 account (nickel account)—state appropriation ~~((and))~~, \$63,100,000 of the transportation partnership account—state appropriation, and \$10,164,000 of the Puget Sound capital construction account—state appropriation are provided solely for the acquisition of three new Island Home class ferry vessels subject to the conditions of RCW 47.56.780. The department shall pursue a contract for the second and third Island Home class ferry vessels with an option to purchase a fourth Island Home class ferry vessel. However, if sufficient resources are available to build one 144-auto vessel prior to exercising the option to build the fourth Island Home class ferry vessel, procurement of the fourth Island Home class ferry vessel will be postponed and the department shall pursue procurement of a 144-auto vessel.

(a) The first two Island Home class ferry vessels must be placed on the Port Townsend-Keystone route.

(b) The department may add additional passenger capacity to one of the Island Home class ferry vessels to make it more flexible within the system in the future, if doing so does not require additional staffing on the vessel.

(c) Cost savings from the following initiatives will be included in the funding of these vessels: The department's review and update of the vessel life-cycle cost model as required under this section; and the implementation of technology efficiencies as required under section 602 of this act.

(3) ~~(((\$2,450,000 of the Puget Sound capital construction account—state appropriation is provided solely for contingencies associated with closing out the existing contract for the technical design of the 144-auto vessel and the storage and maintenance of vessel owner-furnished equipment already procured. The department shall use as much of the already procured equipment as is practicable on the Island Home class ferry vessel if it is likely to be obsolete before it is used in procured 144-auto vessels.)) (a) \$8,450,000 of the Puget Sound capital construction account—state appropriation and \$2,450,000 of the transportation partnership account—state appropriation are provided solely for the following projects related to the design of a 144-vehicle vessel class: (i) \$1,380,000 is provided solely for completion of the contract for owner-furnished equipment:~~

(ii) \$8,320,000 is provided solely for completion of the technical design, detail design, and production drawings, all of which must plan for an aluminum superstructure; (iii) \$480,000 is provided solely for the storage of owner-furnished equipment; and (iv) a maximum of \$720,000 is for construction engineering. In completing the contract for owner-furnished equipment, the department shall use as much of the already procured equipment as is practicable on the Island Home class ferry vessels if it is likely to be obsolete before it is used in procured 144-vehicle vessels.

(b) The department shall conduct a cost-benefit study on alternative furnishings and fittings for the 144-vehicle vessel class. The study must review the proposed interior furnishings and fittings for the long-term maintenance and out-of-service vessel costs and, if appropriate, propose alternative interior furnishings and fittings that will decrease long-term maintenance and out-of-service vessel costs. The study must include a projection of out-of-service time and a life-cycle cost analysis of planned out-of-service time, including the impact on fleet size. The department must submit the study to the joint transportation committee by August 1, 2010.

(c) The department shall identify costs for any additional detail design and production drawings costs related to incorporating the aluminum superstructure and any changes in the proposed furnishings and fittings.

(4) \$6,300,000 of the Puget Sound capital construction account—state appropriation is provided solely for emergency capital costs.

~~(5) ((The Anacortes terminal may be replaced if additional federal funds are sought and received by the department. If federal funds received are not sufficient to replace the terminal, only usable, discrete phases of the project, up to the amount of federal funds received, may be constructed with the funds.))~~
\$3,000,000 of the Puget Sound capital construction account—federal appropriation is provided solely for completing the Anacortes terminal design up to the maximum allowable construction cost phase. Beyond preparing environmental work, these funds may be spent only after the following conditions have been met: (a) A value engineering process is conducted on the existing design and the concept of a terminal building smaller than preferred alternative; (b) the office of financial management participates in the value engineering process; (c) the office of financial management concurs with the recommendations of the value engineering process; and (d) the office of financial management gives its approval to proceed with the design work.

(6) \$3,965,000 of the Puget Sound capital construction account—state appropriation is provided solely for the following vessel projects: Waste heat recovery pilot project for the Issaquah; jumbo Mark I class steering gear ventilation pilot project; and ((a new propulsion system for the MV Yakima)) improvements to the Yakima and Kaleetan propulsion controls to allow for two engine operation. Before beginning these projects, the Washington state ferries must ensure the vessels' out-of-service time does not negatively impact service to the system.

(7) The department shall pursue purchasing a foreign-flagged vessel for service on the Anacortes, Washington to Sidney, British Columbia ferry route.

(8) The department shall provide to the office of financial management and the legislature quarterly reports providing the status on each project listed in this section and in the project lists submitted pursuant to this act and on any

additional projects for which the department has expended funds during the 2009-11 fiscal biennium. Elements must include, but not be limited to, project scope, schedule, and costs. The department shall also provide the information required under this subsection via the transportation executive information systems (TEIS). The quarterly report regarding the status of projects identified on the list referenced in subsection (1) of this section must be developed according to an earned value method of project monitoring.

(9) The department shall review and adjust its capital program staffing levels to ensure staffing is at the most efficient level necessary to implement the capital program in the omnibus transportation appropriations act. The Washington state ferries shall report this review and adjustment to the office of financial management and the house and senate transportation committees of the legislature by July 2009.

~~(10) ((\$3,763,000 of the total appropriation is provided solely for the Washington state ferries to develop a reservation system. The department shall complete a pre-design study and present the study to the joint transportation committee by November 1, 2009. This analysis must include an evaluation of the compatibility of the Washington state ferries' electronic fare system, proposed reservation system, and the implementation of smart card. The department may not implement a statewide reservation system until the department is authorized to do so in the 2010 supplemental omnibus transportation appropriations act.~~

~~((11))~~ \$1,200,000 of the total appropriation is provided solely for improving the toll booth configuration at the Port Townsend and Keystone ferry terminals.

~~((12) \$3,249,915))~~ (11) \$2,636,000 of the total appropriation is provided solely for continued permitting ~~((and archaeological work in order to determine the feasibility of relocating))~~ work on the Mukilteo ferry terminal. ~~((In order to ensure that the cultural resources investigation is properly conducted in a coordinated fashion, the department shall work with the department of archaeology and historic preservation and shall conduct work with active archaeological management.))~~ The department shall seek additional federal funding for this project.

~~((13))~~ (12) The department shall develop a proposed ferry vessel maintenance, preservation, and improvement program and present it to the transportation committees of the legislature by July 1, 2010. The proposal must:

(a) Improve the basis for budgeting vessel maintenance, preservation, and improvement costs and for projecting those costs into a sixteen-year financial plan;

(b) Limit the amount of planned out-of-service time to the greatest extent possible, including options associated with department staff as well as commercial shipyards. At a minimum, the department shall consider the following:

(i) The costs compared to benefits of Eagle Harbor repair and maintenance facility operations options to include staffing costs and benefits in terms of reduced out-of-service time;

(ii) The maintenance requirements for on-vessel staff, including the benefits of a systemwide standard;

(iii) The costs compared to benefits of staff performing preservation or maintenance work, or both, while the vessel is underway, tied up between sailings, or not deployed;

(iv) A review of the department's vessel maintenance, preservation, and improvement program contracting process and contractual requirements;

(v) The costs compared to benefits of allowing for increased costs associated with expedited delivery;

(vi) A method for comparing the anticipated out-of-service time of proposed projects and other projects planned during the same construction period;

(vii) Coordination with required United States coast guard dry dockings;

(viii) A method for comparing how proposed projects relate to the service requirements of the route on which the vessel normally operates; and

(ix) A method for evaluating the ongoing maintenance and preservation costs associated with proposed improvement projects; and

(c) Be based on the service plan in the capital plan, recognizing that vessel preservation and improvement needs may vary by route.

~~((14))~~ (13) \$247,000 of the Puget Sound capital construction account—state appropriation is provided solely for the Washington state ferries to review and update its vessel life-cycle cost model and report the results to the house of representatives and senate transportation committees of the legislature by ~~((December 1, 2009))~~ March 15, 2010. This review will evaluate the impact of the planned out-of-service periods scheduled for each vessel on the ability of the overall system to deliver uninterrupted service and will assess the risk of service disruption from unscheduled maintenance or longer than planned maintenance periods.

~~((15))~~ (14) The department shall work with the department of archaeology and historic preservation to ensure that the cultural resources investigation is properly conducted on all large ferry terminal projects. These projects must be conducted with active archaeological management. Additionally, the department shall establish a scientific peer review of independent archaeologists that are knowledgeable about the region and its cultural resources.

~~((16))~~ (15) The Puget Sound capital construction account—state appropriation includes up to ~~(((\$118,000,000))~~ \$114,000,000 in proceeds from the sale of bonds authorized in RCW 47.10.843.

(16) The Puget Sound capital construction account—state appropriation reflects the reduction of three terminal positions due to decreased terminal activity and funding.

Sec. 307. 2009 c 470 s 310 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION—RAIL—PROGRAM Y—CAPITAL

Essential Rail Assistance Account—State	
Appropriation	(((\$675,000))
	<u>\$333,000</u>
Transportation Infrastructure Account—State	
Appropriation	(((\$13,100,000))
	<u>\$13,184,000</u>

Multimodal Transportation Account—State	
Appropriation	(\$68,530,000)
	<u>\$102,202,000</u>
Multimodal Transportation Account—Federal	
Appropriation	(\$16,054,000)
	<u>\$619,527,000</u>
Multimodal Transportation Account—Private/Local	
Appropriation	\$81,000
TOTAL APPROPRIATION	(\$98,440,000)
	<u>\$735,327,000</u>

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

(1)(a) Except as provided otherwise in this section, the entire appropriations in this section are provided solely for the projects and activities as listed by ~~(fund)~~ project~~(s)~~ and amount in LEAP Transportation Document ALL PROJECTS ~~((2009-2))~~ 2010-2 as developed ~~((April 24, 2009))~~ March 8, 2010, Program - Rail Capital Program (Y). ~~((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 603 of this act.))~~

(b)(i) Within the amounts provided in this section, \$116,000 of the transportation infrastructure account—state appropriation is for a low-interest loan through the freight rail investment bank program to the Port of Ephrata (BIN 722710A) for rehabilitation of a rail spur.

(ii) Within the amounts provided in this section, \$1,200,000 of the transportation infrastructure account—state appropriation is for a low-interest loan through the freight rail investment bank program to the Port of Everett (BIN 722810A) for a new rail track to connect a cement loading facility to the mainline.

~~(iii) ((Within the amounts provided in this section, \$3,684,000 of the transportation infrastructure account—state appropriation is for a low interest loan through the freight rail investment bank program to the Port of Quincy for construction of a rail loop.~~

~~(iv))~~ The department shall issue the loans referenced in this subsection (1)(b) with a repayment period of no more than ten years, and only so much interest as is necessary to recoup the department's costs to administer the loans.

(c)(i) Within the amounts provided in this section, ~~(\$1,712,022)~~ \$1,713,000 of the multimodal transportation account—state appropriation and ~~(\$175,000)~~ \$333,000 of the essential rail assistance account—state appropriation are for statewide - emergent freight rail assistance projects as follows: Port of Ephrata/Ephrata - additional spur rehabilitation (BIN 722710A) ~~(\$362,746)~~ \$363,000; Tacoma Rail/Tacoma - new refinery spur tracks (BIN 711010A) \$420,000; CW Line/Lincoln County - grade crossing rehabilitation (BIN 700610A) ~~(\$370,650)~~ \$371,000; ~~((Clark County))~~ Chelatchie Prairie owned railroad/Vancouver - track rehabilitation (BIN 710110A) ~~(\$366,813)~~ \$367,000; Tacoma Rail/Tacoma - improved locomotive facility (BIN 711010B) ~~(\$366,813)~~ \$525,000.

~~(ii) ((Within the amounts provided in this section, \$500,000 of the essential rail assistance account—state appropriation and \$25,000 of the multimodal~~

~~transportation account—state appropriation are for a statewide—emergent freight rail assistance project grant for the Tacoma Rail/Roy—new connection to BNSF and Yelm (BIN 711310A) project, provided that the grantee first executes a written instrument that imposes on the grantee the obligation to repay the grant within thirty days in the event that the grantee discontinues or significantly diminishes service along the line within a period of five years from the date that the grant is awarded.~~

(iii)) Within the amounts provided in this section, ~~((\$337,978))~~ \$338,000 of the multimodal transportation account—state appropriation is for a statewide - emergent freight rail assistance project grant for the Lincoln County PDA/ Creston - new rail spur (BIN 710510A) project, provided that the grantee first documents to the satisfaction of the department sufficient commitments from the new shipper or shippers to locate in the publicly owned industrial park west of Creston to ensure that the net present value of the public benefits of the project is greater than the grant amount.

(d) Within the amounts provided in this section, ~~((\$8,100,000))~~ \$8,115,000 of the transportation infrastructure account—state appropriation is for grants to any intergovernmental entity or local rail district to which the department of transportation assigns the management and oversight responsibility for the business and economic development elements of existing operating leases on the Palouse River and Coulee City (PCC) rail lines. \$300,000 of the transportation infrastructure account—state appropriation is provided solely for the fence line replacement project on the CW line. The PCC rail line system is made up of the CW, P&L, and PV Hooper rail lines. Business and economic development elements include such items as levels of service and business operating plans, but must not include the state's oversight of railroad regulatory compliance, rail infrastructure condition, or real property management issues. The PCC rail system must be managed in a self-sustaining manner and best efforts must be used to ensure that it does not require state capital or operating subsidy beyond the level of state funding expended on it to date. The assignment of the stated responsibilities to an intergovernmental entity or rail district must be on terms and conditions as the department of transportation and the intergovernmental entity or rail district mutually agree. The grant funds may be used only to refurbish the rail lines. It is the intent of the legislature to make the funds appropriated in this section available as grants to an intergovernmental entity or local rail district for the purposes stated in this section at least until June 30, 2012, and to reappropriate as necessary any portion of the appropriation in this section that is not used by June 30, 2011.

(2)(a) The department shall issue a call for projects for the freight rail investment bank program and the emergent freight rail assistance program, and shall evaluate the applications according to the cost benefit methodology developed during the 2008 interim using the legislative priorities specified in (c) of this subsection. By November 1, 2010, the department shall submit a prioritized list of recommended projects to the office of financial management and the transportation committees of the legislature.

(b) When the department identifies a prospective rail project that may have strategic significance for the state, or at the request of a proponent of a prospective rail project or a member of the legislature, the department shall evaluate the prospective project according to the cost benefit methodology

developed during the 2008 interim using the legislative priorities specified in (c) of this subsection. The department shall report its cost benefit evaluation of the prospective rail project, as well as the department's best estimate of an appropriate construction schedule and total project costs, to the office of financial management and the transportation committees of the legislature.

(c) The legislative priorities to be used in the cost benefit methodology are, in order of relative importance:

(i) Economic, safety, or environmental advantages of freight movement by rail compared to alternative modes;

(ii) Self-sustaining economic development that creates family-wage jobs;

(iii) Preservation of transportation corridors that would otherwise be lost;

(iv) Increased access to efficient and cost-effective transport to market for Washington's agricultural and industrial products;

(v) Better integration and cooperation within the regional, national, and international systems of freight distribution; and

(vi) Mitigation of impacts of increased rail traffic on communities.

(3) The department is directed to seek the use of unprogrammed federal rail crossing funds to be expended in lieu of or in addition to state funds for eligible costs of projects in program Y.

(4) At the earliest possible date, the department shall apply, and assist ports and local jurisdictions in applying, for any federal funding that may be available for any projects that may qualify for such federal funding. State projects must be (a) currently identified on the project list referenced in subsection (1)(a) of this section or (b) projects for which no state match is required to complete the project. Local or port projects must not require additional state funding in order to complete the project, with the exception of (c) state funds currently appropriated for such project if currently identified on the project list referenced in subsection (1)(a) of this section or (d) potential grants awarded in the competitive grant process for the essential rail assistance program. If the department receives any federal funding, the department is authorized to obligate and spend the federal funds in accordance with federal law. To the extent permissible by federal law, federal funds may be used (e) in addition to state funds appropriated for projects currently identified on the project list referenced in subsection (1)(a) of this section in order to advance funding from future biennia for such project(s) or (f) in lieu of state funds; however, the state funds must be redirected within the rail capital program to advance funding for other projects currently identified on the project list referenced in subsection (1)(a) of this section. State funds may be redirected only upon consultation with the transportation committees of the legislature and the office of financial management, and approval by the director of the office of financial management. The department shall spend the federal funds before the state funds, and shall consult the office of financial management and the transportation committees of the legislature regarding project scope changes.

(5) The department shall provide quarterly reports to the office of financial management and the transportation committees of the legislature regarding applications that the department submits for federal funds~~(-)~~ and the status of such applications~~(-, and the status of projects identified on the list referenced in subsection (1)(a) of this section. The quarterly report regarding the status of~~

projects identified on the list referenced in subsection (1)(a) of this section must be developed according to an earned value method of project monitoring).

(6) The department shall, on a quarterly basis, provide to the office of financial management and the legislature reports providing the status on active projects identified in the LEAP transportation document described in subsection (1)(a) of this section. Report formatting and elements must be consistent with the October 2009 quarterly project report.

(7) The multimodal transportation account—state appropriation includes up to ~~(\$20,000,000)~~ \$48,000,000 in proceeds from the sale of bonds authorized in RCW 47.10.867.

~~((7))~~ (8) When the balance of that portion of the miscellaneous program account apportioned to the department for the grain train program reaches \$1,180,000, the department shall acquire twenty-nine additional grain train railcars.

(9) \$590,000,000 of the multimodal transportation account—federal appropriation is provided solely for high-speed rail projects awarded to Washington state from the high-speed intercity passenger rail program under the American recovery and reinvestment act. Funding will allow for two additional round trips between Seattle and Portland, and other rail improvements.

(10) \$2,200,000 of the multimodal transportation account—state appropriation is provided solely for expenditures related to the capital high-speed passenger rail grant that are not federally reimbursable.

(11) The Burlington Northern Santa Fe Skagit river bridge is an integral part of the rail system. Constructed in 1916, the bridge does not meet current design standards and is at risk during flood events that occur on the Skagit river. The department shall work with Burlington Northern Santa Fe and local jurisdictions to secure federal funding for the Skagit river bridge and to develop an appropriate replacement plan and schedule.

(12) \$1,000,000 of the multimodal transportation account—state appropriation is provided solely for additional expenditures along the Chelatchie Prairie railroad (LN2000025).

Sec. 308. 2009 c 470 s 311 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION—LOCAL PROGRAMS—PROGRAM Z—CAPITAL

Highway Infrastructure Account—State Appropriation	\$207,000
Highway Infrastructure Account—Federal Appropriation	\$1,602,000
Freight Mobility Investment Account—State Appropriation	(\$13,548,000)
	<u>\$13,848,000</u>
Transportation Partnership Account—State Appropriation	\$8,863,000
Motor Vehicle Account—State Appropriation	(\$12,954,000)
	<u>\$14,068,000</u>
Motor Vehicle Account—Federal Appropriation	(\$39,572,000)
	<u>\$43,835,000</u>

Freight Mobility Multimodal Account—State	
Appropriation	(\$14,920,000)
	<u>\$15,620,000</u>
Freight Mobility Multimodal Account—Local	
Appropriation	(\$3,135,000)
	<u>\$3,258,000</u>
Multimodal Transportation Account—Federal	
Appropriation	(\$2,098,000)
	<u>\$2,118,000</u>
Multimodal Transportation Account—State	
Appropriation	(\$28,262,000)
	<u>\$28,855,000</u>
Transportation 2003 Account (Nickel Account)—State	
Appropriation	(\$709,000)
	<u>\$2,709,000</u>
Passenger Ferry Account—State Appropriation	\$2,879,000
<u>Puyallup Tribal Settlement Account—State</u>	
<u>Appropriation</u>	<u>\$5,895,000</u>
TOTAL APPROPRIATION	(\$128,749,000)
	<u>\$143,757,000</u>

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

(1) The department shall, on a quarterly basis, provide status reports to the legislature on the delivery of projects as outlined in the project lists incorporated in this section. For projects funded by new revenue in the 2003 and 2005 transportation packages, reporting elements shall include, but not be limited to, project scope, schedule, and costs. Other projects may be reported on a programmatic basis. The department shall also provide the information required under this subsection on a quarterly basis via the transportation executive information system (TEIS).

(2) \$2,729,000 of the passenger ferry account—state appropriation is provided solely for near and long-term costs of capital improvements in a business plan approved by the governor for passenger ferry service.

(3) \$150,000 of the passenger ferry account—state appropriation is provided solely for the Port of Kingston for a one-time operating subsidy needed to retain a federal grant.

(4) \$3,000,000 of the motor vehicle account—federal appropriation is provided solely for the Coal Creek parkway project (L1000025).

(5) The department shall seek the use of unprogrammed federal rail crossing funds to be expended in lieu of or in addition to state funds for eligible costs of projects in local programs, program Z capital.

(6) The department shall apply for surface transportation program (STP) enhancement funds to be expended in lieu of or in addition to state funds for eligible costs of projects in local programs, program Z capital.

(7) Federal funds may be transferred from program Z to programs I and P and state funds shall be transferred from programs I and P to program Z to replace those federal funds in a dollar-for-dollar match. Fund transfers authorized under this subsection shall not affect project prioritization status.

Appropriations shall initially be allotted as appropriated in this act. The department may not transfer funds as authorized under this subsection without approval of the office of financial management. The department shall submit a report on those projects receiving fund transfers to the office of financial management and the transportation committees of the legislature by December 1, 2009, and December 1, 2010.

(8) The city of Winthrop may utilize a design-build process for the Winthrop bike path project. Of the amount appropriated in this section for this project, \$500,000 of the multimodal transportation account—state appropriation is contingent upon the state receiving from the city of Winthrop \$500,000 in federal funds awarded to the city of Winthrop by its local planning organization.

(9) (~~(\$18,182,113)~~) \$18,289,000 of the multimodal transportation account—state appropriation, (~~(\$8,753,895)~~) \$8,810,000 of the motor vehicle account—federal appropriation, and \$4,000,000 of the transportation partnership account—state appropriation are provided solely for the pedestrian and bicycle safety program projects and safe routes to schools program projects identified in LEAP Transportation Document 2009-A, pedestrian and bicycle safety program projects and safe routes to schools program projects, as developed March 30, 2009, LEAP Transportation Document 2007-A, pedestrian and bicycle safety program projects and safe routes to schools program projects, as developed April 20, 2007, and LEAP Transportation Document 2006-B, pedestrian and bicycle safety program projects and safe routes to schools program projects, as developed March 8, 2006. Projects must be allocated funding based on order of priority. 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 identify where unused grant funds remain because actual project costs were lower than estimated in the grant award.

(10) Except as provided otherwise in this section, the entire appropriations in this section are provided solely for the projects and activities as listed by (~~fund~~) project(~~:~~) and amount in LEAP Transportation Document ALL PROJECTS (~~(2009-2)~~) 2010-2 as developed (~~(April 24, 2009)~~) March 8, 2010, Program(~~s~~) - Local Program (Z).

(11) For the 2009-11 project appropriations, unless otherwise provided in this act, the director of financial management may authorize a transfer of appropriation authority between projects managed by the freight mobility strategic investment board in order for the board to manage project spending and efficiently deliver all projects in the respective program.

(12) \$913,386 of the motor vehicle account—state appropriation and (~~(\$2,858,216)~~) \$2,858,000 of the motor vehicle account—federal appropriation are provided solely for completion of the US 101 northeast peninsula safety rest area and associated roadway improvements east of Port Angeles at the Deer Park scenic view point. The department must surplus any right-of-way previously purchased for this project near Sequim. Approval to proceed with construction is contingent on surplus of previously purchased right-of-way. \$865,000 of the

motor vehicle account—state appropriation is to be placed into unallotted status until such time as the right-of-way sale is completed.

(13) \$5,894,000 of the Puyallup tribal settlement account—state appropriation is provided solely for costs associated with the Murray Morgan/11th Street bridge project. The city of Tacoma may use the Puyallup tribal settlement account appropriation and other appropriated funds for bridge rehabilitation, bridge replacement, bridge demolition, and bridge mitigation. The department's participation, including prior expenditures, may not exceed \$40,270,000. The city of Tacoma has taken ownership of the bridge in its entirety, and the payment of these funds extinguishes any real or implied agreements regarding future bridge expenditures.

(14) Up to \$3,702,000 of the motor vehicle account—federal appropriation and \$75,000 of the motor vehicle account—state appropriation are provided solely to reimburse the cities of Kirkland and Redmond for pavement and bridge deck rehabilitation on state route number 908 (project 1LP611A). These funds may not be expended unless the cities sign an agreement stating that the cities agree to take ownership of state route number 908 in its entirety and agree that the payment of these funds represents the entire state commitment to the cities for state route number 908 expenditures. The amount provided in this subsection is contingent on the enactment by June 30, 2010, of Senate Bill No. 6555.

(15) The department shall consider the condition of the Broadway bridge in the city of Everett when prioritizing bridge projects.

(16) In order to make the Hood Canal bridge safe for cyclists, the department must work with stakeholders to review bicycle safety needs on the bridge, including consideration of accident data and improvements already made to this project.

(17) \$250,000 of the multimodal transportation account—state appropriation is provided solely for the Shell Valley emergency access road and bicycle/pedestrian path.

(18) \$500,000 of the motor vehicle account—state appropriation is provided solely for improvements to the 150th and Murray Road intersection in the city of Lakewood.

(19) \$250,000 of the motor vehicle account—state appropriation is provided solely for flood reduction solutions on state route number 522 caused by the lower McAleer and Lyon creek basins.

(20) \$200,000 of the motor vehicle account—state appropriation is provided solely for improvements to the intersection of 39th Ave SE and state route number 96 in Snohomish county.

TRANSFERS AND DISTRIBUTIONS

*Sec. 401. 2009 c 470 s 401 (uncodified) is amended to read as follows:

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

Highway Bond Retirement Account Appropriation	(\$742,400,000)
	<u>\$733,667,000</u>
Ferry Bond Retirement Account Appropriation	\$33,771,000
<u>State Route Number 520 Corridor Account—State</u>	
Appropriation	\$600,000
Transportation Improvement Board Bond Retirement	
Account—State Appropriation	(\$22,541,000)
	<u>\$22,962,000</u>
Nondebt-Limit Reimbursable Account Appropriation	(\$18,400,000)
	<u>\$18,451,000</u>
<i>Transportation Partnership Account—State</i>	
Appropriation	(\$8,318,000)
	<u>\$4,722,000</u>
Motor Vehicle Account—State Appropriation	(\$901,000)
	<u>\$732,000</u>
<i>Transportation 2003 Account (Nickel Account)—State</i>	
Appropriation	(\$4,116,000)
	<u>\$2,182,000</u>
<i>Special Category C Account—State Appropriation</i>	<i>(\$148,000)</i>
	<u>\$94,000</u>
Urban Arterial Trust Account—State Appropriation	\$85,000
Transportation Improvement Account—State Appropriation	\$41,000
Multimodal Transportation Account—State	
Appropriation	(\$283,000)
	<u>\$204,000</u>
TOTAL APPROPRIATION	(\$831,004,000)
	<u>\$817,511,000</u>

*Sec. 401 was partially vetoed. See message at end of chapter.

Sec. 402. 2009 c 470 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

<u>State Route Number 520 Corridor Account—State</u>	
Appropriation	\$40,000
Transportation Partnership Account—State	
Appropriation	(\$523,000)
	<u>\$787,000</u>
Motor Vehicle Account—State Appropriation	(\$57,000)
	<u>\$122,000</u>
Transportation 2003 Account (Nickel Account)—State	
Appropriation	(\$259,000)
	<u>\$364,000</u>
Special Category C Account—State Appropriation	(\$10,000)
	<u>\$15,000</u>
Urban Arterial Trust Account—State Appropriation	\$5,000
Transportation Improvement Account—State Appropriation	\$3,000

Multimodal Transportation Account—State	
Appropriation	((\$18,000))
	<u>\$34,000</u>
TOTAL APPROPRIATION	((\$875,000))
	<u>\$1,370,000</u>

Sec. 403. 2009 c 470 s 403 (uncodified) is amended to read as follows:

FOR THE STATE TREASURER—BOND RETIREMENT AND INTEREST, AND ONGOING BOND REGISTRATION AND TRANSFER CHARGES: FOR MVFT BONDS AND TRANSFERS

Motor Vehicle Account—State Appropriation:	
For transfer to the Puget Sound Capital Construction	
Account	((\$118,000,000))
	<u>\$114,000,000</u>

The department of transportation is authorized to sell up to ((~~\$118,000,000~~)) \$114,000,000 in bonds authorized by RCW 47.10.843 for vessel and terminal acquisition, major and minor improvements, and long lead-time materials acquisition for the Washington state ferries.

Sec. 404. 2009 c 470 s 404 (uncodified) is amended to read as follows:

FOR THE STATE TREASURER—STATE REVENUES FOR DISTRIBUTION

Motor Vehicle Account Appropriation for	
motor vehicle fuel tax distributions to cities	
and counties	((\$488,843,000))
	<u>\$478,753,000</u>

Sec. 405. 2009 c 470 s 405 (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	((\$1,310,279,000))
	<u>\$1,247,260,000</u>

Sec. 406. 2009 c 470 s 406 (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	((\$129,178,000))
	<u>\$120,688,000</u>

Sec. 407. 2009 c 470 s 407 (uncodified) is amended to read as follows:

FOR THE STATE TREASURER—ADMINISTRATIVE TRANSFERS

(1) Tacoma Narrows Toll Bridge Account—State	
Appropriation: For transfer to the Motor Vehicle	
Account—State	\$5,288,000
(2) Motor Vehicle Account—State Appropriation:	
For transfer to the Puget Sound Ferry Operations	
Account—State	((\$17,000,000))
	<u>\$54,000,000</u>

(3) Recreational Vehicle Account—State Appropriation: For transfer to the Motor Vehicle Account—State	\$2,000,000
(4) License Plate Technology Account—State Appropriation: For transfer to the Highway Safety Account—State	\$2,750,000
(5) Multimodal Transportation Account—State Appropriation: For transfer to the Puget Sound Ferry Operations Account—State	\$9,000,000
(6) Highway Safety Account—State Appropriation: For transfer to the Multimodal Transportation Account—State	\$18,750,000
(7) Department of Licensing Services Account—State Appropriation: For transfer to the Motor Vehicle Account—State	(((\$2,000,000)) <u>\$1,300,000</u>)
(8) Advanced Right-of-Way Account: For transfer to the Motor Vehicle Account—State	\$14,000,000
(9) ((Motor Vehicle Account—State Appropriation: For transfer to the Transportation Partnership Account—State	(\$8,000,000))
<u>(10) State Route Number 520 Civil Penalties Account—State Appropriation: For transfer to the State Route Number 520 Corridor Account—State</u>	<u>\$190,000</u>
<u>(11) Advanced Environmental Mitigation Revolving Account—State Appropriation: For transfer to the Motor Vehicle Account—State</u>	<u>\$5,000,000</u>
<u>(12) Regional Mobility Grant Program Account—State Appropriation: For transfer to the Multimodal Transportation Account—State</u>	<u>\$4,000,000</u>
<u>(13) Motor Vehicle Account—State Appropriation: For transfer to the State Patrol Highway Account—State</u>	<u>\$4,000,000</u>

(14) The transfers identified in this section are subject to the following conditions and limitations:

(a) The amount transferred in subsection (1) of this section represents repayment of operating loans and reserve payments provided to the Tacoma Narrows toll bridge account from the motor vehicle account in the 2005-07 fiscal biennium. However, if Engrossed Substitute Senate Bill No. 6499 is enacted by June 30, 2010, the transfer in subsection (1) of this section shall not occur.

(b) Any cash balance in the waste tire removal account in excess of one million dollars must be transferred to the motor vehicle account for the purpose of road wear-related maintenance on state and local public highways.

(c) The transfer in subsection (10) of this section represents toll revenue collected from toll violations.

COMPENSATION

Sec. 501. 2009 c 470 s 501 (uncodified) is amended to read as follows:

FOR THE OFFICE OF FINANCIAL MANAGEMENT—REVISED PENSION CONTRIBUTION RATES

((Aeronautics Account—State	.....	(\$40,000)
Grade-Crossing Protective Account—State	.....	(\$2,000)
State Patrol Highway Account—State	.....	(\$5,593,000)
Motorcycle Safety Education Account—State	.....	(\$18,000)
High Occupancy Toll Lanes Operations Account—State	.....	(\$20,000)
Rural Arterial Trust Account—State	.....	(\$20,000)
Wildlife Account—State	.....	(\$16,000)
Highway Safety Account—State	.....	(\$1,869,000)
Highway Safety Account—Federal	.....	(\$56,000)
Motor Vehicle Account—State	.....	(\$11,348,000)
Puget Sound Ferry Operations Account—State	.....	(\$5,019,000)
Urban Arterial Trust Account—State	.....	(\$26,000)
Transportation Improvement Account—State	.....	(\$26,000)
County Arterial Preservation Account—State	.....	(\$22,000)
Department of Licensing Services Account—State	.....	(\$36,000)
Multimodal Transportation Account—State	.....	(\$220,000)
Tacoma Narrows Toll Bridge Account—State	.....	(\$28,000)
Puget Sound Capital Construction Account—State	.....	(\$459,000)
Motor Vehicle Account—Federal	.....	(\$8,791,000)

~~Appropriations are adjusted to reflect changes to appropriations to reflect savings resulting from pension funding. The office of financial management shall update agency appropriations schedules to reflect the changes to funding levels in this section as identified by agency and fund in LEAP transportation document Z9R-2009. From the applicable accounts, the office of financial management shall adjust allotments to the respective agencies by an amount that conforms with funding adjustments enacted in the 2009-11 omnibus operating appropriations act. Any allotment reductions under this section shall be placed in reserve status and remain unexpended-))~~ Appropriations in this act include agency appropriations to reflect increased employer contribution rates in the public employees' retirement system as a result of the provisions in chapter 430, Laws of 2009 (calculating compensation for public retirement purpose).

NEW SECTION. Sec. 502. FOR THE OFFICE OF FINANCIAL MANAGEMENT—REVISED EMPLOYER HEALTH BENEFIT RATES

Aeronautics Account—State	.....	\$3,000
State Patrol Highway Account—State	.....	\$618,000
Motorcycle Safety Education Account—State	.....	\$2,000
High Occupancy Toll Lanes Operations Account—State	.....	\$2,000
Rural Arterial Trust Account—State	.....	\$2,000
Wildlife Account—State	.....	\$2,000
Highway Safety Account—State	.....	\$261,000
Highway Safety Account—Federal	.....	\$6,000
Motor Vehicle Account—State	.....	\$1,076,000
Puget Sound Ferry Operations Account—State	.....	\$527,000
Urban Arterial Trust Account—State	.....	\$2,000
Transportation Improvement Account—State	.....	\$2,000
County Arterial Preservation Account—State	.....	\$2,000

Department of Licensing Services Account—State	\$3,000
Multimodal Transportation Account—State	\$13,000
Tacoma Narrows Toll Bridge Account—State	\$3,000

Appropriations are adjusted to reflect changes to appropriations to reflect changes in the employer cost of providing health benefit coverage. The office of financial management shall update agency appropriations schedules to reflect the changes in funding levels in this section as identified by agency and fund in LEAP transportation document GLB-2010. From the applicable accounts, the office of financial management shall adjust allotments to the respective agencies by an amount that conforms with funding adjustments enacted in the 2010 supplemental omnibus operating appropriations act. Any allotment reductions under this section must be placed in reserve status and remain unexpended.

Sec. 503. 2009 c 470 s 503 (uncodified) is amended to read as follows:

COMPENSATION—INSURANCE BENEFITS. Appropriations for state agencies in this act are sufficient for nonrepresented and represented state employee health benefits for state agencies, and are subject to the following conditions and limitations:

(1)(a) Unless otherwise provided in the 2010 supplemental omnibus operating appropriations act, the monthly employer funding rate for insurance benefit premiums, public employees' benefits board administration, and the uniform medical plan, shall not exceed \$745 per eligible employee for fiscal year 2010. For fiscal year 2011, the monthly employer funding rate shall not exceed (~~(\$768)~~) \$795 per eligible employee.

(b) In order to achieve the level of funding provided for health benefits, the public employees' benefits board shall require any or all of the following: Employee premium copayments; increases in point-of-service cost sharing; the implementation of managed competition; or make other changes to benefits consistent with RCW 41.05.065. During the 2009-11 fiscal biennium, the board may only authorize benefit plans and premium contributions for an employee and the employee's dependents that are the same, regardless of an employee's status as represented or nonrepresented under the personnel system reform act of 2002.

(c) The health care authority shall deposit any moneys received on behalf of the uniform medical plan as a result of rebates on prescription drugs, audits of hospitals, subrogation payments, or any other moneys recovered as a result of prior uniform medical plan claims payments into the public employees' and retirees' insurance account to be used for insurance benefits. Such receipts shall not be used for administrative expenditures.

(d) The conditions in this section apply to benefits for nonrepresented employees, employees represented by the super coalition, and represented employees outside of the super coalition, including employees represented under chapter 47.64 RCW.

(2) Unless otherwise provided in the 2010 supplemental omnibus operating appropriations act, the health care authority, subject to the approval of the public employees' benefits board, shall provide subsidies for health benefit premiums to eligible retired or disabled public employees and school district employees who are eligible for medicare, pursuant to RCW 41.05.085. From January 1, 2010,

through December 31, 2010, the subsidy shall be \$182.89. Beginning January 1, 2011, the subsidy shall be \$182.89 per month.

IMPLEMENTING PROVISIONS

Sec. 601. 2009 c 470 s 304 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION. As part of its budget submittal ((for the 2011-13 fiscal biennium)), the department shall provide an annual update to the report provided to the legislature and the office of financial management in 2008 that:

- (1) 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;
- (2) Identifies highway projects that may be reduced in scope and still achieve a functional benefit;
- (3) Identifies highway projects that have experienced scope increases and that can be reduced in scope;
- (4) Identifies highway projects that have lost significant local or regional contributions that were essential to completing the project; and
- (5) Identifies contingency amounts allocated to projects.

****NEW SECTION. Sec. 602. Any redistributed federal funds received by the department of transportation must, to the greatest extent possible, be first applied to offset planned expenditures of state funds, and second, to offset planned expenditures of federal funds, on projects as identified in the LEAP transportation documents described in this act. If the redistributed federal funds cannot be used in this manner, the department of transportation must consult with the joint transportation committee prior to obligating any redistributed federal funds.***

*Sec. 602 was vetoed. See message at end of chapter.

Sec. 603. 2009 c 470 s 603 (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 LEAP Transportation Document ((2009-1) 2010-1 as developed ((April 24, 2009)) March 8, 2010, 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 (nickel) account projects on the LEAP lists referenced in this act. For the 2009-11 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, ((~~or multimodal transportation 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, nor shall a transfer 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 2010 supplemental budget, any unexpended 2007-09 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 to projects not identified on the applicable project list, except for those projects that were expected to be completed in the 2007-09 fiscal biennium; ~~(and)~~

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

(g) Transfers between projects may be made by the department of transportation until the transfer amount by project exceeds two hundred fifty thousand dollars, or ten percent of the 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 shall 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.

(4) The office of financial management shall document approved transfers and/or schedule changes in the transportation executive information system (TEIS), compare changes to the legislative baseline funding and schedules identified by project identification number identified in the LEAP lists adopted in this act, and transmit revised project lists to chairs of the transportation committees of the legislature on a quarterly basis.

MISCELLANEOUS 2009-11 FISCAL BIENNIUM

Sec. 701. RCW 43.19.642 and 2009 c 470 s 716 are each amended to read as follows:

(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) 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, 2006, file biannual reports with the department of general administration documenting the use of the fuel and a description of how any problems encountered were resolved.

(4) For the 2009-2011 fiscal biennium, ~~((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))~~ all fuel purchased by the Washington state ferries at Harbor Island for the operation of the Washington state ferries diesel powered vessels must be a minimum of five percent biodiesel blend so long as the per gallon price of diesel containing a five percent biodiesel blend level does not exceed the per gallon price of diesel by more than five percent. If the per gallon price of diesel containing a five percent biodiesel blend level exceeds the per gallon price of diesel by more than five percent, the requirements of this section do not apply to vessel fuel purchases by the Washington state ferries.

(5) By December 1, 2009, the department of general administration 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.

Sec. 702. RCW 46.68.320 and 2006 c 337 s 8 are each amended to read as follows:

(1) The regional mobility grant program account is hereby created in the state treasury. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for the grants provided under RCW 47.66.030.

(2) Beginning with September 2007, 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 regional mobility grant program account five million dollars.

(3) Beginning with September 2015, 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 regional mobility grant program account six million two hundred fifty thousand dollars.

(4) During the 2009-2011 fiscal biennium, the legislature may transfer from the regional mobility grant program account to the multimodal transportation account such amounts as reflect the excess fund balance of the regional mobility grant program account.

Sec. 703. RCW 47.12.340 and 1997 c 140 s 3 are each amended to read as follows:

The advanced environmental mitigation revolving account is created in the custody of the treasurer, into which the department shall deposit directly and may expend without appropriation:

(1) An initial appropriation included in the department of transportation's 1997-99 budget, and deposits from other identified sources;

(2) All moneys received by the department from internal and external sources for the purposes of conducting advanced environmental mitigation; and

(3) Interest gained from the management of the advanced environmental mitigation revolving account.

(4) During the 2009-2011 fiscal biennium, the legislature may transfer from the advanced environmental mitigation revolving account to the motor vehicle account such amounts as reflect the excess fund balance of the advanced environmental mitigation revolving account.

Sec. 704. RCW 70.95.532 and 2009 c 261 s 4 are each amended to read as follows:

(1) All receipts from tire fees imposed under RCW 70.95.510, except as provided in subsection (2) of this section, must be deposited in the waste tire removal account created under RCW 70.95.521. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used for the cleanup of unauthorized waste tire piles and measures that prevent future accumulation of unauthorized waste tire piles.

(2) On September 1st of odd-numbered years, the state treasurer must transfer any cash balance in excess of one million dollars from the waste tire removal account created under RCW 70.95.521 to the motor vehicle account for the purpose of road wear related maintenance on state and local public highways.

(3) During the 2009-2011 fiscal biennium, the legislature may transfer any cash balance in excess of one million dollars from the waste tire removal account to the motor vehicle account for the purpose of road wear-related maintenance on state and local public highways.

NEW SECTION. Sec. 705. 2009 c 470 s 502 is repealed.

MISCELLANEOUS

NEW SECTION. Sec. 801. 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. 802. 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.

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Passed by the Senate March 9, 2010.

Passed by the House March 8, 2010.

Approved by the Governor March 30, 2010, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State March 31, 2010.

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

"I am returning, without my approval as to Sections 215(3); 215(5); 221(13); 303(43); 304(15); 401, page 89, lines 18-20, 23-25, and 26-27; and 602 of Engrossed Substitute Senate Bill 6381 entitled:

"AN ACT Relating to transportation funding and appropriations."

Section 215(3), page 31, Department of Transportation

This proviso ties the appropriation contained within this subsection to either the Joint Legislative Audit and Review Committee (JLARC) or the Joint Transportation Committee (JTC) conducting an analysis identified in Sections 108(4) and 204 of this bill. This action effectively delegates appropriation authority to either the JLARC or the JTC. I believe that this delegation of authority will be remedied in the operating budget. For this reason, I have vetoed Section 215(3).

Section 215(5), page 32, Department of Transportation

This proviso requires the Department of Transportation to finalize all pending equal value exchange activities for the construction or improvement of facilities. Thereafter, the Department may not pursue any other equal value exchanges except to replace the Mount Baker headquarters office. Equal value exchanges are important tools that the Department uses to fund high priority facility projects. For this reason, I have vetoed Section 215(5).

Section 221(13), page 47, Department of Transportation

This proviso requires the Department of Transportation to implement a pilot program for the remainder of the 2009-11 Biennium to expand the use of high occupancy vehicle lanes, transit-only lanes, and certain park and ride facilities to private transportation providers. The proviso requires transit agencies and other local jurisdictions to have a process to receive applications for the reasonable use of these facilities. If a private transportation provider demonstrates that the transit agency or local jurisdiction failed to consider an application in good faith, the Department may not award any grant funding.

This proviso conflicts with federal regulations due to its broad allowance of the private use of public facilities. The Federal Transit Authority (FTA) requires specific authorization before allowing private transportation uses in federally funded public facilities. In addition, the issuance of grants to local jurisdictions for vanpools, special needs transportation, and other facilities to improve regional mobility should not be based upon the outcome of negotiations between local jurisdictions and private transportation providers.

For these reasons, I have vetoed Section 221(13).

Section 303(43), page 66, Department of Transportation

Section 304(15), page 72, Department of Transportation

These provisos require that redistributed federal funds received by the Department of Transportation first be applied to offset planned expenditures of state funds, and second to offset planned expenditures of federal funds, on projects identified in the project list in the 2010 supplemental budget. If these options are not feasible, the Department must consult with the Joint Transportation Committee (JTC) prior to obligating redistributed federal funds. If such consultation is not feasible and Washington does not act quickly, we may lose the opportunity to receive redistributed federal funds. However, because input from the Legislature is important, I am directing the Department to consult with JTC members.

For this reason, I have vetoed Section 303(43) and Section 304(15).

Section 401, page 89, lines 18-20, 23-25, and 26-27, State Treasurer

This section provides for bond sale discounts and debt to be paid by the motor vehicle account and transportation fund revenue. Technical modeling problems resulted in some erroneous amounts. For this reason, I have vetoed lines 18-20, 23-25, and 26-27 of Section 401.

Section 602, page 96, Department of Transportation

This proviso requires that redistributed federal funds received by the Department of Transportation first be applied to offset planned expenditures of state funds, and second to offset planned expenditures of federal funds, on projects identified in the project list in the 2010 supplemental budget. If these options are not feasible, the Department must consult with the Joint Transportation Committee (JTC) prior to obligating redistributed federal funds. For the same reason that I vetoed Section 303(43) and Section 304(15) above, I have vetoed Section 602.

For these reasons, I have vetoed Sections 215(3); 215(5); 221(13); 303(43); 304(15); 401, page 89, lines 18-20, 23-25, and 26-27; and 602 of Engrossed Substitute Senate Bill 6381.

With the exception of Sections 215(3); 215(5); 221(13); 303(43); 304(15); 401, page 89, lines 18-20, 23-25, and 26-27; and 602, Engrossed Substitute Senate Bill 6381 is approved."

CHAPTER 248

[Engrossed Substitute Senate Bill 6392]

SR 520 BRIDGE—TOLLS—USE OF REVENUE

AN ACT Relating to the use of revenue generated from tolling the state route number 520 corridor; amending RCW 47.56.870, 47.01.408, and 47.56.875; reenacting and amending RCW 43.84.092; adding a new section to chapter 47.56 RCW; and creating a new section.

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

***NEW SECTION. Sec. 1.** *The legislature recognizes that during the 2009 legislative session tolling was authorized on the state route number 520 corridor. As such, it is the intent of the legislature that tolling commences in the spring of 2011 on the existing state route number 520 bridge.*

The legislature further recognizes that tolling of the state route number 520 corridor is integrally related to the issuance of a final project design resulting from the supplemental draft environmental impact statement for the state route number 520 bridge replacement and HOV program released in January 2010. It is the intent of the legislature that the department of transportation work with affected neighborhoods and local governments, including the mayor of the city of Seattle and the Seattle city council, to refine the preferred alternative design in the supplemental draft environmental impact statement so that the final design of the state route number 520 bridge replacement and HOV program will, to the extent required by state and federal law, include reasonable assurance that project impacts will be mitigated as much as practicable to protect against further adverse impacts on neighborhood environmental quality. Within the cost constraints identified in section 1, chapter 472, Laws of 2009, and consistent with an opening date to vehicular traffic of 2014, it is further the intent of the legislature that any final design of the state route number 520 bridge replacement and HOV program accommodate effective connections for transit, including high capacity transit, including, but not limited to, effective connections for transit to the university link light rail line, consistent with the requirements of RCW 47.01.408, and ensure the effective, efficient, and feasible coordination of bus services and light rail services throughout the state route number 520 corridor, consistent with the requirements of RCW 47.01.410. The legislature further intends that any cost savings applicable to the state route number 520 bridge replacement and HOV program stay within the program.

*Sec. 1 was vetoed. See message at end of chapter.

Sec. 2. RCW 47.56.870 and 2009 c 472 s 2 are each amended to read as follows:

(1) The initial imposition of tolls on the state route number 520 corridor is authorized, the state route number 520 corridor is designated an eligible toll facility, and toll revenue generated in the corridor must only be expended as allowed under RCW 47.56.820.

(2) The state route number 520 corridor consists of that portion of state route number 520 between the junctions of Interstate 5 and state route number 202. The toll imposed by this section shall be charged only for travel on the floating bridge portion of the state route number 520 corridor.

(3)(a) In setting the toll rates for the corridor pursuant to RCW 47.56.850, the tolling authority shall set a variable schedule of toll rates to maintain travel time, speed, and reliability on the corridor and generate the necessary revenue as required under (b) of this subsection.

(b) The tolling authority shall initially set the variable schedule of toll rates, which the tolling authority may adjust at least annually to reflect inflation as measured by the consumer price index or as necessary to meet the redemption of bonds and interest payments on the bonds, to generate revenue sufficient to provide for:

(i) The issuance of general obligation bonds, authorized in RCW 47.10.879, first payable from toll revenue and then excise taxes on motor vehicle and special fuels pledged for the payment of those bonds in the amount necessary to fund the ((replacement state route number 520 floating bridge and necessary landings)) state route number 520 bridge replacement and HOV program, subject to subsection (4) of this section; and

(ii) Costs associated with the project designated in subsection (4) of this section that are eligible under RCW 47.56.820.

(4)(a) The proceeds of the bonds designated in subsection (3)(b)(i) of this section((, which together with other appropriated and identified state and federal funds is sufficient to pay for the replacement of the floating bridge segment and necessary landings of state route number 520;)) must be used only to fund the ((construction of the replacement state route number 520 floating bridge and necessary landings)) state route number 520 bridge replacement and HOV program; however, two hundred million dollars of bond proceeds, in excess of the proceeds necessary to complete the floating bridge segment and necessary landings, must be used only to fund the state route number 520, Interstate 5 to Medina bridge replacement and HOV project segment of the program, as identified in applicable environmental impact statements, and may be used to fund effective connections for high occupancy vehicles and transit for state route number 520, but only to the extent those connections benefit or improve the operation of state route number 520.

(b) The program must include the following elements within the cost constraints identified in section 1, chapter 472, Laws of 2009, consistent with the legislature's intent that cost savings applicable to the program stay within the program and that the bridge open to vehicular traffic in 2014:

(i) A project design, consistent with RCW 47.01.408, that includes high occupancy vehicle lanes with a minimum carpool occupancy requirement of three-plus persons on state route number 520;

(ii) High occupancy vehicle lane performance standards for the state route number 520 corridor established by the department. The department shall report to the transportation committees of the legislature when average transit speeds in the two lanes that are for high occupancy vehicle travel fall below forty-five miles per hour at least ten percent of the time during peak hours;

(iii) A work group convened by the mayor and city council of the city of Seattle to include sound transit, King county metro, the Seattle department of transportation, the department, the University of Washington, and other persons or organizations as designated by the mayor or city council to study and make recommendations of alternative connections for transit, including bus routes and high capacity transit, to the university link light rail line. The work group must consider such techniques as grade separation, additional stations, and pedestrian lids to effect these connections. The recommendations must be alternatives to the transit connections identified in the supplemental draft environmental impact statement for the state route number 520 bridge replacement and HOV program released in January 2010, and must meet the requirements under RCW 47.01.408, including accommodating effective connections for transit. The recommendations must be within the scope of the supplemental draft environmental impact statement. For the purposes of this section, "effective connections for transit" means a connection that connects transit stops, including high capacity transit stops, that serve the state route number 520/Montlake interchange vicinity to the university link light rail line, with a connection distance of less than one thousand two hundred feet between the stops and the light rail station. The city of Seattle shall submit the recommendations by October 1, 2010, to the governor and the transportation committees of the legislature. However, if the city of Seattle does not convene the work group required under this subsection before July 1, 2010, or does not submit recommendations to the governor and the transportation committees of the legislature by October 1, 2010, the department must convene the work group required under this subsection and meet all the requirements of this subsection that are described as requirements of the city of Seattle by November 30, 2010;

(iv) A work group convened by the department to include sound transit and King county metro to study and make recommendations regarding options for planning and financing high capacity transit through the state route number 520 corridor. The department shall submit the recommendations by January 1, 2011, to the governor and the transportation committees of the legislature;

(v) A plan to address mitigation as a result of the state route number 520 bridge replacement and HOV program at the Washington park arboretum. As part of its process, the department shall consult with the governing board of the Washington park arboretum, the Seattle city council and mayor, and the University of Washington to identify all mitigation required by state and federal law resulting from the state route number 520 bridge replacement and HOV program's impact on the arboretum, and to develop a project mitigation plan to address these impacts. The department shall submit the mitigation plan by December 31, 2010, to the governor and the transportation committees of the legislature. Wetland mitigation required by state and federal law as a result of the state route number 520 bridge replacement and HOV program's impacts on the arboretum must, to the greatest extent practicable, include on-site wetland mitigation at the Washington park arboretum, and must enhance the Washington

park arboretum. This subsection (4)(b)(v) does not preclude any other mitigation planned for the Washington park arboretum as a result of the state route number 520 bridge replacement and HOV program;

(vi) A work group convened by the department to include the mayor of the city of Seattle, the Seattle city council, the Seattle department of transportation, and other persons or organizations as designated by the Seattle city council and mayor to study and make recommendations regarding design refinements to the preferred alternative selected by the department in the supplemental draft environmental impact statement process for the state route number 520 bridge replacement and HOV program. To accommodate a timely progression of the state route number 520 bridge replacement and HOV program, the design refinements recommended by the work group must be consistent with the current environmental documents prepared by the department for the supplemental draft environmental impact statement. The department shall submit the recommendations to the legislature and governor by December 31, 2010, and the recommendations must inform the final environmental impact statement prepared by the department; and

(vii) An account, created in section 5 of this act, into which civil penalties generated from the nonpayment of tolls on the state route number 520 corridor are deposited to be used to fund any project within the program, including mitigation. However, this subsection (4)(b)(vii) is contingent on the enactment by June 30, 2010, of either chapter . . . (Engrossed Substitute Senate Bill No. 6499), Laws of 2010 or chapter . . . (Substitute House Bill No. 2897), Laws of 2010, but if the enacted bill does not designate the department as the toll penalty adjudicating agency, this subsection (4)(b)(vii) is null and void.

(5) The department may carry out the ~~((construction and))~~ improvements designated in subsection (4) of this section and administer the tolling program on the state route number 520 corridor.

**Sec. 3. RCW 47.01.408 and 2008 c 270 s 2 are each amended to read as follows:*

(1) The state route number 520 bridge replacement and HOV project shall be designed to provide six total lanes, with two lanes that are for transit and high-occupancy vehicle travel, and four general purpose lanes.

(2) The state route number 520 bridge replacement and HOV project shall be designed to accommodate effective connections for transit, including high capacity transit, to the light rail station at the University of Washington.

(3) The state route number 520 bridge replacement and HOV project shall be designed to provide a total height from the water to the top of the bridge rail on the floating bridge portion of the project of no more than twenty feet if any portion of the project is funded by revenue generated from tolling the state route number 520 corridor.

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

Sec. 4. RCW 47.56.875 and 2009 c 472 s 4 are each amended to read as follows:

A special account to be known as the state route number 520 corridor account is created in the state treasury.

(1) Deposits to the account must include:

(a) All proceeds of bonds issued for ~~((construction of the replacement state route number 520 floating bridge and necessary landings))~~ the state route

number 520 bridge replacement and HOV program, including any capitalized interest;

(b) ~~Except as provided in RCW 47.56.870(4)(b)(vii), all of the tolls and other revenues received from the operation of the state route number 520 corridor as a toll facility, to be deposited at least monthly;~~

(c) Any interest that may be earned from the deposit or investment of those revenues;

(d) Notwithstanding RCW 47.12.063, proceeds from the sale of any surplus real property acquired for the ~~((purpose of building the replacement state route number 520 floating bridge and necessary landings))~~ state route number 520 bridge replacement and HOV program; and

(e) All damages, liquidated or otherwise, collected under any contract involving the ~~((construction of the replacement state route number 520 floating bridge and necessary landings))~~ state route number 520 bridge replacement and HOV program.

(2) Subject to the covenants made by the state in the bond proceedings authorizing the issuance and sale of bonds for the ~~((replacement state route number 520 floating bridge and necessary landings))~~ state route number 520 bridge replacement and HOV program, toll charges, other revenues, and interest received from the operation of the state route number 520 corridor as a toll facility may be used to:

(a) Pay any required costs allowed under RCW 47.56.820; and

(b) Repay amounts to the motor vehicle fund as required.

(3) When repaying the motor vehicle fund, the state treasurer shall transfer funds from the state route number 520 corridor account to the motor vehicle fund on or before each debt service date for bonds issued for the ~~((replacement state route number 520 floating bridge project and necessary landings))~~ state route number 520 bridge replacement and HOV program in an amount sufficient to repay the motor vehicle fund for amounts transferred from that fund to the highway bond retirement fund to provide for any bond principal and interest due on that date. The state treasurer may establish subaccounts for the purpose of segregating toll charges, bond sale proceeds, and other revenues.

NEW SECTION. Sec. 5. A new section is added to chapter 47.56 RCW to read as follows:

(1) 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.

(2) This section is contingent on the enactment by June 30, 2010, of either chapter . . . (Engrossed Substitute Senate Bill No. 6499), Laws of 2010 or chapter . . . (Substitute House Bill No. 2897), Laws of 2010, but if the enacted bill does not designate the department as the toll penalty adjudicating agency, this section is null and void.

Sec. 6. RCW 43.84.092 and 2009 c 479 s 31, 2009 c 472 s 5, and 2009 c 451 s 8 are each reenacted and amended to read as follows:

(1) All earnings of investments of surplus balances in the state treasury shall be deposited to the treasury income account, which account is hereby established in the state treasury.

(2) The treasury income account shall be utilized to pay or receive funds associated with federal programs as required by the federal cash management improvement act of 1990. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for refunds or allocations of interest earnings required by the cash management improvement act. Refunds of interest to the federal treasury required under the cash management improvement act fall under RCW 43.88.180 and shall not require appropriation. The office of financial management shall determine the amounts due to or from the federal government pursuant to the cash management improvement act. The office of financial management may direct transfers of funds between accounts as deemed necessary to implement the provisions of the cash management improvement act, and this subsection. Refunds or allocations shall occur prior to the distributions of earnings set forth in subsection (4) of this section.

(3) Except for the provisions of RCW 43.84.160, the treasury income account may be utilized for the payment of purchased banking services on behalf of treasury funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasury and affected state agencies. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4) Monthly, the state treasurer shall distribute the earnings credited to the treasury income account. The state treasurer shall credit the general fund with all the earnings credited to the treasury income account except:

The following accounts and funds shall receive their proportionate share of earnings based upon each account's and fund's average daily balance for the period: The aeronautics account, the aircraft search and rescue account, the budget stabilization account, the capitol building construction account, the Cedar River channel construction and operation account, the Central Washington University capital projects account, the charitable, educational, penal and reformatory institutions account, the cleanup settlement account, the Columbia river basin water supply development account, the common school construction fund, the county arterial preservation account, the county criminal justice assistance account, the county sales and use tax equalization account, the data processing building construction account, the deferred compensation administrative account, the deferred compensation principal account, the department of licensing services account, the department of retirement systems expense account, the developmental disabilities community trust account, the drinking water assistance account, the drinking water assistance administrative account, the drinking water assistance repayment account, the Eastern Washington University capital projects account, the education construction fund, the education legacy trust account, the election account, the energy freedom account, the energy recovery act account, the essential rail assistance account, The Evergreen State College capital projects account, the federal forest revolving account, the ferry bond retirement fund, the freight congestion relief

account, the freight mobility investment account, the freight mobility multimodal account, the grade crossing protective fund, the public health services account, the health system capacity account, the personal health services account, the high capacity transportation account, the state higher education construction account, the higher education construction account, the highway bond retirement fund, the highway infrastructure account, the highway safety account, the high occupancy toll lanes operations account, the industrial insurance premium refund account, the judges' retirement account, the judicial retirement administrative account, the judicial retirement principal account, the local leasehold excise tax account, the local real estate excise tax account, the local sales and use tax account, the medical aid account, the mobile home park relocation fund, the motor vehicle fund, the motorcycle safety education account, the multimodal transportation account, the municipal criminal justice assistance account, the municipal sales and use tax equalization account, the natural resources deposit account, the oyster reserve land account, the pension funding stabilization account, the perpetual surveillance and maintenance account, the public employees' retirement system plan 1 account, the public employees' retirement system combined plan 2 and plan 3 account, the public facilities construction loan revolving account beginning July 1, 2004, the public health supplemental account, the public transportation systems account, the public works assistance account, the Puget Sound capital construction account, the Puget Sound ferry operations account, the Puyallup tribal settlement account, the real estate appraiser commission account, the recreational vehicle account, the regional mobility grant program account, the resource management cost account, the rural arterial trust account, the rural Washington loan fund, the site closure account, the small city pavement and sidewalk account, the special category C account, the special wildlife account, the state employees' insurance account, the state employees' insurance reserve account, the state investment board expense account, the state investment board commingled trust fund accounts, the state patrol highway account, the state route number 520 civil penalties account, the state route number 520 corridor account, the supplemental pension account, the Tacoma Narrows toll bridge account, the teachers' retirement system plan 1 account, the teachers' retirement system combined plan 2 and plan 3 account, the tobacco prevention and control account, the tobacco settlement account, the transportation 2003 account (nickel account), the transportation equipment fund, the transportation fund, the transportation improvement account, the transportation improvement board bond retirement account, the transportation infrastructure account, the transportation partnership account, the traumatic brain injury account, the tuition recovery trust fund, the University of Washington bond retirement fund, the University of Washington building account, the urban arterial trust account, the volunteer firefighters' and reserve officers' relief and pension principal fund, the volunteer firefighters' and reserve officers' administrative fund, the Washington fruit express account, the Washington judicial retirement system account, the Washington law enforcement officers' and firefighters' system plan 1 retirement account, the Washington law enforcement officers' and firefighters' system plan 2 retirement account, the Washington public safety employees' plan 2 retirement account, the Washington school employees' retirement system combined plan 2 and 3 account, the Washington state health insurance pool account, the Washington

state patrol retirement account, the Washington State University building account, the Washington State University bond retirement fund, the water pollution control revolving fund, and the Western Washington University capital projects account. Earnings derived from investing balances of the agricultural permanent fund, the normal school permanent fund, the permanent common school fund, the scientific permanent fund, and the state university permanent fund shall be allocated to their respective beneficiary accounts. All earnings to be distributed under this subsection (4) shall first be reduced by the allocation to the state treasurer's service fund pursuant to RCW 43.08.190.

(5) In conformance with Article II, section 37 of the state Constitution, no treasury accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

Passed by the Senate March 8, 2010.

Passed by the House March 2, 2010.

Approved by the Governor March 30, 2010, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State March 31, 2010.

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

"I am returning herewith, without my approval as to Sections 1 and 3, Engrossed Substitute Senate Bill 6392 entitled:

"AN ACT Relating to the use of revenue generated from tolling the state route number 520 corridor."

Section 1 outlines legislative intent for the bill. I believe the legislation itself states clearly that improvements throughout the SR 520 corridor need to move forward, with the proper input from appropriate parties. However, Section 1 is vague and susceptible to conflicting interpretations, which I believe could hinder our ability to make progress on a project that is important to public safety and economic vitality.

Section 3 requires that the SR 520 bridge be no higher than 20 feet. I recognize it is important to local communities that the bridge have as low a profile as possible. Decisions regarding the dimensions of a transportation facility must also be based on engineering standards, safety considerations, permitting requirements, and state and federal law. Section 3 potentially prevents the Department of Transportation from complying with Coast Guard requirements and eliminates any possibility of adjusting the size of the facility based upon design or permitting needs. As a result, I am vetoing this section and directing the Department to continue to work with neighborhoods and local governments to refine the preferred alternative design.

For these reasons, I have vetoed Sections 1 and 3 of Engrossed Substitute Senate Bill 6392.

With the exception of Sections 1 and 3, Engrossed Substitute Senate Bill 6392 is approved."

CHAPTER 249

[Engrossed Substitute Senate Bill 6499]

TOLLS—ENFORCEMENT AND ADMINISTRATION

AN ACT Relating to the administration, collection, use, and enforcement of tolls; amending RCW 47.56.010, 47.46.020, 47.46.105, 46.63.030, 46.63.160, 46.63.075, 47.56.167, 46.61.690, 46.16.216, and 46.20.270; adding a new section to chapter 47.56 RCW; prescribing penalties; and providing a contingent effective date.

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

Sec. 1. RCW 47.56.010 and 2002 c 114 s 2 are each amended to read as follows:

As used in this chapter:

(1) "Toll bridge" means a bridge constructed or acquired under this chapter, upon which tolls are charged, together with all appurtenances, additions, alterations, improvements, and replacements thereof, and the approaches thereto, and all lands and interests used therefor, and buildings and improvements thereon.

(2) "Toll road" means any express highway, superhighway, or motorway at such locations and between such termini as may be established by law, and constructed or to be constructed as a limited access highway under the provisions of this chapter by the department, and shall include, but not be limited to, all bridges, tunnels, overpasses, underpasses, interchanges, entrance plazas, approaches, toll houses, service areas, service facilities, communications facilities, and administration, storage, and other buildings that the department may deem necessary for the operation of the project, together with all property, rights, easements, and interests that may be acquired by the department for the construction or the operation of the project, all of which shall be conducted in the same manner and under the same procedure as provided for the establishing, constructing, operating, and maintaining of toll bridges by the department, insofar as those procedures are reasonably consistent and applicable.

(3) "1950 Tacoma Narrows bridge" means the bridge crossing the Tacoma Narrows that was opened to vehicle travel in 1950.

(4) "Electronic toll collection system" means a system that collects tolls by crediting or debiting funds from a customer's unique prepaid tolling account.

(5) "Photo toll" means a toll charge associated with a particular vehicle that is identified by its license plate. A photo toll may be paid through one of the following methods:

(a) A customer-initiated account that is prepaid or postpaid.

(b) In response to a toll bill that is sent to the registered owner of the vehicle incurring the photo toll charge. The toll bill may designate a toll payment due date for the photo toll assessed.

(6) "Photo toll system" means a camera-based imaging system that uses digital video or still image formats to record license plate images of vehicles using toll lanes for the purpose of collecting a photo toll.

(7) "Toll payment due date" means the date when a toll must be paid to avoid a toll violation civil penalty. The toll payment due date is eighty days from the date the vehicle uses the toll facility and incurs the toll charge.

Sec. 2. RCW 47.46.020 and 1993 c 370 s 2 are each amended to read as follows:

As used in this chapter(-):

(1) "Electronic toll collection system" means a system that collects tolls by crediting or debiting funds from a customer's unique prepaid tolling account.

(2) "Photo toll" means a charge associated with a particular vehicle that can only be identified by its license plate. A photo toll may be paid through one of the following methods:

(a) A customer-initiated account that is prepaid or postpaid.

(b) In response to a toll bill that is sent to the registered owner of the vehicle incurring the photo toll charge. The toll bill may designate a toll payment due date for the photo toll assessed.

(3) "Photo toll system" means a camera-based imaging system that uses digital video or still image formats to record license plate images of vehicles using toll lanes for the purpose of collecting a photo toll.

(4) "Toll payment due date" means the date when a toll must be paid to avoid a toll violation civil penalty. The toll payment due date is eighty days from the date the vehicle uses the toll facility and incurs the toll charge.

(5) "Transportation systems and facilities" means capital-related improvements and additions to the state's transportation infrastructure, including but not limited to highways, roads, bridges, vehicles, and equipment, marine-related facilities, vehicles, and equipment, park and ride lots, transit stations and equipment, transportation management systems, and other transportation-related investments.

NEW SECTION. Sec. 3. A new section is added to chapter 47.56 RCW to read as follows:

(1) A toll collection system may include, but is not limited to, electronic toll collection and photo tolling.

(2)(a) A photo toll system may take photographs, digital photographs, microphotographs, videotapes, or other recorded images of the vehicle and vehicle license plate only.

(b) Notwithstanding any other provision of law, all photographs, digital photographs, microphotographs, videotape, other recorded images, or other records identifying a specific instance of travel prepared under this chapter are for the exclusive use of the tolling agency for toll collection and enforcement purposes and are not open to the public and may not be used in a court in a pending action or proceeding unless the action or proceeding relates to a civil penalty under RCW 46.63.160. No photograph, digital photograph, microphotograph, videotape, other recorded image, or other record identifying a specific instance of travel may be used for any purpose other than toll collection or enforcement of civil penalties under RCW 46.63.160. Records identifying a specific instance of travel by a specific person or vehicle must be retained only as required to ensure payment and enforcement of tolls and to comply with state records retention policies. Aggregate records that do not identify an individual, vehicle, or account may be maintained.

(3) The department and its agents shall only use electronic toll collection system technology for toll collection purposes.

(4) Tolls may be collected and paid by the following methods:

(a) A customer may pay an electronic toll through an electronic toll collection account;

(b) A customer may pay a photo toll either through a customer-initiated payment or in response to a toll bill; or

(c) A customer may pay with cash on toll facilities that have a manual cash collection system.

(5) To the extent practicable, the department shall adopt electronic toll collection options, which allow for anonymous customer accounts and anonymous accounts that are not linked to a specific vehicle.

(6) The transportation commission shall adopt rules, in accordance with chapter 34.05 RCW, to assess administrative fees as appropriate for toll collection processes. Administrative fees must not exceed toll collection costs.

All administrative fees collected under this section must be deposited into the toll facility account of the facility on which the toll was assessed.

(7) Failure to pay a photo toll by the toll payment due date is a violation for which a notice of civil penalty may be issued under RCW 46.63.160.

Sec. 4. RCW 47.46.105 and 2004 c 230 s 2 are each amended to read as follows:

~~((1) Tolls may be collected by any system that identifies the correct toll and collects the payment. Systems may include manual cash collection, electronic toll collection, and photo monitoring systems.~~

~~(a) "Electronic toll collection system" means a system of collecting tolls or charges that is capable of charging the account of the toll patron the appropriate toll or charge by electronic transmission from the motor vehicle to the toll collection system, which information is used to charge the appropriate toll or charge to the patron's account. The department shall adopt rules that allow an open standard for automatic vehicle identification transponders used for electronic toll collection to be compatible with other electronic payment devices or transponders from the Washington state ferry system, other public transportation systems, or other toll collection systems to the extent that technology permits. The rules must also allow for multiple vendors providing electronic payment devices or transponders as technology permits.~~

~~(b) "Photo monitoring system" means a vehicle sensor installed to work in conjunction with an electronic toll collection system in a toll facility that automatically produces one or more photographs, one or more microphotographs, a videotape, or other recorded images of each vehicle at the time it is used or operated within a toll facility.~~

~~(c) No photograph, digital photograph, microphotograph, videotape, or other recorded image may be used for any purpose other than toll enforcement, nor retained longer than necessary to verify that tolls are paid, or to enforce toll evasion violations.~~

~~(2) The department shall adopt rules to govern toll collection.))~~

~~(1) A toll collection system may include, but is not limited to, electronic toll collection and photo tolling.~~

~~(2)(a) A photo toll system may take photographs, digital photographs, microphotographs, videotapes, or other recorded images of the vehicle and vehicle license plate only.~~

~~(b) Notwithstanding any other provision of law, all photographs, digital photographs, microphotographs, videotape, other recorded images, or other records identifying a specific instance of travel prepared under this chapter are for the exclusive use of the tolling agency for toll collection and enforcement purposes and are not open to the public and may not be used in a court in a pending action or proceeding unless the action or proceeding relates to a civil penalty under RCW 46.63.160. No photograph, digital photograph, microphotograph, videotape, other recorded image, or other record identifying a specific instance of travel may be used for any purpose other than toll collection or enforcement of civil penalties under RCW 46.63.160. Records identifying a specific instance of travel by a specific person or vehicle must be retained only as required to ensure payment and enforcement of tolls and to comply with state records retention policies.~~

(3) The department and its agents shall only use electronic toll collection system technology for toll collection purposes.

(4) Tolls may be collected and paid by the following methods:

(a) A customer may pay an electronic toll through an electronic toll collection account;

(b) A customer who does not have an electronic toll collection account may pay a photo toll either through a customer-initiated payment or in response to a toll bill; or

(c) A customer who does not have an electronic toll collection account may pay with cash on toll facilities that have a manual cash collection system.

(5) To the extent practicable, the department shall adopt electronic toll collection options, which allow for anonymous customer accounts and anonymous accounts that are not linked to a specific vehicle.

(6) The transportation commission shall adopt rules, in accordance with chapter 34.05 RCW, to assess administrative fees as appropriate for toll collection processes. Administrative fees must not exceed toll collection costs. All administrative fees collected under this section must be deposited into the toll facility account of the facility on which the toll was assessed.

(7) Failure to pay a photo toll by the toll payment due date is a violation for which a notice of civil penalty may be issued under RCW 46.63.160.

Sec. 5. RCW 46.63.030 and 2007 c 101 s 1 are each amended to read as follows:

(1) A law enforcement officer has the authority to issue a notice of traffic infraction:

(a) When the infraction is committed in the officer's presence;

(b) When the officer is acting upon the request of a law enforcement officer in whose presence the traffic infraction was committed;

(c) If an officer investigating at the scene of a motor vehicle accident has reasonable cause to believe that the driver of a motor vehicle involved in the accident has committed a traffic infraction; or

~~(d) ((When the infraction is detected through the use of a photo enforcement system under RCW 46.63.160; or~~

~~(e))~~ When the infraction is detected through the use of an automated traffic safety camera under RCW 46.63.170.

(2) A court may issue a notice of traffic infraction upon receipt of a written statement of the officer that there is reasonable cause to believe that an infraction was committed.

(3) If any motor vehicle without a driver is found parked, standing, or stopped in violation of this title or an equivalent administrative regulation or local law, ordinance, regulation, or resolution, the officer finding the vehicle shall take its registration number and may take any other information displayed on the vehicle which may identify its user, and shall conspicuously affix to the vehicle a notice of traffic infraction.

(4) In the case of failure to redeem an abandoned vehicle under RCW 46.55.120, upon receiving a complaint by a registered tow truck operator that has incurred costs in removing, storing, and disposing of an abandoned vehicle, an officer of the law enforcement agency responsible for directing the removal of the vehicle shall send a notice of infraction by certified mail to the last known address of the person responsible under RCW 46.55.105. The notice must be

entitled "Littering—Abandoned Vehicle" and give notice of the monetary penalty. The officer shall append to the notice of infraction, on a form prescribed by the department of licensing, a notice indicating the amount of costs incurred as a result of removing, storing, and disposing of the abandoned vehicle, less any amount realized at auction, and a statement that monetary penalties for the infraction will not be considered as having been paid until the monetary penalty payable under this chapter has been paid and the court is satisfied that the person has made restitution in the amount of the deficiency remaining after disposal of the vehicle.

Sec. 6. RCW 46.63.160 and 2009 c 272 s 1 are each amended to read as follows:

(1) This section applies only to ~~((infractions issued under RCW 46.61.690 for toll collection evasion))~~ civil penalties for nonpayment of tolls detected through use of photo toll systems.

(2) Nothing in this section prohibits a law enforcement officer from issuing a notice of traffic infraction to a person in control of a vehicle at the time a violation occurs under RCW 46.63.030(1) (a), (b), or (c).

~~(3) ((Toll collection systems include manual cash collection, electronic toll collection, and photo enforcement systems.~~

~~(4) "Electronic toll collection system" means a system of collecting tolls or charges that is capable of charging the account of the toll patron the appropriate toll or charge by electronic transmission from the motor vehicle to the toll collection system, which information is used to charge the appropriate toll or charge to the patron's account.~~

~~(5) "Photo enforcement system" means a vehicle sensor installed to work in conjunction with an electronic toll collection system that automatically produces one or more photographs, one or more microphotographs, a videotape, or other recorded images of a vehicle operated in violation of an infraction under this chapter.~~

~~(6) The use of a toll collection system is subject to the following requirements:~~

~~(a) The department of transportation shall adopt rules that allow an open standard for automatic vehicle identification transponders used for electronic toll collection to be compatible with other electronic payment devices or transponders from the Washington state ferry system, other public transportation systems, or other toll collection systems to the extent that technology permits. The rules must also allow for multiple vendors providing electronic payment devices or transponders as technology permits.~~

~~(b) The department of transportation may not sell, distribute, or make available in any way, the names and addresses of electronic toll collection system account holders.~~

~~(7)) A notice of civil penalty may be issued by the department of transportation when a toll is assessed through use of a photo toll system and the toll is not paid by the toll payment due date, which is eighty days from the date the vehicle uses the toll facility and incurs the toll charge.~~

(4) Any registered owner or renter of a vehicle traveling upon a toll facility operated under chapter 47.56 or 47.46 RCW is subject to a civil penalty governed by the administrative procedures set forth in this section when the vehicle incurs a toll charge and the toll is not paid by the toll payment due date.

which is eighty days from the date the vehicle uses the toll facility and incurs the toll charge.

(5) Consistent with chapter 34.05 RCW, the department of transportation shall develop an administrative adjudication process to review appeals of civil penalties issued by the department of transportation for toll nonpayment detected through the use of a photo toll system under this section.

(6) The use of a photo ~~((enforcement))~~ toll system ~~((for issuance of notices of infraction))~~ is subject to the following requirements:

(a) Photo ~~((enforcement))~~ toll systems may take photographs, digital photographs, microphotographs, videotapes, or other recorded images of the vehicle and vehicle license plate only.

(b) ~~((A notice of infraction must be mailed to the registered owner of the vehicle or to the renter of a vehicle within sixty days of the violation. The law enforcement officer issuing the))~~ A notice of ~~((infraction shall))~~ civil penalty must include with it a certificate or facsimile thereof, based upon inspection of photographs, microphotographs, videotape, or other recorded images produced by a photo ~~((enforcement))~~ toll system, stating the facts supporting the notice of ~~((infraction))~~ civil penalty. This certificate or facsimile is prima facie evidence of the facts contained in it and is admissible in a proceeding ~~((charging a violation under this chapter))~~ established under subsection (5) of this section. The photographs, digital photographs, microphotographs, videotape, or other recorded images evidencing the ~~((violation))~~ toll nonpayment civil penalty must be available for inspection and admission into evidence in a proceeding to adjudicate the liability for the ~~((infraction))~~ civil penalty.

(c) Notwithstanding any other provision of law, all photographs, digital photographs, microphotographs, videotape, ~~((or))~~ other recorded images, or other records identifying a specific instance of travel prepared under this chapter are for the exclusive use of the tolling agency ~~((and law enforcement in the discharge of duties under this section))~~ for toll collection and enforcement purposes and are not open to the public and may not be used in a court in a pending action or proceeding unless the action or proceeding relates to a ~~((violation))~~ civil penalty under this chapter. No photograph, digital photograph, microphotograph, videotape, ~~((or))~~ other recorded image, or other record identifying a specific instance of travel may be used for any purpose other than toll collection or enforcement of ~~((violations))~~ civil penalties under this ~~((chapter nor retained longer than necessary to enforce this chapter or verify that tolls are paid))~~ section. Records identifying a specific instance of travel by a specific person or vehicle must be retained only as required to ensure payment and enforcement of tolls and to comply with state records retention policies.

(d) All locations where a photo ~~((enforcement))~~ toll system is used must be clearly marked by placing signs in locations that clearly indicate to a driver that he or she is entering a zone where ~~((traffic laws are))~~ tolls are assessed and enforced by a photo ~~((enforcement))~~ toll system.

~~((8) Infractions))~~ (e) Within existing resources, the department of transportation shall conduct education and outreach efforts at least six months prior to activating an all-electronic photo toll system. Methods of outreach shall include a department presence at community meetings in the vicinity of a toll facility, signage, and information published in local media. Information provided shall include notice of when all electronic photo tolling shall begin and

methods of payment. Additionally, the department shall provide quarterly reporting on education and outreach efforts and other data related to the issuance of civil penalties.

(7) Civil penalties for toll nonpayment detected through the use of photo ((enforcement)) toll systems must be issued to the registered owner of the vehicle identified by the photo toll system, but are not part of the registered owner's driving record under RCW 46.52.101 and 46.52.120. ((Additionally, infractions generated by the use of photo enforcement systems under this section shall be processed in the same manner as parking infractions, including for the purposes of RCW 3.50.100, 35.20.220, 46.16.216, and 46.20.270(3)).

((9)) (8) The civil penalty for ((an infraction)) toll nonpayment detected through the use of a photo ((enforcement)) toll system ((shall be)) is forty dollars plus ((an additional toll penalty. The toll penalty is equal to three times the cash toll for a standard passenger car during peak hours. The toll penalty may not be reduced. The court shall remit the toll penalty to the department of transportation or a private entity under contract with the department of transportation for deposit in the statewide account in which tolls are deposited for the tolling facility at which the violation occurred. If the driver is found not to have committed an infraction under this section, the driver shall pay the toll due at the time the photograph was taken, unless the toll has already been paid)) the photo toll and associated fees.

((10)) (9) Except as provided otherwise in this subsection, all civil penalties, including the photo toll and associated fees, collected under this section must be deposited into the toll facility account of the facility on which the toll was assessed. However, beginning on July 1, 2011, civil penalties deposited into the Tacoma Narrows toll bridge account created under RCW 47.56.165 must first be allocated toward repayment of operating loans and reserve payments provided to the account from the motor vehicle account under section 1005(15), chapter 518, Laws of 2007. Additionally, all civil penalties, resulting from nonpayment of tolls on the state route number 520 corridor, shall be deposited into the state route number 520 civil penalties account created under section 4, chapter . . . (Engrossed Substitute Senate Bill No. 6392), Laws of 2010 but only if chapter . . . (Engrossed Substitute Senate Bill No. 6392), Laws of 2010 is enacted by June 30, 2010.

(10) If the registered owner of the vehicle is a rental car business, the department of transportation ((or a law enforcement agency)) shall, before a ((notice of infraction being)) toll bill is issued ((under this section)), provide a written notice to the rental car business that a ((notice of infraction)) toll bill may be issued to the rental car business if the rental car business does not, within ((eighteen)) thirty days of the mailing of the written notice, provide to the issuing agency by return mail:

(a) A statement under oath stating the name and known mailing address of the individual driving or renting the vehicle when the ((infraction occurred)) toll was assessed; or

(b) A statement under oath that the business is unable to determine who was driving or renting the vehicle at the time the ((infraction occurred)) toll was assessed because the vehicle was stolen at the time ((of)) the ((infraction)) toll was assessed. A statement provided under this subsection must be accompanied by a copy of a filed police report regarding the vehicle theft; or

(c) In lieu of identifying the vehicle operator, the rental car business may pay the applicable toll and fee.

Timely mailing of this statement to the issuing (~~law enforcement~~) agency relieves a rental car business of any liability under this (~~chapter~~) section for the (~~notice of infraction~~) payment of the toll.

(11) Consistent with chapter 34.05 RCW, the department of transportation shall develop rules to implement this section.

(12) For the purposes of this section, "photo toll system" means the system defined in RCW 47.56.010 and 47.46.020.

Sec. 7. RCW 46.63.075 and 2005 c 167 s 3 are each amended to read as follows:

(1) In a traffic infraction case involving an infraction detected through the use of (~~a photo enforcement system under RCW 46.63.160, or detected through the use of~~) an automated traffic safety camera under RCW 46.63.170, proof that the particular vehicle described in the notice of traffic infraction was in violation of any such provision of RCW (~~46.63.160 or~~) 46.63.170, together with proof that the person named in the notice of traffic infraction was at the time of the violation the registered owner of the vehicle, constitutes in evidence a prima facie presumption that the registered owner of the vehicle was the person in control of the vehicle at the point where, and for the time during which, the violation occurred.

(2) This presumption may be overcome only if the registered owner states, under oath, in a written statement to the court or in testimony before the court that the vehicle involved was, at the time, stolen or in the care, custody, or control of some person other than the registered owner.

Sec. 8. RCW 47.56.167 and 2008 c 122 s 23 are each amended to read as follows:

(1) The toll collection account is created in the custody of the state treasurer for the deposit of prepaid customer tolls and clearing activities benefiting multiple toll facilities.

(2) All receipts from prepaid customer tolls must be deposited into the account. (~~Distributions from the account~~) Prepaid customer tolls may be used only to refund customer(~~s~~) prepaid tolls or for distributions (~~into~~) to the appropriate toll facility account(~~Distributions into the appropriate toll facility account shall be based on charges incurred at each toll facility and shall include a proportionate share of interest earned from amounts deposited into the account~~) based on an equitable methodology to be determined by the department in consultation with the office of financial management. For purposes of accounting, distributions from the account constitute earned toll revenues in the receiving toll facility account at the time of distribution.

(3) Operations that benefit multiple toll facilities may be recorded in the account. At least monthly, operating activities must be distributed to the benefiting toll facility accounts.

(4) On a monthly basis, interest earnings on deposits in the account must be distributed to the toll facility accounts based on an equitable methodology to be determined by the department in consultation with the office of financial management.

(5) Only the secretary of transportation or the secretary's designee may authorize distributions from the account. Distributions of revenue and refunds from this account are not subject to the allotment procedures under chapter 43.88 RCW and an appropriation is not required.

Sec. 9. RCW 46.61.690 and 2004 c 231 s 1 are each amended to read as follows:

(1) Any person who uses a toll bridge, toll tunnel, toll road, or toll ferry, and the approaches thereto, operated by the state of Washington, the department of transportation, a political subdivision or municipal corporation empowered to operate toll facilities, or an entity operating a toll facility under a contract with the department of transportation, a political subdivision, or municipal corporation, at the entrance to which appropriate signs have been erected to notify both pedestrian and vehicular traffic that it is entering a toll facility or its approaches and is subject to the payment of tolls at the designated station for collecting tolls, commits a traffic infraction if:

((1)) (a) The person does not pay, refuses to pay, evades, or attempts to evade the payment of such tolls, or uses or attempts to use any spurious, counterfeit, or stolen ticket, coupon, token, or electronic device for payment of any such tolls(~~(c)~~);

((2)) (b) The person turns, or attempts to turn, the vehicle around in the bridge, tunnel, loading terminal, approach, or toll plaza where signs have been erected forbidding such turns(~~(c)~~);

((3)) (c) The person refuses to move a vehicle through the toll facility after having come within the area where signs have been erected notifying traffic that it is entering the area where toll is collectible or where vehicles may not turn around and where vehicles are required to pass through the toll facility for the purpose of collecting tolls; or

(d) The driver of the vehicle displays any vehicle license number plate or plates that have been, in any manner, changed, altered, obscured, or disfigured, or have become illegible.

(2) Subsection (1)(a) of this section does not apply to toll nonpayment detected through the use of photo toll systems under RCW 46.63.160.

Sec. 10. RCW 46.16.216 and 2004 c 231 s 4 are each amended to read as follows:

(1) To renew a vehicle license, an applicant shall satisfy all listed standing, stopping, and parking violations, and ~~((other infractions))~~ civil penalties issued under RCW ~~((46.63.030(1)(d)))~~ 46.63.160 for the vehicle incurred while the vehicle was registered in the applicant's name and forwarded to the department pursuant to RCW 46.20.270(3). For the purposes of this section, "listed" standing, stopping, and parking violations, and ~~((other infractions))~~ civil penalties issued under RCW ~~((46.63.030(1)(d)))~~ 46.63.160 include only those violations for which notice has been received from state or local agencies or courts by the department one hundred twenty days or more before the date the vehicle license expires and that are placed on the records of the department. Notice of such violations received by the department later than one hundred twenty days before that date that are not satisfied shall be considered by the department in connection with any applications for license renewal in any

subsequent license year. The renewal application may be processed by the department or its agents only if the applicant:

(a) Presents a preprinted renewal application showing no listed standing, stopping, or parking violations, or ~~((other infractions))~~ civil penalties issued under RCW ~~((46.63.030(1)(d)))~~ 46.63.160, or in the absence of such presentation, the agent verifies the information that would be contained on the preprinted renewal application; or

(b) If listed standing, stopping, or parking violations, or ~~((other infractions))~~ civil penalties issued under RCW ~~((46.63.030(1)(d)))~~ 46.63.160 exist, presents proof of payment and pays a fifteen dollar surcharge.

(2) The surcharge shall be allocated as follows:

(a) Ten dollars shall be deposited in the motor vehicle fund to be used exclusively for the administrative costs of the department of licensing; and

(b) Five dollars shall be retained by the agent handling the renewal application to be used by the agent for the administration of this section.

(3) If there is a change in the registered owner of the vehicle, the department shall forward the information regarding the change to the state or local charging jurisdiction and release any hold on the renewal of the vehicle license resulting from parking violations or ~~((other infractions))~~ civil penalties issued under RCW ~~((46.63.030(1)(d)))~~ 46.63.160 incurred while the certificate of license registration was in a previous registered owner's name.

(4) The department shall send to all registered owners of vehicles who have been reported to have outstanding listed parking violations or ~~((other infractions))~~ civil penalties issued under RCW ~~((46.63.030(1)(d)))~~ 46.63.160, at the time of renewal, a statement setting out the dates and jurisdictions in which the violations occurred as well as the amounts of unpaid fines and penalties relating to them and the surcharge to be collected.

Sec. 11. RCW 46.20.270 and 2009 c 181 s 1 are each amended to read as follows:

(1) Whenever any person is convicted of any offense for which this title makes mandatory the withholding of the driving privilege of such person by the department, the court in which such conviction is had shall forthwith mark the person's Washington state driver's license or permit to drive, if any, in a manner authorized by the department. A valid driver's license or permit to drive marked under this subsection shall remain in effect until the person's driving privilege is withheld by the department pursuant to notice given under RCW 46.20.245, unless the license or permit expires or otherwise becomes invalid prior to the effective date of this action. Perfection of notice of appeal shall stay the execution of sentence including the withholding of the driving privilege.

(2) Every court having jurisdiction over offenses committed under this chapter, or any other act of this state or municipal ordinance adopted by a local authority regulating the operation of motor vehicles on highways, or any federal authority having jurisdiction over offenses substantially the same as those set forth in this title ~~((46 RCW))~~ which occur on federal installations within this state, shall immediately forward to the department a forfeiture of bail or collateral deposited to secure the defendant's appearance in court, a payment of a fine, penalty, or court cost, a plea of guilty or nolo contendere or a finding of guilt, or a finding that any person has committed a traffic infraction an abstract of the court record in the form prescribed by rule of the supreme court, showing

the conviction of any person or the finding that any person has committed a traffic infraction in said court for a violation of any said laws other than regulations governing standing, stopping, parking, and pedestrian offenses.

(3) Every state agency or municipality having jurisdiction over offenses committed under this chapter, or under any other act of this state or municipal ordinance adopted by a state or local authority regulating the operation of motor vehicles on highways, may forward to the department within ten days of failure to respond, failure to pay a penalty, failure to appear at a hearing to contest the determination that a violation of any statute, ordinance, or regulation relating to standing, stopping, parking, or ~~((other infraction))~~ civil penalties issued under RCW ~~((46.63.030(1)(d)))~~ 46.63.160 has been committed, or failure to appear at a hearing to explain mitigating circumstances, an abstract of the citation record in the form prescribed by rule of the department, showing the finding by such municipality that two or more violations of laws governing standing, stopping, and parking or one or more ~~((other infractions))~~ civil penalties issued under RCW ~~((46.63.030(1)(d)))~~ 46.63.160 have been committed and indicating the nature of the defendant's failure to act. Such violations or infractions may not have occurred while the vehicle is stolen from the registered owner or is leased or rented under a bona fide commercial vehicle lease or rental agreement between a lessor engaged in the business of leasing vehicles and a lessee who is not the vehicle's registered owner. The department may enter into agreements of reciprocity with the duly authorized representatives of the states for reporting to each other violations of laws governing standing, stopping, and parking.

(4) For the purposes of this title and except as defined in RCW 46.25.010, "conviction" means a final conviction in a state or municipal court or by any federal authority having jurisdiction over offenses substantially the same as those set forth in this title which occur on federal installations in this state, an unvacated forfeiture of bail or collateral deposited to secure a defendant's appearance in court, the payment of a fine or court cost, a plea of guilty or nolo contendere, or a finding of guilt on a traffic law violation charge, regardless of whether the imposition of sentence or sanctions are deferred or the penalty is suspended, but not including entry into a deferred prosecution agreement under chapter 10.05 RCW.

(5) For the purposes of this title, "finding that a traffic infraction has been committed" means a failure to respond to a notice of infraction or a determination made by a court pursuant to this chapter. Payment of a monetary penalty made pursuant to RCW 46.63.070(2) is deemed equivalent to such a finding.

NEW SECTION. Sec. 12. This act takes effect upon certification by the secretary of transportation that the new statewide tolling operations center and photo toll system are fully operational. A notice of certification must be filed with the code reviser for publication in the state register. If a certificate is not issued by the secretary of transportation by December 1, 2012, this act is null and void.

Passed by the Senate February 16, 2010.

Passed by the House March 2, 2010.

Approved by the Governor March 30, 2010.

Filed in Office of Secretary of State March 31, 2010.

CHAPTER 250

[Engrossed Substitute Senate Bill 6774]

TRANSPORTATION BENEFIT DISTRICTS

AN ACT Relating to transportation benefit districts; and amending RCW 36.73.020.

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

Sec. 1. RCW 36.73.020 and 2009 c 515 s 14 are each amended to read as follows:

(1) The legislative authority of a county or city may establish a transportation benefit district within the county or city area or within the area specified in subsection (2) of this section, for the purpose of acquiring, constructing, improving, providing, and funding a transportation improvement within the district that is consistent with any existing state, regional, ~~((and))~~ or local transportation plans and necessitated by existing or reasonably foreseeable congestion levels. The transportation improvements shall be owned by the county of jurisdiction if located in an unincorporated area, by the city of jurisdiction if located in an incorporated area, or by the state in cases where the transportation improvement is or becomes a state highway. However, if deemed appropriate by the governing body of the transportation benefit district, a transportation improvement may be owned by a participating port district or transit district, unless otherwise prohibited by law. Transportation improvements shall be administered and maintained as other public streets, roads, highways, and transportation improvements. To the extent practicable, the district shall consider the following criteria when selecting transportation improvements:

- (a) Reduced risk of transportation facility failure and improved safety;
- (b) Improved travel time;
- (c) Improved air quality;
- (d) Increases in daily and peak period trip capacity;
- (e) Improved modal connectivity;
- (f) Improved freight mobility;
- (g) Cost-effectiveness of the investment;
- (h) Optimal performance of the system through time;
- (i) Improved accessibility for, or other benefits to, persons with special transportation needs as defined in RCW 47.06B.012; and
- (j) Other criteria, as adopted by the governing body.

(2) Subject to subsection (6) of this section, the district may include area within more than one county, city, port district, county transportation authority, or public transportation benefit area, if the legislative authority of each participating jurisdiction has agreed to the inclusion as provided in an interlocal agreement adopted pursuant to chapter 39.34 RCW. However, the boundaries of the district need not include all territory within the boundaries of the participating jurisdictions comprising the district.

(3) The members of the legislative authority proposing to establish the district, acting ex officio and independently, shall constitute the governing body of the district: PROVIDED, That where a district includes area within more than one jurisdiction under subsection (2) of this section, the district shall be governed under an interlocal agreement adopted pursuant to chapter 39.34 RCW(~~(-However)~~), with the governing body (~~(shall be)~~) being composed of (a)

at least five members including at least one elected official from the legislative authority of each participating jurisdiction or (b) the governing body of the metropolitan planning organization serving the district, but only if the district boundaries are identical to the boundaries of the metropolitan planning organization serving the district.

(4) The treasurer of the jurisdiction proposing to establish the district shall act as the ex officio treasurer of the district, unless an interlocal agreement states otherwise.

(5) The electors of the district shall all be registered voters residing within the district.

(6) Prior to December 1, 2007, the authority under this section, regarding the establishment of or the participation in a district, shall not apply to:

(a) Counties with a population greater than one million five hundred thousand persons and any adjoining counties with a population greater than five hundred thousand persons;

(b) Cities with any area within the counties under (a) of this subsection; and

(c) Other jurisdictions with any area within the counties under (a) of this subsection.

Passed by the Senate February 10, 2010.

Passed by the House March 11, 2010.

Approved by the Governor March 30, 2010.

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CHAPTER 251

[Substitute House Bill 2179]

SUPPLEMENTAL TRANSPORTATION IMPROVEMENTS—AUTHORITY

AN ACT Relating to authorizing cities to provide and contract for supplemental transportation improvements; amending RCW 36.73.015, 35.58.260, and 35.58.272; adding a new section to chapter 35.21 RCW; adding a new section to chapter 36.73 RCW; adding a new section to chapter 35.58 RCW; adding a new section to chapter 36.57A RCW; and adding a new section to chapter 81.112 RCW.

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

NEW SECTION. **Sec. 1.** A new section is added to chapter 35.21 RCW to read as follows:

In addition to any other power and authority conferred to a city that is located in a county having a population of more than one million five hundred thousand, a city legislative authority may provide or contract for supplemental transportation improvements to meet mobility needs within the city's boundaries. For purposes of this section, a "supplemental transportation improvement" or "supplemental improvement" means any project, work, or undertaking to provide or contract for public transportation service in addition to any existing or planned public transportation service provided by public transportation agencies and systems serving the city. The supplemental authority provided to the city legislative authority under this section is subject to the following requirements:

(1) Prior to taking any action to provide or contract for supplemental transportation improvements permitted under this section, the legislative authority of the city shall conduct a public hearing at the time and place specified in a notice published at least once, not less than ten days before the

hearing, in a newspaper of general circulation within the proposed district. The notice must specify the supplemental facilities or services to be provided or contracted for by the city, and must include estimated capital, operating, and maintenance costs. The legislative authority of the city shall hear objections from any person affected by the proposed supplemental improvements.

(2) Following the hearing held pursuant to subsection (1) of this section, if the city legislative authority finds that the proposed supplemental transportation improvements are in the public interest, the legislative authority shall adopt an ordinance providing for the supplemental improvements and provide or contract for the supplemental improvements.

(3) For purposes of providing or contracting for the proposed supplemental transportation improvements, the legislative authority of the city may contract with private providers and nonprofit organizations, and may form public-private partnerships. Such contracts and partnerships must require that public transportation services be coordinated with other public transportation agencies and systems serving the area and border jurisdictions.

(4) The legislative authorities of cities that are participating jurisdictions in a transportation benefit district, as provided under chapter 36.73 RCW, may petition the transportation benefit district for partial or full funding of supplemental transportation improvements as prescribed under section 3 of this act.

(5) Supplemental transportation improvements must be consistent with the city's comprehensive plan under chapter 36.70A RCW.

Sec. 2. RCW 36.73.015 and 2006 c 311 s 24 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "District" means a transportation benefit district created under this chapter.

(2) "City" means a city or town.

(3) "Transportation improvement" means a project contained in the transportation plan of the state or a regional transportation planning organization. A project may include investment in new or existing highways of statewide significance, principal arterials of regional significance, high capacity transportation, public transportation, and other transportation projects and programs of regional or statewide significance including transportation demand management. Projects may also include the operation, preservation, and maintenance of these facilities or programs.

(4) "Supplemental transportation improvement" or "supplemental improvement" means any project, work, or undertaking to provide public transportation service, in addition to a district's existing or planned voter-approved transportation improvements, proposed by a participating city member of the district under section 3 of this act.

NEW SECTION. Sec. 3. A new section is added to chapter 36.73 RCW to read as follows:

(1) In districts comprised of more than one member city, the legislative authorities of any member city that is located in a county having a population of

more than one million five hundred thousand may petition the district to provide supplemental transportation improvements.

(2) Upon receipt of a petition as provided in subsection (1) of this section for supplemental transportation improvements that are to be fully funded by the petitioner city, including ongoing operating and maintenance costs, the district must:

(a) Conduct a public hearing, and provide notice and opportunity for public comment consistent with the requirements of RCW 36.73.050(1); and

(b) Following the hearing, if a majority of the district's governing board determines that the proposed supplemental transportation improvements are in the public interest, the district shall adopt an ordinance providing for the incorporation of the supplemental improvements into any existing services. The supplemental transportation improvements must be in addition to existing services provided by the district. The district shall enter into agreements with the petitioner city or identified service providers to coordinate existing services with the supplemental improvements.

(3) Upon receipt of a petition as provided in subsection (1) of this section for supplemental transportation improvements proposed to be partially or fully funded by the district, the district must:

(a) Conduct a public hearing, and provide notice and opportunity for public comment consistent with the requirements of RCW 36.73.050(1); and

(b) Following the hearing, submit a proposition to the voters at the next special or general election for approval by a majority of the voters in the district. The proposition must specify the supplemental transportation improvements to be provided and must estimate the capital, maintenance, and operating costs to be funded by the district.

(4) If a proposition to incorporate supplemental transportation improvements is approved by the voters as provided under subsection (3) of this section, the district shall adopt an ordinance providing for the incorporation of the supplemental improvements into any existing services provided by the district. The supplemental improvements must be in addition to existing services. The district shall enter into agreements with the petitioner city or identified service providers to coordinate existing services with the supplemental improvements.

(5) A supplemental transportation improvement must be consistent with the petitioner city's comprehensive plan under chapter 36.70A RCW.

(6) Unless otherwise agreed to by the petitioner city or by a majority of the district's governing board, upon adoption of an ordinance under subsection (2) or (4) of this section, the district shall maintain its existing public transportation service levels in locations where supplemental transportation improvements are provided.

NEW SECTION. Sec. 4. A new section is added to chapter 35.58 RCW to read as follows:

If the legislative authority of a city provides or contracts for supplemental transportation improvements, as described in section 1 of this act or under chapter 36.73 RCW, a metropolitan municipal corporation serving the city or border jurisdictions shall coordinate its services with the supplemental transportation improvements to maximize efficiencies in public transportation services within and across service boundaries.

NEW SECTION. **Sec. 5.** A new section is added to chapter 36.57A RCW to read as follows:

If the legislative authority of a city provides or contracts for supplemental transportation improvements, as described in section 1 of this act or under chapter 36.73 RCW, a public transportation benefit area serving the city or border jurisdictions shall coordinate its services with the supplemental transportation improvements to maximize efficiencies in public transportation services within and across service boundaries.

NEW SECTION. **Sec. 6.** A new section is added to chapter 81.112 RCW to read as follows:

If the legislative authority of a city provides or contracts for supplemental transportation improvements, as described in section 1 of this act or under chapter 36.73 RCW, a regional transit authority serving the city or border jurisdictions shall coordinate its services with the supplemental transportation improvements to maximize efficiencies in public transportation services within and across service boundaries.

Sec. 7. RCW 35.58.260 and 1965 c 7 s 35.58.260 are each amended to read as follows:

If a metropolitan municipal corporation shall be authorized to perform the metropolitan transportation function, it shall, upon the effective date of the assumption of such power, have and exercise all rights with respect to the construction, acquisition, maintenance, operation, extension, alteration, repair, control and management of passenger transportation which any component city shall have been previously empowered to exercise and, except as provided in sections 1 and 3 of this act, such powers shall not thereafter be exercised by such component cities without the consent of the metropolitan municipal corporation: PROVIDED, That any city owning and operating a public transportation system on such effective date may continue to operate such system within such city until such system shall have been acquired by the metropolitan municipal corporation and a metropolitan municipal corporation may not acquire such system without the consent of the city council of such city.

Sec. 8. RCW 35.58.272 and 1975 1st ex.s. c 270 s 1 are each amended to read as follows:

"Municipality" as used in RCW 35.58.272 through 35.58.279, as now or hereafter amended, and in RCW 36.57.080, 36.57.100, 36.57.110, 35.58.2721, 35.58.2794, and chapter 36.57A RCW, means any metropolitan municipal corporation which shall have been authorized to perform the function of metropolitan public transportation; any county performing the public transportation function as authorized by RCW 36.57.100 and 36.57.110 or which has established a county transportation authority pursuant to chapter 36.57 RCW; any public transportation benefit area established pursuant to chapter 36.57A RCW; and any city, which is not located within the boundaries of a metropolitan municipal corporation unless provided otherwise in sections 1 and 3 of this act, county transportation authority, or public transportation benefit area, and which owns, operates or contracts for the services of a publicly owned or operated system of transportation: PROVIDED, That the term "municipality" shall mean in respect to any county performing the public transportation function pursuant to RCW 36.57.100 and 36.57.110 only that portion of the

unincorporated area lying wholly within such unincorporated transportation benefit area.

"Motor vehicle" as used in RCW 35.58.272 through 35.58.279, as now or hereafter amended, shall have the same meaning as in RCW 82.44.010.

"County auditor" shall mean the county auditor of any county or any person designated to perform the duties of a county auditor pursuant to RCW 82.44.140.

"Person" shall mean any individual, corporation, firm, association or other form of business association.

Passed by the House March 8, 2010.

Passed by the Senate March 5, 2010.

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CHAPTER 252

[Engrossed Substitute House Bill 2464]

EMERGENCY ZONES—PENALTIES FOR DRIVERS—EDUCATION

AN ACT Relating to approaching certain emergency, roadside assistance, or police vehicles in emergency zones; amending RCW 46.61.212, 46.63.020, 46.20.342, and 46.63.110; creating a new section; prescribing penalties; providing an effective date; and providing an expiration date.

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

Sec. 1. RCW 46.61.212 and 2007 c 83 s 1 are each amended to read as follows:

(1) The driver of any motor vehicle, upon approaching an emergency zone, which is defined as the adjacent lanes of the roadway two hundred feet before and after (a) a stationary authorized emergency vehicle that is making use of audible and/or visual signals meeting the requirements of RCW 46.37.190, (b) a tow truck that is making use of visual red lights meeting the requirements of RCW 46.37.196, (c) other vehicles providing roadside assistance that are making use of warning lights with three hundred sixty degree visibility, or (d) a police vehicle properly and lawfully displaying a flashing, blinking, or alternating emergency light or lights, shall:

~~((1))~~ (i) On a highway having four or more lanes, at least two of which are intended for traffic proceeding in the same direction as the approaching vehicle, proceed with caution and, if reasonable, with due regard for safety and traffic conditions, yield the right-of-way by making a lane change or moving away from the lane or shoulder occupied by the stationary authorized emergency vehicle or police vehicle;

~~((2))~~ (ii) On a highway having less than four lanes, proceed with caution, reduce the speed of the vehicle, and, if reasonable, with due regard for safety and traffic conditions, and under the rules of this chapter, yield the right-of-way by passing to the left at a safe distance and simultaneously yield the right-of-way to all vehicles traveling in the proper direction upon the highway; or

~~((3))~~ (iii) If changing lanes or moving away would be unreasonable or unsafe, proceed with due caution and reduce the speed of the vehicle.

(2) A person may not drive a vehicle in an emergency zone at a speed greater than the posted speed limit.

(3) A person found to be in violation of this section, or any infraction relating to speed restrictions in an emergency zone, must be assessed a monetary

penalty equal to twice the penalty assessed under RCW 46.63.110. This penalty may not be waived, reduced, or suspended.

(4) A person who drives a vehicle in an emergency zone in such a manner as to endanger or be likely to endanger any emergency zone worker or property is guilty of reckless endangerment of emergency zone workers. A violation of this subsection is a gross misdemeanor punishable under chapter 9A.20 RCW.

(5) The department shall suspend for sixty days the driver's license, permit to drive, or nonresident driving privilege of a person convicted of reckless endangerment of emergency zone workers.

NEW SECTION. Sec. 2. (1) Within existing resources, the state patrol and the department of transportation shall conduct education and outreach efforts regarding emergency zones, including drivers' obligations in emergency zones and the penalties for violating these obligations, for at least ninety days after the effective date of this act. The education and outreach efforts must include the use of department of transportation variable message signs.

(2) This section expires June 30, 2011.

Sec. 3. RCW 46.63.020 and 2009 c 485 s 6 are each amended to read as follows:

Failure to perform any act required or the performance of any act prohibited by this title or an equivalent administrative regulation or local law, ordinance, regulation, or resolution relating to traffic including parking, standing, stopping, and pedestrian offenses, is designated as a traffic infraction and may not be classified as a criminal offense, except for an offense contained in the following provisions of this title or a violation of an equivalent administrative regulation or local law, ordinance, regulation, or resolution:

(1) RCW 46.09.120(2) relating to the operation of a nonhighway vehicle while under the influence of intoxicating liquor or a controlled substance;

(2) RCW 46.09.130 relating to operation of nonhighway vehicles;

(3) RCW 46.10.090(2) relating to the operation of a snowmobile while under the influence of intoxicating liquor or narcotics or habit-forming drugs or in a manner endangering the person of another;

(4) RCW 46.10.130 relating to the operation of snowmobiles;

(5) Chapter 46.12 RCW relating to certificates of ownership and registration and markings indicating that a vehicle has been destroyed or declared a total loss;

(6) RCW 46.16.010 relating to the nonpayment of taxes and fees by failure to register a vehicle and falsifying residency when registering a motor vehicle;

(7) RCW 46.16.011 relating to permitting unauthorized persons to drive;

(8) RCW 46.16.160 relating to vehicle trip permits;

(9) RCW 46.16.381(2) relating to knowingly providing false information in conjunction with an application for a special placard or license plate for disabled persons' parking;

(10) RCW 46.20.005 relating to driving without a valid driver's license;

(11) RCW 46.20.091 relating to false statements regarding a driver's license or instruction permit;

(12) RCW 46.20.0921 relating to the unlawful possession and use of a driver's license;

- (13) RCW 46.20.342 relating to driving with a suspended or revoked license or status;
- (14) RCW 46.20.345 relating to the operation of a motor vehicle with a suspended or revoked license;
- (15) RCW 46.20.410 relating to the violation of restrictions of an occupational driver's license, temporary restricted driver's license, or ignition interlock driver's license;
- (16) RCW 46.20.740 relating to operation of a motor vehicle without an ignition interlock device in violation of a license notation that the device is required;
- (17) RCW 46.20.750 relating to circumventing an ignition interlock device;
- (18) RCW 46.25.170 relating to commercial driver's licenses;
- (19) Chapter 46.29 RCW relating to financial responsibility;
- (20) RCW 46.30.040 relating to providing false evidence of financial responsibility;
- (21) RCW 46.37.435 relating to wrongful installation of sunscreening material;
- (22) RCW 46.37.650 relating to the sale, resale, distribution, or installation of a previously deployed air bag;
- (23) RCW 46.37.671 through 46.37.675 relating to signal preemption devices;
- (24) RCW 46.44.180 relating to operation of mobile home pilot vehicles;
- (25) RCW 46.48.175 relating to the transportation of dangerous articles;
- (26) RCW 46.52.010 relating to duty on striking an unattended car or other property;
- (27) RCW 46.52.020 relating to duty in case of injury to or death of a person or damage to an attended vehicle;
- (28) RCW 46.52.090 relating to reports by repairmen, storagemen, and appraisers;
- (29) RCW 46.52.130 relating to confidentiality of the driving record to be furnished to an insurance company, an employer, and an alcohol/drug assessment or treatment agency;
- (30) RCW 46.55.020 relating to engaging in the activities of a registered tow truck operator without a registration certificate;
- (31) RCW 46.55.035 relating to prohibited practices by tow truck operators;
- (32) RCW 46.55.300 relating to vehicle immobilization;
- (33) RCW 46.61.015 relating to obedience to police officers, flaggers, or firefighters;
- (34) RCW 46.61.020 relating to refusal to give information to or cooperate with an officer;
- (35) RCW 46.61.022 relating to failure to stop and give identification to an officer;
- (36) RCW 46.61.024 relating to attempting to elude pursuing police vehicles;
- (37) RCW 46.61.212(4) relating to reckless endangerment of emergency zone workers;
- (38) RCW 46.61.500 relating to reckless driving;
- ~~((38))~~ (39) RCW 46.61.502 and 46.61.504 relating to persons under the influence of intoxicating liquor or drugs;

~~((39))~~ (40) RCW 46.61.503 relating to a person under age twenty-one driving a motor vehicle after consuming alcohol;

~~((40))~~ (41) RCW 46.61.520 relating to vehicular homicide by motor vehicle;

~~((41))~~ (42) RCW 46.61.522 relating to vehicular assault;

~~((42))~~ (43) RCW 46.61.5249 relating to first degree negligent driving;

~~((43))~~ (44) RCW 46.61.527(4) relating to reckless endangerment of roadway workers;

~~((44))~~ (45) RCW 46.61.530 relating to racing of vehicles on highways;

~~((45))~~ (46) RCW 46.61.655(7) (a) and (b) relating to failure to secure a load;

~~((46))~~ (47) RCW 46.61.685 relating to leaving children in an unattended vehicle with the motor running;

~~((47))~~ (48) RCW 46.61.740 relating to theft of motor vehicle fuel;

~~((48))~~ (49) RCW 46.64.010 relating to unlawful cancellation of or attempt to cancel a traffic citation;

~~((49))~~ (50) RCW 46.64.048 relating to attempting, aiding, abetting, coercing, and committing crimes;

~~((50))~~ (51) Chapter 46.65 RCW relating to habitual traffic offenders;

~~((51))~~ (52) RCW 46.68.010 relating to false statements made to obtain a refund;

~~((52))~~ (53) RCW 46.35.030 relating to recording device information;

~~((53))~~ (54) Chapter 46.70 RCW relating to unfair motor vehicle business practices, except where that chapter provides for the assessment of monetary penalties of a civil nature;

~~((54))~~ (55) Chapter 46.72 RCW relating to the transportation of passengers in for hire vehicles;

~~((55))~~ (56) RCW 46.72A.060 relating to limousine carrier insurance;

~~((56))~~ (57) RCW 46.72A.070 relating to operation of a limousine without a vehicle certificate;

~~((57))~~ (58) RCW 46.72A.080 relating to false advertising by a limousine carrier;

~~((58))~~ (59) Chapter 46.80 RCW relating to motor vehicle wreckers;

~~((59))~~ (60) Chapter 46.82 RCW relating to driver's training schools;

~~((60))~~ (61) RCW 46.87.260 relating to alteration or forgery of a cab card, letter of authority, or other temporary authority issued under chapter 46.87 RCW;

~~((61))~~ (62) RCW 46.87.290 relating to operation of an unregistered or unlicensed vehicle under chapter 46.87 RCW.

Sec. 4. RCW 46.20.342 and 2008 c 282 s 4 are each amended to read as follows:

(1) It is unlawful for any person to drive a motor vehicle in this state while that person is in a suspended or revoked status or when his or her privilege to drive is suspended or revoked in this or any other state. Any person who has a valid Washington driver's license is not guilty of a violation of this section.

(a) A person found to be an habitual offender under chapter 46.65 RCW, who violates this section while an order of revocation issued under chapter 46.65 RCW prohibiting such operation is in effect, is guilty of driving while license suspended or revoked in the first degree, a gross misdemeanor. Upon the first

such conviction, the person shall be punished by imprisonment for not less than ten days. Upon the second conviction, the person shall be punished by imprisonment for not less than ninety days. Upon the third or subsequent conviction, the person shall be punished by imprisonment for not less than one hundred eighty days. If the person is also convicted of the offense defined in RCW 46.61.502 or 46.61.504, when both convictions arise from the same event, the minimum sentence of confinement shall be not less than ninety days. The minimum sentence of confinement required shall not be suspended or deferred. A conviction under this subsection does not prevent a person from petitioning for reinstatement as provided by RCW 46.65.080.

(b) A person who violates this section while an order of suspension or revocation prohibiting such operation is in effect and while the person is not eligible to reinstate his or her driver's license or driving privilege, other than for a suspension for the reasons described in (c) of this subsection, is guilty of driving while license suspended or revoked in the second degree, a gross misdemeanor. This subsection applies when a person's driver's license or driving privilege has been suspended or revoked by reason of:

(i) A conviction of a felony in the commission of which a motor vehicle was used;

(ii) A previous conviction under this section;

(iii) A notice received by the department from a court or diversion unit as provided by RCW 46.20.265, relating to a minor who has committed, or who has entered a diversion unit concerning an offense relating to alcohol, legend drugs, controlled substances, or imitation controlled substances;

(iv) A conviction of RCW 46.20.410, relating to the violation of restrictions of an occupational driver's license, a temporary restricted driver's license, or an ignition interlock driver's license;

(v) A conviction of RCW 46.20.345, relating to the operation of a motor vehicle with a suspended or revoked license;

(vi) A conviction of RCW 46.52.020, relating to duty in case of injury to or death of a person or damage to an attended vehicle;

(vii) A conviction of RCW 46.61.024, relating to attempting to elude pursuing police vehicles;

(viii) A conviction of RCW 46.61.212(4), relating to reckless endangerment of emergency zone workers;

~~(ix)~~ (ix) A conviction of RCW 46.61.500, relating to reckless driving;

~~((ix))~~ (x) A conviction of RCW 46.61.502 or 46.61.504, relating to a person under the influence of intoxicating liquor or drugs;

~~((x))~~ (xi) A conviction of RCW 46.61.520, relating to vehicular homicide;

~~((xi))~~ (xii) A conviction of RCW 46.61.522, relating to vehicular assault;

~~((xii))~~ (xiii) A conviction of RCW 46.61.527(4), relating to reckless endangerment of roadway workers;

~~((xiii))~~ (xiv) A conviction of RCW 46.61.530, relating to racing of vehicles on highways;

~~((xiv))~~ (xv) A conviction of RCW 46.61.685, relating to leaving children in an unattended vehicle with motor running;

~~((xv))~~ (xvi) A conviction of RCW 46.61.740, relating to theft of motor vehicle fuel;

~~((xvi))~~ (xvii) A conviction of RCW 46.64.048, relating to attempting, aiding, abetting, coercing, and committing crimes;

~~((xvii))~~ (xviii) An administrative action taken by the department under chapter 46.20 RCW; or

~~((xviii))~~ (xix) A conviction of a local law, ordinance, regulation, or resolution of a political subdivision of this state, the federal government, or any other state, of an offense substantially similar to a violation included in this subsection.

(c) A person who violates this section when his or her driver's license or driving privilege is, at the time of the violation, suspended or revoked solely because (i) the person must furnish proof of satisfactory progress in a required alcoholism or drug treatment program, (ii) the person must furnish proof of financial responsibility for the future as provided by chapter 46.29 RCW, (iii) the person has failed to comply with the provisions of chapter 46.29 RCW relating to uninsured accidents, (iv) the person has failed to respond to a notice of traffic infraction, failed to appear at a requested hearing, violated a written promise to appear in court, or has failed to comply with the terms of a notice of traffic infraction or citation, as provided in RCW 46.20.289, (v) the person has committed an offense in another state that, if committed in this state, would not be grounds for the suspension or revocation of the person's driver's license, (vi) the person has been suspended or revoked by reason of one or more of the items listed in (b) of this subsection, but was eligible to reinstate his or her driver's license or driving privilege at the time of the violation, or (vii) the person has received traffic citations or notices of traffic infraction that have resulted in a suspension under RCW 46.20.267 relating to intermediate drivers' licenses, or any combination of (c)(i) through (vii) of this subsection, is guilty of driving while license suspended or revoked in the third degree, a misdemeanor.

(2) Upon receiving a record of conviction of any person or upon receiving an order by any juvenile court or any duly authorized court officer of the conviction of any juvenile under this section, the department shall:

(a) For a conviction of driving while suspended or revoked in the first degree, as provided by subsection (1)(a) of this section, extend the period of administrative revocation imposed under chapter 46.65 RCW for an additional period of one year from and after the date the person would otherwise have been entitled to apply for a new license or have his or her driving privilege restored; or

(b) For a conviction of driving while suspended or revoked in the second degree, as provided by subsection (1)(b) of this section, not issue a new license or restore the driving privilege for an additional period of one year from and after the date the person would otherwise have been entitled to apply for a new license or have his or her driving privilege restored; or

(c) Not extend the period of suspension or revocation if the conviction was under subsection (1)(c) of this section. If the conviction was under subsection (1)(a) or (b) of this section and the court recommends against the extension and the convicted person has obtained a valid driver's license, the period of suspension or revocation shall not be extended.

Sec. 5. RCW 46.63.110 and 2009 c 479 s 39 are each amended to read as follows:

(1) A person found to have committed a traffic infraction shall be assessed a monetary penalty. No penalty may exceed two hundred and fifty dollars for each offense unless authorized by this chapter or title.

(2) The monetary penalty for a violation of (a) RCW 46.55.105(2) is two hundred fifty dollars for each offense; (b) RCW 46.61.210(1) is five hundred dollars for each offense. No penalty assessed under this subsection (2) may be reduced.

(3) The supreme court shall prescribe by rule a schedule of monetary penalties for designated traffic infractions. This rule shall also specify the conditions under which local courts may exercise discretion in assessing fines and penalties for traffic infractions. The legislature respectfully requests the supreme court to adjust this schedule every two years for inflation.

(4) There shall be a penalty of twenty-five dollars for failure to respond to a notice of traffic infraction except where the infraction relates to parking as defined by local law, ordinance, regulation, or resolution or failure to pay a monetary penalty imposed pursuant to this chapter. A local legislative body may set a monetary penalty not to exceed twenty-five dollars for failure to respond to a notice of traffic infraction relating to parking as defined by local law, ordinance, regulation, or resolution. The local court, whether a municipal, police, or district court, shall impose the monetary penalty set by the local legislative body.

(5) Monetary penalties provided for in chapter 46.70 RCW which are civil in nature and penalties which may be assessed for violations of chapter 46.44 RCW relating to size, weight, and load of motor vehicles are not subject to the limitation on the amount of monetary penalties which may be imposed pursuant to this chapter.

(6) Whenever a monetary penalty, fee, cost, assessment, or other monetary obligation is imposed by a court under this chapter it is immediately payable. If the court determines, in its discretion, that a person is not able to pay a monetary obligation in full, and not more than one year has passed since the later of July 1, 2005, or the date the monetary obligation initially became due and payable, the court shall enter into a payment plan with the person, unless the person has previously been granted a payment plan with respect to the same monetary obligation, or unless the person is in noncompliance of any existing or prior payment plan, in which case the court may, at its discretion, implement a payment plan. If the court has notified the department that the person has failed to pay or comply and the person has subsequently entered into a payment plan and made an initial payment, the court shall notify the department that the infraction has been adjudicated, and the department shall rescind any suspension of the person's driver's license or driver's privilege based on failure to respond to that infraction. "Payment plan," as used in this section, means a plan that requires reasonable payments based on the financial ability of the person to pay. The person may voluntarily pay an amount at any time in addition to the payments required under the payment plan.

(a) If a payment required to be made under the payment plan is delinquent or the person fails to complete a community restitution program on or before the time established under the payment plan, unless the court determines good cause therefor and adjusts the payment plan or the community restitution plan accordingly, the court shall notify the department of the person's failure to meet

the conditions of the plan, and the department shall suspend the person's driver's license or driving privilege until all monetary obligations, including those imposed under subsections (3) and (4) of this section, have been paid, and court authorized community restitution has been completed, or until the department has been notified that the court has entered into a new time payment or community restitution agreement with the person.

(b) If a person has not entered into a payment plan with the court and has not paid the monetary obligation in full on or before the time established for payment, the court shall notify the department of the delinquency. The department shall suspend the person's driver's license or driving privilege until all monetary obligations have been paid, including those imposed under subsections (3) and (4) of this section, or until the person has entered into a payment plan under this section.

(c) If the payment plan is to be administered by the court, the court may assess the person a reasonable administrative fee to be wholly retained by the city or county with jurisdiction. The administrative fee shall not exceed ten dollars per infraction or twenty-five dollars per payment plan, whichever is less.

(d) Nothing in this section precludes a court from contracting with outside entities to administer its payment plan system. When outside entities are used for the administration of a payment plan, the court may assess the person a reasonable fee for such administrative services, which fee may be calculated on a periodic, percentage, or other basis.

(e) If a court authorized community restitution program for offenders is available in the jurisdiction, the court may allow conversion of all or part of the monetary obligations due under this section to court authorized community restitution in lieu of time payments if the person is unable to make reasonable time payments.

(7) In addition to any other penalties imposed under this section and not subject to the limitation of subsection (1) of this section, a person found to have committed a traffic infraction shall be assessed:

(a) A fee of five dollars per infraction. Under no circumstances shall this fee be reduced or waived. Revenue from this fee shall be forwarded to the state treasurer for deposit in the emergency medical services and trauma care system trust account under RCW 70.168.040;

(b) A fee of ten dollars per infraction. Under no circumstances shall this fee be reduced or waived. Revenue from this fee shall be forwarded to the state treasurer for deposit in the Washington auto theft prevention authority account; and

(c) A fee of two dollars per infraction. Revenue from this fee shall be forwarded to the state treasurer for deposit in the traumatic brain injury account established in RCW 74.31.060.

(8)(a) In addition to any other penalties imposed under this section and not subject to the limitation of subsection (1) of this section, a person found to have committed a traffic infraction other than of RCW 46.61.527 or 46.61.212 shall be assessed an additional penalty of twenty dollars. The court may not reduce, waive, or suspend the additional penalty unless the court finds the offender to be indigent. If a court authorized community restitution program for offenders is available in the jurisdiction, the court shall allow offenders to offset all or a part

of the penalty due under this subsection (8) by participation in the court authorized community restitution program.

(b) Eight dollars and fifty cents of the additional penalty under (a) of this subsection shall be remitted to the state treasurer. The remaining revenue from the additional penalty must be remitted under chapters 2.08, 3.46, 3.50, 3.62, 10.82, and 35.20 RCW. Money remitted under this subsection to the state treasurer must be deposited in the state general fund. The balance of the revenue received by the county or city treasurer under this subsection must be deposited into the county or city current expense fund. Moneys retained by the city or county under this subsection shall constitute reimbursement for any liabilities under RCW 43.135.060.

(9) If a legal proceeding, such as garnishment, has commenced to collect any delinquent amount owed by the person for any penalty imposed by the court under this section, the court may, at its discretion, enter into a payment plan.

(10) The monetary penalty for violating RCW 46.37.395 is: (a) Two hundred fifty dollars for the first violation; (b) five hundred dollars for the second violation; and (c) seven hundred fifty dollars for each violation thereafter.

NEW SECTION. Sec. 6. This act takes effect January 1, 2011.

Passed by the House March 6, 2010.

Passed by the Senate February 27, 2010.

Approved by the Governor March 30, 2010.

Filed in Office of Secretary of State March 31, 2010.

CHAPTER 253

[Substitute House Bill 2939]

DRIVING RECORDS—ABSTRACTS—NOT-AT-FAULT ACCIDENTS

AN ACT Relating to notations on driver abstracts that a person was not at fault in a motor vehicle accident; amending RCW 46.52.130; creating a new section; prescribing penalties; and providing an effective date.

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

Sec. 1. RCW 46.52.130 and 2009 c 276 s 1 are each amended to read as follows:

- ~~((1) A certified abstract of the driving record shall be furnished only to:~~
- ~~(a) The individual named in the abstract;~~
 - ~~(b) An employer or prospective employer or an agent acting on behalf of an employer or prospective employer, or a volunteer organization for which the named individual has submitted an application for a position that could require the transportation of children under eighteen years of age, adults over sixty-five years of age, or persons with mental or physical disabilities;~~
 - ~~(c) An employee or agent of a transit authority checking prospective volunteer vanpool drivers for insurance and risk management needs;~~
 - ~~(d) The insurance carrier that has insurance in effect covering the employer or a prospective employer;~~
 - ~~(e) The insurance carrier that has motor vehicle or life insurance in effect covering the named individual;~~
 - ~~(f) The insurance carrier to which the named individual has applied;~~

~~(g) An alcohol/drug assessment or treatment agency approved by the department of social and health services, to which the named individual has applied or been assigned for evaluation or treatment;~~

~~(h) City and county prosecuting attorneys;~~

~~(i) State colleges, universities, or agencies for employment and risk management purposes; or units of local government authorized to self-insure under RCW 48.62.031; or~~

~~(j) An employer or prospective employer or volunteer organization, or an agent acting on behalf of an employer or prospective employer or volunteer organization, for employment purposes related to driving by an individual as a condition of that individual's employment or otherwise at the direction of the employer or organization.~~

~~(2) Nothing in this section shall be interpreted to prevent a court from providing a copy of the driver's abstract to the individual named in the abstract, provided that the named individual has a pending case in that court for a suspended license violation or an open infraction or criminal case in that court that has resulted in the suspension of the individual's driver's license. A pending case includes criminal cases that have not reached a disposition by plea, stipulation, trial, or amended charge. An open infraction or criminal case includes cases on probation, payment agreement or subject to, or in collections. Courts may charge a reasonable fee for production and copying of the abstract for the individual.~~

~~(3) City attorneys and county prosecuting attorneys may provide the driving record to alcohol/drug assessment or treatment agencies approved by the department of social and health services to which the named individual has applied or been assigned for evaluation or treatment.~~

~~(4)(a) The director, upon proper request, shall furnish a certified abstract covering the period of not more than the last three years to insurance companies.~~

~~(b) The director may enter into a contractual agreement with an insurance company or its agent for the limited purpose of reviewing the driving records of existing policyholders for changes to the record during specified periods of time. The department shall establish a fee for this service, which must be deposited in the highway safety fund. The fee for this service must be set at a level that will not result in a net revenue loss to the state. Any information provided under this subsection must be treated in the same manner and subject to the same restrictions as certified abstracts.~~

~~(5) Upon proper request, the director shall furnish a certified abstract covering a period of not more than the last five years to state approved alcohol/drug assessment or treatment agencies, except that the certified abstract shall also include records of alcohol-related offenses as defined in RCW 46.01.260(2) covering a period of not more than the last ten years.~~

~~(6) Upon proper request, a certified abstract of the full driving record maintained by the department shall be furnished to a city or county prosecuting attorney, to the individual named in the abstract, to an employer or prospective employer or an agent acting on behalf of an employer or prospective employer of the named individual, or to a volunteer organization for which the named individual has submitted an application for a position that could require the transportation of children under eighteen years of age, adults over sixty-five years of age, or persons with physical or mental disabilities, or to an employee or~~

~~agent of a transit authority checking prospective volunteer vanpool drivers for insurance and risk management needs.~~

~~(7) The abstract, whenever possible, shall include:~~

~~(a) An enumeration of motor vehicle accidents in which the person was driving;~~

~~(b) The total number of vehicles involved;~~

~~(c) Whether the vehicles were legally parked or moving;~~

~~(d) Whether the vehicles were occupied at the time of the accident;~~

~~(e) Whether the accident resulted in any fatality;~~

~~(f) Any reported convictions, forfeitures of bail, or findings that an infraction was committed based upon a violation of any motor vehicle law;~~

~~(g) The status of the person's driving privilege in this state; and~~

~~(h) Any reports of failure to appear in response to a traffic citation or failure to respond to a notice of infraction served upon the named individual by an arresting officer.~~

~~(8) Certified abstracts furnished to prosecutors and alcohol/drug assessment or treatment agencies shall also indicate whether a recorded violation is an alcohol-related offense as defined in RCW 46.01.260(2) that was originally charged as one of the alcohol-related offenses designated in RCW 46.01.260(2)(b)(i).~~

~~(9) The abstract provided to the insurance company shall exclude any information, except that related to the commission of misdemeanors or felonies by the individual, pertaining to law enforcement officers or firefighters as defined in RCW 41.26.030, or any officer of the Washington state patrol, while driving official vehicles in the performance of occupational duty. The abstract provided to the insurance company shall include convictions for RCW 46.61.5249 and 46.61.525 except that the abstract shall report them only as negligent driving without reference to whether they are for first or second degree negligent driving. The abstract provided to the insurance company shall exclude any deferred prosecution under RCW 10.05.060, except that if a person is removed from a deferred prosecution under RCW 10.05.090, the abstract shall show the deferred prosecution as well as the removal.~~

~~(10) The director shall collect for each abstract the sum of ten dollars, fifty percent of which shall be deposited in the highway safety fund and fifty percent of which must be deposited according to RCW 46.68.038.~~

~~(11) Any insurance company or its agent receiving the certified abstract shall use it exclusively for its own underwriting purposes and shall not divulge any of the information contained in it to a third party. No policy of insurance may be canceled, nonrenewed, denied, or have the rate increased on the basis of such information unless the policyholder was determined to be at fault. No insurance company or its agent for underwriting purposes relating to the operation of commercial motor vehicles may use any information contained in the abstract relative to any person's operation of motor vehicles while not engaged in such employment, nor may any insurance company or its agent for underwriting purposes relating to the operation of noncommercial motor vehicles use any information contained in the abstract relative to any person's operation of commercial motor vehicles.~~

~~(12) Any employer or prospective employer or an agent acting on behalf of an employer or prospective employer, or a volunteer organization for which the~~

~~named individual has submitted an application for a position that could require the transportation of children under eighteen years of age, adults over sixty five years of age, or persons with physical or mental disabilities, receiving the certified abstract shall use it exclusively for his or her own purpose: (a) To determine whether the licensee should be permitted to operate a commercial vehicle or school bus, or operate a vehicle for a volunteer organization for purposes of transporting children under eighteen years of age, adults over sixty five years of age, or persons with physical or mental disabilities, upon the public highways of this state; or (b) for employment purposes related to driving by an individual as a condition of that individual's employment or otherwise at the direction of the employer or organization, and shall not divulge any information contained in it to a third party.~~

~~(13) Any employee or agent of a transit authority receiving a certified abstract for its vanpool program shall use it exclusively for determining whether the volunteer licensee meets those insurance and risk management requirements necessary to drive a vanpool vehicle. The transit authority may not divulge any information contained in the abstract to a third party.~~

~~(14) Any alcohol/drug assessment or treatment agency approved by the department of social and health services receiving the certified abstract shall use it exclusively for the purpose of assisting its employees in making a determination as to what level of treatment, if any, is appropriate. The agency, or any of its employees, shall not divulge any information contained in the abstract to a third party.~~

~~(15) Release of a certified abstract of the driving record of an employee, prospective employee, or prospective volunteer requires a statement signed by: (a) The employee, prospective employee, or prospective volunteer that authorizes the release of the record, and (b) the employer or volunteer organization attesting that the information is necessary: (i) To determine whether the licensee should be employed to operate a commercial vehicle or school bus, or operate a vehicle for a volunteer organization for purposes of transporting children under eighteen years of age, adults over sixty five years of age, or persons with physical or mental disabilities, upon the public highways of this state; or (ii) for employment purposes related to driving by an individual as a condition of that individual's employment or otherwise at the direction of the employer or organization. If the employer or prospective employer authorizes an agent to obtain this information on their behalf, this must be noted in the statement. This subsection does not apply to entities identified in subsection (1)(i) of this section.~~

~~(16) Any negligent violation of this section is a gross misdemeanor.~~

~~(17) Any intentional violation of this section is a class C felony.) Upon a proper request, the department may furnish an abstract of a person's driving record as permitted under this section.~~

(1) Contents of abstract of driving record. An abstract of a person's driving record, whenever possible, must include:

(a) An enumeration of motor vehicle accidents in which the person was driving, including:

(i) The total number of vehicles involved;

(ii) Whether the vehicles were legally parked or moving;

(iii) Whether the vehicles were occupied at the time of the accident; and

(iv) Whether the accident resulted in a fatality;

(b) Any reported convictions, forfeitures of bail, or findings that an infraction was committed based upon a violation of any motor vehicle law;

(c) The status of the person's driving privilege in this state; and

(d) Any reports of failure to appear in response to a traffic citation or failure to respond to a notice of infraction served upon the named individual by an arresting officer.

(2) **Release of abstract of driving record.** An abstract of a person's driving record may be furnished to the following persons or entities:

(a) **Named individuals.** (i) An abstract of the full driving record maintained by the department may be furnished to the individual named in the abstract.

(ii) Nothing in this section prevents a court from providing a copy of the driver's abstract to the individual named in the abstract, provided that the named individual has a pending or open infraction or criminal case in that court. A pending case includes criminal cases that have not reached a disposition by plea, stipulation, trial, or amended charge. An open infraction or criminal case includes cases on probation, payment agreement or subject to, or in collections. Courts may charge a reasonable fee for the production and copying of the abstract for the individual.

(b) **Employers or prospective employers.** (i) An abstract of the full driving record maintained by the department may be furnished to an employer or prospective employer or an agent acting on behalf of an employer or prospective employer of the named individual for purposes related to driving by the individual as a condition of employment or otherwise at the direction of the employer.

(ii) Release of an abstract of the driving record of an employee or prospective employee requires a statement signed by: (A) The employee or prospective employee that authorizes the release of the record; and (B) the employer attesting that the information is necessary for employment purposes related to driving by the individual as a condition of employment or otherwise at the direction of the employer. If the employer or prospective employer authorizes an agent to obtain this information on their behalf, this must be noted in the statement.

(iii) Upon request of the person named in the abstract provided under this subsection, and upon that same person furnishing copies of court records ruling that the person was not at fault in a motor vehicle accident, the department must indicate on any abstract provided under this subsection that the person was not at fault in the motor vehicle accident.

(c) **Volunteer organizations.** (i) An abstract of the full driving record maintained by the department may be furnished to a volunteer organization or an agent for a volunteer organization for which the named individual has submitted an application for a position that would require driving by the individual at the direction of the volunteer organization.

(ii) Release of an abstract of the driving record of a prospective volunteer requires a statement signed by: (A) The prospective volunteer that authorizes the release of the record; and (B) the volunteer organization attesting that the information is necessary for purposes related to driving by the individual at the direction of the volunteer organization. If the volunteer organization authorizes

an agent to obtain this information on their behalf, this must be noted in the statement.

(d) **Transit authorities.** An abstract of the full driving record maintained by the department may be furnished to an employee or agent of a transit authority checking prospective volunteer vanpool drivers for insurance and risk management needs.

(e) **Insurance carriers.** (i) An abstract of the driving record maintained by the department covering the period of not more than the last three years may be furnished to an insurance company or its agent:

(A) That has motor vehicle or life insurance in effect covering the named individual;

(B) To which the named individual has applied; or

(C) That has insurance in effect covering the employer or a prospective employer of the named individual.

(ii) The abstract provided to the insurance company must:

(A) Not contain any information related to actions committed by law enforcement officers or firefighters, as both terms are defined in RCW 41.26.030, or by Washington state patrol officers, while driving official vehicles in the performance of their occupational duty. This does not apply to any situation where the vehicle was used in the commission of a misdemeanor or felony;

(B) Include convictions under RCW 46.61.5249 and 46.61.525, except that the abstract must report the convictions only as negligent driving without reference to whether they are for first or second degree negligent driving; and

(C) Exclude any deferred prosecution under RCW 10.05.060, except that if a person is removed from a deferred prosecution under RCW 10.05.090, the abstract must show the deferred prosecution as well as the removal.

(iii) Any policy of insurance may not be canceled, nonrenewed, denied, or have the rate increased on the basis of information regarding an accident included in the abstract of a driving record, unless the policyholder was determined to be at fault.

(iv) Any insurance company or its agent, for underwriting purposes relating to the operation of commercial motor vehicles, may not use any information contained in the abstract relative to any person's operation of motor vehicles while not engaged in such employment. Any insurance company or its agent, for underwriting purposes relating to the operation of noncommercial motor vehicles, may not use any information contained in the abstract relative to any person's operation of commercial motor vehicles.

(v) The director may enter into a contractual agreement with an insurance company or its agent for the limited purpose of reviewing the driving records of existing policyholders for changes to the record during specified periods of time. The department shall establish a fee for this service, which must be deposited in the highway safety fund. The fee for this service must be set at a level that will not result in a net revenue loss to the state. Any information provided under this subsection must be treated in the same manner and is subject to the same restrictions as driving record abstracts.

(f) **Alcohol/drug assessment or treatment agencies.** An abstract of the driving record maintained by the department covering the period of not more than the last five years may be furnished to an alcohol/drug assessment or

treatment agency approved by the department of social and health services to which the named individual has applied or been assigned for evaluation or treatment, for purposes of assisting employees in making a determination as to what level of treatment, if any, is appropriate, except that the abstract must:

(i) Also include records of alcohol-related offenses, as defined in RCW 46.01.260(2), covering a period of not more than the last ten years; and

(ii) Indicate whether an alcohol-related offense was originally charged as a violation of either RCW 46.61.502 or 46.61.504.

(g) **City attorneys and county prosecuting attorneys.** An abstract of the full driving record maintained by the department, including whether a recorded violation is an alcohol-related offense, as defined in RCW 46.01.260(2), that was originally charged as a violation of either RCW 46.61.502 or 46.61.504, may be furnished to city attorneys or county prosecuting attorneys. City attorneys and county prosecuting attorneys may provide the driving record to alcohol/drug assessment or treatment agencies approved by the department of social and health services to which the named individual has applied or been assigned for evaluation or treatment.

(h) **State colleges, universities, or agencies, or units of local government.** An abstract of the full driving record maintained by the department may be furnished to (i) state colleges, universities, or agencies for employment and risk management purposes or (ii) units of local government authorized to self-insure under RCW 48.62.031 for employment and risk management purposes.

(i) **Superintendent of public instruction.** An abstract of the full driving record maintained by the department may be furnished to the superintendent of public instruction for review of public school bus driver records. The superintendent or superintendent's designee may discuss information on the driving record with an authorized representative of the employing school district for employment and risk management purposes.

(3) **Release to third parties prohibited.** Any person or entity receiving an abstract of a person's driving record under subsection (2)(b) through (i) of this section shall use the abstract exclusively for his, her, or its own purposes or as otherwise expressly permitted under this section, and shall not divulge any information contained in the abstract to a third party.

(4) **Fee.** The director shall collect a ten-dollar fee for each abstract of a person's driving record furnished by the department. Fifty percent of the fee must be deposited in the highway safety fund, and fifty percent of the fee must be deposited according to RCW 46.68.038.

(5) **Violation.** (a) Any negligent violation of this section is a gross misdemeanor.

(b) Any intentional violation of this section is a class C felony.

**NEW SECTION. Sec. 2. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2010, in the omnibus transportation appropriations act, this act is null and void.*

*Sec. 2 was vetoed. See message at end of chapter.

NEW SECTION. Sec. 3. This act takes effect October 31, 2010.

Passed by the House March 8, 2010.

Passed by the Senate March 5, 2010.

Approved by the Governor March 30, 2010, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State March 31, 2010.

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

"I am returning herewith, without my approval as to Section 2, Substitute House Bill 2939 entitled:

"AN ACT Relating to notations on driver abstracts that a person was not at fault in a motor vehicle accident."

Section 2 of the legislation states the bill is null and void if funding is not provided in the transportation budget. The transportation budget as passed the Legislature did not contain funding for this bill. However, I am vetoing this section with the understanding that the Department of Licensing will assess the costs of implementing the bill and request any needed funding in 2011.

For this reason, I have vetoed Section 2 of Substitute House Bill 2939.

With the exception of Section 2, Substitute House Bill 2939 is approved."

CHAPTER 254

[House Bill 2625]

CONDITIONS OF RELEASE—FELONY OFFENDERS

AN ACT Relating to bail for felony offenses; adding a new chapter to Title 10 RCW; creating new sections; providing an effective date; providing a contingent effective date; and providing an expiration date.

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

NEW SECTION. Sec. 1. The legislature intends by this act to require an individualized determination by a judicial officer of conditions of release for persons in custody for felony. This requirement is consistent with constitutional requirements and court rules regarding the right of a detained person to a prompt determination of probable cause and judicial review of the conditions of release and the requirement that judicial determinations of bail or release be made no later than the preliminary appearance stage.

NEW SECTION. Sec. 2. (1) Bail for the release of a person arrested and detained for a felony offense must be determined on an individualized basis by a judicial officer.

(2) This section expires August 1, 2011.

NEW SECTION. Sec. 3. It is the intent of the legislature to enact a law for the purpose of reasonably assuring public safety in bail determination hearings and hearings pursuant to the proposed amendment to Article I, section 20 of the state Constitution set forth in House Joint Resolution No. 4220. Other provisions of law address matters relating to assuring the appearance of the defendant at trial and preventing interference with the administration of justice.

NEW SECTION. Sec. 4. Upon the appearance before a judicial officer of a person charged with an offense, the judicial officer must issue an order that, pending trial, the person be:

- (1) Released on personal recognizance;
- (2) Released on a condition or combination of conditions ordered under section 5 of this act or other provision of law;
- (3) Temporarily detained as allowed by law; or

(4) Detained as provided under this act.

NEW SECTION. Sec. 5. (1) The judicial officer may at any time amend the order to impose additional or different conditions of release. The conditions imposed under this chapter supplement but do not supplant provisions of law allowing the imposition of conditions to assure the appearance of the defendant at trial or to prevent interference with the administration of justice.

(2) Appropriate conditions of release under this chapter include, but are not limited to, the following:

(a) The defendant may be placed in the custody of a designated person or organization agreeing to supervise the defendant;

(b) The defendant may have restrictions placed upon travel, association, or place of abode during the period of release;

(c) The defendant may be required to comply with a specified curfew;

(d) The defendant may be required to return to custody during specified hours or to be placed on electronic monitoring, if available. The defendant, if convicted, may not have the period of incarceration reduced by the number of days spent on electronic monitoring;

(e) The defendant may be prohibited from approaching or communicating in any manner with particular persons or classes of persons;

(f) The defendant may be prohibited from going to certain geographical areas or premises;

(g) The defendant may be prohibited from possessing any dangerous weapons or firearms;

(h) The defendant may be prohibited from possessing or consuming any intoxicating liquors or drugs not prescribed to the defendant. The defendant may be required to submit to testing to determine the defendant's compliance with this condition;

(i) The defendant may be prohibited from operating a motor vehicle that is not equipped with an ignition interlock device;

(j) The defendant may be required to report regularly to and remain under the supervision of an officer of the court or other person or agency; and

(k) The defendant may be prohibited from committing any violations of criminal law.

NEW SECTION. Sec. 6. If, after a hearing on offenses prescribed in Article I, section 20 of the state Constitution, the judicial officer finds, by clear and convincing evidence, that a person shows a propensity for violence that creates a substantial likelihood of danger to the community or any persons, and finds that no condition or combination of conditions will reasonably assure the safety of any other person and the community, such judicial officer must order the detention of the person before trial. The detainee is entitled to expedited review of the detention order by the court of appeals under the writ provided in RCW 7.36.160.

NEW SECTION. Sec. 7. The judicial officer must, in determining whether there are conditions of release that will reasonably assure the safety of any other person and the community, take into account the available information concerning:

(1) The nature and circumstances of the offense charged, including whether the offense is a crime of violence;

- (2) The weight of the evidence against the defendant; and
- (3) The history and characteristics of the defendant, including:
 - (a) The person's character, physical and mental condition, family ties, employment, financial resources, length of residence in the community, community ties, past conduct, history relating to drug or alcohol abuse, criminal history, and record concerning appearance at court proceedings;
 - (b) Whether, at the time of the current offense or arrest, the defendant was on community supervision, probation, parole, or on other release pending trial, sentencing, appeal, or completion of sentence for an offense under federal, state, or local law; and
 - (c) The nature and seriousness of the danger to any person or the community that would be posed by the defendant's release.

NEW SECTION. Sec. 8. (1) The judicial officer must hold a hearing in cases involving offenses prescribed in Article I, section 20, to determine whether any condition or combination of conditions will reasonably assure the safety of any other person and the community upon motion of the attorney for the government.

(2) The hearing must be held immediately upon the defendant's first appearance before the judicial officer unless the defendant, or the attorney for the government, seeks a continuance. Except for good cause, a continuance on motion of such person may not exceed five days (not including any intermediate Saturday, Sunday, or legal holiday), and a continuance on motion of the attorney for the government may not exceed three days (not including any intermediate Saturday, Sunday, or legal holiday). During a continuance, such person must be detained.

(3) At the hearing, such defendant has the right to be represented by counsel, and, if financially unable to obtain representation, to have counsel appointed. The defendant must be afforded an opportunity to testify, to present witnesses, to cross-examine witnesses who appear at the hearing, and to present information by proffer or otherwise. The rules concerning admissibility of evidence in criminal trials do not apply to the presentation and consideration of information at the hearing. The facts the judicial officer uses to support a finding that no condition or combination of conditions will reasonably assure the safety of any other person and the community must be supported by clear and convincing evidence of a propensity for violence that creates a substantial likelihood of danger to the community or any persons.

(4) The defendant may be detained pending completion of the hearing. The hearing may be reopened, before or after a determination by the judicial officer, at any time before trial if the judicial officer finds that information exists that was not known to the movant at the time of the hearing and that has a material bearing on the issue whether there are conditions of release that will reasonably assure the safety of any other person and the community.

NEW SECTION. Sec. 9. In a release order issued under section 5 of this act the judicial officer must:

- (1) Include a written statement that sets forth all the conditions to which the release is subject, in a manner sufficiently clear and specific to serve as a guide for the defendant's conduct; and
- (2) Advise the defendant of:

(a) The penalties for violating a condition of release, including the penalties for committing an offense while on pretrial release; and

(b) The consequences of violating a condition of release, including the immediate issuance of a warrant for the defendant's arrest.

NEW SECTION. Sec. 10. (1) In a detention order issued under section 6 of this act, the judicial officer must:

(a) Include written findings of fact and a written statement of the reasons for the detention;

(b) Direct that the person be committed to the custody of the appropriate correctional authorities for confinement separate, to the extent practicable, from persons awaiting or serving sentences or being held in custody pending appeal; and

(c) Direct that the person be afforded reasonable opportunity for private consultation with counsel.

(2) The judicial officer may, by subsequent order, permit the temporary release of the person, in the custody of an appropriate law enforcement officer or other appropriate person, to the extent that the judicial officer determines such release to be necessary for preparation of the person's defense or for another compelling reason.

NEW SECTION. Sec. 11. Nothing in this chapter may be construed as modifying or limiting the presumption of innocence.

NEW SECTION. Sec. 12. Sections 3 through 11 of this act constitute a new chapter in Title 10 RCW.

NEW SECTION. Sec. 13. 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. 14. Sections 1 and 2 of this act take effect January 1, 2011. Sections 3 through 10 of this act take effect January 1, 2011, only if the proposed amendment to Article I, section 20 of the state Constitution proposed in House Joint Resolution No. 4220 is validly submitted to and is approved and ratified by the voters at the next general election. If the proposed amendment is not approved and ratified, sections 3 through 11 of this act are null and void in their entirety.

Passed by the House March 8, 2010.

Passed by the Senate March 5, 2010.

Approved by the Governor March 31, 2010.

Filed in Office of Secretary of State April 1, 2010.

CHAPTER 255

[Substitute Senate Bill 6293]

RENDERING CRIMINAL ASSISTANCE—FIRST DEGREE

AN ACT Relating to rendering criminal assistance in the first degree; amending RCW 9A.76.070; creating a new section; and prescribing penalties.

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

Sec. 1. RCW 9A.76.070 and 2003 c 53 s 83 are each amended to read as follows:

(1) A person is guilty of rendering criminal assistance in the first degree if he or she renders criminal assistance to a person who has committed or is being sought for murder in the first degree or any class A felony or equivalent juvenile offense.

(2)(a) Except as provided in (b) of this subsection, rendering criminal assistance in the first degree is a class ((C)) B felony.

(b) Rendering criminal assistance in the first degree is a gross misdemeanor if it is established by a preponderance of the evidence that the actor is a relative as defined in RCW 9A.76.060 and under the age of eighteen at the time of the offense.

NEW SECTION. Sec. 2. This act may be known and cited as Randy's law.

Passed by the Senate March 11, 2010.

Passed by the House March 9, 2010.

Approved by the Governor March 31, 2010.

Filed in Office of Secretary of State April 1, 2010.

CHAPTER 256

[Substitute Senate Bill 6673]

BAIL PRACTICES AND PROCEDURES—WORK GROUP

AN ACT Relating to bail practices and procedures; creating new sections; and providing an expiration date.

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

NEW SECTION. Sec. 1. The legislature intends to appoint a panel of experts to study bail practices and procedures. The bail system must be examined in a comprehensive and well-considered manner from all aspects including, but not limited to, judicial discretion, bail amounts and procedures, public safety, variations in county practices, constitutional restraints, and cost to local government. The variety of practices and procedures requires that a panel of experts study the issue and report its recommendation to the legislature.

NEW SECTION. Sec. 2. (1)(a) A work group on bail practices is established within existing resources. The work group must consist of the following members:

(i) One member from each of the two largest caucuses of the senate, appointed by the president of the senate;

(ii) One member from each of the two largest caucuses of the house of representatives, appointed by the speaker of the house of representatives;

(iii) The chief justice of the Washington state supreme court or the chief justice's designee;

(iv) A superior court judge, appointed by the superior court judges' association;

(v) A district or municipal court judge, appointed by the district and municipal court judges' association;

(vi) The governor or the governor's designee;

(vii) The secretary of the Washington state department of corrections or the secretary's designee;

(viii) The director of the Washington state department of licensing or the director's designee;

(ix) The Washington state insurance commissioner or the commissioner's designee;

(x) Two prosecutors, appointed by the Washington association of prosecuting attorneys or designees of the prosecutors;

(xi) Two attorneys selected by separate associations of attorneys whose members have practices that focus on representing criminal defendants;

(xii) One police officer and one deputy sheriff, selected by a statewide association of such officers and deputies;

(xiii) A representative of a statewide association of city governments, selected by the association;

(xiv) A representative of a statewide association of counties, selected by the association;

(xv) A representative employed as an adult corrections officer, selected by a statewide association of such officers;

(xvi) A representative from an entity representing corrections officers at a local county jail in which adult offenders are in custody and located in any county with a population in excess of one million persons, selected by the entity;

(xvii) A representative of a statewide organization concerned primarily with the protection of individual liberties, selected by the organization;

(xviii) A representative of a statewide association of advocates who work on behalf of victims and survivors of violent crimes, selected by the association;

(xix) A representative of the bail bond enforcement industry, chosen by a statewide association of bail bond enforcement agents;

(xx) A representative of the bail bond industry, selected by a statewide association of bail companies; and

(xxi) A representative of a statewide consumer advocacy organization with at least thirty thousand members, selected by the organization.

(b) The work group shall choose its cochairs from among its legislative membership. The legislative cochairs shall convene the initial meeting of the work group.

(2) The work group shall review, at a minimum, the following issues:

(a) All aspects of bail, paying particular attention to legislation affecting bail and pretrial release introduced during the 2010 legislative session;

(b) A validated risk assessment tool that measures or predicts the likelihood that an offender will exhibit violent behavior if released and whether judges should use this tool at bail hearings;

(c) Bail practices by county, including the processes used to seek and grant bail as well as the standards by which bail is granted;

(d) Whether, or to what extent, uniformity of bail practices should be required by state law;

(e) The characteristics of the federal system;

(f) The benefits of competitive freedom of government regulation in the pricing of bail bonds;

(g) The interests of crime victims in being notified of a person's release on bail;

(h) The interests of counties and cities that maintain municipal courts;

(i) Legal and constitutional constraints in granting or denying bail;

(j) Whether the existing regulatory, judicial, or statutory constraints on bail should be revised; and

(k) The pretrial release system.

(3) The work group shall use staff from senate committee services and the house of representatives office of program research and meet in state facilities that do not charge for use.

(4) Legislative members of the work group must be reimbursed for travel expenses in accordance with RCW 44.04.120. Nonlegislative members, except those representing an employer or organization, are entitled to be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

(5) The work group may organize itself in a manner and adopt rules of procedure that it determines are most conducive to the timely completion of its charge.

(6) The work group shall report its findings and recommendations to the Washington state supreme court, the governor, and appropriate committees of the legislature by December 1, 2010.

(7) This section expires December 31, 2010.

Passed by the Senate March 8, 2010.

Passed by the House March 5, 2010.

Approved by the Governor March 31, 2010.

Filed in Office of Secretary of State April 1, 2010.

CHAPTER 257

[Engrossed Second Substitute House Bill 1317]

PUBLIC RECORDS DISCLOSURE—CRIMINAL JUSTICE AGENCY EMPLOYEES

AN ACT Relating to disclosure of public records containing information used to locate or identify employees of criminal justice agencies; and amending RCW 42.56.250.

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

Sec. 1. RCW 42.56.250 and 2006 c 209 s 6 are each amended to read as follows:

The following employment and licensing information is exempt from public inspection and copying under this chapter:

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

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

(3) The residential addresses, residential telephone numbers, personal wireless telephone numbers, personal electronic mail addresses, social security numbers, and emergency contact information of employees or volunteers of a public agency, and the names, dates of birth, residential addresses, residential telephone numbers, personal wireless telephone numbers, personal electronic mail addresses, social security numbers, and emergency contact information of dependents of employees or volunteers of a public agency that are held by any public agency in personnel records, public employment related records, or volunteer rosters, or are included in any mailing list of employees or volunteers of any public agency. For purposes of this subsection, "employees" includes independent provider home care workers as defined in RCW 74.39A.240;

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

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

(6) Except as provided in RCW 47.64.220, salary and employee benefit information collected under RCW 47.64.220(1) and described in RCW 47.64.220(2); and

(7) Photographs and month and year of birth in the personnel files of employees and workers of criminal justice agencies as defined in RCW 10.97.030. The news media, as defined in RCW 5.68.010(5), shall have access to the photographs and full date of birth. For the purposes of this subsection, news media does not include any person or organization of persons in the custody of a criminal justice agency as defined in RCW 10.97.030.

Passed by the House March 6, 2010.

Passed by the Senate March 4, 2010.

Approved by the Governor March 31, 2010.

Filed in Office of Secretary of State April 1, 2010.

CHAPTER 258

[Substitute Senate Bill 6548]

SUPERVISION OF OFFENDERS—INTERSTATE COMPACT—NEW FELONY OFFENSE

AN ACT Relating to offenders on parole or probation; amending RCW 9.94A.633; adding a new section to chapter 9.94A RCW; creating new sections; providing an effective date; and declaring an emergency.

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

Sec. 1. RCW 9.94A.633 and 2009 c 375 s 12 are each amended to read as follows:

(1)(a) An offender who violates any condition or requirement of a sentence may be sanctioned with up to sixty days' confinement for each violation.

(b) In lieu of confinement, an offender may be sanctioned with work release, home detention with electronic monitoring, work crew, community restitution, inpatient treatment, daily reporting, curfew, educational or counseling sessions, supervision enhanced through electronic monitoring, or any other sanctions available in the community.

(2) If an offender was under community custody pursuant to one of the following statutes, the offender may be sanctioned as follows:

(a) If the offender was transferred to community custody in lieu of earned early release in accordance with RCW 9.94A.728(~~((2))~~), the offender may be transferred to a more restrictive confinement status to serve up to the remaining portion of the sentence, less credit for any period actually spent in community custody or in detention awaiting disposition of an alleged violation.

(b) If the offender was sentenced under the drug offender sentencing alternative set out in RCW 9.94A.660, the offender may be sanctioned in accordance with that section.

(c) If the offender was sentenced under the special sexual [sex] offender sentencing alternative set out in RCW 9.94A.670, the suspended sentence may be revoked and the offender committed to serve the original sentence of confinement.

(d) If the offender was sentenced to a work ethic camp pursuant to RCW 9.94A.690, the offender may be reclassified to serve the unexpired term of his or her sentence in total confinement.

(e) If a sex offender was sentenced pursuant to RCW 9.94A.507, the offender may be transferred to a more restrictive confinement status to serve up to the remaining portion of the sentence, less credit for any period actually spent in community custody or in detention awaiting disposition of an alleged violation.

(3) If a probationer is being supervised by the department pursuant to RCW 9.92.060, 9.95.204, or 9.95.210, the probationer may be sanctioned pursuant to subsection (1) of this section. The department shall have authority to issue a warrant for the arrest of an offender who violates a condition of community custody, as provided in RCW 9.94A.716. Any sanctions shall be imposed by the department pursuant to RCW 9.94A.737. The department shall provide a copy of the violation hearing report to the sentencing court in a timely manner. Nothing in this subsection is intended to limit the power of the sentencing court to respond to a probationer's violation of conditions.

(4) The parole or probation of an offender who is charged with a new felony offense may be suspended and the offender placed in total confinement pending disposition of the new criminal charges if:

(a) The offender is on parole pursuant to RCW 9.95.110(1); or

(b) The offender is being supervised pursuant to RCW 9.94A.745 and is on parole or probation pursuant to the laws of another state.

NEW SECTION. Sec. 2. Section 1 of this act applies to all offenders who committed their crimes before, on, or after the effective date of section 1 of this act.

NEW SECTION. Sec. 3. The legislature has determined that it is necessary to examine patterns related to the exchange of out-of-state offenders needing supervision. The examination must assess the past action and behavior of other states that send offenders to the state of Washington for supervision to assure that the interstate compact for adult offender supervision operates to protect the safety of the people and communities of Washington and other individual states.

NEW SECTION. Sec. 4. A new section is added to chapter 9.94A RCW to read as follows:

(1) The department shall identify the states from which it receives adult offenders who need supervision and examine the feasibility and cost of establishing memoranda of understanding with the states that send the highest number of offenders for supervision to Washington state with the goal of achieving more balanced and equitable obligations under the interstate compact for adult offender supervision.

(2) At the next meeting of the interstate compact commission, Washington's representatives on the commission shall seek a resolution by the commission regarding:

(a) Any inequitable distribution of costs, benefits, and obligations affecting Washington under the interstate compact; and

(b) The scope of the mandatory acceptance policy and the authority of the receiving state to determine when it is no longer able to supervise an offender.

(3) The department shall examine the feasibility and cost of withdrawal from the interstate compact for adult offender supervision.

(4) The department shall report to the legislature no later than December 1, 2010, regarding:

(a) The development of memoranda of understanding with states that send the highest numbers of offenders to Washington state for supervision;

(b) The outcome of the resolution process with the interstate commission; and

(c) The feasibility and cost of withdrawal from the interstate compact for adult offender supervision.

NEW SECTION. Sec. 5. Sections 3 and 4 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect June 1, 2010.

Passed by the Senate March 10, 2010.

Passed by the House March 9, 2010.

Approved by the Governor March 31, 2010.

Filed in Office of Secretary of State April 1, 2010.

CHAPTER 259

[Substitute House Bill 1679]

EMERGENCY SERVICES PERSONNEL—CATASTROPHIC DISABILITY INSURANCE

AN ACT Relating to access to catastrophic disability medical insurance under plan 2 of the law enforcement officers' and firefighters' retirement system; amending RCW 43.43.040; reenacting and amending RCW 41.26.470; and creating a new section.

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

NEW SECTION. Sec. 1. This act may be known as the Jason McKissack act.

Sec. 2. RCW 41.26.470 and 2009 c 523 s 6 and 2009 c 95 s 1 are each reenacted and amended to read as follows:

(1) A member of the retirement system who becomes totally incapacitated for continued employment by an employer as determined by the director shall be eligible to receive an allowance under the provisions of RCW 41.26.410 through 41.26.550. Such member shall receive a monthly disability allowance computed as provided for in RCW 41.26.420 and shall have such allowance actuarially reduced to reflect the difference in the number of years between age at disability and the attainment of age fifty-three, except under subsection (7) of this section.

(2) Any member who receives an allowance under the provisions of this section shall be subject to such comprehensive medical examinations as required by the department. If such medical examinations reveal that such a member has

recovered from the incapacitating disability and the member is no longer entitled to benefits under Title 51 RCW, the retirement allowance shall be canceled and the member shall be restored to duty in the same civil service rank, if any, held by the member at the time of retirement or, if unable to perform the duties of the rank, then, at the member's request, in such other like or lesser rank as may be or become open and available, the duties of which the member is then able to perform. In no event shall a member previously drawing a disability allowance be returned or be restored to duty at a salary or rate of pay less than the current salary attached to the rank or position held by the member at the date of the retirement for disability. If the department determines that the member is able to return to service, the member is entitled to notice and a hearing. Both the notice and the hearing shall comply with the requirements of chapter 34.05 RCW, the administrative procedure act.

(3) Those members subject to this chapter who became disabled in the line of duty on or after July 23, 1989, and who receive benefits under RCW 41.04.500 through 41.04.530 or similar benefits under RCW 41.04.535 shall receive or continue to receive service credit subject to the following:

(a) No member may receive more than one month's service credit in a calendar month.

(b) No service credit under this section may be allowed after a member separates or is separated without leave of absence.

(c) Employer contributions shall be paid by the employer at the rate in effect for the period of the service credited.

(d) Employee contributions shall be collected by the employer and paid to the department at the rate in effect for the period of service credited.

(e) State contributions shall be as provided in RCW 41.45.060 and 41.45.067.

(f) Contributions shall be based on the regular compensation which the member would have received had the disability not occurred.

(g) The service and compensation credit under this section shall be granted for a period not to exceed six consecutive months.

(h) Should the legislature revoke the service credit authorized under this section or repeal this section, no affected employee is entitled to receive the credit as a matter of contractual right.

(4)(a) If the recipient of a monthly retirement allowance under this section dies before the total of the retirement allowance paid to the recipient equals the amount of the accumulated contributions at the date of retirement, then the balance shall be paid to the member's estate, or such person or persons, trust, or organization as the recipient has nominated by written designation duly executed and filed with the director, or, if there is no such designated person or persons still living at the time of the recipient's death, then to the surviving spouse or domestic partner, or, if there is neither such designated person or persons still living at the time of his or her death nor a surviving spouse or domestic partner, then to his or her legal representative.

(b) If a recipient of a monthly retirement allowance under this section died before April 27, 1989, and before the total of the retirement allowance paid to the recipient equaled the amount of his or her accumulated contributions at the date of retirement, then the department shall pay the balance of the accumulated contributions to the member's surviving spouse or, if there is no surviving

spouse, then in equal shares to the member's children. If there is no surviving spouse or children, the department shall retain the contributions.

(5) Should the disability retirement allowance of any disability beneficiary be canceled for any cause other than reentrance into service or retirement for service, he or she shall be paid the excess, if any, of the accumulated contributions at the time of retirement over all payments made on his or her behalf under this chapter.

(6) A member who becomes disabled in the line of duty, and who ceases to be an employee of an employer except by service or disability retirement, may request a refund of one hundred fifty percent of the member's accumulated contributions. Any accumulated contributions attributable to restorations made under RCW 41.50.165(2) shall be refunded at one hundred percent. A person in receipt of this benefit is a retiree.

(7) A member who becomes disabled in the line of duty shall be entitled to receive a minimum retirement allowance equal to ten percent of such member's final average salary. The member shall additionally receive a retirement allowance equal to two percent of such member's average final salary for each year of service beyond five.

(8) A member who became disabled in the line of duty before January 1, 2001, and is receiving an allowance under RCW 41.26.430 or subsection (1) of this section shall be entitled to receive a minimum retirement allowance equal to ten percent of such member's final average salary. The member shall additionally receive a retirement allowance equal to two percent of such member's average final salary for each year of service beyond five, and shall have the allowance actuarially reduced to reflect the difference in the number of years between age at disability and the attainment of age fifty-three. An additional benefit shall not result in a total monthly benefit greater than that provided in subsection (1) of this section.

(9) A member who is totally disabled in the line of duty is entitled to receive a retirement allowance equal to seventy percent of the member's final average salary. The allowance provided under this subsection shall be offset by:

(a) Temporary disability wage-replacement benefits or permanent total disability benefits provided to the member under Title 51 RCW; and

(b) Federal social security disability benefits, if any;

so that such an allowance does not result in the member receiving combined benefits that exceed one hundred percent of the member's final average salary. However, the offsets shall not in any case reduce the allowance provided under this subsection below the member's accrued retirement allowance.

A member is considered totally disabled if he or she is unable to perform any substantial gainful activity due to a physical or mental condition that may be expected to result in death or that has lasted or is expected to last at least twelve months. Substantial gainful activity is defined as average earnings in excess of eight hundred sixty dollars a month in 2006 adjusted annually as determined by the director based on federal social security disability standards. The department may require a person in receipt of an allowance under this subsection to provide any financial records that are necessary to determine continued eligibility for such an allowance. A person in receipt of an allowance under this subsection whose earnings exceed the threshold for substantial gainful activity shall have

their benefit converted to a line-of-duty disability retirement allowance as provided in subsection (7) of this section.

Any person in receipt of an allowance under the provisions of this section is subject to comprehensive medical examinations as may be required by the department under subsection (2) of this section in order to determine continued eligibility for such an allowance.

(10) In addition to the retirement allowance provided in subsection (9) of this section, the retirement allowance of a member who is totally disabled in the line of duty shall include reimbursement for any payments made by the member after the effective date of this section for premiums on employer-provided medical insurance, insurance authorized by the consolidated omnibus budget reconciliation act of 1985 (COBRA), medicare part A (hospital insurance), and medicare part B (medical insurance). A member who is entitled to medicare must enroll and maintain enrollment in both medicare part A and medicare part B in order to remain eligible for the reimbursement provided in this subsection. The legislature reserves the right to amend or repeal the benefits provided in this subsection in the future and no member or beneficiary has a contractual right to receive any distribution not granted prior to that time.

Sec. 3. RCW 43.43.040 and 2009 c 549 s 5122 are each amended to read as follows:

(1) The chief of the Washington state patrol shall relieve from active duty Washington state patrol officers who, while in the performance of their official duties, or while on standby or available for duty, have been or hereafter may be injured or incapacitated to such an extent as to be mentally or physically incapable of active service: PROVIDED, That:

(a) Any officer disabled while performing line duty who is found by the chief to be physically incapacitated shall be placed on disability leave for a period not to exceed six months from the date of injury or the date incapacitated. During this period, the officer shall be entitled to all pay, benefits, insurance, leave, and retirement contributions awarded to an officer on active status, less any compensation received through the department of labor and industries. No such disability leave shall be approved until an officer has been unavailable for duty for more than forty consecutive work hours. Prior to the end of the six-month period, the chief shall either place the officer on disability status or return the officer to active status.

For the purposes of this section, "line duty" is active service which encompasses the traffic law enforcement duties and/or other law enforcement responsibilities of the state patrol. These activities encompass all enforcement practices of the laws, accident and criminal investigations, or actions requiring physical exertion or exposure to hazardous elements.

The chief shall define by rule the situations where a disability has occurred during line duty;

(b) Benefits under this section for a disability that is incurred while in other employment will be reduced by any amount the officer receives or is entitled to receive from workers' compensation, social security, group insurance, other pension plan, or any other similar source provided by another employer on account of the same disability;

(c) An officer injured while engaged in willfully tortious or criminal conduct shall not be entitled to disability benefits under this section; and

(d) Should a disability beneficiary whose disability was not incurred in line of duty, prior to attaining age fifty, engage in a gainful occupation, the chief shall reduce the amount of his or her retirement allowance to an amount which when added to the compensation earned by him or her in such occupation shall not exceed the basic salary currently being paid for the rank the retired officer held at the time he or she was disabled. All such disability beneficiaries under age fifty shall file with the chief every six months a signed and sworn statement of earnings and any person who shall knowingly swear falsely on such statement shall be subject to prosecution for perjury. Should the earning capacity of such beneficiary be further altered, the chief may further alter his or her disability retirement allowance as indicated above. The failure of any officer to file the required statement of earnings shall be cause for cancellation of retirement benefits.

(2)(a) Officers on disability status shall receive one-half of their compensation at the existing wage, during the time the disability continues in effect, less any compensation received through the department of labor and industries. They shall be subject to mental or physical examination at any state institution or otherwise under the direction of the chief of the patrol at any time during such relief from duty to ascertain whether or not they are able to resume active duty.

(b) In addition to the compensation provided in (a) of this subsection, the compensation of an officer who is totally disabled during line duty shall include reimbursement for any payments of premiums made after the effective date of this section for employer-provided medical insurance. An officer is considered totally disabled if he or she is unable to perform any substantial gainful activity due to a physical or mental condition that may be expected to result in death or that has lasted or is expected to last at least twelve months. Substantial gainful activity is defined as average earnings in excess of eight hundred sixty dollars a month in 2006 adjusted annually as determined by the department of retirement systems based on federal social security disability standards. An officer in receipt of reimbursement for any payments of premium rates for employer-provided medical insurance under this subsection is required to file with the chief any financial records that are necessary to determine continued eligibility for such reimbursement. The failure of any officer to file the required financial records is cause for cancellation of the reimbursement. The legislature reserves the right to amend or repeal the benefits provided in this subsection (2)(b) in the future and no member or beneficiary has a contractual right to receive any distribution not granted prior to that time.

Passed by the House March 6, 2010.

Passed by the Senate March 4, 2010.

Approved by the Governor March 31, 2010.

Filed in Office of Secretary of State April 1, 2010.

CHAPTER 260

[Substitute House Bill 2196]

LEOFF/PERS PLAN 1—TRANSFERRED SERVICE—MILITARY SERVICE CREDIT

AN ACT Relating to including service credit transferred from the law enforcement officers' and firefighters' retirement system plan 1 in the determination of eligibility for military service credit; and amending RCW 41.26.195.

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

Sec. 1. RCW 41.26.195 and 2007 c 492 s 9 are each amended to read as follows:

Any member of the teachers' retirement system plans 1, 2, or 3, the public employees' retirement system plans 1, 2, or 3, the public safety employees' retirement system plan 2, the school employees' retirement system plans 2 or 3, or the Washington state patrol retirement system plans 1 or 2 who has previously established service credit in the law enforcement officers' and firefighters' retirement system plan 1 may make an irrevocable election to have such service transferred to their current retirement system and plan subject to the following conditions:

(1) If the individual is employed by an employer in an eligible position, as of July 1, 1997, the election to transfer service must be filed in writing with the department no later than July 1, 1998. If the individual is not employed by an employer in an eligible position, as of July 1, 1997, the election to transfer service must be filed in writing with the department no later than one year from the date they are employed by an employer in an eligible position.

(2) An individual transferring service under this section forfeits the rights to all benefits as a member of the law enforcement officers' and firefighters' retirement system plan 1 and will be permanently excluded from membership.

(3) Any individual choosing to transfer service under this section will have transferred to their current retirement system and plan: (a) All the individual's accumulated contributions; (b) an amount sufficient to ensure that the employer contribution rate in the individual's current system and plan will not increase due to the transfer; and (c) all applicable months of service, as defined in RCW 41.26.030(14)(a).

(4) If an individual has withdrawn contributions from the law enforcement officers' and firefighters' retirement system plan 1, the individual may restore the contributions, together with interest as determined by the director, and recover the service represented by the contributions for the sole purpose of transferring service under this section. The contributions must be restored before the transfer can occur and the restoration must be completed within the time limitations specified in subsection (1) of this section.

(5) ~~((Any service transferred under this section does not apply to the eligibility requirements))~~ Service transferred under this section is applicable for meeting the total service required for military service credit as defined in RCW 41.40.170(3) ((or)) but is not applicable for meeting the total service credit required for military service credit under RCW 43.43.260(3). This subsection applies to members who retired on or after January 1, 1998.

(6) If an individual does not meet the time limitations of subsection (1) of this section, the individual may elect to restore any withdrawn contributions and transfer service under this section by paying the amount required under subsection (3)(b) of this section less any employee contributions transferred.

Passed by the House January 22, 2010.
Passed by the Senate March 9, 2010.
Approved by the Governor March 31, 2010.
Filed in Office of Secretary of State April 1, 2010.

CHAPTER 261

[Engrossed House Bill 2519]

PUBLIC SAFETY EMPLOYEES—DEATH BENEFITS

AN ACT Relating to duty-related death benefits for public safety employees; amending RCW 41.26.048, 51.32.050, 28B.15.380, 28B.15.520, and 43.43.285; reenacting and amending RCW 41.26.510 and 43.43.295; and creating new sections.

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

Sec. 1. RCW 41.26.510 and 2009 c 523 s 7 and 2009 c 226 s 2 are each reenacted and amended to read as follows:

(1) Except as provided in RCW 11.07.010, if a member or a vested member who has not completed at least ten years of service dies, the amount of the accumulated contributions standing to such member's credit in the retirement system at the time of such member's death, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, shall be paid to the member's estate, or such person or persons, trust, or organization as the member shall have nominated by written designation duly executed and filed with the department. If there be no such designated person or persons still living at the time of the member's death, such member's accumulated contributions standing to such member's credit in the retirement system, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, shall be paid to the member's surviving spouse or domestic partner as if in fact such spouse or domestic partner had been nominated by written designation, or if there be no such surviving spouse or domestic partner, then to such member's legal representatives.

(2) ~~((#))~~ Except as provided in subsection (4) of this section, if a member who is killed in the course of employment or a member who is eligible for retirement or a member who has completed at least ten years of service dies, the surviving spouse, domestic partner, or eligible child or children shall elect to receive either:

(a) A retirement allowance computed as provided for in RCW 41.26.430, actuarially reduced by the amount of any lump sum benefit identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670 and actuarially adjusted to reflect a joint and one hundred percent survivor option under RCW 41.26.460 and if the member was not eligible for normal retirement at the date of death a further reduction as described in RCW 41.26.430; if a surviving spouse or domestic partner who is receiving a retirement allowance dies leaving a child or children of the member under the age of majority, then such child or children shall continue to receive an allowance in an amount equal to that which was being received by the surviving spouse or domestic partner, share and share alike, until such child or children reach the age of majority; if there is no surviving spouse or domestic partner eligible to receive an allowance at the time of the member's death, such

member's child or children under the age of majority shall receive an allowance share and share alike calculated as herein provided making the assumption that the ages of the spouse or domestic partner and member were equal at the time of the member's death; or

(b)(i) The member's accumulated contributions, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670; or

(ii) If the member dies on or after July 25, 1993, one hundred fifty percent of the member's accumulated contributions, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670. Any accumulated contributions attributable to restorations made under RCW 41.50.165(2) shall be refunded at one hundred percent.

(3) If a member who is eligible for retirement or a member who has completed at least ten years of service dies after October 1, 1977, and is not survived by a spouse, domestic partner, or an eligible child, then the accumulated contributions standing to the member's credit, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, shall be paid:

(a) To an estate, a person or persons, trust, or organization as the member shall have nominated by written designation duly executed and filed with the department; or

(b) If there is no such designated person or persons still living at the time of the member's death, then to the member's legal representatives.

(4) The retirement allowance of a member who is killed in the course of employment, as determined by the director of the department of labor and industries, or the retirement allowance of a member who has left the employ of an employer due to service in the national guard or military reserves and dies while honorably serving in the national guard or military reserves during a period of war as defined in RCW 41.04.005, is not subject to an actuarial reduction for early retirement as provided in RCW 41.26.430 or an actuarial reduction to reflect a joint and one hundred percent survivor option under RCW 41.26.460. The member's retirement allowance is computed under RCW 41.26.420, except that the member shall be entitled to a minimum retirement allowance equal to ten percent of such member's final average salary. The member shall additionally receive a retirement allowance equal to two percent of such member's average final salary for each year of service beyond five.

(5) The retirement allowance paid to the spouse or domestic partner and dependent children of a member who is killed in the course of employment, as set forth in RCW 41.05.011(~~((14))~~) (16), shall include reimbursement for any payments of premium rates to the Washington state health care authority pursuant to RCW 41.05.080.

Sec. 2. RCW 41.26.048 and 2009 c 523 s 4 are each amended to read as follows:

(1) A (~~one hundred fifty~~) two hundred fourteen thousand dollar death benefit shall be paid to the member's estate, or such person or persons, trust or organization as the member shall have nominated by written designation duly executed and filed with the department. If there be no such designated person or persons still living at the time of the member's death, such member's death

benefit shall be paid to the member's surviving spouse or domestic partner as if in fact such spouse or domestic partner had been nominated by written designation, or if there be no such surviving spouse or domestic partner, then to such member's legal representatives.

(2) The benefit under this section shall be paid only when death occurs: (a) As a result of injuries sustained in the course of employment; or (b) as a result of an occupational disease or infection that arises naturally and proximately out of employment covered under this chapter. The determination of eligibility for the benefit shall be made consistent with Title 51 RCW by the department of labor and industries. The department of labor and industries shall notify the department of retirement systems by order under RCW 51.52.050.

(3)(a) Beginning July 1, 2010, and every year thereafter, the department shall determine the following information:

(i) The index for the 2008 calendar year, to be known as "index A:"

(ii) The index for the calendar year prior to the date of determination, to be known as "index B;" and

(iii) The ratio obtained when index B is divided by index A.

(b) The value of the ratio obtained shall be the annual adjustment to the original death benefit and shall be applied beginning every July 1st. In no event, however, shall the annual adjustment:

(i) Produce a benefit which is lower than two hundred fourteen thousand dollars;

(ii) Exceed three percent in the initial annual adjustment; or

(iii) Differ from the previous year's annual adjustment by more than three percent.

(c) For the purposes of this section, "index" means, for any calendar year, that year's average consumer price index — Seattle, Washington area for urban wage earners and clerical workers, all items, compiled by the bureau of labor statistics, United States department of labor.

Sec. 3. RCW 51.32.050 and 2007 c 284 s 1 are each amended to read as follows:

(1) Where death results from the injury the expenses of burial not to exceed two hundred percent of the average monthly wage in the state as defined in RCW 51.08.018 shall be paid.

(2)(a) Where death results from the injury, a surviving spouse of a deceased worker eligible for benefits under this title shall receive monthly for life or until remarriage payments according to the following schedule:

(i) If there are no children of the deceased worker, sixty percent of the wages of the deceased worker;

(ii) If there is one child of the deceased worker and in the legal custody of such spouse, sixty-two percent of the wages of the deceased worker;

(iii) If there are two children of the deceased worker and in the legal custody of such spouse, sixty-four percent of the wages of the deceased worker;

(iv) If there are three children of the deceased worker and in the legal custody of such spouse, sixty-six percent of the wages of the deceased worker;

(v) If there are four children of the deceased worker and in the legal custody of such spouse, sixty-eight percent of the wages of the deceased worker; or

(vi) If there are five or more children of the deceased worker and in the legal custody of such spouse, seventy percent of the wages of the deceased worker.

(b) Where the surviving spouse does not have legal custody of any child or children of the deceased worker or where after the death of the worker legal custody of such child or children passes from such surviving spouse to another, any payment on account of such child or children not in the legal custody of the surviving spouse shall be made to the person or persons having legal custody of such child or children. The amount of such payments shall be five percent of the monthly benefits payable as a result of the worker's death for each such child but such payments shall not exceed twenty-five percent. Such payments on account of such child or children shall be subtracted from the amount to which such surviving spouse would have been entitled had such surviving spouse had legal custody of all of the children and the surviving spouse shall receive the remainder after such payments on account of such child or children have been subtracted. Such payments on account of a child or children not in the legal custody of such surviving spouse shall be apportioned equally among such children.

(c) Payments to the surviving spouse of the deceased worker shall cease at the end of the month in which remarriage occurs: PROVIDED, That a monthly payment shall be made to the child or children of the deceased worker from the month following such remarriage in a sum equal to five percent of the wages of the deceased worker for one child and a sum equal to five percent for each additional child up to a maximum of five such children. Payments to such child or children shall be apportioned equally among such children. Such sum shall be in place of any payments theretofore made for the benefit of or on account of any such child or children. If the surviving spouse does not have legal custody of any child or children of the deceased worker, or if after the death of the worker, legal custody of such child or children passes from such surviving spouse to another, any payment on account of such child or children not in the legal custody of the surviving spouse shall be made to the person or persons having legal custody of such child or children.

(d) In no event shall the monthly payments provided in subsection (2) of this section:

(i) Exceed the applicable percentage of the average monthly wage in the state as computed under RCW 51.08.018 as follows:

AFTER	PERCENTAGE
June 30, 1993	105%
June 30, 1994	110%
June 30, 1995	115%
June 30, 1996	120%

(ii) For dates of injury or disease manifestation after July 1, 2008, be less than fifteen percent of the average monthly wage in the state as computed under RCW 51.08.018 plus an additional ten dollars per month for a surviving spouse and an additional ten dollars per month for each child of the worker up to a maximum of five children. However, if the monthly payment computed under this subsection (2)(d)(ii) is greater than one hundred percent of the wages of the deceased worker as determined under RCW 51.08.178, the monthly payment due to the surviving spouse shall be equal to the greater of the monthly wages of

the deceased worker or the minimum benefit set forth in this section on June 30, 2008.

(e) In addition to the monthly payments provided for in subsection (2)(a) through (c) of this section, a surviving spouse or child or children of such worker if there is no surviving spouse, or dependent parent or parents, if there is no surviving spouse or child or children of any such deceased worker shall be forthwith paid a sum equal to one hundred percent of the average monthly wage in the state as defined in RCW 51.08.018, any such children, or parents to share and share alike in said sum.

(f) Upon remarriage of a surviving spouse the monthly payments for the child or children shall continue as provided in this section, but the monthly payments to such surviving spouse shall cease at the end of the month during which remarriage occurs. However, after September 8, 1975, an otherwise eligible surviving spouse of a worker who died at any time prior to or after September 8, 1975, shall have an option of:

(i)(A) Receiving, once and for all, a lump sum of twenty-four times the monthly compensation rate in effect on the date of remarriage allocable to the spouse for himself or herself pursuant to subsection (2)(a)(i) of this section and subject to any modifications specified under subsection (2)(d) of this section and RCW 51.32.075(3) or fifty percent of the then remaining annuity value of his or her pension, whichever is the lesser: PROVIDED, That if the injury occurred prior to July 28, 1991, the remarriage benefit lump sum available shall be as provided in the remarriage benefit schedules then in effect; ((øø))

(B) If a surviving spouse is the surviving spouse of a member of the law enforcement officers' and firefighters' retirement system under chapter 41.26 RCW or the state patrol retirement system under chapter 43.43 RCW, the surviving spouse may receive a lump sum of thirty-six times the monthly compensation rate in effect on the date of remarriage allocable to the spouse for himself or herself pursuant to subsection (2)(a)(i) of this section and RCW 51.32.075(3) or fifty percent of the remaining annuity value of his or her pension provided under this chapter, whichever is the lesser: PROVIDED, That if the injury occurred prior to July 28, 1991, the lump sum benefit shall be as provided in the remarriage benefit schedules then in effect; or

(ii) If a surviving spouse does not choose the option specified in subsection (2)(f)(i) of this section to accept the lump sum payment, the remarriage of the surviving spouse of a worker shall not bar him or her from claiming the lump sum payment authorized in subsection (2)(f)(i) of this section during the life of the remarriage, or shall not prevent subsequent monthly payments to him or to her if the remarriage has been terminated by death or has been dissolved or annulled by valid court decree provided he or she has not previously accepted the lump sum payment.

(g) If the surviving spouse during the remarriage should die without having previously received the lump sum payment provided in subsection (2)(f)(i) of this section, his or her estate shall be entitled to receive the sum specified under subsection (2)(f)(i) of this section or fifty percent of the then remaining annuity value of his or her pension whichever is the lesser.

(h) The effective date of resumption of payments under subsection (2)(f)(ii) of this section to a surviving spouse based upon termination of a remarriage by death, annulment, or dissolution shall be the date of the death or the date the

judicial decree of annulment or dissolution becomes final and when application for the payments has been received.

(i) If it should be necessary to increase the reserves in the reserve fund or to create a new pension reserve fund as a result of the amendments in chapter 45, Laws of 1975-'76 2nd ex. sess., the amount of such increase in pension reserve in any such case shall be transferred to the reserve fund from the supplemental pension fund.

(3) If there is a child or children and no surviving spouse of the deceased worker or the surviving spouse is not eligible for benefits under this title, a sum equal to thirty-five percent of the wages of the deceased worker shall be paid monthly for one child and a sum equivalent to fifteen percent of such wage shall be paid monthly for each additional child, the total of such sum to be divided among such children, share and share alike: PROVIDED, That benefits under this subsection or subsection (4) of this section shall not exceed the lesser of sixty-five percent of the wages of the deceased worker at the time of his or her death or the applicable percentage of the average monthly wage in the state as defined in RCW 51.08.018, as follows:

AFTER	PERCENTAGE
June 30, 1993	105%
June 30, 1994	110%
June 30, 1995	115%
June 30, 1996	120%

(4) In the event a surviving spouse receiving monthly payments dies, the child or children of the deceased worker shall receive the same payment as provided in subsection (3) of this section.

(5) If the worker leaves no surviving spouse or child, but leaves a dependent or dependents, a monthly payment shall be made to each dependent equal to fifty percent of the average monthly support actually received by such dependent from the worker during the twelve months next preceding the occurrence of the injury, but the total payment to all dependents in any case shall not exceed the lesser of sixty-five percent of the wages of the deceased worker at the time of his or her death or the applicable percentage of the average monthly wage in the state as defined in RCW 51.08.018 as follows:

AFTER	PERCENTAGE
June 30, 1993	105%
June 30, 1994	110%
June 30, 1995	115%
June 30, 1996	120%

If any dependent is under the age of eighteen years at the time of the occurrence of the injury, the payment to such dependent shall cease when such dependent reaches the age of eighteen years except such payments shall continue until the dependent reaches age twenty-three while permanently enrolled at a full time course in an accredited school. The payment to any dependent shall cease if and when, under the same circumstances, the necessity creating the dependency would have ceased if the injury had not happened.

(6) For claims filed prior to July 1, 1986, if the injured worker dies during the period of permanent total disability, whatever the cause of death, leaving a surviving spouse, or child, or children, the surviving spouse or child or children shall receive benefits as if death resulted from the injury as provided in subsections (2) through (4) of this section. Upon remarriage or death of such surviving spouse, the payments to such child or children shall be made as provided in subsection (2) of this section when the surviving spouse of a deceased worker remarries.

(7) For claims filed on or after July 1, 1986, every worker who becomes eligible for permanent total disability benefits shall elect an option as provided in RCW 51.32.067.

Sec. 4. RCW 28B.15.380 and 2005 c 249 s 2 are each amended to read as follows:

Subject to the limitations of RCW 28B.15.910, the governing boards of the state universities, the regional universities, and The Evergreen State College ~~((may))~~ shall exempt the following students from the payment of all ~~((or a portion of))~~ tuition fees and services and activities fees:

(1) Children of any law enforcement officer ~~((or))~~ as defined in chapter 41.26 RCW, firefighter as defined in chapter 41.26 or 41.24 RCW, or Washington state patrol officer who lost his or her life or became totally disabled in the line of duty while employed by any public law enforcement agency or full time or volunteer fire department in this state: PROVIDED, That such persons may receive the exemption only if they begin their course of study at a state-supported college or university within ten years of their graduation from high school; and

(2) Surviving spouses of any law enforcement officer as defined in chapter 41.26 RCW, firefighter as defined in chapter 41.26 or 41.24 RCW, or Washington state patrol officer who lost his or her life or became totally disabled in the line of duty while employed by any public law enforcement agency or full time or volunteer fire department in this state.

(3) The governing boards of the state universities, the regional universities, and The Evergreen State College shall report to the higher education coordinating board on the annual cost of tuition fees and services and activities fees waived for surviving spouses and children under this section. The higher education coordinating board shall consolidate the reports of the waived fees and annually report to the appropriate fiscal and policy committees of the legislature.

Sec. 5. RCW 28B.15.520 and 2007 c 355 s 6 are each amended to read as follows:

Subject to the limitations of RCW 28B.15.910, the governing boards of the community colleges may:

(1)(a) Waive all or a portion of tuition fees and services and activities fees for:

~~((or))~~ (i) Students nineteen years of age or older who are eligible for resident tuition and fee rates as defined in RCW 28B.15.012 through 28B.15.015, who enroll in a course of study or program which will enable them to finish their high school education and obtain a high school diploma or certificate, but who are not eligible students as defined by RCW 28A.600.405; and shall waive all of tuition fees and services and activities fees for:

~~((b))~~ (ii) Children of any law enforcement officer ~~((or))~~ as defined in chapter 41.26 RCW, firefighter as defined in chapter 41.26 or 41.24 RCW, or Washington state patrol officer who lost his or her life or became totally disabled in the line of duty while employed by any public law enforcement agency or full time or volunteer fire department in this state: PROVIDED, That such persons may receive the waiver only if they begin their course of study at a community college within ten years of their graduation from high school; and

(iii) Surviving spouses of any law enforcement officer as defined in chapter 41.26 RCW, firefighter as defined in chapter 41.26 or 41.24 RCW, or Washington state patrol officer who lost his or her life or became totally disabled in the line of duty while employed by any public law enforcement agency or full time or volunteer fire department in this state.

(b) The governing boards of the community colleges shall report to the state board for community and technical colleges on the annual cost of tuition fees and services and activities fees waived for surviving spouses and children under parts (a)(i) and (iii) of this subsection. The state board for community and technical colleges shall consolidate the reports of the waived fees and annually report to the appropriate fiscal and policy committees of the legislature;

(2) Waive all or a portion of the nonresident tuition fees differential for:

(a) Nonresident students enrolled in a community college course of study or program which will enable them to finish their high school education and obtain a high school diploma or certificate but who are not eligible students as defined by RCW 28A.600.405. The waiver shall be in effect only for those courses which lead to a high school diploma or certificate; and

(b) Up to forty percent of the students enrolled in the regional education program for deaf students, subject to federal funding of such program.

Sec. 6. RCW 43.43.295 and 2009 c 522 s 8 and 2009 c 226 s 4 are each reenacted and amended to read as follows:

(1) For members commissioned on or after January 1, 2003, except as provided in RCW 11.07.010, if a member or a vested member who has not completed at least ten years of service dies, the amount of the accumulated contributions standing to such member's credit in the retirement system at the time of such member's death, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, shall be paid to the member's estate, or such person or persons, trust, or organization as the member shall have nominated by written designation duly executed and filed with the department. If there be no such designated person or persons still living at the time of the member's death, such member's accumulated contributions standing to such member's credit in the retirement system, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, shall be paid to the member's surviving spouse or domestic partner as if in fact such spouse or domestic partner had been nominated by written designation, or if there be no such surviving spouse or domestic partner, then to such member's legal representatives.

(2) If a member who is killed in the course of employment or a member who is eligible for retirement or a member who has completed at least ten years of service dies, the surviving spouse or domestic partner or eligible child or children shall elect to receive either:

(a) A retirement allowance computed as provided for in RCW 43.43.260, actuarially reduced, except under subsection (4) of this section, by the amount of any lump sum benefit identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670 and actuarially adjusted to reflect a joint and one hundred percent survivor option under RCW 43.43.278 and if the member was not eligible for normal retirement at the date of death a further reduction from age fifty-five or when the member could have attained twenty-five years of service, whichever is less; if a surviving spouse or domestic partner who is receiving a retirement allowance dies leaving a child or children of the member under the age of majority, then such child or children shall continue to receive an allowance in an amount equal to that which was being received by the surviving spouse or domestic partner, share and share alike, until such child or children reach the age of majority; if there is no surviving spouse or domestic partner eligible to receive an allowance at the time of the member's death, such member's child or children under the age of majority shall receive an allowance share and share alike calculated under this section making the assumption that the ages of the spouse or domestic partner and member were equal at the time of the member's death; or

(b)(i) The member's accumulated contributions, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670; or

(ii) If the member dies, one hundred fifty percent of the member's accumulated contributions, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670. Any accumulated contributions attributable to restorations made under RCW 41.50.165(2) shall be refunded at one hundred percent.

(3) If a member who is eligible for retirement or a member who has completed at least ten years of service dies, and is not survived by a spouse or domestic partner or an eligible child, then the accumulated contributions standing to the member's credit, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, shall be paid:

(a) To an estate, a person or persons, trust, or organization as the member shall have nominated by written designation duly executed and filed with the department; or

(b) If there is no such designated person or persons still living at the time of the member's death, then to the member's legal representatives.

(4) The retirement allowance of a member who is killed in the course of employment, as determined by the director of the department of labor and industries, or the retirement allowance of a member who has left the employ of an employer due to service in the national guard or military reserves and dies while honorably serving in the national guard or military reserves during a period of war as defined in RCW 41.04.005, is not subject to an actuarial reduction for early retirement if the member was not eligible for normal retirement or an actuarial reduction to reflect a joint and one hundred percent survivor option under RCW 43.43.278. The member is entitled to a minimum retirement allowance equal to ten percent of such member's final average salary. The member shall additionally receive a retirement allowance equal to two

percent of such member's average final salary for each year of service beyond five.

Sec. 7. RCW 43.43.285 and 2009 c 522 s 7 are each amended to read as follows:

(1) A ~~((one hundred fifty))~~ two hundred fourteen thousand dollar death benefit shall be paid to the member's estate, or such person or persons, trust or organization as the member shall have nominated by written designation duly executed and filed with the department. If there be no such designated person or persons still living at the time of the member's death, such member's death benefit shall be paid to the member's surviving spouse or domestic partner as if in fact such spouse or domestic partner had been nominated by written designation, or if there be no such surviving spouse or domestic partner, then to such member's legal representatives.

(2)(a) The benefit under this section shall be paid only where death occurs as a result of (i) injuries sustained in the course of employment; or (ii) an occupational disease or infection that arises naturally and proximately out of employment covered under this chapter. The determination of eligibility for the benefit shall be made consistent with Title 51 RCW by the department of labor and industries. The department of labor and industries shall notify the department of retirement systems by order under RCW 51.52.050.

(b) The retirement allowance paid to the spouse or domestic partner and dependent children of a member who is killed in the course of employment, as set forth in RCW 41.05.011~~((14))~~ (16), shall include reimbursement for any payments of premium rates to the Washington state health care authority under RCW 41.05.080.

(3)(a) Beginning July 1, 2010, and every year thereafter, the department shall determine the following information:

(i) The index for the 2008 calendar year, to be known as "index A":

(ii) The index for the calendar year prior to the date of determination, to be known as "index B": and

(iii) The ratio obtained when index B is divided by index A.

(b) The value of the ratio obtained shall be the annual adjustment to the original death benefit and shall be applied beginning every July 1st. In no event, however, shall the annual adjustment:

(i) Produce a benefit which is lower than two hundred fourteen thousand dollars;

(ii) Exceed three percent in the initial annual adjustment; or

(iii) Differ from the previous year's annual adjustment by more than three percent.

(c) For the purposes of this section, "index" means, for any calendar year, that year's average consumer price index — Seattle, Washington area for urban wage earners and clerical workers, all items, compiled by the bureau of labor statistics, United States department of labor.

NEW SECTION. Sec. 8. Section 1 of this act applies prospectively to the benefits of all members killed in the course of employment since October 1, 1977.

NEW SECTION. Sec. 9. Sections 2 and 7 of this act apply to the benefits of all members killed in the course of employment since January 1, 2009.

NEW SECTION. Sec. 10. Section 6 of this act applies prospectively to the benefits of all members killed in the course of employment since January 1, 2003.

Passed by the House March 9, 2010.

Passed by the Senate March 1, 2010.

Approved by the Governor March 31, 2010.

Filed in Office of Secretary of State April 1, 2010.

CHAPTER 262

[Substitute House Bill 2717]

PERSONS COMMITTED TO A STATE INSTITUTION—OUTINGS

AN ACT Relating to restricting outings from state facilities; amending RCW 10.77.010; and adding a new section to chapter 10.77 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 10.77 RCW to read as follows:

(1) No person committed to the custody of the department for the determination of competency to stand trial under RCW 10.77.060, the restoration of competency for trial under RCW 10.77.084, 10.77.086, or 10.77.088, or following an acquittal by reason of insanity shall be authorized to leave the facility where the person is confined, except in the following circumstances:

- (a) In accordance with conditional release or furlough authorized by a court;
- (b) For necessary medical or legal proceedings not available in the facility where the person is confined;
- (c) For visits to the bedside of a member of the person's immediate family who is seriously ill; or
- (d) For attendance at the funeral of a member of the person's immediate family.

(2) Unless ordered otherwise by a court, no leave under subsection (1) of this section shall be authorized unless the person who is the subject of the authorization is escorted by a person approved by the secretary. During the authorized leave, the person approved by the secretary must be in visual or auditory contact at all times with the person on authorized leave.

(3) Prior to the authorization of any leave under subsection (1) of this section, the secretary must give notification to any county or city law enforcement agency having jurisdiction in the location of the leave destination.

Sec. 2. RCW 10.77.010 and 2005 c 504 s 106 are each amended to read as follows:

As used in this chapter:

(1) "Admission" means acceptance based on medical necessity, of a person as a patient.

(2) "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.

(3) "Conditional release" means modification of a court-ordered commitment, which may be revoked upon violation of any of its terms.

(4) A "criminally insane" person means any person who has been acquitted of a crime charged by reason of insanity, and thereupon found to be a substantial danger to other persons or to present a substantial likelihood of committing criminal acts jeopardizing public safety or security unless kept under further control by the court or other persons or institutions.

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

(6) "Designated mental health professional" has the same meaning as provided in RCW 71.05.020.

(7) "Detention" or "detain" means the lawful confinement of a person, under the provisions of this chapter, pending evaluation.

(8) "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 or psychologist, or a social worker, and such other developmental disabilities professionals as may be defined by rules adopted by the secretary.

(9) "Developmental disability" means the condition as defined in RCW 71A.10.020(3).

(10) "Discharge" means the termination of hospital medical authority. The commitment may remain in place, be terminated, or be amended by court order.

(11) "Furlough" means an authorized leave of absence for a resident of a state institution operated by the department designated for the custody, care, and treatment of the criminally insane, consistent with an order of conditional release from the court under this chapter, without any requirement that the resident be accompanied by, or be in the custody of, any law enforcement or institutional staff, while on such unescorted leave.

(12) "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.

(13) "History of one or more violent acts" means violent acts committed during: (a) The ten-year period of time prior to the filing of criminal charges; plus (b) the amount of time equal to time spent during the ten-year period in a mental health facility or in confinement as a result of a criminal conviction.

(14) "Immediate family member" means a spouse, child, stepchild, parent, stepparent, grandparent, sibling, or domestic partner.

~~(15)~~ (15) "Incompetency" means a person lacks the capacity to understand the nature of the proceedings against him or her or to assist in his or her own defense as a result of mental disease or defect.

~~((15))~~ (16) "Indigent" means any person who is financially unable to obtain counsel or other necessary expert or professional services without causing substantial hardship to the person or his or her family.

~~((16))~~ (17) "Individualized service plan" means a plan prepared by a developmental disabilities professional with other professionals as a team, for an individual 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 release, and a projected possible date for release; and

(g) The type of residence immediately anticipated for the person and possible future types of residences.

~~((17))~~ (18) "Professional person" means:

(a) A psychiatrist licensed 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 or the American osteopathic board of neurology and psychiatry;

(b) A psychologist licensed as a psychologist pursuant to chapter 18.83 RCW; or

(c) A social worker with a master's or further advanced degree from an accredited school of social work or a degree deemed equivalent under rules adopted by the secretary.

~~((18))~~ (19) "Registration records" include all the records of the department, regional support networks, 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.

~~((19))~~ (20) "Release" means legal termination of the court-ordered commitment under the provisions of this chapter.

~~((20))~~ (21) "Secretary" means the secretary of the department of social and health services or his or her designee.

~~((21))~~ (22) "Treatment" means any currently standardized medical or mental health procedure including medication.

~~((22))~~ (23) "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 regional support networks and their staffs, and by treatment facilities. Treatment records do not include notes or records maintained for personal use by a person providing treatment services for the department, regional support networks, or a treatment facility if the notes or records are not available to others.

~~((23))~~ (24) "Violent act" means behavior that: (a)(i) Resulted in; (ii) if completed as intended would have resulted in; or (iii) was threatened to be carried out by a person who had the intent and opportunity to carry out the threat and would have resulted in, homicide, nonfatal injuries, or substantial damage to property; or (b) recklessly creates an immediate risk of serious physical injury to another person. As used in this subsection, "nonfatal injuries" means physical

pain or injury, illness, or an impairment of physical condition. "Nonfatal injuries" shall be construed to be consistent with the definition of "bodily injury," as defined in RCW 9A.04.110.

Passed by the House March 8, 2010.

Passed by the Senate March 4, 2010.

Approved by the Governor March 31, 2010.

Filed in Office of Secretary of State April 1, 2010.

CHAPTER 263

[Engrossed Senate Bill 6610]

COMMITMENT PROCEDURES—CRIMINALLY INSANE PERSONS

AN ACT Relating to improving procedures relating to the commitment of persons found not guilty by reason of insanity; amending RCW 10.77.120, 10.77.150, 10.77.160, 10.77.190, and 10.77.200; adding new sections to chapter 10.77 RCW; creating a new section; and providing expiration dates.

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

NEW SECTION. **Sec. 1.** A new section is added to chapter 10.77 RCW to read as follows:

(1) The secretary shall establish an independent public safety review panel for the purpose of advising the secretary and the courts with respect to persons who have been found not guilty by reason of insanity. The panel shall provide advice regarding all recommendations: (a) For a change in commitment status; (b) to allow furloughs or temporary leaves accompanied by staff; or (c) to permit movement about the grounds of the treatment facility, with or without the accompaniment of staff.

(2) The members of the public safety review panel shall be appointed by the governor for a renewable term of three years and shall include the following:

- (a) A psychiatrist;
- (b) A licensed clinical psychologist;
- (c) A representative of the department of corrections;
- (d) A prosecutor or a representative of a prosecutor's association;
- (e) A representative of law enforcement or a law enforcement association;
- (f) A consumer and family advocate representative; and
- (g) A public defender or a representative of a defender's association.

(3) Thirty days prior to issuing a recommendation for conditional release under RCW 10.77.150 or forty-five days prior to issuing a recommendation for release under RCW 10.77.200, the secretary shall submit its recommendation with the committed person's application and the department's risk assessment to the public safety review panel. The public safety review panel shall complete an independent assessment of the public safety risk entailed by the secretary's proposed conditional release recommendation or release recommendation and provide this assessment in writing to the secretary. The public safety review panel may, within funds appropriated for this purpose, request additional evaluations of the committed person. The public safety review panel may indicate whether it is in agreement with the secretary's recommendation, or whether it would issue a different recommendation. The secretary shall provide the panel's assessment when it is received along with any supporting documentation, including all previous reports of evaluations of the committed

person in the person's hospital record, to the court, prosecutor in the county that ordered the person's commitment, and counsel for the committed person.

(4) The secretary shall notify the public safety review panel at appropriate intervals concerning any changes in the commitment or custody status of persons found not guilty by reason of insanity. The panel shall have access, upon request, to a committed person's complete hospital record.

(5) The department shall provide administrative and financial support to the public safety review panel. The department, in consultation with the public safety review panel, may adopt rules to implement this section.

(6) By December 1, 2014, the public safety review panel shall report to the appropriate legislative committees the following:

(a) Whether the public safety review panel has observed a change in statewide consistency of evaluations and decisions concerning changes in the commitment status of persons found not guilty by reason of insanity;

(b) Whether the public safety review panel should be given the authority to make release decisions and monitor release conditions;

(c) Any other issues the public safety review panel deems relevant.

NEW SECTION. Sec. 2. A new section is added to chapter 10.77 RCW to read as follows:

(1) If the secretary determines in writing that a person committed to the custody of the secretary for treatment as criminally insane presents an unreasonable safety risk which, based on behavior, clinical history, and facility security is not manageable in a state hospital setting, the secretary may place the person in any secure facility operated by the secretary or the secretary of the department of corrections. Any person affected by this provision shall receive appropriate mental health treatment governed by a formalized treatment plan targeted at mental health rehabilitation needs and shall be afforded his or her rights under RCW 10.77.140, 10.77.150, and 10.77.200. The secretary of the department of social and health services shall retain legal custody of any person placed under this section and review any placement outside of a department mental health hospital every three months, or sooner if warranted by the person's mental health status, to determine if the placement remains appropriate.

(2) Beginning December 1, 2010, and every six months thereafter, the secretary shall report to the governor and the appropriate committees of the legislature regarding the use of the authority under this section to transfer persons to a secure facility. The report shall include information related to the number of persons who have been placed in a secure facility operated by the secretary or the secretary of the department of corrections, and the length of time that each such person has been in the secure facility.

(3) This section expires June 30, 2015.

NEW SECTION. Sec. 3. (1) The Washington state institute for public policy shall, in collaboration with the department of social and health services and other applicable entities, undertake a search for validated mental health assessment tools in each of the following areas:

(a) An assessment tool or combination of tools to be used by individuals performing court-ordered competency assessments and level of risk assessments of defendants pursuant to chapter 10.77 RCW; and

(b) An assessment tool or combination of tools to be used by individuals developing recommendations to courts as to the appropriateness of conditional release from inpatient treatment of criminally insane patients pursuant to chapter 10.77 RCW.

(2) This section expires June 30, 2011.

Sec. 4. RCW 10.77.120 and 2000 c 94 s 15 are each amended to read as follows:

(1) The secretary shall ~~((forthwith))~~ provide adequate care and individualized treatment to persons found criminally insane at one or several of the state institutions or facilities under ~~((his or her))~~ the direction and control ~~((wherein persons committed as criminally insane may be confined. Such persons shall be under the custody and control of the secretary to the same extent as are other persons who are committed to the secretary's custody, but such provision shall be made for their control, care, and treatment as is proper in view of their condition))~~ of the secretary. In order that the secretary may adequately determine the nature of the mental illness or developmental disability of the person committed ~~((to him or her))~~ as criminally insane, ~~((and in order for the secretary to place such individuals in a proper facility,))~~ all persons who are committed to the secretary as criminally insane shall be promptly examined by qualified personnel in ~~((such a manner as))~~ order to provide a proper evaluation and diagnosis of such individual. The examinations of all ~~((developmentally disabled))~~ persons with developmental disabilities committed under this chapter shall be performed by developmental disabilities professionals. Any person so committed shall not be released from the control of the secretary ~~((save upon the))~~ except by order of a court of competent jurisdiction made after a hearing and judgment of release.

(2) Whenever there is a hearing which the committed person is entitled to attend, the secretary shall send ~~((him or her))~~ the person in the custody of one or more department employees to the county ~~((where))~~ in which the hearing is to be held at the time the case is called for trial. During the time the person is absent from the facility, ~~((he or she shall))~~ the person may be confined in a facility designated by and arranged for by the department, ~~((and))~~ but shall at all times be deemed to be in the custody of the department employee and provided necessary treatment. If the decision of the hearing remits the person to custody, the department employee shall ~~((forthwith))~~ return the person to such institution or facility designated by the secretary. If the state appeals an order of release, such appeal shall operate as a stay, and the person shall remain in custody ~~((shall so remain))~~ and be ~~((forthwith))~~ returned to the institution or facility designated by the secretary until a final decision has been rendered in the cause.

Sec. 5. RCW 10.77.150 and 1998 c 297 s 41 are each amended to read as follows:

(1) Persons examined pursuant to RCW 10.77.140 may make application to the secretary for conditional release. The secretary shall, after considering the reports of experts or professional persons conducting the examination pursuant to RCW 10.77.140, forward to the court of the county which ordered the person's commitment the person's application for conditional release as well as the secretary's recommendations concerning the application and any proposed terms and conditions upon which the secretary reasonably believes the person can be

conditionally released. Conditional release may also contemplate partial release for work, training, or educational purposes.

(2) In instances in which persons examined pursuant to RCW 10.77.140 have not made application to the secretary for conditional release, but the secretary, after considering the reports of experts or professional persons conducting the examination pursuant to RCW 10.77.140, reasonably believes the person may be conditionally released, the secretary may submit a recommendation for release to the court of the county that ordered the person's commitment. The secretary's recommendation must include any proposed terms and conditions upon which the secretary reasonably believes the person may be conditionally released. Conditional release may also include partial release for work, training, or educational purposes. Notice of the secretary's recommendation under this subsection must be provided to the person for whom the secretary has made the recommendation for release and to his or her attorney.

(3)(a) The court of the county which ordered the person's commitment, upon receipt of an application or recommendation for conditional release with the secretary's recommendation for conditional release terms and conditions, shall within thirty days schedule a hearing. The court may schedule a hearing on applications recommended for disapproval by the secretary.

(b) The prosecuting attorney shall represent the state at such hearings and shall have the right to have the patient examined by an expert or professional person of the prosecuting attorney's choice. If the committed person is indigent, and he or she so requests, the court shall appoint a qualified expert or professional person to examine the person on his or her behalf.

(c) The issue to be determined at such a hearing is whether or not the person may be released conditionally without substantial danger to other persons, or substantial likelihood of committing criminal acts jeopardizing public safety or security.

(d) The court, after the hearing, shall rule on the secretary's recommendations, and if it disapproves of conditional release, may do so only on the basis of substantial evidence. The court may modify the suggested terms and conditions on which the person is to be conditionally released. Pursuant to the determination of the court after hearing, the committed person shall thereupon be released on such conditions as the court determines to be necessary, or shall be remitted to the custody of the secretary. If the order of conditional release includes a requirement for the committed person to report to a community corrections officer, the order shall also specify that the conditionally released person shall be under the supervision of the secretary of corrections or such person as the secretary of corrections may designate and shall follow explicitly the instructions of the secretary of corrections including reporting as directed to a community corrections officer, remaining within prescribed geographical boundaries, and notifying the community corrections officer prior to making any change in the offender's address or employment. If the order of conditional release includes a requirement for the committed person to report to a community corrections officer, the community corrections officer shall notify the secretary or the secretary's designee, if the person is not in compliance with the court-ordered conditions of release.

~~((3))~~ (4) If the court determines that receiving regular or periodic medication or other medical treatment shall be a condition of the committed

person's release, then the court shall require him or her to report to a physician or other medical or mental health practitioner for the medication or treatment. In addition to submitting any report required by RCW 10.77.160, the physician or other medical or mental health practitioner shall immediately upon the released person's failure to appear for the medication or treatment or upon a change in mental health condition that renders the patient a potential risk to the public report ~~((the failure))~~ to the court, to the prosecuting attorney of the county in which the released person was committed, to the secretary, and to the supervising community corrections officer.

~~((4))~~ (5) Any person, whose application for conditional release has been denied, may reapply after a period of six months from the date of denial.

Sec. 6. RCW 10.77.160 and 1993 c 31 s 7 are each amended to read as follows:

When a conditionally released person is required by the terms of his or her conditional release to report to a physician, department of corrections community corrections officer, or medical or mental health practitioner on a regular or periodic basis, the physician, department of corrections community corrections officer, medical or mental health practitioner, or other such person shall monthly, for the first six months after release and semiannually thereafter, or as otherwise directed by the court, submit to the court, the secretary, the institution from which released, and to the prosecuting attorney of the county in which the person was committed, a report stating whether the person is adhering to the terms and conditions of his or her conditional release, and detailing any arrests or criminal charges filed and any significant change in the person's mental health condition or other circumstances.

Sec. 7. RCW 10.77.190 and 1998 c 297 s 43 are each amended to read as follows:

(1) Any person submitting reports pursuant to RCW 10.77.160, the secretary, or the prosecuting attorney may petition the court to, or the court on its own motion may schedule an immediate hearing for the purpose of modifying the terms of conditional release if the petitioner or the court believes the released person is failing to adhere to the terms and conditions of his or her conditional release or is in need of additional care and treatment.

(2) If the prosecuting attorney, the secretary of social and health services, the secretary of corrections, or the court, after examining the report filed with them pursuant to RCW 10.77.160, or based on other information received by them, reasonably believes that a conditionally released person is failing to adhere to the terms and conditions of his or her conditional release the court or secretary of social and health services or the secretary of corrections may order that the conditionally released person be apprehended and taken into custody ~~((until such time as a hearing can be scheduled to determine the facts and whether or not the person's conditional release should be revoked or modified))~~. The court shall be notified of the apprehension before the close of the next judicial day ~~((of the apprehension))~~. The court shall schedule a hearing within thirty days to determine whether or not the person's conditional release should be modified or revoked. Both the prosecuting attorney and the conditionally released person shall have the right to request an immediate mental examination of the conditionally released person. If the conditionally released person is

indigent, the court or secretary of social and health services or the secretary of corrections or their designees shall, upon request, assist him or her in obtaining a qualified expert or professional person to conduct the examination.

(3) If the hospital or facility designated to provide outpatient care determines that a conditionally released person presents a threat to public safety, the hospital or facility shall immediately notify the secretary of social and health services or the secretary of corrections or their designees. The secretary shall order that the conditionally released person be apprehended and taken into custody.

(4) The court, upon receiving notification of the apprehension, shall promptly schedule a hearing. The issue to be determined is whether the conditionally released person did or did not adhere to the terms and conditions of his or her release, or whether the person presents a threat to public safety. Pursuant to the determination of the court upon such hearing, the conditionally released person shall either continue to be conditionally released on the same or modified conditions or his or her conditional release shall be revoked and he or she shall be committed subject to release only in accordance with provisions of this chapter.

Sec. 8. RCW 10.77.200 and 2000 c 94 s 16 are each amended to read as follows:

(1) Upon application by the committed or conditionally released person, the secretary shall determine whether or not reasonable grounds exist for release. In making this determination, the secretary may consider the reports filed under RCW 10.77.060, 10.77.110, 10.77.140, and 10.77.160, and other reports and evaluations provided by professionals familiar with the case. If the secretary approves the release he or she then shall authorize the person to petition the court.

(2) In instances in which persons have not made application for release, but the secretary believes, after consideration of the reports filed under RCW 10.77.060, 10.77.110, 10.77.140, and 10.77.160, and other reports and evaluations provided by professionals familiar with the case, that reasonable grounds exist for release, the secretary may petition the court. If the secretary petitions the court for release under this subsection, notice of the petition must be provided to the person who is the subject of the petition and to his or her attorney.

(3) The petition shall be served upon the court and the prosecuting attorney. The court, upon receipt of the petition for release, shall within forty-five days order a hearing. Continuance of the hearing date shall only be allowed for good cause shown. The prosecuting attorney shall represent the state, and shall have the right to have the petitioner examined by an expert or professional person of the prosecuting attorney's choice. If the petitioner is indigent, and the person so requests, the court shall appoint a qualified expert or professional person to examine him or her. If the petitioner (~~is developmentally disabled~~) has a developmental disability, the examination shall be performed by a developmental disabilities professional. The hearing shall be before a jury if demanded by either the petitioner or the prosecuting attorney. The burden of proof shall be upon the petitioner to show by a preponderance of the evidence that the petitioner no longer presents, as a result of a mental disease or defect, a substantial danger to other persons, or a substantial likelihood of committing

criminal acts jeopardizing public safety or security, unless kept under further control by the court or other persons or institutions.

~~((3))~~ (4) For purposes of this section, a person affected by a mental disease or defect in a state of remission is considered to have a mental disease or defect requiring supervision when the disease may, with reasonable medical probability, occasionally become active and, when active, render the person a danger to others. Upon a finding that the petitioner has a mental disease or defect in a state of remission under this subsection, the court may deny release, or place or continue such a person on conditional release.

(5) Nothing contained in this chapter shall prohibit the patient from petitioning the court for release or conditional release from the institution in which he or she is committed. The issue to be determined on such proceeding is whether the petitioner, as a result of a mental disease or defect, is a substantial danger to other persons, or presents a substantial likelihood of committing criminal acts jeopardizing public safety or security, unless kept under further control by the court or other persons or institutions.

(6) Nothing contained in this chapter shall prohibit the committed person from petitioning for release by writ of habeas corpus.

NEW SECTION. Sec. 9. A new section is added to chapter 10.77 RCW to read as follows:

For persons who have received court approval for conditional release, the secretary or the secretary's designee shall supervise the person's compliance with the court-ordered conditions of release. The level of supervision provided by the secretary shall correspond to the level of the person's public safety risk. In undertaking supervision of persons under this section, the secretary shall coordinate with any treatment providers designated pursuant to RCW 10.77.150(3), any department of corrections staff designated pursuant to RCW 10.77.150(2), and local law enforcement, if appropriate. The secretary shall adopt rules to implement this section.

Passed by the Senate March 11, 2010.

Passed by the House March 10, 2010.

Approved by the Governor March 31, 2010.

Filed in Office of Secretary of State April 1, 2010.

CHAPTER 264

[Substitute House Bill 2226]

RETIRED LAW ENFORCEMENT OFFICERS—FIREARMS CERTIFICATES

AN ACT Relating to issuing firearms certificates to retired law enforcement officers; and amending RCW 36.28A.090.

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

Sec. 1. RCW 36.28A.090 and 2006 c 40 s 1 are each amended to read as follows:

(1) The purpose of this section is to establish a process for issuing firearms certificates to residents of Washington who are otherwise qualified retired law enforcement officers under the federal law enforcement officers safety act of 2004 (118 Stat. 865; 18 U.S.C. Sec. 926B and 926C) for the purpose of satisfying the certification requirements contained in ~~((the federal law~~

~~enforcement officers safety act of 2004 (118 Stat. 865; 18 U.S.C. Sec. 926B and 926C)) that act.~~

~~(2) A retired law enforcement officer satisfies the federal certification requirements if he or she possesses a valid firearms qualification certificate that:~~

~~(a) Uses the model certificate created under subsection (4) of this section;~~

~~(b) Provides that either a law enforcement agency or an individual or entity certified to provide firearms training acknowledges that the bearer has been found qualified or otherwise found to meet the standards established by the criminal justice training commission for firearms qualification for the basic law enforcement training academy in the state; and~~

~~(c) Complies with the time restrictions provided under subsection (3) of this section.~~

~~(3) The firearms certificate is valid for a period of one year from the date that the law enforcement agency or individual or entity certified to provide firearms training determines that the bearer has been found qualified or otherwise found to meet the standards established by the criminal justice training commission for firearms qualification for the basic law enforcement training academy in the state, and the certificate shall state the date the determination was made.~~

~~(4) The Washington association of sheriffs and police chiefs shall develop a model certificate that shall serve as the required firearms qualification certificate ((form to be used by local law enforcement agencies when issuing firearms certificates to retired law enforcement officers under this section)) once the certificate is valid pursuant to subsection (2) of this section. The association shall make the model certificate accessible on its web site. The model certificate shall state that the retired law enforcement officer bearing the certificate has been qualified or otherwise found to meet the standards established by the criminal justice training commission for firearms qualification for the basic law enforcement training academy in the state.~~

~~((3) A retired law enforcement officer who is a resident of Washington may apply for a firearms certificate with a local law enforcement agency. The local law enforcement agency may issue the firearms certificate to a retired law enforcement officer if the officer:~~

~~(a) Has been qualified or otherwise found to meet the standards established by the criminal justice training commission for firearms qualifications for active law enforcement officers in the state; and~~

~~(b) Has undergone the same background check as required under RCW 9.41.070 and is not ineligible to possess a firearm under RCW 9.41.040 or 9.41.045.~~

~~(4) The qualification required under [subsection] (3)(a) of this section may be performed by the local law enforcement agency or by an individual or entity certified to provide firearms training.~~

~~(5) The firearms certificate is valid for a period of one year. An applicant for the firearms certificate shall pay a fee of thirty-six dollars, plus additional charges imposed by the federal bureau of investigation that are passed on to the applicant. The fee shall be distributed in the same manner as the fee for a concealed pistol license under RCW 9.41.070.)~~

(5) The retired law enforcement officer is ~~((also))~~ responsible for paying the costs of the firearms qualification required under ~~((subsection) (3)(a))~~ subsection (2) of this section.

(6) Nothing in this section shall be deemed to require a local law enforcement agency to complete the certificate.

Passed by the House January 28, 2010.

Passed by the Senate March 2, 2010.

Approved by the Governor March 31, 2010.

Filed in Office of Secretary of State April 1, 2010.

CHAPTER 265

[Substitute House Bill 2534]

SEX OFFENDER REGISTRATION—ADDRESS VERIFICATION

AN ACT Relating to establishing a program to verify the address of registered sex offenders and kidnapping offenders; amending RCW 9A.44.130 and 9A.44.135; and adding a new section to chapter 36.28A RCW.

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

Sec. 1. RCW 9A.44.130 and 2008 c 230 s 1 are each amended to read as follows:

(1)(a) Any adult or juvenile residing whether or not the person has a fixed residence, or who is a student, is employed, or carries on a vocation in this state who has been found to have committed or has been convicted of any sex offense or kidnapping offense, or who has been found not guilty by reason of insanity under chapter 10.77 RCW of committing any sex offense or kidnapping offense, shall register with the county sheriff for the county of the person's residence, or if the person is not a resident of Washington, the county of the person's school, or place of employment or vocation, or as otherwise specified in this section. Where a person required to register under this section is in custody of the state department of corrections, the state department of social and health services, a local division of youth services, or a local jail or juvenile detention facility as a result of a sex offense or kidnapping offense, the person shall also register at the time of release from custody with an official designated by the agency that has jurisdiction over the person.

(b) Any adult or juvenile who is required to register under (a) of this subsection:

(i) Who is attending, or planning to attend, a public or private school regulated under Title 28A RCW or chapter 72.40 RCW shall, within ten days of enrolling or prior to arriving at the school to attend classes, whichever is earlier, notify the sheriff for the county of the person's residence of the person's intent to attend the school, and the sheriff shall promptly notify the principal of the school;

(ii) Who is admitted to a public or private institution of higher education shall, within ten days of enrolling or by the first business day after arriving at the institution, whichever is earlier, notify the sheriff for the county of the person's residence of the person's intent to attend the institution;

(iii) Who gains employment at a public or private institution of higher education shall, within ten days of accepting employment or by the first business day after commencing work at the institution, whichever is earlier, notify the

sheriff for the county of the person's residence of the person's employment by the institution; or

(iv) Whose enrollment or employment at a public or private institution of higher education is terminated shall, within ten days of such termination, notify the sheriff for the county of the person's residence of the person's termination of enrollment or employment at the institution.

(c) Persons required to register under this section who are enrolled in a public or private institution of higher education on June 11, 1998, or a public or private school regulated under Title 28A RCW or chapter 72.40 RCW on September 1, 2006, must notify the county sheriff immediately.

(d) The sheriff shall notify the school's principal or institution's department of public safety and shall provide that department with the same information provided to a county sheriff under subsection (3) of this section.

(e)(i) A principal receiving notice under this subsection must disclose the information received from the sheriff under (b) of this subsection as follows:

(A) If the student who is required to register as a sex offender is classified as a risk level II or III, the principal shall provide the information received to every teacher of any student required to register under (a) of this subsection and to any other personnel who, in the judgment of the principal, supervises the student or for security purposes should be aware of the student's record;

(B) If the student who is required to register as a sex offender is classified as a risk level I, the principal shall provide the information received only to personnel who, in the judgment of the principal, for security purposes should be aware of the student's record.

(ii) Any information received by a principal or school personnel under this subsection is confidential and may not be further disseminated except as provided in RCW 28A.225.330, other statutes or case law, and the family and educational and privacy rights act of 1994, 20 U.S.C. Sec. 1232g et seq.

(2) This section may not be construed to confer any powers pursuant to RCW 4.24.550 upon the public safety department of any public or private school or institution of higher education.

(3)(a) The person shall provide the following information when registering: (i) Name; (ii) complete residential address; (iii) date and place of birth; (iv) place of employment; (v) crime for which convicted; (vi) date and place of conviction; (vii) aliases used; (viii) social security number; (ix) photograph; and (x) fingerprints.

(b) Any person who lacks a fixed residence shall provide the following information when registering: (i) Name; (ii) date and place of birth; (iii) place of employment; (iv) crime for which convicted; (v) date and place of conviction; (vi) aliases used; (vii) social security number; (viii) photograph; (ix) fingerprints; and (x) where he or she plans to stay.

(4)(a) Offenders shall register with the county sheriff within the following deadlines. For purposes of this section the term "conviction" refers to adult convictions and juvenile adjudications for sex offenses or kidnapping offenses:

(i) OFFENDERS IN CUSTODY. (A) Sex offenders who committed a sex offense on, before, or after February 28, 1990, and who, on or after July 28, 1991, are in custody, as a result of that offense, of the state department of corrections, the state department of social and health services, a local division of youth services, or a local jail or juvenile detention facility, and (B) kidnapping

offenders who on or after July 27, 1997, are in custody of the state department of corrections, the state department of social and health services, a local division of youth services, or a local jail or juvenile detention facility, must register at the time of release from custody with an official designated by the agency that has jurisdiction over the offender. The agency shall within three days forward the registration information to the county sheriff for the county of the offender's anticipated residence. The offender must also register within twenty-four hours from the time of release with the county sheriff for the county of the person's residence, or if the person is not a resident of Washington, the county of the person's school, or place of employment or vocation. The agency that has jurisdiction over the offender shall provide notice to the offender of the duty to register. Failure to register at the time of release and within twenty-four hours of release constitutes a violation of this section and is punishable as provided in subsection ~~((4))~~ (10) of this section.

When the agency with jurisdiction intends to release an offender with a duty to register under this section, and the agency has knowledge that the offender is eligible for developmental disability services from the department of social and health services, the agency shall notify the division of developmental disabilities of the release. Notice shall occur not more than thirty days before the offender is to be released. The agency and the division shall assist the offender in meeting the initial registration requirement under this section. Failure to provide such assistance shall not constitute a defense for any violation of this section.

(ii) OFFENDERS NOT IN CUSTODY BUT UNDER STATE OR LOCAL JURISDICTION. Sex offenders who, on July 28, 1991, are not in custody but are under the jurisdiction of the indeterminate sentence review board or under the department of corrections' active supervision, as defined by the department of corrections, the state department of social and health services, or a local division of youth services, for sex offenses committed before, on, or after February 28, 1990, must register within ten days of July 28, 1991. Kidnapping offenders who, on July 27, 1997, are not in custody but are under the jurisdiction of the indeterminate sentence review board or under the department of corrections' active supervision, as defined by the department of corrections, the state department of social and health services, or a local division of youth services, for kidnapping offenses committed before, on, or after July 27, 1997, must register within ten days of July 27, 1997. A change in supervision status of a sex offender who was required to register under this subsection (4)(a)(ii) as of July 28, 1991, or a kidnapping offender required to register as of July 27, 1997, shall not relieve the offender of the duty to register or to reregister following a change in residence. The obligation to register shall only cease pursuant to RCW 9A.44.140.

(iii) OFFENDERS UNDER FEDERAL JURISDICTION. Sex offenders who, on or after July 23, 1995, and kidnapping offenders who, on or after July 27, 1997, as a result of that offense are in the custody of the United States bureau of prisons or other federal or military correctional agency for sex offenses committed before, on, or after February 28, 1990, or kidnapping offenses committed on, before, or after July 27, 1997, must register within twenty-four hours from the time of release with the county sheriff for the county of the person's residence, or if the person is not a resident of Washington, the county of the person's school, or place of employment or vocation. Sex offenders who, on

July 23, 1995, are not in custody but are under the jurisdiction of the United States bureau of prisons, United States courts, United States parole commission, or military parole board for sex offenses committed before, on, or after February 28, 1990, must register within ten days of July 23, 1995. Kidnapping offenders who, on July 27, 1997, are not in custody but are under the jurisdiction of the United States bureau of prisons, United States courts, United States parole commission, or military parole board for kidnapping offenses committed before, on, or after July 27, 1997, must register within ten days of July 27, 1997. A change in supervision status of a sex offender who was required to register under this subsection (4)(a)(iii) as of July 23, 1995, or a kidnapping offender required to register as of July 27, 1997 shall not relieve the offender of the duty to register or to reregister following a change in residence, or if the person is not a resident of Washington, the county of the person's school, or place of employment or vocation. The obligation to register shall only cease pursuant to RCW 9A.44.140.

(iv) OFFENDERS WHO ARE CONVICTED BUT NOT CONFINED. Sex offenders who are convicted of a sex offense on or after July 28, 1991, for a sex offense that was committed on or after February 28, 1990, and kidnapping offenders who are convicted on or after July 27, 1997, for a kidnapping offense that was committed on or after July 27, 1997, but who are not sentenced to serve a term of confinement immediately upon sentencing, shall report to the county sheriff to register immediately upon completion of being sentenced.

(v) OFFENDERS WHO ARE NEW RESIDENTS OR RETURNING WASHINGTON RESIDENTS. Sex offenders and kidnapping offenders who move to Washington state from another state or a foreign country that are not under the jurisdiction of the state department of corrections, the indeterminate sentence review board, or the state department of social and health services at the time of moving to Washington, must register within three business days of establishing residence or reestablishing residence if the person is a former Washington resident. The duty to register under this subsection applies to sex offenders convicted under the laws of another state or a foreign country, federal or military statutes for offenses committed before, on, or after February 28, 1990, or Washington state for offenses committed before, on, or after February 28, 1990, and to kidnapping offenders convicted under the laws of another state or a foreign country, federal or military statutes, or Washington state for offenses committed before, on, or after July 27, 1997. Sex offenders and kidnapping offenders from other states or a foreign country who, when they move to Washington, are under the jurisdiction of the department of corrections, the indeterminate sentence review board, or the department of social and health services must register within twenty-four hours of moving to Washington. The agency that has jurisdiction over the offender shall notify the offender of the registration requirements before the offender moves to Washington.

(vi) OFFENDERS FOUND NOT GUILTY BY REASON OF INSANITY. Any adult or juvenile who has been found not guilty by reason of insanity under chapter 10.77 RCW of (A) committing a sex offense on, before, or after February 28, 1990, and who, on or after July 23, 1995, is in custody, as a result of that finding, of the state department of social and health services, or (B) committing a kidnapping offense on, before, or after July 27, 1997, and who on or after July 27, 1997, is in custody, as a result of that finding, of the state

department of social and health services, must register within twenty-four hours from the time of release with the county sheriff for the county of the person's residence. The state department of social and health services shall provide notice to the adult or juvenile in its custody of the duty to register. Any adult or juvenile who has been found not guilty by reason of insanity of committing a sex offense on, before, or after February 28, 1990, but who was released before July 23, 1995, or any adult or juvenile who has been found not guilty by reason of insanity of committing a kidnapping offense but who was released before July 27, 1997, shall be required to register within twenty-four hours of receiving notice of this registration requirement. The state department of social and health services shall make reasonable attempts within available resources to notify sex offenders who were released before July 23, 1995, and kidnapping offenders who were released before July 27, 1997. Failure to register within twenty-four hours of release, or of receiving notice, constitutes a violation of this section and is punishable as provided in subsection ~~((4))~~ (10) of this section.

(vii) OFFENDERS WHO LACK A FIXED RESIDENCE. Any person who lacks a fixed residence and leaves the county in which he or she is registered and enters and remains within a new county for twenty-four hours is required to register with the county sheriff not more than twenty-four hours after entering the county and provide the information required in subsection (3)(b) of this section.

(viii) OFFENDERS WHO LACK A FIXED RESIDENCE AND WHO ARE UNDER SUPERVISION. Offenders who lack a fixed residence and who are under the supervision of the department shall register in the county of their supervision.

(ix) OFFENDERS WHO MOVE TO, WORK, CARRY ON A VOCATION, OR ATTEND SCHOOL IN ANOTHER STATE. Offenders required to register in Washington, who move to another state, or who work, carry on a vocation, or attend school in another state shall register a new address, fingerprints, and photograph with the new state within ten days after establishing residence, or after beginning to work, carry on a vocation, or attend school in the new state. The person must also send written notice within ten days of moving to the new state or to a foreign country to the county sheriff with whom the person last registered in Washington state. The county sheriff shall promptly forward this information to the Washington state patrol.

(b) Failure to register within the time required under this section constitutes a per se violation of this section and is punishable as provided in subsection ~~((4))~~ (10) of this section. The county sheriff shall not be required to determine whether the person is living within the county.

(c) An arrest on charges of failure to register, service of an information, or a complaint for a violation of this section, or arraignment on charges for a violation of this section, constitutes actual notice of the duty to register. Any person charged with the crime of failure to register under this section who asserts as a defense the lack of notice of the duty to register shall register immediately following actual notice of the duty through arrest, service, or arraignment. Failure to register as required under this subsection (4)(c) constitutes grounds for filing another charge of failing to register. Registering following arrest, service, or arraignment on charges shall not relieve the offender from criminal liability for failure to register prior to the filing of the original charge.

(d) The deadlines for the duty to register under this section do not relieve any sex offender of the duty to register under this section as it existed prior to July 28, 1991.

(5)(a) If any person required to register pursuant to this section changes his or her residence address within the same county, the person must send signed written notice of the change of address to the county sheriff within seventy-two hours of moving. If any person required to register pursuant to this section moves to a new county, the person must send signed written notice of the change of address at least fourteen days before moving to the county sheriff in the new county of residence and must register with that county sheriff within twenty-four hours of moving. The person must also send signed written notice within ten days of the change of address in the new county to the county sheriff with whom the person last registered. The county sheriff with whom the person last registered shall promptly forward the information concerning the change of address to the county sheriff for the county of the person's new residence. Upon receipt of notice of change of address to a new state, the county sheriff shall promptly forward the information regarding the change of address to the agency designated by the new state as the state's offender registration agency.

(b) It is an affirmative defense to a charge that the person failed to send a notice at least fourteen days in advance of moving as required under (a) of this subsection that the person did not know the location of his or her new residence at least fourteen days before moving. The defendant must establish the defense by a preponderance of the evidence and, to prevail on the defense, must also prove by a preponderance that the defendant sent the required notice within twenty-four hours of determining the new address.

(6)(a) Any person required to register under this section who lacks a fixed residence shall provide signed written notice to the sheriff of the county where he or she last registered within forty-eight hours excluding weekends and holidays after ceasing to have a fixed residence. The notice shall include the information required by subsection (3)(b) of this section, except the photograph and fingerprints. The county sheriff may, for reasonable cause, require the offender to provide a photograph and fingerprints. The sheriff shall forward this information to the sheriff of the county in which the person intends to reside, if the person intends to reside in another county.

(b) A person who lacks a fixed residence must report weekly, in person, to the sheriff of the county where he or she is registered. The weekly report shall be on a day specified by the county sheriff's office, and shall occur during normal business hours. ~~((The county sheriff's office may require the person to list the locations where the person has stayed during the last seven days.))~~ The person must keep an accurate accounting of where he or she stays during the week and provide it to the county sheriff upon request. The lack of a fixed residence is a factor that may be considered in determining an offender's risk level and shall make the offender subject to disclosure of information to the public at large pursuant to RCW 4.24.550.

(c) If any person required to register pursuant to this section does not have a fixed residence, it is an affirmative defense to the charge of failure to register, that he or she provided written notice to the sheriff of the county where he or she last registered within forty-eight hours excluding weekends and holidays after ceasing to have a fixed residence and has subsequently complied with the

requirements of subsections (4)(a)(vii) or (viii) and (6) of this section. To prevail, the person must prove the defense by a preponderance of the evidence.

~~(7) ((All offenders who are required to register pursuant to this section who have a fixed residence and who are designated as a risk level II or III must report, in person, every ninety days to the sheriff of the county where he or she is registered. Reporting shall be on a day specified by the county sheriff's office, and shall occur during normal business hours. An offender who complies with the ninety-day reporting requirement with no violations for a period of at least five years in the community may petition the superior court to be relieved of the duty to report every ninety days. The petition shall be made to the superior court in the county where the offender resides or reports under this section. The prosecuting attorney of the county shall be named and served as respondent in any such petition. The court shall relieve the petitioner of the duty to report if the petitioner shows, by a preponderance of the evidence, that the petitioner has complied with the reporting requirement for a period of at least five years and that the offender has not been convicted of a criminal violation of this section for a period of at least five years, and the court determines that the reporting no longer serves a public safety purpose. Failure to report, as specified, constitutes a violation of this section and is punishable as provided in subsection (11) of this section.~~

~~(8))~~ (8) A sex offender subject to registration requirements under this section who applies to change his or her name under RCW 4.24.130 or any other law shall submit a copy of the application to the county sheriff of the county of the person's residence and to the state patrol not fewer than five days before the entry of an order granting the name change. No sex offender under the requirement to register under this section at the time of application shall be granted an order changing his or her name if the court finds that doing so will interfere with legitimate law enforcement interests, except that no order shall be denied when the name change is requested for religious or legitimate cultural reasons or in recognition of marriage or dissolution of marriage. A sex offender under the requirement to register under this section who receives an order changing his or her name shall submit a copy of the order to the county sheriff of the county of the person's residence and to the state patrol within five days of the entry of the order.

~~((9))~~ (9) The county sheriff shall obtain a photograph of the individual and shall obtain a copy of the individual's fingerprints. A photograph may be taken at any time to update an individual's file.

~~((10))~~ (10) For the purpose of RCW 9A.44.130, 10.01.200, 43.43.540, 70.48.470, and 72.09.330:

- (a) "Sex offense" means:
 - (i) Any offense defined as a sex offense by RCW 9.94A.030;
 - (ii) Any violation under RCW 9A.44.096 (sexual misconduct with a minor in the second degree);
 - (iii) Any violation under RCW 9.68A.090 (communication with a minor for immoral purposes);
 - (iv) Any federal or out-of-state conviction for an offense that under the laws of this state would be classified as a sex offense under this subsection; and

(v) Any gross misdemeanor that is, under chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or criminal conspiracy to commit an offense that is classified as a sex offense under RCW 9.94A.030 or this subsection.

(b) "Kidnapping offense" means: (i) The crimes of kidnapping in the first degree, kidnapping in the second degree, and unlawful imprisonment, as defined in chapter 9A.40 RCW, where the victim is a minor and the offender is not the minor's parent; (ii) any offense that is, under chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or criminal conspiracy to commit an offense that is classified as a kidnapping offense under this subsection ~~((10))~~ (9)(b); and (iii) any federal or out-of-state conviction for an offense that under the laws of this state would be classified as a kidnapping offense under this subsection ~~((10))~~ (9)(b).

(c) "Employed" or "carries on a vocation" means employment that is full-time or part-time for a period of time exceeding fourteen days, or for an aggregate period of time exceeding thirty days during any calendar year. A person is employed or carries on a vocation whether the person's employment is financially compensated, volunteered, or for the purpose of government or educational benefit.

(d) "Student" means a person who is enrolled, on a full-time or part-time basis, in any public or private educational institution. An educational institution includes any secondary school, trade or professional institution, or institution of higher education.

~~((11))~~ (10)(a) A person who knowingly fails to comply with any of the requirements of this section is guilty of a class B felony if the crime for which the individual was convicted was a felony sex offense as defined in subsection ~~((10))~~ (9)(a) of this section or a federal or out-of-state conviction for an offense that under the laws of this state would be a felony sex offense as defined in subsection ~~((10))~~ (9)(a) of this section.

(b) If the crime for which the individual was convicted was other than a felony or a federal or out-of-state conviction for an offense that under the laws of this state would be other than a felony, violation of this section is a gross misdemeanor.

~~((12))~~ (11)(a) A person who knowingly fails to comply with any of the requirements of this section is guilty of a class C felony if the crime for which the individual was convicted was a felony kidnapping offense as defined in subsection ~~((10))~~ (9)(b) of this section or a federal or out-of-state conviction for an offense that under the laws of this state would be a felony kidnapping offense as defined in subsection ~~((10))~~ (9)(b) of this section.

(b) If the crime for which the individual was convicted was other than a felony or a federal or out-of-state conviction for an offense that under the laws of this state would be other than a felony, violation of this section is a gross misdemeanor.

~~((13))~~ (12) Except as may otherwise be provided by law, nothing in this section shall impose any liability upon a peace officer, including a county sheriff, or law enforcement agency, for failing to release information authorized under this section.

Sec. 2. RCW 9A.44.135 and 2000 c 91 s 1 are each amended to read as follows:

(1) When an offender registers with the county sheriff pursuant to RCW 9A.44.130, the county sheriff shall notify the police chief or town marshal of the jurisdiction in which the offender has registered to live. If the offender registers to live in an unincorporated area of the county, the sheriff shall make reasonable attempts to verify that the offender is residing at the registered address. If the offender registers to live in an incorporated city or town, the police chief or town marshal shall make reasonable attempts to verify that the offender is residing at the registered address. Reasonable attempts ~~((at verifying an address shall include at a minimum:~~

~~(a) For offenders who have not been previously designated sexually violent predators under chapter 71.09 RCW or an equivalent procedure in another jurisdiction, each year the chief law enforcement officer of the jurisdiction where the offender is registered to live shall send))~~ include verifying an offender's address pursuant to the grant program established under section 3 of this act. If the sheriff or police chief or town marshal does not participate in the grant program established under section 3 of this act, reasonable attempts require a yearly mailing by certified mail, with return receipt requested, a nonforwardable verification form to the offender at the offender's last registered address sent by the chief law enforcement officer of the jurisdiction where the offender is registered to live. ~~((b))~~ For offenders who have been previously designated sexually violent predators under chapter 71.09 RCW or the equivalent procedure in another jurisdiction, even if the designation has subsequently been removed, this mailing must be sent every ninety days ~~((the county sheriff shall send by certified mail, with return receipt requested, a nonforwardable verification form to the offender at the offender's last registered address))~~.

~~((c))~~ The offender must sign the verification form, state on the form whether he or she still resides at the last registered address, and return the form to the chief law enforcement officer of the jurisdiction where the offender is registered to live within ten days after receipt of the form.

(2) The chief law enforcement officer of the jurisdiction where the offender has registered to live shall make reasonable attempts to locate any sex offender who fails to return the verification form or who cannot be located at the registered address.

If the offender fails to return the verification form or the offender is not at the last registered address, the chief law enforcement officer of the jurisdiction where the offender has registered to live shall promptly forward this information to the county sheriff and to the Washington state patrol for inclusion in the central registry of sex offenders.

(3) When an offender notifies the county sheriff of a change to his or her residence address pursuant to RCW 9A.44.130, and the new address is in a different law enforcement jurisdiction, the county sheriff shall notify the police chief or town marshal of the jurisdiction from which the offender has moved.

(4) County sheriffs and police chiefs or town marshals may enter into agreements for the purposes of delegating the authority and obligation to fulfill the requirements of this section.

NEW SECTION. Sec. 3. A new section is added to chapter 36.28A RCW to read as follows:

(1) When funded, the Washington association of sheriffs and police chiefs shall administer a grant program to local governments for the purpose of verifying the address and residency of sex offenders and kidnapping offenders registered under RCW 9A.44.130 who reside within the county sheriff's jurisdiction. The Washington association of sheriffs and police chiefs shall:

(a) Enter into performance-based agreements with local governments to ensure that registered offender address and residency are verified:

(i) For level I offenders, every twelve months;

(ii) For level II offenders, every six months; and

(iii) For level III offenders, every three months;

(b) Collect performance data from all participating jurisdictions sufficient to evaluate the efficiency and effectiveness of the address and residency verification program; and

(c) Submit a report on the effectiveness of the address and residency verification program to the governor and the appropriate committees of the house of representatives and senate by December 31st each year.

(2) The Washington association of sheriffs and police chiefs may retain up to three percent of the amounts provided pursuant to this section for the cost of administration. Any funds not disbursed for address and residency verification or retained for administration may be allocated to local prosecutors for the prosecution costs associated with failing to register offenses.

(3) For the purposes of this section, unclassified offenders and kidnapping offenders shall be considered at risk level I unless in the opinion of the local jurisdiction a higher classification is in the interest of public safety.

(4) County sheriffs and police chiefs or town marshals may enter into agreements for the purposes of delegating the authority and obligation to fulfill the requirements of this section.

Passed by the House March 8, 2010.

Passed by the Senate March 3, 2010.

Approved by the Governor March 31, 2010.

Filed in Office of Secretary of State April 1, 2010.

CHAPTER 266

[Substitute Senate Bill 6361]

PUBLIC RECORDS EXEMPTION—SEX OFFENDER REGISTRATION ALERTS

AN ACT Relating to a person's identifying information submitted in the course of using the electronic statewide unified sex offender notification and registration program for the purpose of receiving notification regarding registered sex offenders; and amending RCW 36.28A.040 and 42.56.240.

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

Sec. 1. RCW 36.28A.040 and 2009 c 31 s 1 are each amended to read as follows:

(1) No later than July 1, 2002, the Washington association of sheriffs and police chiefs shall implement and operate an electronic statewide city and county jail booking and reporting system. The system shall serve as a central repository and instant information source for offender information and jail statistical data. The system may be placed on the Washington state justice information network and be capable of communicating electronically with every Washington state

city and county jail and with all other Washington state criminal justice agencies as defined in RCW 10.97.030.

(2) After the Washington association of sheriffs and police chiefs has implemented an electronic jail booking system as described in subsection (1) of this section, if a city or county jail or law enforcement agency receives state or federal funding to cover the entire cost of implementing or reconfiguring an electronic jail booking system, the city or county jail or law enforcement agency shall implement or reconfigure an electronic jail booking system that is in compliance with the jail booking system standards developed pursuant to subsection (4) of this section.

(3) After the Washington association of sheriffs and police chiefs has implemented an electronic jail booking system as described in subsection (1) of this section, city or county jails, or law enforcement agencies that operate electronic jail booking systems, but choose not to accept state or federal money to implement or reconfigure electronic jail booking systems, shall electronically forward jail booking information to the Washington association of sheriffs and police chiefs. At a minimum the information forwarded shall include the name of the offender, vital statistics, the date the offender was arrested, the offenses arrested for, the date and time an offender is released or transferred from a city or county jail, and if available, the mug shot. The electronic format in which the information is sent shall be at the discretion of the city or county jail, or law enforcement agency forwarding the information. City and county jails or law enforcement agencies that forward jail booking information under this subsection are not required to comply with the standards developed under subsection (4)(b) of this section.

(4) The Washington association of sheriffs and police chiefs shall appoint, convene, and manage a statewide jail booking and reporting system standards committee. The committee shall include representatives from the Washington association of sheriffs and police chiefs correction committee, the information service board's justice information committee, the judicial information system, at least two individuals who serve as jailers in a city or county jail, and other individuals that the Washington association of sheriffs and police chiefs places on the committee. The committee shall have the authority to:

(a) Develop and amend as needed standards for the statewide jail booking and reporting system and for the information that must be contained within the system. At a minimum, the system shall contain:

- (i) The offenses the individual has been charged with;
- (ii) Descriptive and personal information about each offender booked into a city or county jail. At a minimum, this information shall contain the offender's name, vital statistics, address, and mugshot;
- (iii) Information about the offender while in jail, which could be used to protect criminal justice officials that have future contact with the offender, such as medical conditions, acts of violence, and other behavior problems;
- (iv) Statistical data indicating the current capacity of each jail and the quantity and category of offenses charged;
- (v) The ability to communicate directly and immediately with the city and county jails and other criminal justice entities; and
- (vi) The date and time that an offender was released or transferred from a local jail;

(b) Develop and amend as needed operational standards for city and county jail booking systems, which at a minimum shall include the type of information collected and transmitted, and the technical requirements needed for the city and county jail booking system to communicate with the statewide jail booking and reporting system;

(c) Develop and amend as needed standards for allocating grants to city and county jails or law enforcement agencies that will be implementing or reconfiguring electronic jail booking systems.

(5)(a) A statewide automated victim information and notification system shall be added to the city and county jail booking and reporting system. The system shall:

(i) Automatically notify a registered victim via the victim's choice of telephone, letter, or e-mail when any of the following events affect an offender housed in any Washington state city or county jail or department of corrections facility:

- (A) Is transferred or assigned to another facility;
- (B) Is transferred to the custody of another agency outside the state;
- (C) Is given a different security classification;
- (D) Is released on temporary leave or otherwise;
- (E) Is discharged;
- (F) Has escaped; or
- (G) Has been served with a protective order that was requested by the victim;

(ii) Automatically notify a registered victim via the victim's choice of telephone, letter, or e-mail when an offender has:

(A) An upcoming court event where the victim is entitled to be present, if the court information is made available to the statewide automated victim information and notification system administrator at the Washington association of sheriffs and police chiefs;

(B) An upcoming parole, pardon, or community supervision hearing; or

(C) A change in the offender's parole, probation, or community supervision status including:

- (I) A change in the offender's supervision status; or
- (II) A change in the offender's address;

(iii) Automatically notify a registered victim via the victim's choice of telephone, letter, or e-mail when a sex offender has:

(A) Updated his or her profile information with the state sex offender registry; or

(B) Become noncompliant with the state sex offender registry;

(iv) Permit a registered victim to receive the most recent status report for an offender in any Washington state city and county jail, department of corrections, or sex offender registry by calling the statewide automated victim information and notification system on a toll-free telephone number or by accessing the statewide automated victim information and notification system via a public web site. All registered victims calling the statewide automated victim information and notification system will be given the option to have live operator assistance to help use the program on a twenty-four hour, three hundred sixty-five day per year basis;

(v) Permit a crime victim to register, or registered victim to update, the victim's registration information for the statewide automated victim information and notification system by calling a toll-free telephone number or by accessing a public web site; and

(vi) Ensure that the offender information contained within the statewide automated victim information and notification system is updated frequently to timely notify a crime victim that an offender has been released or discharged or has escaped. However, the failure of the statewide automated victim information and notification system to provide notice to the victim does not establish a separate cause of action by the victim against state officials, local officials, law enforcement officers, or any related correctional authorities.

(b) Participation in the statewide automated victim information and notification program satisfies any obligation to notify the crime victim of an offender's custody status and the status of the offender's upcoming court events so long as:

(i) Information making offender and case data available is provided on a timely basis to the statewide automated victim information and notification program; and

(ii) Information a victim submits to register and participate in the victim notification system is only used for the sole purpose of victim notification.

(c) Automated victim information and notification systems in existence and operational as of July 22, 2007, shall not be required to participate in the statewide system.

(6) When funded, the Washington association of sheriffs and police chiefs shall implement and operate an electronic statewide unified sex offender notification and registration program. Information submitted to the program by a person for the purpose of receiving notification regarding a registered sex offender, including the person's name, residential address, and e-mail address, are exempt from public inspection and copying under chapter 42.56 RCW.

(7) An appointed or elected official, public employee, or public agency as defined in RCW 4.24.470, or combination of units of government and its employees, as provided in RCW 36.28A.010, are immune from civil liability for damages for any release of information or the failure to release information related to the statewide automated victim information and notification system, the electronic statewide unified sex offender notification and registration program, and the jail booking and reporting system as described in this section, so long as the release was without gross negligence. The immunity provided under this subsection applies to the release of relevant and necessary information to other public officials, public employees, or public agencies, and to the general public.

Sec. 2. RCW 42.56.240 and 2008 c 276 s 202 are each amended to read as follows:

The following investigative, law enforcement, and crime victim information is exempt from public inspection and copying under this chapter:

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

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

(3) Any records of investigative reports prepared by any state, county, municipal, or other law enforcement agency pertaining to sex offenses contained in chapter 9A.44 RCW or sexually violent offenses as defined in RCW 71.09.020, which have been transferred to the Washington association of sheriffs and police chiefs for permanent electronic retention and retrieval pursuant to RCW 40.14.070(2)(b);

(4) License applications under RCW 9.41.070; copies of license applications or information on the applications may be released to law enforcement or corrections agencies;

(5) Information revealing the identity of child victims of sexual assault who are under age eighteen. Identifying information means the child victim's name, address, location, photograph, and in cases in which the child victim is a relative or stepchild of the alleged perpetrator, identification of the relationship between the child and the alleged perpetrator; ~~(and)~~

(6) The statewide gang database referenced in RCW 43.43.762; and

(7) Information submitted to the statewide unified sex offender notification and registration program under RCW 36.28A.040(6) by a person for the purpose of receiving notification regarding a registered sex offender, including the person's name, residential address, and e-mail address.

Passed by the Senate February 11, 2010.

Passed by the House March 5, 2010.

Approved by the Governor March 31, 2010.

Filed in Office of Secretary of State April 1, 2010.

CHAPTER 267

[Substitute Senate Bill 6414]

SEX AND KIDNAPPING OFFENDERS—REGISTRATION—ADMINISTRATION

AN ACT Relating to improving the administration and efficiency of sex and kidnapping offender registration; amending RCW 9A.44.130, 9A.44.140, 9A.44.145, 9.94A.030, 9.94A.501, 9.94A.701, 9.94A.702, and 70.48.470; adding new sections to chapter 9A.44 RCW; creating new sections; and prescribing penalties.

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

NEW SECTION. Sec. 1. For the purposes of RCW 9A.44.130 through 9A.44.145, 10.01.200, 43.43.540, 70.48.470, and 72.09.330, the following definitions apply:

(1) "Business day" means any day other than Saturday, Sunday, or a legal local, state, or federal holiday.

(2) "Conviction" means any adult conviction or juvenile adjudication for a sex offense or kidnapping offense.

(3) "Disqualifying offense" means a conviction for: Any offense that is a felony; a sex offense as defined in this section; a crime against children or persons as defined in RCW 43.43.830(5) and 9.94A.411(2)(a); an offense with a domestic violence designation as provided in RCW 10.99.020; permitting the commercial sexual abuse of a minor as defined in RCW 9.68A.103; or any violation of chapter 9A.88 RCW.

(4) "Employed" or "carries on a vocation" means employment that is full time or part time for a period of time exceeding fourteen days, or for an aggregate period of time exceeding thirty days during any calendar year. A person is employed or carries on a vocation whether the person's employment is financially compensated, volunteered, or for the purpose of government or educational benefit.

(5) "Kidnapping offense" means:

(a) The crimes of kidnapping in the first degree, kidnapping in the second degree, and unlawful imprisonment, as defined in chapter 9A.40 RCW, where the victim is a minor and the offender is not the minor's parent;

(b) Any offense that is, under chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or criminal conspiracy to commit an offense that is classified as a kidnapping offense under this subsection; and

(c) Any federal or out-of-state conviction for: An offense for which the person would be required to register as a kidnapping offender while residing in the state of conviction; or, if not required to register in the state of conviction, an offense that under the laws of this state would be classified as a kidnapping offense under this subsection, unless a court in the person's state of conviction has made an individualized determination that the person should not be required to register.

(6) "Sex offense" means:

(a) Any offense defined as a sex offense by RCW 9.94A.030;

(b) Any violation under RCW 9A.44.096 (sexual misconduct with a minor in the second degree);

(c) Any violation under RCW 9.68A.090 (communication with a minor for immoral purposes);

(d) Any federal or out-of-state conviction for: An offense for which the person would be required to register as a sex offender while residing in the state of conviction; or, if not required to register in the state of conviction, an offense that under the laws of this state would be classified as a sex offense under this subsection, unless a court in the person's state of conviction has made an individualized determination that the person should not be required to register; and

(e) Any gross misdemeanor that is, under chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or criminal conspiracy to commit an offense that is classified as a sex offense under RCW 9.94A.030 or this subsection.

(7) "Student" means a person who is enrolled, on a full-time or part-time basis, in any public or private educational institution. An educational institution includes any secondary school, trade or professional institution, or institution of higher education.

Sec. 2. RCW 9A.44.130 and 2008 c 230 s 1 are each amended to read as follows:

(1)(a) Any adult or juvenile residing whether or not the person has a fixed residence, or who is a student, is employed, or carries on a vocation in this state who has been found to have committed or has been convicted of any sex offense or kidnapping offense, or who has been found not guilty by reason of insanity under chapter 10.77 RCW of committing any sex offense or kidnapping offense, shall register with the county sheriff for the county of the person's residence, or if the person is not a resident of Washington, the county of the person's school, or place of employment or vocation, or as otherwise specified in this section. ~~((Where))~~ When a person required to register under this section is in custody of the state department of corrections, the state department of social and health services, a local division of youth services, or a local jail or juvenile detention facility as a result of a sex offense or kidnapping offense, the person shall also register at the time of release from custody with an official designated by the agency that has jurisdiction over the person.

(b) Any adult or juvenile who is required to register under (a) of this subsection:

(i) Who is attending, or planning to attend, a public or private school regulated under Title 28A RCW or chapter 72.40 RCW shall, within ~~((ten))~~ three business days ~~((of enrolling or))~~ prior to arriving at the school to attend classes, ~~((whichever is earlier,))~~ notify the sheriff for the county of the person's residence of the person's intent to attend the school, and the sheriff shall promptly notify the principal of the school;

(ii) Who is admitted to a public or private institution of higher education shall, within ~~((ten days of enrolling or by the first))~~ three business days ~~((after))~~ prior to arriving at the institution, ~~((whichever is earlier,))~~ notify the sheriff for the county of the person's residence of the person's intent to attend the institution;

(iii) Who gains employment at a public or private institution of higher education shall, within ~~((ten days of accepting employment or by the first))~~ three business days ~~((after))~~ prior to commencing work at the institution, ~~((whichever is earlier,))~~ notify the sheriff for the county of the person's residence of the person's employment by the institution; or

(iv) Whose enrollment or employment at a public or private institution of higher education is terminated shall, within ~~((ten))~~ three business days of such termination, notify the sheriff for the county of the person's residence of the person's termination of enrollment or employment at the institution.

~~((c))~~ ~~((Persons required to register under this section who are enrolled in a public or private institution of higher education on June 11, 1998, or a public or private school regulated under Title 28A RCW or chapter 72.40 RCW on September 1, 2006, must notify the county sheriff immediately.~~

~~((d))~~ The sheriff shall notify the school's principal or institution's department of public safety and shall provide that department with the same information provided to a county sheriff under subsection (3) of this section.

~~((e))~~ ~~((d))~~(i) A principal receiving notice under this subsection must disclose the information received from the sheriff under (b) of this subsection as follows:

(A) If the student who is required to register as a sex offender is classified as a risk level II or III, the principal shall provide the information received to every teacher of any student required to register under (a) of this subsection and to any

other personnel who, in the judgment of the principal, supervises the student or for security purposes should be aware of the student's record;

(B) If the student who is required to register as a sex offender is classified as a risk level I, the principal shall provide the information received only to personnel who, in the judgment of the principal, for security purposes should be aware of the student's record.

(ii) Any information received by a principal or school personnel under this subsection is confidential and may not be further disseminated except as provided in RCW 28A.225.330, other statutes or case law, and the family and educational and privacy rights act of 1994, 20 U.S.C. Sec. 1232g et seq.

(2) This section may not be construed to confer any powers pursuant to RCW 4.24.550 upon the public safety department of any public or private school or institution of higher education.

(3)(a) The person shall provide the following information when registering: (i) Name; (ii) complete residential address; (iii) date and place of birth; (iv) place of employment; (v) crime for which convicted; (vi) date and place of conviction; (vii) aliases used; (viii) social security number; (ix) photograph; and (x) fingerprints.

(b) Any person who lacks a fixed residence shall provide the following information when registering: (i) Name; (ii) date and place of birth; (iii) place of employment; (iv) crime for which convicted; (v) date and place of conviction; (vi) aliases used; (vii) social security number; (viii) photograph; (ix) fingerprints; and (x) where he or she plans to stay.

(4)(a) Offenders shall register with the county sheriff within the following deadlines(~~For purposes of this section the term "conviction" refers to adult convictions and juvenile adjudications for sex offenses or kidnapping offenses~~):

(i) OFFENDERS IN CUSTODY. (A) Sex offenders who committed a sex offense on, before, or after February 28, 1990, and who, on or after July 28, 1991, are in custody, as a result of that offense, of the state department of corrections, the state department of social and health services, a local division of youth services, or a local jail or juvenile detention facility, and (B) kidnapping offenders who on or after July 27, 1997, are in custody of the state department of corrections, the state department of social and health services, a local division of youth services, or a local jail or juvenile detention facility, must register at the time of release from custody with an official designated by the agency that has jurisdiction over the offender. The agency shall within three days forward the registration information to the county sheriff for the county of the offender's anticipated residence. The offender must also register within (~~twenty four hours~~) three business days from the time of release with the county sheriff for the county of the person's residence, or if the person is not a resident of Washington, the county of the person's school, or place of employment or vocation. The agency that has jurisdiction over the offender shall provide notice to the offender of the duty to register. (~~Failure to register at the time of release and within twenty four hours of release constitutes a violation of this section and is punishable as provided in subsection (1) of this section.~~)

When the agency with jurisdiction intends to release an offender with a duty to register under this section, and the agency has knowledge that the offender is eligible for developmental disability services from the department of social and health services, the agency shall notify the division of developmental disabilities

of the release. Notice shall occur not more than thirty days before the offender is to be released. The agency and the division shall assist the offender in meeting the initial registration requirement under this section. Failure to provide such assistance shall not constitute a defense for any violation of this section.

(ii) OFFENDERS NOT IN CUSTODY BUT UNDER STATE OR LOCAL JURISDICTION. Sex offenders who, on July 28, 1991, are not in custody but are under the jurisdiction of the indeterminate sentence review board or under the department of corrections' active supervision, as defined by the department of corrections, the state department of social and health services, or a local division of youth services, for sex offenses committed before, on, or after February 28, 1990, must register within ten days of July 28, 1991. Kidnapping offenders who, on July 27, 1997, are not in custody but are under the jurisdiction of the indeterminate sentence review board or under the department of corrections' active supervision, as defined by the department of corrections, the state department of social and health services, or a local division of youth services, for kidnapping offenses committed before, on, or after July 27, 1997, must register within ten days of July 27, 1997. A change in supervision status of a sex offender who was required to register under this subsection (4)(a)(ii) as of July 28, 1991, or a kidnapping offender required to register as of July 27, 1997, shall not relieve the offender of the duty to register or to reregister following a change in residence. ~~((The obligation to register shall only cease pursuant to RCW 9A.44.140.))~~

(iii) OFFENDERS UNDER FEDERAL JURISDICTION. Sex offenders who, on or after July 23, 1995, and kidnapping offenders who, on or after July 27, 1997, as a result of that offense are in the custody of the United States bureau of prisons or other federal or military correctional agency for sex offenses committed before, on, or after February 28, 1990, or kidnapping offenses committed on, before, or after July 27, 1997, must register within ~~((twenty-four hours))~~ three business days from the time of release with the county sheriff for the county of the person's residence, or if the person is not a resident of Washington, the county of the person's school, or place of employment or vocation. Sex offenders who, on July 23, 1995, are not in custody but are under the jurisdiction of the United States bureau of prisons, United States courts, United States parole commission, or military parole board for sex offenses committed before, on, or after February 28, 1990, must register within ten days of July 23, 1995. Kidnapping offenders who, on July 27, 1997, are not in custody but are under the jurisdiction of the United States bureau of prisons, United States courts, United States parole commission, or military parole board for kidnapping offenses committed before, on, or after July 27, 1997, must register within ten days of July 27, 1997. A change in supervision status of a sex offender who was required to register under this subsection (4)(a)(iii) as of July 23, 1995, or a kidnapping offender required to register as of July 27, 1997 shall not relieve the offender of the duty to register or to reregister following a change in residence, or if the person is not a resident of Washington, the county of the person's school, or place of employment or vocation. ~~((The obligation to register shall only cease pursuant to RCW 9A.44.140.))~~

(iv) OFFENDERS WHO ARE CONVICTED BUT NOT CONFINED. Sex offenders who are convicted of a sex offense on or after July 28, 1991, for a sex offense that was committed on or after February 28, 1990, and kidnapping

offenders who are convicted on or after July 27, 1997, for a kidnapping offense that was committed on or after July 27, 1997, but who are not sentenced to serve a term of confinement immediately upon sentencing, shall report to the county sheriff to register (~~(immediately upon completion)~~) within three business days of being sentenced.

(v) OFFENDERS WHO ARE NEW RESIDENTS OR RETURNING WASHINGTON RESIDENTS. Sex offenders and kidnapping offenders who move to Washington state from another state or a foreign country that are not under the jurisdiction of the state department of corrections, the indeterminate sentence review board, or the state department of social and health services at the time of moving to Washington, must register within three business days of establishing residence or reestablishing residence if the person is a former Washington resident. The duty to register under this subsection applies to sex offenders convicted under the laws of another state or a foreign country, federal or military statutes for offenses committed before, on, or after February 28, 1990, or Washington state for offenses committed before, on, or after February 28, 1990, and to kidnapping offenders convicted under the laws of another state or a foreign country, federal or military statutes, or Washington state for offenses committed before, on, or after July 27, 1997. Sex offenders and kidnapping offenders from other states or a foreign country who, when they move to Washington, are under the jurisdiction of the department of corrections, the indeterminate sentence review board, or the department of social and health services must register within (~~(twenty-four hours)~~) three business days of moving to Washington. The agency that has jurisdiction over the offender shall notify the offender of the registration requirements before the offender moves to Washington.

(vi) OFFENDERS FOUND NOT GUILTY BY REASON OF INSANITY. Any adult or juvenile who has been found not guilty by reason of insanity under chapter 10.77 RCW of (A) committing a sex offense on, before, or after February 28, 1990, and who, on or after July 23, 1995, is in custody, as a result of that finding, of the state department of social and health services, or (B) committing a kidnapping offense on, before, or after July 27, 1997, and who on or after July 27, 1997, is in custody, as a result of that finding, of the state department of social and health services, must register within (~~(twenty-four hours)~~) three business days from the time of release with the county sheriff for the county of the person's residence. The state department of social and health services shall provide notice to the adult or juvenile in its custody of the duty to register. Any adult or juvenile who has been found not guilty by reason of insanity of committing a sex offense on, before, or after February 28, 1990, but who was released before July 23, 1995, or any adult or juvenile who has been found not guilty by reason of insanity of committing a kidnapping offense but who was released before July 27, 1997, shall be required to register within (~~(twenty-four hours)~~) three business days of receiving notice of this registration requirement. (~~(The state department of social and health services shall make reasonable attempts within available resources to notify sex offenders who were released before July 23, 1995, and kidnapping offenders who were released before July 27, 1997. Failure to register within twenty-four hours of release, or of receiving notice, constitutes a violation of this section and is punishable as provided in subsection (1) of this section.)~~)

(vii) OFFENDERS WHO LACK A FIXED RESIDENCE. Any person who lacks a fixed residence and leaves the county in which he or she is registered and enters and remains within a new county for twenty-four hours is required to register with the county sheriff not more than ~~((twenty-four hours))~~ three business days after entering the county and provide the information required in subsection (3)(b) of this section.

(viii) OFFENDERS WHO LACK A FIXED RESIDENCE AND WHO ARE UNDER SUPERVISION. Offenders who lack a fixed residence and who are under the supervision of the department shall register in the county of their supervision.

(ix) OFFENDERS WHO MOVE TO, WORK, CARRY ON A VOCATION, OR ATTEND SCHOOL IN ANOTHER STATE. Offenders required to register in Washington, who move to another state, or who work, carry on a vocation, or attend school in another state shall register a new address, fingerprints, and photograph with the new state within ~~((ten))~~ three business days after establishing residence, or after beginning to work, carry on a vocation, or attend school in the new state. The person must also send written notice within ~~((ten))~~ three business days of moving to the new state or to a foreign country to the county sheriff with whom the person last registered in Washington state. The county sheriff shall promptly forward this information to the Washington state patrol.

(b) ~~((Failure to register within the time required under this section constitutes a per se violation of this section and is punishable as provided in subsection (11) of this section.))~~ The county sheriff shall not be required to determine whether the person is living within the county.

(c) An arrest on charges of failure to register, service of an information, or a complaint for a violation of ~~((this))~~ section 3 of this act, or arraignment on charges for a violation of ~~((this))~~ section 3 of this act, constitutes actual notice of the duty to register. Any person charged with the crime of failure to register under ~~((this))~~ section 3 of this act who asserts as a defense the lack of notice of the duty to register shall register ~~((immediately))~~ within three business days following actual notice of the duty through arrest, service, or arraignment. Failure to register as required under this subsection (4)(c) constitutes grounds for filing another charge of failing to register. Registering following arrest, service, or arraignment on charges shall not relieve the offender from criminal liability for failure to register prior to the filing of the original charge.

(d) The deadlines for the duty to register under this section do not relieve any sex offender of the duty to register under this section as it existed prior to July 28, 1991.

(5)(a) If any person required to register pursuant to this section changes his or her residence address within the same county, the person must ~~((send))~~ provide, by certified mail, with return receipt requested or in person, signed written notice of the change of address to the county sheriff within ~~((seventy-two hours))~~ three business days of moving.

(b) If any person required to register pursuant to this section moves to a new county, the person must ~~((send signed written notice of the change of address at least fourteen days before moving to the county sheriff in the new county of residence and must))~~ register with that county sheriff within ~~((twenty-four hours))~~ three business days of moving. Within three business days, the person

must also ~~((send))~~ provide, by certified mail, with return receipt requested or in person, signed written notice ~~((within ten days))~~ of the change of address in the new county to the county sheriff with whom the person last registered. The county sheriff with whom the person last registered shall promptly forward the information concerning the change of address to the county sheriff for the county of the person's new residence. Upon receipt of notice of change of address to a new state, the county sheriff shall promptly forward the information regarding the change of address to the agency designated by the new state as the state's offender registration agency.

~~((b) It is an affirmative defense to a charge that the person failed to send a notice at least fourteen days in advance of moving as required under (a) of this subsection that the person did not know the location of his or her new residence at least fourteen days before moving. The defendant must establish the defense by a preponderance of the evidence and, to prevail on the defense, must also prove by a preponderance that the defendant sent the required notice within twenty-four hours of determining the new address.))~~

(6)(a) Any person required to register under this section who lacks a fixed residence shall provide signed written notice to the sheriff of the county where he or she last registered within ~~((forty-eight hours excluding weekends and holidays))~~ three business days after ceasing to have a fixed residence. The notice shall include the information required by subsection (3)(b) of this section, except the photograph and fingerprints. The county sheriff may, for reasonable cause, require the offender to provide a photograph and fingerprints. The sheriff shall forward this information to the sheriff of the county in which the person intends to reside, if the person intends to reside in another county.

(b) A person who lacks a fixed residence must report weekly, in person, to the sheriff of the county where he or she is registered. The weekly report shall be on a day specified by the county sheriff's office, and shall occur during normal business hours. The county sheriff's office may require the person to list the locations where the person has stayed during the last seven days. The lack of a fixed residence is a factor that may be considered in determining an offender's risk level and shall make the offender subject to disclosure of information to the public at large pursuant to RCW 4.24.550.

(c) If any person required to register pursuant to this section does not have a fixed residence, it is an affirmative defense to the charge of failure to register, that he or she provided written notice to the sheriff of the county where he or she last registered within ~~((forty-eight hours excluding weekends and holidays after))~~ three business days of ceasing to have a fixed residence and has subsequently complied with the requirements of subsections (4)(a)(vii) or (viii) and (6) of this section. To prevail, the person must prove the defense by a preponderance of the evidence.

(7) All offenders who are required to register pursuant to this section who have a fixed residence and who are designated as a risk level II or III must report, in person, every ninety days to the sheriff of the county where he or she is registered. Reporting shall be on a day specified by the county sheriff's office, and shall occur during normal business hours. An offender who complies with the ninety-day reporting requirement with no violations for a period of at least five years in the community may petition the superior court to be relieved of the duty to report every ninety days. The petition shall be made to the superior court

in the county where the offender resides or reports under this section. The prosecuting attorney of the county shall be named and served as respondent in any such petition. The court shall relieve the petitioner of the duty to report if the petitioner shows, by a preponderance of the evidence, that the petitioner has complied with the reporting requirement for a period of at least five years and that the offender has not been convicted of a criminal violation of this section for a period of at least five years, and the court determines that the reporting no longer serves a public safety purpose. ~~((Failure to report, as specified, constitutes a violation of this section and is punishable as provided in subsection (11) of this section.))~~

(8) A sex offender subject to registration requirements under this section who applies to change his or her name under RCW 4.24.130 or any other law shall submit a copy of the application to the county sheriff of the county of the person's residence and to the state patrol not fewer than five days before the entry of an order granting the name change. No sex offender under the requirement to register under this section at the time of application shall be granted an order changing his or her name if the court finds that doing so will interfere with legitimate law enforcement interests, except that no order shall be denied when the name change is requested for religious or legitimate cultural reasons or in recognition of marriage or dissolution of marriage. A sex offender under the requirement to register under this section who receives an order changing his or her name shall submit a copy of the order to the county sheriff of the county of the person's residence and to the state patrol within ~~((five))~~ three business days of the entry of the order.

(9) The county sheriff shall obtain a photograph of the individual and shall obtain a copy of the individual's fingerprints. A photograph may be taken at any time to update an individual's file.

(10) ~~((For the purpose of RCW 9A.44.130, 10.01.200, 43.43.540, 70.48.470, and 72.09.330:~~

~~(a) "Sex offense" means:~~

~~(i) Any offense defined as a sex offense by RCW 9.94A.030;~~

~~(ii) Any violation under RCW 9A.44.096 (sexual misconduct with a minor in the second degree);~~

~~(iii) Any violation under RCW 9.68A.090 (communication with a minor for immoral purposes);~~

~~(iv) Any federal or out of state conviction for an offense that under the laws of this state would be classified as a sex offense under this subsection; and~~

~~(v) Any gross misdemeanor that is, under chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or criminal conspiracy to commit an offense that is classified as a sex offense under RCW 9.94A.030 or this subsection.~~

~~(b) "Kidnapping offense" means: (i) The crimes of kidnapping in the first degree, kidnapping in the second degree, and unlawful imprisonment, as defined in chapter 9A.40 RCW, where the victim is a minor and the offender is not the minor's parent; (ii) any offense that is, under chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or criminal conspiracy to commit an offense that is classified as a kidnapping offense under this subsection (10)(b); and (iii) any federal or out of state conviction for an offense that under the laws of this state would be classified as a kidnapping offense under this subsection (10)(b).~~

~~(c) "Employed" or "carries on a vocation" means employment that is full-time or part-time for a period of time exceeding fourteen days, or for an aggregate period of time exceeding thirty days during any calendar year. A person is employed or carries on a vocation whether the person's employment is financially compensated, volunteered, or for the purpose of government or educational benefit.~~

~~(d) "Student" means a person who is enrolled, on a full-time or part-time basis, in any public or private educational institution. An educational institution includes any secondary school, trade or professional institution, or institution of higher education.~~

~~(11)(a) A person who knowingly fails to comply with any of the requirements of this section is guilty of a class B felony if the crime for which the individual was convicted was a felony sex offense as defined in subsection (10)(a) of this section or a federal or out-of-state conviction for an offense that under the laws of this state would be a felony sex offense as defined in subsection (10)(a) of this section.~~

~~(b) If the crime for which the individual was convicted was other than a felony or a federal or out-of-state conviction for an offense that under the laws of this state would be other than a felony, violation of this section is a gross misdemeanor.~~

~~(12)(a) A person who knowingly fails to comply with any of the requirements of this section is guilty of a class C felony if the crime for which the individual was convicted was a felony kidnapping offense as defined in subsection (10)(b) of this section or a federal or out-of-state conviction for an offense that under the laws of this state would be a felony kidnapping offense as defined in subsection (10)(b) of this section.~~

~~(b) If the crime for which the individual was convicted was other than a felony or a federal or out-of-state conviction for an offense that under the laws of this state would be other than a felony, violation of this section is a gross misdemeanor.~~

~~(13)) Except as may otherwise be provided by law, nothing in this section shall impose any liability upon a peace officer, including a county sheriff, or law enforcement agency, for failing to release information authorized under this section.~~

NEW SECTION. Sec. 3. (1) A person commits the crime of failure to register as a sex offender if the person has a duty to register under RCW 9A.44.130 for a felony sex offense as defined in that section and knowingly fails to comply with any of the requirements of RCW 9A.44.130.

(a) Except as provided in (b) of this subsection, the failure to register as a sex offender pursuant to this subsection is a class C felony.

(b) If a person has been convicted in this state of a felony failure to register as a sex offender on two or more prior occasions, the failure to register under this subsection is a class B felony.

(2) A person is guilty of failure to register as a sex offender if the person has a duty to register under RCW 9A.44.130 for a sex offense other than a felony and knowingly fails to comply with any of the requirements of RCW 9A.44.130. The failure to register as a sex offender under this subsection is a gross misdemeanor.

(3) A person commits the crime of failure to register as a kidnapping offender if the person has a duty to register under RCW 9A.44.130 for a kidnapping offense and knowingly fails to comply with any of the requirements of RCW 9A.44.130.

(a) If the person has a duty to register for a felony kidnapping offense, the failure to register as a kidnapping offender is a class C felony.

(b) If the person has a duty to register for a kidnapping offense other than a felony, the failure to register as a kidnapping offender is a gross misdemeanor.

(4) Unless relieved of the duty to register pursuant to sections 5 and 6 of this act, a violation of this section is an ongoing offense for purposes of the statute of limitations under RCW 9A.04.080.

Sec. 4. RCW 9A.44.140 and 2002 c 25 s 1 are each amended to read as follows:

~~((+))~~ The duty to register under RCW 9A.44.130 shall ~~((end: (a)))~~ continue for the duration provided in this section.

(1) For a person convicted in this state of a class A felony or an offense listed in ((subsection)) section 6(5) of this ((section)) act, or a person convicted in this state of any sex offense or kidnapping offense who has one or more prior convictions for a sex offense or kidnapping offense((: Such person may only be relieved of the duty to register under subsection (3) or (4) of this section)), the duty to register shall continue indefinitely.

~~((b))~~ (2) For a person convicted in this state of a class B felony((: and the person)) who does not have one or more prior convictions for a sex offense or kidnapping offense and ((the person's)) whose current offense is not listed in ((subsection)) section 6(5) of this ((section:)) act, the duty to register shall end fifteen years after the last date of release from confinement, if any, (including full-time residential treatment) pursuant to the conviction, or entry of the judgment and sentence, if the person has spent fifteen consecutive years in the community without being convicted of ((any new)) a disqualifying offense(s) during that time period.

~~((c))~~ (3) For a person convicted in this state of a class C felony, a violation of RCW 9.68A.090 or 9A.44.096, or an attempt, solicitation, or conspiracy to commit a class C felony, and the person does not have one or more prior convictions for a sex offense or kidnapping offense and the person's current offense is not listed in ((subsection)) section 6(5) of this ((section:)) act, the duty to register shall end ten years after the last date of release from confinement, if any, (including full-time residential treatment) pursuant to the conviction, or entry of the judgment and sentence, if the person has spent ten consecutive years in the community without being convicted of ((any new)) a disqualifying offense(s) during that time period.

~~((2))~~ The provisions of subsection (1) of this section shall apply equally to a person who has been found not guilty by reason of insanity under chapter 10.77 RCW of a sex offense or kidnapping offense.

(3)(a) Except as provided in (b) of this subsection, any person having a duty to register under RCW 9A.44.130 may petition the superior court to be relieved of that duty, if the person has spent ten consecutive years in the community without being convicted of any new offenses. The petition shall be made to the court in which the petitioner was convicted of the offense that subjects him or her to the duty to register, or, in the case of convictions in other states, a foreign

~~country, or a federal or military court, to the court in Thurston county. The prosecuting attorney of the county shall be named and served as the respondent in any such petition. The court shall consider the nature of the registrable offense committed, and the criminal and relevant noncriminal behavior of the petitioner both before and after conviction, and may consider other factors. Except as provided in subsection (4) of this section, the court may relieve the petitioner of the duty to register only if the petitioner shows, with clear and convincing evidence, that future registration of the petitioner will not serve the purposes of RCW 9A.44.130, 10.01.200, 43.43.540, 46.20.187, 70.48.470, and 72.09.330.~~

~~(b)(i) The court may not relieve a person of the duty to register if the person has been determined to be a sexually violent predator as defined in RCW 71.09.020, or has been convicted of a sex offense or kidnapping offense that is a class A felony and that was committed with forcible compulsion on or after June 8, 2000.~~

~~(ii) The court may not relieve a person of the duty to register if the person has been convicted of one aggravated offense or more than one sexually violent offense, as defined in subsection (5) of this section, and the offense or offenses were committed on or after March 12, 2002.~~

~~(c) Any person subject to (b) of this subsection or subsection (5) of this section may petition the court to be exempted from any community notification requirements that the person may be subject to fifteen years after the later of the entry of the judgment and sentence or the last date of release from confinement, including full-time residential treatment, pursuant to the conviction, if the person has spent the time in the community without being convicted of any new offense.~~

~~(4) An offender having a duty to register under RCW 9A.44.130 for a sex offense or kidnapping offense committed when the offender was a juvenile may petition the superior court to be relieved of that duty. The court shall consider the nature of the registrable offense committed, and the criminal and relevant noncriminal behavior of the petitioner both before and after adjudication, and may consider other factors.~~

~~(a) The court may relieve the petitioner of the duty to register for a sex offense or kidnapping offense that was committed while the petitioner was fifteen years of age or older only if the petitioner shows, with clear and convincing evidence, that future registration of the petitioner will not serve the purposes of RCW 9A.44.130, 10.01.200, 43.43.540, 46.20.187, 70.48.470, and 72.09.330.~~

~~(b) The court may relieve the petitioner of the duty to register for a sex offense or kidnapping offense that was committed while the petitioner was under the age of fifteen if the petitioner (i) has not been adjudicated of any additional sex offenses or kidnapping offenses during the twenty-four months following the adjudication for the offense giving rise to the duty to register, and (ii) proves by a preponderance of the evidence that future registration of the petitioner will not serve the purposes of RCW 9A.44.130, 10.01.200, 43.43.540, 46.20.187, 70.48.470, and 72.09.330.~~

~~This subsection shall not apply to juveniles prosecuted as adults.~~

~~(5)(a) A person who has been convicted of an aggravated offense, or has been convicted of one or more prior sexually violent offenses or criminal~~

offenses against a victim who is a minor, as defined in (b) of this subsection may only be relieved of the duty to register under subsection (3)(b) of this section. This provision shall apply to convictions for crimes committed on or after July 22, 2001.

~~(b) Unless the context clearly requires otherwise, the following definitions apply only to the federal lifetime registration requirements under this subsection:~~

~~(i) "Aggravated offense" means an adult conviction that meets the definition of 18 U.S.C. Sec. 2241, which is limited to the following:~~

~~(A) Any sex offense involving sexual intercourse or sexual contact where the victim is under twelve years of age;~~

~~(B) RCW 9A.44.040 (rape in the first degree), RCW 9A.44.073 (rape of a child in the first degree), or RCW 9A.44.083 (child molestation in the first degree);~~

~~(C) Any of the following offenses when committed by forcible compulsion or by the offender administering, by threat or force or without the knowledge or permission of that person, a drug, intoxicant, or other similar substance that substantially impairs the ability of that person to appraise or control conduct: RCW 9A.44.050 (rape in the second degree), RCW 9A.44.100 (indecent liberties), RCW 9A.44.160 (custodial sexual misconduct in the first degree), RCW 9A.64.020 (incest), or RCW 9.68A.040 (sexual exploitation of a minor);~~

~~(D) Any of the following offenses when committed by forcible compulsion or by the offender administering, by threat or force or without the knowledge or permission of that person, a drug, intoxicant, or other similar substance that substantially impairs the ability of that person to appraise or control conduct, if the victim is twelve years of age or over but under sixteen years of age and the offender is eighteen years of age or over and is more than forty-eight months older than the victim: RCW 9A.44.076 (rape of a child in the second degree), RCW 9A.44.079 (rape of a child in the third degree), RCW 9A.44.086 (child molestation in the second degree), or RCW 9A.44.089 (child molestation in the third degree);~~

~~(E) A felony with a finding of sexual motivation under RCW 9.94A.835 where the victim is under twelve years of age or that is committed by forcible compulsion or by the offender administering, by threat or force or without the knowledge or permission of that person, a drug, intoxicant, or other similar substance that substantially impairs the ability of that person to appraise or control conduct;~~

~~(F) An offense that is, under chapter 9A.28 RCW, an attempt or solicitation to commit such an offense; or~~

~~(G) An offense defined by federal law or the laws of another state that is equivalent to the offenses listed in (b)(i)(A) through (F) of this subsection.~~

~~(ii) "Sexually violent offense" means an adult conviction that meets the definition of 42 U.S.C. Sec. 14071(a)(1)(A), which is limited to the following:~~

~~(A) An aggravated offense;~~

~~(B) An offense that is not an aggravated offense but meets the definition of 18 U.S.C. Sec. 2242, which is limited to RCW 9A.44.050(1) (b) through (f) (rape in the second degree) and RCW 9A.44.100(1) (b) through (f) (indecent liberties);~~

~~(C) A felony with a finding of sexual motivation under RCW 9.94A.835 where the victim is incapable of appraising the nature of the conduct or~~

physically incapable of declining participation in, or communicating unwillingness to engage in, the conduct;

(D) An offense that is, under chapter 9A.28 RCW, an attempt or solicitation to commit such an offense; or

(E) An offense defined by federal law or the laws of another state that is equivalent to the offenses listed in (b)(ii)(A) through (D) of this subsection.

(iii) "Criminal offense against a victim who is a minor" means, in addition to any aggravated offense or sexually violent offense where the victim was under eighteen years of age, an adult conviction for the following offenses where the victim is under eighteen years of age:

(A) RCW 9A.44.060 (rape in the third degree), RCW 9A.44.076 (rape of a child in the second degree), RCW 9A.44.079 (rape of a child in the third degree), RCW 9A.44.086 (child molestation in the second degree), RCW 9A.44.089 (child molestation in the third degree), RCW 9A.44.093 (sexual misconduct with a minor in the first degree), RCW 9A.44.096 (sexual misconduct with a minor in the second degree), RCW 9A.44.160 (custodial sexual misconduct in the first degree), RCW 9A.64.020 (incest), RCW 9.68A.040 (sexual exploitation of a minor), RCW 9.68A.090 (communication with a minor for immoral purposes), or RCW 9.68A.100 (patronizing a juvenile prostitute);

(B) RCW 9A.40.020 (kidnapping in the first degree), RCW 9A.40.030 (kidnapping in the second degree), or RCW 9A.40.040 (unlawful imprisonment), where the victim is a minor and the offender is not the minor's parent;

(C) A felony with a finding of sexual motivation under RCW 9.94A.835 where the victim is a minor;

(D) An offense that is, under chapter 9A.28 RCW, an attempt or solicitation to commit such an offense; or

(E) An offense defined by federal law or the laws of another state that is equivalent to the offenses listed in (b)(iii)(A) through (D) of this subsection.

(6) ~~Unless relieved of the duty to register pursuant to this section, a violation of RCW 9A.44.130 is an ongoing offense for purposes of the statute of limitations under RCW 9A.04.080.~~

~~(7))~~ (4) For a person required to register for a federal or out-of-state conviction, the duty to register shall continue indefinitely.

(5) Nothing in this section prevents a person from being relieved of the duty to register under sections 6 and 7 of this act.

(6) Nothing in RCW 9.94A.637 relating to discharge of an offender shall be construed as operating to relieve the offender of his or her duty to register pursuant to RCW 9A.44.130.

~~((8))~~ (7) For purposes of determining whether a person has been convicted of more than one sex offense, failure to register as a sex offender or kidnapping offender is not a sex or kidnapping offense.

(8) The provisions of this section and sections 5 through 7 of this act apply equally to a person who has been found not guilty by reason of insanity under chapter 10.77 RCW of a sex offense or kidnapping offense.

NEW SECTION. Sec. 5. (1) Upon the request of a person who is listed in the Washington state patrol central registry of sex offenders and kidnapping offenders, the county sheriff shall investigate whether a person's duty to register has ended by operation of law pursuant to RCW 9A.44.140.

(a) Using available records, the county sheriff shall verify that the offender has spent the requisite time in the community and has not been convicted of a disqualifying offense.

(b) If the county sheriff determines the person's duty to register has ended by operation of law, the county sheriff shall request the Washington state patrol remove the person's name from the central registry.

(2) Nothing in this subsection prevents a county sheriff from investigating, upon his or her own initiative, whether a person's duty to register has ended by operation of law pursuant to RCW 9A.44.140.

(3) An appointed or elected public official, public employee, or public agency as defined in RCW 4.24.470, or units of local government and its employees, as provided in RCW 36.28A.010, are immune from civil liability for damages for removing or requesting the removal of a person from the central registry of sex offenders and kidnapping offenders or the failure to remove or request removal of a person within the time frames provided in RCW 9A.44.140.

NEW SECTION. Sec. 6. (1) A person who is required to register under RCW 9A.44.130 may petition the superior court to be relieved of the duty to register:

(a) If the person has a duty to register for a sex offense or kidnapping offense committed when the offender was a juvenile, regardless of whether the conviction was in this state, as provided in section 7 of this act;

(b) If the person is required to register for a conviction in this state and is not prohibited from petitioning for relief from registration under subsection (2) of this section, when the person has spent ten consecutive years in the community without being convicted of a disqualifying offense during that time period; and

(c) If the person is required to register for a federal or out-of-state conviction, when the person has spent fifteen consecutive years in the community without being convicted of a disqualifying offense during that time period.

(2)(a) A person may not petition for relief from registration if the person has been:

(i) Determined to be a sexually violent predator as defined in RCW 71.09.020;

(ii) Convicted as an adult of a sex offense or kidnapping offense that is a class A felony and that was committed with forcible compulsion on or after June 8, 2000; or

(iii) Until July 1, 2012, convicted of one aggravated offense or more than one sexually violent offense, as defined in subsection (5) of this section, and the offense or offenses were committed on or after March 12, 2002. After July 1, 2012, this subsection (2)(a)(iii) shall have no further force and effect.

(b) Any person who may not be relieved of the duty to register may petition the court to be exempted from any community notification requirements that the person may be subject to fifteen years after the later of the entry of the judgment and sentence or the last date of release from confinement, including full-time residential treatment, pursuant to the conviction, if the person has spent the time in the community without being convicted of a disqualifying offense.

(3) A petition for relief from registration or exemption from notification under this section shall be made to the court in which the petitioner was convicted of the offense that subjects him or her to the duty to register or, in the

case of convictions in other states, a foreign country, or a federal or military court, to the court in Thurston county. The prosecuting attorney of the county shall be named and served as the respondent in any such petition.

(4)(a) The court may relieve a petitioner of the duty to register only if the petitioner shows by clear and convincing evidence that the petitioner is sufficiently rehabilitated to warrant removal from the central registry of sex offenders and kidnapping offenders.

(b) In determining whether the petitioner is sufficiently rehabilitated to warrant removal from the registry, the following factors are provided as guidance to assist the court in making its determination:

- (i) The nature of the registrable offense committed including the number of victims and the length of the offense history;
- (ii) Any subsequent criminal history;
- (iii) The petitioner's compliance with supervision requirements;
- (iv) The length of time since the charged incident(s) occurred;
- (v) Any input from community corrections officers, law enforcement, or treatment providers;
- (vi) Participation in sex offender treatment;
- (vii) Participation in other treatment and rehabilitative programs;
- (viii) The offender's stability in employment and housing;
- (ix) The offender's community and personal support system;
- (x) Any risk assessments or evaluations prepared by a qualified professional;
- (xi) Any updated polygraph examination;
- (xii) Any input of the victim;
- (xiii) Any other factors the court may consider relevant.

(5)(a) A person who has been convicted of an aggravated offense, or has been convicted of one or more prior sexually violent offenses or criminal offenses against a victim who is a minor, as defined in (b) of this subsection:

- (i) Until July 1, 2012, may not be relieved of the duty to register;
- (ii) After July 1, 2012, may petition the court to be relieved of the duty to register as provided in this section;
- (iii) This provision shall apply to convictions for crimes committed on or after July 22, 2001.

(b) Unless the context clearly requires otherwise, the following definitions apply only to the federal lifetime registration requirements under this subsection:

(i) "Aggravated offense" means an adult conviction that meets the definition of 18 U.S.C. Sec. 2241, which is limited to the following:

(A) Any sex offense involving sexual intercourse or sexual contact where the victim is under twelve years of age;

(B) RCW 9A.44.040 (rape in the first degree), RCW 9A.44.073 (rape of a child in the first degree), or RCW 9A.44.083 (child molestation in the first degree);

(C) Any of the following offenses when committed by forcible compulsion or by the offender administering, by threat or force or without the knowledge or permission of that person, a drug, intoxicant, or other similar substance that substantially impairs the ability of that person to appraise or control conduct: RCW 9A.44.050 (rape in the second degree), RCW 9A.44.100 (indecent

liberties), RCW 9A.44.160 (custodial sexual misconduct in the first degree), RCW 9A.64.020 (incest), or RCW 9.68A.040 (sexual exploitation of a minor);

(D) Any of the following offenses when committed by forcible compulsion or by the offender administering, by threat or force or without the knowledge or permission of that person, a drug, intoxicant, or other similar substance that substantially impairs the ability of that person to appraise or control conduct, if the victim is twelve years of age or over but under sixteen years of age and the offender is eighteen years of age or over and is more than forty-eight months older than the victim: RCW 9A.44.076 (rape of a child in the second degree), RCW 9A.44.079 (rape of a child in the third degree), RCW 9A.44.086 (child molestation in the second degree), or RCW 9A.44.089 (child molestation in the third degree);

(E) A felony with a finding of sexual motivation under RCW 9.94A.835 where the victim is under twelve years of age or that is committed by forcible compulsion or by the offender administering, by threat or force or without the knowledge or permission of that person, a drug, intoxicant, or other similar substance that substantially impairs the ability of that person to appraise or control conduct;

(F) An offense that is, under chapter 9A.28 RCW, an attempt or solicitation to commit such an offense; or

(G) An offense defined by federal law or the laws of another state that is equivalent to the offenses listed in (b)(i)(A) through (F) of this subsection.

(ii) "Sexually violent offense" means an adult conviction that meets the definition of 42 U.S.C. Sec. 14071(a)(1)(A), which is limited to the following:

(A) An aggravated offense;

(B) An offense that is not an aggravated offense but meets the definition of 18 U.S.C. Sec. 2242, which is limited to RCW 9A.44.050(1) (b) through (f) (rape in the second degree) and RCW 9A.44.100(1) (b) through (f) (indecent liberties);

(C) A felony with a finding of sexual motivation under RCW 9.94A.835 where the victim is incapable of appraising the nature of the conduct or physically incapable of declining participation in, or communicating unwillingness to engage in, the conduct;

(D) An offense that is, under chapter 9A.28 RCW, an attempt or solicitation to commit such an offense; or

(E) An offense defined by federal law or the laws of another state that is equivalent to the offenses listed in (b)(ii)(A) through (D) of this subsection.

(iii) "Criminal offense against a victim who is a minor" means, in addition to any aggravated offense or sexually violent offense where the victim was under eighteen years of age, an adult conviction for the following offenses where the victim is under eighteen years of age:

(A) RCW 9A.44.060 (rape in the third degree), RCW 9A.44.076 (rape of a child in the second degree), RCW 9A.44.079 (rape of a child in the third degree), RCW 9A.44.086 (child molestation in the second degree), RCW 9A.44.089 (child molestation in the third degree), RCW 9A.44.093 (sexual misconduct with a minor in the first degree), RCW 9A.44.096 (sexual misconduct with a minor in the second degree), RCW 9A.44.160 (custodial sexual misconduct in the first degree), RCW 9A.64.020 (incest), RCW 9.68A.040 (sexual exploitation of a

minor), RCW 9.68A.090 (communication with a minor for immoral purposes), or RCW 9.68A.100 (commercial sexual abuse of a minor);

(B) RCW 9A.40.020 (kidnapping in the first degree), RCW 9A.40.030 (kidnapping in the second degree), or RCW 9A.40.040 (unlawful imprisonment), where the victim is a minor and the offender is not the minor's parent;

(C) A felony with a finding of sexual motivation under RCW 9.94A.835 where the victim is a minor;

(D) An offense that is, under chapter 9A.28 RCW, an attempt or solicitation to commit such an offense; or

(E) An offense defined by federal law or the laws of another state that is equivalent to the offenses listed in (b)(iii)(A) through (D) of this subsection.

NEW SECTION. Sec. 7. (1) An offender having a duty to register under RCW 9A.44.130 for a sex offense or kidnapping offense committed when the offender was a juvenile may petition the superior court to be relieved of that duty as provided in this section.

(2) The court may relieve the petitioner of the duty to register if:

(a) At least twenty-four months have passed since the adjudication for the offense giving rise to the duty to register and the petitioner has not been adjudicated of any additional sex offenses or kidnapping offenses;

(b) The petitioner has not been adjudicated or convicted of a violation of section 3 of this act (failure to register) during the twenty-four months prior to filing the petition; and

(c)(i) The petitioner was fifteen years of age or older at the time the sex offense or kidnapping offense was committed and the petitioner shows by clear and convincing evidence that the petitioner is sufficiently rehabilitated to warrant removal from the central registry of sex offenders and kidnapping offenders; or

(ii) The petitioner was under the age of fifteen at the time the sex offense or kidnapping offense was committed and the petitioner shows by a preponderance of the evidence that the petitioner is sufficiently rehabilitated to warrant removal from the central registry of sex offenders and kidnapping offenders.

(3) A petition for relief from registration under this section shall be made to the court in which the petitioner was convicted of the offense that subjects him or her to the duty to register or, in the case of convictions in other states, a foreign country, or a federal or military court, to the court in Thurston county. The prosecuting attorney of the county shall be named and served as the respondent in any such petition.

(4) In determining whether the petitioner is sufficiently rehabilitated to warrant removal from the central registry of sex offenders and kidnapping offenders, the following factors are provided as guidance to assist the court in making its determination, to the extent the factors are applicable considering the age and circumstances of the petitioner:

(a) The nature of the registrable offense committed including the number of victims and the length of the offense history;

(b) Any subsequent criminal history;

(c) The petitioner's compliance with supervision requirements;

(d) The length of time since the charged incident(s) occurred;

- (e) Any input from community corrections officers, juvenile parole or probation officers, law enforcement, or treatment providers;
 - (f) Participation in sex offender treatment;
 - (g) Participation in other treatment and rehabilitative programs;
 - (h) The offender's stability in employment and housing;
 - (i) The offender's community and personal support system;
 - (j) Any risk assessments or evaluations prepared by a qualified professional;
 - (k) Any updated polygraph examination;
 - (l) Any input of the victim;
 - (m) Any other factors the court may consider relevant.
- (5) A juvenile prosecuted and convicted of a sex offense or kidnapping offense as an adult may not petition to the superior court under this section.

Sec. 8. RCW 9A.44.145 and 2009 c 210 s 1 are each amended to read as follows:

(1) The state patrol shall notify:

(a) Registered sex and kidnapping offenders of any change to the registration requirements; and

(b) No less than annually, an offender having a duty to register under ~~((RCW 9A.44.130))~~ section 7 of this act for a sex offense or kidnapping offense committed when the offender was a juvenile of their ability to petition for relief from registration as provided in RCW 9A.44.140.

(2) For economic efficiency, the state patrol may combine the notices in this section into one notice.

Sec. 9. RCW 9.94A.030 and 2009 c 375 s 4 are each amended to read as follows:

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

(1) "Board" means the indeterminate sentence review board created under chapter 9.95 RCW.

(2) "Collect," or any derivative thereof, "collect and remit," or "collect and deliver," when used with reference to the department, means that the department, either directly or through a collection agreement authorized by RCW 9.94A.760, is responsible for monitoring and enforcing the offender's sentence with regard to the legal financial obligation, receiving payment thereof from the offender, and, consistent with current law, delivering daily the entire payment to the superior court clerk without depositing it in a departmental account.

(3) "Commission" means the sentencing guidelines commission.

(4) "Community corrections officer" means an employee of the department who is responsible for carrying out specific duties in supervision of sentenced offenders and monitoring of sentence conditions.

(5) "Community custody" means that portion of an offender's sentence of confinement in lieu of earned release time or imposed as part of a sentence under this chapter and served in the community subject to controls placed on the offender's movement and activities by the department.

(6) "Community protection zone" means the area within eight hundred eighty feet of the facilities and grounds of a public or private school.

(7) "Community restitution" means compulsory service, without compensation, performed for the benefit of the community by the offender.

(8) "Confinement" means total or partial confinement.

(9) "Conviction" means an adjudication of guilt pursuant to Title 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and acceptance of a plea of guilty.

(10) "Crime-related prohibition" means an order of a court prohibiting conduct that directly relates to the circumstances of the crime for which the offender has been convicted, and shall not be construed to mean orders directing an offender affirmatively to participate in rehabilitative programs or to otherwise perform affirmative conduct. However, affirmative acts necessary to monitor compliance with the order of a court may be required by the department.

(11) "Criminal history" means the list of a defendant's prior convictions and juvenile adjudications, whether in this state, in federal court, or elsewhere.

(a) The history shall include, where known, for each conviction (i) whether the defendant has been placed on probation and the length and terms thereof; and (ii) whether the defendant has been incarcerated and the length of incarceration.

(b) A conviction may be removed from a defendant's criminal history only if it is vacated pursuant to RCW 9.96.060, 9.94A.640, 9.95.240, or a similar out-of-state statute, or if the conviction has been vacated pursuant to a governor's pardon.

(c) The determination of a defendant's criminal history is distinct from the determination of an offender score. A prior conviction that was not included in an offender score calculated pursuant to a former version of the sentencing reform act remains part of the defendant's criminal history.

(12) "Criminal street gang" means any ongoing organization, association, or group of three or more persons, whether formal or informal, having a common name or common identifying sign or symbol, having as one of its primary activities the commission of criminal acts, and whose members or associates individually or collectively engage in or have engaged in a pattern of criminal street gang activity. This definition does not apply to employees engaged in concerted activities for their mutual aid and protection, or to the activities of labor and bona fide nonprofit organizations or their members or agents.

(13) "Criminal street gang associate or member" means any person who actively participates in any criminal street gang and who intentionally promotes, furthers, or assists in any criminal act by the criminal street gang.

(14) "Criminal street gang-related offense" means any felony or misdemeanor offense, whether in this state or elsewhere, that is committed for the benefit of, at the direction of, or in association with any criminal street gang, or is committed with the intent to promote, further, or assist in any criminal conduct by the gang, or is committed for one or more of the following reasons:

(a) To gain admission, prestige, or promotion within the gang;

(b) To increase or maintain the gang's size, membership, prestige, dominance, or control in any geographical area;

(c) To exact revenge or retribution for the gang or any member of the gang;

(d) To obstruct justice, or intimidate or eliminate any witness against the gang or any member of the gang;

(e) To directly or indirectly cause any benefit, aggrandizement, gain, profit, or other advantage for the gang, its reputation, influence, or membership; or

(f) To provide the gang with any advantage in, or any control or dominance over any criminal market sector, including, but not limited to, manufacturing,

delivering, or selling any controlled substance (chapter 69.50 RCW); arson (chapter 9A.48 RCW); trafficking in stolen property (chapter 9A.82 RCW); promoting prostitution (chapter 9A.88 RCW); human trafficking (RCW 9A.40.100); or promoting pornography (chapter 9.68 RCW).

(15) "Day fine" means a fine imposed by the sentencing court that equals the difference between the offender's net daily income and the reasonable obligations that the offender has for the support of the offender and any dependents.

(16) "Day reporting" means a program of enhanced supervision designed to monitor the offender's daily activities and compliance with sentence conditions, and in which the offender is required to report daily to a specific location designated by the department or the sentencing court.

(17) "Department" means the department of corrections.

(18) "Determinate sentence" means a sentence that states with exactitude the number of actual years, months, or days of total confinement, of partial confinement, of community custody, the number of actual hours or days of community restitution work, or dollars or terms of a legal financial obligation. The fact that an offender through earned release can reduce the actual period of confinement shall not affect the classification of the sentence as a determinate sentence.

(19) "Disposable earnings" means that part of the earnings of an offender remaining after the deduction from those earnings of any amount required by law to be withheld. For the purposes of this definition, "earnings" means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonuses, or otherwise, and, notwithstanding any other provision of law making the payments exempt from garnishment, attachment, or other process to satisfy a court-ordered legal financial obligation, specifically includes periodic payments pursuant to pension or retirement programs, or insurance policies of any type, but does not include payments made under Title 50 RCW, except as provided in RCW 50.40.020 and 50.40.050, or Title 74 RCW.

(20) "Drug offender sentencing alternative" is a sentencing option available to persons convicted of a felony offense other than a violent offense or a sex offense and who are eligible for the option under RCW 9.94A.660.

(21) "Drug offense" means:

(a) Any felony violation of chapter 69.50 RCW except possession of a controlled substance (RCW 69.50.4013) or forged prescription for a controlled substance (RCW 69.50.403);

(b) Any offense defined as a felony under federal law that relates to the possession, manufacture, distribution, or transportation of a controlled substance; or

(c) Any out-of-state conviction for an offense that under the laws of this state would be a felony classified as a drug offense under (a) of this subsection.

(22) "Earned release" means earned release from confinement as provided in RCW 9.94A.728.

(23) "Escape" means:

(a) Sexually violent predator escape (RCW 9A.76.115), escape in the first degree (RCW 9A.76.110), escape in the second degree (RCW 9A.76.120), willful failure to return from furlough (RCW 72.66.060), willful failure to return

from work release (RCW 72.65.070), or willful failure to be available for supervision by the department while in community custody (RCW 72.09.310); or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as an escape under (a) of this subsection.

(24) "Felony traffic offense" means:

(a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW 46.61.522), eluding a police officer (RCW 46.61.024), felony hit-and-run injury-accident (RCW 46.52.020(4)), felony driving while under the influence of intoxicating liquor or any drug (RCW 46.61.502(6)), or felony physical control of a vehicle while under the influence of intoxicating liquor or any drug (RCW 46.61.504(6)); or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a felony traffic offense under (a) of this subsection.

(25) "Fine" means a specific sum of money ordered by the sentencing court to be paid by the offender to the court over a specific period of time.

(26) "First-time offender" means any person who has no prior convictions for a felony and is eligible for the first-time offender waiver under RCW 9.94A.650.

(27) "Home detention" means a program of partial confinement available to offenders wherein the offender is confined in a private residence subject to electronic surveillance.

(28) "Legal financial obligation" means a sum of money that is ordered by a superior court of the state of Washington for legal financial obligations which may include restitution to the victim, statutorily imposed crime victims' compensation fees as assessed pursuant to RCW 7.68.035, court costs, county or interlocal drug funds, court-appointed attorneys' fees, and costs of defense, fines, and any other financial obligation that is assessed to the offender as a result of a felony conviction. Upon conviction for vehicular assault while under the influence of intoxicating liquor or any drug, RCW 46.61.522(1)(b), or vehicular homicide while under the influence of intoxicating liquor or any drug, RCW 46.61.520(1)(a), legal financial obligations may also include payment to a public agency of the expense of an emergency response to the incident resulting in the conviction, subject to RCW 38.52.430.

(29) "Most serious offense" means any of the following felonies or a felony attempt to commit any of the following felonies:

(a) Any felony defined under any law as a class A felony or criminal solicitation of or criminal conspiracy to commit a class A felony;

(b) Assault in the second degree;

(c) Assault of a child in the second degree;

(d) Child molestation in the second degree;

(e) Controlled substance homicide;

(f) Extortion in the first degree;

(g) Incest when committed against a child under age fourteen;

(h) Indecent liberties;

(i) Kidnapping in the second degree;

(j) Leading organized crime;

- (k) Manslaughter in the first degree;
 - (l) Manslaughter in the second degree;
 - (m) Promoting prostitution in the first degree;
 - (n) Rape in the third degree;
 - (o) Robbery in the second degree;
 - (p) Sexual exploitation;
 - (q) Vehicular assault, when caused by the operation or driving of a vehicle by a person while under the influence of intoxicating liquor or any drug or by the operation or driving of a vehicle in a reckless manner;
 - (r) Vehicular homicide, when proximately caused by the driving of any vehicle by any person while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.502, or by the operation of any vehicle in a reckless manner;
 - (s) Any other class B felony offense with a finding of sexual motivation;
 - (t) Any other felony with a deadly weapon verdict under RCW 9.94A.825;
 - (u) Any felony offense in effect at any time prior to December 2, 1993, that is comparable to a most serious offense under this subsection, or any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a most serious offense under this subsection;
 - (v)(i) A prior conviction for indecent liberties under RCW 9A.88.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex. sess. as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b), and (c) as it existed from July 1, 1979, until June 11, 1986, and RCW 9A.44.100(1) (a), (b), and (d) as it existed from June 11, 1986, until July 1, 1988;
 - (ii) A prior conviction for indecent liberties under RCW 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988, if: (A) The crime was committed against a child under the age of fourteen; or (B) the relationship between the victim and perpetrator is included in the definition of indecent liberties under RCW 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27, 1997, or RCW 9A.44.100(1) (d) or (e) as it existed from July 25, 1993, through July 27, 1997;
 - (w) Any out-of-state conviction for a felony offense with a finding of sexual motivation if the minimum sentence imposed was ten years or more; provided that the out-of-state felony offense must be comparable to a felony offense under Title 9 or 9A RCW and the out-of-state definition of sexual motivation must be comparable to the definition of sexual motivation contained in this section.
- (30) "Nonviolent offense" means an offense which is not a violent offense.
- (31) "Offender" means a person who has committed a felony established by state law and is eighteen years of age or older or is less than eighteen years of age but whose case is under superior court jurisdiction under RCW 13.04.030 or has been transferred by the appropriate juvenile court to a criminal court pursuant to RCW 13.40.110. In addition, for the purpose of community custody requirements under this chapter, "offender" also means a misdemeanor or gross misdemeanor probationer convicted of an offense included in RCW 9.94A.501(1) and ordered by a superior court to probation under the supervision of the department pursuant to RCW 9.92.060, 9.95.204, or 9.95.210. Throughout this chapter, the terms "offender" and "defendant" are used interchangeably.

(32) "Partial confinement" means confinement for no more than one year in a facility or institution operated or utilized under contract by the state or any other unit of government, or, if home detention or work crew has been ordered by the court, in an approved residence, for a substantial portion of each day with the balance of the day spent in the community. Partial confinement includes work release, home detention, work crew, and a combination of work crew and home detention.

(33) "Pattern of criminal street gang activity" means:

(a) The commission, attempt, conspiracy, or solicitation of, or any prior juvenile adjudication of or adult conviction of, two or more of the following criminal street gang-related offenses:

(i) Any "serious violent" felony offense as defined in this section, excluding Homicide by Abuse (RCW 9A.32.055) and Assault of a Child 1 (RCW 9A.36.120);

(ii) Any "violent" offense as defined by this section, excluding Assault of a Child 2 (RCW 9A.36.130);

(iii) Deliver or Possession with Intent to Deliver a Controlled Substance (chapter 69.50 RCW);

(iv) Any violation of the firearms and dangerous weapon act (chapter 9.41 RCW);

(v) Theft of a Firearm (RCW 9A.56.300);

(vi) Possession of a Stolen Firearm (RCW 9A.56.310);

(vii) Malicious Harassment (RCW 9A.36.080);

(viii) Harassment where a subsequent violation or deadly threat is made (RCW 9A.46.020(2)(b));

(ix) Criminal Gang Intimidation (RCW 9A.46.120);

(x) Any felony conviction by a person eighteen years of age or older with a special finding of involving a juvenile in a felony offense under RCW 9.94A.833;

(xi) Residential Burglary (RCW 9A.52.025);

(xii) Burglary 2 (RCW 9A.52.030);

(xiii) Malicious Mischief 1 (RCW 9A.48.070);

(xiv) Malicious Mischief 2 (RCW 9A.48.080);

(xv) Theft of a Motor Vehicle (RCW 9A.56.065);

(xvi) Possession of a Stolen Motor Vehicle (RCW 9A.56.068);

(xvii) Taking a Motor Vehicle Without Permission 1 (RCW 9A.56.070);

(xviii) Taking a Motor Vehicle Without Permission 2 (RCW 9A.56.075);

(xix) Extortion 1 (RCW 9A.56.120);

(xx) Extortion 2 (RCW 9A.56.130);

(xxi) Intimidating a Witness (RCW 9A.72.110);

(xxii) Tampering with a Witness (RCW 9A.72.120);

(xxiii) Reckless Endangerment (RCW 9A.36.050);

(xxiv) Coercion (RCW 9A.36.070);

(xxv) Harassment (RCW 9A.46.020); or

(xxvi) Malicious Mischief 3 (RCW 9A.48.090);

(b) That at least one of the offenses listed in (a) of this subsection shall have occurred after July 1, 2008;

(c) That the most recent committed offense listed in (a) of this subsection occurred within three years of a prior offense listed in (a) of this subsection; and

(d) Of the offenses that were committed in (a) of this subsection, the offenses occurred on separate occasions or were committed by two or more persons.

(34) "Persistent offender" is an offender who:

(a)(i) Has been convicted in this state of any felony considered a most serious offense; and

(ii) Has, before the commission of the offense under (a) of this subsection, been convicted as an offender on at least two separate occasions, whether in this state or elsewhere, of felonies that under the laws of this state would be considered most serious offenses and would be included in the offender score under RCW 9.94A.525; provided that of the two or more previous convictions, at least one conviction must have occurred before the commission of any of the other most serious offenses for which the offender was previously convicted; or

(b)(i) Has been convicted of: (A) Rape in the first degree, rape of a child in the first degree, child molestation in the first degree, rape in the second degree, rape of a child in the second degree, or indecent liberties by forcible compulsion; (B) any of the following offenses with a finding of sexual motivation: Murder in the first degree, murder in the second degree, homicide by abuse, kidnapping in the first degree, kidnapping in the second degree, assault in the first degree, assault in the second degree, assault of a child in the first degree, assault of a child in the second degree, or burglary in the first degree; or (C) an attempt to commit any crime listed in this subsection (34)(b)(i); and

(ii) Has, before the commission of the offense under (b)(i) of this subsection, been convicted as an offender on at least one occasion, whether in this state or elsewhere, of an offense listed in (b)(i) of this subsection or any federal or out-of-state offense or offense under prior Washington law that is comparable to the offenses listed in (b)(i) of this subsection. A conviction for rape of a child in the first degree constitutes a conviction under (b)(i) of this subsection only when the offender was sixteen years of age or older when the offender committed the offense. A conviction for rape of a child in the second degree constitutes a conviction under (b)(i) of this subsection only when the offender was eighteen years of age or older when the offender committed the offense.

(35) "Predatory" means: (a) The perpetrator of the crime was a stranger to the victim, as defined in this section; (b) the perpetrator established or promoted a relationship with the victim prior to the offense and the victimization of the victim was a significant reason the perpetrator established or promoted the relationship; or (c) the perpetrator was: (i) A teacher, counselor, volunteer, or other person in authority in any public or private school and the victim was a student of the school under his or her authority or supervision. For purposes of this subsection, "school" does not include home-based instruction as defined in RCW 28A.225.010; (ii) a coach, trainer, volunteer, or other person in authority in any recreational activity and the victim was a participant in the activity under his or her authority or supervision; or (iii) a pastor, elder, volunteer, or other person in authority in any church or religious organization, and the victim was a member or participant of the organization under his or her authority.

(36) "Private school" means a school regulated under chapter 28A.195 or 28A.205 RCW.

(37) "Public school" has the same meaning as in RCW 28A.150.010.

(38) "Restitution" means a specific sum of money ordered by the sentencing court to be paid by the offender to the court over a specified period of time as payment of damages. The sum may include both public and private costs.

(39) "Risk assessment" means the application of the risk instrument recommended to the department by the Washington state institute for public policy as having the highest degree of predictive accuracy for assessing an offender's risk of reoffense.

(40) "Serious traffic offense" means:

(a) Nonfelony driving while under the influence of intoxicating liquor or any drug (RCW 46.61.502), nonfelony actual physical control while under the influence of intoxicating liquor or any drug (RCW 46.61.504), reckless driving (RCW 46.61.500), or hit-and-run an attended vehicle (RCW 46.52.020(5)); or

(b) Any federal, out-of-state, county, or municipal conviction for an offense that under the laws of this state would be classified as a serious traffic offense under (a) of this subsection.

(41) "Serious violent offense" is a subcategory of violent offense and means:

(a)(i) Murder in the first degree;

(ii) Homicide by abuse;

(iii) Murder in the second degree;

(iv) Manslaughter in the first degree;

(v) Assault in the first degree;

(vi) Kidnapping in the first degree;

(vii) Rape in the first degree;

(viii) Assault of a child in the first degree; or

(ix) An attempt, criminal solicitation, or criminal conspiracy to commit one of these felonies; or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a serious violent offense under (a) of this subsection.

(42) "Sex offense" means:

(a)(i) A felony that is a violation of chapter 9A.44 RCW other than ~~((RCW 9A.44.130(12)))~~ section 3 of this act;

(ii) A violation of RCW 9A.64.020;

(iii) A felony that is a violation of chapter 9.68A RCW other than RCW 9.68A.080; ~~(($\text{\textcircled{R}}$))~~

(iv) A felony that is, under chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or criminal conspiracy to commit such crimes; or

(v) A felony violation of section 3(1) of this act (failure to register) if the person has been convicted of violating section 3(1) of this act (failure to register) on at least one prior occasion;

(b) Any conviction for a felony offense in effect at any time prior to July 1, 1976, that is comparable to a felony classified as a sex offense in (a) of this subsection;

(c) A felony with a finding of sexual motivation under RCW 9.94A.835 or 13.40.135; or

(d) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a sex offense under (a) of this subsection.

(43) "Sexual motivation" means that one of the purposes for which the defendant committed the crime was for the purpose of his or her sexual gratification.

(44) "Standard sentence range" means the sentencing court's discretionary range in imposing a nonappealable sentence.

(45) "Statutory maximum sentence" means the maximum length of time for which an offender may be confined as punishment for a crime as prescribed in chapter 9A.20 RCW, RCW 9.92.010, the statute defining the crime, or other statute defining the maximum penalty for a crime.

(46) "Stranger" means that the victim did not know the offender twenty-four hours before the offense.

(47) "Total confinement" means confinement inside the physical boundaries of a facility or institution operated or utilized under contract by the state or any other unit of government for twenty-four hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

(48) "Transition training" means written and verbal instructions and assistance provided by the department to the offender during the two weeks prior to the offender's successful completion of the work ethic camp program. The transition training shall include instructions in the offender's requirements and obligations during the offender's period of community custody.

(49) "Victim" means any person who has sustained emotional, psychological, physical, or financial injury to person or property as a direct result of the crime charged.

(50) "Violent offense" means:

(a) Any of the following felonies:

(i) Any felony defined under any law as a class A felony or an attempt to commit a class A felony;

(ii) Criminal solicitation of or criminal conspiracy to commit a class A felony;

(iii) Manslaughter in the first degree;

(iv) Manslaughter in the second degree;

(v) Indecent liberties if committed by forcible compulsion;

(vi) Kidnapping in the second degree;

(vii) Arson in the second degree;

(viii) Assault in the second degree;

(ix) Assault of a child in the second degree;

(x) Extortion in the first degree;

(xi) Robbery in the second degree;

(xii) Drive-by shooting;

(xiii) Vehicular assault, when caused by the operation or driving of a vehicle by a person while under the influence of intoxicating liquor or any drug or by the operation or driving of a vehicle in a reckless manner; and

(xiv) Vehicular homicide, when proximately caused by the driving of any vehicle by any person while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.502, or by the operation of any vehicle in a reckless manner;

(b) Any conviction for a felony offense in effect at any time prior to July 1, 1976, that is comparable to a felony classified as a violent offense in (a) of this subsection; and

(c) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a violent offense under (a) or (b) of this subsection.

(51) "Work crew" means a program of partial confinement consisting of civic improvement tasks for the benefit of the community that complies with RCW 9.94A.725.

(52) "Work ethic camp" means an alternative incarceration program as provided in RCW 9.94A.690 designed to reduce recidivism and lower the cost of corrections by requiring offenders to complete a comprehensive array of real-world job and vocational experiences, character-building work ethics training, life management skills development, substance abuse rehabilitation, counseling, literacy training, and basic adult education.

(53) "Work release" means a program of partial confinement available to offenders who are employed or engaged as a student in a regular course of study at school.

Sec. 10. RCW 9.94A.501 and 2009 c 376 s 2 are each amended to read as follows:

(1) The department shall supervise every offender convicted of a misdemeanor or gross misdemeanor offense who is sentenced to probation in superior court, pursuant to RCW 9.92.060, 9.95.204, or 9.95.210, for an offense included in (a) and (b) of this subsection. The superior court shall order probation for:

(a) Offenders convicted of fourth degree assault, violation of a domestic violence court order pursuant to RCW 10.99.040, 10.99.050, 26.09.300, 26.10.220, 26.26.138, 26.50.110, 26.52.070, or 74.34.145, and who also have a prior conviction for one or more of the following:

- (i) A violent offense;
- (ii) A sex offense;
- (iii) A crime against a person as provided in RCW 9.94A.411;
- (iv) Fourth degree assault; or
- (v) Violation of a domestic violence court order; and

(b) Offenders convicted of:

- (i) Sexual misconduct with a minor second degree;
- (ii) Custodial sexual misconduct second degree;
- (iii) Communication with a minor for immoral purposes; and
- (iv) Violation of section 3(2) of this act (failure to register) (~~pursuant to RCW 9A.44.130~~).

(2) Misdemeanor and gross misdemeanor offenders supervised by the department pursuant to this section shall be placed on community custody.

(3) The department shall supervise every felony offender sentenced to community custody whose risk assessment, conducted pursuant to subsection (6) of this section, classifies the offender as one who is at a high risk to reoffend.

(4) Notwithstanding any other provision of this section, the department shall supervise an offender sentenced to community custody regardless of risk classification if the offender:

(a) Has a current conviction for a sex offense or a serious violent offense as defined in RCW 9.94A.030;

(b) Has been identified by the department as a dangerous mentally ill offender pursuant to RCW 72.09.370;

(c) Has an indeterminate sentence and is subject to parole pursuant to RCW 9.95.017;

(d) Has a current conviction for violating section 3(1) of this act (failure to register);

~~(e)~~ Was sentenced under RCW 9.94A.650, 9.94A.660, or 9.94A.670; or

~~((e))~~ (f) Is subject to supervision pursuant to RCW 9.94A.745.

(5) The department is not authorized to, and may not, supervise any offender sentenced to a term of community custody or any probationer unless the offender or probationer is one for whom supervision is required under subsection (1), (2), (3), or (4) of this section.

(6) The department shall conduct a risk assessment for every felony offender sentenced to a term of community custody who may be subject to supervision under this section.

Sec. 11. RCW 9.94A.701 and 2009 c 375 s 5 are each amended to read as follows:

(1) If an offender is sentenced to the custody of the department for one of the following crimes, the court shall, in addition to the other terms of the sentence, sentence the offender to community custody for three years:

(a) A sex offense not sentenced under RCW 9.94A.507; or

(b) A serious violent offense(~~;~~~~or~~

~~(e) A violation of RCW 9A.44.130(1)(a) committed on or after June 7, 2006, when a court sentences the person to a term of confinement of one year or less)).~~

(2) A court shall, in addition to the other terms of the sentence, sentence an offender to community custody for eighteen months when the court sentences the person to the custody of the department for a violent offense that is not considered a serious violent offense.

(3) A court shall, in addition to the other terms of the sentence, sentence an offender to community custody for one year when the court sentences the person to the custody of the department for:

(a) Any crime against persons under RCW 9.94A.411(2);

(b) An offense involving the unlawful possession of a firearm under RCW 9.41.040, where the offender is a criminal street gang member or associate; ~~((or))~~

(c) A felony offense under chapter 69.50 or 69.52 RCW, committed on or after July 1, 2000; or

(d) A felony violation of section 3(1) of this act (failure to register) that is the offender's first violation for a felony failure to register.

(4) If an offender is sentenced under the drug offender sentencing alternative, the court shall impose community custody as provided in RCW 9.94A.660.

(5) If an offender is sentenced under the special ~~((sexual [sex]))~~ sex offender sentencing alternative, the court shall impose community custody as provided in RCW 9.94A.670.

(6) If an offender is sentenced to a work ethic camp, the court shall impose community custody as provided in RCW 9.94A.690.

(7) If a sex offender is sentenced as a nonpersistent offender pursuant to RCW 9.94A.507, the court shall impose community custody as provided in that section.

(8) The term of community custody specified by this section shall be reduced by the court whenever an offender's standard range term of confinement in combination with the term of community custody exceeds the statutory maximum for the crime as provided in RCW 9A.20.021.

Sec. 12. RCW 9.94A.702 and 2008 c 231 s 8 are each amended to read as follows:

(1) If an offender is sentenced to a term of confinement for one year or less for one of the following offenses, the court may impose up to one year of community custody:

(a) A sex offense(~~(, other than failure to register under RCW 9A.44.130(1));~~);

(b) A violent offense;

(c) A crime against a person under RCW 9.94A.411; (~~(or)~~)

(d) A felony violation of chapter 69.50 or 69.52 RCW, or an attempt, conspiracy, or solicitation to commit such a crime; or

(e) A felony violation of section 3(1) of this act (failure to register).

(2) If an offender is sentenced to a first-time offender waiver, the court may impose community custody as provided in RCW 9.94A.650.

NEW SECTION. **Sec. 13.** On or before January 1, 2011, the department of corrections shall recalculate the term of community custody for each offender currently in confinement or serving a term of community custody for a first conviction for a failure to register under RCW 9A.44.130 consistent with the provisions of RCW 9.94A.701 and 9.94A.702. The department shall reset the date that community custody will end for those offenders. The recalculation shall not extend a term of community custody beyond that to which an offender is currently subject.

Sec. 14. RCW 70.48.470 and 2000 c 91 s 4 are each amended to read as follows:

(1) A person having charge of a jail shall notify in writing any confined person who is in the custody of the jail for a conviction of a sex offense (~~as defined in RCW 9.94A.030~~) or a kidnapping offense as defined in (~~RCW 9A.44.130~~) section 1 of this act of the registration requirements of RCW 9A.44.130 at the time of the inmate's release from confinement, and shall obtain written acknowledgment of such notification. The person shall also obtain from the inmate the county of the inmate's residence upon release from jail and, where applicable, the city.

(2) When a sex offender or (~~a person convicted of a kidnapping offense as defined in RCW 9A.44.130~~) kidnapping offender under local government jurisdiction will reside in a county other than the county of conviction upon discharge or release, the chief law enforcement officer of the jail or his or her designee shall give notice of the inmate's discharge or release to the sheriff of the county and, where applicable, to the police chief of the city where the offender will reside.

NEW SECTION. **Sec. 15.** The provisions of this act apply to persons convicted before, on, or after the effective date of this act.

NEW SECTION. **Sec. 16.** Sections 1, 3, and 5 through 7 of this act are each added to chapter 9A.44 RCW.

Passed by the Senate February 13, 2010.
Passed by the House March 2, 2010.
Approved by the Governor March 31, 2010.
Filed in Office of Secretary of State April 1, 2010.

CHAPTER 268

[Substitute House Bill 2466]

IGNITION INTERLOCK DEVICES—STANDARDS

AN ACT Relating to the regulation of ignition interlock devices; amending RCW 46.04.215; and adding new sections to chapter 43.43 RCW.

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

Sec. 1. RCW 46.04.215 and 2005 c 200 s 1 are each amended to read as follows:

"Ignition interlock device" means breath alcohol analyzing ignition equipment or other biological or technical device certified in conformance with section 2 of this act and rules adopted by the state patrol and designed to prevent a motor vehicle from being operated by a person who has consumed an alcoholic beverage. ~~((The state patrol shall by rule provide standards for the certification, installation, repair, and removal of the devices.))~~

NEW SECTION. **Sec. 2.** A new section is added to chapter 43.43 RCW to read as follows:

(1) The state patrol shall by rule provide standards for the certification, installation, repair, maintenance, monitoring, inspection, and removal of ignition interlock devices, as defined under RCW 46.04.215, and equipment as outlined under this section, and may inspect the records and equipment of manufacturers and vendors during regular business hours for compliance with statutes and rules and may suspend or revoke certification for any noncompliance. The state patrol may only inspect ignition interlock devices in the vehicles of customers for proper installation and functioning when installation is being done at the vendors' place of business.

(2)(a) When a certified service provider or individual installer of ignition interlock devices is found to be out of compliance, the installation privileges of that certified service provider or individual installer may be suspended or revoked until the certified service provider or individual installer comes into compliance. During any suspension or revocation period, the certified service provider or individual installer is responsible for notifying affected customers of any changes in their service agreement.

(b) A certified service provider or individual installer whose certification is suspended or revoked for noncompliance has a right to an administrative hearing under chapter 34.05 RCW to contest the suspension or revocation, or both. For the administrative hearing, the procedure and rules of evidence are as specified in chapter 34.05 RCW, except as otherwise provided in this chapter. Any request for an administrative hearing must be made in writing and must be received by the state patrol within twenty days after the receipt of the notice of suspension or revocation.

(3)(a) An ignition interlock device must employ fuel cell technology. For the purposes of this subsection, "fuel cell technology" consists of the following

electrochemical method: An electrolyte designed to oxidize the alcohol and release electrons to be collected by an active electrode; a current flow is generated within the electrode proportional to the amount of alcohol oxidized on the fuel cell surface; and the electrical current is measured and reported as breath alcohol concentration. Fuel cell technology is highly specific for alcohols.

(b) To be certified, an ignition interlock device must:

(i) Meet or exceed the minimum test standards according to rules adopted by the state patrol. Only a notarized statement from a laboratory that is certified by the international organization of standardization and is capable of performing the tests specified will be accepted as proof of meeting or exceeding the standards. The notarized statement must include the name and signature of the person in charge of the tests under the following statement:

"Two samples of (model name), manufactured by (manufacturer) were tested by (laboratory) certified by the Internal Organization of Standardization. They do meet or exceed all specifications listed in the Federal Register, Volume 71, Number 31 (57 FR 11772), Breath Alcohol Ignition Interlock Devices (BAIID), NHTSA 2005-23470."; and

(ii) Be maintained in accordance with the rules and standards adopted by the state patrol.

NEW SECTION. Sec. 3. A new section is added to chapter 43.43 RCW to read as follows:

For the purposes of section 2 of this act, companies not using ignition interlock devices that employ fuel cell technology as of the effective date of this act shall have five years from the effective date of this act to begin using ignition interlock devices that employ fuel cell technology.

Passed by the House March 6, 2010.

Passed by the Senate March 1, 2010.

Approved by the Governor March 31, 2010.

Filed in Office of Secretary of State April 1, 2010.

CHAPTER 269

[Second Substitute House Bill 2742]

DUI—IGNITION INTERLOCK REQUIREMENTS—PRIOR OFFENSES—LIABILITY

AN ACT Relating to accountability for persons driving under the influence of intoxicating liquor or drugs; amending RCW 46.20.385, 46.20.391, 46.20.720, 46.61.5055, 46.20.410, 46.20.342, 46.20.740, 10.05.020, 10.05.090, and 10.05.160; adding a new section to chapter 46.61 RCW; prescribing penalties; and providing an effective date.

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

Sec. 1. RCW 46.20.385 and 2008 c 282 s 9 are each amended to read as follows:

(1)(a) Beginning January 1, 2009, any person licensed under this chapter who is convicted of (~~any offense involving the use, consumption, or possession of alcohol while operating a motor vehicle in~~) a violation of RCW 46.61.502 or 46.61.504(~~, other than vehicular homicide or vehicular assault~~) or an equivalent local or out-of-state statute or ordinance, or a violation of RCW 46.61.520(1)(a) or 46.61.522(1)(b), or who has had or will have his or her

license suspended, revoked, or denied under RCW 46.20.3101, may submit to the department an application for an ignition interlock driver's license. The department, upon receipt of the prescribed fee and upon determining that the petitioner is eligible to receive the license, may issue an ignition interlock driver's license.

(b) A person may apply for an ignition interlock driver's license anytime, including immediately after receiving the notices under RCW 46.20.308 or after his or her license is suspended, revoked, or denied. A person receiving an ignition interlock driver's license waives his or her right to a hearing or appeal under RCW 46.20.308.

(c) An applicant under this subsection shall provide proof to the satisfaction of the department that a functioning ignition interlock device has been installed on all vehicles operated by the person.

(i) The department shall require the person to maintain the device on all vehicles operated by the person and shall restrict the person to operating only vehicles equipped with the device, for the remainder of the period of suspension, revocation, or denial. The installation of an ignition interlock device is not necessary on vehicles owned, leased, or rented by a person's employer and on those vehicles whose care and/or maintenance is the temporary responsibility of the employer, and driven at the direction of a person's employer as a requirement of employment during working hours. The person must provide the department with a declaration pursuant to RCW 9A.72.085 from his or her employer stating that the person's employment requires the person to operate a vehicle owned by the employer or other persons during working hours.

(ii) Subject to any periodic renewal requirements established by the department under this section and subject to any applicable compliance requirements under this chapter or other law, an ignition interlock driver's license granted upon a suspension or revocation under RCW 46.61.5055 or 46.20.3101 extends through the remaining portion of any concurrent or consecutive suspension or revocation that may be imposed as the result of administrative action and criminal conviction arising out of the same incident.

(iii) The time period during which the person is licensed under this section shall apply on a day-for-day basis toward satisfying the period of time the ignition interlock device restriction is required under RCW 46.20.720 and 46.61.5055.

(2) An applicant for an ignition interlock driver's license who qualifies under subsection (1) of this section is eligible to receive a license only if(:

~~(a) Within seven years immediately preceding the date of the offense that gave rise to the present conviction or incident, the applicant has not committed vehicular homicide under RCW 46.61.520 or vehicular assault under RCW 46.61.522; and~~

~~(b))~~ the applicant files satisfactory proof of financial responsibility under chapter 46.29 RCW.

(3) Upon receipt of evidence that a holder of an ignition interlock driver's license granted under this subsection no longer has a functioning ignition interlock device installed on all vehicles operated by the driver, the director shall give written notice by first-class mail to the driver that the ignition interlock driver's license shall be canceled. ~~((The effective date of cancellation shall be fifteen days from the date of mailing the notice.))~~ If at any time before the

cancellation goes into effect the driver submits evidence that a functioning ignition interlock device has been installed on all vehicles operated by the driver, the cancellation shall be stayed. If the cancellation becomes effective, the driver may obtain, at no additional charge, a new ignition interlock driver's license upon submittal of evidence that a functioning ignition interlock device has been installed on all vehicles operated by the driver.

(4) A person aggrieved by the decision of the department on the application for an ignition interlock driver's license may request a hearing as provided by rule of the department.

(5) The director shall cancel an ignition interlock driver's license (~~upon receipt of~~) after receiving notice that the holder thereof has been convicted of operating a motor vehicle in violation of its restrictions, no longer meets the eligibility requirements, or ~~((of))~~ has been convicted of or found to have committed a separate offense or any other act or omission that under this chapter would warrant suspension or revocation of a regular driver's license. The department must give notice of the cancellation (~~(is effective as of the date of the conviction, and continues with the same force and effect as any suspension or revocation under this title)~~) as provided under RCW 46.20.245. A person whose ignition interlock driver's license has been canceled under this section may reapply for a new ignition interlock driver's license if he or she is otherwise qualified under this section and pays the fee required under RCW 46.20.380.

(6)(a) Unless costs are waived by the ignition interlock company or the person is indigent under RCW 10.101.010, the applicant shall pay the cost of installing, removing, and leasing the ignition interlock device and shall pay an additional fee of twenty dollars per month. Payments shall be made directly to the ignition interlock company. The company shall remit the additional twenty-dollar fee to the department.

(b) The department shall deposit the proceeds of the twenty-dollar fee into the ignition interlock device revolving account. Expenditures from the account may be used only to administer and operate the ignition interlock device revolving account program. The department shall adopt rules to provide monetary assistance according to greatest need and when funds are available.

(7) The department shall adopt rules to implement ignition interlock licensing. The department shall consult with the administrative office of the courts, the state patrol, the Washington association of sheriffs and police chiefs, ignition interlock companies, and any other organization or entity the department deems appropriate.

Sec. 2. RCW 46.20.391 and 2008 c 282 s 6 are each amended to read as follows:

(1) Any person licensed under this chapter who is convicted of an offense relating to motor vehicles for which suspension or revocation of the driver's license is mandatory, other than vehicular homicide, vehicular assault, driving while under the influence of intoxicating liquor or any drug, or being in actual physical control of a motor vehicle while under the influence of intoxicating liquor or any drug, may submit to the department an application for a temporary restricted driver's license. The department, upon receipt of the prescribed fee and upon determining that the petitioner is eligible to receive the license, may issue a temporary restricted driver's license and may set definite restrictions as provided in RCW 46.20.394.

(2)(a) A person licensed under this chapter whose driver's license is suspended administratively due to failure to appear or pay a traffic ticket under RCW 46.20.289; a violation of the financial responsibility laws under chapter 46.29 RCW; or for multiple violations within a specified period of time under RCW 46.20.291, may apply to the department for an occupational driver's license.

(b) If the suspension is for failure to respond, pay, or comply with a notice of traffic infraction or conviction, the applicant must enter into a payment plan with the court.

(c) An occupational driver's license issued to an applicant described in (a) of this subsection shall be valid for the period of the suspension or revocation.

(3) An applicant for an occupational or temporary restricted driver's license who qualifies under subsection (1) or (2) of this section is eligible to receive such license only if:

(a) Within seven years immediately preceding the date of the offense that gave rise to the present conviction or incident, the applicant has not committed vehicular homicide under RCW 46.61.520 or vehicular assault under RCW 46.61.522; and

(b) The applicant demonstrates that it is necessary for him or her to operate a motor vehicle because he or she:

(i) Is engaged in an occupation or trade that makes it essential that he or she operate a motor vehicle;

(ii) Is undergoing continuing health care or providing continuing care to another who is dependent upon the applicant;

(iii) Is enrolled in an educational institution and pursuing a course of study leading to a diploma, degree, or other certification of successful educational completion;

(iv) Is undergoing substance abuse treatment or is participating in meetings of a twelve-step group such as Alcoholics Anonymous that requires the petitioner to drive to or from the treatment or meetings;

(v) Is fulfilling court-ordered community service responsibilities;

(vi) Is in a program that assists persons who are enrolled in a WorkFirst program pursuant to chapter 74.08A RCW to become gainfully employed and the program requires a driver's license;

(vii) Is in an apprenticeship, on-the-job training, or welfare-to-work program; or

(viii) Presents evidence that he or she has applied for a position in an apprenticeship or on-the-job training program for which a driver's license is required to begin the program, provided that a license granted under this provision shall be in effect for no longer than fourteen days; and

(c) The applicant files satisfactory proof of financial responsibility under chapter 46.29 RCW; and

(d) Upon receipt of evidence that a holder of an occupational driver's license granted under this subsection is no longer enrolled in an apprenticeship or on-the-job training program, the director shall give written notice by first-class mail to the driver that the occupational driver's license shall be canceled. ~~(The effective date of cancellation shall be fifteen days from the date of mailing the notice.)~~ If at any time before the cancellation goes into effect the driver submits evidence of continued enrollment in the program, the cancellation shall be

stayed. If the cancellation becomes effective, the driver may obtain, at no additional charge, a new occupational driver's license upon submittal of evidence of enrollment in another program that meets the criteria set forth in this subsection; and

(e) The department shall not issue an occupational driver's license under (b)(iv) of this subsection if the applicant is able to receive transit services sufficient to allow for the applicant's participation in the programs referenced under (b)(iv) of this subsection.

(4) A person aggrieved by the decision of the department on the application for an occupational or temporary restricted driver's license may request a hearing as provided by rule of the department.

(5) The director shall cancel an occupational or temporary restricted driver's license ~~((upon receipt of))~~ after receiving notice that the holder thereof has been convicted of operating a motor vehicle in violation of its restrictions, no longer meets the eligibility requirements, or ~~((or))~~ has been convicted of or found to have committed a separate offense or any other act or omission that under this chapter ((46.20 RCW)) would warrant suspension or revocation of a regular driver's license. ~~The department must give notice of the cancellation ((is effective as of the date of the conviction, and continues with the same force and effect as any suspension or revocation under this title))~~ as provided under RCW 46.20.245. A person whose occupational or temporary restricted driver's license has been canceled under this section may reapply for a new occupational or temporary restricted driver's license if he or she is otherwise qualified under this section and pays the fee required under RCW 46.20.380.

Sec. 3. RCW 46.20.720 and 2008 c 282 s 12 are each amended to read as follows:

(1) The court may order that after a period of suspension, revocation, or denial of driving privileges, and for up to as long as the court has jurisdiction, any person convicted of any offense involving the use, consumption, or possession of alcohol while operating a motor vehicle may drive only a motor vehicle equipped with a functioning ignition interlock. The court shall establish a specific calibration setting at which the interlock will prevent the vehicle from being started. The court shall also establish the period of time for which interlock use will be required.

(2) Under RCW 46.61.505~~((, 10.05.020, or section 18 of this act))~~ and subject to the exceptions listed in that statute, the court shall order any person convicted of ~~((an alcohol-related))~~ a violation of RCW 46.61.502 or 46.61.504 or an equivalent local ordinance ((or participating in a deferred prosecution program under RCW 10.05.020 or section 18 of this act for an alcohol-related violation of RCW 46.61.502 or 46.61.504 or an equivalent local ordinance)) to apply for an ignition interlock driver's license from the department under RCW 46.20.385 and to have a functioning ignition interlock device installed on all motor vehicles operated by the person.

(3) The department shall require that, after any applicable period of suspension, revocation, or denial of driving privileges, a person may drive only a motor vehicle equipped with a functioning ignition interlock device if the person is convicted of ~~((an alcohol-related))~~ a violation of RCW 46.61.502 or 46.61.504 or an equivalent local or out-of-state statute or ordinance.

The department may waive the requirement for the use of such a device if it concludes that such devices are not reasonably available in the local area. The installation of an ignition interlock device is not necessary on vehicles owned, leased, or rented by a person's employer and on those vehicles whose care and/or maintenance is the temporary responsibility of the employer, and driven at the direction of a person's employer as a requirement of employment during working hours. The person must provide the department with a declaration pursuant to RCW 9A.72.085 from his or her employer stating that the person's employment requires the person to operate a vehicle owned by the employer or other persons during working hours.

The ignition interlock device shall be calibrated to prevent the motor vehicle from being started when the breath sample provided has an alcohol concentration of 0.025 or more. Subject to the provisions of subsection (4) of this section, the period of time of the restriction will be ((as follows)) no less than:

(a) For a person who has not previously been restricted under this section, a period of one year;

(b) For a person who has previously been restricted under (a) of this subsection, a period of five years;

(c) For a person who has previously been restricted under (b) of this subsection, a period of ten years.

(4) A restriction imposed under subsection (3) of this section shall remain in effect until the department receives a declaration from the person's ignition interlock device vendor, in a form provided or approved by the department, certifying that there have been none of the following incidents in the four consecutive months prior to the date of release:

(a) An attempt to start the vehicle with a breath alcohol concentration of 0.04 or more;

(b) Failure to take or pass any required retest; or

(c) Failure of the person to appear at the ignition interlock device vendor when required for maintenance, repair, calibration, monitoring, inspection, or replacement of the device.

Sec. 4. RCW 46.61.5055 and 2008 c 282 s 14 are each amended to read as follows:

(1) Except as provided in RCW 46.61.502(6) or 46.61.504(6), a person who is convicted of a violation of RCW 46.61.502 or 46.61.504 and who has no prior offense within seven years shall be punished as follows:

(a) In the case of a person whose alcohol concentration was less than 0.15, or for whom for reasons other than the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than one day nor more than one year. Twenty-four consecutive hours of the imprisonment may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based. In lieu of the mandatory minimum term of imprisonment required under this subsection

(1)(a)(i), the court may order not less than fifteen days of electronic home monitoring. The offender shall pay the cost of electronic home monitoring. The county or municipality in which the penalty is being imposed shall determine the cost. The court may also require the offender's electronic home monitoring device to include an alcohol detection breathalyzer, and the court may restrict the amount of alcohol the offender may consume during the time the offender is on electronic home monitoring; and

(ii) By a fine of not less than three hundred fifty dollars nor more than five thousand dollars. Three hundred fifty dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent; or

(b) In the case of a person whose alcohol concentration was at least 0.15, or for whom by reason of the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than two days nor more than one year. Two consecutive days of the imprisonment may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based. In lieu of the mandatory minimum term of imprisonment required under this subsection (1)(b)(i), the court may order not less than thirty days of electronic home monitoring. The offender shall pay the cost of electronic home monitoring. The county or municipality in which the penalty is being imposed shall determine the cost. The court may also require the offender's electronic home monitoring device to include an alcohol detection breathalyzer, and the court may restrict the amount of alcohol the offender may consume during the time the offender is on electronic home monitoring; and

(ii) By a fine of not less than five hundred dollars nor more than five thousand dollars. Five hundred dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent.

(2) Except as provided in RCW 46.61.502(6) or 46.61.504(6), a person who is convicted of a violation of RCW 46.61.502 or 46.61.504 and who has one prior offense within seven years shall be punished as follows:

(a) In the case of a person whose alcohol concentration was less than 0.15, or for whom for reasons other than the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than thirty days nor more than one year and sixty days of electronic home monitoring. The offender shall pay for the cost of the electronic monitoring. The county or municipality where the penalty is being imposed shall determine the cost. The court may also require the offender's electronic home monitoring device include an alcohol detection breathalyzer, and may restrict the amount of alcohol the offender may consume during the time the offender is on electronic home monitoring. Thirty days of imprisonment and sixty days of electronic home monitoring may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's

physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based; and

(ii) By a fine of not less than five hundred dollars nor more than five thousand dollars. Five hundred dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent; or

(b) In the case of a person whose alcohol concentration was at least 0.15, or for whom by reason of the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than forty-five days nor more than one year and ninety days of electronic home monitoring. The offender shall pay for the cost of the electronic monitoring. The county or municipality where the penalty is being imposed shall determine the cost. The court may also require the offender's electronic home monitoring device include an alcohol detection breathalyzer, and may restrict the amount of alcohol the offender may consume during the time the offender is on electronic home monitoring. Forty-five days of imprisonment and ninety days of electronic home monitoring may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based; and

(ii) By a fine of not less than seven hundred fifty dollars nor more than five thousand dollars. Seven hundred fifty dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent.

(3) Except as provided in RCW 46.61.502(6) or 46.61.504(6), a person who is convicted of a violation of RCW 46.61.502 or 46.61.504 and who has two or three prior offenses within seven years shall be punished as follows:

(a) In the case of a person whose alcohol concentration was less than 0.15, or for whom for reasons other than the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than ninety days nor more than one year and one hundred twenty days of electronic home monitoring. The offender shall pay for the cost of the electronic monitoring. The county or municipality where the penalty is being imposed shall determine the cost. The court may also require the offender's electronic home monitoring device include an alcohol detection breathalyzer, and may restrict the amount of alcohol the offender may consume during the time the offender is on electronic home monitoring. Ninety days of imprisonment and one hundred twenty days of electronic home monitoring may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based; and

(ii) By a fine of not less than one thousand dollars nor more than five thousand dollars. One thousand dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent; or

(b) In the case of a person whose alcohol concentration was at least 0.15, or for whom by reason of the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than one hundred twenty days nor more than one year and one hundred fifty days of electronic home monitoring. The offender shall pay for the cost of the electronic monitoring. The county or municipality where the penalty is being imposed shall determine the cost. The court may also require the offender's electronic home monitoring device include an alcohol detection breathalyzer, and may restrict the amount of alcohol the offender may consume during the time the offender is on electronic home monitoring. One hundred twenty days of imprisonment and one hundred fifty days of electronic home monitoring may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based; and

(ii) By a fine of not less than one thousand five hundred dollars nor more than five thousand dollars. One thousand five hundred dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent.

(4) A person who is convicted of a violation of RCW 46.61.502 or 46.61.504 shall be punished under chapter 9.94A RCW if: (a) The person has four or more prior offenses within ten years; or (b) the person has ever previously been convicted of: (i) A violation of RCW 46.61.520 committed while under the influence of intoxicating liquor or any drug; (ii) a violation of RCW 46.61.522 committed while under the influence of intoxicating liquor or any drug; or (iii) an out-of-state offense comparable to the offense specified in (b)(i) or (ii) of this subsection.

(5)(a) The court shall require any person convicted of ~~((an alcohol-related))~~ a violation of RCW 46.61.502 or 46.61.504 or an equivalent local ordinance to apply for an ignition interlock driver's license from the department ~~((under RCW 46.20.385))~~ and to have a functioning ignition interlock device installed on all motor vehicles operated by the person.

(b) The installation of an ignition interlock device is not necessary on vehicles owned, leased, or rented by a person's employer and on those vehicles whose care and/or maintenance is the temporary responsibility of the employer, and driven at the direction of a person's employer as a requirement of employment during working hours. The person must provide the department with a declaration pursuant to RCW 9A.72.085 from his or her employer stating that the person's employment requires the person to operate a vehicle owned by the employer or other persons during working hours.

(c) An ignition interlock device imposed under this section shall be calibrated to prevent a motor vehicle from being started when the breath sample provided has an alcohol concentration of 0.025 or more.

(d) The court may waive the requirement that a person (~~(obtain)~~) apply for an ignition interlock driver's license (~~(and operate only vehicles equipped with a functioning ignition interlock device)~~) if the court makes a specific finding in writing that:

(i) The person lives out-of-state and the devices are not reasonably available in the person's local area(~~(-that)~~);

(ii) The person does not operate a vehicle(~~(-)~~); or

(iii) The person is not eligible to receive an ignition interlock driver's license under RCW 46.20.385 because the person is not a resident of Washington, is a habitual traffic offender, has already applied for or is already in possession of an ignition interlock driver's license, has never had a driver's license, has been certified under chapter 74.20A RCW as noncompliant with a child support order, or is subject to any other condition or circumstance that makes the person ineligible to obtain an ignition interlock driver's license.

(e) (~~(When the requirement)~~) If a court finds that a person is not eligible to receive an ignition interlock driver's license under this section, the court is not required to make any further subsequent inquiry or determination as to the person's eligibility.

(f) If the court orders that a person (~~(obtain)~~) refrain from consuming any alcohol and requires the person to apply for an ignition interlock driver's license (~~(and operate only vehicles equipped with a functioning ignition interlock device is waived by the court)~~), and the person states that he or she does not operate a motor vehicle or the person is ineligible to obtain an ignition interlock driver's license, the court shall order the person to submit to alcohol monitoring through an alcohol detection breathalyzer device, transdermal sensor device, or other technology designed to detect alcohol in a person's system. The person shall pay for the cost of the monitoring. The county or municipality where the penalty is being imposed shall determine the cost.

(~~(f)~~) (g) The period of time for which ignition interlock use or alcohol monitoring is required will be as follows:

(i) For a person who has not previously been restricted under this section, a period of one year;

(ii) For a person who has previously been restricted under (~~(f)~~) (g)(i) of this subsection, a period of five years;

(iii) For a person who has previously been restricted under (~~(f)~~) (g)(ii) of this subsection, a period of ten years.

(6) If a person who is convicted of a violation of RCW 46.61.502 or 46.61.504 committed the offense while a passenger under the age of sixteen was in the vehicle, the court shall:

(a) In any case in which the installation and use of an interlock or other device is not mandatory under RCW 46.20.720 or other law, order the use of such a device for not less than sixty days following the restoration of the person's license, permit, or nonresident driving privileges; and

(b) In any case in which the installation and use of such a device is otherwise mandatory, order the use of such a device for an additional sixty days.

(7) In exercising its discretion in setting penalties within the limits allowed by this section, the court shall particularly consider the following:

(a) Whether the person's driving at the time of the offense was responsible for injury or damage to another or another's property; and

(b) Whether at the time of the offense the person was driving or in physical control of a vehicle with one or more passengers.

(8) An offender punishable under this section is subject to the alcohol assessment and treatment provisions of RCW 46.61.5056.

(9) The license, permit, or nonresident privilege of a person convicted of driving or being in physical control of a motor vehicle while under the influence of intoxicating liquor or drugs must:

(a) If the person's alcohol concentration was less than 0.15, or if for reasons other than the person's refusal to take a test offered under RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) Where there has been no prior offense within seven years, be suspended or denied by the department for ninety days;

(ii) Where there has been one prior offense within seven years, be revoked or denied by the department for two years; or

(iii) Where there have been two or more prior offenses within seven years, be revoked or denied by the department for three years;

(b) If the person's alcohol concentration was at least 0.15:

(i) Where there has been no prior offense within seven years, be revoked or denied by the department for one year;

(ii) Where there has been one prior offense within seven years, be revoked or denied by the department for nine hundred days; or

(iii) Where there have been two or more prior offenses within seven years, be revoked or denied by the department for four years; or

(c) If by reason of the person's refusal to take a test offered under RCW 46.20.308, there is no test result indicating the person's alcohol concentration:

(i) Where there have been no prior offenses within seven years, be revoked or denied by the department for two years;

(ii) Where there has been one prior offense within seven years, be revoked or denied by the department for three years; or

(iii) Where there have been two or more previous offenses within seven years, be revoked or denied by the department for four years.

The department shall grant credit on a day-for-day basis for any portion of a suspension, revocation, or denial already served under this subsection for a suspension, revocation, or denial imposed under RCW 46.20.3101 arising out of the same incident.

For purposes of this subsection (9), the department shall refer to the driver's record maintained under RCW 46.52.120 when determining the existence of prior offenses.

(10) After expiration of any period of suspension, revocation, or denial of the offender's license, permit, or privilege to drive required by this section, the department shall place the offender's driving privilege in probationary status pursuant to RCW 46.20.355.

(11)(a) In addition to any nonsuspendable and nondeferrable jail sentence required by this section, whenever the court imposes less than one year in jail, the court shall also suspend but shall not defer a period of confinement for a period not exceeding five years. The court shall impose conditions of probation that include: (i) Not driving a motor vehicle within this state without a valid license to drive and proof of financial responsibility for the future; (ii) not driving a motor vehicle within this state while having an alcohol concentration

of 0.08 or more within two hours after driving; and (iii) not refusing to submit to a test of his or her breath or blood to determine alcohol concentration upon request of a law enforcement officer who has reasonable grounds to believe the person was driving or was in actual physical control of a motor vehicle within this state while under the influence of intoxicating liquor. The court may impose conditions of probation that include nonrepetition, installation of an ignition interlock device on the probationer's motor vehicle, alcohol or drug treatment, supervised probation, or other conditions that may be appropriate. The sentence may be imposed in whole or in part upon violation of a condition of probation during the suspension period.

(b) For each violation of mandatory conditions of probation under (a)(i), (ii), or (iii) of this subsection, the court shall order the convicted person to be confined for thirty days, which shall not be suspended or deferred.

(c) For each incident involving a violation of a mandatory condition of probation imposed under this subsection, the license, permit, or privilege to drive of the person shall be suspended by the court for thirty days or, if such license, permit, or privilege to drive already is suspended, revoked, or denied at the time the finding of probation violation is made, the suspension, revocation, or denial then in effect shall be extended by thirty days. The court shall notify the department of any suspension, revocation, or denial or any extension of a suspension, revocation, or denial imposed under this subsection.

(12) A court may waive the electronic home monitoring requirements of this chapter when:

(a) The offender does not have a dwelling, telephone service, or any other necessity to operate an electronic home monitoring system;

(b) The offender does not reside in the state of Washington; or

(c) The court determines that there is reason to believe that the offender would violate the conditions of the electronic home monitoring penalty.

Whenever the mandatory minimum term of electronic home monitoring is waived, the court shall state in writing the reason for granting the waiver and the facts upon which the waiver is based, and shall impose an alternative sentence with similar punitive consequences. The alternative sentence may include, but is not limited to, additional jail time, work crew, or work camp.

Whenever the combination of jail time and electronic home monitoring or alternative sentence would exceed three hundred sixty-five days, the offender shall serve the jail portion of the sentence first, and the electronic home monitoring or alternative portion of the sentence shall be reduced so that the combination does not exceed three hundred sixty-five days.

(13) An offender serving a sentence under this section, whether or not a mandatory minimum term has expired, may be granted an extraordinary medical placement by the jail administrator subject to the standards and limitations set forth in RCW 9.94A.728(~~(4)~~) (3).

(14) For purposes of this section and RCW 46.61.502 and 46.61.504:

(a) A "prior offense" means any of the following:

(i) A conviction for a violation of RCW 46.61.502 or an equivalent local ordinance;

(ii) A conviction for a violation of RCW 46.61.504 or an equivalent local ordinance;

(iii) A conviction for a violation of RCW 46.61.520 committed while under the influence of intoxicating liquor or any drug;

(iv) A conviction for a violation of RCW 46.61.522 committed while under the influence of intoxicating liquor or any drug;

(v) A conviction for a violation of RCW 46.61.5249, 46.61.500, or 9A.36.050 or an equivalent local ordinance, if the conviction is the result of a charge that was originally filed as a violation of RCW 46.61.502 or 46.61.504, or an equivalent local ordinance, or of RCW 46.61.520 or 46.61.522;

(vi) An out-of-state conviction for a violation that would have been a violation of (a)(i), (ii), (iii), (iv), or (v) of this subsection if committed in this state;

(vii) A deferred prosecution under chapter 10.05 RCW granted in a prosecution for a violation of RCW 46.61.502, 46.61.504, or an equivalent local ordinance; or

(viii) A deferred prosecution under chapter 10.05 RCW granted in a prosecution for a violation of RCW 46.61.5249, or an equivalent local ordinance, if the charge under which the deferred prosecution was granted was originally filed as a violation of RCW 46.61.502 or 46.61.504, or an equivalent local ordinance, or of RCW 46.61.520 or 46.61.522;

If a deferred prosecution is revoked based on a subsequent conviction for an offense listed in this subsection (14)(a), the subsequent conviction shall not be treated as a prior offense of the revoked deferred prosecution for the purposes of sentencing.

(b) "Within seven years" means that the arrest for a prior offense occurred within seven years ~~((of))~~ before or after the arrest for the current offense; and

(c) "Within ten years" means that the arrest for a prior offense occurred within ten years ~~((of))~~ before or after the arrest for the current offense.

NEW SECTION. Sec. 5. A new section is added to chapter 46.61 RCW to read as follows:

If a person is required, as part of the person's judgment and sentence, to install an ignition interlock device on all motor vehicles operated by the person and the person is under the jurisdiction of the municipality or county probation or supervision department, the probation or supervision department must verify the installation of the ignition interlock device or devices. The municipality or county probation or supervision department satisfies the requirement to verify the installation or installations if the municipality or county probation or supervision department receives written verification by one or more companies doing business in the state that it has installed the required device on a vehicle owned or operated by the person. The municipality or county shall have no further obligation to supervise the use of the ignition interlock device or devices by the person and shall not be civilly liable for any injuries or damages caused by the person for failing to use an ignition interlock device or for driving under the influence of intoxicating liquor or any drug or being in actual physical control of a motor vehicle under the influence of intoxicating liquor or any drug.

Sec. 6. RCW 46.20.410 and 2008 c 282 s 8 are each amended to read as follows:

(1) Any person convicted for violation of any restriction of an occupational driver's license~~(s)~~ or a temporary restricted driver's license~~(s) or an ignition~~

~~interlock driver's license~~) shall in addition to the ~~((immediate revocation))~~ cancellation of such license and any other penalties provided by law be fined not less than fifty nor more than two hundred dollars or imprisoned for not more than six months or both such fine and imprisonment.

(2) It is a gross misdemeanor for a person to violate any restriction of an ignition interlock driver's license.

Sec. 7. RCW 46.20.342 and 2008 c 282 s 4 are each amended to read as follows:

(1) It is unlawful for any person to drive a motor vehicle in this state while that person is in a suspended or revoked status or when his or her privilege to drive is suspended or revoked in this or any other state. Any person who has a valid Washington driver's license is not guilty of a violation of this section.

(a) A person found to be an habitual offender under chapter 46.65 RCW, who violates this section while an order of revocation issued under chapter 46.65 RCW prohibiting such operation is in effect, is guilty of driving while license suspended or revoked in the first degree, a gross misdemeanor. Upon the first such conviction, the person shall be punished by imprisonment for not less than ten days. Upon the second conviction, the person shall be punished by imprisonment for not less than ninety days. Upon the third or subsequent conviction, the person shall be punished by imprisonment for not less than one hundred eighty days. If the person is also convicted of the offense defined in RCW 46.61.502 or 46.61.504, when both convictions arise from the same event, the minimum sentence of confinement shall be not less than ninety days. The minimum sentence of confinement required shall not be suspended or deferred. A conviction under this subsection does not prevent a person from petitioning for reinstatement as provided by RCW 46.65.080.

(b) A person who violates this section while an order of suspension or revocation prohibiting such operation is in effect and while the person is not eligible to reinstate his or her driver's license or driving privilege, other than for a suspension for the reasons described in (c) of this subsection, is guilty of driving while license suspended or revoked in the second degree, a gross misdemeanor. For the purposes of this subsection, a person is not considered to be eligible to reinstate his or her driver's license or driving privilege if the person is eligible to obtain an ignition interlock driver's license but did not obtain such a license. This subsection applies when a person's driver's license or driving privilege has been suspended or revoked by reason of:

(i) A conviction of a felony in the commission of which a motor vehicle was used;

(ii) A previous conviction under this section;

(iii) A notice received by the department from a court or diversion unit as provided by RCW 46.20.265, relating to a minor who has committed, or who has entered a diversion unit concerning an offense relating to alcohol, legend drugs, controlled substances, or imitation controlled substances;

(iv) A conviction of RCW 46.20.410, relating to the violation of restrictions of an occupational driver's license, a temporary restricted driver's license, or an ignition interlock driver's license;

(v) A conviction of RCW 46.20.345, relating to the operation of a motor vehicle with a suspended or revoked license;

(vi) A conviction of RCW 46.52.020, relating to duty in case of injury to or death of a person or damage to an attended vehicle;

(vii) A conviction of RCW 46.61.024, relating to attempting to elude pursuing police vehicles;

(viii) A conviction of RCW 46.61.500, relating to reckless driving;

(ix) A conviction of RCW 46.61.502 or 46.61.504, relating to a person under the influence of intoxicating liquor or drugs;

(x) A conviction of RCW 46.61.520, relating to vehicular homicide;

(xi) A conviction of RCW 46.61.522, relating to vehicular assault;

(xii) A conviction of RCW 46.61.527(4), relating to reckless endangerment of roadway workers;

(xiii) A conviction of RCW 46.61.530, relating to racing of vehicles on highways;

(xiv) A conviction of RCW 46.61.685, relating to leaving children in an unattended vehicle with motor running;

(xv) A conviction of RCW 46.61.740, relating to theft of motor vehicle fuel;

(xvi) A conviction of RCW 46.64.048, relating to attempting, aiding, abetting, coercing, and committing crimes;

(xvii) An administrative action taken by the department under chapter 46.20 RCW; or

(xviii) A conviction of a local law, ordinance, regulation, or resolution of a political subdivision of this state, the federal government, or any other state, of an offense substantially similar to a violation included in this subsection.

(c) A person who violates this section when his or her driver's license or driving privilege is, at the time of the violation, suspended or revoked solely because (i) the person must furnish proof of satisfactory progress in a required alcoholism or drug treatment program, (ii) the person must furnish proof of financial responsibility for the future as provided by chapter 46.29 RCW, (iii) the person has failed to comply with the provisions of chapter 46.29 RCW relating to uninsured accidents, (iv) the person has failed to respond to a notice of traffic infraction, failed to appear at a requested hearing, violated a written promise to appear in court, or has failed to comply with the terms of a notice of traffic infraction or citation, as provided in RCW 46.20.289, (v) the person has committed an offense in another state that, if committed in this state, would not be grounds for the suspension or revocation of the person's driver's license, (vi) the person has been suspended or revoked by reason of one or more of the items listed in (b) of this subsection, but was eligible to reinstate his or her driver's license or driving privilege at the time of the violation, or (vii) the person has received traffic citations or notices of traffic infraction that have resulted in a suspension under RCW 46.20.267 relating to intermediate drivers' licenses, or any combination of (i) through (vii), is guilty of driving while license suspended or revoked in the third degree, a misdemeanor. For the purposes of this subsection, a person is not considered to be eligible to reinstate his or her driver's license or driving privilege if the person is eligible to obtain an ignition interlock driver's license but did not obtain such a license.

(2) Upon receiving a record of conviction of any person or upon receiving an order by any juvenile court or any duly authorized court officer of the conviction of any juvenile under this section, the department shall:

(a) For a conviction of driving while suspended or revoked in the first degree, as provided by subsection (1)(a) of this section, extend the period of administrative revocation imposed under chapter 46.65 RCW for an additional period of one year from and after the date the person would otherwise have been entitled to apply for a new license or have his or her driving privilege restored; or

(b) For a conviction of driving while suspended or revoked in the second degree, as provided by subsection (1)(b) of this section, not issue a new license or restore the driving privilege for an additional period of one year from and after the date the person would otherwise have been entitled to apply for a new license or have his or her driving privilege restored; or

(c) Not extend the period of suspension or revocation if the conviction was under subsection (1)(c) of this section. If the conviction was under subsection (1)(a) or (b) of this section and the court recommends against the extension and the convicted person has obtained a valid driver's license, the period of suspension or revocation shall not be extended.

Sec. 8. RCW 46.20.740 and 2008 c 282 s 13 are each amended to read as follows:

(1) The department shall attach or imprint a notation on the driving record of any person restricted under RCW 46.20.720 (~~(*)~~), 46.61.5055, or 10.05.140 stating that the person may operate only a motor vehicle equipped with a functioning ignition interlock device. The department shall determine the person's eligibility for licensing based upon written verification by a company doing business in the state that it has installed the required device on a vehicle owned or operated by the person seeking reinstatement. If, based upon notification from the interlock provider or otherwise, the department determines that an ignition interlock required under this section is no longer installed or functioning as required, the department shall suspend the person's license or privilege to drive. Whenever the license or driving privilege of any person is suspended or revoked as a result of noncompliance with an ignition interlock requirement, the suspension shall remain in effect until the person provides notice issued by a company doing business in the state that a vehicle owned or operated by the person is equipped with a functioning ignition interlock device.

(2) It is a gross misdemeanor for a person with such a notation on his or her driving record to operate a motor vehicle that is not so equipped.

Sec. 9. RCW 10.05.020 and 2008 c 282 s 16 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section (~~(or section 18 of this act)~~), the petitioner shall allege under oath in the petition that the wrongful conduct charged is the result of or caused by alcoholism, drug addiction, or mental problems for which the person is in need of treatment and unless treated the probability of future recurrence is great, along with a statement that the person agrees to pay the cost of a diagnosis and treatment of the alleged problem or problems if financially able to do so. The petition shall also contain a case history and written assessment prepared by an approved alcoholism treatment program as designated in chapter 70.96A RCW if the petition alleges alcoholism, an approved drug program as designated in chapter 71.24 RCW if

the petition alleges drug addiction, or by an approved mental health center if the petition alleges a mental problem.

(2) In the case of a petitioner charged with a misdemeanor or gross misdemeanor under chapter 9A.42 RCW, the petitioner shall allege under oath in the petition that the petitioner is the natural or adoptive parent of the alleged victim; that the wrongful conduct charged is the result of parenting problems for which the petitioner is in need of services; that the petitioner is in need of child welfare services under chapter 74.13 RCW to improve his or her parenting skills in order to better provide his or her child or children with the basic necessities of life; that the petitioner wants to correct his or her conduct to reduce the likelihood of harm to his or her minor children; that in the absence of child welfare services the petitioner may be unable to reduce the likelihood of harm to his or her minor children; and that the petitioner has cooperated with the department of social and health services to develop a plan to receive appropriate child welfare services; along with a statement that the person agrees to pay the cost of the services if he or she is financially able to do so. The petition shall also contain a case history and a written service plan from the department of social and health services.

(3) Before entry of an order deferring prosecution, a petitioner shall be advised of his or her rights as an accused and execute, as a condition of receiving treatment, a statement that contains: (a) An acknowledgment of his or her rights; (b) an acknowledgment and waiver of the right to testify, the right to a speedy trial, the right to call witnesses to testify, the right to present evidence in his or her defense, and the right to a jury trial; (c) a stipulation to the admissibility and sufficiency of the facts contained in the written police report; and (d) an acknowledgment that the statement will be entered and used to support a finding of guilty if the court finds cause to revoke the order granting deferred prosecution. The petitioner shall also be advised that he or she may, if he or she proceeds to trial and is found guilty, be allowed to seek suspension of some or all of the fines and incarceration that may be ordered upon the condition that he or she seek treatment and, further, that he or she may seek treatment from public and private agencies at any time without regard to whether or not he or she is found guilty of the offense charged. He or she shall also be advised that the court will not accept a petition for deferred prosecution from a person who: (i) Sincerely believes that he or she is innocent of the charges; (ii) sincerely believes that he or she does not, in fact, suffer from alcoholism, drug addiction, or mental problems(~~(unless the petition for deferred prosecution is under section 18 of this act)~~); or (iii) in the case of a petitioner charged under chapter 9A.42 RCW, sincerely believes that he or she does not need child welfare services.

(4) Before entering an order deferring prosecution, the court shall make specific findings that: (a) The petitioner has stipulated to the admissibility and sufficiency of the facts as contained in the written police report; (b) the petitioner has acknowledged the admissibility of the stipulated facts in any criminal hearing on the underlying offense or offenses held subsequent to revocation of the order granting deferred prosecution; (c) the petitioner has acknowledged and waived the right to testify, the right to a speedy trial, the right to call witnesses to testify, the right to present evidence in his or her defense, and the right to a jury trial; and (d) the petitioner's statements were made knowingly and voluntarily. Such findings shall be included in the order granting deferred prosecution.

Sec. 10. RCW 10.05.090 and 2008 c 282 s 17 are each amended to read as follows:

If a petitioner, who has been accepted for a deferred prosecution, fails or neglects to carry out and fulfill any term or condition of the petitioner's treatment plan or any term or condition imposed in connection with the installation of an interlock or other device under RCW 46.20.720 (~~or 46.20.385~~), the facility, center, institution, or agency administering the treatment or the entity administering the use of the device, shall immediately report such breach to the court, the prosecutor, and the petitioner or petitioner's attorney of record, together with its recommendation. The court upon receiving such a report shall hold a hearing to determine whether the petitioner should be removed from the deferred prosecution program. At the hearing, evidence shall be taken of the petitioner's alleged failure to comply with the treatment plan or device installation and the petitioner shall have the right to present evidence on his or her own behalf. The court shall either order that the petitioner continue on the treatment plan or be removed from deferred prosecution. (~~If the petitioner's noncompliance is based on a violation of a term or condition imposed in connection with the installation of an ignition interlock device under RCW 46.20.385, the court shall either order that the petitioner comply with the term or condition or be removed from deferred prosecution.~~) If removed from deferred prosecution, the court shall enter judgment pursuant to RCW 10.05.020 and, if the charge for which the deferred prosecution was granted was a misdemeanor or gross misdemeanor under Title 46 RCW, shall notify the department of licensing of the removal and entry of judgment.

Sec. 11. RCW 10.05.160 and 2008 c 282 s 19 are each amended to read as follows:

The prosecutor may appeal an order granting deferred prosecution on any or all of the following grounds:

- (1) Prior deferred prosecution has been granted to the defendant;
- (2) Failure of the court to obtain proof of insurance or a treatment plan conforming to the requirements of this chapter;
- (3) Failure of the court to comply with the requirements of RCW 10.05.100;
- (4) Failure of the evaluation facility to provide the information required in RCW 10.05.040 and 10.05.050, if the defendant has been referred to the facility for treatment. If an appeal on such basis is successful, the trial court may consider the use of another treatment program;
- (5) Failure of the court to order the installation of an ignition interlock or other device under RCW (~~46.20.720 or 46.20.385~~) 10.05.140.

NEW SECTION. **Sec. 12.** This act takes effect January 1, 2011.

Passed by the House March 9, 2010.

Passed by the Senate March 5, 2010.

Approved by the Governor March 31, 2010.

Filed in Office of Secretary of State April 1, 2010.

CHAPTER 270

[Second Substitute House Bill 2436]

VEHICLE LICENSE FRAUD

AN ACT Relating to vehicle license fraud; amending RCW 46.16.010; prescribing penalties; making an appropriation; and providing an effective date.

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

Sec. 1. RCW 46.16.010 and 2007 c 242 s 2 are each amended to read as follows:

(1) It is unlawful for a person to operate any vehicle over and along a public highway of this state without first having obtained and having in full force and effect a current and proper vehicle license and display vehicle license number plates (~~((therefor))~~) as provided by this chapter (~~((provided))~~).

(2) Failure to make initial registration before operation on the highways of this state is a traffic infraction, and any person committing this infraction (~~((shall))~~) must pay a (~~((penalty))~~) fine of five hundred twenty-nine dollars, subject to applicable assessments, no part of which may be suspended or deferred. This fine is in addition to any delinquent taxes and fees that must be deposited and distributed in the same manner as if the taxes and fees were properly paid in a timely fashion. The five hundred twenty-nine dollar fine must be deposited into the vehicle licensing fraud account created in the state treasury in RCW 46.68.250.

(3) Failure to renew an expired registration before operation on the highways of this state is a traffic infraction.

(4) The licensing of a vehicle in another state by a resident of this state, as defined in RCW 46.16.028, evading the payment of any tax or license fee imposed in connection with registration, is a gross misdemeanor punishable, in lieu of the fine in subsection (2) of this section, as follows:

(a) For a first offense(~~((;))~~):

(i) Up to one year in the county jail (~~((and))~~);

(ii) Payment of a fine of five hundred twenty-nine dollars (~~((plus twice the amount of delinquent taxes and fees))~~) plus any applicable assessments, no part of which may be suspended or deferred. The fine of five hundred twenty-nine dollars must be deposited into the vehicle licensing fraud account created in the state treasury in RCW 46.68.250;

(iii) A fine of one thousand dollars to be deposited into the vehicle licensing fraud account created in the state treasury in RCW 46.68.250, no part of which may be suspended or deferred; and

(iv) The delinquent taxes and fees, which must be deposited and distributed in the same manner as if the taxes and fees were properly paid in a timely fashion, no part of which may be suspended or deferred;

(b) For a second or subsequent offense(~~((;))~~):

(i) Up to one year in the county jail (~~((and))~~);

(ii) Payment of a fine of five hundred twenty-nine dollars (~~((plus four times the amount of delinquent taxes and fees))~~) plus any applicable assessments, no part of which may be suspended or deferred. The fine of five hundred twenty-nine dollars must be deposited into the vehicle licensing fraud account created in the state treasury in RCW 46.68.250;

(iii) A fine of five thousand dollars to be deposited into the vehicle licensing fraud account created in the state treasury in RCW 46.68.250, no part of which may be suspended or deferred;

~~((c) For fines levied under (b) of this subsection, an amount equal to the avoided taxes and fees owed will be deposited in the vehicle licensing fraud account created in the state treasury;~~

~~(d) The avoided taxes and fees shall be deposited and distributed in the same manner as if the taxes and fees were properly paid in a timely fashion)) and~~

(iv) The amount of delinquent taxes and fees, which must be deposited and distributed in the same manner as if the taxes and fees were properly paid in a timely fashion, no part of which may be suspended or deferred.

(5) These provisions ~~((shall))~~ do not apply to the following vehicles:

(a) Motorized foot scooters;

(b) Electric-assisted bicycles;

(c) Off-road vehicles operating on nonhighway roads under RCW 46.09.115;

(d) Farm vehicles if operated within a radius of fifteen miles of the farm where principally used or garaged, farm tractors and farm implements including trailers designed as cook or bunk houses used exclusively for animal herding temporarily operating or drawn upon the public highways, and trailers used exclusively to transport farm implements from one farm to another during the daylight hours or at night when such equipment has lights that comply with the law;

(e) Spray or fertilizer applicator rigs designed and used exclusively for spraying or fertilization in the conduct of agricultural operations and not primarily for the purpose of transportation, and nurse rigs or equipment auxiliary to the use of and designed or modified for the fueling, repairing, or loading of spray and fertilizer applicator rigs and not used, designed, or modified primarily for the purpose of transportation;

(f) Fork lifts operated during daylight hours on public highways adjacent to and within five hundred feet of the warehouses which they serve ~~((: PROVIDED FURTHER, That))~~. However, these provisions ~~((shall))~~ do not apply to vehicles used by the state parks and recreation commission exclusively for park maintenance and operations upon public highways within state parks;

(g) "Trams" used for transporting persons to and from facilities related to the horse racing industry as regulated in chapter 67.16 RCW, as long as the public right-of-way routes over which the trams operate are not more than one mile from end to end, the public rights-of-way over which the tram operates have an average daily traffic of not more than 15,000 vehicles per day, and the activity is in conformity with federal law. The operator must be a licensed driver and at least eighteen years old. For the purposes of this section, "tram" also means a vehicle, or combination of vehicles linked together with a single mode of propulsion, used to transport persons from one location to another;

(h)(i) "Special highway construction equipment" defined as follows: Any vehicle which is designed and used primarily for grading of highways, paving of highways, earth moving, and other construction work on highways and which is not designed or used primarily for the transportation of persons or property on a public highway and which is only incidentally operated or moved over the highway. It includes, but is not limited to, road construction and maintenance

machinery so designed and used such as portable air compressors, air drills, asphalt spreaders, bituminous mixers, bucket loaders, track laying tractors, ditchers, leveling graders, finishing machines, motor graders, paving mixers, road rollers, scarifiers, earth moving scrapers and carryalls, lighting plants, welders, pumps, power shovels and draglines, self-propelled and tractor-drawn earth moving equipment and machinery, including dump trucks and tractor-dump trailer combinations which ~~((either (i)))~~:

~~(A) Are in excess of the legal width((:)); or ((i) which,))~~

~~(B) Because of their length, height, or unladen weight, may not be moved on a public highway without the permit specified in RCW 46.44.090 and which are not operated laden except within the boundaries of the project limits as defined by the contract, and other similar types of construction equipment((:)); or ((iii) which)~~

~~(C) Are driven or moved upon a public highway only for the purpose of crossing such highway from one property to another, provided such movement does not exceed five hundred feet and the vehicle is equipped with wheels or pads which will not damage the roadway surface.~~

~~(Exclusions:)~~

~~(ii) "Special highway construction equipment" does not include ((any of the following:)) dump trucks originally designed to comply with the legal size and weight provisions of this code notwithstanding any subsequent modification which would require a permit, as specified in RCW 46.44.090, to operate such vehicles on a public highway, including trailers, truck-mounted transit mixers, cranes and shovels, or other vehicles designed for the transportation of persons or property to which machinery has been attached.~~

(6) The following vehicles, whether operated solo or in combination, are exempt from license registration and displaying license plates as required by this chapter:

(a) A converter gear used to convert a semitrailer into a trailer or a two-axle truck or tractor into a three or more axle truck or tractor or used in any other manner to increase the number of axles of a vehicle. Converter gear includes an auxiliary axle, booster axle, dolly, and jeep axle.

(b) A tow dolly that is used for towing a motor vehicle behind another motor vehicle. The front or rear wheels of the towed vehicle are secured to and rest on the tow dolly that is attached to the towing vehicle by a tow bar.

(c) An off-road vehicle operated on a street, road, or highway as authorized under RCW 46.09.180.

(7)(a) A motor vehicle subject to initial or renewal registration under this section shall not be registered to a natural person unless the person at time of application:

(i) Presents an unexpired Washington state driver's license; or

(ii) Certifies that he or she is:

(A) A Washington resident who does not operate a motor vehicle on public roads; or

(B) Exempt from the requirement to obtain a Washington state driver's license under RCW 46.20.025.

(b) For shared or joint ownership, the department will set up procedures to verify that all owners meet the requirements of this subsection.

(c) A person falsifying residency is guilty of a gross misdemeanor punishable only by a fine of five hundred twenty-nine dollars.

(d) The department may adopt rules necessary to implement this subsection, including rules under which a natural person applying for registration may be exempt from the requirements of this subsection where the person provides evidence satisfactory to the department that he or she has a valid and compelling reason for not being able to meet the requirements of this subsection.

(8) A vehicle with an expired registration of more than forty-five days parked on a public street may be impounded by a police officer under RCW 46.55.113(2).

NEW SECTION. Sec. 2. The sum of seventy-five thousand dollars per fiscal year is appropriated to the department of revenue or as much thereof as may be necessary and the sum of two hundred fifty thousand dollars is appropriated to the Washington state patrol per fiscal year, or as much thereof as may be necessary, from the vehicle license fraud account for the purposes of vehicle license fraud enforcement and collections by the Washington state patrol and the department of revenue.

NEW SECTION. Sec. 3. This act takes effect July 1, 2010.

Passed by the House March 11, 2010.

Passed by the Senate March 11, 2010.

Approved by the Governor April 1, 2010.

Filed in Office of Secretary of State April 2, 2010.

CHAPTER 271

[Engrossed Second Substitute House Bill 2658]

DEPARTMENT OF COMMERCE—MISSION

AN ACT Relating to refocusing the mission of the department of commerce, including transferring programs; amending RCW 43.330.005, 43.330.007, 70.05.125, 43.330.210, 43.330.240, 19.27.070, 19.27.097, 19.27.150, 19.27A.020, 19.27A.140, 19.27A.150, 19.27A.180, 43.21F.010, 43.21F.090, 36.27.100, 80.50.030, 43.110.030, 43.110.060, 43.110.080, 43.15.020, 35.21.185, 35.102.040, and 36.70B.220; reenacting and amending RCW 43.21F.025 and 41.06.070; adding new sections to chapter 43.70 RCW; adding a new section to chapter 43.21F RCW; creating new sections; recodifying RCW 43.330.195, 43.330.200, 43.330.205, 43.330.210, 43.330.220, 43.330.225, 43.330.230, and 43.330.240; decodifying RCW 43.63A.150; repealing RCW 43.21F.015, 43.110.010, 43.110.040, and 43.110.070; providing an effective date; and providing an expiration date.

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

NEW SECTION. Sec. 1. In 2009, the legislature changed the name of the department of community, trade, and economic development to the department of commerce and directed the agency to, among other things, develop a report with recommendations on statutory changes to ensure that the department's efforts: Are organized around a concise core mission and aligned with the state's comprehensive plan for economic development; generate greater local capacity; maximize results through partnerships and the use of intermediaries; and provide transparency and increased accountability. Recommendations for creating or consolidating programs deemed important to meeting the department's core mission and recommendations for terminating or transferring specific programs

if they are not consistent with the department's core mission were to be included in the report.

In accordance with that legislation, chapter 565, Laws of 2009, in November 2009 the department of commerce submitted a plan that establishes a mission of growing and improving jobs in the state and recognizes the need for an innovation-driven economy. The plan also outlines agency priorities, efficiencies, and program transfers that will help to advance the new mission.

The primary purpose of this act is to implement portions of the department of commerce plan by transferring certain programs from the department of commerce to other state agencies whose missions are more closely aligned with the core functions of those programs. This act also directs additional efficiencies in state government and directs development of a statewide clean energy strategy, which will better enable the department of commerce to focus on its new mission.

Sec. 2. RCW 43.330.005 and 1993 c 280 s 1 are each amended to read as follows:

The legislature finds that the long-term economic health of the state and its citizens depends upon the strength and vitality of its communities and businesses. It is the intent of this chapter to create a ~~((merged))~~ department of ~~((community, trade, and economic development))~~ commerce that fosters new partnerships for strong and sustainable communities. ~~((The consolidation of the department of trade and economic development and the department of community development into one department will))~~ The mission of the department is to grow and improve jobs in Washington and facilitate innovation. To carry out its mission, the department will bring together focused efforts to: Streamline access to business assistance and economic development services by providing ~~((a simpler point of entry for state programs))~~ them through sector-based, cluster-based, and regional partners; provide focused and flexible responses to changing economic conditions; generate greater local capacity to respond to both economic growth and environmental challenges; ~~((and))~~ increase accountability to the public, the executive branch, and the legislature ~~((A new department can bring together a focused effort to:))~~; manage growth and achieve sustainable development; diversify the state's economy and export goods and services; provide greater access to economic opportunity; stimulate private sector investment and entrepreneurship; provide stable family-wage jobs and meet the diverse needs of families; provide affordable housing and housing services; and construct public infrastructure ~~((; protect our cultural heritage, and promote the health and safety of the state's citizens))~~.

The legislature further finds that as a result of the rapid pace of global social and economic change, the state and local communities will require coordinated and creative responses by every segment of the community. The state can play a role in assisting such local efforts by reorganizing state assistance efforts to promote such partnerships. The department has a primary responsibility to provide financial and technical assistance to the communities of the state, to assist in improving the delivery of federal, state, and local programs, and to provide communities with opportunities for productive and coordinated development beneficial to the well-being of communities and their residents. It is the intent of the legislature in ~~((this consolidation))~~ creating the department to

maximize the use of local expertise and resources in the delivery of community and economic development services.

Sec. 3. RCW 43.330.007 and 2009 c 565 s 1 are each amended to read as follows:

(1) The purpose of this chapter is to establish the broad outline of the structure of the department of commerce, leaving specific details of its internal organization and management to those charged with its administration. This chapter identifies the broad functions and responsibilities of the department and is intended to provide flexibility to the director to reorganize these functions to more closely reflect its customers, its mission, and its priorities, and to make recommendations for changes.

(2) In order to generate greater local capacity, maximize results through partnerships and the use of intermediaries, and leverage the use of state resources, the department shall, in carrying out its business assistance and economic development functions, provide business and economic development services primarily through sector-based, cluster-based, and regionally based organizations rather than providing assistance directly to individual firms.

NEW SECTION. Sec. 4. The department shall examine the functions and operations of agricultural commodity commissions in the state and collaborate with industry sector and cluster associations on legislation that would enable industries to develop self-financing systems for addressing industry-identified issues such as workforce training, international marketing, quality improvement, and technology deployment. By December 1, 2010, the department shall report to the governor and the legislature on its findings and proposed legislation.

NEW SECTION. Sec. 5. (1) The legislature recognizes that there are many strong community services and housing programs currently operating within the department and serving our most vulnerable individuals, families, and communities. The legislature finds that some of these programs can readily be transferred beginning on July 1, 2010, to other mission-aligned agencies in state government. However, the legislature finds that to maintain the strength and credibility of the majority of the department's community services and housing programs, it is necessary to create a separate division for them within the department.

(2)(a) The legislature directs the department to establish the community services and housing division to deliver essential services to individuals, families, and communities.

(b) Services provided by the division shall include, but are not limited to: (i) Homeless housing and assistance programs including transitional housing, emergency shelter grants, independent youth housing, housing assistance for persons with mental illness, and housing opportunities for people with AIDS; (ii) affordable housing development programs including the housing trust fund and low-income home energy assistance; (iii) farm worker housing; (iv) crime victims' advocacy and sexual assault services; (v) community mobilization against substance abuse and violence; (vi) asset building for working families; (vii) local and community projects including the building communities fund, building for the arts, and youth recreational facilities grants; (viii) dispute resolution centers; (ix) the Washington families fund; (x) community services block grants; (xi) child care facility fund; (xii) WorkFirst community jobs; (xiii)

long-term care ombudsman; (xiv) state drug task forces; (xv) justice assistance grants; (xvi) children and families of incarcerated parents; and (xvii) the Washington new Americans program.

(3) This section expires July 1, 2012.

PART I
DEPARTMENT OF HEALTH—PUBLIC HEALTH

Sec. 101. RCW 70.05.125 and 2009 c 479 s 48 are each amended to read as follows:

(1) The county public health account is created in the state treasury. Funds deposited in the county public health account shall be distributed by the state treasurer to each local public health jurisdiction based upon amounts certified to it by the department of ~~((community, trade, and economic development))~~ health in consultation with the Washington state association of counties. The account shall include funds distributed under RCW 82.14.200(8) and such funds as are appropriated to the account from the state general fund, the public health services account under RCW 43.72.902, and such other funds as the legislature may appropriate to it.

(2)(a) The ~~((director))~~ secretary of the department of ~~((community, trade, and economic development))~~ health shall certify the amounts to be distributed to each local public health jurisdiction using 1995 as the base year of actual city contributions to local public health.

(b) Only if funds are available and in an amount no greater than available funds under RCW 82.14.200(8), the department of community, trade, and economic development shall adjust the amount certified under (a) of this subsection to compensate for any annexation of an area with fifty thousand residents or more to any city as a result of a petition during calendar year 1996 or 1997, or for any city that became newly incorporated as a result of an election during calendar year 1994 or 1995. The amount to be adjusted shall be equal to the amount which otherwise would have been lost to the health jurisdiction due to the annexation or incorporation as calculated using the jurisdiction's 1995 funding formula.

(c) The county treasurer shall certify the actual 1995 city contribution to the department. Funds in excess of the base shall be distributed proportionately among the health jurisdictions based on incorporated population figures as last determined by the office of financial management.

(3) Moneys distributed under this section shall be expended exclusively for local public health purposes.

NEW SECTION. **Sec. 102.** (1) All powers, duties, and functions of the department of commerce pertaining to county public health assistance are transferred to the department of health. All references to the director or the department of commerce in the Revised Code of Washington shall be construed to mean the secretary or the department of health when referring to the functions transferred in this section.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the department of commerce pertaining to the powers, functions, and duties transferred shall be delivered to the custody of the department of health. All cabinets, furniture, office equipment, motor

vehicles, and other tangible property employed by the department of commerce in carrying out the powers, functions, and duties transferred shall be made available to the department of health. All funds, credits, or other assets held in connection with the powers, functions, and duties transferred shall be assigned to the department of health.

(b) Any appropriations made to the department of commerce for carrying out the powers, functions, and duties transferred shall, on the effective date of this section, be transferred and credited to the department of health.

(c) Whenever any question arises as to the transfer of any personnel, funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

(3) All employees of the department of commerce engaged in performing the powers, functions, and duties transferred are transferred to the jurisdiction of the department of health. All employees classified under chapter 41.06 RCW, the state civil service law, are assigned to the department of health to perform their usual duties upon the same terms as formerly, without any loss of rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing state civil service.

(4) All rules and all pending business before the department of commerce pertaining to the powers, functions, and duties transferred shall be continued and acted upon by the department of health. All existing contracts and obligations shall remain in full force and shall be performed by the department of health.

(5) The transfer of the powers, duties, functions, and personnel of the department of commerce shall not affect the validity of any act performed before the effective date of this section.

(6) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification.

(7) All classified employees of the department of commerce assigned to the department of health under this section whose positions are within an existing bargaining unit description at the department of health shall become a part of the existing bargaining unit at the department of health and shall be considered an appropriate inclusion or modification of the existing bargaining unit under the provisions of chapter 41.80 RCW.

PART II DEPARTMENT OF HEALTH—DEVELOPMENTAL DISABILITIES

Sec. 201. RCW 43.330.210 and 2009 c 565 s 11 are each amended to read as follows:

The developmental disabilities endowment governing board is established to design and administer the developmental disabilities endowment. To the extent funds are appropriated for this purpose, the (~~director~~) secretary of the

department (~~(of commerce)~~) shall provide staff and administrative support to the governing board.

(1) The governing board shall consist of seven members as follows:

(a) Three of the members, who shall be appointed by the governor, shall be persons who have demonstrated expertise and leadership in areas such as finance, actuarial science, management, business, or public policy.

(b) Three members of the board, who shall be appointed by the governor, shall be persons who have demonstrated expertise and leadership in areas such as business, developmental disabilities service design, management, or public policy, and shall be family members of persons with developmental disabilities.

(c) The seventh member of the board, who shall serve as chair of the board, shall be appointed by the remaining six members of the board.

(2) Members of the board shall serve terms of four years and may be appointed for successive terms of four years at the discretion of the appointing authority. However, the governor may stagger the terms of the initial six members of the board so that approximately one-fourth of the members' terms expire each year.

(3) Members of the board shall be compensated for their service under RCW 43.03.240 and shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060.

(4) The board shall meet periodically as specified by the call of the chair, or a majority of the board.

(5) Members of the governing board and the state investment board shall not be considered an insurer of the funds or assets of the endowment trust fund or the individual trust accounts. Neither of these two boards or their members shall be liable for the action or inaction of the other.

(6) Members of the governing board and the state investment board are not liable to the state, to the fund, or to any other person as a result of their activities as members, whether ministerial or discretionary, except for willful dishonesty or intentional violations of law. The department and the state investment board, respectively, may purchase liability insurance for members.

Sec. 202. RCW 43.330.240 and 2009 c 565 s 12 are each amended to read as follows:

The department (~~(of commerce)~~) shall adopt rules for the implementation of policies established by the governing board in RCW 43.330.200 through 43.330.230 (as recodified by this act). Such rules will be consistent with those statutes and chapter 34.05 RCW.

NEW SECTION. Sec. 203. The following sections are each recodified as sections in chapter 43.70 RCW:

RCW 43.330.195
 RCW 43.330.200
 RCW 43.330.205
 RCW 43.330.210
 RCW 43.330.220
 RCW 43.330.225
 RCW 43.330.230
 RCW 43.330.240

NEW SECTION. Sec. 204. (1) All powers, duties, and functions of the department of commerce pertaining to the developmental disabilities endowment are transferred to the department of health. All references to the director or the department of commerce in the Revised Code of Washington shall be construed to mean the secretary or the department of health when referring to the functions transferred in this section.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the department of commerce pertaining to the powers, functions, and duties transferred shall be delivered to the custody of the department of health. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the department of commerce in carrying out the powers, functions, and duties transferred shall be made available to the department of health. All funds, credits, or other assets held in connection with the powers, functions, and duties transferred shall be assigned to the department of health.

(b) Any appropriations made to the department of commerce for carrying out the powers, functions, and duties transferred shall, on the effective date of this section, be transferred and credited to the department of health.

(c) Whenever any question arises as to the transfer of any personnel, funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

(3) All employees of the department of commerce engaged in performing the powers, functions, and duties transferred are transferred to the jurisdiction of the department of health. All employees classified under chapter 41.06 RCW, the state civil service law, are assigned to the department of health to perform their usual duties upon the same terms as formerly, without any loss of rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing state civil service.

(4) All rules and all pending business before the department of commerce pertaining to the powers, functions, and duties transferred shall be continued and acted upon by the department of health. All existing contracts and obligations shall remain in full force and shall be performed by the department of health.

(5) The transfer of the powers, duties, functions, and personnel of the department of commerce shall not affect the validity of any act performed before the effective date of this section.

(6) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification.

(7) All classified employees of the department of commerce assigned to the department of health under this section whose positions are within an existing bargaining unit description at the department of health shall become a part of the existing bargaining unit at the department of health and shall be considered an

appropriate inclusion or modification of the existing bargaining unit under the provisions of chapter 41.80 RCW.

**PART III
BUILDING CODE COUNCIL**

Sec. 301. RCW 19.27.070 and 1995 c 399 s 8 are each amended to read as follows:

There is hereby established a state building code council to be appointed by the governor.

(1) The state building code council shall consist of fifteen members, two of whom shall be county elected legislative body members or elected executives and two of whom shall be city elected legislative body members or mayors. One of the members shall be a local government building code enforcement official and one of the members shall be a local government fire service official. Of the remaining nine members, one member shall represent general construction, specializing in commercial and industrial building construction; one member shall represent general construction, specializing in residential and multifamily building construction; one member shall represent the architectural design profession; one member shall represent the structural engineering profession; one member shall represent the mechanical engineering profession; one member shall represent the construction building trades; one member shall represent manufacturers, installers, or suppliers of building materials and components; one member shall be a person with a physical disability and shall represent the disability community; and one member shall represent the general public. At least six of these fifteen members shall reside east of the crest of the Cascade mountains. The council shall include: Two members of the house of representatives appointed by the speaker of the house, one from each caucus; two members of the senate appointed by the president of the senate, one from each caucus; and an employee of the electrical division of the department of labor and industries, as ex officio, nonvoting members with all other privileges and rights of membership. Terms of office shall be for three years. The council shall elect a member to serve as chair of the council for one-year terms of office. Any member who is appointed by virtue of being an elected official or holding public employment shall be removed from the council if he or she ceases being such an elected official or holding such public employment. Before making any appointments to the building code council, the governor shall seek nominations from recognized organizations which represent the entities or interests listed in this subsection. Members serving on the council on July 28, 1985, may complete their terms of office. Any vacancy shall be filled by alternating appointments from governmental and nongovernmental entities or interests until the council is constituted as required by this subsection.

(2) Members shall not be compensated but shall receive reimbursement for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

(3) The department of ~~((community, trade, and economic development))~~ general administration shall provide administrative and clerical assistance to the building code council.

Sec. 302. RCW 19.27.097 and 1995 c 399 s 9 are each amended to read as follows:

(1) Each applicant for a building permit of a building necessitating potable water shall provide evidence of an adequate water supply for the intended use of the building. Evidence may be in the form of a water right permit from the department of ecology, a letter from an approved water purveyor stating the ability to provide water, or another form sufficient to verify the existence of an adequate water supply. In addition to other authorities, the county or city may impose conditions on building permits requiring connection to an existing public water system where the existing system is willing and able to provide safe and reliable potable water to the applicant with reasonable economy and efficiency. An application for a water right shall not be sufficient proof of an adequate water supply.

(2) Within counties not required or not choosing to plan pursuant to RCW 36.70A.040, the county and the state may mutually determine those areas in the county in which the requirements of subsection (1) of this section shall not apply. The departments of health and ecology shall coordinate on the implementation of this section. Should the county and the state fail to mutually determine those areas to be designated pursuant to this subsection, the county may petition the department of (~~community, trade, and economic development~~) general administration to mediate or, if necessary, make the determination.

(3) Buildings that do not need potable water facilities are exempt from the provisions of this section. The department of ecology, after consultation with local governments, may adopt rules to implement this section, which may recognize differences between high-growth and low-growth counties.

Sec. 303. RCW 19.27.150 and 1995 c 399 s 10 are each amended to read as follows:

Every month a copy of the United States department of commerce, bureau of the census' "report of building or zoning permits issued and local public construction" or equivalent report shall be transmitted by the governing bodies of counties and cities to the department of (~~community, trade, and economic development~~) general administration.

Sec. 304. RCW 19.27A.020 and 2009 c 423 s 4 are each amended to read as follows:

(1) The state building code council shall adopt rules to be known as the Washington state energy code as part of the state building code.

(2) The council shall follow the legislature's standards set forth in this section to adopt rules to be known as the Washington state energy code. The Washington state energy code shall be designed to:

(a) Construct increasingly energy efficient homes and buildings that help achieve the broader goal of building zero fossil-fuel greenhouse gas emission homes and buildings by the year 2031;

(b) Require new buildings to meet a certain level of energy efficiency, but allow flexibility in building design, construction, and heating equipment efficiencies within that framework; and

(c) Allow space heating equipment efficiency to offset or substitute for building envelope thermal performance.

(3) The Washington state energy code shall take into account regional climatic conditions. Climate zone 1 shall include all counties not included in

climate zone 2. Climate zone 2 includes: Adams, Chelan, Douglas, Ferry, Grant, Kittitas, Lincoln, Okanogan, Pend Oreille, Spokane, Stevens, and Whitman counties.

(4) The Washington state energy code for residential buildings shall be the 2006 edition of the Washington state energy code, or as amended by rule by the council.

(5) The minimum state energy code for new nonresidential buildings shall be the Washington state energy code, 2006 edition, or as amended by the council by rule.

(6)(a) Except as provided in (b) of this subsection, the Washington state energy code for residential structures shall preempt the residential energy code of each city, town, and county in the state of Washington.

(b) The state energy code for residential structures does not preempt a city, town, or county's energy code for residential structures which exceeds the requirements of the state energy code and which was adopted by the city, town, or county prior to March 1, 1990. Such cities, towns, or counties may not subsequently amend their energy code for residential structures to exceed the requirements adopted prior to March 1, 1990.

(7) The state building code council shall consult with the department of ~~((community, trade, and economic development))~~ general administration as provided in RCW 34.05.310 prior to publication of proposed rules. The director of the department of ~~((community, trade, and economic development))~~ general administration shall recommend to the state building code council any changes necessary to conform the proposed rules to the requirements of this section.

(8) The state building code council shall evaluate and consider adoption of the international energy conservation code in Washington state in place of the existing state energy code.

(9) The definitions in RCW 19.27A.140 apply throughout this section.

Sec. 305. RCW 19.27A.140 and 2009 c 423 s 2 are each amended to read as follows:

The definitions in this section apply to RCW 19.27A.130 through 19.27A.190 and 19.27A.020 unless the context clearly requires otherwise.

(1) "Benchmark" means the energy used by a facility as recorded monthly for at least one year and the facility characteristics information inputs required for a portfolio manager.

(2) "Conditioned space" means conditioned space, as defined in the Washington state energy code.

(3) "Consumer-owned utility" includes a municipal electric utility formed under Title 35 RCW, a public utility district formed under Title 54 RCW, an irrigation district formed under chapter 87.03 RCW, a cooperative formed under chapter 23.86 RCW, a mutual corporation or association formed under chapter 24.06 RCW, a port district formed under Title 53 RCW, or a water-sewer district formed under Title 57 RCW, that is engaged in the business of distributing electricity to one or more retail electric customers in the state.

(4) "Cost-effectiveness" means that a project or resource is forecast:

(a) To be reliable and available within the time it is needed; and

(b) To meet or reduce the power demand of the intended consumers at an estimated incremental system cost no greater than that of the least-cost similarly reliable and available alternative project or resource, or any combination thereof.

(5) "Council" means the state building code council.

~~(6) ("Department" means the department of community, trade, and economic development.~~

~~(7))~~ (7) "Embodied energy" means the total amount of fossil fuel energy consumed to extract raw materials and to manufacture, assemble, transport, and install the materials in a building and the life-cycle cost benefits including the recyclability and energy efficiencies with respect to building materials, taking into account the total sum of current values for the costs of investment, capital, installation, operating, maintenance, and replacement as estimated for the lifetime of the product or project.

~~((8))~~ (7) "Energy consumption data" means the monthly amount of energy consumed by a customer as recorded by the applicable energy meter for the most recent twelve-month period.

~~((9))~~ (8) "Energy service company" has the same meaning as in RCW 43.19.670.

~~((10))~~ (9) "General administration" means the department of general administration.

~~((11))~~ (10) "Greenhouse gas" and "greenhouse gases" includes carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride.

~~((12))~~ (11) "Investment grade energy audit" means an intensive engineering analysis of energy efficiency and management measures for the facility, net energy savings, and a cost-effectiveness determination.

~~((13))~~ (12) "Investor-owned utility" means a corporation owned by investors that meets the definition of "corporation" as defined in RCW 80.04.010 and is engaged in distributing either electricity or natural gas, or both, to more than one retail electric customer in the state.

~~((14))~~ (13) "Major facility" means any publicly owned or leased building, or a group of such buildings at a single site, having ten thousand square feet or more of conditioned floor space.

~~((15))~~ (14) "National energy performance rating" means the score provided by the energy star program, to indicate the energy efficiency performance of the building compared to similar buildings in that climate as defined in the United States environmental protection agency "ENERGY STAR® Performance Ratings Technical Methodology."

~~((16))~~ (15) "Net zero energy use" means a building with net energy consumption of zero over a typical year.

~~((17))~~ (16) "Portfolio manager" means the United States environmental protection agency's energy star portfolio manager or an equivalent tool adopted by the department of general administration.

~~((18))~~ (17) "Preliminary energy audit" means a quick evaluation by an energy service company of the energy savings potential of a building.

~~((19))~~ (18) "Qualifying public agency" includes all state agencies, colleges, and universities.

~~((20))~~ (19) "Qualifying utility" means a consumer-owned or investor-owned gas or electric utility that serves more than twenty-five thousand customers in the state of Washington.

~~((21))~~ (20) "Reporting public facility" means any of the following:

(a) A building or structure, or a group of buildings or structures at a single site, owned by a qualifying public agency, that exceed ten thousand square feet of conditioned space;

(b) Buildings, structures, or spaces leased by a qualifying public agency that exceeds ten thousand square feet of conditioned space, where the qualifying public agency purchases energy directly from the investor-owned or consumer-owned utility;

(c) A wastewater treatment facility owned by a qualifying public agency; or

(d) Other facilities selected by the qualifying public agency.

~~((22))~~ (21) "State portfolio manager master account" means a portfolio manager account established to provide a single shared portfolio that includes reports for all the reporting public facilities.

Sec. 306. RCW 19.27A.150 and 2009 c 423 s 3 are each amended to read as follows:

(1) To the extent that funding is appropriated specifically for the purposes of this section, the department of commerce shall develop and implement a strategic plan for enhancing energy efficiency in and reducing greenhouse gas emissions from homes, buildings, districts, and neighborhoods. The strategic plan must be used to help direct the future code increases in RCW 19.27A.020, with targets for new buildings consistent with RCW 19.27A.160. The strategic plan will identify barriers to achieving net zero energy use in homes and buildings and identify how to overcome these barriers in future energy code updates and through complementary policies.

(2) The department of commerce must complete and release the strategic plan to the legislature and the council by December 31, 2010, and update the plan every three years.

(3) The strategic plan must include recommendations to the council on energy code upgrades. At a minimum, the strategic plan must:

(a) Consider development of aspirational codes separate from the state energy code that contain economically and technically feasible optional standards that could achieve higher energy efficiency for those builders that elected to follow the aspirational codes in lieu of or in addition to complying with the standards set forth in the state energy code;

(b) Determine the appropriate methodology to measure achievement of state energy code targets using the United States environmental protection agency's target finder program or equivalent methodology;

(c) Address the need for enhanced code training and enforcement;

(d) Include state strategies to support research, demonstration, and education programs designed to achieve a seventy percent reduction in annual net energy consumption as specified in RCW 19.27A.160 and enhance energy efficiency and on-site renewable energy production in buildings;

(e) Recommend incentives, education, training programs and certifications, particularly state-approved training or certification programs, joint apprenticeship programs, or labor-management partnership programs that train workers for energy-efficiency projects to ensure proposed programs are designed to increase building professionals' ability to design, construct, and operate buildings that will meet the seventy percent reduction in annual net energy consumption as specified in RCW 19.27A.160;

(f) Address barriers for utilities to serve net zero energy homes and buildings and policies to overcome those barriers;

(g) Address the limits of a prescriptive code in achieving net zero energy use homes and buildings and propose a transition to performance-based codes;

(h) Identify financial mechanisms such as tax incentives, rebates, and innovative financing to motivate energy consumers to take action to increase energy efficiency and their use of on-site renewable energy. Such incentives, rebates, or financing options may consider the role of government programs as well as utility-sponsored programs;

(i) Address the adequacy of education and technical assistance, including school curricula, technical training, and peer-to-peer exchanges for professional and trade audiences;

(j) Develop strategies to develop and install district and neighborhood-wide energy systems that help meet net zero energy use in homes and buildings;

(k) Identify costs and benefits of energy efficiency measures on residential and nonresidential construction; and

(l) Investigate methodologies and standards for the measurement of the amount of embodied energy used in building materials.

(4) The department of commerce and the council shall convene a work group with the affected parties to inform the initial development of the strategic plan.

Sec. 307. RCW 19.27A.180 and 2009 c 423 s 7 are each amended to read as follows:

By December 31, 2009, to the extent that funding is appropriated specifically for the purposes of this section, the department of commerce shall develop and recommend to the legislature a methodology to determine an energy performance score for residential buildings and an implementation strategy to use such information to improve the energy efficiency of the state's existing housing supply. In developing its strategy, the department of commerce shall seek input from providers of residential energy audits, utilities, building contractors, mixed use developers, the residential real estate industry, and real estate listing and form providers.

NEW SECTION. Sec. 308. (1) All powers, duties, and functions of the department of commerce pertaining to administrative and support services for the state building code council are transferred to the department of general administration. All references to the director or the department of commerce in the Revised Code of Washington shall be construed to mean the director or the department of general administration when referring to the functions transferred in this section. Policy and planning assistance functions performed by the department of commerce remain with the department of commerce.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the department of commerce pertaining to the powers, functions, and duties transferred shall be delivered to the custody of the department of general administration. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the department of commerce in carrying out the powers, functions, and duties transferred shall be made available to the department of general administration. All funds, credits, or other assets held in connection with the powers, functions,

and duties transferred shall be assigned to the department of general administration.

(b) Any appropriations made to the department of commerce for carrying out the powers, functions, and duties transferred shall, on the effective date of this section, be transferred and credited to the department of general administration.

(c) Whenever any question arises as to the transfer of any personnel, funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

(3) All employees of the department of commerce engaged in performing the powers, functions, and duties transferred are transferred to the jurisdiction of the department of general administration. All employees classified under chapter 41.06 RCW, the state civil service law, are assigned to the department of general administration to perform their usual duties upon the same terms as formerly, without any loss of rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing state civil service.

(4) All rules and all pending business before the department of commerce pertaining to the powers, functions, and duties transferred shall be continued and acted upon by the department of general administration. All existing contracts and obligations shall remain in full force and shall be performed by the department of general administration.

(5) The transfer of the powers, duties, functions, and personnel of the department of commerce shall not affect the validity of any act performed before the effective date of this section.

(6) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification.

(7) All classified employees of the department of commerce assigned to the department of general administration under this section whose positions are within an existing bargaining unit description at the department of general administration shall become a part of the existing bargaining unit at the department of general administration and shall be considered an appropriate inclusion or modification of the existing bargaining unit under the provisions of chapter 41.80 RCW.

PART IV DEPARTMENT OF COMMERCE—ENERGY POLICY

Sec. 401. RCW 43.21F.010 and 1975-'76 2nd ex.s. c 108 s 1 are each amended to read as follows:

(1) The legislature finds that the state needs to implement a comprehensive energy planning process that:

(a) Is based on high quality, unbiased analysis;

(b) Engages public agencies and stakeholders in a thoughtful, deliberative process that creates a cohesive plan that earns sustained support of the public and organizations and institutions that will ultimately be responsible for implementation and execution of the plan; and

(c) Establishes policies and practices needed to ensure the effective implementation of the strategy.

(2) The legislature further finds that energy drives the entire modern economy from petroleum for vehicles to electricity to light homes and power businesses. The legislature further finds that the nation and the world have started the transition to a clean energy economy, with significant improvements in energy efficiency and investments in new clean and renewable energy resources and technologies. The legislature further finds this transition may increase or decrease energy costs and efforts should be made to mitigate cost increases.

(3) The legislature finds and declares that it is the continuing purpose of state government, consistent with other essential considerations of state policy, to foster wise and efficient energy use and to promote energy self-sufficiency through the use of indigenous and renewable energy sources, consistent with the promotion of reliable energy sources, the general welfare, and the protection of environmental quality.

(4) The legislature further declares that a successful state energy strategy must balance three goals to:

(a) Maintain competitive energy prices that are fair and reasonable for consumers and businesses and support our state's continued economic success;

(b) Increase competitiveness by fostering a clean energy economy and jobs through business and workforce development; and

(c) Meet the state's obligations to reduce greenhouse gas emissions.

Sec. 402. RCW 43.21F.025 and 2009 c 565 s 27 are each reenacted and amended to read as follows:

(1) "Assistant director" means the assistant director of the department of commerce responsible for energy policy activities;

(2) "Department" means the department of commerce;

(3) "Director" means the director of the department of commerce;

(4) "Distributor" means any person, private corporation, partnership, individual proprietorship, utility, including investor-owned utilities, municipal utility, public utility district, joint operating agency, or cooperative, which engages in or is authorized to engage in the activity of generating, transmitting, or distributing energy in this state;

(5) "Energy" means petroleum or other liquid fuels; natural or synthetic fuel gas; solid carbonaceous fuels; fissionable nuclear material; electricity; solar radiation; geothermal resources; hydropower; organic waste products; wind; tidal activity; any other substance or process used to produce heat, light, or motion; or the savings from nongeneration technologies, including conservation or improved efficiency in the usage of any of the sources described in this subsection;

(6) "Person" means an individual, partnership, joint venture, private or public corporation, association, firm, public service company, political subdivision, municipal corporation, government agency, public utility district,

joint operating agency, or any other entity, public or private, however organized; and

(7) "State energy strategy" means the document ~~((and energy policy direction)) developed ((under section 1, chapter 201, Laws of 1991 including any related appendices)) and updated by the department as allowed in RCW 43.21F.090.~~

NEW SECTION. Sec. 403. A new section is added to chapter 43.21F RCW to read as follows:

(1) The state shall use the following principles to guide development and implementation of the state's energy strategy and to meet the goals of RCW 43.21F.010:

(a) Pursue all cost-effective energy efficiency and conservation as the state's preferred energy resource, consistent with state law;

(b) Ensure that the state's energy system meets the health, welfare, and economic needs of its citizens with particular emphasis on meeting the needs of low-income and vulnerable populations;

(c) Maintain and enhance economic competitiveness by ensuring an affordable and reliable supply of energy resources and by supporting clean energy technology innovation, access to clean energy markets worldwide, and clean energy business and workforce development;

(d) Reduce dependence on fossil fuel energy sources through improved efficiency and development of cleaner energy sources, such as bioenergy, low-carbon energy sources, and natural gas, and leveraging the indigenous resources of the state for the production of clean energy;

(e) Improve efficiency of transportation energy use through advances in vehicle technology, increased system efficiencies, development of electricity, biofuels, and other clean fuels, and regional transportation planning to improve transportation choices;

(f) Meet the state's statutory greenhouse gas limits and environmental requirements as the state develops and uses energy resources;

(g) Build on the advantage provided by the state's clean regional electrical grid by expanding and integrating additional carbon-free and carbon-neutral generation, and improving the transmission capacity serving the state;

(h) Make state government a model for energy efficiency, use of clean and renewable energy, and greenhouse gas-neutral operations; and

(i) Maintain and enhance our state's existing energy infrastructure.

(2) The department shall:

(a) During energy shortage emergencies, give priority in the allocation of energy resources to maintaining the public health, safety, and welfare of the state's citizens and industry in order to minimize adverse impacts on their physical, social, and economic well-being;

(b) Develop and disseminate impartial and objective energy information and analysis, while taking full advantage of the capabilities of the state's institutions of higher education, national laboratory, and other organizations with relevant expertise and analytical capabilities;

(c) Actively seek to maximize federal and other nonstate funding and support to the state for energy efficiency, renewable energy, emerging energy technologies, and other activities of benefit to the state's overall energy future; and

(d) Monitor the actions of all agencies of the state for consistent implementation of the state's energy policy including applicable statutory policies and goals relating to energy supply and use.

**Sec. 404. RCW 43.21F.090 and 1996 c 186 s 106 are each amended to read as follows:*

(1) By December 1, 2010, the department ((shall review the state energy strategy as developed under section 1, chapter 201, Laws of 1991, periodically with the guidance of an advisory committee. For each review, an advisory committee shall be established with a membership resembling as closely as possible the original energy strategy advisory committee specified under section 1, chapter 201, Laws of 1991. Upon completion of a public hearing regarding the advisory committee's advice and recommendations for revisions to the energy strategy, a written report shall be conveyed by the department to the governor and the appropriate legislative committees. Any advisory committee established under this section shall be dissolved within three months after their written report is conveyed.)) of commerce shall update and revise the state energy strategy and implementation report with the guidance of an advisory committee formed under subsection (4) of this section. By December 1, 2011, and at least every five years thereafter, the department shall produce a fully updated state energy strategy and implementation report with the guidance of an advisory committee formed under subsection (4) of this section.

(2)(a) The strategy shall, to the maximum extent feasible, examine the state's entire energy system.

(b) In producing and updating the energy strategy, the department and advisory committee shall review related processes and documents relevant to a state energy strategy including, but not limited to, prior state energy strategies, the work of the clean energy leadership council, the climate advisory and action teams, the evergreen jobs committee, and reports of the state transportation planning commission, the economic development commission, and the Northwest power and conservation council.

(c) The strategy must build upon and be consistent with all relevant and applicable statutorily authorized energy, environmental, and other policies, goals, and programs.

(d) The strategy must identify administrative actions, regulatory coordination, and legislative recommendations that need to be undertaken to ensure that the energy strategy is implemented and operationally supported by all state agencies and regulatory bodies responsible for implementation of energy policy in the state.

(3) In order to facilitate high quality decision making, the director of the department shall engage a group of scientific, engineering, economic, and other experts in energy analysis.

(a) This group shall be comprised of representatives from the following institutions:

(i) Research institutions of higher education;

(ii) The Pacific Northwest national laboratory;

(iii) The Northwest power planning and conservation council;

and

(iv) Other private, public, and nonprofit organizations that have a recognized expertise in engineering or economic analysis.

(b) This group will:

(i) Identify near and long-term analytical needs and capabilities necessary to develop a state energy strategy;

(ii) Provide unbiased information about the state and region's energy portfolio, future energy needs, scenarios for growth, and improved productivity.

(c) The department and advisory committee shall use this information in updating the state energy strategy.

(4)(a) In order to update the state strategy, the department shall form an advisory committee.

(b) The director shall appoint the advisory committee with a membership reflecting a balance of the interests in:

(i) Energy generation, distribution, and consumption;

(ii) Economic development; and

(iii) Environmental protection, including:

(A) Residential, commercial, industrial, and agricultural users;

(B) Electric and natural gas utilities or organizations, both consumer-owned and investor-owned;

(C) Liquid fuel and natural gas industries;

(D) Local governments;

(E) Civic and environmental organizations;

(F) Clean energy companies;

(G) Energy research and development organizations, economic development organizations, and key public agencies; and

(H) Other interested stakeholders.

(c) Any advisory committee established under this section must be dissolved within three months after the written report is conveyed.

(d) The department and advisory committee shall work with stakeholders and other state agencies to develop the strategy.

(5) Upon completion of a public hearing regarding the advisory committee's advice and recommendations for revisions to the energy strategy, the department shall present a written report to the governor and legislature which may include specific actions that will be needed to implement the strategy. The legislature shall, by concurrent resolution, approve or recommend changes to the strategy and updates.

(6) The department may periodically review and update the state energy strategy as necessary. The department shall engage an advisory committee as required in this section when updating the strategy and present any updates to the legislature for its approval.

(7) To assist in updates of the state energy strategy, the department shall actively seek both in-kind and financial support for this process from other nonstate sources. In order to avoid competition among Washington state agencies, the department shall coordinate the search for such external support. The department shall develop a work plan for updating the energy strategy that reflects the levels of activities and deliverables commensurate with the level of funding and in-kind support available from state and nonstate sources.

*Sec. 404 was vetoed. See message at end of chapter.

NEW SECTION. **Sec. 405.** RCW 43.21F.015 (State policy) and 1994 c 207 s 3 & 1981 c 295 s 1 are each repealed.

PART V
CRIMINAL JUSTICE TRAINING COMMISSION—
DRUG PROSECUTION ASSISTANCE PROGRAM

Sec. 501. RCW 36.27.100 and 1995 c 399 s 41 are each amended to read as follows:

The legislature recognizes that, due to the magnitude or volume of offenses in a given area of the state, there is a recurring need for supplemental assistance in the prosecuting of drug and drug-related offenses that can be directed to the area of the state with the greatest need for short-term assistance. A statewide drug prosecution assistance program is created within the (~~department of community, trade, and economic development~~) criminal justice training commission to assist county prosecuting attorneys in the prosecution of drug and drug-related offenses.

NEW SECTION. **Sec. 502.** (1) All powers, duties, and functions of the department of commerce pertaining to the drug prosecution assistance program are transferred to the criminal justice training commission. All references to the director or the department of commerce in the Revised Code of Washington shall be construed to mean the director or the criminal justice training commission when referring to the functions transferred in this section.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the department of commerce pertaining to the powers, functions, and duties transferred shall be delivered to the custody of the criminal justice training commission. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the department of commerce in carrying out the powers, functions, and duties transferred shall be made available to the criminal justice training commission. All funds, credits, or other assets held in connection with the powers, functions, and duties transferred shall be assigned to the criminal justice training commission.

(b) Any appropriations made to the department of commerce for carrying out the powers, functions, and duties transferred shall, on the effective date of this section, be transferred and credited to the criminal justice training commission.

(c) Whenever any question arises as to the transfer of any personnel, funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

(3) All employees of the department of commerce engaged in performing the powers, functions, and duties transferred are transferred to the jurisdiction of the criminal justice training commission. All employees classified under chapter 41.06 RCW, the state civil service law, are assigned to the criminal justice training commission to perform their usual duties upon the same terms as

formerly, without any loss of rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing state civil service.

(4) All rules and all pending business before the department of commerce pertaining to the powers, functions, and duties transferred shall be continued and acted upon by the criminal justice training commission. All existing contracts and obligations shall remain in full force and shall be performed by the criminal justice training commission.

(5) The transfer of the powers, duties, functions, and personnel of the department of commerce shall not affect the validity of any act performed before the effective date of this section.

(6) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification.

(7) All classified employees of the department of commerce assigned to the criminal justice training commission under this section whose positions are within an existing bargaining unit description at the criminal justice training commission shall become a part of the existing bargaining unit at the criminal justice training commission and shall be considered an appropriate inclusion or modification of the existing bargaining unit under the provisions of chapter 41.80 RCW.

**PART VI
WASHINGTON UTILITIES AND TRANSPORTATION
COMMISSION—ENERGY**

Sec. 601. RCW 80.50.030 and 2001 c 214 s 4 are each amended to read as follows:

(1) There is created and established the energy facility site evaluation council.

(2)(a) The chair of the council shall be appointed by the governor with the advice and consent of the senate, shall have a vote on matters before the council, shall serve for a term coextensive with the term of the governor, and is removable for cause. The chair may designate a member of the council to serve as acting chair in the event of the chair's absence. The salary of the chair shall be determined under RCW 43.03.040. The chair is a "state employee" for the purposes of chapter 42.52 RCW. As applicable, when attending meetings of the council, members may receive reimbursement for travel expenses in accordance with RCW 43.03.050 and 43.03.060, and are eligible for compensation under RCW 43.03.250.

(b) The chair or a designee shall execute all official documents, contracts, and other materials on behalf of the council. The Washington (~~state department of community, trade, and economic development~~) utilities and transportation commission shall provide all administrative and staff support for the council. The (~~director of the department of community, trade, and economic development~~) commission has supervisory authority over the staff of the

council and shall employ such personnel as are necessary to implement this chapter. Not more than three such employees may be exempt from chapter 41.06 RCW. The council shall otherwise retain its independence in exercising its powers, functions, and duties and its supervisory control over nonadministrative staff support. Membership, powers, functions, and duties of the Washington state utilities and transportation commission and the council shall otherwise remain as provided by law.

(3)(a) The council shall consist of the directors, administrators, or their designees, of the following departments, agencies, commissions, and committees or their statutory successors:

- (i) Department of ecology;
- (ii) Department of fish and wildlife;
- (iii) Department of ~~((community, trade, and economic development))~~
commerce;

(iv) Utilities and transportation commission; and

(v) Department of natural resources.

(b) The directors, administrators, or their designees, of the following departments, agencies, and commissions, or their statutory successors, may participate as councilmembers at their own discretion provided they elect to participate no later than sixty days after an application is filed:

- (i) Department of agriculture;
- (ii) Department of health;
- (iii) Military department; and
- (iv) Department of transportation.

(c) Council membership is discretionary for agencies that choose to participate under (b) of this subsection only for applications that are filed with the council on or after May 8, 2001. For applications filed before May 8, 2001, council membership is mandatory for those agencies listed in (b) of this subsection.

(4) The appropriate county legislative authority of every county wherein an application for a proposed site is filed shall appoint a member or designee as a voting member to the council. The member or designee so appointed shall sit with the council only at such times as the council considers the proposed site for the county which he or she represents, and such member or designee shall serve until there has been a final acceptance or rejection of the proposed site.

(5) The city legislative authority of every city within whose corporate limits an energy plant is proposed to be located shall appoint a member or designee as a voting member to the council. The member or designee so appointed shall sit with the council only at such times as the council considers the proposed site for the city which he or she represents, and such member or designee shall serve until there has been a final acceptance or rejection of the proposed site.

(6) For any port district wherein an application for a proposed port facility is filed subject to this chapter, the port district shall appoint a member or designee as a nonvoting member to the council. The member or designee so appointed shall sit with the council only at such times as the council considers the proposed site for the port district which he or she represents, and such member or designee shall serve until there has been a final acceptance or rejection of the proposed site. The provisions of this subsection shall not apply if the port district is the applicant, either singly or in partnership or association with any other person.

NEW SECTION. **Sec. 602.** (1) All administrative powers, duties, and functions of the department of commerce pertaining to the energy facility site evaluation council are transferred to the Washington utilities and transportation commission. All references to the director or the department of commerce in the Revised Code of Washington shall be construed to mean the Washington utilities and transportation commission when referring to the functions transferred in this section.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the department of commerce pertaining to the powers, functions, and duties transferred shall be delivered to the custody of the Washington utilities and transportation commission. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the department of commerce in carrying out the powers, functions, and duties transferred shall be made available to the Washington utilities and transportation commission. All funds, credits, or other assets held in connection with the powers, functions, and duties transferred shall be assigned to the Washington utilities and transportation commission.

(b) Any appropriations made to the department of commerce for carrying out the powers, functions, and duties transferred shall, on the effective date of this section, be transferred and credited to the Washington utilities and transportation commission.

(c) Whenever any question arises as to the transfer of any personnel, funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

(3) All employees of the department of commerce engaged in performing the powers, functions, and duties transferred are transferred to the jurisdiction of the Washington utilities and transportation commission. All employees classified under chapter 41.06 RCW, the state civil service law, are assigned to the Washington utilities and transportation commission to perform their usual duties upon the same terms as formerly, without any loss of rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing state civil service.

(4) All rules and all pending business before the department of commerce pertaining to the powers, functions, and duties transferred shall be continued and acted upon by the Washington utilities and transportation commission. All existing contracts and obligations shall remain in full force and shall be performed by the Washington utilities and transportation commission.

(5) The transfer of the powers, duties, functions, and personnel of the department of commerce shall not affect the validity of any act performed before the effective date of this section.

(6) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification.

(7) All classified employees of the department of commerce assigned to the Washington utilities and transportation commission under this section whose positions are within an existing bargaining unit description at the Washington utilities and transportation commission shall become a part of the existing bargaining unit at the Washington utilities and transportation commission and shall be considered an appropriate inclusion or modification of the existing bargaining unit under the provisions of chapter 41.80 RCW.

**PART VII
MUNICIPAL RESEARCH COUNCIL**

Sec. 701. RCW 43.110.030 and 2000 c 227 s 3 are each amended to read as follows:

(1) The ~~((municipal research council))~~ department of commerce shall contract for the provision of municipal research and services to cities, towns, and counties. Contracts for municipal research and services shall be made with state agencies, educational institutions, or private consulting firms, that in the judgment of ~~((council members))~~ the department are qualified to provide such research and services. Contracts for staff support may be made with state agencies, educational institutions, or private consulting firms that in the judgment of the ~~((council members))~~ department are qualified to provide such support.

(2) Municipal research and services shall consist of:

~~((1))~~ (a) Studying and researching city, town, and county government and issues relating to city, town, and county government;

~~((2))~~ (b) Acquiring, preparing, and distributing publications related to city, town, and county government and issues relating to city, town, and county government;

~~((3))~~ (c) Providing educational conferences relating to city, town, and county government and issues relating to city, town, and county government; and

~~((4))~~ (d) Furnishing legal, technical, consultative, and field services to cities, towns, and counties concerning planning, public health, utility services, fire protection, law enforcement, public works, and other issues relating to city, town, and county government.

(3) Requests for legal services by county officials shall be sent to the office of the county prosecuting attorney. Responses by the ~~((municipal research council))~~ department of commerce to county requests for legal services shall be provided to the requesting official and the county prosecuting attorney.

(4) The ~~((activities, programs, and services of the municipal research council shall be carried on in cooperation))~~ department of commerce shall coordinate with the association of Washington cities and the Washington state association of counties in carrying out the activities in this section. Services to cities and towns shall be based upon the moneys appropriated to the ~~((municipal research council))~~ department from the city and town research services account under RCW 43.110.060. Services to counties shall be based upon the moneys appropriated to the ~~((municipal research council))~~ department from the county research services account under RCW 43.110.050.

Sec. 702. RCW 43.110.060 and 2002 c 38 s 4 are each amended to read as follows:

The city and town research services account is created in the state treasury. Moneys in the account shall consist of amounts transferred under RCW 66.08.190(2) and any other transfers or appropriations to the account. Moneys in the account may be spent only after an appropriation. Expenditures from the account may be used only for city and town research.

All unobligated moneys remaining in the account at the end of the fiscal biennium shall be distributed by the treasurer to the incorporated cities and towns of the state in the same manner as the distribution under RCW 66.08.190(1)(b)(iii).

~~((The treasurer may disburse amounts appropriated to the municipal research council from the city and town research services account by warrant or check to the contracting parties on invoices or vouchers certified by the chair of the municipal research council or his or her designee.))~~ Payments to public agencies may be made in advance of actual work contracted for, at the discretion of the ~~((council))~~ department of commerce.

Sec. 703. RCW 43.110.080 and 2006 c 328 s 1 are each amended to read as follows:

(1) The ~~((municipal research council))~~ department of commerce shall contract for the provision of research and services to special purpose districts. A contract shall be made with a state agency, educational institution, or private consulting firm, that in the judgment of ~~((council members))~~ the department is qualified to provide such research and services.

(2) Research and services to special purpose districts shall consist of:

(a) Studying and researching issues relating to special purpose district government;

(b) Acquiring, preparing, and distributing publications related to special purpose districts; and

(c) Furnishing legal, technical, consultative, and field services to special purpose districts concerning issues relating to special purpose district government.

(3) The ~~((activities, programs, and services of the municipal research council to special purpose districts shall be carried on in cooperation))~~ department of commerce shall coordinate with the associations representing the various special purpose districts with respect to carrying out the activities in this section. Services to special purpose districts shall be based upon the moneys appropriated to the ~~((municipal research council))~~ department of commerce from the special purpose district research services account under RCW 43.110.090.

Sec. 704. RCW 43.15.020 and 2009 c 560 s 27 are each amended to read as follows:

The lieutenant governor serves as president of the senate and is responsible for making appointments to, and serving on, the committees and boards as set forth in this section.

(1) The lieutenant governor serves on the following boards and committees:

(a) Capitol furnishings preservation committee, RCW 27.48.040;

(b) Washington higher education facilities authority, RCW 28B.07.030;

- (c) Productivity board, also known as the employee involvement and recognition board, RCW 41.60.015;
- (d) State finance committee, RCW 43.33.010;
- (e) State capitol committee, RCW 43.34.010;
- (f) Washington health care facilities authority, RCW 70.37.030;
- (g) State medal of merit nominating committee, RCW 1.40.020;
- (h) Medal of valor committee, RCW 1.60.020; and
- (i) Association of Washington generals, RCW 43.15.030.
- (2) The lieutenant governor, and when serving as president of the senate, appoints members to the following boards and committees:
- (a) Civil legal aid oversight committee, RCW 2.53.010;
- (b) Office of public defense advisory committee, RCW 2.70.030;
- (c) Washington state gambling commission, RCW 9.46.040;
- (d) Sentencing guidelines commission, RCW 9.94A.860;
- (e) State building code council, RCW 19.27.070;
- (f) Women's history consortium board of advisors, RCW 27.34.365;
- (g) Financial (~~literacy~~) education public-private partnership, RCW 28A.300.450;
- (h) Joint administrative rules review committee, RCW 34.05.610;
- (i) Capital projects advisory review board, RCW 39.10.220;
- (j) Select committee on pension policy, RCW 41.04.276;
- (k) Legislative ethics board, RCW 42.52.310;
- (l) Washington citizens' commission on salaries, RCW 43.03.305;
- (m) Legislative oral history committee, RCW 44.04.325;
- (n) State council on aging, RCW 43.20A.685;
- (o) State investment board, RCW 43.33A.020;
- (p) Capitol campus design advisory committee, RCW 43.34.080;
- (q) Washington state arts commission, RCW 43.46.015;
- (r) Information services board, RCW 43.105.032;
- (s) K-20 educational network board, RCW 43.105.800;
- (t) (~~Municipal research council~~, RCW 43.110.010;
- (~~u~~)) Council for children and families, RCW 43.121.020;
- (~~(+)~~) (u) PNWER-Net working subgroup under chapter 43.147 RCW;
- (~~(w)~~) (v) Community economic revitalization board, RCW 43.160.030;
- (~~(x)~~) (w) Washington economic development finance authority, RCW 43.163.020;
- (~~(y)~~) (x) Life sciences discovery fund authority, RCW 43.350.020;
- (~~(z)~~) (y) Legislative children's oversight committee, RCW 44.04.220;
- (~~(aa)~~) (z) Joint legislative audit and review committee, RCW 44.28.010;
- (~~(bb)~~) (aa) Joint committee on energy supply and energy conservation, RCW 44.39.015;
- (~~(cc)~~) (bb) Legislative evaluation and accountability program committee, RCW 44.48.010;
- (~~(dd)~~) (cc) Agency council on coordinated transportation, RCW 47.06B.020;
- (~~(ee)~~) (dd) Manufactured housing task force, RCW 59.22.090;
- (~~(ff)~~) (ee) Washington horse racing commission, RCW 67.16.014;
- (~~(gg)~~) (ff) Correctional industries board of directors, RCW 72.09.080;

~~((hh))~~ (gg) Joint committee on veterans' and military affairs, RCW 73.04.150;

~~((ii))~~ (hh) Joint legislative committee on water supply during drought, RCW 90.86.020;

~~((jj))~~ (ii) Statute law committee, RCW 1.08.001; and

~~((kk))~~ (jj) Joint legislative oversight committee on trade policy, RCW 44.55.020.

Sec. 705. RCW 35.21.185 and 1995 c 21 s 1 are each amended to read as follows:

(1) It is the purpose of this section to provide a means whereby all cities and towns may obtain, through a single source, information regarding ordinances of other cities and towns that may be of assistance to them in enacting appropriate local legislation.

(2) For the purposes of this section, (a) "clerk" means the city or town clerk or other person who is lawfully designated to perform the recordkeeping function of that office, and (b) "~~((municipal research council))~~ department" means the ~~((municipal research council created by chapter 43.110 RCW))~~ department of commerce.

(3) The clerk of every city and town is directed to provide to the ~~((municipal research council))~~ department or its designee, promptly after adoption, a copy of each of its regulatory ordinances and such other ordinances or kinds of ordinances as may be described in a list or lists promulgated by the ~~((municipal research council))~~ department or its designee from time to time, and may provide such copies without charge. The ~~((municipal research council))~~ department may provide that information to the entity with which it contracts for the provision of municipal research and services, in order to provide a pool of information for all cities and towns in the state of Washington.

(4) This section is intended to be directory and not mandatory.

Sec. 706. RCW 35.102.040 and 2006 c 301 s 7 are each amended to read as follows:

(1)(a) The cities, working through the association of Washington cities, shall form a model ordinance development committee made up of a representative sampling of cities that as of July 27, 2003, impose a business and occupation tax. This committee shall work through the association of Washington cities to adopt a model ordinance on municipal gross receipts business and occupation tax. The model ordinance and subsequent amendments shall be adopted using a process that includes opportunity for substantial input from business stakeholders and other members of the public. Input shall be solicited from statewide business associations and from local chambers of commerce and downtown business associations in cities that levy a business and occupation tax.

(b) The ~~((municipal research council))~~ department of commerce shall contract to post the model ordinance on an internet web site and to make paper copies available for inspection upon request. The department of revenue and the department of licensing shall post copies of or links to the model ordinance on their internet web sites. Additionally, a city that imposes a business and occupation tax must make copies of its ordinance available for inspection and copying as provided in chapter 42.56 RCW.

(c) The definitions and tax classifications in the model ordinance may not be amended more frequently than once every four years, however the model ordinance may be amended at any time to comply with changes in state law. Any amendment to a mandatory provision of the model ordinance must be adopted with the same effective date by all cities.

(2) A city that imposes a business and occupation tax must adopt the mandatory provisions of the model ordinance. The following provisions are mandatory:

(a) A system of credits that meets the requirements of RCW 35.102.060 and a form for such use;

(b) A uniform, minimum small business tax threshold of at least the equivalent of twenty thousand dollars in gross income annually. A city may elect to deviate from this requirement by creating a higher threshold or exemption but it shall not deviate lower than the level required in this subsection. If a city has a small business threshold or exemption in excess of that provided in this subsection as of January 1, 2003, and chooses to deviate below the threshold or exemption level that was in place as of January 1, 2003, the city must notify all businesses licensed to do business within the city at least one hundred twenty days prior to the potential implementation of a lower threshold or exemption amount;

(c) Tax reporting frequencies that meet the requirements of RCW 35.102.070;

(d) Penalty and interest provisions that meet the requirements of RCW 35.102.080 and 35.102.090;

(e) Claim periods that meet the requirements of RCW 35.102.100;

(f) Refund provisions that meet the requirements of RCW 35.102.110; and

(g) Definitions, which at a minimum, must include the definitions enumerated in RCW 35.102.030 and 35.102.120. The definitions in chapter 82.04 RCW shall be used as the baseline for all definitions in the model ordinance, and any deviation in the model ordinance from these definitions must be described by a comment in the model ordinance.

(3) Except for the deduction required by RCW 35.102.160 and the system of credits developed to address multiple taxation under subsection (2)(a) of this section, a city may adopt its own provisions for tax exemptions, tax credits, and tax deductions.

(4) Any city that adopts an ordinance that deviates from the nonmandatory provisions of the model ordinance shall make a description of such differences available to the public, in written and electronic form.

Sec. 707. RCW 36.70B.220 and 2005 c 274 s 272 are each amended to read as follows:

(1) Each county and city having populations of ten thousand or more that plan under RCW 36.70A.040 shall designate permit assistance staff whose function it is to assist permit applicants. An existing employee may be designated as the permit assistance staff.

(2) Permit assistance staff designated under this section shall:

(a) Make available to permit applicants all current local government regulations and adopted policies that apply to the subject application. The local government shall provide counter copies thereof and, upon request, provide copies according to chapter 42.56 RCW. The staff shall also publish and keep

current one or more handouts containing lists and explanations of all local government regulations and adopted policies;

(b) Establish and make known to the public the means of obtaining the handouts and related information; and

(c) Provide assistance regarding the application of the local government's regulations in particular cases.

(3) Permit assistance staff designated under this section may obtain technical assistance and support in the compilation and production of the handouts under subsection (2) of this section from the ~~((municipal research council and the department of community, trade, and economic development))~~ department of commerce.

NEW SECTION. Sec. 708. The following acts or parts of acts are each repealed:

(1) RCW 43.110.010 (Council created—Membership—Terms—Travel expenses) and 2001 c 290 s 1, 1997 c 437 s 1, 1990 c 104 s 1, 1983 c 22 s 1, 1975-'76 2nd ex.s. c 34 s 129, 1975 1st ex.s. c 218 s 1, & 1969 c 108 s 2;

(2) RCW 43.110.040 (Local government regulation and policy handouts—Technical assistance) and 1996 c 206 s 10; and

(3) RCW 43.110.070 (Hazardous liquid and gas pipeline—Model ordinance and franchise agreement) and 2000 c 191 s 8.

NEW SECTION. Sec. 709. (1) The municipal research council is hereby abolished and its powers, duties, and functions are hereby transferred to the department of commerce. All references to the municipal research council in the Revised Code of Washington shall be construed to mean the department of commerce.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the municipal research council shall be delivered to the custody of the department of commerce. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the municipal research council shall be made available to the department of commerce. All funds, credits, or other assets held by the municipal research council shall be assigned to the department of commerce.

(b) Any appropriations made to the municipal research council shall, on the effective date of this section, be transferred and credited to the department of commerce.

(c) If any question arises as to the transfer of any funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

(3) All rules and all pending business before the municipal research council shall be continued and acted upon by the department of commerce. All existing contracts and obligations shall remain in full force and shall be performed by the department of commerce.

(4) The transfer of the powers, duties, and functions of the municipal research council shall not affect the validity of any act performed before the effective date of this section.

(5) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification.

PART VIII MISCELLANEOUS PROVISIONS

Sec. 801. RCW 41.06.070 and 2009 c 33 s 36 and 2009 c 5 s 1 are each reenacted and amended to read as follows:

(1) The provisions of this chapter do not apply to:

(a) The members of the legislature or to any employee of, or position in, the legislative branch of the state government including members, officers, and employees of the legislative council, joint legislative audit and review committee, statute law committee, and any interim committee of the legislature;

(b) The justices of the supreme court, judges of the court of appeals, judges of the superior courts or of the inferior courts, or to any employee of, or position in the judicial branch of state government;

(c) Officers, academic personnel, and employees of technical colleges;

(d) The officers of the Washington state patrol;

(e) Elective officers of the state;

(f) The chief executive officer of each agency;

(g) In the departments of employment security and social and health services, the director and the director's confidential secretary; in all other departments, the executive head of which is an individual appointed by the governor, the director, his or her confidential secretary, and his or her statutory assistant directors;

(h) In the case of a multimember board, commission, or committee, whether the members thereof are elected, appointed by the governor or other authority, serve ex officio, or are otherwise chosen:

(i) All members of such boards, commissions, or committees;

(ii) If the members of the board, commission, or committee serve on a part-time basis and there is a statutory executive officer: The secretary of the board, commission, or committee; the chief executive officer of the board, commission, or committee; and the confidential secretary of the chief executive officer of the board, commission, or committee;

(iii) If the members of the board, commission, or committee serve on a full-time basis: The chief executive officer or administrative officer as designated by the board, commission, or committee; and a confidential secretary to the chair of the board, commission, or committee;

(iv) If all members of the board, commission, or committee serve ex officio: The chief executive officer; and the confidential secretary of such chief executive officer;

(i) The confidential secretaries and administrative assistants in the immediate offices of the elective officers of the state;

(j) Assistant attorneys general;

(k) Commissioned and enlisted personnel in the military service of the state;

(l) Inmate, student, part-time, or temporary employees, and part-time professional consultants, as defined by the Washington personnel resources board;

(m) The public printer or to any employees of or positions in the state printing plant;

(n) Officers and employees of the Washington state fruit commission;

(o) Officers and employees of the Washington apple commission;

(p) Officers and employees of the Washington state dairy products commission;

(q) Officers and employees of the Washington tree fruit research commission;

(r) Officers and employees of the Washington state beef commission;

(s) Officers and employees of the Washington grain commission;

(t) Officers and employees of any commission formed under chapter 15.66 RCW;

(u) Officers and employees of agricultural commissions formed under chapter 15.65 RCW;

(v) Officers and employees of the nonprofit corporation formed under chapter 67.40 RCW;

(w) Executive assistants for personnel administration and labor relations in all state agencies employing such executive assistants including but not limited to all departments, offices, commissions, committees, boards, or other bodies subject to the provisions of this chapter and this subsection shall prevail over any provision of law inconsistent herewith unless specific exception is made in such law;

(x) In each agency with fifty or more employees: Deputy agency heads, assistant directors or division directors, and not more than three principal policy assistants who report directly to the agency head or deputy agency heads;

(y) All employees of the marine employees' commission;

(z) Staff employed by the department of ~~((community, trade, and economic development))~~ commerce to administer energy policy functions ~~((and manage))~~;

~~((aa))~~ The manager of the energy facility site evaluation council ~~((activities under RCW 43.21F.045(2)(m)))~~;

~~((aa))~~ (bb) A maximum of ten staff employed by the department of commerce to administer innovation and policy functions, including the three principal policy assistants exempted under (x) of this subsection.

~~((cc))~~ Staff employed by Washington State University to administer energy education, applied research, and technology transfer programs under RCW 43.21F.045 as provided in RCW 28B.30.900(5).

(2) The following classifications, positions, and employees of institutions of higher education and related boards are hereby exempted from coverage of this chapter:

(a) Members of the governing board of each institution of higher education and related boards, all presidents, vice presidents, and their confidential secretaries, administrative, and personal assistants; deans, directors, and chairs; academic personnel; and executive heads of major administrative or academic divisions employed by institutions of higher education; principal assistants to executive heads of major administrative or academic divisions; other managerial or professional employees in an institution or related board having substantial

responsibility for directing or controlling program operations and accountable for allocation of resources and program results, or for the formulation of institutional policy, or for carrying out personnel administration or labor relations functions, legislative relations, public information, development, senior computer systems and network programming, or internal audits and investigations; and any employee of a community college district whose place of work is one which is physically located outside the state of Washington and who is employed pursuant to RCW 28B.50.092 and assigned to an educational program operating outside of the state of Washington;

(b) The governing board of each institution, and related boards, may also exempt from this chapter classifications involving research activities, counseling of students, extension or continuing education activities, graphic arts or publications activities requiring prescribed academic preparation or special training as determined by the board: PROVIDED, That no nonacademic employee engaged in office, clerical, maintenance, or food and trade services may be exempted by the board under this provision;

(c) Printing craft employees in the department of printing at the University of Washington.

(3) In addition to the exemptions specifically provided by this chapter, the director of personnel may provide for further exemptions pursuant to the following procedures. The governor or other appropriate elected official may submit requests for exemption to the director of personnel stating the reasons for requesting such exemptions. The director of personnel shall hold a public hearing, after proper notice, on requests submitted pursuant to this subsection. If the director determines that the position for which exemption is requested is one involving substantial responsibility for the formulation of basic agency or executive policy or one involving directing and controlling program operations of an agency or a major administrative division thereof, the director of personnel shall grant the request and such determination shall be final as to any decision made before July 1, 1993. The total number of additional exemptions permitted under this subsection shall not exceed one percent of the number of employees in the classified service not including employees of institutions of higher education and related boards for those agencies not directly under the authority of any elected public official other than the governor, and shall not exceed a total of twenty-five for all agencies under the authority of elected public officials other than the governor.

The salary and fringe benefits of all positions presently or hereafter exempted except for the chief executive officer of each agency, full-time members of boards and commissions, administrative assistants and confidential secretaries in the immediate office of an elected state official, and the personnel listed in subsections (1)(j) through (v) and (y) and (2) of this section, shall be determined by the director of personnel. Changes to the classification plan affecting exempt salaries must meet the same provisions for classified salary increases resulting from adjustments to the classification plan as outlined in RCW 41.06.152.

For the twelve months following February 18, 2009, a salary or wage increase shall not be granted to any position exempt from classification under this chapter.

Any person holding a classified position subject to the provisions of this chapter shall, when and if such position is subsequently exempted from the application of this chapter, be afforded the following rights: If such person previously held permanent status in another classified position, such person shall have a right of reversion to the highest class of position previously held, or to a position of similar nature and salary.

Any classified employee having civil service status in a classified position who accepts an appointment in an exempt position shall have the right of reversion to the highest class of position previously held, or to a position of similar nature and salary.

A person occupying an exempt position who is terminated from the position for gross misconduct or malfeasance does not have the right of reversion to a classified position as provided for in this section.

NEW SECTION. Sec. 802. RCW 43.63A.150 is decodified.

NEW SECTION. Sec. 803. This act takes effect July 1, 2010.

Passed by the House March 11, 2010.

Passed by the Senate March 11, 2010.

Approved by the Governor April 1, 2010, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State April 2, 2010.

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

"I am returning herewith, without my approval as to Section 404, Engrossed Second Substitute House Bill 2658 entitled:

"AN ACT Relating to refocusing the mission of the department of commerce, including transferring programs."

Section 404 of Engrossed Second Substitute House Bill 2658 outlines ways the state energy strategy must identify administrative actions, regulatory coordination, and legislative recommendations that need to be undertaken to ensure that the energy strategy is implemented and operationally supported by all state agencies and regulatory bodies responsible for implementation of energy policy in the state. I strongly agree with the intent of this section. However, a subsection in Section 404 provides that the Legislature shall, by concurrent resolution, approve or recommend changes to the energy strategy and updates. Such provisions create ambiguities that may impede the Department of Commerce in the performance of its duties.

As this bill recognizes, the energy strategy is the primary guidance for implementation of the state's energy policy and should be an integrated document that includes proposed executive actions under existing law as well as any proposals for new legislation. Section 404 could be read to require legislative approval before the Department undertakes any actions that are included in the strategy. Executive actions authorized by existing law should not be subject to legislative approval, as such a requirement would infringe upon the right and ability of the executive branch to execute the laws. Therefore, I will direct the Department to undertake activities outlined in Section 404 while retaining the authority to implement existing laws without a requirement for additional legislative approval.

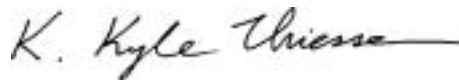
For these reasons I have vetoed Section 404 of Engrossed Second Substitute House Bill 2658.

With the exception of Section 404, Engrossed Second Substitute House Bill 2658 is approved."

AUTHENTICATION

I, K. Kyle Thiessen, Code Reviser of the State of Washington, certify that, with the exception of such corrections as I have made in accordance with the powers vested in me by RCW 44.20.060, the laws published in this volume are a true and correct reproduction of the copies of the enrolled laws of the 2010 session (61st Legislature), chapters 161 through 271, as certified and transmitted to the Statute Law Committee by the Secretary of State under RCW 44.20.020.

IN TESTIMONY WHEREOF, I have hereunto set my hand at Olympia, Washington, this 25th day of May, 2010.

A handwritten signature in cursive script that reads "K. Kyle Thiessen". The signature is written in black ink and includes a horizontal line extending to the right.

K. KYLE THIESSEN
Code Reviser

